



## SOUTH AFRICAN HUMAN RIGHTS COMMISSION

**AFRICAN DIASPORA FORUM AND 30 OTHERS**

**COMPLAINANTS**

and

**KING GOODWILL ZWELITHINI**

**RESPONDENT**

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### FINAL REPORT

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#### 1. INTRODUCTION

- 1.1 This report sets out the findings and recommendations of the South African Human Rights Commission ("**Commission**") in respect of complaints lodged with the Commission by the African Diaspora Forum and 30 other Complainants ("**Complainants**").
- 1.2 The complaints relate to alleged utterances by King Goodwill Zwelithini ("**Respondent**") delivered during a moral regeneration meeting in Pongola in the KwaZulu-Natal Province on 15 March 2015.
- 1.3 The Complainants in this matter assert that the utterances of the Respondent amounted to hate speech and were calculated to incite people

to violence against migrants<sup>1</sup> in South Africa in general, and the KwaZulu-Natal Province in particular.

## 2. PARTIES TO THE DISPUTE

- 2.1 The 1<sup>st</sup> Complainant in this matter is the African Diaspora Forum, a non-profit organisation whose principal offices are situated in Johannesburg, in the Gauteng Province.
- 2.2 The 2<sup>nd</sup> Complainant is Lawyers for Human Rights, a non-profit organisation whose principal offices are situated in Johannesburg, in the Gauteng Province.
- 2.3 The 3<sup>rd</sup> – 31<sup>st</sup> Complainants are private individuals residing within the Republic and outside of the Republic, whose full and further particulars are known to the Commission, but withheld to preserve anonymity. The Commission is not obliged to disclose the identity of the Complainants and the Commission is satisfied that no prejudice has been suffered by the Respondent in withholding their identity.
- 2.4 The Respondent is the King of the Zulu people. The Respondent is recognised as a traditional leader in South Africa in terms of Chapter 12 (sections 211 and 212) of the Constitution of the Republic of South Africa, 1996 ("**Constitution**").
- 2.5 In addition to the Constitution, the Traditional Leadership and Governance Framework Act, 41 of 2003 (as amended) ("**Traditional Leadership Act**"),

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<sup>11</sup> The Commission is aware of the different connotations that are ascribed by different commentators to the terms "migrants", "non-nationals", "foreign nationals", "non-citizens" and "foreigners". Purely for purposes of consistency in this report the word migrants refers to persons from other countries who reside in South Africa.

sets out the process of recognition of traditional communities and how traditional leaders, including kings, are recognised in South Africa.

2.6 In terms of Section 2A(4) of the Traditional Leadership Act, the Respondent is obliged to "*transform and adapt customary law and customs relevant to the application of this Act so as to comply with the relevant principles contained in the Bill of Rights in the Constitution, in particular by:*

a) *Preventing unfair discrimination;*

b) *Promoting equality ..."*

### 3. NATURE OF COMPLAINT

3.1 On 15 March 2015, the Respondent delivered a speech during a moral regeneration event to an audience in Pongola, KwaZulu-Natal Province.

3.2 The speech was delivered mostly in the isiZulu language.

3.3 During the month of March, 2015 a total of 31 Complainants lodged separate written complaints with the Commission in terms of the Commission's Complaints Handling Procedures.

3.4 In summary, the Complainants allege that in the course of the delivery of his speech, the Respondent uttered statements that amount to hate speech and that were capable of inciting violence against migrants in South Africa and the KwaZulu-Natal Province in particular. The Complainants further allege that the utterances in fact did incite the acts of violence against migrants that took place on 30 March, 2015 in Isipingo, in Durban, and the subsequent attacks that took place across the KwaZulu-Natal Province until May 2015.

- 3.5 It is important to note that at the time of lodging of complaints with the Commission, and at all times material to this investigation, none of the Complainants were able to furnish the Commission with a copy of the speech to which their complaints referred.
- 3.6 It is also important to note that none of the Complainants claimed that they had personally attended and been present at the moral regeneration event at which the Respondent had spoken and uttered the words in question. All of the Complainants referred to and appeared to rely on what one or the other specific print and electronic media actors had reported that the Respondent had said. It should be noted that the Commission's Complaints Handling Procedures allow for broad standing to hear complaints from the public.
- 3.7 At the time of the lodgement of complaints with the Commission, the Respondent's remarks had been widely covered by the South African print media and also appeared as a news item on the Internet.<sup>2</sup>

<sup>2</sup> See for example, 'So many questions' *Sunday Times* 26 April 2015, page 21, see also 'King slams Gigaba over xenophobia 'allegations' *The Star* 13 April 2015, page 4. 'Unapologetic Zwelithini urges peace' *Sowetan* 21 April 2015, page 9. 'King's peace initiative hailed' *The New Age* 21 April 2015, page 1. 'Zulu king wants to send complaints to rights commission' *The Star* 30 March 2015, page 4. 'Deep-seated issues crux of CBD violence' *The Star* 16 April 2015, page 4. 'Foreigners shutter shops, fearing for their lives' *The Star* 16 April 2015, page 4. 'Victims sheltered at packed police station' *Sowetan* 2 April 2015, page 4. 'Monarch wants a peace accord signed' *The Star* (undated) page 3. 'Jeering crowds wait for king's speech' *The Star* 21 April 2015, page 3. 'No Zulu king said kill foreign people, pleads Malema' *Sowetan* 21 April 2015, page 4. 'King is right, illegal immigrants must go' *Sowetan* 13 April 2015, page 4. 'SAHRC: attacks are xenophobic' *The Citizen* 15 April 2015, page 2. 'Rights mission reaches an end' *Daily Sun* 21 May 2015, page 2. 'Probe into Zulu king's comments grinds on' <http://www.dailydispatch.co.za/gen/probe-into-zulu-kings-comments-...> (accessed 21 May 2015). 'Zwelithini, Zuma speak out on violence' <http://www.timeslive.co.za/thetimes/2015/04/21/zwelithini-zuma-s-...> (accessed 11 May 2015). 'Human Rights Commission wants Zulu king to explain himself' <http://www.sowetanlive.co.za/news/2015/04/17/human-rights-comm-...> (accessed 11 May 2015). 'South African human rights body to meet Zulu king over his utterances about foreigners' <http://africanewswire.za.com/south-african-human-rights-body-to-m-...> (accessed 21 May 2015). 'Preliminary response to Zulu king's foreigner remarks expected soon' <http://www.bdlive.co.za/national/2015/05/19/preliminary-response-...> (accessed 21 May 2015). 'SAHRC to make 'preliminary determination' on Zulu king comments by mid-June' <http://www.zobo.co.za/news/sahrc-to-make-preliminary-determinati-...> (accessed 21 May 2015).

- 3.8 A number of public and private media actors reported on acts of violence against migrants in various parts of the country and some expressly labelled the incidents of violence against migrants in Isipingo in Durban as "xenophobia" or "xenophobic", and linked this violence to the Respondent's utterances in Pongola.
- 3.9 The private and public media actors listed in the footnote to paragraph 3.7 above that reported on the Respondent's speech did so in the English language.
- 3.10 In each case, the publication offered a translation of the words of the Respondent in *isiZulu* into English, and offered an interpretation of meaning of what the Respondent had meant with respect to migrants.
- 3.11 The Complainants sought the intervention of the Commission to facilitate the nature of relief set out in paragraph 4 below, or such additional or alternative relief as the Commission may find appropriate within its mandate. Alternative relief can include referring the matter to another institution which is better placed to deal with the matter.
- 3.12 The complaints were lodged at a time when the Commission was already seized with a number of complaints relating to low-scale xenophobic attacks that had taken place in parts of the country.

#### **4. NATURE OF RELIEF SOUGHT**

- 4.1 Taken together, the nature of relief sought by the Complainants was the following:
- 4.1.1 That the Respondent be directed to retract his statements publicly;

- 4.1.2 That the Respondent be directed to issue an apology;
- 4.1.3 That the Respondent be subjected to an investigation, and that the Commission issue a declaration that the Respondent's statements amounted to hate speech or to any other human rights violation;
- 4.1.4 That the Commission institute litigation against the Respondent in the Equality Court for determination of whether the Respondent's statements amounted to hate speech, and seek appropriate relief in the circumstances.

## **5. THE MANDATE OF THE COMMISSION AND ITS COMPLAINTS HANDLING PROCEDURES**

- 5.1 The Commission was established under Section 181 of the Constitution as one of the "*state institutions supporting constitutional democracy*".
- 5.2 The constitutional mandate of the Commission is to:
  - 5.2.1 Promote respect for human rights;
  - 5.2.2 Promote the protection, development and attainment of human rights; and
  - 5.2.3 Monitor and assess the observance of human rights in the Republic.
- 5.3 The Commission in terms of Section 184(2) of the Constitution is empowered to investigate and report on the observance of human rights in South Africa.
- 5.4 The mandate of the Commission is further clarified under the South African Human Rights Commission Act, 40 of 2013 ("**SAHRC Act**"), and

additionally in the Promotion of Equality and Prevention of Unfair Discrimination Act, 4 of 2000 ("PEPUDA"), and the Promotion of Access to Information Act, 2 of 2000 ("PAIA").

5.5 The SAHRC Act provides an enabling framework for the powers of the Commission. The Commission's Complaints Handling Procedures ("CHP"), established in terms of Section 9(6) of the Human Rights Commission Act, 54 of 1994, articulate the procedures to be followed in conducting an investigation regarding an alleged violation of/or threat to a fundamental right.

5.6 In terms of Section 14 of the SAHRC Act, the Commission may resolve "a violation of or threat to any human right" through conciliation, mediation or negotiation. In addition under Section 15, the SAHRC Act empowers the Commission to investigate violations or threats to violations of human rights.

5.7 The Commission is tasked with monitoring, both pro-actively and by way of complaints brought before it, violations of human rights and seeking appropriate redress for such violations. In this regard, it also has an educational role to play. The Commission does not see its mandate as adversarial, but rather, it must seek ways to protect and strengthen human rights and foster social cohesion within South Africa. The approach adopted in the investigation of this matter and in this report must be viewed with this mandate in mind.

5.8 The CHP sets out how complaints should be dealt with by the Commission and includes how they are to be lodged and the process that the Commission should follow when handling complaints.

5.9 The CHP stipulates that a complaint must be lodged with the provincial office within the province where the violation occurred. However, in this particular instance, because the xenophobic violence took place in more than one province and the matter consequently gained national importance, the matter was accordingly escalated to the head office of the Commission and was dealt with at that level.

## 6. STEPS TAKEN BY THE COMMISSION IN THE INVESTIGATION OF THE COMPLAINTS LODGED

6.1 As a consequence of the complaints lodged with the Commission, and in furtherance of its constitutional and legislative mandate, the Commission instituted an investigation into the allegations levelled against the Respondent.

6.2 The investigative approaches employed by the Commission in investigating the complaints involved a combination of methods. These included desk-top research, document analysis, formal interviews, semi-formal interviews, fact-finding missions and the use of expert evidence.

### 6.3 Meeting with the parties

6.3.1 Pursuant to the complaints lodged by the Complainants as set out above, the first investigative method utilised by the Commission was meeting with the parties. Thereafter, the Commission met with officials of the Royal Household Trust.<sup>3</sup>

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<sup>3</sup> Acting CEO of the Respondent's Trust, Bonginkosi M Qunta (Rev) and legal advisor to the Respondent (Judge Ngwenya).



- 6.3.2 The purpose of the meeting was to obtain and record facts relating to the Respondent's alleged utterances. It was also to determine the modalities for corresponding with the Respondent in respect of this matter.
- 6.3.3 During the meeting, officials from the Royal Household Trust indicated that they were mandated by the Respondent to respond to the allegations against the Respondent. They further indicated that direct engagements with the Respondent would not be practical, as the Respondent would not engage in the absence of all his chiefs, which are approximately 300 in number.
- 6.3.4 A key part of this meeting was also to obtain a full written speech from the Respondent. The Respondent's representatives made an undertaking to provide the Commission with the speech. They however stated that, whilst a written speech had been prepared for the Respondent, it would be unhelpful to the Commission, as he had departed materially from the speech in order to supplement, elaborate and/or to emphasise certain content of his speech off-the-cuff at multiple junctures. The copy of the speech eventually provided by the Respondent's representatives was materially different from the audio recording of the Respondent's speech. It should therefore have been apparent that the copy of the speech provided did not relate to the event in question.
- 6.3.5 In addition to meeting with the Respondent's representatives, the Commission also met with some of the individual complainants at its Head of Office and at its Provincial Office in KwaZulu-Natal. During the

meetings with the Complainants, they reiterated their allegations against the Respondent.

#### **6.4 Field research**

6.4.1 The second approach undertaken by the Commission was field research. In light of the allegations made by some of the Complainants, the Commission deemed it important to conduct such research in order to ascertain whether there was a factual link between the Respondent's utterances and the violence against migrants in the KwaZulu-Natal Province that occurred shortly thereafter.

6.4.2 The Commission's investigative team visited communities in the KwaZulu-Natal Province that had experienced violent attacks against migrants.

6.4.3 In this regard, the Commission undertook interviews with members of affected communities on 18, 19, 21 and 22 September, 2015. Many of the community interviewees were willing to provide useful information and views on the nature of the violence, its triggers and causes, but were unwilling to do so in writing or to have their identities recorded, apparently due to fear of reprisals.

6.4.4 The Commission interviewed 25 (twenty-five) members of the community in total. The breakdown of the interview sample was as follows:

- 6.4.4.1 Locals: 9;
- 6.4.4.2 Foreign nationals: 9;
- 6.4.4.3 Formal traders: 3;
- 6.4.4.4 Local informal traders: 1; and
- 6.4.4.5 Foreign informal traders: 3.

6.4.5 In addition, the Commission also interviewed relevant stakeholders in the community. These included the Station Commander in the South African Police Service ("SAPS") in Isipingo, Officials of the Professional Transport and Allied Workers Union ("PTAWU"), a representative of Africa Solidarity Network and a representative of Democracy Development Programme.

## 6.5 Document analysis

6.5.1 The third method employed by the Commission was document collation and analysis. In this regard, the Commission undertook a search and collation of all relevant print and electronic media publications on the subject of violence against migrants in the country, the Respondent's utterances and private and public media commentaries on the same.

6.5.2 The Commission subjected each of these documents to review and analysis to identify reported or direct hate speech content, possible triggers of these violent attacks against migrants, underlying and systemic causes of these attacks, and in particular an analysis of whether the utterances of the Respondent amounted to hate speech

within the meaning set out in PEPUDA or had incited the outbreak of violent attacks against migrants that South Africa experienced subsequent to the publication of the speech.

## **6.6 Obtaining a copy of the Respondent's speech**

- 6.6.1 The Commission sought to procure a full audio recording of the Respondent's speech. During the process of undertaking a search for an electronic recording of a verbatim record of the Respondent's speech, the Commission approached various media actors to provide this evidence. Neither the national broadcaster (South African Broadcasting Corporation ("SABC")), nor any of the independent broadcasters admitted to being in possession of a recording.
- 6.6.2 A local radio station Gagasi FM was able to provide a short electronic clip, which appeared to be only an extract of the Respondent's speech. This extract contained only the part in which the Respondent appears to be calling upon migrants to leave South Africa.
- 6.6.3 During the Commission's investigative efforts to find a full recording of the Respondent's speech, Sonke Gender Justice, a non-governmental organisation ("NGO"), made unsolicited contact with the Commission and provided what it asserted to be:

- 6.6.3.1 An audio-recording of the full speech of the Respondent;
- 6.6.3.2 A transcribed version of the same speech in isiZulu; and
- 6.6.3.3 A sworn translated version, into English, of the same speech.
- 6.6.4 According to the NGO, this recording had been made by a journalist, Mthokozisi Manqele ("Mr Manqele") who was physically present during the moral regeneration meeting hosted by the Respondent in Pongola.
- 6.6.5 The Commission met with Mr Manqele to satisfy itself regarding the authenticity of the recording. Mr Manqele is the News Managing Editor at Maputaland Radio and a freelance journalist of *Isolezwe* and Gagasi FM. Mr Manqele confirmed that he was indeed present when the Respondent's speech was delivered, that he had personally recorded the speech and that the audio recording of the speech provided to the Commission was the same speech that he had recorded. Mr Manqele also deposed to an affidavit confirming these facts, a copy of which is in the possession of the Commission.
- 6.6.6 The Commission furnished the Respondent with both the audio-recording and the transcribed and translated versions provided to it by the NGO and invited the Respondent to confirm or deny whether these were a true version of his utterances on the day in question. Despite being invited to do so, the Respondent has not disputed the authenticity or accuracy of the audio recording or substantially commented on the translations or audio on which the Commission has relied.

6.6.7 The defence of the Respondent is set out more fully in paragraph 10 below.

## 6.7 Desk-top research

6.7.1 The fifth investigation method employed by the Commission was extensive desk-top research. In this regard, the Commission undertook a review of available literature relating to the role of traditional leadership in a democratic dispensation, culture and traditions of the Zulu people in order to enrich the contextual analysis of this investigation.

6.7.2 The Commission also had regard to the report of the Special Reference Group on Migration and Community Integration in KwaZulu-Natal ("**SRG Commission Report**") issued on 31 October, 2015. The SRG Commission was appointed by the Premier of KwaZulu-Natal to investigate the causes and consequences of the xenophobic violence that broke out in KwaZulu-Natal in March 2015.<sup>4</sup>

## 7. PRELIMINARY REPORT

7.1 After concluding its investigation, the Commission prepared a Preliminary Investigative Report. A copy of the Preliminary Report was sent to the Complainants and the Respondent on 30 November 2015 and the parties were invited to make submissions by 31 January 2016.

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<sup>4</sup> The SRG Commission was chaired by Judge Navanathem Pillay, former United Nations High Commissioner for Human Rights, and was made up of the following members: Mr Paddy Kearney, Mr Comfort Ngidi, Mr Vasu Gounden, Ms Karen Lotter and Ms Stephanie Miller. A copy of the SRG Commission's report is available at <http://reliefweb.int/report/south-africa/report-special-reference-group-migration-and-community-integration-kwazulu-natal> (accessed on 22 April 2015).

- 7.2 The purpose of providing a copy of the Preliminary Report to the Complainants and the Respondent was to provide them with an opportunity to raise any aspect of fact, law or process that was of concern to them prior to the Commission issuing a Final Report. This process was intended to enrich the quality and depth of the Final Report.
- 7.3 The Commission received submissions from a number of the Complainants and from the Respondent in response to the Preliminary Report.
- 7.4 The submissions received from the Complainants raised a number of concerns regarding the preliminary findings of the Commission, whilst the Respondent raised a number of technical objections to the Preliminary Report. The Respondent's objections will be addressed later in this report.
- 7.5 The Commission is satisfied that it has taken into account all of the submissions made by the parties in response to the Preliminary Report and that the Final Report has been amended where appropriate.

## **8. INDEPENDENT TRANSCRIPTION AND EXPERT EVIDENCE**

- 8.1 After receiving responses to the Preliminary Report and having considered the matter further, the Commission deemed it prudent to obtain an independent transcription and translation of the speech.
- 8.2 The transcription of the speech in isiZulu was prepared by WITStranlate (a professional translation service offered by the University of the Witwatersrand Language School) from the audio recording of the speech supplied to the Commission. The transcription was verified by an expert. A copy of the transcript is attached as **Annex A**.

8.3 The Commission also appointed Dr Bongzi Zungu (“Dr Zungu”), an expert in the isiZulu language, to translate the speech and provide an expert opinion on the meaning of the speech in totality, having regard to its intended audience and the nature of the isiZulu language.

8.4 Dr Zungu is a qualified expert in the isiZulu language and holds both an Honours degree in "*The Zulu way of life as depicted in Zulu folklore*"; and a doctorate degree in Philosophy focusing on, "*The use of personal names in respect of the living-dead within traditional polygamous families in KwaMambulu*". Dr Zungu currently holds the position of Head of the Department of African Languages at the University of the Witwatersrand (although it should be noted that the report was prepared in her private capacity and not on behalf of the University) and has previously held academic positions as the Director of Languages at the University of Fort Hare, and Lecturer at the University of KwaZulu-Natal and the Durban University of Technology. Dr Zungu has also worked for the National Department of Arts and Culture as the Chief Language Practitioner. She has published a number of literary works and publications in peer-reviewed journals and has spoken at a number of national and international conferences including, at the International Council of Onomastic Sciences at the University of Barcelona, Spain and University of Turku, Finland.

8.5 Dr Zungu was required to *inter alia*:

8.5.1 listen to the audio version of the speech and to read the transcribed version of the speech received from WITStranlate to verify its accuracy;

8.5.2 translate the speech from isiZulu into English;



- 8.5.3 provide an opinion on the meaning of the speech in totality, having regard to its intended audience; and
- 8.5.4 identify any idiomatic expressions and provide an interpretation of such expressions in the context of the speech as a whole.
- 8.6 The English translation of the speech prepared by Dr Zungu is attached as **Annex B**.
- 8.7 The Commission is satisfied that the expert's translation of the speech does not differ materially from the version used by the Commission in the Preliminary Report and which was provided to the Respondent on 27 July 2015.
- 8.8 Dr Zungu provided a report from a sociolinguistic perspective and also consulted with the Commission to provide further clarity. A copy of the Expert Report is attached as **Annex C**.
- 8.9 In summary, the outcome of the Expert Report is as follows:
- 8.9.1 The speech made by the Respondent must be understood in the context in which it was made. The tone and semantic nature of the isiZulu language will affect the way in which the audience perceived the words used by the Respondent;
- 8.9.2 The Respondent, as the speaker, assumed a father-role within the community. In isiZulu culture this means that he can express his discontent freely and without mincing his words. Historically, as the King of the Zulu Nation, the Respondent is able to express his views

- bluntly and in a sometimes crude manner. However, the tone of the speech is that of a father;
- 8.9.3 It is sometimes difficult to follow the reasoning and line of argument due to the incoherent nature of the speech;
- 8.9.4 The speech is a warning to disobedient people. The Respondent is commenting on Zulu people in KwaZulu-Natal who he feels have a sense of entitlement, are lazy and abuse drugs and alcohol instead of working towards improving their lives;
- 8.9.5 In the mind of the Respondent, it is justifiable to alert people against migrants who come into South Africa under false pretences of being traders. However, an isiZulu speaking person would have interpreted this as a wakeup call and a warning against laziness, crime, drugs and alcohol and not to mean that migrants are enemies;
- 8.9.6 The Respondent's reference to lice and fleas is referring to the problems in society and is not directed to migrants. In the isiZulu language and culture a person can never be referred to as "lice" or a "flea";
- 8.9.7 The Expert Report concludes that the utterances by the Respondent (viewed from a sociolinguistic point of view) do not in any way incite violence or physical harm to a particular group of people.
- 8.10 The status of expert evidence in our law is clear. In this regard, our courts have found that the primary role of an expert is to guide the decision maker

and not to displace the role of the decision maker.<sup>5</sup> While the Commission took the Expert Report into consideration when making its final recommendations, it must be emphasised that the Commission differed in some respects with the views of the Expert and the Expert Report. Accordingly, the Expert Report was not the sole basis on which the Commission came to its conclusions.

## **9. EVIDENCE COLLECTED**

The outcome of the various research efforts of the Commission as set out in paragraph 7 above, revealed the following facts:

### **9.1 Utterances of the Respondent**

9.1.1 The Respondent delivered his speech on the 15 March 2015 in Pongola in the KwaZulu-Natal Province.

9.1.2 The social challenges that faced the area of Pongola around the time of the Respondent's speech include a series of rapes against young girls and pensioners, most of whom were killed after the sexual violations.

9.1.3 Prior to the Respondent's speech, there had been a much-publicised report of a 4-year-old boy of Ncotshane village who was gruesomely killed and his mutilated body parts were found in a house belonging to the local St. Jones Church.

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<sup>5</sup> See the principles applicable to the admissibility and evaluation of expert opinion evidence in PJ Schwikkard & SE van der Merwe *Principles of Evidence* 2 ed (2002) at 89.

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- 9.1.4 The Respondent was accompanied by government officials that included Police Minister, Mr Nathi Nhleko, and provincial MEC for Community Safety Mr Willies Mchunu.
- 9.1.5 The Respondent used this visit to launch what he termed a "Back-to-Basics" campaign in the community.
- 9.1.6 It is apparent that the Respondent's speech dealt with several different topics and was not primarily aimed at addressing the topic of migrants. The topics addressed by the Respondent in the speech included:
- 9.1.6.1 Rehabilitation of the Zulu nation;
  - 9.1.6.2 strengthening the relationship between the SAPS and the community;
  - 9.1.6.3 the lack of Ubuntu in society;
  - 9.1.6.4 vandalism and destruction of government property, private property, and property meant for the benefit of the community;
  - 9.1.6.5 sexual offences against minors and the elderly;
  - 9.1.6.6 alcohol and drug abuse;
  - 9.1.6.7 corrupt pastors and police officers;
  - 9.1.6.8 crime in schools;
  - 9.1.6.9 disobedient children;
  - 9.1.6.10 the role that police officers play in society;
  - 9.1.6.11 climate change;

9.1.6.12 the need for Zulu people to work hard to improve their lives; and

9.1.6.13 the presence of migrants and foreign traders.

9.1.7 In relation to migrants the Respondent made the following statements (as appears from the English translation) which are relevant for purposes of assessing the complaints. The relevant paragraphs of the speech are quoted in full to preserve the context:

*"16. It is painful to me if this nation that was fought for by my great-grandparents and the thousands of people and has become the den of criminals. Nothing is more painful to me more than that. I am losing sleep over that. What kind of people God has put me in the midst of? They never listen. I ask myself whether this is the freedom King Cetshwayo and his son Mamonga who was honoured at the founding ceremony of the ANC in 1912, he was given the honorary president status. (Hail the King & applause) Is this the freedom that freedom because I am talking about written history. Don't assume that I am talking politics because I am not. I am talking about history. I am not turning this into a political matter. Both King Dinuzulu and King Cetshwayo were arrested for fighting for this land. They were fighting for the land for people who were to receive freedom in 20 or in 1994 and then in 2015 we are talking about South Africans who do not want to listen, who do not want to work, who are thieves, who rape children, who break into other people's houses, who are lazy to plough, people who will be looked at by other nations as idiots whose inheritance is up for grabs.*

*MM*

17. As we speak in front of the shops they hang rags that dirty our streets, you can't even see the names of the shops, it's foreign nationals. I know that sometimes it is difficult for other politicians to shun bad behaviour because some wrongdoers become voters after five years. (Hail the King) Honourable (Minister), my Honourables please pardon me, in such situations it is my job to say something. I am not waiting for a five-year tenure to reprimand wrongdoings.
18. As the King of the Zulus, as the King of the Zulu nation, the nation that is respected in the whole world because of the role it played in the struggle and in the freedom of the African continent so I will not keep quiet while our land is being taken for a ride by people with no vision. Now it's time for us to have a vision. I am asking the South African government to give us support. Let's fix our problems. Let's fix what troubles us, take out lice, fleas and put everything in the sun for the heat to take out what's not needed. We are asking for foreign nationals to be sent back home, (home) so that .... Let us listen to each other, let us listen to each other, let us listen to each other. When you were in their countries you were at war, you helped them gain independence in their countries. I know that. That's why other countries gained independence because they received help from (exiled) struggle activists from South Africa. You didn't hang or sell anything.
19. Eh! My Honourable (Ministers) My Honourable (Ministers) let us also go to their countries for a short visit, let's not go there and

*stay until it becomes our home. We know that we are in rural areas but we need support.*

20. *Go out to the fields to work and don't just sit around doing nothing. To the government, you need to take the stand now because you also are protecting criminals ... they are in the Lord's house eh amongst you pastors. It is my request, criminals are hidden. And to the police force I say work hard we can see all the corrupt officers hiding behind your uniform. (Hail the King)*
21. *Whilst I am still talking about the police department, I would also like to mention that you are a regiment that is very close to my heart. I will never neglect you. But in this instance you won't work effectively because there are people who are in South Africa under false pretences of trading but they are really here to steal our wealth and take it back to their countries whilst nobody knows why all these people left their countries of origin. Perhaps they were criminals.*
22. *The relationship with African countries is very good. The relationship is very good indeed but we must not have such relationships which causes us to think that we are better than the African continent. Let us not have a holier-than-thou attitude. They also have their laws. We must also have our own laws Police officers are the pillars of the safety of our country. They are the answer to people and the communities who live under the fear and crime. The police are the ones who are informed immediately when there are problems because they work in the*

*midst of people. That is why I say let us fix our own problems, right now even teachers are terrified where our children wake up go to school. They are scared of okapi knives easily accessible at school. Our children get stabbed with okapi knives. Our children are too brave because of the laws protecting the abuse of children's rights. Which children's rights are being violated here? Which law are they referring to, the law which give the children rights to stab each other with a knife. These children carry guns. The sad part is that the teachers are not safe from these children. This is all because of children's rights. Didn't we survive corporal punishment in schools? (noise and applause) Nowadays I cannot even punish my child if he/she does something wrong at home. The child must always a police telephone number on speed dial, there is 'a man who is abusing us' here at home. The child says 'a man who is abusing us' referring to his/her own father. (noise and applause) I know that the police hear first as I have mentioned that there is a problem in them as I have already mentioned, I would like to warn them about the danger they are facing. The truth is, there are a lot of people out there who want to drag your name through the mud with the hope of weakening the South African economy. They want to weaken the economy while they criticise your work. The intention of any person who distracts the police from their work of protecting the nation and keeping the law is to make the economy weak. Everybody knows that the police are the last protectors of democracy that we live under which allows any*



*people to come into the country. South Africa is watching helplessly as it swallows all sorts of people who left their countries of origin for reasons only known to them. (noise) However, without the police without the police force, the way they work courageously, this nation cannot be safe and progressive. Therefore any person who ill-wishes this country and have a condescending attitude towards our procedures, will make sure that he/she is the first one who leaves his workstation to do his/her mischievous actions. A police officer to leave his/her workstation usually precedes disaster. That is why I am appealing to you not to stop being the community protectors and peacemakers and safety keepers in our communities". (Own emphasis)*

**9.2 Media commentaries and publications on the utterances of the Respondent**

9.2.1 Following the utterances of the Respondent, there were numerous print and electronic media reports covering the speech. In addition, commentaries regarding the same were widely published.

9.2.2 The media reported on the Respondent's utterances, translated these into English, and provided interpretation and meaning in English of what the Respondent had said in isiZulu.

9.2.3 The following are selected extracts of reported translations of what the Respondent said as published by the media, and which some of the Complainants relied on to allege hate speech against the Respondent:

*"When foreigners look at them, they will say let us exploit the nation of idiots. As I speak you find their unsightly goods hanging all over our shops, they dirty our streets. We cannot even recognize which shop is which, there are foreigners everywhere. I know it is hard for other politicians to challenge this because they are after their votes. Please forgive me but this is my responsibility, I must talk. I cannot wait for five years to say this. As King of the Zulu Nation...I will not keep quiet when our country is led by people who have no opinion. It is time to say something. I ask our government to help us fix our own problems, help us find our own solutions. We ask foreign nationals to pack their belongings and go back to their countries."<sup>6</sup>*

*Addressing Pongolo community members during a moral regeneration event on Friday, Zwelithini accused government of failing to protect locals from the "influx of foreign nationals". "Most government leaders do not want to speak out on this matter because they are scared of losing votes. "As the king of the Zulu nation, I cannot tolerate a situation where we are being led by leaders with no views whatsoever.*

*"We are requesting those who come from outside to please go back to their countries," Zwelithini said. "The fact that there were countries that played a role in the country's struggle for liberation should not be used as an excuse to create a situation where foreigners are allowed to inconvenience locals. "I know you were*

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<sup>6</sup> See "The King of Hate Speech" Daily Maverick 15 April 2015 available at <http://www.dailymaverick.co.za/opinionista/2015-04-15-the-king-of-hate-speech/#.Vx3W5MBJnIU>

*in their countries during the struggle for liberation. But the fact of the matter is you did not set up businesses in their countries," he said.*

*A translation of a recorded version of Zwelithini's speech, which has been published online, quotes him as saying: "We ask foreign nationals to pack their belongings and go back to their countries"<sup>7</sup>*

*Comments by the Zulu king that foreigners should go back to their home countries because they are changing the nature of South African society with their amanikiniki or goods and enjoying wealth that should have been for local people have horrified foreigners who have been dealing with a spate of xenophobic attacks around the country...*

*King Goodwill Zwelithini made the comments in a "moral regeneration" event in Pongola at the weekend.*

*In his speech King Zwelithini said when South Africans were in exile they did not settle in other countries and start trading.*

*"Instead, when you were in their countries you helped them to get their freedom. I know that other countries were liberated because of liberation armies from South Africa," he was quoted saying.*

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<sup>7</sup> Foreigners must go home – King Zwelithini' *The Citizen* 23 March 2015 available at <http://citizen.co.za/349347/foreigners-must-go-home-king-zwelithini/> (accessed on 23 April 2016)

*"(But now) when you walk in the street you cannot recognise a shop that you used to know because it has been taken over by foreigners, who then mess it up by hanging amanikiniki," he said.*

*The king said foreigners were doing as they pleased because locals were not behaving properly and not respecting their hard-won freedom.<sup>8</sup>*

*Dignitaries," King Zwelithini said to Police Minister Nathi Nhleko, KwaZulu-Natal community and liaison MEC Willies Mchunu and Catholic priest Smangaliso Mkhathshwa, "you will have to forgive me in this situation.*

*"I have to speak out because I don't have to wait five years [for votes].*

*"As the king of the Zulu nation, which freed Africa, the time has come for me to say I am tired of being led by people [politicians] who have no views."*

*He then returned to reading out his prepared speech, calling on the government to "assist us", presumably in getting rid of foreigners.*

*"We urge all foreigners to pack their bags and leave," the king said.*

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<sup>8</sup> 'King's anti-foreigner speech causes alarm', Independent online, 23 March 2015, available at <http://www.iol.co.za/news/politics/kings-anti-foreigner-speech-causes-alarm-1835602> (accessed on 23 April 2016)

*The king made these utterances on Friday during a "moral regeneration" meeting at the Pongola Country Club, in northern KwaZulu-Natal.*

*According to Isolezwe journalist Mthokozisi Manqele's account of the gathering, most in the marquee applauded approvingly as the king spoke.*

*But a few seemed shocked by his words.*

*But if the king sensed any discomfort in the crowd he didn't show it as he continued to blast immigrants.*

*"As I speak, the shops and streets are a mish-mash of rubbish goods. You can't even recognise a shop that you used to know as they have all been taken over by foreigners."<sup>9</sup>*

*An audio clip of a portion of the Respondent's speech was published online with the following translation:*

*"[T]hey are people when if other nations look at them will say let go and eat the inheritance of the stupid people. As I'm talking to you now there are all sorts of things hanging outside the stores. They brought untidiness to our streets, it's filthy, you can't even see what were these stores were, foreigners in these areas. I know sometimes it's difficult for politicians to speak out against these things because bad doers become voters after five years. Leaders forgive me but in this situation I must speak as someone*

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<sup>9</sup> King Goodwill Zwelithini speaks the language of Cecil John Rhodes' *Rand Daily Mail* 25 March, 2015

*who doesn't have to wait five years as Zulu King, a nation that is respected world-wide because of its role in the fight for liberation of Africa. I won't keep quiet when people who have no say are playing with this country. The time is now for us to have a say. I would like to ask the South African government to help us. We must deal with our own lice in our heads let's take out the ants and leave them in the sun. We ask that immigrants must take their bags and go where they come from."*<sup>10</sup>

9.2.4 In the Commission's view, the media translations were generally a fair translation of the Respondent's speech. However, it appears from the media reports that the full context of the speech was generally not reported and that some statements may have been taken out of context.

### 9.3 **Violent attacks on migrants following the Respondent's utterances and media publications and commentaries**

9.3.1 No attacks on migrants took place in Pongola on the day of the Respondent's speech or any time material to this investigation or to-date of publication of this report.

9.3.2 However, on 30 March, 2015, violent attacks on migrants occurred in Isipingo and in the central business district of Durban violence also erupted.

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<sup>10</sup> LISTEN IN ENGLISH: King Goodwill Zwelithini lays into foreigners' ENCA 15 April 2015, available at <http://www.enca.com/south-africa/listen-zulu-king-foreign-nationals>.

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- 9.3.3 In essence these attacks took place fifteen (15) days after the Respondent's public utterances.
- 9.3.4 Isipingo, the location where attacks against migrants erupted, is an urban location in the central business district of Durban.
- 9.3.5 Isipingo is geographically situated 392 km from Pongola where the Respondent's utterances were made.
- 9.3.6 Two (2) incidents of violent attacks against migrants took place within the Isipingo CBD and Isipingo Rail Area on 30 March 2015 as confirmed by a report from Umlazi Cluster SAPS that the Commission has on hand.
- 9.3.7 A group of about 120 (one hundred and twenty) migrants sought refuge at the Isipingo Police station, and an additional 180 (one hundred and eighty) were rescued from community mobs by the SAPS and kept at Isipingo Police Station for safety.
- 9.3.8 Later, some of these migrants refused to return to their homes for fear of being attacked and were allowed to occupy the Isipingo Police Station.
- 9.3.9 The public protests and attacks on migrants spread to various locations across KwaZulu-Natal and were sustained until May 2015.<sup>11</sup>

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<sup>11</sup> See the SRG Commission Report at pgs 53-58.



#### 9.4 Stated causes of violent attacks on migrants

- 9.4.1 Informants interviewed during the Field Mission alluded to above suggested that the trigger of the violence in Isipingo was a labour-related protest by workers from Jeena's Supermarket in iSipingo.<sup>12</sup>
- 9.4.2 The strike action, which was carried out on 30 and 31 March, 2015, was organised by South African National Civic Organisation ("SANCO").
- 9.4.3 On Monday 30 March, 2015, the striking workers together with community members barricaded Prince Mcwayizeni Road with rubble, stones, logs and burning tyres near Jeena's Supermarket.
- 9.4.4 The community members' involvement was to support the employees who were on strike. The demonstration started in front of Jeena's Supermarket.
- 9.4.5 SANCO had alleged that Jeena's Supermarket management was exploiting people by employing them as casual workers for years without registering them on a permanent basis; further that South African workers who were unable to speak and understand English were released from employment and replaced with migrants.
- 9.4.6 At the time of the strike action, SAPS received reports that migrants were being assaulted in their rented residential abodes at Emalandeni Informal Settlement.

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<sup>12</sup> This is supported by the findings of a report dated May 2015 which was prepared by the SAPS Umlazi Cluster. The SRG Commission also found that one of the immediate triggers for the violence was the labour unrest that took place at Jeena's Supermarket, see pgs 65-66.



- 9.4.7 On the same day, a group of men, who witnesses allege were South African, attacked migrants at Isipingo CBD.
- 9.4.8 The attackers looted shops and hair salons belonging to migrants near E, F and G Taxi Ranks, Jadwart Street, Kajee Street, Thomas Lane, Durban Taxi Rank and Folweni Taxi Rank.
- 9.4.9 In the course of these altercations, three (3) migrants sustained injuries. Two (2) sustained head injuries having been struck with stones, and one (1) sustained a stab wound on his hand. The injured were treated at Prince Mshiyeni Memorial Hospital and later discharged.
- 9.4.10 An unidentified vehicle drove past a house occupied by migrants at No. 26 Chan Road and fired shots towards the same house and the bullet hit the wall but no one was injured.
- 9.4.11 In the course of the strike action, a group of men alleged to be South African entered a Somalian shop at J Section at Umlazi and attempted to loot it.
- 9.4.12 The shop owner fired a shot towards the group of males and in the process shot an African female adult, whose name and particulars are known to the Commission. She later died at Prince Memorial Mshiyeni Hospital.
- 9.4.13 In what witnesses refer to as an act of retaliation, on Friday, 10 April 2015 at about 19:00, a group of about fifty (50) African males armed with spears and sharpened iron rods invaded a container tuck-shop at W Section in Umlazi owned by a migrant and demanded that the

Ethiopian nationals open the container. When they refused, the African males poured a flammable substance through the serving window and set it alight while the Ethiopian nationals were inside.

9.4.14 Two (2) Ethiopian nationals were badly burnt and rushed to Prince Mshiyeni Hospital, and one of them later died.

9.4.15 The owner of Jeena Supermarket's view was that the labour dispute or strike and the violence that erupted thereafter was attributable to SANCO who had spread rumours about the company having hired migrants to replace South African workers.

9.4.16 The overwhelming majority of interviewees in the community and SANCO held the view that there was no causal link between the utterances of the Respondent and the subsequent violence against migrants in Isipingo.

9.4.17 The only interviewees that linked the utterances of the Respondent with the subsequent violence that broke out in Isipingo were migrants. These interviewees indicated that there had always been underlying tensions between themselves and the locals.

#### 9.5 **Utterances of the Respondent following the violent attacks against migrants in Isipingo**

9.5.1 Following the attacks on migrants in Isipingo, and the various media publications that called on the Respondent to publicly apologise and withdraw his comments, the Respondent convened an *Imbizo* that was held at the Moses Mabhida Stadium in Durban on the 20 April 2015.

- 9.5.2 In the Commission's view, the *Imbizo* was an attempt by the Respondent to restore calm to the situation in KwaZulu-Natal and accordingly the Respondent's statements at the *Imbizo* are a relevant factor for the Commission to take into account in this matter.
- 9.5.3 The speech made by the Respondent at the *Imbizo* is addressed in greater detail in paragraph 15 below.<sup>13</sup>
- 9.5.4 The Chairperson of the Commission was personally present at the *Imbizo* and was satisfied with the statements made by the Respondent in distancing himself from the notion that migrants should be attacked and attempting to clarify what he characterized as incorrect reporting on his previous speech. Although the Respondent's actions in calling the *Imbizo* are to be welcomed, it is important to note that the Respondent did not accept during the *Imbizo* that his previous statements were problematic in any respect.

## 10. THE RESPONDENT'S DEFENCE

- 10.1 In the course of the investigation, the Commission put various allegations, documents and translations to the Respondent and called for the Respondent to provide a response. In each case, correspondence was received and acknowledged by the KwaZulu-Natal Royal Household Trust.
- 10.2 It is important to re-iterate that the Commission has not received a direct response from the Respondent himself and has at all stages liaised with the KwaZulu-Natal Royal Household Trust, which acted as the Respondent's

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<sup>13</sup> The Commission located a video of the *Imbizo* that is available on the internet which contains the Respondent's full speech. The video is available on the following link: <http://702.co.za/articles/2557/reaction-to-king-zwelithini-s-xenoimbizo>.

representative in this matter. In particular, Bonginkosi M. Qunta (Rev), Acting Chief Executive Officer ("ACEO") of the KwaZulu-Natal Royal Household Trust signed formal responses and communication on behalf of the Respondent. Given the content of the correspondence it is fair for the Commission to accept that the ACEO acted at all times material hereto on the mandate of the Respondent.

- 10.3 In this regard and manner, the Commission received a letter dated 27 May 2015. The letter was signed by the ACEO. In the letter a request is made to the Commission to extend the due date for a response from the Respondent to be submitted by 5 June 2015 instead of the earlier agreed date of 28 May 2015.
- 10.4 In the letter from the ACEO it was made clear that "*significant progress has been made in the preparation of His Majesty's response*".
- 10.5 A formal response to the allegations made against the Respondent was sent "*prepared and signed on behalf*" of the Respondent and is dated 5 June 2015.<sup>14</sup>
- 10.6 The response to the allegation is signed by the ACEO. The response states that "*[t]he Royal Household Trust together with a Committee appointed by His Majesty, the King*" was tasked to prepare the response to the complaint lodged against the Respondent. It can therefore be correctly concluded that the response is one sanctioned by the Respondent himself and forms his defence to the allegations against his person.

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<sup>14</sup> Bonginkosi M Qunta "Statement on behalf of His Majesty, King Zwelithini Kabhekuzulu in response to the complaint by the African Diaspora Forum and others to the South African Human Rights Commission" (5 June 2015) available on hand, paras 4 & 7.

10.7 After receipt of the Preliminary Report, the Respondent raised a number of procedural issues with the Commission. A summary of these issues is as follows:

10.7.1 The Respondent requested a translation of the Preliminary Report into isiZulu;

10.7.1.1 The Commission denied the Respondent's request to be sent a version of the Preliminary Report in isiZulu on the following basis:

10.7.1.1.1 There is no general legal obligation on the Commission to provide the Respondent with an isiZulu translation of the Preliminary Report;

10.7.1.1.2 Throughout the investigation, the Commission had always communicated with the Respondent in English and had received written responses from the Respondent in English;

10.7.1.1.3 The request for a translation of the Preliminary Report into isiZulu was made three weeks after receipt of the Preliminary Report. Given the Commission's deadline, this request would have unduly delayed the finalisation of the Commission's report; and

10.7.1.1.4 As a result of the Respondent's assertion that words, both written and spoken, have been

poorly translated, it would have been unwise for the Commission to attempt a translation of the Preliminary Report which may give rise to further problems of misinterpretation.

10.7.1.2 The Commission is satisfied that the Respondent has not suffered any prejudice by the refusal to provide him with an isiZulu translation of the Preliminary Report.

10.7.2 The Respondent alleged that there were material discrepancies between the version of the speech provided to the Commission by the Respondent and the version relied on by the Commission. In addition, that the version of the speech relied on by the Commission had been obtained during the Commission's investigation and that none of the Complainants had submitted a version of the speech to the Commission.

10.7.2.1 As indicated in 6.3.4 above, it is apparent that the written speech provided to the Commission by the Respondent is an entirely different document. It should have been clear that the document was entirely different and accordingly, it is not clear why this document was provided to the Commission. The Commission can only speculate on the reasons the document was provided to it.

10.7.2.2 The Commission is satisfied that the audio version of the speech that it has in its possession is the speech that was delivered by the Respondent which forms the subject matter of the complaints. It is irrelevant that the Complainants did not supply

the speech to the Commission themselves as they were clearly not in possession of the full speech and relied on media reports as a basis to formulate their complaints.

10.7.3 The Respondent denied that a formal response had ever been submitted to the Commission on behalf of the Respondent and argued that any letters sent to the Commission should not be conflated with a formal response to the allegations against the Respondent.

10.7.4 It is evident from what is set out in paragraphs 10.1 to 10.6 above that the Commission at all times engaged with the Respondent's representatives, whom he delegated to act on his behalf.

10.7.5 The Respondent alleged that he had requested information from the Commission about the specific paragraphs in the speech which constituted hate speech, which request had been denied. It was further submitted that the response dated 5 June 2015 did not constitute a response in respect of the entire speech as the Respondent had not provided a response in that regard after the Commission failed to provide him with a response to his enquiry.

10.7.5.1 It is incorrect that the Commission did not furnish the Respondent with specific details of the words or paragraphs in the speech which constitute hate speech. The response dated 5 June 2015 that was filed on behalf of the Respondent was indeed filed prior to the Commission being provided with the full audio recording, transcription and translation of the Respondent's speech. Once the Commission received this information it was supplied to the Respondent in order to afford him an opportunity to make any

further submissions that he wished to make. In its letter dated 7 August 2015, which was addressed to the Royal Household Trust, the Commission requested a response from the Respondent to the allegations and stated that "*the Commission has understood the allegations to be that the speech of iSilo, in its entirety or part thereof, may reasonably be construed to demonstrate a clear intention to be hurtful, harmful or incite harm, or promote or propagate hatred against foreign nationals.... It is for this reason that the Commission invites iSilo to respond to the allegation that the iSilio's statements as set out in the transcribed versions provided to you whether in part or in its entirety constitutes hates speech within the meaning of the Equality Act.*"

The Respondent was therefore made aware of the nature and extent of the complaints and exactly what he needed to respond to. We also note that the Respondent is uniquely positioned in this matter in that the complaints relate to a speech that he made, the contents and meaning of which ought to be known to him.

#### 10.7.5.2

Nevertheless, in an attempt to ensure that there would be no cause for a procedural dispute, the Commission afforded the Respondent yet another opportunity to respond. In a letter dated 29 April 2016 addressed to the Respondent, the Commission provided the Respondent with the revised transcription and translation of the speech, and the Expert Report. The commission also drew the Respondent's attention to certain paragraphs of the speech that the Commission considered to be



problematic and invited the Respondent to make additional submissions.

10.7.5.3 In response, the Respondent requested a meeting with the Commission. The Commission declined a meeting with the Respondent on the basis that, given the stage that the matter had reached, it would be better for the Respondent to respond in writing.

10.7.5.4 Despite the invitations extended to him, the Respondent did not provide any further submissions to the Commission, which is regrettable. Accordingly the Commission must rely on the submission of 5 June 2015 as the only available articulation of the Respondent's defence to the complaints against him.

10.8 In the response of 5 June 2015 the Respondent raised two (2) key procedural matters:

10.8.1 **Identity of the Complainants**

The Respondent raised the point that he was not obliged to respond to the complaints levelled against him because the identity of the Complainants had not been fully disclosed to the Respondent by the Commission. In this regard, the Respondent demanded that the Commission reveal the identity of all of the Complainants and indicated that he hopes "*the Commission will in due course provide full reasons why it expects the King to answer to faceless accusers.*" The Commission's response to this request was to point the Respondent to the relevant provision of the CHP that allows a complainant to

maintain anonymity upon request. It is also important to note that in terms of the CHP, a complainant can submit a complaint either as a member of a group or class of persons, or in the public interest.<sup>15</sup> The Complainants were accordingly not required to make complaints in their personal capacity. Indeed, in light of the nature of this matter, which turns on a statement that was publically made by the Respondent, the identity of the Complainants is irrelevant to the assessment of the complaint.

#### 10.8.2 Hearsay

The Respondent raised the procedural point that he was not obliged to respond to the complaints because, in essence, the Complainants were relying on hearsay to make the conclusions that they did.<sup>16</sup>

The hearsay that the Respondent referred to in this regard was the media reports that purported to report on what the Respondent had said. This procedural matter was resolved by the Commission when the Commission obtained the audio recording made by Mr Manqele who was present on the day the speech was given. The Respondent has to-date not refuted the authenticity of the audio-recording which was furnished to him.

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<sup>15</sup> In terms of Article 6 subsections (b), (c) and (d) of the CHP, complainants can include persons acting on behalf of others who cannot act on their own, persons acting on behalf of a group or persons acting in the public interest. See also msection 9(6) of the Human Rights Commission Act 54 of 1994.

<sup>16</sup> Bonginkosi M Qunta "Statement on behalf of His Majesty, King Zwelithini Kabhekuzulu in response to the complaint by the African Diaspora Forum and others to the South African Human Rights Commission" (5 June 2015) available on hand, para 4.

10.9 Thereafter, the thrust of the Respondent's defence to the allegations levelled against him on the substance, was as follows:

10.9.1 **Poor translation**

First, that the Respondent had delivered his speech in isiZulu. Therefore, the media's English translation of what the Respondent had said in isiZulu had been lost in translation and had misrepresented what the Respondent had actually said.

10.9.2 **Distorted meaning**

Second, that the Respondent had delivered his speech in isiZulu, which language is rich in idiomatic and proverbial meaning. Therefore, the media and Complainants' interpretation (drawn solely from the media's account of what was said) of what the Respondent had meant in context, had been so poorly translated,<sup>17</sup> misinterpreted and distorted as to be unfairly inflammatory and mischievous. Further, that the meaning ascribed to the Respondent by the media was not the same as that understood by subjects of the Respondent present at the conference, all of whom were well-versed in the isiZulu language.

10.9.3 **Statements did not amount to hate speech**

Third, even on the media's version (and Complainants' interpretation) of what the Respondent had said, the words ascribed to him did not

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<sup>17</sup> Rev Bonginkosi M Qunta "Statement on behalf of His Majesty, King Zwelithini Kabhekuzulu in response to the complaint by the African Diaspora Forum and others to the South African Human Rights Commission" (5 June 2015) available on hand, para 6.

amount to hate speech. The Respondent contended that the allegations were "*frivolous and devoid of any substance.*"

It is worth noting that the Respondent did not offer an alternative English translation to the speech that would more closely have mirrored his communication, but rather only dismissed that which was provided through the NGO.

#### 10.9.4 **No intention to incite violence**

Fourth, that the Respondent denied that he had the intention to incite violence against migrants. In support of this assertion, the Respondent drew the Commission's attention to similar and related public occasions at which the Respondent had made public calls for non-violence and calm in cases of violent attacks on migrants both before and after the speech at the moral regeneration conference. In particular, the Respondent pointed the Commission to a subsequent speech on 20 April 2015 in which the Respondent called for "*peace, adherence to law and protection of all.*"<sup>18</sup>

#### 10.9.5 **Violent attacks instituted by the public on mistaken and erroneous belief, fuelled by the media**

The Respondent concludes that, to the extent that the violent attacks that ensued pursuant to the publication of his statements can be attributed to his statement, the Respondent regretted that people had

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<sup>18</sup> Bonginkosi M Qunta "Statement on behalf of His Majesty, King Zwelithini Kabhekuzulu in response to the complaint by the African Diaspora Forum and others to the South African Human Rights Commission" (5 June 2015) available on hand, para 11.

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acted unlawfully under a "*mistaken and erroneous belief*" that they were acting on the Respondent's orders.<sup>19</sup>

The Respondent's defence is summarised by the following extract of his correspondence to the Commission:

4. *All the Complainants rely on either the media or third parties as their source of information. None of them has been directly affected by the so called hate speech which in their statements is constituted by the following "we request all foreign nationals to pack their bags and go". They do not state why these words should be ascribed the meaning they give. Needless to state that the complaints are frivolous and devoid of any substance.*
5. *His Majesty, the King was a guest of the Minister of Police at Ophongolo Country Club on the 15th March 2015, in a moral regeneration conference.*
6. *It is regretted that while His Majesty spoke throughout in ISIZULU and to an audience which is well conversant with the language, the media considered it appropriate to make use of an unqualified individual as an interpreter. Not only was the message lost but the idiomatic expression used by His Majesty does not*

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<sup>19</sup> Bonginkosi M Qunta "Statement on behalf of His Majesty, King Zwelithini Kabhekuzulu in response to the complaint by the African Diaspora Forum and others to the South African Human Rights Commission" (5 June 2015) available on hand, para 6.

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*have any English equivalent. Needless to state that it was never His Majesty's intention that His words be misused and abused. The fact that people acted unlawfully under mistaken and erroneous belief that they were carrying out His orders is deeply regretted and unfortunate.*

7. *His Majesty's speech of the day runs into about six (sic) pages in total. Regrettably prominence is given of a portion in the form of a radio clip of less than three seconds. The translation of this portion constitute one page. It is significant to note that this is also a departure from the prepared speech. Poorly translated as it may we could find no hate speech after listening and reading the translation provided. From this we conclude that those who claim that the material provided support the allegations of hate speech by the King are mischievous and intent on giving the King a bad name.*
  
8. *It will be noted from the Complainants that according to them the so called hate or xenophobic comments were made on the following days, "last weekend", "ongoing", "March 2015", "21 March 2015", "Mid-March 2015", "April", "March 23", "March/April", "14 April 2015", "6 April 2015", "22 March 2015", "15 March 2015", "11 April to 14 April 2015".*

9. *We have highlighted the dates on which the alleged utterance were made to demonstrate that these cannot be genuine Complainants. Furthermore none of all the Complainants was a member of the gathering that was addressed by the King.*
  
10. *We have purposely referred to the dates above as given by the Complainants do demonstrate that none of the Complainant could have been serious with his or her claim. It is our considered view that those are the people who seek publicity at the expense of His Majesty the King. We submit that there is not even an iota of evidence which would justify any further investigation on this. In so submitting we bring to the attention of the Commission these facts:*
  - i. *These are all faceless Complainants who were never affected by the so called hate speech,*
  - ii. *None of the complaints was a member of the audience addressed by the King,*
  - iii. *In the words quoted as constituting "hate speech" nothing hateful is provided,*
  - iv. *The translation given while highly inaccurate does not in any way constitute xenophobic or hate speech.*

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11. *Despite what is stated above, the King took it upon himself to call IMBIZO at Moses Mabhida Stadium on the 20th April 2015 and explained himself. He called for peace, adherence to law and protection of all. He has also repeated his call for peace in various other gatherings.*
12. *The King wishes to commit himself once more to peace, social cohesion and nation building under the rule of law. In this regard he invites all likeminded to join hands with him for a better world.*
13. *The king is committed to peace and social cohesion underpinned by the Rule of Law. This has been his motto throughout his reign over forty four years. This is further underscored by various gatherings he has called subsequent this unfortunate episode where his name has regrettably been misused. Among others he has met the King of Somalia with whom a peace protocol will be signed in due course.*

## **11. LEGAL ISSUES FOR DETERMINATION**

- 11.1 Arising out of this investigation, a number of substantive legal questions arose for consideration in this matter:
  - 11.1.1 The basic question for determination in this matter is whether the Respondent's utterances amount to hate speech as prescribed in the relevant provisions of PEPUDA;



- 11.1.2 In order to answer this question, a number of sub questions arise, such as:
- 11.1.2.1 The meaning that should be assigned to the concept of hate speech for purposes of this complaint;
- 11.1.2.2 The meaning that would have been assigned to the Respondent's utterances by a reasonable person;
- 11.1.2.3 Whether the Respondent's utterances were carried out in the exercise of freedom of expression; and
- 11.1.2.4 Whether the Respondent exceeded the boundaries of freedom of expression and engaged in speech which is proscribed by section 10 of PEPUDA. In particular:
- 11.1.2.4.1 Whether the utterances by the Respondent **could reasonably be construed to demonstrate a clear intention to incite violence** against migrants;
- 11.1.2.4.2 Whether the Respondent's utterances **could reasonably be construed to demonstrate a clear intention to be hurtful** to migrants;
- 11.1.2.4.3 Whether the Respondent's utterances **could reasonably be construed to demonstrate a clear intention to be harmful** to migrants; and

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- 11.1.2.4.4 Whether the Respondent's utterances could reasonably be construed to demonstrate a clear intention to promote and propagate hatred against migrants.

## 12. SUMMARY OF FINDINGS

- 12.1 The Commission arrived at the following conclusions, which will be more fully articulated below:
- 12.1.1 That the media's coverage on what the Respondent said, though inaccurate in some respects, was a valid exercise of media freedom. To the extent that the Respondent's complaint is that such coverage was inaccurate, the Commission is not the correct forum to address the issue.
- 12.1.2 That the Respondent's utterances as set out in the transcription of the verbatim audio-recording of the speech in isiZulu:
- 12.1.2.1 could reasonably be construed to have been uttered with the clear intention to be **hurtful** to migrants;
- 12.1.2.2 could reasonably be construed to have been uttered with the clear intention to be **harmful** to migrants;
- 12.1.2.3 did not constitute a call to locals to take up arms or commit acts of violence against migrants, and could not have been reasonably construed as **inciting violence** against migrants; and

12.1.2.4 could not reasonably be construed to demonstrate a clear intention to promote or propagate hatred.

### 13. THE MEANING OF HATE SPEECH

13.1 A number of the Complainants allege that the words of the Respondent amounted to hate speech within the meaning set out in Section 10 of PEPUDA. However the majority of the Complainants, being lay people, did not cite any specific legislative basis for their complaint.

13.2 At a foundational level, the concept of hate speech is primarily addressed in section 16(2) of the Constitution. Section 16(2) provides that the right to freedom of expression, which is guaranteed under section 16(1), does not extend to the conduct set out in section 16(2). Such conduct is therefore excluded from the ambit of the constitutional protection that is otherwise afforded to expressive conduct.<sup>20</sup> Section 16(2)(c) defines hate speech as "*advocacy of hatred that is based on race, ethnicity, gender or religion and that constitutes incitement to cause harm*". The exclusion of hate speech from the ambit of the right to freedom of expression accords with the foundational principles of our Constitution, which include the rights to equality and dignity.<sup>21</sup>

13.3 The constitutional prohibition on hate speech has been given practical legislative effect in PEPUDA. PEPUDA was enacted pursuant to section 9(4) of the Constitution to prevent or prohibit unfair discrimination. Hate speech falls squarely into the category of conduct that perpetuates

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<sup>20</sup> Islamic Unity Convention v Independent Broadcasting Authority 2002 (4) SA 294 at para 31.

<sup>21</sup> Section 1(a) of the Constitution provides that

The Republic of South Africa is one, sovereign, democratic state founded on the following values:

(a) Human dignity, the achievement of equality and the advancement of human rights and freedoms.

systemic patterns of discrimination and accordingly, PEPUDA also seeks to prohibit such conduct. The Commission is of the view that PEPUDA provides the correct legislative framework within which the complaints should be adjudicated.

13.4 Section 10 of PEPUDA states that no one:

*"10 may publish, propagate, advocate or communicate words based on one or more of the prohibited grounds, against any person, that could reasonably be construed to demonstrate a clear intention to:*

- (a) be hurtful;*
- (b) be harmful or to incite harm;*
- (c) promote or propagate hatred.*

13.5 The 'prohibited grounds' defined in PEPUDA are as follows:

13.5.1 race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth; or

13.5.2 any other ground where discrimination based on that other ground:

13.5.2.1 causes or perpetuates systemic disadvantage;

13.5.2.2 undermines human dignity; or

13.5.2.3 adversely affects the equal enjoyment of a person's rights and freedoms in a serious manner that is comparable to discrimination on a ground in paragraph 13.5.1.

13.6 The Commission is mindful of the fact that the definition of hate speech contained in section 16(2) of the Constitution is significantly narrower than the definition contained in PEPUDA in that Section 16(2)(c) only applies to expression which constitutes advocacy of hatred and is coupled with incitement to cause harm. The consequence of this divergence between the constitutional delineation of hate speech and the definition that is contained in section 10 of PEPUDA is that PEPUDA also applies to speech which is *prima facie* protected expression.<sup>22</sup> Accordingly section 10 of PEPUDA must be applied with due regard to the need to strike the correct balance between the right to freedom of expression and the rights to equality and dignity which PEPUDA seeks to protect.

13.7 Courts both within South Africa and beyond have pronounced on the matter of hate speech and incitement to commit violence. In South Africa some of the cases dealing with hate speech are:

13.7.1 ***Afriforum and another v Julius Sello Malema***.<sup>23</sup> In this case, Mr Julius Malema ("Mr Malema"), was accused of hate speech for singing a song calling for the shooting of "Boers" and farmers. While Mr Malema argued that the song had historical significance and was not to be given a literal interpretation, the Court disagreed and found

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22 Islamic Unity Covention at para 32.

23 2011(6) SA 240. See also 'Hate speech and freedom of expression in South Africa' available at [http://fxi.org.za/home/fxi\\_downloads/Hate\\_Speech\\_and\\_Freedom\\_of\\_Expression\\_in\\_SA.pdf](http://fxi.org.za/home/fxi_downloads/Hate_Speech_and_Freedom_of_Expression_in_SA.pdf) (accessed 5 June 2015).

that it amounted to hate speech and consequently the Court banned the singing of the song. While there may be differences of opinion on the decision of the Court, the decision stands and was never appealed.

13.7.2 In the case of *South African Human Rights Commission v SABC*<sup>24</sup>, the Broadcasting Complaints Commission of South Africa ("BCCSA") held that the lyrics of a song that were "*derogatory and inflammatory*" against Indian people amounted to hate speech.

13.8 In other jurisdictions the matter of hate speech has also come before the courts. For example, in Canada, in the case of *R v Keegstra*<sup>25</sup>, the accused was convicted of anti-Semitism because he had written a book in which he stated that Jews were child killers, money lovers and that they had engineered the holocaust so that they gain sympathy.

13.9 Hate speech is prohibited in most democratic nations because such speech does not advance, and indeed often undermines, the foundational principles on which a democratic nation is based such as freedom, equality and dignity. In *Islamic Unity*<sup>26</sup>, which is the only case to date in which the Constitutional Court has addressed the issue of hate speech, the Court held that:

*"The pluralism and broadmindedness that is central to an open and democratic society can, however, be undermined by speech which seriously threatens democratic pluralism itself. Section 1 of the*

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<sup>24</sup> 2003(11) BCLR 92 (BCCSA). See also 'Hate speech and freedom of expression in South Africa' available at [http://fxi.org.za/home/fxi\\_downloads/Hate\\_Speech\\_and\\_Freedom\\_of\\_Expression\\_in\\_SA.pdf](http://fxi.org.za/home/fxi_downloads/Hate_Speech_and_Freedom_of_Expression_in_SA.pdf) (accessed 5 June 2015).

<sup>25</sup> *R v Keegstra* [1990] 3 S.C.R. 697 and [1990] S.C.J. No. 131.

<sup>26</sup> *Islamic Unity Convention v Independent Broadcasting Authority* 2002 (4) SA 294.

*Constitution declares that South Africa is founded on the values of "human dignity, the achievement of equality and the advancement of human rights and freedoms." Thus, open and democratic societies permit reasonable proscription of activity and expression that pose a real and substantial threat to such values and to the constitutional order itself".<sup>27</sup>*

13.10 In *R v Keegstra* the Canadian Supreme Court identified the type of harm that hate speech can inflict. The court identified two broad categories of harm occasioned by hate speech. The first category of harm is the impact of hate speech on the members of the group that is the target of the speech. In this regard, the court said as follows:

*It is indisputable that the emotional damage caused by words may be of grave psychological and social consequence... [W]ords and writings that wilfully promote hatred can constitute a serious attack on persons belonging to a racial or religious group... and in this regard... these persons are humiliated and degraded.<sup>28</sup>*

13.11 The second broad category of harm associated with hate speech is the impact of such speech on society as a whole. The court held that hate speech may persuade or incite people to hateful views and actions:

*A second harmful effect of hate propaganda which is of pressing and substantial concern is its influence upon society at large.*

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<sup>27</sup> Islamic Unity at para 27.

<sup>28</sup> *R v Keegstra* [1990] 3 S.C.R. 697 at 746d.

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*It is thus not inconceivable that the active dissemination of hate propaganda can attract individuals to its cause, and in the process create serious discord between various cultural groups in society. Moreover, the alteration of views held by the recipients of hate propaganda may occur subtly, and is not always attendant upon conscious acceptance of the communicated ideas.<sup>29</sup>*

- 13.12 More recently in the 2013 Canadian Supreme Court decision of ***Whatcott v Saskatchewan Human Rights Tribunal***,<sup>30</sup> the Court held, with respect to the effect that hate speech can have on society that:

*As the majority becomes desensitized by the effects of hate speech, the concern is that some members of society will demonstrate their rejection of the vulnerable group through conduct. Hate speech lays the groundwork for later, broad attacks on vulnerable groups. The attacks can range from discrimination, to ostracism, segregation, deportation, violence and in the most extreme cases, to genocide.*

- 13.13 The reasoning of the Canadian Supreme Court set out above applies with equal force in South Africa given the historical context which has given rise to the prohibition on hate speech in this country.

- 13.14 Taking into account the above cases it is evident that the negative effects of hate speech which the law ought to deter extends to emotional and psychological harm, discrimination, ostracisation and similar conduct designed to exclude the target group from society, and ultimately violence.

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<sup>29</sup> Ibid at 747a.

<sup>30</sup> 2013 SCC 11, at para 40.



- 13.15 Properly interpreted through the prism of the Constitution, the three subsections of Section 10(1) in PEPUDA each have a distinct meaning, which ties in with the objectives set out above.
- 13.16 In the Commission's view, the following meanings must be ascribed to the subsections in section 10 (1) of PEPUDA:
- 13.16.1 **Hurtful** refers to serious psychological or emotional harm experienced by individuals and the target group;
- 13.16.2 **Harmful** includes physical harm, discrimination and other forms of harm experienced by individuals and the target group beyond psychological or emotional harm that is hurtful; and
- 13.16.3 **Promoting and propagating hatred** refers to the effect of words not on the target person or group, but on a group of persons in whom hatred for the target group is promoted or propagated, including communities and society as a whole.<sup>31</sup>
- 13.17 A relevant factor in this determination is whether the speech is directed at minorities or vulnerable groups in society. The more vulnerable the group, the more likely it is that it will be harmed by speech which propagates negative messages that are based on prohibited grounds of discrimination.<sup>32</sup>

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<sup>31</sup> See D Milo, G Penfold & A Stein "Freedom of Expression" in S Woolman & M Bishop (eds) Constitutional Law of South Africa (2 ed, OS 06-08) ch 42 p 87. Original footnote refers to A Kok 'The Promotion of Equality and Prevention of Unfair Discrimination Act; Why the Controversy?' 2001 TSAR 294, 299-300.

<sup>32</sup> *Afriforum* at para 35.

**13.18 Whether the utterances of the Respondent were carried out in the exercise of freedom of expression**

13.18.1 In his speech the Respondent appears to raise a host of social ills that he has identified in his constituency.<sup>33</sup>

13.18.2 The Respondent raises these social issues and directs his concerns to provincial policy makers and executive authorities expressing concern that authorities are not taking appropriate action to address these ills.

13.18.3 The intention was clearly to encourage and call for orderliness and positive behaviours in the community, and obtain support from public policy makers and regulators to address these matters.

13.18.4 The Respondent raises these matters in his official capacity, and regards this as his duty. In the transcribed version in isiZulu, the Respondent says: (para 17) *"Mhlonishwa, baHlonishwa bami, niyongixolela, ezimeni ezinjalo kungumsebenzi wami, kufanele ngikhulume."* In the translation that the Commission relies on for interpretation, this statement reads (para 17) *"my Honourables please pardon me, in such situations it is my job to say something."*

13.18.5 A traditional authority in South Africa bears constitutional and statutory<sup>34</sup> responsibilities to express the views of the people that they serve and contribute towards social cohesion and local government in the country. They wield a lot of power in expressing the will of their

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<sup>33</sup> See paragraph 9.1.6.

<sup>34</sup> The Traditional Leadership and Governance Framework Act of 2003

people and in sometimes suppressing that will or in guiding the attitudes of their followers.<sup>35</sup>

13.18.6 Therefore, rather than to contradict democracy, traditional authorities can help support the spirit of constitutionalism.<sup>36</sup>

13.18.7 Part of this responsibility is to use his moral and traditional authority to exert the rule of law, good governance and social development within the jurisdictions that they govern.

13.18.8 Traditional authorities have historically carried out this responsibility by convening regular *Imbizos* or *Indabas* with their subjects.<sup>37</sup>

13.18.9 These platforms have been utilised by traditional leaders and understood by subjects to be platforms for norm-setting and denouncements of unacceptable behaviour.

13.18.10 In the present case, none of the parties have disputed that the moral regeneration conference was convened to address a range of social ills that had come to the Respondent's attention within his jurisdiction.

13.18.11 Even though his speech was critical of migrants, it was just as critical of other persons within South Africa.

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35 Edward LiPuma and Thomas Koelble "Deliberative democracy and politics of traditional leadership in South Africa: A case of despotic domination or democratic deliberation?" *Journal of Contemporary African Studies* Vol 27, No2 (2009) 201

36 Leslie Bank and Roger Southhall, "Traditional leadership in South Africa's new democracy", 407.

37 Submissions made by Contralesa to the Constitutional Assembly on the constitutional role of traditional leaders in 1995 referred to in *Pilane and others v Pilane and others* [2013] ZACC 3 [103].

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13.18.12 For instance, the Respondent berates nationals for their violent conduct during public protests and their destruction of property belonging to the state and to migrants as follows:

*"We saw people demanding service delivery from the government, which is their human right, they then became uncontrollable criminals. Criminals now hide behind people who are demanding legitimate services and the criminals intervene and commit crime. We saw these people burning offices, libraries and schools. We looked in amazement when we learnt about the deeds of these human rights entitled individuals who are destroying property belonging to foreign nationals."*

13.18.13 It would be difficult to conclude that the Respondent was not acting in in pursuance of a legitimate freedom to express himself on social issues of concern to his community.

13.18.14 Notwithstanding the above, the Commission has to assess whether the Respondent's utterances, when viewed in their entirety and in context, exceeded the acceptable boundaries of freedom of expression by venturing into territory that is proscribed by section 10 of PEPUDA.

**13.19 Whether the utterances of the Respondent exceeded the boundaries of freedom of expression**

13.19.1 The matter of hate speech usually arises within the context of freedom of expression and so any attempt to limit it must be done with care as

was noted in *Handyside v United Kingdom*<sup>38</sup>, where the Court held that freedom of expression:

*"is applicable not only to "information" or "ideas" that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population. Such are the demands of that pluralism, tolerance and broadmindedness without which there is no "democratic society". This means, amongst other things, that every "formality", "condition", "restriction" or "penalty" imposed in this sphere must be proportionate to the legitimate aim pursued.*

*At the core of freedom of expression lies the need to ensure that truth and the common good are attained, whether in scientific and artistic endeavours or in the process of determining the best course to take in our political affairs. Since truth and the ideal form of political and social organization can rarely, if at all, be identified with absolute certainty, it is difficult to prohibit expression without impeding the free exchange of potentially valuable information. Nevertheless, the argument from truth does not provide convincing support for the protection of hate propaganda. Taken to its extreme, this argument would require us to permit the communication of all expression, it being impossible to know with absolute certainty which factual statements are true, or which ideas obtain the greatest good.*

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<sup>38</sup> (5493/72) [1976] ECHR 5 (7 December 1976).

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*The problem with this extreme position, however, is that the greater the degree of certainty that a statement is erroneous or mendacious, the less its value in the quest for truth. Indeed, expression can be used to the detriment of our search for truth; the state should not be the sole arbiter of truth, but neither should we overplay the view that rationality will overcome all falsehoods in the unregulated marketplace of ideas. There is very little chance that statements intended to promote hatred against an identifiable group are true, or that their vision of society will lead to a better world. To portray such statements as crucial to truth and the betterment of the political and social milieu is therefore misguided."*

13.19.2 The Constitutional Court has affirmed the above reasoning in ***Handyside***.<sup>39</sup>

13.19.3 In deciding whether the Respondent's utterances amounted to hate speech and incited violence, a fine balance must therefore be struck between the right of any person to impart ideas that may be contentious areas of public policy and the limitations stated in law. This remains the case even if in the process a section of the population is inadvertently offended, shocked or disturbed.

13.20 ***What meaning did the Respondent's statements convey?***

13.20.1 The first port of call is an assessment of the meaning of the Respondent's statements.

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<sup>39</sup> Islamic Unity Convention at para 26 and 27.

- 13.20.2 The Respondent made a number of statements regarding migrants that are deeply problematic:
- 13.20.2.1 He suggested that migrants want to take the inheritance that is due to South Africans by stating that South Africans are lazy and that they are *"people who will be looked at by other nations as idiots whose inheritance is up for grabs."*;
- 13.20.2.2 That migrants are responsible for making the streets dirty: *"As we speak in front of the shops they hang rags that dirty our streets, you can't even see the names of the shops, it's foreign nationals"*;
- 13.20.2.3 He unequivocally called upon executive authorities to order all migrants to leave the country: *"We are asking for foreign nationals to be sent back home"*;
- 13.20.2.4 He stated that migrants are in South Africa to steal the wealth of the nation and suggested that they may be criminals: *"But in this instance you won't work effectively because there are people who are in South Africa under false pretences of trading but they are really here to steal our wealth and take it back to their countries whilst nobody knows why all these people left their countries of origin. Perhaps they were criminals"*;
- 13.20.2.5 He suggested that migrants have left their countries and come to South Africa with questionable motives: *"South Africa is watching helplessly as it swallows all sorts of people who left their countries of origin for reasons only known to them."*

13.20.3 With respect to the meaning that should be assigned to the Respondent's utterances, the court in **Afriforum** took direction from the law of defamation, where the meaning of words is always crucial to determine, and expressed the following test:

*"What the words mean is to be determined by applying the test of what the words would mean to a reasonable listener having the common knowledge and skill attributed to an ordinary member of society."<sup>40</sup>*

13.20.4 The Commission accepts that this is a useful approach in determining what words mean in the context of hate speech and has applied this approach when interpreting the Respondent's utterances. In this regard it is worth noting that although the Respondent spoke in *isiZulu*, the language difference does not warrant a conclusion that the specific statements identified above would have been understood any differently by an *isiZulu* speaking person as the statements are largely unambiguous. The context of the speech as a whole also does not assist the Respondent and indeed exacerbates the problematic nature of the statements. The speech as a whole identified various social ills that need to be rooted out of society ranging from violent crime to paedophilia and drug abuse. Within that context the Respondent identified the presence of migrants as one of the social ills that he believes needs to be dealt with. Viewed against this background, it is clear that the Respondent's statements would not have been understood differently by any reasonable person.

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<sup>40</sup> Afriforum at para 109.



- 13.20.5 The Expert Report sheds further light on the meaning to be attributed to the Respondent's words. Some of the noteworthy points made by the Expert are the following:
- 13.20.5.1 From a cultural perspective the Respondent assumed the position of a father within the family which meant that he could express his discontent freely and without mincing his words;
- 13.20.5.2 In the Respondent's view it was acceptable to alert people against migrants who come into the country under false pretences;
- 13.20.5.3 The audience would not necessarily have understood the statements to mean that migrants are their foes but would have understood it as a wake up call and a warning against laziness, commission of crime, drug and alcohol abuse since the Respondent mentioned all of them at the same time;
- 13.20.5.4 In the history of the Zulu nation, the King can express his views in a blunt and sometimes crude way without meaning to offend a particular individual;
- 13.20.5.5 In regard to the apparent request for "*foreign nationals and their luggages to be sent back home*", the Expert Report found that the reference to "the luggages full of clothes and shoes to sell" is made on the assumption that hawkers are in South Africa illegally;
- 13.20.5.6 The Expert concluded that the Respondent's statements were not harmful and did not incite violence.

13.20.6 As already stated, the purpose of expert evidence is to guide the decision maker. With respect to the linguistic and cultural aspects of the Expert's findings, the Commission is satisfied that these indicate, in summary, that the Respondent spoke, and would have been understood, from the position of an authority figure (father figure) who was issuing a warning to his people about a range of what he considered to be social ills. One of the social ills that he saw fit to warn them about was the presence of migrants. Accordingly although the audience may not directly have been instructed to view migrants as foes, they were clearly identified as a problem that needed to be addressed. The meaning to be attributed to the Respondent's specific statements about migrants in this context (as set out above) are, in the Commission's view, largely unambiguous and are not contradicted by the cultural context or interpretation set out in the Expert Report.

13.20.7 The assessment of whether the speech was harmful or incited violence is not simply a matter of linguistic interpretation but a legal issue taking into account the provisions of PEPUDA and constitutional principles, which the Commission is best placed to make. This aspect of the Expert's assessment is accordingly not accepted by the Commission.

13.20.8 A number of Complainants raised concern that the Respondent referred to migrants as lice. This arises from the media interpretation of the following statement:

*"Asenwaye iyintwala zethu. Asichobe ezethu iyintwala (noise and clapping of hands – bayede) eyiphukwini zethu, amazeze asikhiphe*

*sibeke laphaya elangeni ayiqatshela amazeze ngenxa yokushisa kwelanga".*

13.20.9 The English translation of this is as follows:

*"Let's fix our problems. Let's fix what troubles us, take out lice, fleas and put everything in the sun for the heat to take out what's not needed"*

13.20.10 The Expert Report found that the reference to lice and fleas is about problems in society and was not directed to migrants. In coming to this view, the Expert Report found that in the isiZulu language and culture, a person can never be referred to as "lice" or a "flea". In addition the use of the possessive (ours) demonstrates that these problems belong to the audience.

13.20.11 The Commission is of the view that the concern regarding the use of the words lice and fleas is misguided and is based on a misunderstanding that arises when the Respondent's statements are translated into English. Viewed contextually, the Respondent's reference to the removal of lice meant that the problems that exist in society should be identified and exposed so that they can be dealt with. This conclusion is bolstered by the fact that the Respondent uses the term "lice" subsequently in his speech when he refers to violence in South African schools. In this regard he remarked as follows:

*Yiwo ke amaphoyisa eza kuqala nxa kunezinkinga ngoba ukusebenza kwawo kuphakathi kwabantu. Yingako ngithi, ake sibuke intwala zethu, njengamanje ngisho nothisha bahlalele ovalweni laphingane*

*zethu zivuka njalo ekuseni ziye eyikoleni khona. Bahlalele ovalweni ngoba kubhoke i-ou kappi. I-oukapp idla ingane zethu eyikolweni.*

13.20.12 The English translation of this is as follows:

*The police are the ones who are informed immediately when there are problems because they work in the midst of people. That is why I say let us fix our own problems, right now even teachers are terrified where our children wake up go to school. They are scared of okapi knives easily accessible at school. Our children get stabbed with okapi knives.*

13.20.13 In the circumstances, the statement was not intended to mean and would not have been understood by isiZulu language speakers to mean that migrants are akin to lice. The English language does not have an equivalent mode of expression, which gives rise to the misinterpretation.

13.21 ***Did the Respondent incite violence against migrants?***

13.21.1 One of the key allegations made by the Complainants is that the Respondent's statements amounted to incitement to commit violent acts against migrants. It is accordingly important to consider this allegation first.

13.21.2 The Appellate Division (as it then was) defined the crime of incitement as follows:

*[A]n inciter is one who reaches and seeks to influence the mind of another to the commission of a crime. The machinations of*

*criminal ingenuity being legion, the approach to the other's mind may take various forms, such as suggestion, proposal, request, exhortation, gesture, argument, persuasion, inducement, goading, or the arousal of cupidity. The list is not exhaustive. The means employed are of secondary importance, the decisive question in each case is whether the accused reached and sought to influence the mind of the other person towards the commission of a crime<sup>41</sup>.*

13.21.3 Although the above definition of incitement was set in the context of criminal law, it accords with the ordinary meaning of the word 'incite' and is instructive in the context of hate speech as well.<sup>42</sup> Incitement to violence, thus, involves actively encouraging, calling for or pressuring others to engage in acts of violence where the threat of violence occurring is imminent.<sup>43</sup>

13.21.4 Incitement to cause harm that does not amount to physical violence, such as discrimination, harassment or verbal abuse, must similarly be understood to require a component of instigating or actively persuading others to cause such harm.<sup>44</sup>

13.21.5 From an analysis of the utterances of the Respondent in the transcribed version of his speech, the Commission is of the view that at no point did the Respondent issue a call to arms or any call for

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<sup>41</sup> *S v Nkosiyana* 1966 (4) SA 655 (a) at 659.

<sup>42</sup> The Oxford dictionary defines the word "incite" as follows:

Encourage or stir up (violent or unlawful behaviour). Urge or persuade (someone) to act in a violent or unlawful way:

<sup>43</sup> C van Wyk "The Constitutional Treatment of Hate Speech in South Africa" (2003) 18 SAPR/PL 185, 194.

<sup>44</sup> D Milo, G Penfold and A Stein "Freedom of Expression" in Woolman, Roux, Klaaren, Stein, Chaskalson and Bishop *Constitutional Law of South Africa* (2<sup>nd</sup> edition, Vol 3) at 42-83.

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violent attack against migrants. The Respondent's utterances fall short of incitement to violence as he did not actively encourage, call for or pressurise the audience into committing violent acts against migrants.

13.21.6 This conclusion is bolstered by the fact that the Respondent, during his speech, criticised locals for conducting violent attacks against migrants. Unfortunately, this aspect of the Respondent's speech was not covered in the media reports regarding the speech.

13.21.7 In the view of the Commission, it would be a stretch of the facts in this matter to come to the conclusion that any portion of the speech of the Respondent could have reasonably been construed to amount to incitement to violence against migrants in South Africa.

13.22 ***Were the Respondent's statements hurtful and/or harmful?***

13.22.1 The Canadian case of *Warman v Kouba*<sup>45</sup> summarised the types of expression that are often used to expose minority groups to hatred and identified certain "hallmarks of hate messages". Some of the identified characteristics of such messages are present in the Respondent's utterances. These include:

13.22.1.1 the targeted group is blamed for the current problems in society. In this case migrants are blamed for making the streets dirty and are also blamed for engaging in economic competition with locals. The Respondent states that migrants are here to take away the inheritance that is due to South Africans and to steal

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<sup>45</sup> 2006 CHRT 50.

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the wealth of South Africa. These sentiments speak directly to the issue of economic competition between migrants and South Africans and effectively insinuate that migrants are contributing to the economic woes experienced by locals; and

13.22.1.2 the targeted group is portrayed as dangerous or violent by nature. The Respondent suggests that migrants are criminals. The statement that migrants have left their home countries for reasons known only to themselves, which is repeated more than once, also insinuates that there is a nefarious motive to their presence in South Africa.

13.22.2 The messages communicate the idea that nothing but the banishment, segregation or eradication of this group of people will save others from the harm being done by this group. In this case the Respondent unequivocally calls for the removal of all migrants from South Africa.

13.22.3 The messages communicated by the Respondent speak directly to some of the key issues that have been found to underpin violence against migrants such as competition for jobs, competition in the informal trading and small business sector, and stereotypes about migrants – including that they are all undocumented illegal immigrants and that they engage in crime.<sup>46</sup>

13.22.4 The Respondent's utterances were accordingly **hurtful** to migrants in that they reinforced serious negative stereotypes that have caused

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<sup>46</sup> SRG Commisison Report, pgs 2-5.

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direct harm to migrants in the past and were likely to contribute to feelings of marginalisation and exclusion.

13.22.5 The reason why hate speech is prohibited in our democracy is because it serves to protect target groups members and foster harmonious social relations in a community dedicated to equality and multi-culturalism.<sup>47</sup>

13.22.6 In this regard, any form of hate speech amounts to the violation of the right to dignity because it disparages or diminishes the self-worth of a protected individual or group.

13.22.7 In this case, migrants are a protected group. They are in the minority, and are rendered vulnerable by their reliance on the hospitality of the host country and its people to accommodate them. In this case any show of poor hospitality is contrary to the spirit of *ubuntu* which is a central value of South Africa's new democratic dispensation.

13.22.8 In these circumstances there can be little argument against the conclusion that a public expression by a public figure with moral authority which perpetuates harmful stereotypes and calls for migrants to pack their bags and leave, would leave migrants diminished in their human dignity, which by necessary implication has serious emotional and psychological consequences.

13.22.9 Aside from the psychological and emotional impact inherent in the Respondent's utterances, the Respondent's utterances were also harmful. Although the Respondent did not directly engage in any

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<sup>47</sup> R v Keegstra [1990] 3 S.C.R 697

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incitement to physically harm migrants, his statements contributed to creating an environment in which migrants could be discriminated against by members of society as illegal immigrants and criminals who contribute towards the economic difficulties experienced by South Africans and whose presence in South African society is undesirable. Such discrimination could fuel a climate which leads to violence against migrants. Such psychological conditioning could ultimately lead to acts of discrimination and fuel a climate which leads to violence against migrants.

13.22.10 The moral authority enjoyed by the Respondent and his status as an important public figure within the Zulu nation is crucially important in this assessment. The reverence with which the Respondent is viewed and his influence in society is evident from the fact that none of the people who spoke to the Commission in relation to this matter, when the field research was complete, were prepared to have their identities disclosed. It is indisputable that the Respondent's views carry significant weight with large sections of the public.

13.22.11 In the context of the xenophobic attacks that have taken place across South Africa since at least 2008 and which had flared up in the Gauteng Province in January 2015 and February 2015 (shortly before the Respondent's speech) the Respondent must have been aware of the potentially harmful effects of his statements.<sup>48</sup>

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<sup>48</sup> The attacks that took place in January 2015 and February 2015 were widely reported in the local and international media.

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13.22.12 In the assessment of the Commission, the Respondent's statements concerning migrants, viewed cumulatively, could reasonably be construed as having been communicated with the intention to be **hurtful and harmful** within the meaning of Sections 10(1)(a) and (b) of PEPUDA.

13.23 **Did the Respondent promote or propagate hatred?**

13.23.1 The Commission is of the view that the statements do not promote or propagate hatred as contemplated in section 10(1)(c) of PEPUDA.

13.23.2 The following statement in the Canadian decision of *R v Andrews* sheds light on the meaning of the term 'hatred':

*"Hatred is not a word of casual connotation. To promote hatred is to instil detestation, enmity, ill-will and malevolence in another.*

*Clearly an expression must go a long way before it qualifies."<sup>49</sup>*

13.23.3 In *Whatcott* the court found that hatred connotes expression which exposes a target group to detestation and vilification which goes beyond mere disdain or dislike.<sup>50</sup>

13.23.4 The Commission is of the view that in order for statements to constitute an expression of hatred for purposes of section 10(1)(c), they must meet a high threshold and must involve detestation, malevolence and ill-will.

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49 43 CCC (3rd) 193, 211.

50 2013 SCC 11, at para 41.

13.23.5 The Commission is of the view that the statements made by the Respondent, although hurtful and harmful (for reasons which are fully set out above), did not go as far as to seek to instil feelings of serious detestation and vilification of migrants.

13.24 **The role of the media**

13.24.1 As part of his defence the Respondent suggests that misinterpretation of his statements and incorrect reporting by the media may have played a role in members of the public concluding that he engaged in hate speech. The Respondent went further and called upon the Commission to investigate the role of the media in the violence, thereby implying they were responsible for the violence against migrants.

13.24.2 There are accordingly two aspects in relation to the media that the Commission must consider. Firstly, whether members of the media must themselves be held liable for hate speech and secondly, whether the media inaccurately reported the Respondent's utterances.

13.24.3 The importance of the media has been widely acknowledged by our courts. In this regard the Constitutional Court has held that the right to freedom of expression and freedom of information under section 16 of the Constitution lie at the very heart of a democracy, as individuals in society need to be able to hear, form and express views freely on a wide range of matters.

13.24.4 *In Khumalo and Others v Holomisa*<sup>51</sup>, the Constitutional Court said, "[T]he print, broadcast and electronic media have a particular role in the protection of freedom of expression in our society. Every citizen has the right to freedom of the press and the media and the right to receive information and ideas. The media are key agents in ensuring that these aspects of the rights to freedom of information are respected. ... In a democratic society, then, the mass media play a role of undeniable importance. They bear an obligation to provide citizens both with information and with a platform for the exchange of ideas which is crucial to the development of a democratic culture. As primary agents of the dissemination of information and ideas, they are, inevitably, extremely powerful institutions in a democracy and they have a constitutional duty to act with vigour, courage, integrity and responsibility. The manner in which the media carry out their constitutional mandate will have a significant impact on the development of our democratic society...."

13.24.5 Our courts have repeatedly stressed this pivotal role of the media: it is the watchdog of society, keeping check over the government by keeping the public informed of all matters of public importance.

13.24.6 The Constitutional Court has also held that the very ability of each citizen to be a responsible and effective member of society "depends on the manner in which the media carry out their constitutional

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<sup>51</sup> 2002 (5) SA 401 (CC) at paras 22 – 24. See also: S v Mamabolo 2001 (3) SA 409 (CC); Islamic Unity Convention v Independent Broadcasting Authority and Others 2002 (4) SA 294 (CC); Laugh It Off Promotions CC v SAB International (Finance) BV v/a SabMark International (Freedom of Expression Institute as Amicus Curiae) 2006 (1) SA 144 (CC).

*mandate. The media thus rely on freedom of expression and must foster it.*"<sup>52</sup>

13.24.7 In light of the above, it is apparent that an independent and robust news media is essential to the growth of a democracy. Social media too creates platforms for expression and critical conversations in and around all aspects of public discourse. It is for this reason that the right to freedom of expression has received special recognition in our Constitution.

13.24.8 This right entails the right to receive or impart information or ideas. In relation to the right to impart and receive information, the European Court of Human Rights in *Jersild v Denmark* held as follows: "*Whilst the press must not overstep the bounds set, inter alia, in the interest of the 'protection of the reputation or rights of others', it is nevertheless incumbent on it to impart information and ideas in the public interest. Not only does the press have the task of imparting such information and ideas: the public also has a right to receive them. Were it otherwise, the press would be unable to play its vital role of 'public watchdog'.*"<sup>53</sup>

13.24.9 Media freedom, however important, is not absolute.<sup>54</sup> This right, as indicated above, should be exercised responsibly and within the limits

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<sup>52</sup> South African Broadcasting Corp Ltd v National Director of Public Prosecutions and Others 2007 (1) SA 523 (CC) at para 24

<sup>53</sup> *Jersild v Denmark* ECHR, 1994, Application No.: 15890/89.

<sup>54</sup> *Argus Printing and Publishing Co Ltd and others v Esselen's Estate* 1994 (2) SA 1 (A) [25B-E]; and Section 16(2) of the Constitution of the Republic of South Africa, 1996.

set out in law. This is more so in a society like ours where many regard what the media says as gospel.

13.24.10 In the first instance, the responsible exercise of the right to freedom of expression entails the duty to report news truthfully, accurately and fairly.<sup>55</sup> The Media is also curtailed by laws that *inter alia* prohibit the unlawful tarnishing of an individual's reputation<sup>56</sup> and the incitement of hatred and violence.<sup>57</sup> Moreover, the media is further curtailed by rules and regulations that govern certain segments of the media.

13.24.11 In this regard, the rules of the BCCSA which apply to broadcasting service licensees, provide that licensees may not broadcast material which judged within context amounts to propaganda for war; incites imminent violence or advocates hatred based on race, ethnicity, gender, or religion and which constitutes incitement to cause harm<sup>58</sup>; or glamourises violence or unlawful conduct based on race, national or ethnic origin, colour, religion, gender, sexual orientation, age or mental or physical disability<sup>59</sup>. This prohibition does not however apply to broadcasts which, *inter alia*, amount to a *bona fide* discussion, argument or opinion on a matter of public interest<sup>60</sup>.

13.24.12 Similarly, the Code of Ethics and Conduct for South African Print and Online Media prohibits the publication of material that amounts to

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<sup>55</sup> Section 28 (1) of the BCCSA's Code of Conduct for subscription Broadcasting Service Licensees and section 11(1) of the BCCSA Free-To-Air Code of Conduct for Broadcasting Service Licensees 2009.

<sup>56</sup> Ibid.

<sup>57</sup> See section 16(2) of the Constitution and section 10 of PEPUDA.

<sup>58</sup> See section 10 of the BCCSA's Code of Conduct for subscription Broadcasting Service Licensees and section 4(2) of the BCCSA Free-To-Air Code of Conduct for Broadcasting Service Licensees 2009.

<sup>59</sup> See section 4(1) of the BCCSA Free-To-Air Code of Conduct for Broadcasting Service Licensees 2009.

<sup>60</sup> Section 11 of the BCCSA's Code of Conduct for subscription Broadcasting Service Licensees and section 5 of the BCCSA Free-To-Air Code of Conduct for Broadcasting Service Licensees 2009.

propaganda for war, incitement of imminent violence, or advocacy of hatred that is based on race, ethnicity, gender or religion and that constitutes incitement to cause harm, except where the publication serves a legitimate public interest.<sup>61</sup>

13.24.13 In interpreting the above provisions, the BCCSA has consistently followed the approach adopted in the *Jersild v Denmark* case.<sup>62</sup>

13.24.14 The facts of that case were that a Danish journalist had reported on a group of extremist youths who had made extremely hateful, racist and xenophobic comments during the programme, which was broadcast on national television. The youths and journalist were prosecuted in Denmark for the broadcast. The matter was referred to the European Court of Human Rights. In that case, the Court found that the prosecution of the journalist by the Danish Courts amounted to a violation of article 10 of the European Convention (freedom of speech article). The Court came to this conclusion even though it found that the broadcasted statements themselves constituted hate speech, which was not protected in terms of article 10 of the European Convention. In this regard, the Court held that *"[t]he punishment of a journalist for assisting in the dissemination of statements made by another person in an interview would seriously hamper the contribution of the press to discussions of matters of public interest and should not be envisaged unless there are particularly strong reasons for doing so."*

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<sup>61</sup> Section 5(2) of the Code of Ethics and Conduct for South African Print and Online Media.

<sup>62</sup> See Human Rights Commission and others v Radio Pulpit and others Case o: 01/2001; J Darne v SAFM 06/2010; Kriel and Lombard v SABC2 22/A/2014.

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- 13.24.15 In coming to this conclusion, the Court, *inter alia*, took the following factors and considerations into account: the object and purpose of the programme; the fact that the broadcast was part of a serious news programme; and the fact that the journalist disassociated himself from the views of the youths.
- 13.24.16 In the case of *Human Rights Commission of South Africa v SABC*<sup>63</sup>, the BCCSA followed the approach in the *Jersild v Denmark* case, in dismissing a complaint relating to the broadcast of snippets of the song "Amandiyah". In that case, whilst finding that the song itself constituted hate speech, the court found the broadcast to fall within the ambit of *bona fide* current affairs programming, which was informative in nature. Moreover, the BCCSA found that it was in the public interest for listeners to be informed about the content of the song, so that there could be discussion.
- 13.24.17 A similar approach was followed by the BCCSA in dismissing a complaint relating to the broadcast of snippets of the song "dhubuli bhuni" sang by Julius Malema.<sup>64</sup> In that case, the BCCSA held that where expression is reported as part of the broadcaster's duty of keeping the public informed of matters of public significance in an objective and neutral manner, it would not amount to hate speech.
- 13.24.18 This approach is consistent with section 12 of PEPUDA which provides as follows:

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<sup>63</sup> 2003 (1) BCLR 92 (BCCSA).

<sup>64</sup> J Darne v SAFM 06/2010



*"No person may:*

*(a) disseminate or broadcast any information;*

*(b) publish or display any advertisement or notice,*

*that could reasonably be construed or reasonably be understood to demonstrate a clear intention to unfairly discriminate against any person: Provided that bona fide engagement in artistic creativity, academic and scientific inquiry, fair and accurate reporting in the public interest or publication of any information, advertisement or notice in accordance with section 16 of the Constitution, is not precluded by this section." (our emphasis)*

13.24.19 In light of the above, the Commission is of the view that it cannot find at the level of principle that members of the media should be held liable for hate speech or inciting violence simply for reporting the Respondent's speech, even if such reportage was inaccurate. The Respondent did not point to any specific media report that contradicts this finding.

13.24.20 The next matter to consider is whether the Commission should rule that the media's reportage was inaccurate. The Respondent, during the *Imbizo* of 20 April 2015 attended by the Commission, specifically called upon the Commission to investigate the role of the media in having "misused" and "abused" the words uttered by the Respondent, and thereby attributing an intention to incite violence against migrants that the Respondent did not possess. The Respondent has also stated previously that members of the media ascribed an incorrect meaning

to the speech because they were "*mischievous and intent on giving the King a bad name.*" This essentially appears to be a complaint of inaccurate reporting which affected the Respondent's reputation.

- 13.24.21 The Commission is of the view that it is not the best placed institution to investigate the Respondent's counter allegations in as far as they relate to inaccurate reporting. The BCCSA, the Press Ombudsman and the Independent Communications Authority of South Africa ("ICASA") are better placed to investigate these allegations. Accordingly, the Commission recommends that the Respondent refers complaints to the BCCSA, the Press Ombudsman and ICASA respectively, together with reasons for the late referral of the complaints. The reasons for the late referral can include the fact that this matter was initially referred to the Commission for investigation and that after the Commission found that it had no jurisdiction to investigate these allegations, it became necessary for the complaints to be referred to the BCCSA, Press Ombudsman and ICASA respectively.

#### 14. FINDINGS

- 14.1 Having considered all the facts relating to this matter, and the law applicable to the same, the Commission comes to the following findings:
- 14.1.1 With respect to the question whether the Respondent communicated words regarding migrants that amounted to hate speech within the meaning set out in **Section 10(1)(a) of PEPUDA**, the Commission finds that the words uttered by the Respondent on 15 March 2015 could reasonably be construed to demonstrate a clear intention to be

**hurtful** in that he made statements which contributed to the serious psychological and emotional harm experienced by migrants.

14.1.2 With respect to the question whether the Respondent communicated words regarding migrants that amounted to hate speech within the meaning set out in **Section 10(1)(b) of PEPUDA**, the Commission **finds** that the words uttered by the Respondent on the 15 March 2015 could reasonably be construed to demonstrate a clear intention to be **harmful** in that he made statements which perpetuate discrimination and marginalisation of migrants and a public call for migrants to be expelled from the country.

14.1.3 With respect to the question whether the Respondent communicated words of and regarding migrants that amounted to hate speech within the meaning set out in **Section 10 (1) (c) of PEPUDA**, the Commission **does not find** that the words uttered by the Respondent on 15 March 2015 could reasonably be construed to demonstrate a clear intention to **promote or propagate hatred** against migrants.

14.1.4 With respect to the question whether the violent attacks on migrants that ensued following the statements made are attributable to the Respondent's conduct, the Commission **finds** that upon consideration of the facts of this matter, there is **no evidence that creates a causal link between the utterances of the Respondent on 15 March, 2015 in Pongola and the violent attacks on migrants** in Isipingo and adjacent areas that commenced on 30 March, 2015. The initial cause of the violence was alleged to have been a labour-related dispute relating to Jeena's Supermarket. Furthermore, aside from the

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absence of a clear causal link between the speech and the attacks that commenced shortly thereafter, the content of the speech does not evince any incitement to violent action. As indicated above, the Respondent appeared to denounce the perpetration of violence against migrants in his speech.

- 14.1.5 With respect to the defence of the Respondent that the media were responsible for attributing a language translation and a construction of meaning to the utterances of the Respondent that had the effect of inciting right-thinking members of the public to construe the Respondent's words as bearing a clear intention to be hurtful and/or harmful and/or inciting harm and/or promoting and propagating hatred against migrants, the Commission finds that this question does not fall squarely within the jurisdiction of the Commission and is best referred to a more appropriate body for investigation and determination.

## 15. RECOMMENDATIONS

- 15.1 In making the recommendations which follow, the Commission had regard to the nature of the remedies sought by the Complainants in this matter. The following table sets out the range of relief sought by the Complainants in their letters of complaint.

<b>Remedy sought</b>	<b>Number of Complainants</b>
Apology/retraction	3
Litigation	1
Not specified	27

- 15.2 The Commission understood "not specified" to mean any further, appropriate or alternative relief that the Commission may deem necessary within its constitutional or statutory mandate.
- 15.3 Accordingly, the Commission had regard to the Constitution and the SAHRC Act to identify the appropriate redress in this matter.
- 15.4 In this regard, section 184(2)(b) of the Constitution provides that the Commission has the power to take steps to secure appropriate redress where human rights have been violated. The SAHRC Act also provides the following range of options of redress for a human rights violation:
- 15.4.1 Mediation, conciliation or negotiation to resolve any dispute or to rectify any act or omission emanating from or constituting a violation of or threat to any human right;
- 15.4.2 Bringing proceedings in a competent court or tribunal in the Commission's own name, as may be reasonably required for the effective exercise of the Commission's powers and performance of its functions;
- 15.4.3 Arranging for or providing financial assistance to enable proceedings to be undertaken in a competent court for the necessary relief; and
- 15.4.4 Directing the complainant to an appropriate forum for the necessary relief.
- 15.5 In considering which of the available remedies would be appropriate to redress the violation of human rights in this particular matter, the Commission was guided by the following factors and considerations:

- 15.5.1 The need to issue recommendations that are capable of implementation;
  - 15.5.2 The need to issue recommendations that are effective;
  - 15.5.3 The need to issue recommendations that provide an element of solatium to the Complainants;
  - 15.5.4 The need to issue recommendations that are capable of having a deterrent effect on the Respondent; and
  - 15.5.5 The need to issue recommendations that are consistent with the broad social and constitutional objective of reconciliation and social cohesion.
- 15.6 In considering the issue of appropriate redress, the Commission also took the following factors into consideration:
- 15.6.1 That the Respondent is a widely revered leader of the Zulu nation in the KwaZulu-Natal Province;
  - 15.6.2 That the leadership role of the Respondent in the community, coupled with his moral authority over a large population of subjects, renders the Respondent a pivotal and critical vector in the transformation of South African Society into one that respects the rights, dignity and freedoms of migrants;
  - 15.6.3 That the invocation of the legitimacy and moral authority of the Respondent to address attitudes, perceptions and behaviours of his constituency towards migrants is a useful tool to employ in addressing the public interest in this matter;

- 15.6.4 That the adverse finding against the Respondent that he has infringed the human rights of migrants is in itself a form of public sanction against a person of his stature;
- 15.6.5 That the Respondent, unprompted by any coercive force, convened an *imbizo* on 20 April 2016 at Moses Mabhida Stadium in which he did the following:
- 15.6.5.1 addressed the allegations of xenophobia levelled against him in the media;
  - 15.6.5.2 publicly disassociated himself from same;
  - 15.6.5.3 called upon his chiefs to investigate and report directly to him any acts or reports of xenophobia against migrants;
  - 15.6.5.4 called upon his chiefs to act as community protectors;
  - 15.6.5.5 called upon his chiefs to facilitate peace in the community;
  - 15.6.5.6 made a public call for migrants in KwaZulu-Natal province to come forward to participate in royal and government structures, with the view to building a relationship between nationals and migrants;
  - 15.6.5.7 publicly undertook to "instruct" the Office of the Premier in KwaZulu-Natal to organise an urgent meeting between the Respondent's royal household and the Ambassadors of the affected African countries;

- 15.6.5.8 publicly committed himself to participate in the drafting of a “Peace Accord” committing himself and other stakeholders to peace and the preservation of law and order in the country; and
- 15.6.5.9 publicly undertook to see to it that such a Peace Accord was formally signed and publicised.
- 15.6.6 A copy of the Respondent’s full address at the *imbizo* in both isiZulu and English is attached as **Annex D** and **Annex E** respectively.
- 15.7 The Commission considers these public declarations and commitments to provide a good foundation for appropriate redress to resolve the complaint in this matter for the following reasons:
- 15.7.1 They aim to achieve peace and goodwill towards migrants in KwaZulu-Natal;
- 15.7.2 They invoke the legitimacy of the Respondent as the King of the Zulus, which is critical in ensuring that the Respondent’s constituency adheres to and supports the Commission’s recommendations;
- 15.7.3 They are based on proposals that the Respondent himself regards as implementable;
- 15.7.4 The Respondent is likely to see the recommendations in light of his own interests and that of his subjects and therefore more likely to implement a set of recommendations along these lines;
- 15.7.5 They are in line with the SAHRC Act’s injunction to resolve complaints relating to the violation of a human rights through a mediated and



negotiated settlement, which in the Commission's experience makes for longer lasting settlements; and

15.7.6 They are also in line with the principle of reconciliation which has become a central feature of the South African democratic order following the use of this approach in resolving deeply divisive elements in a society that is emerging from a historical legacy of hatred, fear, guilt and revenge.

15.8 In the circumstances, the Commission makes the following recommendations:

15.8.1 That the Respondent, His Majesty King Goodwill Zwelithini, continues with his efforts of reconciling nationals and migrants in KwaZulu-Natal and with the implementation of his proposed plan of action set out in paragraphs 15.6.5.1 to 15.6.5.9 above and that he makes every effort to ensure its full implementation.

15.8.2 That the Respondent provides the Commission with a report within 60 (sixty) days of the date of this report, setting out the following:

15.8.2.1 Whether the above proposals have been implemented and, if not, a time-bound plan for implementation;

15.8.2.2 If the proposals have been implemented, whether the proposals have enjoyed any success in improving relations between migrants and nationals within the Province;

15.8.2.3 If successful, provide a strategy for disseminating the model with the Houses of Traditional leaders to encourage other Traditional

Leaders who may have similar challenges to implement similar strategies in the localities under their domain; and

15.8.2.4 If the proposals have not been implemented, what factors prevented the implementation of such proposals and what lessons can be learnt and alternative strategies implemented to generate cohesion between nationals and migrants.

15.8.3 That the Commission renders any assistance as may be required to the Respondent and the other relevant actors identified in the above proposals, namely:

15.8.3.1 Facilitating meetings between the Respondent and Ambassadors of affected countries to South Africa, to dialogue on how best to promote good relations between nationals and migrants in KwaZulu-Natal, as the Respondent has undertaken to do; and

15.8.3.2 Facilitating meetings between the Respondent and the Premier of KwaZulu-Natal to dialogue with key stakeholders on the development and signing of a Peace Accord, as the Respondent has undertaken to do.

15.8.4 That, the Department of Cooperative Governance and Traditional Affairs ("COGTA"), in collaboration with the Houses of Traditional Leaders, design and develop a programme to provide the necessary support to Traditional Leaders, to enable them to comply with the Traditional Leaders Act and section 2(3) and section 2A(4) of the Traditional Leaders Act in particular.

15.8.4.1

In this regard, the Traditional Leaders Act provides that institutions of traditional leadership must be transformed to be in harmony with the Constitution and the Bill of Rights. In particular, section 2(3) and section 2A(4) of the Traditional Leaders Act provide as follows:

*“2 (3) A traditional community must transform and adapt customary law and customs relevant to the application of this Act so as to comply with the relevant principles contained in the Bill of Rights in the Constitution, in particular by -*

*(a) preventing unfair discrimination;*

*(b) promoting equality;*

*(c)...*

*2A(4) A kingship or queenship must transform and adapt customary law and customs relevant to the application of this Act so as to comply with the relevant principles contained in the Bill of Rights in the Constitution, in particular by:*

*(a) preventing unfair discrimination;*

*(b) promoting equality; and*

*(c) ...”*

- 15.8.4.2 This recommendation is made in terms of section 13(1)(a)(i) of the SAHRC Act, which provides that *"[t]he Commission is competent and is obliged to make recommendations to organs of state at all levels of government where it considers such action advisable for the adoption of progressive measures for the promotion of human rights within the framework of the Constitution and the law, as well as appropriate measures for the further observance of such rights."*
- 15.8.4.3 The Commission, in its independent monitoring role, remains available to assist COGTA and the respective Houses of Traditional Leaders with designing and implementing such a programme, as well as any other programmes and interventions that can improve relations between nationals and migrants.
- 15.8.5 That, with regard to the counter-complaint of the Respondent in which the Respondent requested that the Commission make a finding against the media, the Respondent should (should he wish to persist with this complaint) redirect the complaint to the BCCSA, Press Ombudsman and ICASA, which bodies possess jurisdiction to deal with this complaint in terms of their procedures.

## 16. FURTHER RECOURSE

In terms of article 34(1)(a) of the CHP, any party to proceedings who is aggrieved by the substance of any determination, decision or finding may lodge an appeal to the Chairperson of the Commission within 45 (forty five) days of the determination, decision or finding. However, in light of the involvement of the Chairperson and the other Commissioners of the Commission in the

investigation of this matter, it would not be appropriate for the Chairperson or any other Commissioner, to determine an appeal on this matter. In the circumstances, should any party not be satisfied with this decision, the aggrieved party may approach the Equality Court for further relief.

SIGNED ON THE 29<sup>th</sup> DAY OF September 2016.

  
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**ADV. M. LOURENCE MUSHWANA**

**CHAIRPERSON**

**SOUTH AFRICAN HUMAN RIGHTS COMMISSION**

# ANNEXA

Ukudlulisa ukubonga Mageba ukuba ungethule kulomphathi wohlelo obambisene naye kulomcimbi omkhulu kangaka lapha kumasipala wasoPhongolo. Ngithokoza kakhulu ukuthi uMhlonishwa uNhleko, esikhathini sokusebenza kwabo, engikwaziyo ukuthi babhizi kanganani kodwa ayinikeze ithuba lokuzoba nathi lapha engizothi kuyisifundazwe sethu sakwaZulu Natali. Siyathokoza Mgilitshi (Mgiliji).

Ngibonge kakhulu ukuthi angihambi ngedwa lapha Mhlonishwa, ngihambe nabantwana benkosi kanye noNdlunkulu ukuzosekela ehh lomcimbi engicabanga ukuthi ubaluleke kakhulu esintwini sethu njengamaZulu, uma sikhuluma ngendlela okuzohlunyelelisa kwezimilo zabantu bakithi.

Ngithokoze kakhulu Macingwane, njengoNgqongqoshe kulesi sifundazwe ukuthi nawe eyinhlelweni onazo njengoba umnyango wezamaphoyisa ehh lapha kusifundazwe uncike laphayana emnyangweni wezamaphoyisa kuZwelonke, ngiyafisa ukuba ngidlulise futhi ukubonga kwami ubukhona bakho (not audible) kepha ngiyafisa ukuthi lamakhosi akhona ehh phakathi kwalomcimbi nalawo ikakhulukazi ayingxenyekuxhumaniseni isifundazwe ngezinto ezilaphana emphakathini, nomnyango wamaphoyisa ubukhona babo buyangithokozisa.

Ngiyafisa ukuba ngibonge kakhulu imikhakha yezamaphoyisa ikakhulukazi ehh uMkhuzi wamaphoyisa la kusifundazwe ehh uNkosikazi uNgobeni kanye nabo bonke abambisene nabo ehh kwisifundazwe, ukubuka izimo zenhlalakahle yokuphepha kwethu sisonke. Ngibonga kakhulu nasembuthweni ubukhona bawo, labo abangabaphathi beziteshi abakhona lapha kwiZululand district.

Ngithokoza kakhulu ukuthi kukhona nabeyinhlangano eyithize ezikhona phakathi kwethu ekade zikhuluma la ngingeke ngisayibalula zonke ukuthi lezinhlangano zenzani, kodwa ubukhona bazo kuyangithokozisa kakhulu.

Ngibonge kakhulu nasemabuthweni. Ngibonge kakhulu eyinduneni, kakhulu ehh ezikhona, nakulezo nduna ezihola omama, ibutho lami lesiphithiphithi, oNomathemba bami engazi kahle ke ukuthi bona, yibona abayizinzalabantu, ikakhulukazi nazo lezi esizokhuluma ngazo nasekukhulunye ngazo njengoba nabo bayaphatheka ekuhlukunyezweni nasekukhulumezekeni, engicabanga ukuthi imikhosi yethu elandelayo izohamba kahle uma ngabe kungaba neyinhlelo zaloluhlobo Macingwane kusifundazwe njengoba wena ubhekele umnyango wezamaphoyisa kwisifundazwe ubhekele ehh uHulumene kaZwelonke.

Ngibonga neyingane zami lezi eyingamantombazane, ubukhona bazo, kuyangithokozisa. Ngibonge nabafana bami labo abakhona. Kepha ngiyafisa ukuthi ngingakaqali ukukhuluma kwami, ngiqale ngokulilela uHulumeni wakuleli ngokulahlekelwa ngomunye wamalungu ekhabinethi engozini enyanyisayo yemoto eyenzeke ngesonto leli eledlule. Ehh ngiyafisa futhi ukudlulisa ukulilela amaphoyisa onke ngokudlula kwabaqaphi kuyo leyo ngozi eyenzeke laphana ePolokwane. Ngiyazi Mgilitsha(ja) amaphoyisa aqaphe abaHlonishwa

angaphansi kophiko lokuphathwa komnyango wakho. Ngiyazi ukuthi lokhu engikushoyo kuhlale kushiwo, kepha egameni leNdlunkulu kaZulu, nesizwe samaZulu, ngithi salani senilala ngenxeba, akwehli lungehlanga. Nakulabo abangamalungu omndeni ehh kamhlonishwa lo ohambile sicela umusa kaNkulunkulu ukuba uwembathise ngengubo efudumele.

Ngiselapho ehh ngiyafisa ukubabaza ngento eshaqisayo futhi eyenzeke kulesi sifunda sakithi lapho kutholakale khona amathuna abantu ababalelwa ekhulwini. Yize singakezwa yonke imininingwane njengoBukhosi, siyafisa ukwelula isandla senduduzo kuleyo mindeni okungenzeka ukuthi kulamathuna kulele izihlobo zabo abebengazi nokuthi zaphelaphi. Ezinye zezinto eyinyantisayo eyishayisa uvalo. Ngiyanxusa futhi ukuba amaphoyisa enze njengoba ehlala enza, athole umnyombo walokho okwenzeka kulaba bantu ukuze izihlobo nemindeni zithole ukuphumula nocaciseleko ukuthi ngempela ngempela lesi sihluku esingaka kwakonakeleni, kuze kwenzeke into enjena.

Sengikushilo lokho ngiyafisa ukubonga abahleli balomcimbi esikuwo Mhlonishwa. Ngiyakholwa ukuthi yonke into inesiqalo. Futhi ngiyakholwa ukuthi lona akuwona umcimbi nje, kepha imvuselelo yokwenza lokho okulungileyo nesikholelwa kukho. Izwe lakithi, Mhlonishwa, liyadinga ukuba kube nezinto ezivuselelayo ekwenzekeni noma ekwenzeni okuhle. Sihlanganiswe yizinto ezinhle esikhuluma ngazo la. Kube kunezinto ezimbi ezenzeka emphakathini. Iqiniso lithi siphila esikhathini seyinselelo emindenini, emiphakathini kanye naseSizweni Jikelele. Akusiyona lenkinga esikhuluma ngayo ebhekene nezwe lakwaZulu Natali kuphela. Kodwa lenkinga ibhekene neyindawo zasemakhaya kanye neyindawo sazesilungwini.

Bakwethu, niyazi ukuthi kuningi esingakhuluma ngakho njengoba sihlangane. Inhlonipho iphelile nkosi yami macala onke. Sonke njengoba silapha nje, sikhala ngesimo sokulahleka kwenhlonipho. Kulena lenhlonipho okuthiwa Ubuntu. Ukubonelelana okwakukhona ngeyikhathi zawokhokho akusabonwa. Siphila lapho okungazathi abantu abazi ukuthi bahamba kuliphi izwe, nokuthi baphila kuliphi izwe. Khona lapha ezweni lakithi, lapho abantu kanjalo nabaholi badela izimpilo zabo ukuze libuye izwe. Sekukhona abantu abakubona kulungile ukucekela phansi impahla abathi ngekaHulumeni. UHulumeni akanampahla, impahla ngeyabantu. Abantu abangabakhokhi bentela, uHulumeni bese esebenzisa imali ukwenzela abantu izinto, bese behamba abantu nentukuthelo engenabo ubuhlakani bayocekela izinto okuyothi uma sebeyicekele phansi ngelinye ilanga zingabe zisafana nalokho ebekade ziyikho, umlando wabo bawushise ngothi lukamentshisi. Ngithi Mazulu, isikhathi siphelile sokudlala. Angiphikisani nokuba abantu benze abakubonayo okungukuthi kungenza isimo siguquke, kodwa bangayithinti impahla. Ngicela ukuthi kulesi sifundazwe, amathaya angashiswa emigwaqeni yethu.

Ngicela ukuthi abantu bakwaZulu abangamaZulu nabasahloniphayo, ngicela baqonde kahle ukuthi igama lokuba ngamaZulu laphuma ezulwini. Laphuma esigodlweni nina. Abantu abahlala esigodlweni bayahlonipha, nabizwa ngesigodlo kwathiwa niwuZulu. Lobu buZulu

osokuphakathi kwenu abusibona lobu obuphuma esigodlweni sasezulwini. Akuphele ukuthi abantu bacabange ukuthi uma benza imonakalo, bese bethu yizinto yikaHulumeni. UHulumeni yini. Intukuthelo yakho ngicela ungayisi kwi-property yesizwe, ngoba ngelinye ilanga umlando uyokuphika. Unembeza uyokulahla kusasa usuwenzile. NjengeNkosi yenu, mina lezizinto ngizibuka ngokunengwa, engicabanga ukuthi nobuholi bomdabu kulezi zifundazwe izinto ezenzekayo buyibuka ngokunengwa, nangokumangala lapho abantu abadala nabancane behlangana besekela ekwenzeni okubi.

UNkulunkulu akezi ezweni elinobubi. UNkulunkulu uyabaleka ezweni elinobubi adede kulo, usathane athathe indawo yakhe. Sibonile abantu befuna izidingo kuHulumeni, okulilungelo labo, bephenduka imidlwembe nabenzi bobugebengu. Iyigebengu seyicasha ngabantu abasuke benze izinto abazifuna ngoba kufanele bazifune, bese iyigebengu zingenelela. Sibonile lolu hlobo lwabantu lushisa amahhovisi, imitapo yencwadi, neyikole. Sibuke ngokumangala lapho sifunda ngezenzo zabo labomalungelo okukhulunya ngabo bokubhubhisa impahla ngisho nayo eyabokufika kuleli. Bagcwele kulelizwe nje emakubo niyazi ayikho imali? Bagcwele kulelizwe nje, niyazi ukuthi bazothatha imali yenu? Umbuzo ke kimi uthi akukabi khona lutho enilufundile kulo-20 years? Niyothini ngelinye ilanga, mhlawumbe sesihleli phakathi komlilo phezu komlilo omangalisayo okuyothi ngelinye ilanga iqubula lawo lize lihlule ngisho abezophepho.

Sizwile nangeyingane eyincane insana, nezalukazi, eyidlwengulwa ngamalunga emindeni. Ishonephi indoda endodeni? Ushonephi umfana kumfana, ayethi kugogo, hawu naba abayeni bami. Wena ngempela ngempela usuyambamba. Ubamb' ugoto wakho. Ezinye izinto mina engimangalayo ukuthi indoda ishonephi endodeni? Umfana ushonephi kumfana? Ukuba ahalele usana, ahalele ingane.

Ngicabanga ukuthi ezinye zezinto Mhlonishwa siyafa lapha kulezinto ezibizwa ngama-liquor board. Yila siphela khona isizwe, liquor board. I-liquor board nama-tarven okusho ubugqumugqumu ubusuku nemini singalali sidadala kangaka. Ingane ziyabhiyoza kuze kuse. Kuvunyelwa abantu, isimo sempilo siguquke. Ngempela, ngempela silishonisaphi lelizwe? Likhona yini izwe eliphila ngotshwala? Niyazi yini ukuthi i-South Africa ibalwa emazweni emhlabeni wonke ukuthi iwu-number 3 ngeyidakwa nokuphuza utshwala. Number 3? (noise hawu hawu). Kuchaza ukuthini lokho kithi? What is the meaning of that to you, as a South African, a Zulu, living in kwaZulu Natal? Under your King that is representing you every day. Noma ngabe isimo sinjani kumele ngininikeze inhlonipho lapho ngikhona nginimelele njengabantu bakwaZulu. (bayede) Kodwa manje izwe elinezidakwa, ligcina likwazi yini ukwenza izinto uNkulunkulu ayidingayo ngaleso sizwe? NoNkulunkulu akaziwa, zidakwa nje. Uma sekudakiwe kuyalalana nje, akwazi nokuthi kulalwe ubani. Akwazi nokuthi kumithiswe ubani. Udla ama-drugs, udl' insangu, udl' iwunga udla yonke into le. (bayede) Umbuzo wami umile ukuthi nilisaphi lelizwe? Nilisaphi lelizwe? Ngoba lezizinto njengoba zenzeka la, ekugcineni zonke mazenzeka kuthiwa amaphoyisa. Amaphoyisa aweze azobhula imililo. Lesikhathi sekubhulwa imililo eze azosebenza, awayitholi i-information kini. Konke lokhu



nokunye kwenza ukuthi siyibuze ukuthi konje ngabe yiyo yini lenkululeko eyayilwelwa. Niyazi ukuthini, ngishaywa uvalo. Ngoba lenkululeko kuthi seyenze abantu ukuba baphenduke iyilwane ezingalawuleki. Likhona yini izwe elingaba yizwe elingakwazi ukulwaleka. Ingane ayifuni ukulalela abantu abadala. Ngelinye ilanga siyohamba. Nathi sasizingane kobaba, sasizingane kobaba sahlonipha, salalela. Wena, ongafuni ukulalela, ngelinye ilanga sesihambile, uyolawula kanjani ngoba awuvumi ukulawulwa. Niyawubona lomonakalo engiwushoyo? Ingane ewundlebe kazizwa, ayilungelwa lutho.

Bakwethu, Meya yami yasoPhongolo, lomcimbi bekufanele ube kwenye indawo, ngathi awubuye la, ngokwazi inkinga engizaziyo la. Bengilubuka uPhongolo ngimncane, ngingumfana ngimncane. Imoto ebezisuka zingama-ambulense zisuka la emshinini kashukela. Lezi moto beyiyewuza zidlula lapha esigodlweni sikababa kwaKhetha njalo uma kuyi-weekend khona ubungamangala beyidlula five times (not audible) kwesakwaNongoma, Mgilitshi(ji). Lapho ngendlela abantu ababekabhana (not quite audible) ngayo abantu bakulendawo akusiyona into entsha le. Imigilingwane eyenzeka lapha oPhongolo. Abantu laba abagenca abantu kudala bayidla iwunga. (noise and laughing) Kudala baqedwa yisiqatha. (noise langhing) Bekuneyinkomu la ikakhulukazi emapulazini. Lapho abantu bakithi ababehlala ezimweni ezinzima, mabehlala eyimweni ezinzima, amaphoyisa akithi ayesahamba ngamabhayisikili ephatha izagile. Kuthiwe akahambe alande iyiboshwa. Babesahlonipha abantu, yiqoqwe yiqoqwe yonke indawo zibe yinqwaba, ayibeke la, ngiyabuya ayishiyela la ngiyabuya ayigqube nje ngesagila. (noise and clapping of hands) Babesahlonipha abantu, bebona amaphutha. Namhlanje isizukulwane esinjani lesi okungazathi sizothi eyi sengathi uNkulunkulu usenze sazala isizukulwane esilahliweyo. Ngoba silahlekelwe yinhlonipho. Umuntu omdala mina bengazi ukuthi ubeguqelwa. Mina ubaba uze wahamba ngiguqa ngamadolo. Mina ubaba uze wahamba ngingangeni ekhishini lakhe. Mina ubaba bengingakwazi ukuphambana naye kanje. Umuntu othi, mina ngeke ngimhloniphe ubani ngoba akangizali, lowo muntu isibusiso ngifuna ukunitshela akanaso ngoba onelungelo lokuzalwa umuntu omdala unesibusiso uma engakwazi (not clear) ukuhlonipha umuntu osezingeni likanina, nosezingeni likayise, ukuze ahloniphe ngisho nalesi sizukulwane lesi esikhuluma ngaso. (bayede noise)

Kubuhlungu ke kimi uma ngibona izwe elalwelwa okhokho bami kanye nezinkulungwane zabantu liphenduka umhume wabaphangi. Ayikho into ebuhlungu njengaleyonto kimi. Angibulali ubuthongo ngicabanga ngalezi zinto. Ukuthi yinhloboni le yalaba bantu uNkulunkulu angibeke phakathi kwabo. Abangezwa. Ngiyayibuza ukuthi konje yiyo yini lenkululeko iNkosi uCetshwayo nendodana yakhe uMamonga owahlonishwa ngesikhathi iqembu ngo-1912 likakhongolose lakhiwa, limenyezela kwahlonishwa ngokuba (can't hear) president. (clapping – bayede) Ngabe yini inkululeko, ngoba ngikhuluma ngento ebhalwe phansi. Ningaghithathi sengathi I am talking politics, I am not talking politics no, ngikhuluma ngomlando. Angiyipholithisayizi lendaba. Kepha iNkosi uDinizulu bobabili neNkosi uCetshwayo baboshelwa yona lento yokulwela izwe. Babelwela izwe labantu okuyothi ngo-20 noma ngo-1994 bathole inkululeko, kuthi ngo-2015 kukhulunywe ngendaba yokuthi

abantu base South Afrika abantu abangafuni ukulalela, abantu abangafuni ukusebenza, abantu abangamasela, abantu badlwengula iyingane, abantu abagqokeza imizi, abantu abangamavila abangafuni ukulima, abantu okuyothi uma bebukwa ngezinye izizwe zithi asihambe siyodla ifa leziphukuphuku. (noise clapping of hands)

Ngikhuluma nje phambi kweyitolo kulenga into ongayazi amanikiniki ongawazi angcolisa italadi zethu awusakwazi nokubona isitolo ukuthi lesisitolo kwakuyisitolo bani kwakuyisitolo bani, kuvimbe nje abantu bokufika. (noise and clapping of hands) Ngiyazi kwenye inkathi kulukhuni kwabanye osopolitiki ukukhuza imihlola ngoba phela laba benzi bobubi babuye babe ngabavoti eminyakeni emihlanu. (bayede) Mhlonishwa, baHlonishwa bami, niyongixolela, ezimeni ezinjalo kungumsebenzi wami, kufanele ngikhulume. Mina engingalinde iminyaka emihlanu ukuba ngikhuze uma konakala. (noise and clapping of hands)

Njengenkosi yakwaZulu, njengenkosi yesizwe samaZulu, isizwe esihlonishwa umhlaba wonke, ngeqhaza laso emzabalazweni, ukukhululeka kwe-Afrika ngeke ngithule izwe lethu lidlala abantu abangenammbono. Kufike isikhathi manje ukuba sibe nommbono. Ngiyacela mina kuHulumeni wakithi eSouth Afrika aselekelele. Asenwaye iyintwala zethu. Asichobe ezethu iyintwala (noise and clapping of hands – bayede) eyiphukwini zethu, amazeze asikhiphe sibeke laphaya elangeni ayiqatshela amazeze ngenxa yokushisa kwelanga. Siyacela abantu bokuhamba bathathe imithwalo yabo babuyiselwe emuva, (clapping of hands and noise) ukuze, asilalelane, asilalelane, asilalelane. Nani nathi uma nisemazweni abo, nanisempini nabelekelela ukuba bakhululeke emazweni abo. Ngiyakwazi lokho. Yingakho amanye amazwe akhululeka ngoba elekelelwa yilabo ababephumile abangamasosha ezomzabalazo eNingizimu Afrika. Anikaze nilengise nithengise lutho. (clapping of hands and noise)

Ehh! bahlonishwa bami, bahlonishwa bami, nathi asiyi nje emazweni abo ngokuvakasha, singafika bese sihlala bese kuba sekhaya. Siyazi ukuthi kusemakhaya kepha asibonelelwe bakithi.

Phumani ke nina niye emasimini niyosebenza ningahlali phansi. (noise – clapping of hands) Kubaphathi bezwe, nani ngithi phumelani obala manje, ngoba nani nifihle lukhulu iyigebengu zempha.. ziphakathi endlini kaJehova kinina ehh eningabefundisi. Kuyisicelo sami, zifihliwe iyigebengu. Kanti nakuwo amaphoyisa ngithi sebenzani ngamandla khona kuzoqhasha iqili lezeze elicashi ngezembatho zenu. (noise...Bayede clapping ).

Ngiselapha futhi odabeni lwamaphoyisa, ngiyafisa futhi ukusho ukuthi nina niyibutho elisondele kakhulu emphefumulweni wami. Ngeke ngize nginilahle. Kepha kulesi simo ngeke nisebenze kahle kukhona abantu abangene eSouth Afrika kube sengathi bazo-trader bezothatha umnotho wethu lo bese bewubuyisela emakubo kodwa kube kungaziwa ukuthi laba bantu abagcwele lapha yini ebaxoshe emakubo. Mhlawumbe bebezigebengu! (noise clapping of hands)

*MAM*

Ubudlelwano namazwe ase-Afrika sinabo buhle kakhulu. Sinabo buhle impela ubudlelwano esinabo, kodwa asingabi nabo ukudlelwano bokuba bese sincama sithe kube sengathi thina singcwele kakhulu ukwedlula i-Afrika. Asingabi ngcwele. Nabo banemithetho yabo. Nathi asibe nemithetho yethu. Amaphoyisa awumgogodla wezokuphepha kwezwe. Ayimpendulo kubantu nakumphakathi ohleli ngaphansi kokwesaba nobugebengu. Yiwo ke amaphoyisa eza kuqala nxa kunezinkinga ngoba ukusebenza kwawo kuphakathi kwabantu. Yingako ngithi, ake sibuke intwala zethu, njengamanje ngisho nothisha bahlalele ovalweni laphingane zethu zivuka njalo ekuseni ziye eyikoleni khona. Bahlalele ovalweni ngoba kubhoke i-ou kappi. I-oukapp idla ingane zethu eyikoleni. Zinesibindi ingane zethu, ngendlela engakaze ibonwe muntu. Ngoba kukhona lomthetho wokuthi okuthiwa kuhlukunyezwa amalungelo eyingane. Lamalungelo eyingane ahlukumezwayo yimaphi? Umuphi lomthetho ngempela, ngempela wokuhlukumeza ingane owenza ukuthi ingane bese zithatha amandla okuthi ingane uma ifisa nje ukugwaza enye ingane ivele iyingene ngomese. Ziphatha iyibhamu lezingane. Izinto ezibuhlungu, othisha kwabona abaphephile kulezingane. Ngenxa yamalungelo. Ingani asifanga thina sishaywa esikoleni sijeziwa. ( noise and clapping of hands). Namhlanje angisakwazi ukuyijezisa ingane yami uma ngiyibona ukuthi inephutha ekhaya. Sekufanele ibe nenombolo yamaphoyisa, kukhona ubaba osihlukumesayo lapha ekhaya. Ithi kukhona ubaba osihlukumezayo lapha ekhaya, kuwuyise. (noise and clapping of hands) Niyazi bakithi yiwo amaphoyisa ezwa kuqala njengoba sengikushilo ukuthi kunenkinga phakathi kwawo kepha sengikushilo lokho, ngiyafisa ukwexwayisa amaphoyisa ngengozi alengela kuyo kwawona. Iqiniso lithi baningi lapha phandle abafuna ukungcolisa igama lenu, nina maphoyisa, ngenhloso yokwenza umbuso ubentekenteke waseNingizimu Afrika. Bafuna nje ukuwenza ube ntekenteke ngoba begxeka ukusebenza kwenu. Yebo inhloso yanoma yimuphi umuntu odukisa iphoyisa emsebenzini walo wokuvikela izwe lokugcina umthetho kusuke kuwukwenza umbuso ube ntekenteke. Akekho ongazi ukuthi amaphoyisa angabavikeli bokugcina bentando yeningi leli esithi siphila ngaphansi kwayo lokungenisa abantu nje noma yibaphi (not audible) iSouth Afrika iyabutha igwinya bonke ayazi nokuthi bonke laba bantu baxoshwe yini emakubo. (noise ) Kodwa ngaphandle kwawo amaphoyisa, ngaphandle kwawo umbutho wamaphoyisa ukusebenza ngesibindi sawo, leli lizwe ngeke likwazi ukuphepha nokuqhubekela phambili. Ngakho ke umuntu ongalifiseli lutho izwe lethu noyibukela phansi inqubo yezwe lethu, uyoqinisekisa ukuthi umuntu wokuqala osukayo lapha ebekwe khona kuba yiphoyisa, ngoba efuna ukwenza imigilingwane yakhe. Ukusuka kwephoyisa lapho libekwe khona, kuvame ukukhomba inhlekelele. Yikho nginincenga ukuthi ningasuki ekubeni ngabavikeli bomphakathi, kanye nabadali bokuthula nokuphepha emiphakathini yethu.

Mphathi wohlelo, ngiyafisa ukuthi umphakathi kumele ubone imicabango kanjalo neyinhlelo zokulungisa lokho okonakele ezweni lethu. Angikusho ngoba kulula ukukusho, kepha ngiyazi kuyasebenza. Uma sizobambisana nje, kodwa asishintshe indlela esiphila ngayo. Indlela ophila ngayo ezweni kufanele uyiguqule uma isimo sibonakala sinzima. Njenga manje izwe lethu lihlaselwe ukusweleka kwamanzi. Isimo se-climate change senguquko yezulu,

kukhona ekukhombayo ukuthi noma ngabe ke izimo zibophwa yizimo zama-pollution aphuma emafemini kube ne-pollution kuyo yonke izwe nasemhlabeni wonke, kodwa imvula abanye abantu bayayithola. Ake niyinke amakhwapha bantu bakwaZulu ukuthi, njengoba lelizwe kade linezimvula ezingaka, zishonephi? Zishonephi lezimvula? Lungani, uNkulunkulu ufuna nina. (bayede) Akukho omunye umuntu uNkulunkulu amfunayo. Ufuna amaZulu ukuthi amaZulu asengaphi manje. Yikho ke manje nobuvila bubhokile. Ma mhlonishwa singake sindize ngoba ninayo ihelikoptha yenu maphoyisa, kesindize nje kulolonke lakwaZulu ngeke ubone ngisho umudwa, umudwa nje. Amadoda angenelwe yinkinga engingayazi futhi angikaze ngiphile namadoda anje. (noise and clapping of hands). Inkinga zamadoda, awamavila, awazidakwa (noise clapping of hands) okuvele kubafanele ke ekubeni ngabasela lokhu okuthiwa yimigulukudu yamasela. (noise)

Ngithi ke mina, Mhlonishwa, eminyakeni engamashumi amathathu endaweni yase makhaya kwaNongoma, ngaqala into namuhla eyisixazululo enkingeni enkulu kuleli lasemhlabeni jikelele. Kwakungunyaka ka-1984. Lapho ngaqala khona umkhosi womhlanga namuhla osudume umhlaba wonke. Uphilisa abanengi lomhlaba lo lo lomkhosi.

Kepha, mina ngithi ezokuvakasha ezweni lakithi azizuzise abampofu bakithi. Makube khona abakutholayo ukuze izwe lithuthuke kuyo yonke imikhakha. Ukuze nje nabavakashi uma behamba, kungafani nalezi zinto esizizwa koTunisia, lapho okunama attacks khona amangalisayo. Abantu beseyindaweni ezithile zokuvakasha ngoba mabevakasha noma bedlula, bashiya imali. Loku ke ngangikwenza ngisebenzisa ulwazi lamasiko lawo okade ukhuluma ngawo Mhlonishwa.

Ngangikhuluma ngamasiko abantu bendawo yakithi, kwaZulu, ngoba sihlezi thina phezu komnotho. Inhlabathi esihlezi kuyo sihlezi obumbeni, sihlezi obumbeni olwenza izinto zokudlela, olwenza izinto zokuphuzela utshwala bethu besiZulu nono nokwenza senze ehh iyimbiza sekuhluziwe kuhlale kahle ukudla kwethu kuhloniphekile. Sihlezi pheyu kwelala sihlezi pheyu kwesundu, sihlezi phezu kotshani, sihlezi phezu kwamatshe, sihlezi phansi kweyihlahla. Ezinye ziyatshalwa zithele izithelo, konke lokho kuyimpilo kithi. Kodwa abantu bakithi badede kukho konke. Niyabona yini ukuthi uNkulunkulu uyanishaya. Kuyisicelo sami ke ekutheni, njengoba umhlaba wonke, ngakwenza lokhu, ngangikwenzela isifundo lapha ukuthi bukhona ubuhlakani ekutholeni ulwazi kanye nasekusebenzisananeni nabantu bendawo. Ngicela sisebenzisane. Njengoba sonke siqhamuka kulezindawo ezakhele iZululand, siyokwazi ukuthola izixazululo ezingunaphakade uma sisebenza nabanikazi bodaba. Akufanele kube khona umuntu othi yena angeke angeni esigabeni sokuthi atshelwe. Amasiko adlala indima emqoka ekwakheni umuntu. Ekwakheni umuntu nje, amasiko adlala enkulu indima. Yifa isiko lethu, imikhosi esinayo, njengoba kade ebeka uMacingwane ukuthi siyathinteka ngendlela okuhlaselwa ngayo imikhosi yethu. UHulumeni yena uyayisekela imikhosi yami ngoba ayifikanga nokuba izobulala abantu. Ngafundisa ingane mina from 1984. Phela sengimdala kabi. Mina ngizalwe kuzalwa iNational Party. Izid....(not audible) Ngonyaka nje okwazalwa ngayo iNational Party, ngazalwa. Ngawubona

umbuso wenu lo South Afrika kusasetshenziswa upondo i-pound, kusetshenziswa namashilings nama pennies nama-fathings. Ngayibona zonke lezi zinto zenzeka. Ngabona ngo-1961 iguquka i-South Africa ngokuba kuwina National Party ethatha umbuso. Ngakubuka konke lokho, ngayibona i-currency yethu iguquka. AmaBhunu abona ukuthi i-currency yabo ukuze ilunge kungcono bakhe i-kruger rand ngenxa yegolide ababelithola. Bakha i-kruger Rand eyaphusha i-currency yase South Afrika, kukhona i-currency yase South Afrika, irandi, elake lashaya ama-currencies omhlaba wonke jikelele. Ngikhuluma ngento engiyaziyo. Kwangena oHulumeni bezabelo ngiyazazi zonke lezi zinto. Kufika loHulumeni, ngiyazazi lezi zinto.

Kukhona ingane eyithwala amakhanda eyicabanga ukuthi zizokutshena ukuthi inkululeko kwasha kwacima. Zazini ngenkululeko? Ayibuzi ngani kithina esibadala? (bayede, noise) Iyingane eyimelana nabantu abadala siyabuka nje yonke indawo, yonk'indawo, yonk'indawo yonk'indawo, akuhlonishwa. Nesityindaweni lapho kufanele ngabe kuhlonishwa abantu abangabaholi, njengalento ekade siyibuka nje lapha ePhalamende. Kuyini lokhu okukade kwenzeka laphana? Imihlolo yonke leyo. Manje ke, njengoba ngishilo ukuthi amasiko adlala indima kumuntu, ekubeni akheke. Kusesikweni lapho umuntu wesilisa nowesifazane ebunjwa khona ukuba abe yisakhamuzi esihloniphayo nesizihloniphayo kwasona. Uma abantu sebelahlekelwe nokuyihlonipha asikho hlewe nayilento esizoyenza la. Kushukuthi umhlonishwa umoshe imali ye-department ngoba uzokuluma newunguwungu zabantu abavele beza lapha bedakilwe bephethwe yiwunga. (laugh) Ngoba vele beze bebhemi vele. (noisi laughing). Yingakho ngingangabazi ukuthi uma kungase kubanjiswane ekwenzeni amasiko athile, kukhulu izwe elingakuzuzwa. Isibonelo nje, ukubuthwa kwabafana namantombazane uma kungaba yinto okubanjiswana ngayo ingaba nomthelela omuhle ekwakhiweni kwesizwe sakusasa. Buka lesizathu namuhla njengenkosi yenu kanye namakhosi, ngininxusa ukuba sisondelane ekulungiseni isimo, kodwa sizondele kuNkulunkulu kuqala. Mina ngiseduze kukaNkulunkulu. Ngihlezi naye. Angazi ke wena uma ungangahlezi noNkulunkulu. Yingako ngithi kuso sonke isizwe samaZulu kasiondele eduze kukaNkulunkulu.

Izolo bekunesifundo encwadini kaJohn yokuqala lapho obekukhulunywa khona ngoLizwi nokuza kwakhe ezweni nokuthi wayezelani. Kwabakholwayo ba bazokhumbula ukuthi inkonzo yayizolo ibemele siphilisi isigaba. Ngakho kubalulekile, isizwe esingenaye uNkulunkulu vele uNkulunkulu uyasishaya. Indaba zamashibhi, ingane zethu zitholakale zilapho, yingakho ngithi ke, nginxusa ukuba amaphoyisa, abezenkolo, abezemidlalo, kanye nabamela amabhizinisi, bahlanganyele. Nami lapho sisebenzisa khona isiko nolwazi lwabantu ekuqhamukeni neyisombululo eyinkingeni eyikhungethe leli ikakhulukazi uma kufika ekuziphatheni kwabantu. Ngoba uma singakwenzi lokho, ngempela sisazoshaywa siye phambili. Yize ngingeke ngenabe kakhulu kepha ngiyazi ukuthi umsebenzi wesiko engiwenza njalo ngentwasa... noma ngenyanga kaZibandlela lapho ngihlanganisa khona abafana abancane, ungelekelela ekuhambiseni imilayezo kanjalo nasekwakheni izinhlanga zokulwa nobugebengu kanye nokuphepha kanjalo nangawo umkhosi womhlaba kuningi

esingakwenza sibambisene ukulolonga nokwakha abancane bethu. Ngoba akufanele sibalahle, kodwa kufanele manje, seyifuna ukuncengwa ingane, seyidlebeleke kakhulu kodwa kufanele kulunge thina esdibadala kuqala. Ngakhoke kubaholi, ehh bezizwe labakwaMthaniya kwabangamaZulu, ngifisa sihlale sikulungele ukusebenzisana namaphoyisa nazo zonke inhlaka eyikhona. Kubanjiswane, ukuze kube khona isimo sokuphepha kwabantu bethu. Lapho kukhona inkinga, njengobukhosi, siyimisele ukulekelela. Ngeke size sinilahle, ngoba njengoba nikhona siyazi ukuthi akukho esingakugwema ekubeni kube khona ukubambisaneni esigabeni sokuthi kube khona ukuthula ezweni lakithi.

Njengobukhosi siyakwamukela ukuthi ngokubambisana singagwema okuningi ebugebengwini nasodlameni olubikwa emapulazini, nasemphakathini. Okubuhlungu ke Mhlonishwa, amapulazi lawa uHulumeni awadedelayo ehh kuthiwe anikezwa ehh abantu abathize kugcina abantu bengawatholanga sekuhlezi igebengu kuwo. Mina sengize ngalanda inkomo kwelinye lampulazi zami seyintshontshiwe ziqhagwa nje ngabantu nje isibongo esithile sakwaNzuza (noise and laughing) bayiqhwaga nje inkomo zami. Ngathi wemaphoyisa ezami lezinkomo (not audible) yinkomo zeNgonyama lezi. Manje ke ngisho ukuthi lamapulazi uHulumeni awadedelayo, kuningi okungaphakathi ukungcola phakathi kwawo. Ikakhulukazi lawo ikakhulukazi angamahlathi. Ngoba amafa omkhulu bethu yilapho ekhona. Singagwema ngisho izifo, uma singakwazi ukusebenza ngendlela yokubambisana. Akekho umuntu ongalala elambile kuleli zwe uma sonke singaphuma siyosebenza sibambisene. Naseyinhlweni zokulwa (not audible) njengoba isiZulu sisho "indlala ibanga ulaka" nokuthi "isisu esilambile asazi mthetho".

Manjeke kufanele zonke lezinto kufanele siyinake siyibone ukuthi singenza kanjani. Asenze izwe lethu libe sesigabeni lapho singakwazi ukuthi sivikele khona ukuphila kwethu.

Ngalamazwi ngithi amafishane ngiyafisa ukutshala imbewu yokusebenzisana siye phambili. Ngiyabonga Mhlonishwa.

1. I am grateful to you Mageba for introducing me to the Programme Director you are working with on this big event organised by uPhongolo Municipality. I am ecstatic that Honourable Minister Nhleko, in their on-duty time, knowing well how busy they are but they took some time off to be with us in what I call our province, KwaZulu-Natal. Thank you Mgijija.

2. I am thankful that I am not alone Honourable, I am with my children and the Queens and we are here to support this event which I think is vitally important to our culture as Zulu people, when we speak of the way correctional services will apply to our people.

3. I am happy Macingwane that as the MEC in this province that in the programmes you have as the police department in the province dependent on the National police department. I wish to extend my words of gratitude for your presence but I wish that the chiefs present here and those who are a part of liaising between the province, community events and the police department. Their presence excites me.

4. I would like to thank police department structures especially the Police Commander in this province Ms Ngobeni and all her colleagues in the province, for looking after our social welfare and the safety as a community. I am also grateful to the whole police personnel present in this place, those are station commanders who work in the Zululand district.

5. I am very happy that there are different organisations in our midst that have already addressed us, I will not mention all of them what those organisations do however, their presence excites me.

6. I am grateful to the regiments as well. I am grateful to the Headmen, especially those present here and those in the leadership of women, my regiment Siphithiphithi, they are my Nomathemba that I know for a fact that they are Mother nurturers, especially those were are going to talk about and the ones we have already spoken about as they are also directly affected by abuse. Macingwane, I think our celebrations to follow will go as planned if we can have programmes of this nature in our province as you are in charge of the police department in the province as eyes and ears of the national government.

7. I would like to thank my children, the young maidens, their presence makes me happy. I would also like to thank young lads present here. However, before I begin with my speech, I would like to extend my condolences to the Government of this country for loosing one of the members of the cabinet in a huge car accident which took place last week. I wish

to extend my condolences to the whole police force for the passing away of bodyguards in the accident which took place in Polokwane. Mgijima I know that Ministerial bodyguards are part of the administration of your department. I know that you probably have heard this before, however, on behalf of the Zulu Royal Household, the Zulu nation, I am saying my deepest condolences. To the members of the family of the honourable minister who passed away we are asking God to comfort them.

8. On that note I would like to mention a shocking discovery in this region about the discovery of graves of about a hundred people. Although we have not yet received all the details as the Royal Household we wish to extend our condolences to the families who might have relatives in these graves which have long been missing. This is one of the scary things. I appeal to the police to do as they usually do to get to the source of what really happened to these people so their relatives and their families can be at ease and get explanations on why their relatives had to suffer so much.

9. Having said that, I would like to thank the organisers of this event, Honourable (Minister). I believe that everything has a beginning. I also believe that this is not just an event but it's a revival to do the right thing and what we believe in. Our country, Honourable (Minister) needs to have things that revive good behaviour. We gathered here because of the good things we are talking about. But there are bad things taking place in our community. The fact of the matter is we live in challenging times in our families, communities and in the country as a whole. This is not the only problem facing the province of KwaZulu-Natal only but this problem is prevalent in rural as well as urban areas.

10. Beloved, you know that we have a lot of things to talk about as we are gathered here. Respect is gone everywhere. As we are all here we are complaining about the lack of mutual respect. The kind of respect I am talking about is Ubuntu. Being considerate which was prevalent in the olden days is no more. We live in times when people live as if they don't know where they are or where they live. In this country of ours, where people and leaders sacrificed their lives to get our country back there are people who think that it is acceptable to vandalise government property. The government has no property, property belongs to the people. People who are taxpayers and then the government use the money to do things for people, and then people go around with stupid anger to vandalise things after which they don't look the same, they burn their history with a matchstick. What I am saying my people is, time to play games is over. I am not against people doing as they please which may change



the situation, but they must not touch property. I request that in this province we do not burn tyres on our roads in this province.

11. I appeal to Zulu people who still have respect to fully understand that the name Zulu came from heaven. You came from the palace. People who reside in the palace are respectful, you were named after the palace and you were called Zulus. This Zuluness within you is not the one which comes from the heavenly palace. It must come to an end that people think that when they vandalise things and they say it's government property. You are the government. Don't take out your anger on government property, because the history will reject you. You will feel guilty for what you have done. To me as your King these things are disgusting. I think that traditional leadership in this province is also disgusted and surprised when old and young people come together in the commission of crimes.

12. God does not dwell in a corrupt land. God rejects a corrupt land and forsakes it, the devil then occupies the space. We saw people demanding service delivery from the government, which is their human right, they then became uncontrollable criminals. Criminals now hide behind people who are demanding legitimate services and the criminals intervene and commit crime. We saw these people burning offices, libraries and schools. We looked in amazement when we learnt about the deeds of these human rights entitled individuals who are destroying property belonging to foreign nationals. As they are in this country how do you know that there is no money in their countries of origin? As they are in this country how do you know that they are here to take your money? The question I put to you is haven't you learnt anything in the 20 years of democracy? What will you say when you discover that we are now between a rock and a hard place which one day will mean that we can't contain the situation.

13. We heard that infants, elderly women are being raped by members of their families. What happened to manhood in a man? What happened to the pride of being a boy in a boy, who used to say to an elderly lady, here is my play husband. And you decide to violate her sexually. You are raping your grandmother basically. These are some of the things that make me wonder as to what happened to manhood in a man? What happened to the pride of being a boy in a boy? That he lusts an infant, he lusts for a child.

14. Honourable (Minister) I think some of the things that are killing us are these so-called liquor boards. That's where our country is being assassinated. Liquor boards and taverns make terrible noise day and night which keeps us awake as old as we are. The children dance

from dusk till dawn. People are given permission, to change life conditions. Truly, truly where are we taking our country? How can a country survive on alcohol? Did you know that South Africa is ranked number 3 in the world in terms of consumption of alcohol and alcoholics? Number 3! What does that mean to us? What is the meaning of that to you, as a South African, a Zulu living in KwaZulu-Natal? Under your King that is representing you every day. It doesn't matter how bad the situation is, I have to respect you wherever I am and represent you as Zulu people. (Hail the King) But now how can a land which is full of drunkards do what God expects from that nation? God is not known, to these drunkards. When they are drunk they just sleep together, they don't even know who slept with them. They not sure who impregnated them. You take drugs, you smoke marijuana, you some whoonga and any other drug you can find. (Hail the King) My question still stands where are you taking this nation? Where are you taking this nation? Since these things are happening here, in the end when these things take place the police take the blame. The police are expected to come and neutralise the situation. When it's time to neutralise the situation they have to come and work but they don't get any required information from you. All of this and other things taking place causes us to ask ourselves whether this is the freedom we fought for. You know what? I am terrified of this. Because it seems as if this freedom has caused people to become uncontrollable animals. Do you know of any nation that is not ungovernable? The children don't want to listen to older people. One day we will pass away. We were all children to our fathers, we were children because we were respectful, we listened. What about you? You don't want to listen, one day once we are gone, how will you govern because you don't want to be governed. Do you see the destruction I am talking about? A disobedient child never succeeds.

15. Beloved, Pongola Municipality mayor, this event was supposed to have been hosted somewhere else, I gave the instruction for it to be hosted here because I know the problems facing this place. I was looking at uPhongolo as I was growing up as a young boy. Ambulances would leave from the sugar mill. These ambulances would siren whilst passing my father's palace at Khetha every weekend and you would be surprised that they would pass five times when Nongoma was the only hospital, Mgilija. The way people use to stab each other in this place, this is not a new thing. These things happen here in Pongola. The people who stab each other have been on *whoonga* for a long time. They have been drinking cheap traditional beer for ages. There were shebeens here especially on the farms. A place where our people lived under terrible conditions, whilst our police officers were riding bicycles

carrying knobkerries. (noise and laughter) They were given instructions to go and arrest criminals. People were still respectful, the criminals would be caught and put together, and the police will leave them go away and come back to control them with a knobkerrie. People were still respectful, they could see their faults. Today what kind of generation that pretends as if God caused us to birth lost generation, because we have lost respect. From my knowledge you have to kneel in front of elders. I knelt in front of my father until he died. I never entered his kitchen. I could not walk past my father (like this). A person who says I won't respect so-and-so because he/she is not my parent, that person has no blessing because a person who has a right to be born is blessed if he can respect a person old enough to be her/his mother or who is old enough to be his/her father, to respect even the generation we are referring to now.

16. It is painful to me if this nation that was fought for by my great-grandparents and the thousands of people and has become the den of criminals. Nothing is more painful to me more than that. I am loosing sleep over that. What kind of people God has put me in the midst of? They never listen. I ask myself whether this is the freedom King Cetshwayo and his son Mamonga who was honoured at the founding ceremony of the ANC in 1912, he was given the honorary president status. (Hail the King & applause) Is this the freedom that freedom because I am talking about written history. Don't assume that I am talking politics because I am not. I am talking about history. I am not turning this into a political matter. Both King Dinuzulu and King Cetshwayo were arrested for fighting for this land. They were fighting for the land for people who were to receive freedom in 20 or in 1994 and then in 2015 we are talking about South Africans who do not want to listen, who do not want to work, who are thieves, who rape children, who break into other people's houses, who are lazy to plough, people who will be looked at by other nations as idiots whose inheritance is up for grabs.

17. As we speak in front of the shops they hang rags that dirty our streets, you can't even see the names of the shops, it's foreign nationals. I know that sometimes it is difficult for other politicians to shun bad behaviour because some wrongdoers become voters after five years. (Hail the King) Honourable (Minister), my Honourables please pardon me, in such situations it is my job to say something. I am not waiting for a five-year tenure to reprimand wrongdoings.

18. As the King of the Zulus, as the King of the Zulu nation, the nation that is respected in the whole world because of the role it played in the struggle and in the freedom of the African

*mdm*

continent so I will not keep quiet while our land is being taken for a ride by people with no vision. Now it's time for us to have a vision. I am asking the South African government to give us support. Let's fix our problems. Let's fix what troubles us, take out lice, fleas and put everything in the sun for the heat to take out what's not needed. We are asking for foreign nationals to be sent back home, (home) so that .... Let us listen to each other, let us listen to each other, let us listen to each other. When you were in their countries you were at war, you helped them gain independence in their countries. I know that. That's why other countries gained independence because they were received help from (exiled) struggle activists from South Africa. You didn't hang or sell anything.

19. Eh! My Honourable (Ministers) My Honourable (Ministers) let us also go to their countries for a short visit, let's not go there and stay until it becomes our home. We know that we are in rural areas but we need support.

20. Go out to the fields to work and don't just sit around doing nothing. To the government, you need to take the stand now because you also are protecting criminals ... they are in the Lord's house eh amongst you pastors. It is my request, criminals are hidden. And to the police force I say work hard we can see all the corrupt officers hiding behind your uniform. (Hail the King)

21. Whilst I am still talking about the police department, I would also like to mention that you are a regiment that is very close to my heart. I will never neglect you. But in this instance you won't work effectively because there are people who are in South Africa under false pretences of trading but they are really here to steal the our wealth and take it back to their countries whilst nobody knows why all these people left their countries of origin. Perhaps they were criminals.

22. The relationship with African countries is very good. The relationship is very good indeed but we must not have such relationships which causes us to think that we are better than the African continent. Let us not have a holier-than-thou attitude. They also have their laws. We must also have our own laws Police officers are the pillars of the safety of our country. They are the answer to people and the communities who live under the fear and crime. The police are the ones who are informed immediately when there are problems because they work in the midst of people. That is why I say let us fix our own problems, right now even teachers are terrified where our children wake up go to school. They are scared of okapi knives easily accessible at school. Our children get stabbed with okapi knives. Our

children are too brave because of the laws protecting the abuse of children's rights. Which children's rights are being violated here? Which law are they referring to, the law which give the children rights to stab each other with a knife. These children carry guns. The sad part is that the teachers are not safe from these children. This is all because of children's rights. Didn't we survive corporal punishment in schools? (noise and applause) Nowadays I cannot even punish my child if he/she does something wrong at home. The child must always a police telephone number on speed dial, there is 'a man who is abusing us' here at home. The child says 'a man who is abusing us' referring to his/her own father. (noise and applause) I know that the police hear first as I have mentioned that there is a problem in them as I have already mentioned, I would like to warn them about the danger they are facing. The truth is, there are a lot of people out there who want to drag your name through the mud with the hope of weakening the South African economy. They want to weaken the economy while they criticise your work. The intention of any person who distracts the police from their work of protecting the nation and keeping the law is to make the economy weak. Everybody knows that the police are the last protectors of democracy that we live under which allows any people to come into the country. South Africa is watching helplessly as it swallows all sorts of people who left their countries of origin for reasons only known to them. (noise) However, without the police without the police force, the way they work courageously, this nation cannot be safe and progressive. Therefore any person who ill-wishes this country and have a condescending attitude towards our procedures, will make sure that he/she is the first one who leaves his workstation to do his/her mischievous actions. A police officer to leave his/her workstation usually preceeds disaster. That is why I am appealing to you not to stop being the community protectors and peacemakers and safety keepers in our communities.

23. Programme Director, I wish for the community to see the thoughts and the programmes to fix what is wrong in our country. I am not saying this because it is easy to say, but I know that it works. I wish we can work together and change our lifestyles. Your lifestyle has to change when you face difficulties. Right now our country is faced with the water shortage. Climate change reflects something even if it is affected by pollution from the factories and that there is pollution in the whole world but some people still get the rain. Do some introspection Zulu people, to find out why after we have had so much rain, now we have none? What happened to the rain? Repent, God wants you. (Hail the King) there is no other person God is looking for. He is looking for where Zulu people are. That is why we are consumed by laziness. If Honourable (Minister) we can fly since you have a police

helicopter, so we can fly over the whole of Zululand you won't even see a single thing, not even one. Men have a problem I have never experienced and I have never seen such men. (noise and applause) These are problematic men, they are lazy, they are drunkards, (noise and applause) which leads them to becoming thieves of the worst kind. (noise)

24. What I am saying Honourable (Minister) for thirty years in the rural area of Nongoma, I started something that has become the solution to the biggest problem facing this country and the whole world. It was 1984 when I started the Reed dance ceremony which is now recognised in the whole world. These ceremonies give life to a lot of people.

25. What I am saying is that tourism must benefit poor communities. They must get something so that the nation can develop in all spheres so that when the visitors leave it's like the situation in Tunisia where attacks are reported at some tourist destinations because when they visit or pass these places they leave money. When I was doing this I was using my knowledge of culture that I was talking about Honourable (Minister).

26. I was talking about the culture of our people in Zululand because we have a lot of wealth. Our soil is clay, the clay which makes utensils and crockery, clay pots for traditional beer, to make big clay pots to keep our food. We have the *lala* grass, we have palm trees, we have grass, we have stones, we sit under the trees. We plant others that bear fruit, all of that is life to us. But our people are distancing themselves from all that. Do you realise that God is punishing you? It is my request that as the whole world knows, I did this, I did it for a lesson to be learnt that there is intelligence in obtaining knowledge and in working together with other people. May I request that we work together as we come from Zululand districts we will succeed in getting permanent solutions if we work with the relevant people. There must be nobody who says they don't want to be told what to do. Culture plays an important role in shaping an individual. In shaping a person, culture plays an important role. Our culture is our heritage, the ceremonies we have as Macingwane has mentioned we are all affected by the way our ceremonies are being criticised. The government supports our ceremonies because it doesn't kill people. I taught the children in 1984, and now I am very old. I was born when the National Party was founded. The year the National Party was founded, I was born. I saw the birth of the Union of South Africa when we were still using pounds and shillings and pennies and fathings. I saw all these things taking place. I saw the change in South Africa in 1961 when the National Party won the elections and took over the government. I saw all of that and I saw our currency changing. Afrikaans-speaking people saw that their currency change and

they thought it was better to have the Kruger rand because of the gold they had. They started the Kruger rand which pushed up the currency of South Africa, there was South African rand, that was once the best currency in the whole world. I know that for a fact. Then homeland governments were introduced. When the current government took over I already knew these things.

27. There are children who think they can tell you about the freedom what what. What do they know about the freedom? What don't they ask us as older people? (Hail the King) the children who confront older people everywhere, everywhere, everywhere, everywhere, there is no respect. Even in places where leaders should be respected, like what we witness in Parliament. What is really happening there? It's taboo. Now as I have said culture plays a role in shaping a person's character. It's cultural that a male or female are shaped in such a way that they are respectful citizens that also respect themselves. If people have lost respect we might as well forget what we are here for. It means the Honourable (Minister) wasted the Departmental budget because he is here to speak to idiots who came to this gathering intoxicated. (laughter) Because they smoked whoonga before they came here (laughter). That is why I don't doubt that if we work together in observing certain rituals our nation may benefit. Just to give you an example, if the recruitment of young girls and boys into regiments is something that can be better achieved by working together in observing certain rituals, that might be beneficial to building tomorrow's nation. It is because of this reason that today as your King in consultation with the chiefs I am appealing to you to work closely with us under these circumstances but we must be closer to God first. I am very close to God. I abide in Him. I don't know if you do not abide in Him. That is why I am saying to the whole Zulu nation we have to be closer to God.

28. Yesterday the scripture reading was taken from the book of John chapter 1 which talk about "the Word" and His coming to earth and the purpose for His arrival. To those who are Christians they will remember the stage yesterday's service represents. It is therefore important ... a nation without God is punished by Him. The issue of shebeens, our children are always there, which is why I say I am begging the police, religious affiliates, sports and businesspersons to work with me and use culture and indigenous knowledge to come up with resolutions to the problems in this country especially concerning people's behaviour. Because if we don't do that, we are still going to get punished. Although I cannot get further into that but I know the traditional ceremony that I host in sprin ... or in December where I gather young boys, helps me in to pass on the message as well as building structures to fight crime

as well as through the Reed Dance ceremony there is a lot we can do to train and build our young. Because we are not supposed to leave them to fend for themselves but we have to now that the children want to be begged, they are completely lost it, as adults we have to be the ones who behave first. Therefore I say to the leaders, eh here in Zululand to those who are Zulus I wish that we would stay ready to work hand in hand with the police and other structures present. There is a need to work together so that there can be safety for our people. Where there is a problem, as the Royal Household, we are eager to help. We won't neglect you because as you are present we know that there is nothing we can avoid to work together so that there is peace in our land.

29. As the Royal Household, we accept that through working together we can avoid a lot of crime and violence reported as taking place on farms and in the community. What is more painful Honourable (Minister) is that the farms that the government is redistributing eh which are supposedly given to people eh certain people, and other people end up not getting their share because the criminals occupy them now. I have even fetched my cattle on another farm that was stolen by bullies of the Nzuza clan (noise and laughter) they took my cattle by force. I said to the police these are my cattle and the shepherd said these are indeed the King's cattle. Now, what I am saying is the farms that the government is distributing there is a lot of corruption in them, especially those forest farms because that's where the inheritance of our forefathers is. We can even avoid diseases if we work together. Nobody could go to bed on an empty stomach on this land if we all do out and work together. And on the programmes of fighting poverty as the Zulu saying goes "an empty stomach causes anger" and "an empty stomach knows no laws/rules"

30. Now we have to pay attention to all these things and see what we can do. Let us put our country on a level where we can be able to protect our lives.

With these words, few words, I hope to plant the seed of working together and move forward.

Thank you Honourable (Minister).





**Paragraph 10** lack of *ubuntu* and shunning vandalism

**Paragraph 11** respecting people and government property

**Paragraph 12** criminal acts and assumptions about foreign nationals

**Paragraph 13** sexual violation of infants and the elderly

**Paragraph 14** alcohol and drug abuse

**Paragraph 15** good behaviour and respect

**Paragraph 16** recognition of King Cetshwayo and King Dinuzulu for their heroic acts

**Paragraph 17** shops owned by foreign nationals

**Paragraph 18** Zulus must fix their problems at home

**Paragraph 19** short visits to other countries

**Paragraph 20** corrupt pastors and corrupt police officers

**Paragraph 21** traders from other countries

**Paragraph 22** Relations with the African continent, crime in schools, police jobs and what is expected of them

**Paragraph 23** water shortage, climate change, repentance

**Paragraph 24** beginning of the Reed Dance ceremony

**Paragraph 25** development of the country

**Paragraph 26** opportunities and wealth that Zulu people have, God punishing Zulu people, the importance of culture

**Paragraph 27** disobedient children, emphasis on respect

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**Paragraph 28** a nation without God will be punished, Royal Household will help out

**Paragraph 29** violence on the farms, working together

**Paragraph 30** improve our lives

### **Idiomatic expressions**

Translating idiomatic expressions is a tricky exercise. A translator who uses a cultural approach is simply recognizing that each language contains elements which are derived from its culture, that every text is anchored in a specific culture, and that **conventions of text production and reception vary from culture to culture**. Awareness of such issues can at times make it more appropriate to think of translation as a process which occurs between cultures rather than simply between languages. Most 'cultural words', according to Newmark, are easy to detect since they are associated with a particular language and cannot be literally translated. However, many cultural customs are described in ordinary language, where literal translation would distort the meaning and thus the translation "may include an appropriate descriptive-functional equivalent" (Newmark 1988: 95).

Newmark also introduced 'cultural word' which the readership is unlikely to understand and the **translation strategies** for this kind of concept depend on the **particular text-type, requirements of the readership** and client and importance of the cultural word in the text (Newmark 1988: 96). Baker refers to such cultural words and concedes that the SL (source language) words may express a **concept** which is **totally unknown** in the target culture. She points out that the concept in question may be "abstract or concrete, it may relate to a religious belief, a social custom, or even a type of food." Baker then, calls such concepts 'culture-specific items' (Baker 1992: 21). Nord uses the term 'cultureme' to refer to these culture specific items. She defines cultureme as "a cultural phenomenon that is present in culture X but not present (in the same way) in culture Y" (Nord 1997: 34).

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# ANNEX C

## **ISilo (South African Human Rights Commission Report)**

**NB: This speech was analysed from a Sociolinguistic and Pragmatic perspective so the cognitive process of the speaker before and during the deliverance of the speech is NOT included the report.**

### **Translation Philosophy**

The attached report is an “essentially literal” translation that seeks as far as possible to capture the precise wording of the original text and the personal style of each word. As such, its emphasis is on “word-for-word” correspondence, at the same time taking into account differences of grammar, syntax and idiom between isiZulu and English. As an essentially literal translation, the report seeks to carry over every possible nuance of meaning in the original words of the audio into the English language. This view is adopted from Baker, M. (1992) *In other words*.

### **Paragraph 1 Introduction**

**Paragraph 2** rehabilitation of the Zulu nation through correctional means

**Paragraph 3** strengthening the relationship between the SAPS and the community

**Paragraph 4** appreciation of the of the presence of the KZN Provincial police Commander and different Station Commanders

**Paragraph 5** the presence of different organisations

**Paragraph 6** appreciation of the presence of regiments – especially

**Paragraph 7** appreciation for the young maidens and young lads’ presence at the event and condolences to the cabinet members for losing their peer in a car accident

**Paragraph 8** discovery of unidentified graves of about a hundred people

**Paragraph 9** revival of good behaviour

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**The following idiomatic expressions are culture-specific, I used Mona Baker's (explained above) strategy to translate them**

*Lalani ngenxeba, akwehlanga lungehli* – my deepest condolences

*Ukwembathisa ingubo efudumele* – to comfort in times of grief/need

*Ukwelula isandla senduduzo* – extending my words of comfort

*Ukuhlala phakathi komlilo nomlilo* – between a rock and a hard place

*Umlilo wequbula* – runaway flames

*Ukuphenduka isilwane* – behaving like an animal

*Ukuba undlebe kazizwa* – to be disobedient

*Ifa leziphukuphuku* – a fool's inheritance

*Ukwenwaya/ukuchoba izintwala* – fixing your business

*Ukuhlalela ovalweni* – to live on the edge

*Ukulengela engozini* – to be at risk

*Ukungcolisa igama* – defamation of character

*Ukubukela phansi* – to be condescending

*Ukuzinuka amakhwapha* – to do introspection

*Indlala ibanga ulaka* – a hungry person is an angry person

*Isisu esilambile asazi mthetho* – a poor person may fall to crime

The whole speech emphasises *ukusebenza ngokubambisana* (working together), *ukuzimela* (independence).

**Keywords: perception, cognition, preference, speaker-intended meaning**

**Hypothesis:** Given a context of use each utterance made has plausible interpretations, each interpretation refers to a state of affairs (within a specific context) which makes the utterance true or untrue based on the perception of the listener or the audience.

### **Theoretical framework**

**Sapir-Whorf hypothesis** - a hypothesis, first advanced by Edward Sapir in 1929 and subsequently developed by Benjamin Whorf, that the structure of a language determines a native speaker's perception and categorization of experience.

The theory of linguistic determinism and relativity presents a two-sided phenomenon: Does the specific language (and culture) we are exposed to in childhood determine how we perceive the world, how we think, and how we express ourselves? If this is so, then, it must also be the case that each language (and the culture it represents) necessarily provides its speakers with a specific and differing view of that same world, a different way of thinking, and a different way of expressing.

- In the case of this speech, as the King the speaker assumes the position of a father within the family (his intended audience), which in isiZulu culture means that he can express his discontent freely and without mincing his words. He is unhappy because he feels that Zulu people in KwaZulu-Natal have a sense of entitlement, they are lazy, and they abuse drugs and alcohol instead of working towards improving their lives. (**expression**)
- He perceives the speech as a warning towards disobedient people who want to do as they please (**perception**)
- In his mind it is justifiable to alert people against foreign nationals who come into this country under false pretense of being traders (**way of thinking**)
- To his **intended audience** (which is isiZulu-speaking) this is not interpreted as meaning these are their foes, but rather as a wakeup call and a warning against laziness,

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commission of crime, drug and alcohol abuse since he mentions all of them in the same breath.

### **Linguistic relativism**

Whorf's contribution of linguistic relativism acknowledges that conceptual paradigms of thought can be modified, expanded, enlarged and reshaped relative to the experience the individual has:

- In the history of the Zulu Nation the King can express his views in a blunt and sometimes crude way without meaning to offend a particular individual. When the intended audience is his subjects his tone becomes that of a father.

### **Speaker-Intended Meaning and Perception**

**Relevance theory** is a proposal by Dan Sperber and Deirdre Wilson that seeks to explain the second method of communication: one that takes into account implicit inferences. It argues that the "hearer/reader/audience will search for meaning in any given communication situation and having found meaning that fits their expectation of relevance, will stop processing."

There are two ways to conceive of how thoughts are communicated from one person to another. The first way is through the use of strict coding and decoding, (such as is used with Morse code). In this approach the speaker/author encodes their thoughts and transmits them to their audience. The audience receives the encoded message and decodes it to arrive at the meaning the speaker/author intended.

This is usually referred to as the code mode or the conduit metaphor of communication. Human communication however, is almost never this simple. Context almost always plays a part in communication as do other factors such as the author's intentions, the relationship between the sender and receiver and so forth.

The second way of conceiving how thoughts are communicated is by the author/speaker only conveying as much information as is needed in any given context, so that the audience can

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recover their intended meaning from what was said or written as well as from the context and implications. In this conceptual model, the author takes into account the context of the communication and the mutual cognitive environment between the author and the audience. (That is what the author/speaker thinks that audience already knows). They then say just enough to communicate what they intend - relying on the audience to fill in the details that they did not explicitly communicate.

Sperber and Wilson's theory begins with some watershed assumptions that are typical of pragmatic theories. Namely, it argues that all utterances are encountered in some **context** and that utterances convey a number of **implicatures**. In addition, they posit the notion of *manifestness*, which is when something is grasped either consciously or unconsciously by a person.

They further note that it will be manifest to people who are engaged in inferential communication that each other have the notion of relevance in their minds depending on the language they speak. This will cause each person engaged in the interaction to arrive at the *presumption of relevance*, which is the notion that (a) *implicit messages are relevant enough to be worth bothering to process, and (b) the speaker will be as economical as they possibly can be in communicating it.*

The core of the theory is the "communicative principle of relevance", which states that by the act of making an utterance the speaker is conveying that what they have said is worth listening to, i.e. it will provide "cognitive effects" worthy of the processing effort required to find the meaning. In this way, every ostensive act of communication (that is the lexical "clues" that are explicitly conveyed when we speak/write) will look something like this:

1. The speaker purposefully gives a clue to the hearer, ("ostensifies"), as to what she wishes to communicate - that is a clue to her intention. "*njengeNkosi yenu*" (as your King), which communicates that I am your father and whatever bad things you do reflect back on me. "*ake nizinuke amakhwapha bantu bakwaZulu*" (Do some introspection Zulu people)

2. The hearer infers the intention from the clue and the context-mediated information. The hearer must interpret the clue, taking into account the context, and surmise what the speaker intended to

communicate. “*Niyabona yini ukuthi uNkulunkulu uyanishaya?*” (Do you realise that God is punishing you?)

### **Syntactic ambiguity**

The isiZulu version of the speech is full of disjointed paragraphs with sentences that are out of place. It is very difficult to follow his reasoning and line of argument because of the incoherent nature of the speech. This makes the work of the translator very difficult which may lead to the use of the principle of omission and addition (some words used to fill the gap caused by incoherence)

Examples from the speech – what do they mean?

**Paragraph 17** *Ngikhuluma nje phambi kweyitolo kulenga into ongayazi amanikiniki ongawazi angcolisa italadi zethu awusakwazi nokubona isitolo ukuthi lesi sitolo kwakuyisitolo bani kwakuyisitolo bani, kuvimbe nje abokufika.* (As we speak in front of the shops there are rags hanging that dirty our streets, you can’t even see the names of the shops, it’s foreign nationals.)

*Ngiyazi kwenye inkathi kulukhuni kwabanye osopolitiki ukukhuza imihlola ngoba phela laba benzi bobubi babuye babe ngabavoti eminyakeni emihlanu.* (I know that sometimes it is difficult for other politicians to shun bad behaviour because some wrongdoers become voters after five years.)

On that note, foreign nationals are not voters according to the South African Constitution, so he is actually shunning Zulu people for being wrongdoers and not foreign nationals.

*Siyacela abantu bokuhamba bathathe imithwalo yabo babuyiselwe emuva* (We are asking for foreign nationals and their luggages to be sent back home)

The reference made here is made to the *imithwalo*, the luggages full of clothes and shoes to sell. The **assumption** is that hawkers are here illegally, whether that is true or not, is irrelevant



IsiZulu is a tonal language which can mean “*niyazi yini*” can mean don’t you know? do you know? Or how do you? The context in the speech determines that the third translation is more appropriate.

*Bagcwele kuleli zwe nje emakubo niyazi yini ukuthi ayikho imali?* (As they are in this country how do you know that there is no money in their countries of origin?)

*Bagcwele kuleli zwe niyazi yini ukuthi bazothatha imali yenu?* (As they are in this country how do you know that they are here to take your money?)

- The above statements are in contradiction to the whole speech which emphasises the importance of culture (*amasiko adlala indima emqoka ekwakheni umuntu* - Culture plays an important role in shaping an individual.) (*likhona yini izwe eliphila?* - How can a country survive on alcohol?)
- The emphasis was on repentance (*ake nizinuke amakhwapha* – do some introspection) (*kungani uNkulunkulu afuna nina* - Repent, God wants you) (*niyabona yini ukuthi uNkulunkulu uyanishaya?* - Do you realise that God is punishing you?)
- Zulu people must stand up and do things for themselves (*Phumani-ke niye emasimini niyosebenza ningahlali phansi* – go out and work in the fields)
- His concerns regarding this bad behaviour (*angibulali ubuthongo ngicabanga ngalezi zinto* – I am losing sleep over these things)

### Paragraph 18

(*Asenwaye izintwala zethu. Adichobe ezethu iyintwala, eyiphukwini zethu, amazeze asikhiphe sibeke laphaya elangeni ayiqhashele amazeze ngenxa yokushisa kwelanga*) Let’s fix our problems. Let’s fix what troubles us, take out lice, fleas and put everything in the sun for the heat to take out what’s not needed.

The reference to lice and fleas is about the problem in the society (intended audience) the utterance is NOT directed to foreign nationals because:

- In the isiZulu language and culture a person can never be referred to as “lice” or “flea”

- The use of the possessive morpheme –**thu** (ours) demonstrates that these problems “belong” to the intended audience, in no way can this be a reference to foreign nationals.
- The whole speech is about the challenges, violence and problems that are rife in the intended audience (community of uPhongolo District)

## Conclusion

### Intended meaning -

The utterances do not in any way incite violence or are they harmful (harm in this case is understood on linguistic terms which refers to physical harm, violent attacks, destruction of property) to a particular group of people. The utterances need to be understood in the context within which they are made and the audience’s cognition be broadened to take into account the fact that the semantic structure of a language (isiZulu in this case) affects cognition and shapes or limits the way in which the audience/listener forms conceptions of the world. Other points asserted in this report:

- Journalists are not language experts hence there is no care taken in choosing words
- In as far as **translation** is concerned, it is very difficult to judge a good or a bad translation if you are not a language expert,
- The speech does not in any way incite **violence**
- If a speaker is a **bad orator** that causes the gaps and a room for **misinterpretation** in his speech.
- The **context** in the speech determines interpretation.
- **Culture-specific concepts** are often interpreted and the meaning be ‘lost in translation’
- The tone and the manner in which a speech is delivered depend mostly if not solely on the identity of the **intended audience**.

Newmark, Baker and Nord – internationally renowned and extensively published translation scholars – agree that no 2 languages can produce the exact same speech and that a cultural

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phenomenon may be present in culture X but not present in the same manner in culture Y. This affects the way in which people hear, perceive, interpret and react to an utterance.

People of a given culture look at things from their own perspective.

Media tend to quote the statement out of context. Sometimes they choose certain words in the middle of a sentence to create stories.

*man*

# ANNEX D

## King Goodwill Zwelithini anti-xenophobia Imbizo

Ndabezitha!

Ngithokoza kakhulu ukungethula lapha esizweni. Ngibonga kubaphathi bohlelo, uNgqongqoshe uMabuyakhulu kanye nodadewethu uWeziwe Thusi. Ngithokoza kakhulu Macingwane ukuthi esikhashanyaneni nje esifushane udlulisele umlayezo wami. Nnjengoba ngiphinde ngawedlulisela nakuMntwana wakwaPhindangene ngenxa yezimo eziphuthumayo maqondana nalolu suku. Ubukhona benu noNgqongqoshe bakaZwelonke, uNgqongqoshe uGigaba ophethe uMnyango wezaseKhaya kanye noMahlobo ophethe ezokuxhumana nokuphepha. Ngibonga kakhulu-ke ukuthi Madungeni nawe njengoba ngiwedlulisile umlayezo ukuthi ungithintele amakhosi ukuthi nawo awabe yingxenye yale mbizo namhlanje engosuku olubi lokuqala lweviki okuwusuku lokuqala. Obekuyoba kuhle uma ngabe bekuyoba wusuku lwempelaviki kepha ngenxa yesimo esiphuthumayo nezimo eziphuthumayo bekubalulekile ukuthi ngingenelele. Angibonge kakhulu Mkhatshwa ngokusemukela kwakho lapha eThekwini.

*[I would like to take this opportunity also to thank those especially who are present especially members of the diplomatic core amongst us, this day]*

Angibonge kuBafundisi bami abathe basivulela ngemikhuleko. Ngiyafisa nokho ukuthi ngifundise ngoba kule minyaka engamashumi amane nane ngihlezi esihlalweni kunezintwanyana eziningana engizifundile kubantu abadala nokuthi abantu abadala bahlonishwa kanjani. Nanokuthi nawe uma ufisa ukuthi ngelinye ilanga uyoba mdala ufise uhloniphe uhlonishwe futhi kuyaye kube kuhle ukulalela. Ngikhuluma lapha njengoYihlo. Ngiyafisa ukuba ngibonge ezinduneni ngibonge kakhulu emabuthweni kaZulu. Ngibonge nakubo bonke abathe bazinikeza ithuba lokuba babe kanye nathi kulolu suku, esikhashanyaneni esifushane njengoba nizwe nonke ngoLwesihlanu ukuthi ngiyanicela ukuba ke sizohlanganyela kulolu suku.

Inyanga kaNdasa kanye noMbasu ibukeka iyisikhathi/iyizikhathi ezinzima ezwenikazi lethu lase-Afrika. Ngonyaka ka-2004 ezweni laseRuwanda kwenzeka ngenyanga kaNdasa abantu ababalelwa esigidini okwakungamaHutu namaTutsi babulawa. Lesi kwaba ngesinye sezigameko ezibuhlungu emlandweni we-Afrika kanye nesintu jikelele.

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Umbiko weHuman Rights Watch ka-1999 kanye nalowo owakhishwa yiCriminal Tribunal for Rwanda kayivezanga kuphela indima eyadlalwa ngabaholi abathize kepha yaveza nendima eyadlalwa abezindaba ekufeni kwabantu abacela esigidini.

Ngenyanga kaNdasa 2015 i-Afrika kanye nomhlaba wonke wavuka nezindaba ezibuhlungu zokubulawa kwezingane zethu eNyuvesi yaseKenya. Lesi kwaba yisenzo esasihlukumeza kakhulu thina njengoBukhosi kanye nomphakathi waseNingizimu Afrika. Ngokwemibiko lapha kwasala phansi izingane eziyikhulu namashumi amane nesikhombisa.

Isehlakalo saseKenya selama udlame olwenzeka kuleli laseNingizimu Afrika nolusabikwa nanamuhla lapho kukhona ukuhlaselwa kwabokufika ikakhulukazi abavela ezwenikazi lase-Afrika. Ngokwemibiko yabezindaba kulokhu kwakamuva iningi labantu selikhoseliswe ezindaweni ezithize

Okubuhlungu nokudala amahloni Zulu omuhle ngalolu dlame olubikwa kula masonto amathathu wukuthi lokhu akukhona okokuqala. Ngonyaka ka-2008 eSifundazweni saseGauteng kwaba nesigameko sokuhlaselwa kwabokufika ikakhulukazi labo abavela ezwenikazi lase-Afrika. Zulu omuhle ngithi lokhu angikugcizelele ngoba kungayiphutha ukwenza sengathi lezi zenzo zobubi zenzeka kuwona wonke umuntu ongowokufika kuleli. Iqiniso lithi lolu dlame lubhekiswe kubafofowethu nodadewethu abavela e-Afrika nokuyinto elichilo.

Ngokwemibiko ngodlame lwango-2008 kwedlula emhlabeni abantu kwadlula emhlabeni abantu abangamashumi ayisithupha nambili okwakuhlanganisa abokufika kuleli kanye nezakhamizi zakuleli. Umbiko owakhishwa ngabeHuman Rights Commission ngonyaka ka-2009 wazibeka ezinye zezimbangela ezadala lolu dlame olwaqala eGauteng lwakapakela nakwezinye izindawo. Umbiko weKhomishana waphinda waveza izincomo kuhulumeni waseNingizimu Afrika.

Ngiyazi ukuthi le mibiko emithathu oweHuman Rights Watch, yiCriminal Tribunal for Rwanda kanye nalowo weHuman Rights Commission isatshalaliswe ngazo zonke izilimi ngoba kukhulu umphakathi ongakufunda ukuze kugwemeke inhlekelele ngesikhathi esizayo. (Liyangiphazamisa leli langa, ake nithi ukungidonsela kancane, ngiyaxolisa. ... Ngiyathokoza! Ngiyaxolisa!).

Lokhu ngikusho ngoba kuyishwa ukuthi uma uyibuka kuyacaca ukuthi iNingizimu Afrika yenza lokhu eyayixwayiswe ngakho kule mibiko engiyibalulayo. Lokhu okwenzeka

edolobheni laseThekwini kuwubufakazi bokuthi njengezwe asifunde lutho emaphutheni edlule. Ngokwemibiko yabezindaba udlame olukhona lungenxa yenkulumo engayethula oPhongolo mhla ziyishumi nesihlanu kuMbaso nonyaka. Izindimbane zabantu ababengilalele oPhongolo abakabulali muntu noma asikezwa nokuthi uPhongolo luyasha. (ihlombe)

Ngiyathokoza Somkhandi, Nkosi yakwaGumbi njengoba uMntwana kade esho ukuthi akukhulume laphana ngihlangene namakhosi kuwubufakazi bezinto ezishiwoyo ngami ukuthi azilona iqiniso. Kepha nginesiqiniseko sokuthi lezi zindimbane engikhuluma ngazo zisiqonda kahle isiZulu kazitolikelwa. Yize ngiyihlonipha imithetho yaleli zwe okuhlanganisa nomthetho onika igunya iHuman Rights Commission ukuba liphenye nxa kunezikhalo, ngibona kumqoka ukuba ke ngiphawule ngokuthile. Okokuqala ngiyacela ukuba iHuman Rights Commission inikwe ithuba elanele ukuba yenze uphenyo lwayo ngokukhululeka, ingajahwa muntu futhi ingesatshiswa muntu. Kula masonto amabili ngibhale izincwadi ezimbili kwiKhomishana lokhu ngikwenza ngoba ngikwamukela ukungenelela kwayo. Sengikushilo lokhu ngiyafisa ukuba iKhomishana isheshise uphenyo ukuthi siqhubekele phambili. Okunye esikunxusa kwiKhomishana wukuthi uphenyo lwayo luvuleleke luphenye nangendima edlalwa abezindaba ekubhehethakeni kodlame olubhekiswe kwabokufika kuleli ikakhulukazi labo abavela e-Afrika. (ihlombe)

Bahlonishwa! Siyakholwa wukuthi abezindaba baseNingizimu Afrika bazovuma ukuthi nabo baphenywe uma kungekho amaqiniso abawafihlile. Ngikusho lokhu ngoba kuze kube yimanje inkulumo yami yasoPhongolo yayiqondiswe emaphoyiseni nginxusa ukuqiniswa komthetho. Kodwa angikuboni nakwelilodwa iphephandaba noma umsakazo ukugqamisa umongo wenkulumo yami. Kunalokho izwe liboniswa noma lilaleliswe inkulumo esihluziwe yahlanekezelwa, kugodlwe ngamabomu umgogodla wenkulumo yami. Iyahlekisa le nto. Nanamhlanje ngisabakhiphela inselelo abezindaba ukuthi kabakhiphe yonke inkulumo yami bangayihluzi njengoba benza nje. Le nkulumo isimqoka kakhulu kunalesi sikhathi eyathulwa ngaso. Lokhu engikubalula ngenhla kumqoka ekuvezeni isithombe esiphelele ngokuthi lolu daba lusukaphi. Uma sengibuyela kumongo walokho engikubizele le mbizo yanamuhla, okumqoka okumele ngikucacise ukuthi le mbizo angiyibizile ngoba ngithi wuZulu odale noma oqhuba lolu dlame olukhona kepha nginibize ngoba ngazi ukuthi isibalo sethu singakwazi ukugqiba idlanzana leli elishisa izwe namuhla. UZulu ngobuningi bawo ungakwazi ukuphebeza le mpi yomshoshaphansi yonukubeza nesithunzi sikaZulu kanye neseNingizimu Afrika.

Nokho kungithokozisile ukuthi namuhla uhulumeni waseNingizimu Afrika uyavumalena nami nxa ngithi kulolu dlame olukhona kukhona isandla sesithathu okumele sonke silwe naso semfene. Akuyona-ke imfihlo Zulu omuhle ukuthi lapha phandle abasabalalisa ukwesaba esizweni basebenzisa igama likaZulu kanye noBukhosi, njengoba uMntwana eseke wabeka enkulumweni yakhe. Nonke niyizwile imibiko ebithunyelwa ngama-sms ebithi uZulu ugcewele izitimela, uhlome uyizingovolo uzobulala abokufika. Lona wumzamo wokunyundela uZulu kanye nokuqhatha izizwe ezikhona kuleli kanye nama-Afrika. Inhloso yalaba bantu iyodwa wukuxova abantu abangama-Afrika ukuba balwe bodwa. Lo mkhankaso usikhumbuza umgunyathi owawusetshenziswa ngeminyaka yawo 1990 lapho kwakuthiwa amaZulu yiwo abulala abantu ezitimeleni okwathi sekuvela kwatholakala ukuthi kwakukhona isandla sesithathu esaphumelela ngaleso sikhathi ukuqhatha izinhlangano zepolitiki zabamnyama kuleli. Kulolo dlame ngalahlekelwa mina, -mina Nkosi yamaZulu- ngabantu bakaBaba ababalelwa ezinkulungwaneni ezingamashumi amabili. Sizwile futhi ukuthi uhlelo lwalaba bantu wukuqhatha uZulu kanye nabohlanga lwamaNdiya. Umbuzo uthi kungani laba bantu benza lokhu? Ukuthi ziyini izinhloso zabo ngalokhu? Umlando wase-Afrika uyawuveza umkhuba owenziwa ngabathile ekushiseni izwe, omunye wale mikhuba wukuqhatha izizwe ezakhele lelo zwe. Yikho-ke nina beSilo nesizwe sonke, Bahlonishwa, ngibize amakhosi ezizwe nezinhlaka zobukhosi kule mbizo eyingqophamlando. Ngibize nina njengezizukulwane zamaqhawe nemadelamizimba kaZulu ukuba nibe yihawu lesizwe niphebeze abafo. Njengoba ngike ngasho ngesonto eledlule ukuthi ukuba le mibiko yokuthi ngiphake impi iyiqiniso ngabe leli zwe liwumlotha. (Bayede!) Namuhla-ke nginibize ngoba ngifuna ukuphaka impi yangempela nedingekayo manje. Akuyona le eniyijahile. Akuyona le eniyijahile. Le mpi-ke, le mpi-ke engithi ngizoyiphaka namuhlanje ngeyokuvikela wonke umuntu wokufika okhona kuleli okungakhathaleki ukuthi uvela kuliphi izwe. (Wena weNdlovu! Bayede!) okungakhathaleki ukuthi uvela kuliphi izwe. Kuzinduna zobukhosi ngiyaniphaka ukuba nibe yizindlebe zami enhlabathini niphinde nibe abavikeli bomphakathi okungakhathaleki ukuthi ungowakuphi. Ngokwesiko lesiZulu engiwumvikeli walo, umuntu kakhulumi phezu kwesidumbu ngokwazi kwami. Kuthi noma kukhona okusalayo kube neseluleko sokuthi akuqale kulungiswe udaba lwesidumbu kuqala bese kubhekwana nokungaba zikhalo.

Odabeni olwenzeka edolobheni laseThekwini namaphethelo, luyasiphoka ukuba sedlule ebuhlungwini esikubo emva kokuphicwa kwenkulumo yami nokuthukwa kwesizwe samaZulu. Ngiyazi ukuthi ninengiwe zinhamba ezibhalwa ngami nangani kanye

emaphepheni kanye nasezinkundleni zokuxhumana, kepha njengeNkosi yenu ngithi okwamanje lalani ngenxeba. Zimbili izizathu engithi okwamanje lalani ngenxeba ngazo ngoba okokuqala sekunezidumbu phansi. Okwesibili, yingoba ngifisa nigweme umgodini enimbelwe wona yilabo abafuna uZulu abukeke njengezidlova nezephulamthetho kanye neNkosi yenu le ekhulumayo. Njengoba kukhona abathi kumele ngibekwe icala. Angiwazi la macala engibekwa wona ngoba angikaze ngibulale muntu mina. Okunye-ke engifisa ukukucacisa, angiwabizanga amakhosi kanye nezinhlaka zobukhosi ngoba ngithi yizo eziqale lolu dlame, kunalokho ngithi lezi yizona zinhlaka zokuletha ukuthula emphakathini. Ngaleyo ndlela ngithi ngithuma lezi zinhlaka ukuqinisekisa ukuphepha kulowo nalowo okulesi Sifundazwe ohlala ngaphansi kobukhosi noma ngabe usedolobheni kufanele lawo madolobha nazi ukuthi awami akungabibikho muntu okuthiwa uyafa. (Bayede!)

Kungaba semadolobheni noma kuzo izindawo zasemakhaya nginxusa ukuba lezi zinhlaka zibambisane nazo zonke izinhlaka zokugcina umthetho nokuphathwa kwezwe. Sikhombise ukuthi leli zwe thina siyakwazi ukuliphatha. Lapho zibona ukwepulwa komthetho noma okwaluphi uhlobo aziqiniseke ukuthi labo abenza okubi babhekane nengalo yomthetho. Imithetho ebhekele imiphakathi kanye namasiko ethu mawavikelwe yithi uqobo lwethu. Thina siyisizwe esikuthandayo ukuthula ngoba siyayazi impi ukuthi ichaza ukuthini. Yize abaningi benu bebonile sichukuluzwa ngendlela engakaze ibonwe ngisho ngezikhathi zobandlululo, yilabo bezindaba asebezijubile ukuthi bangabehluleli ukudlula izinkantolo nazo zonke izinhlaka ezibekwe umthetho kuleli zwe. Ngithi ukuthula akuhambe phambili MaZulu. Ukusukela namuhla ngijuba amakhosi ukuba aqonde emiphakathini engiwabeke ukuba ayibheke eluleke ngesidingo sokuvikela izakhamizi nokulandelwa komthetho. Nalabo bokufika abangaluqondi usikompilo lwethu baqondiswe ekutheni thina siyisizwe, siyisizwe esinjani futhi siphila kanjani nabokuhamba. Sikukhathalele kakhulu ukuphepha kwawo wonke umuntu, kanjalo nabokuhamba siyafisa ukuthi bazi ukuthi ubukhosi buwumvikeli walabo abawumnsinsi kanye nalabo bokuhamba. Ngaleyo ndlela ngithi ngicela ozihlalo bazo zonke izindlu ezikhona kuleli likaMthaniya mababize imihlangano yezindlu zingakapheli izinsuku ezingamashumi amathathu lapho bezodingida khona izindlela noma izinhlalo zokuvikela ngokubambisana nazo zonke izinhlaka zikahulumeni ezibhekele ukuphepha. Laba bokufika abangaphakathi kulesi Sifundazwe siyabamema ukuthi ngokwezinhlaka zabo baziveze ezinhlakeni zobukhosi kanye nalezo zikahulumeni. Inhloso yalokhu wukuthi sakhe ubudlelwane nabokuhamba ngokumelwa yilabo ababamele. Nginethemba lokuthi namanxusa alezi zizwe zangaphandle ezithintekayo azoziveza futhi axhumane ngokufanele nohulumeni



weSifundazwe kanye nezinhlaka zobukhosi ukuqinisekisa ukuthi kukhona ukuxhumana phakathi kwethu namanxusa amele amazwe enu. Ngizojuba iHhovisi likaNdunankulu waKwaZulu-Natali ukuba lihlele umhlangano ophuthumayo phakathi kobukhosi kanye namanxusa amazwe ase-Afrika thintekayo. Ngicabanga ukuthi kusukela lapho sizokwazi ukwakha usomqulu woxolo nasekuzibophezeleni ekuthuleni nasekugcinweni komthetho yonke yaleli zwe. Lokhu sizokwenza ngaphansi kohlelo engaluqala ngonyaka ka-2013 olubizwa ngokuthi yiKwaZulu-Natal Public Peace Process. Nginethemba-ke ukuthi lo somqulu sizowusayina esikhathini esiyizinyanga ezintathu lapho enginethemba lokuthi sizophinde sihlangane kanje kuyo le nkundla sisayine lo mqulu, la ngethemba khona ukuthi mhlawumbe sekuyokwenzeka ukuba mhlawumbe kube ngempelaviki ukuze uZulu aphume ngobuningi bakhe.

Sengivala ngifisa ukubonga bonke labo ebelule isandla ngesikhathi sobunzima sivukelwa ulaka obeluhlose ukubhubhisa hhayi kuphela impahla kepha nobudlelwane obuhle esinabo nabafowethu nodadewethu base-Afrika, nokho sisekhona isidingo sokuba selule isandla. Yikho ngijuba ukuthi kube nothisha abazoqala izifundo kubafundi abathikamezekile ezifundweni ngenxa yalolu dlame oluthe ukuba khona. Nokuthi osomabhizinisi beqhubeke nokulekelela hhayi kuphela kulesi sikhathi esikuso kepha baxhase nohlelo lweKwaZulu-Natal Public Peace Process oluzoba sekhaleni lokuhlanganisa imiphakathi yalabo bokufika kanye nezakhamuzi zakuleli zwe. Ngixanxusa futhi ukuthi uhulumeni nomasipala bacacise imithetho yokuhlala kanye neyokuhweba ezindaweni zabo nokuthi le mithetho (ihlombe) nokuthi le mithetho, ilandelwe ngokugcwele. Ngiyathemba ukuthi uhulumeni uzoqhubeka (*I mean*) uzoqhamuka nohlelo lokuthi labo abasezinkambini bayathola ukunakekelwa kulandelwa umithetho wamazwe ngamazwe lapho kunama-*refugee camps* khona. Singelibale ukudlulisa isandla sokutusa kumaphoyisa ngokwezinhlelo zawo nokuthi akwazi ukudambisa umoya obushubile nobugovuzwa ngabomu. Ngithi nonke hlukanani lapha niyokwenza uxolo emiphakathini lungabuye lube khona udlame lapho nivela khona yonke indawo nibambe uxolo.

Bungu Abarika Afrika!

Nkosi busisa i-Afrika!

God bless Afrika!

Ngiyabonga!

(Wena weNdllovu! Bayede!)

## King Goodwill Zwelithini anti-xenophobia *Imbizo*

Ndabezitha!

Thank you very much for introducing me to the nation. I thank the programme directors, MEC Mabuyakhulu and my sister Weziwe Thusi. I am grateful to you Macingwane that you managed to pass on my message despite the fact that it was on short notice. I also passed on the message to the Prince (Prince MG Buthelezi) because of the urgent nature of this day. I appreciate the presence of the Minister of Home Affairs, Mr Gigaba and Communications and Safety Minister Mr Mahlobo. Thank you very much Madungeni, for I passed on the message to ask you to contact the chiefs so they can be a part of this *imbizo* which is on an inconvenient day, first day of the week. It would have been better if it was on the weekend however because of the urgent nature of the situation and other emergency issues I had to quickly intervene. Thank you Mkhathshwa for welcoming us to Durban.

*[I would like to take this opportunity also to thank those especially who present especially who are members of the diplomatic core amongst us, this day]*

Thank you my ministers of religion for opening prayers. I would like to teach because in the past 44 years I have been on the throne I learnt a couple of things from my elders and how they command respect. If you also want to grow up to be a respectful and respected adult you must learn to listen. I am speaking to you as your father. I would like to thank the headmen and the special vote of thanks goes to the Zulu regiments. I thank all those who took the opportunity to be with us on this day though it was short notice as you were only informed on Friday that I would like you to be part of this day.

The month of March and April seem like difficult time/times on the African continent. In 2004 in Rwanda approximately 1 million Tutsis and Hutus were killed. This was one of the most painful incidents in African history and humankind in general.

The Human Rights Watch report of 1999 and the one that was published by the Criminal Tribunal for Rwanda did not only expose the role played by certain leaders but also the role of the media in the death of approximately 1 million people.

In March 2015 the African continent and the whole world received the sad news of the mass killing of our children at the University of Kenya. This incident caused us pain as the Royal



Household and the South African community. According to reports a total of 147 children were killed.

The Kenyan incident came immediately after the violence which took place in South Africa which is still reported today, where foreign nationals especially those who are from the African continent are being attacked. According to media reports, because of the recent incidents most people have been given asylum in different places.

What is more painful and brings shame good Zulu people is that this violence that was reported in the past three weeks is not happening for the first time. In 2008 in Gauteng Province there was an incident of xenophobic attacks on foreign nationals especially those who are from the African continent. Good Zulu people let me emphasise this because it might be a mistake to pretend as if these sad incidents are directed to all foreign nationals. The truth of the matter is that this violence is directed to our brothers and sisters from the African continent, which is a disgrace.

According to the 2008 reports 62 people died in the xenophobic attacks, these include foreign nationals and South African citizens. The Human Rights Commission report of 2009 listed some of the causes of these xenophobic attacks that started in Gauteng and then spilt over to other places. The Commission's report also made recommendations to the South African government.

I know that these three reports by the Human Rights Watch, Criminal Tribunal for Rwanda and the Human Rights Commission have been distributed in all languages because there is a lot the community can learn so we can avoid another calamity in the future. *(The sun is disturbing me, please move the podium a little bit. I am sorry. ... Thank you. I am sorry)*

I am mentioning this because it is a misfortune that when you look at South Africa it is clear that she is doing what she was warned not to do according to the reports I have mentioned above. What is happening in Durban is proof that as a country we have not learnt anything from our past mistakes.

According to media reports the current xenophobic attacks are as a result of the speech I delivered at uPhongolo on the 15<sup>th</sup> March this year. Multitudes of people who listened to my speech at uPhongolo have not killed anyone and we have not heard that uPhongolo has burnt to the ground.

A handwritten signature in black ink, appearing to be 'M.M.', located in the bottom right corner of the page.

Thank you Somkhandi, Gumbi chief, as the Prince has mentioned that what he spoke at the chiefs' *imbizo* is the evidence that what they insinuated about me is not true. I am certain that these multitudes I am talking about fully understand isiZulu, they need no interpreting services. Though I respect the laws of this country and the statute which mandates the Human Rights Commission to investigate when there are complaints, I feel that I have to mention some facts. Firstly, my request is for the Human Rights Commission to be given the enough time to conduct investigation independently, without being rushed or threatened by anybody. In the past two weeks I wrote two letters to the Commission, I did that because I accept the Commission's intervention. Having mentioned that point I wish that the Commission could expedite the investigation so that we can move forward. Another thing we are asking from the Commission is for the investigation to be transparent regarding the role of the media in spreading the violence directed at foreign nationals in this country especially those from the African continent. (applause)

Honourable Ministers! We trust that the South African media will agree to be investigated unless if they are hiding some truths. I am saying this because up until now I maintain that the speech that I delivered at uPhongolo was directed to the police force and I was asking for the tightening of law enforcement. However, I have not read that even on one newspaper or heard over the radio where they emphasise the crux of my speech. Instead the whole world is shown or made to listen to a speech that has been filtered and distorted. They intentionally keep the crux of my speech out of public access. This is amusing. Up to this day I still challenge the media to publish the whole speech that is not filtered as they have done. That speech is more important now than it was at the time it was delivered. The facts I am mentioning above are imperative in creating a full picture about the origins of this matter. Now I am going back to the gist of today's *imbizo*; the important fact that I need to highlight is that I did not call this *imbizo* because I feel that it is the Zulu people who are responsible for xenophobic attacks but I called you because I know that in numbers we can easily overpower the few people that are burning our country today. In numbers, Zulu people can put a stop to this underground plot which is aimed at dragging the Zulu name and South Africa through the mud.

I am happy that today the South African government agrees with me when I say there is a third party that we have to fight. It's no secret good Zulu people, that out there are people who spread fear using the Zulu name and the Royal Household, as the Prince has mentioned in his speech. You all saw the sms messages that said Zulu people were up in arms and about

to attack the foreign nationals on trains. That was an attempt to disgrace the Zulu nation and to start a war between nations present in this country and the African continent. These people want to cause strife between African people so they can fight each other. This campaign reminds us of an evil strategy which was used in the 1990s where there were rumours that Zulu people were killing people on trains and then it was discovered that there was a third party involved which succeeded in starting a war between black political parties in this country. In that violence I lost, -I as the King of the Zulu people- my father's people approximately twenty thousand people. It was brought to our attention that the aim of these people is to cause friction between the Zulu people and the Indian nation. The question is why are these people doing this? What are they hoping to achieve? African history demonstrates a trend by certain people to burn the country, one of these trends is to cause friction between different nations within that country. My people, Honourable members, that is the reason why I called the chiefs and the Royal household structures to this one-of-a-kind *imbizo*. I called upon you as descendants of the war veterans and volunteers of the Zulu nation so you can stand as a shield of the country and chase away enemies. As I mentioned last week that if the reports that I sent out my army to attack were true this nation would in ashes by now. (Hail the King). Today I called you because I want to send out the army to a real war and which is needed right now. It's not the one you are looking forward to. It's not the one you are looking forward to. This war, this war that I am sending out on is for protection of all foreign nationals no matter which country they are from, (Hail the King!) no matter which country they are from. To the Royal headmen, I am instructing you to be my ears on the ground and be community protectors, no matter where they come from. In Zulu culture, that I am a steward of, you can't speak ill of the dead before they are buried, in my knowledge. Even if there is something you need to talk about you are advised that there has to be a burial first, only thereafter can your complaint be attended to.

On the incidents that are taking place in Durban and the surrounding areas, we are forced to forget about the pain we are feeling after they twisted my speech and hurled insults at Zulu people. I know that you are irritated because of the insults they wrote about me on newspapers and on social networks, however, as your King I am saying calm down. There are two reasons why I am saying calm down because firstly, people have died. Secondly, it's because I wish you to avoid the trap set for you by those who want to label Zulu people as hooligans and law breakers together with your King – the one addressing you now -. There are people who advocate that I should be prosecuted. I don't know what I did wrong because

MBM

I never killed anyone. Another thing that I need to highlight, I did not call the chiefs and the royal household structures because they are the ones who started the xenophobic attacks, instead I am saying that these structures can help bring peace to the community. That way I am saying that I am giving an instruction to the relevant structures to ensure safety to each and every person who lives in this Province, who live under the kingdom, even if they live in urban areas you need to know that those areas are mine and there should be no people dying. (Hail the King!)

Whether it is in urban areas or in rural areas I plead with these structures that they work in partnership with legal structures and the government. We have to demonstrate that we can govern this country. When they observe lawbreaking of any kind they have to ensure that wrongdoers are prosecuted. Laws governing communities and our culture must be protected by us. We are a nation that loves peace because we fully understand what war means. Even though most of you saw us being provoked in a manner that never happened even during apartheid by those media houses who have decided to act as judges more than the courts of law and other legal structures mandated by the law of this country. I say we must put peace first Zulu people. From today I am instructing the chiefs to go straight to the communities I gave them permission to look after regarding the need to protect the citizens and law enforcement. Those foreign nationals who do not understand our lifestyle must be taught as to what kind of nation we are and how we treat strangers. We are also concerned for the safety of all people and we wish the foreign national to know that the Kingdom is the protector of indigenous people as well as foreign nationals. Therefore I am asking the chairpersons of the structures present in Zululand to call meetings of different houses within thirty days to discuss safety measures and programmes in partnership with all government structures responsible for safety. We invite the foreign nationals within our Province according to their structures to come forward to the royal and government structures. The purpose of this is to build relationships with foreign nationals through their representatives. I trust that the ambassadors of these foreign countries will come forward and consult accordingly with the Provincial government and the royal structures to ensure that there is partnership between us and your countries' ambassadors. I will instruct the Office of the Premier, KwaZulu-Natal to organise an urgent meeting between the Royal Household and ambassadors of the affected African countries. I think that from then we will be able to compile the peace bill and commit ourselves to peace and preserving law of this country. We do this under the programme that I initiated in 2013 which is called the KwaZulu-Natal

Public Peace Process. I trust that this gazette will be signed in three months and I trust that we will have a meeting in this forum and sign that bill maybe on a weekend so that Zulu people can attend in numbers.

In closing I wish to thank everybody who lent a helping hand at a difficult time when we were almost consumed by wrath that was aimed at destroying not only property but also the relationships we have with brothers and sisters from the African continent, but there is still a need for us to lend a helping hand. That is why I am instructing teachers to offer remedial classes to those who were disturbed by the xenophobic attacks. I am asking business people to continue to help not only in these trying times but they need to support the programme called the KwaZulu-Natal Public Peace Process which is going to be at the forefront of bringing together communities of foreign nationals and South African citizens. I am pleading with the government and municipalities to make clear the rules governing living arrangements and trading in areas under their jurisdiction and that these rules (applause) and that these rules must be followed fully. I trust that the government will continue (I mean) will implement a programme of caring for foreign nationals in refugee camps following the laws of the countries where there are refugee camps. We can't forget to praise the police service in different structures that they managed to control the volatile situation that was polluted on purpose. I am saying to all of you, disperse from here, go and make peace in your communities so that there is no more xenophobic attacks where you are from, keep the peace.

**Bungu Abarika Afrika!**

**Nkosi busisa i-Afrika!**

**God bless Afrika!**

**Ngiyabonga!**

**(Hail The King!)**

