

DOJCD AFRICA DAY EVENT-WORCESTER - 25 MAY 2015

Ladies and gentlemen, today is Africa Day and on this day, many African countries celebrate the hard fought achievement of their freedom. South Africa also recognizes itself as an integral part of the African continent.

After all, it had always been the fundamental understanding of the South African freedom fighters that the struggle for national liberation in South Africa was inseparable from the anti -colonial struggles taking place all over Africa. They knew that the attainment of national liberation in South Africa constituted an immediate and the most urgent guarantee for Africa's long term stability and chance for sustainable development.

Africa Day celebrates the day when the Organisation of African Unity, the precursor to the African Union, was formed in 1963. This day acknowledges the progress that we, as Africans, have made while reflecting upon the common challenges we as Africa face in a global environment.

Yesterday, President Jacob Zuma launched Africa Day at the Mamelodi Campus of the University of Pretoria under the theme: **"We are Africa – Opening the doors of learning and culture from Cape to Cairo"**. Africa Day presents an opportunity for us as South Africans to reconnect and recommit ourselves in support of all Government interventions to develop a better Africa and a better world.

The recent outbreaks of violence against foreign nationals in South Africa which have claimed lives and threatened countless non-nationals living and working in South Africa Must be condemned.

Xenophobia is an 'intense or irrational dislike or fear of people from other countries. Xenophobia is largely based on unfounded fears and the inclination to stereotype foreigners as the cause of social and economic problems in our country. Along with this comes a fear or distrust of anything associated with foreigners such as their culture, language and religion. It is a **form of racism** which has no place in our constitutional democracy.

The attacks on foreign nationals violate all the values that South Africa embodies, especially the respect of human life, human rights, human dignity and Ubuntu.

Many of you are in the country legally and contribute towards the economy and social development of South Africa. Many of you bring skills that are scarce that can help us develop the economy. Others came to South Africa as refugees having to escape the conflict or civil wars in your country of origin, in the same way that many South Africans had to flee this country at some point to find shelter and security in other countries and on other continents.

Various organisations have called on us to end the violent attacks and to bring the perpetrators to book. The Government have been called upon to ensure peace, security and stability are brought back to the Communities and to pro-actively implement programmes in areas to avoid violence against foreign nationals.

Just last month the President tasked the JCPS Cluster Ministers to engage all parties to seek a solution and to respond to the attacks decisively and comprehensively.

Our National Government has identified a number of ACTION steps to promote stability in our communities:

- These relates to ensuring the Safety and Security of Foreign Nationals within our community
- It also involves the Reintegration, Health and Humanitarian Services of Foreign Nationals displaced due to violent attacks
- And to ensure that we mobilise our Community to be united

Through these action steps we as Government together with you our Community hope to ensure that there is an enabling environment which promotes safety and security for all.

We have also as the Department of Justice prioritised cases at our courts which will ensure swift Justice by providing:

- Dedicated Court Rooms;

- Dedicated Prosecutors; and
- Appointment of foreign language interpreters.

We came here to celebrate Africa Day with you, the community of Zwelethemba because we do not want to repeat the mistakes of 2008. Zwelethemba became infamous during 2008 when it was identified as a hotspot in the Western Cape in respect of attacks against foreign nationals.

For many of us in the Boland, the scars of these sad events still remain deeply embedded in our memories.

Therefore on this AFRICA DAY we are called upon to remember where we have been and where we would never want to be again.

Today, Zwelethemba and the Boland Region have reminded us that through our collective efforts we have made significant gains in the promotion, development and protection of human rights within this area, irrespective of your nationality. One can confidently say that the situation here is nowhere near to what we witnessed in the rest of the Country.

As South Africans, our rights are entrenched and protected by our Constitution. According to the Constitution everyone is equal before the law and has the right to equal protection and benefit of the Law. Equality includes the full and equal enjoyment of all rights and freedoms. To give effect to the right to Equality, the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (the Equality Act) was passed by Parliament.

The Equality Act can be used by all the people of South Africa as its aim is to:

- Prevent and prohibit any form of unfair discrimination and harassment;
- Promote equality;
- Prohibit the publication and dissemination of information which unfairly discriminates; and;
- Prohibit hate speech.

As a society composed of many diverse cultures, we must be responsible in executing our right to freedom of expression so that we do not infringe on the rights of others through the guise of freedom of expression. Our Constitution places a high regard on the freedom of expression, however, it is important to note that freedom of expression does not mean that people have the right to say anything, at any time or at any place, such as hate speech. Hate speech is based on race, ethnicity, gender or religion that constitutes incitement to cause harm and can therefore not be relied upon as being a form of freedom of expression. Hate speech, according to the Act, are words which can be hurtful, incite harm or propagate hatred.

A domestic worker, Gloria Kente, instituted action against her employer's boyfriend, Andre Van Deventer, for calling her the K word. The Equality Court found Van Deventer guilty of hate speech and awarded an amount of R50 000 to Kente as damages. The Court even went to recommend that the findings be forwarded to the Director: Public prosecutions.

The Equality Court that was established by the Equality Act gives life to the Constitutional value that "All shall be equal before the law" as well as the provisions of the Equality Act. In the Western Cape all Magistrates' Offices can deal with Equality Court matters. The Equality Courts have the power to provide a suitable remedy to the victims of any unfair discrimination and harassment. This is done via a court order against the offender to either furnish a public apology, or a written apology, or even pay the victim money to compensate for the treatment received, etc., if the presiding officer is unable to deal with your case, it will be referred to another body that might be better placed or equipped to deal with it.

Best of all, there are no court fees that need to be paid. The only cost involved is the person's own costs such as paying the sheriff for serving the documents on the other party, unless the presiding officer decided against this. It is not even necessary to have legal representation in order to bring a matter before this Court. This is in line with the spirit of the Act which attempts to ensure that all parties before it are treated equally, irrespective of their class, race, gender and education.

The Equality Court proceedings are not as intimidating and stressful as ordinary court proceedings. The environment is more relaxed and makes it friendlier for persons who are not used to dealing with the courts, especially for those who chose not to have legal representation.

However, the Constitution can only do so much and it is up to us as a nation to free ourselves from the perpetual mental slavery of racial stereotyping.

The Freedom Charter says there shall be peace and friendship. It is our responsibility, each and every one of us seated here, to promote this legacy of peaceful coexistence and to take it forward.

Let us work together to make our country a better place for all who live in it.

I thank you.

**Delivered by the Regional Head of Justice for the Western Cape,
Advocate Hishaam Mohamed**