



SOUTH AFRICAN HUMAN RIGHTS COMMISSION

Report

2nd National Conference on Racism:

***Topic: Towards Social Cohesion, Non-racialism, and the
Eradication of Racial Polarisation and Tension***

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1 INTRODUCTION

This Report emanates from the Second National Conference on Racism (Anti-Racism Conference II) held under the topic *“Towards Social Cohesion, Non-racialism, and the Eradication of Racial Polarisation and Tension”* which was convened by the South African Human Rights Commission (Commission/SAHRC) on 22 June 2021.

1.1 SAHRC’s mandate

The Commission is a National Human rights Institution (NHRI) established under Chapter 9 of the Constitution of the Republic of South Africa 1996 (Constitution). It operates in terms of the Principles Relating to the Status of National Institutions (Paris Principles) adopted by United Nations General Assembly Resolution 48/134 in 1993. Nationally, the Commission is an independent body created to support constitutional democracy through the exercise of its mandate, as set out in Section 184 of the Constitution of Republic of South Africa, 1996 (Constitution) and it must promote, protect and monitor the observance of human rights. The Commission is further empowered to investigate and report on human rights; seek redress for victims of human rights violations; carry out research; and educate.

The Commission’s constitutional mandate is further elaborated in the South African Human Rights Commission Act 40 of 2013 (SAHRC Act), The SAHRC Act details the powers and functions of the Commission under Section 13, and includes the competencies to make recommendations to all organs of state regarding the fulfilment of human rights; review of government policies on human rights and make recommendations accordingly; undertake studies on human rights issues; and monitor the implementation of and compliance with internationally agreed laws and standards.

2 BACKGROUND AND PURPOSE

The objectives of the Anti-Racism Conference II were to:

- (i) conduct a situational analysis of where the country is with regard to the issues of racism; and
- (ii) to develop solutions for a way forward to attain the constitutional vision of a diverse, united society.

Stakeholders from a diverse walk of life were invited and they were to advise the Commission accordingly.

The Chairperson of the Commission outlined some of the critical challenges facing the Commission in the execution of its mandate, and noted that gross economic inequality was a key driver of discrimination, intolerance and issues of racism.

Reference was made to the high number of equality complaints related to race received by the Commission yearly and emphasised the persisting inequality in South Africa.

Xenophobia and discrimination based on national and ethnic origin were noted as further areas of inequality and prejudice and were cited as critical issues facing South Africa.

An overview on positive developments and attempts to deal with racism and discrimination since the First National Conference on Racism (Anti-Racism Conference I) was provided to link the two conferences.

Developments as highlighted by the Chairperson of the Commission included the –

- (i) The development of the Commission's Social Media Charter aimed at efforts to curb prejudicial online speech;
- (ii) Efforts that a National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerances be adopted; and
- (iii) Amendment of the Promotion of Equality and Prevention of Unfair Discrimination Act which has culminated in an amendment Bill.

Present and on-going challenges such as the Corona Virus of 2019 (Covid-19) and the challenges it poses, issues of gender based violence and challenges posed by poverty, inequality and unemployment were identified as contributory factors that add to an on-going climate of past prejudice, intolerance, racism and discrimination. It was, however, noted that the struggle to achieve the constitutional imperatives cannot be given up and all must mobilise to promote equality and eradicate unfair discrimination and racism wherever it may exist.

3 Structure of Anti-Racism Conference II

Besides the welcome and overview as provided above by the Chairperson of the Commission, Anti-Racism Conference II was supported by panel discussions broadly under the following headings –

- (i) Reflecting on Racism Conference I and on the state of racism in the country to date;
- (ii) Equality 25 years on: State of inequality and the continued legacy of segregation;
- (iii) Addressing the psychological impact of racism and healing past divisions and the racial classification issue;

- (iv) Considering alternatives to addressing rising racial tensions;
- (v) Operationalisation of the Equality Act and National Action Plan: Moving forward; and
- (vi) Action plan and way forward: Identifying the roles of Chapter 9 institutions, the arms of government, business, civil society and other stakeholders.

4 REFLECTING ON RACISM CONFERENCE I AND ON THE STATE OF RACISM IN THE COUNTRY TO DATE

4.1 Background and discussion

The Anti-Racism Conference II (“the Conference) commenced with a reflection by former Commissioners of the SAHRC of the Anti-Racism Conference I, which took place from 30 August to 2 September 2000. The first conference was held under the title “*Combating Racism: A Nation in Dialogue*” and approximately 1000 people from different walks of life in South Africa attended.

The Anti-Racism Conference I was participatory and included provincial, civil society, business, government, and politicians dialogues. In addition to provincial consultative sessions held by the Commission, two research papers by Norman Duncan (University of Venda), Cheryl de la Rey (University of Cape Town) and Ben Magubane (a scholar on issues of race) were commissioned. The conference was convened partly in anticipation of the United Nations World Conference against Racism, Xenophobia and Related Intolerance (WCAR), hosted by South Africa in 2001.

Some of the panelists at the Anti-Racism Conference I included Barney Pityana (then Chairperson of the SAHRC) and Leon Wessels (the Commissioner of the SAHRC). The two former Commissioners were present at Anti-Racism Conference II as panelists and reflected on the genesis, rationale and objectives of the 2000 conference. They highlighted that the rationale for the 2000 conference was to bring society together in a dialogue regardless of how organisations identified themselves in terms of colour. The dialogue was not intended as a ‘blame game’, but was intended to create further integrity of the Constitution and the responsibility of all who lived in South Africa.

The Commission and other state institutions supporting democracy (Chapter 9 institutions) played a critical role in approaching racism methodologically as opposed to a ‘crash bang’ approach. A critical concept of the Anti-Racism Conference I lay in its name: ‘*Nation in Dialogue*’. The name was critical in that it demonstrated that no moral superiority, sacrificial lambs, or blame games were sought. The Anti-Racism Conference I did not seek a ‘white *mea*

culpa, but rather sought to bring together all in society to envision and build a new South Africa.

The approach in Anti-Racism Conference I was intended to address the then prevailing perception that the mere existence of a democratic Constitution meant that racism had been obliterated. The intention was to move from mechanistic approaches to dealing with discrimination – such as through the Constitution and affirmative action policies, towards a dialogue that sought to understand a problem before it sought to rectify it. Developments in South Africa since then have exacerbated racism and made dialogue difficult. The xenophobic driven violence that was directed at foreigners nationals in 2008, was cited as one of the examples demonstrating that racism has been exacerbated rather than reduced. The country's worsening economic prospect was identified as a critical driver of intolerance and racism.

Despite the prevalence of racism, hope for addressing the current manifestations of South Africa's divided past lies in the country's constitutional dispensation and its central focus on social cohesion as a constitutional imperative which must remain an ideal to be realised.

Leon Wessels stated that despite the intentions and spirit of the Anti-Racism Conference I, the latter had been ridden with acrimony, conflict and denialism. The denialism, found expression in the 'mechanistic' approaches. It further found expression in a familiar refrain to '[j]ust get on with it!' attitude. Not only was denialism a challenge, but it was also a serious threat and remains so. The next generation will not solve the problems that existed as some hoped.

The conclusion was that 'dialogue' remained a critical approach in dealing with racism and intolerance.

5 EQUALITY 25 YEARS ON: STATE OF INEQUALITY AND THE CONTINUED LEGACY OF SEGREGATION

5.1 Background and discussion

South Africa remains one of the most unequal countries in the world as discussed by the second panel. Among the challenges identified were gross economic inequality that manifests as status inequality including in addition to unfair discrimination on the basis of race and intersecting grounds. This is demonstrated by the fact that equality-related complaints consistently constitute the highest number of complaints received by the Commission, while the majority of these complaints are on the basis of race. Additionally, in South Africa, race,

gender and poverty directly intersect to constitute multiple forms of discrimination. The Commission is therefore consistently seized with matters such as those dealing with hate speech, unfair discrimination and harassment, as prohibited grounds of discrimination as per the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (PEPUDA), on the basis of race.

Other areas discussed included race-based inequality as being reflected in the unequal enjoyment of constitutional rights by especially the African, Indian and Coloured people, in conflict with the promise of Section 9(2) of the Constitution that provides:

(2) Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.

Inequality accordingly manifests in the unequal enjoyment of all rights, and in particular socio-economic rights, by groups that are vulnerable on among others the basis of their race. Often, this inequality is a direct result of the apartheid and colonial eras, in that racism is structurally inscribed in many of South Africa's societal structures and institutions. Discrimination is apparent from persistent spatial injustice in that apartheid-era spatial planning has resulted in the continued *de facto* segregation between different race groups. For example, this discrimination is reflected in South Africa's inequitable two-tier health system, where only a small minority of South Africans enjoy private health care coverage that are superior in terms of access and quality when compared to what is available to the majority of the population. In addition, although the Constitution promises economic and social rights to basically "everyone", the reality is that unequal access to employment, social security, and sufficient food or water is the reality.

Neville Chainee (Department of Human Settlements) in his contribution *Persistent challenges that contribute to racism in South Africa 25 years on* focussed on the achievements, challenges, and past and future plans of the Department of Human Settlements to address the apartheid legacy,

Approximately 4.8 million housing opportunities for the poor have been delivered during the last 25 years (these opportunities include full subsidy housing, affordable rental and gap market housing units). According to Chainee, 13.6% of formal dwellings are the result of housing subsidies from the state. State housing has improved the material conditions, dignity and social life of the beneficiaries.

Title deeds for the subsidy market were registered as part of delivery that enable beneficiaries to better realise asset value of the houses provided by the state and participate in the property

market. During the 25 years since the advent of a non-racial democracy more investment was directed to upgrading informal settlements and providing access to affordable rentals. Some of the challenges included dealing with issues of spatial justice and spatial integration. Accordingly, 13.6% of households continue to live in informal dwellings and 5.5% in traditional dwellings and many housing projects are dislocated from jobs opportunities. Furthermore, there is slow registration of title deeds, and reduced delivery of housing opportunities. A major challenge has been the impact of inherited land and property ownership patterns. Other challenges included income inequality, general social and economic infrastructure inequality.

The DHS plans to adopt what it terms as “an area-based approach to development with a focused government investment in specific areas where 70% of South African population reside” as a progressive strategy to upgrade informal settlements.

The DHS plans to achieve spatial transformation through directing investment in 136 priority development areas. Among others it plans to align transport, jobs, human settlements, invest in the public realm within settlements and neighbourhood infrastructure. Mobilisation and dialogue involving communities is a critical factors for success, especially where previously marginalised members of society are concerned.

Shanelle van der Berg (SAHRC) was of the view that South Africa remains a divided country, with racism and racial discrimination including as far as spatial arrangements were concerned. Policies intended to rectify past inequality can have a discriminatory effect in practice.

Race is inextricably linked to gender, disability, colour, and all the 16 grounds identified in Section 9 of the Constitution. The ‘intersectionality’ of ‘race’ manifests by African black women being invariably the worst off in South African society.

Social media is also increasingly being used to communicate both racist and other harmful and prejudicial expression. As a result, social media is further stymieing South Africa’s wrestling with racism, racial intolerance and discrimination.

Gross economic inequality needs to be addressed in efforts to address racial discrimination, intolerance and inequality. Numerous statistics such as those of the World Bank outline inequality in South Africa, while race and socio-economic status play a major role in accessing the rights in the Constitution.

Covid-19 has laid bare the inequalities of South Africa’s “2-tier health system” The inequalities manifest in vastly divergent access to health care manifesting along racial lines, with white people accounting for 22% of those covered by private healthcare, compared to black African people who account for 10%. Out of the entire population only 16% has access to private health

care. The '2-tier system' exists in all other areas of socio-economic rights contained in the Constitution, for example, housing,, education and social development.

While recognising social media as a driver of discrimination and hate speech in some case, equitable access to the internet should still remain a critical focus to address 'the digital divide' that continues to manifest along racial and economic lines.

6 ADDRESSING THE PSYCHOLOGICAL IMPACT OF RACISM AND HEALING PAST DIVISIONS AND THE RACIAL CLASSIFICATION ISSUE

6.1 Background and discussion

It was noted that racial trauma is perpetuated and strengthened through systemic racism".¹ The internalisation of harmful stereotypes and negative ideas about oneself, identity and the racial group that one belongs to is insidious and is a damaging impact of racism and oppression.

South Africa therefore needs to take positive steps to heal the past divisions caused by apartheid and other racist policies. Whereas the Constitution recognises the need to heal the divisions of the past, more needs to be done to understand the pathology of racism and the psychological effects of racism on its victims, perpetrators and broader society.

Saths Cooper (Psychological Society of South Africa) noted that deliberations on race, racism, psychological trauma and healing past divisions has to begin with a willingness to "examine with honesty and with humility the role we played in the past."

He indicated that the impact of ongoing denialism of race and racism by adults minimises the impact of racism and is detrimental. Children therefore carry the symptoms of what adults have done and continue to do.

The South African education system, for example, lacks the requisite cohesion to address issues of the past and there is corruption and mediocrity of leadership that is further exacerbating the problem of race and racism. There is also a need to refrain from the misnomer that black is an aberration from normalcy, whereas white tends to be the accepted standard. Black lives need to be placed at the centre of the country's vision while at same time

¹ <https://caps.unc.edu/self-help/understanding-and-healing-racial-trauma>.

not diminishing white lives. There is an urgent need to address the psychological impact of the apartheid without which the country will not address racism.

Oupa Makhalemele (Film and Publication Board (FPB)) addressed the psychological impacts of racism and past divisions through the lens of the mandate of the FPB. Language was critical in the promotion of attitudes and values that are normalised and become part of South Africa's vocabulary. In exercising its mandate the FPB is required not only to ensure the protection of free speech and freedom of expression but also to discourage expressions that promote prejudice. According to the FPB prejudice among South Africans finds expression among others through language and xenophobia. The FPB therefore seeks to engage other African countries to find a common understanding of how language can and has been used to mobilise hate. In addition, the FPB also raises public awareness of the consequences of hate speech and intolerance as expressed in film and video and content production.

Makhosazane Mngadi (Department of Basic Education (DBE)), outlined efforts by the DBE to address and eradicate racism in education, as informed by the National Action Plan. The DBE is committed to ensuring that children understand from an early age what constitutes racism, xenophobia, and discrimination.

Consequently, there were developments in curriculum enrichment programmes aimed at, for example, addressing racism, sexism and ageism. The DBE is working with civil society and the Department of Social Development in a bid to address past inequalities and their continued psychological impact on learners. Through activities such as schools' moot court, engagements on constitutional values, youth citizens action programme that promotes active citizenry as well as webinars on violence prevention and child protection where learners are enabled to understand the country's constitutional framework through debates and discussions, as well as eradicating discrimination and violence.

7 CONSIDERING ALTERNATIVES TO ADDRESSING RISING RACIAL TENSIONS

7.1 Background and discussion

Public figures, including politicians, exert significant influence on the public's perceptions of society, race relations and the best approaches to tackle persisting socio-economic injustice in South Africa. Public figures such as politicians have various platforms through which they can express their political agendas and garner the support of their constituents. Public figures

in South Africa should ideally actively promote equality and social cohesion in the light of the power that such public figures wield.

The Commission has for instance noted that –

The additional responsibility on public figures to promote social cohesion has long been recognised by the Commission. Even where divisive or offensive statements do not meet the threshold for hate speech, the Commission still bears a responsibility to foster social cohesion. The Commission will continue to promote social cohesion through its promotional mandate, as envisaged by the National Development Plan and the recently finalised National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerances.²

Zakhele Mbhele (Democratic Alliance (DA))

Spoke about systemic racism quoting a tweet which said that:

Systemic racism does not simply mean there are lots of racists in the system. It means even if there were no racists, the system would still disproportionately hinder people of certain races.

The tweet captured in a very concise manner the substantive explanation of the concept as it touches on the question that it is important to distinguish between speaking about race as a determinant or a causal factor as opposed to race as a correlation factor.

Therefore, the only sustainable road to dismantling and reducing systemic racism is through good governance and broad based development.

It was noted that both colonialism and apartheid had racial politics at their core with both being fundamentally economic projects and unfortunately successful ones as they achieved their goals by the time both formally ended. They could perpetuate without needing the formal infrastructure of the oppression that entrenched them.

In Mbhele's view, colonialism, as an economic project found expression through for instance the Glen Grey Act of 1894 or the Native Land Act of 1913, and found expression by stripping black people of assets, capital or deprived black people in South Africa both direct and related opportunity. Consequently, the redress projects, the dismantling, reversal of the shameful past, structural legacy lies in expending capital, ownership and opportunities. There is a need to opening broad avenues, so that there is removal of the prevailing material conditions, which themselves are a legacy of racial oppression. White persons especially the young should be exposed to black people as equals so that perpetuation of racism stops.

² Properly give the name of the report here.

There was an urgency to get South Africa on track so that five “Es” can be attained being: Education, Employment, Entrepreneurship, Empowerment and Excellence.

Jessie Duarte (African National Congress (ANC)) noted that around the world there is a youthful age of protesters against racism and this was a positive step. Duarte stated that Nelson Mandela reminded us that people are not born racists but rather racism is a “learned” attitude passed from generation to generation. Like any other disease of the mind, understanding it is the first step, while denying it allows its perpetuation.

In finding alternatives South Africa needs to inculcate an attitude that considers social cohesion and transformation of society. Deep and sustainable nonlinear transformation that brings about systemic changes in South Africa’s economy, that looks at cultural and technological exchanges and that seeks to change the environment is therefore essential. Racists created a worldwide system of exclusion and created ignorance in the form of bias to make it work and in the process nothing was spared, not even holy books.

Diversity is the new buzzword globally, in the major corporations’ expertise is being developed to ensure inclusivity and how to manage a diverse population, it goes beyond racial bias and includes the management of the LGBTQI community. It includes managing diverse religious and cultural norms. For instance the words on the national coat of arms capture inclusion aptly *“Ike Ikare Ike”*, I am because you are.

Inequality in South Africa, human rights injustices and bias have contributed to the rising racism. The exclusion of service delivery to what people now call minorities is a reaction to a perception that some people lived well under apartheid and others must get a chance now is one reaction. South Africans are one citizenry, we may have different historical origins, but land is shared and the task should be to transform the individual and create a nation. Radical social and economic transformation is one process that may lead to this transformation.

Duarte stated that South Africa’s very origin as a diverse nation of people stems from the wealth beneath its feet and the land that is lived on, and therefore this is what needs to be urgently grappled with. History about racism needs to be taught so that children know why they are spurned. However, this does not imply denying people the right to own languages and cultural practices, it is less complex than we like to admit, non-racialism means that we can enjoy our origins without racial bias as a factor.

Unconscious racism must be tackled, for example, the attack on young black professionals as corrupt and useless is such a bias. The future of South Africa is the very product that is being discredited at every turn. There is a need to unlearn the habit of blame and adopt a habit of confronting the issues that perpetuate racism and these include language use and social

stigma that people assign to each other. Apartheid geography that was adopted post-1994 has to be done away with as it promotes racial and tribal enclaves. There is also a need to elect and select leaders in the private and public sphere whose bias on race is non-existent.

8 OPERATIONALISATION OF THE EQUALITY ACT AND NATIONAL ACTION PLAN: MOVING FORWARD

8.1 Background and discussion

The Department of Justice and Constitutional Development (DoJCD) has embarked on an initiative to amend the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (PEPUDA Act) and to finally bring the promotional aspects of PEPUDA as contained in Chapter 5 of the PEPUDA Act. While the Commission welcomes these developments, concerns remain that the scope of the amendment may not address the various challenges in implementing the PEPUDA Act. The challenges include interpretation, lack of transparency, consolidation regarding presiding officers and clerks that have received the requisite training and the dysfunctionality of the Equality Review Committee.

The Commission noted that on 28 February 2019, Cabinet approved the National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance (NAP). The approval of the NAP is a milestone in ensuring that South African society participates in the elimination of various forms of unfair discrimination, and thereby builds a more socially cohesive country. The NAP arose from the Durban Declaration and Programme of Action (Durban Declaration) following the WCAR. The NAP aims to raise awareness among all sectors of society – both public and private – regarding the values of equality and dignity, non-discrimination and tolerance. Whereas the NAP took almost two decades to finalise, it will be necessary to act expeditiously to ensure its effective implementation and thereby move South Africa towards a more unified and cohesive society.

During the panel discussion Tseliso Thipanyane (Commission), focused on the challenges related to the Equality Act, 18 years after it came into operation. The Equality Act remains “one of the foremost tools the country has in fighting racism.” Therefore, the failure to properly implement the PEPUDA Act is one of the most significant hurdles in the fight against racism and related intolerances.

The Equality Courts and significant Constitutional Court judgments during the last 25 years, appear to indicate however, that issues around equality have not been as meaningful as is

desired. There were historical problems around inequality in the administration of justice and presently there are failures of the government to bring the promotional aspect of the Equality Act into operation. The promotional aspects of the PEPUDA Act are very important because they assert emphatically that the responsibility for fighting unfair discrimination has horizontal and lateral application meaning it applies between private individuals but also between the state and the individual.

The structural nature of inequality was discussed – as well as deeply entrenched attitudes – and these were regarded as critical to addressing racism. It was also pointed out that another critical failure by government in addressing racism and discrimination is the failure of the DoJCD to ensure the effective operation of the Equality Review Committee. These failures raise critical questions about the stated commitment to the PEPUDA Act, both by government and the South African Parliament.

There is also a ‘mechanistic approach’, for example, through over-reliance on laws, policies, legislation and the easy assumption that having legislative change is sufficient in addressing racism. Action is required to underscore commitment on paper.

Danaline Fransman (DoJCD) outlined the development of the NAP starting with its genesis until it was approved by the South African cabinet in February 2019. Development since the time of its approval includes widespread public engagements to create its awareness were also provided.

An analysis of the NAP’s alignment with among others the Constitution, the Equality Act, and the principles of universality and indivisibility of human rights was provided. It was noted that the NAP takes a conceptual approach based on the principle of intersectionality and notes that multiple forms of discrimination that can be experienced. NAP therefore provides a single framework for the state, a public policy document providing an indication of the state’s intention to combat racism, racial discrimination and all related intolerances.

It was noted that government departments are enjoined to align their medium term strategic frameworks to the NAP. This alignment, is critical to ensure that government departments as the primary duty bearers for the implementation of rights and ensuring protection are able to align this responsibility to their strategic planning.

The implementation of the NAP is meant to be a collaborative effort despite government’s critical role in ensuring that it is given effect. Implementation of the NAP is meant to be incremental in view of the imperatives to consult, raise awareness, and ensure buy-in from concerned parties.

NAP has, however, failed to establish a national governance structure and in addition there are problems of funding. In order to attend to the issue of funding the DoJCD has spear-headed the development of a draft discussion document with a view to assist all stakeholders to access funding to ensure implementation.

9 ACTION PLAN AND WAY FORWARD: IDENTIFYING THE ROLES OF CHAPTER 9 INSTITUTIONS, THE ARMS OF GOVERNMENT, BUSINESS, CIVIL SOCIETY, AND OTHER STAKEHOLDERS

9.1 Background and discussion

The constitutional prohibition against unfair discrimination, as well as PEPUDA, applies to all persons, be they natural or juristic persons.

State institutions supporting constitutional democracy (Chapter 9 institutions) need to come up with ways of working together in order to curb the perpetuation of racial polarisation. Civil society should engage communities in order to promote social cohesion. Parliament should exert an oversight function that ensures that political figures do not stoke racial tensions, while taking care not to unjustifiably limit the constitutional right to freedom of expression.

The Commission has noted an increase in instances where business and human rights interface, at times following racial tension such as that recently witnessed in response to advertisement campaigns by the Clicks chain store or the international clothing store H&M. Businesses should ideally assume a pro-active role in the promotion of the observance of human rights in general and equality in particular. An entire societal approach is necessary to tackle racism and build a cohesive society, as such, traditional leaders, academics and ordinary people residing in South Africa have an important role to play.

André Gaum (Commissioner of SAHRC), underscored that based on the conference proceedings, much needs to be done to achieve social cohesion in South Africa. Unity was critical in order for South Africa to realise the constitutional vision of a better life for all.

There is a need for a frank discussion in an effort to address the scourge of racism. Race has caused injustice and suffering in South Africa and therefore remains an important measure for transformation. The Constitution does not require us to ignore our identities and differences in order to address our past. Everyone who lives in the South Africa is enjoined by the Constitution to fight unfair discrimination, not only state actors and government departments.

The Equality Courts remain under-utilised and under-capacitated thereby presenting a significant obstacle for those seeking redress from discrimination and an obstacle to raising greater awareness of the consequences of discrimination.

A significant step has been the mainstreaming of human rights in school based learning. One intervention which integrates equality and human rights in the curriculum is evident in the form of the National Schools Moot Court Competition. Business is a critical sector from which more is required in the fight against racism and intolerance. Business structures and formations have valuable roles to play in promoting the fight against racism and intolerance in the societies within which they operate. In this sense the role of business and human rights within the context of the societies where they operate as envisaged in the United Nations Ruggie Principles achieve tangible and deeper outcomes.

Chapter 9 institutions have to play a role in ensuring that racism, patriarchy and other forms of prejudice in their respective spheres of influence are eliminated and closer collaboration between Chapter 9 institutions is critical in this regard. Chapter 9 institutions can collaborate on areas such as promoting legislation such as PEPUDA, promoting the NAP and innovating to develop complementary programmes such as the Commission's current development of a self-regulating Social Media Charter.

Academics and civil society have a role to play in identifying new and evolving forms of racism and in crafting innovative strategies to address prejudice. The constitutional vision of a non-racial society can be attained, however, it requires all members of society to unite in eradicating racism.

Hanif Vally (Executive Director of the Foundation for Human Rights (FHR)) stated that the legislative and policy framework is limited as it focuses primarily on the immediate outcomes of discrimination and does not sufficiently consider systemic discrimination, entrenched in people's attitudes and behaviours, including those who occupy positions in the state.

The NAP is intended to address the shortcomings of a purely legislative and policy approach so as to address systemic inequalities. However, the work of making the NAP meaningful requires better co-ordination and capacitation of government departments to work collectively to achieve the commitments of the NAP. Unless work is done to address racism, it will forever be present.

Research by FHR reveals that not all government departments have plans to combat racism. Media reporting on racism continues to focus on individual incidences of racism and not the structural racism. Civil society and academics can play in research, policy analysis, data collection and identifying new trends in racism. These sectors have a critical role to play and

can in addition work closely with law enforcement, the justice system and others in preventing and combating racism.

Despite gains and setbacks in the last 25 years, the perception of greater levels of racism and discrimination has significantly increased. There is a need for a shared 'theory of change' to be adopted across government departments with respect to addressing racism and discrimination. Good plans are insufficient to address racism and intolerance, in addition there must be effective implementation, resources, and monitoring in order to achieve the constitutional goals for which the South Africa strives.

10 CONCLUSION AND RECOMMENDATIONS

Despite the limitations caused by Covid-19 that affected the Commission's ability to hold an in-person event, the online Anti-Racism Conference II was nevertheless a successful platform for reflection, discussion and proposals to chart the way forward.

The panel discussions accepted that South Africa continues to be bedevilled with inequality and is one of the most unequal countries in the world. Black people continue to be the most marginalised. Much still needs to be done to address the various challenges that were identified. Unfortunately, not much had been achieved since Anti-Racism Conference I. The first conference was held amid tensions that were driven by racism.

Inequality in areas such as housing persists in South Africa. While reportedly many opportunities to access housing have been created, the challenges around access to housing persist. Spatial geography that existed during the time of apartheid still manifests and many are unable to access the same opportunities as the richer section of society.

The Commission has also noted the divide that continues to persist along racial lines in areas such as access to health care and employment. In essence, unequal access to socio-economic rights continues to favour historical white privilege in that the destination in respect of the large numbers of poor on the opposite end of the spectrum has not been reached. There is a slow pace of realisation of equality with sections of the PEPUA Act taking time to be implemented.

Deep seated prejudice, and unconscious prejudice in many adults who are the product of colonialism and apartheid have not been effectively transformed. These long held beliefs about other races in the diverse South African society are easily passed on to the younger

generations, perpetuating the reality of socialised racism despite the Constitution, and commitment to democracy in the new South Africa. Active and sustained efforts to transform and eradicate this phenomenon is necessary both through traditional learning and social programs to support such learning and practise across the various sections of society.

What was clear during the Anti-Racism Conference II is the need to focus on implementation of the recommendations emanating from the racism conferences as there was ample proof that theorising will not change the status quo. Theorising about racism has basically been the case in the period between Anti-Racism Conferences I and II. There is a need to select and elect leaders who are not biased in terms of race but articulated differently, there is a need for leaders who are able to commit to substantive equality in the country. There remain a pressing need to create actual opportunities for previously disadvantaged groups. In addition, there is a need to actively educate people so that a more harmonious society is realised that is in sync with what young people around the world are yearning for.

NOTABLE ACTION ITEMS EXTRACTED FROM PANEL DISCUSSIONS

- Dialogue should be used as a critical approach in dealing with racism and intolerance.
- The Social Media Charter should be implemented in order to curb prejudicial online speech.
- Community mobilisation and dialogue are critical components of engagement with sectors of society most marginalised – by race and inherited spatial inequalities and systemic discrimination.
- There is a need to recognise each other's differences and celebrating those differences, instead of letting them divide South Africa further.
- What is required to address the psychological impacts of the apartheid past is a sense of urgency, without which South Africa will not address racism. A sense of agency and a sense of self need to be at the core of what people do in order to escape the entrapment of the past.
- Initiatives such as the National Schools Moot Courts need to be promoted further to enable learners to understand the country's constitutional framework through debates and discussions.
- South Africa must get on the fast track to achieving: Education, Employment, Entrepreneurship, Empowerment and Excellence.

- Embed non-racialism consciously into every aspect of organizations and change the culture of leaders with bias continuing to lead. Elect and select leaders in business and in politics and in academia and the judiciary and at every level, whose level of bias on race is zero.
- Teach children not to be silent and suffer with dignity but rather to speak out with integrity where racism is concerned.
- Public education should be used as a critical vehicle.
- Government, political parties and Parliament and the President to make sure that the Equality Act is implemented much more effectively than we have done in the past.
- The NAP requires and demands everyone in society to contribute and support its effective implementation. The work of making the NAP meaningful does not lie with government and state agencies alone. However, successful implementation within government requires better co-ordination and capacitation of government departments to work collectively to achieve the commitments of the NAP.