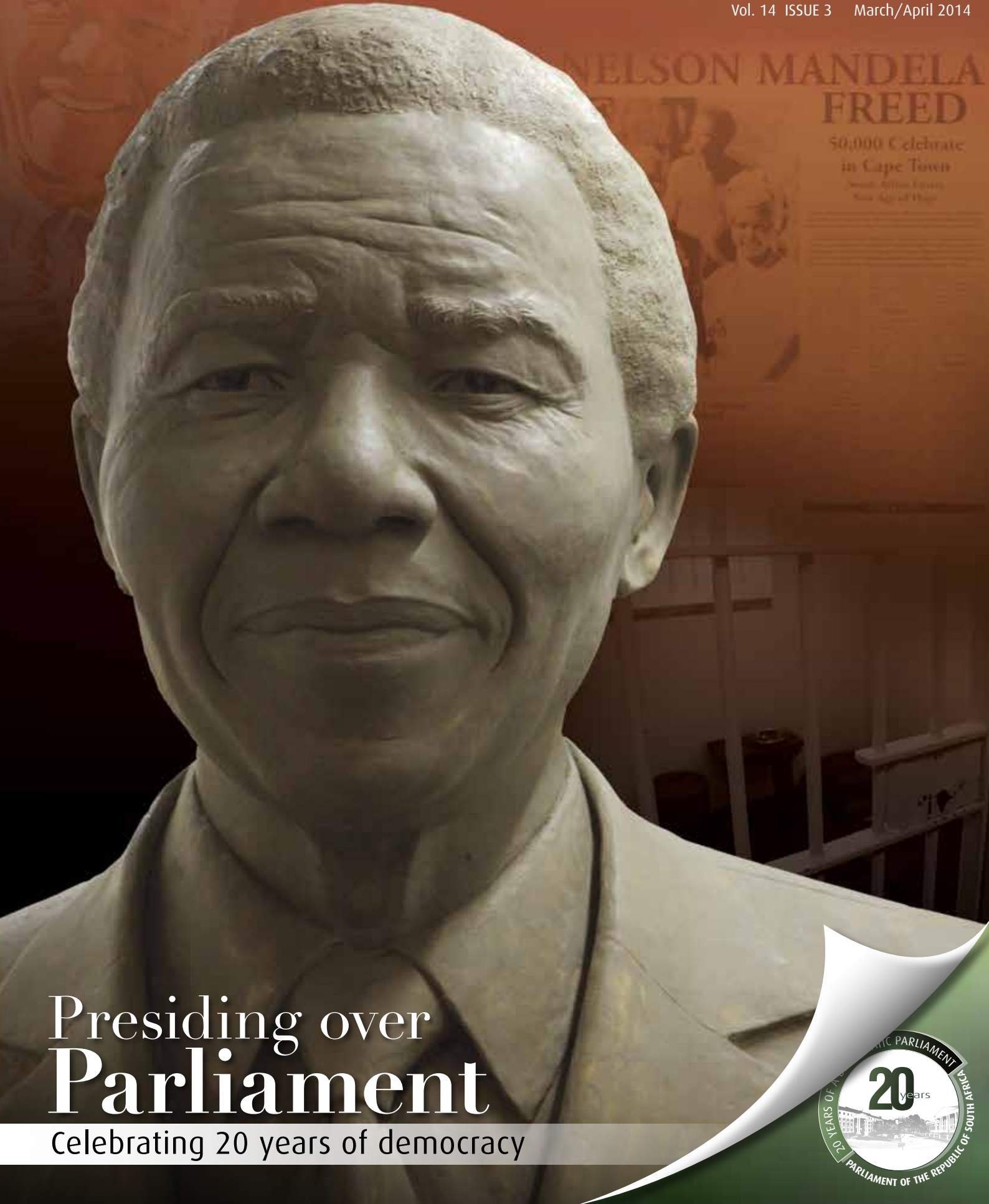


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in session



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NELSON MANDELA
FREED
50,000 Celebrate
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South African Edition
New April 2014

Presiding over Parliament

Celebrating 20 years of democracy





PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA



Mace of National Assembly

Vision Statement

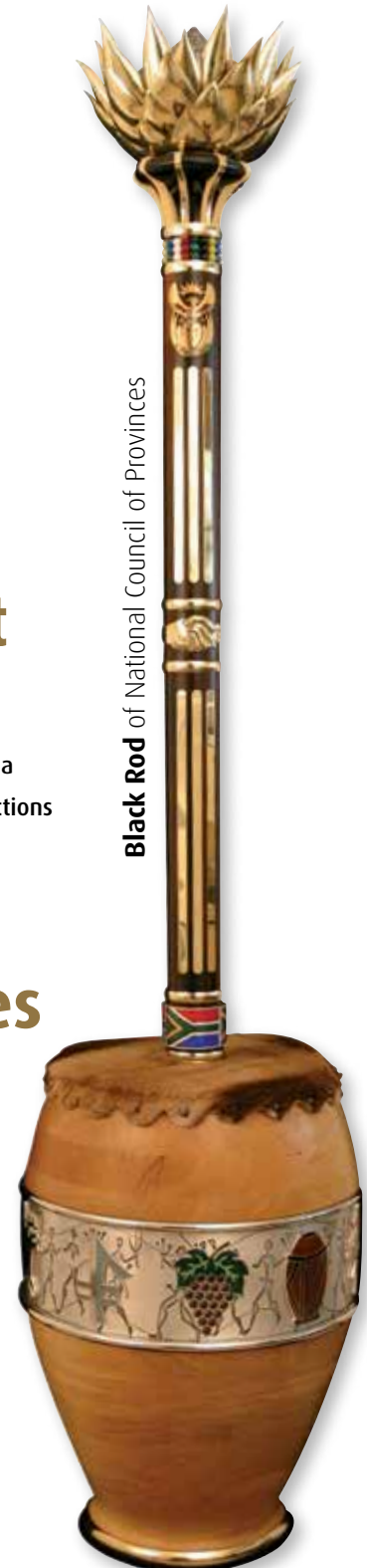
To build an effective people's Parliament that is responsive to the needs of the people and that is driven by the ideal of realising a better quality of life for all the people of South Africa.

Mission Statement

As the freely elected representatives of the people of South Africa, our Mission is to represent, and to act as a voice of the people, in fulfilling our Constitutional functions of passing laws and overseeing executive action.

Strategic Objectives

1. Strengthen oversight
2. Build a People's Parliament
3. Strengthen co-operative government
4. Improve international participation
5. Build an effective and efficient institution



Black Rod of National Council of Provinces

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COVER: The recently unveiled bust of South Africa's first democratically elected President now stands in front of the National Assembly and presides over the parliamentary precinct. Read more on pages 20 and 21.

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editor's note



The recent launch of Parliament's 20 Years of a Democratic Parliament project got off to a fitting start with the unveiling of a bust of the first democratically elected President Mr Nelson Rolihlahla Mandela (see pages 19 and 20). This bronze bust of the former President now stands in front of the steps of the National Assembly.

Its placement is significant as it stands in front of the Chamber where Parliament's National Assembly holds its debates and other important events such as the Joint Sitting of both Houses of Parliament for the State of the Nation Address. The bust is also visible to the citizens of South Africa, and visitors to the country, who daily throng past in the street outside Parliament.

The unveiling of the bust was an opportunity to reflect on the legacy of this icon of South Africa's struggle. It is a permanent tribute to Mr Mandela and what he represents for people worldwide as a symbol of democracy, justice and freedom. The bust is also Parliament's way of giving thanks to the man who, from 1994 to 1999, led the first fully inclusive democratic Parliament this country has ever known.

The erection of the bust of Madiba was timed to coincide with Freedom Day, in a year that celebrates 20 years of democracy in South Africa. The unveiling of the bust marks the start of a 12-month series of activities and events aimed at profiling 20 years of Parliament's successes and achievements.

The event was also an opportunity for Parliament to reflect on highlights from the fourth democratic Parliament and half of this issue is dedicated to a Special Report on the achievements of the fourth Parliament (pages 24 to 35).

We said goodbye to a veteran ANC MP, Professor Ben Turok, who has now retired and who reminded us of the vast body of legislation passed since Parliament began dismantling apartheid. Mr Graham McIntosh, Congress of the People's Member of Parliament who also retired from Parliament, announced his departure and expressed his happiness that "votes for all have been achieved" (pages 24 to 25).

We also report on the farewell in Parliament to Deputy-President Mr Kgalema Motlanthe and the Minister in the Presidency: National Planning Commission, Mr Trevor Manuel (page 26 and 27). Mr Motlanthe poignantly reminded us that he still feels as committed as he did on the day he took office to "the need to consolidate unity, democracy, non-racialism and non-sexism, all of which constitute the strategic goal of post-apartheid South Africa".

This issue of *InSession* takes leave of the Presiding Officers who headed the National Assembly and the National Council of Provinces throughout the fourth Parliament (pages 6 and 7). It takes stock of President Zuma's State of the Nation Addresses (pages 33 to 35) throughout this time, and considers the legacy that Committees have left behind, through interviews with House Chairpersons and Chairpersons of Committees (pages 28 to 32).

The closing of the fourth Parliament does not mean Parliament's work has ended. Although Parliament has risen, MPs are still employed as MPs until the new Parliament starts, and *InSession* covers them at work in their constituencies (pages 15 to 17).

Also read about two crucial Bills, one of which opened the way for more land claims to be lodged (page 8) and the anti-corruption bill (page 14). Then there is the long-awaited policy on attendance by MPs, which has been adopted in time to impose an attendance regime on the upcoming fifth Parliament (page 9). 🍷

Enjoy the read!

Moira Levy
Editor



Speaker of the National Assembly, Mr Max Sisulu

SPEAKER OF THE national assembly



Biographical notes

Mr Max Vuyisile Sisulu (born 23 August 1945) is the current Speaker of the National Assembly. He was elected to the position on 6 May 2009, succeeding Ms Gwen Mahlangu Nkabinde and becoming the first male post-apartheid Speaker of the National Assembly. He is also the first black male to become Speaker.

He is a member of the African National Congress (ANC) and a member of its National Executive Committee and National Working and Finance Committees. He has also been the Head of the ANC Economic Transformation Committee for the past 10 years. Mr Sisulu is the son of Walter and Albertina Sisulu, both prominent anti-apartheid activists in the ANC.

Public and political life

Mr Sisulu was a Member of Parliament from 1994 to November 1998 and served as a Chairperson of the Portfolio Committee on the Reconstruction and Development Programme (RDP). In 1997, he was appointed Chief Whip of the ANC.

Mr Sisulu is a strong believer in an activist Parliament. In a speech delivered in Parliament recently, he made this clear: "The time for paying lip service to the need for global democratic accountability is past. Parliaments can no longer be mere chambers of debate and time-worn speeches without bringing about change. We cannot call for this change from the sidelines, but must take up the challenge and become activists for change within our parliaments. We do this not for ourselves, but for the people we serve and to whom we, as their freely elected representatives, owe a world where human dignity and human security are paramount."

From November 1998 to 2003, Mr Sisulu was Deputy Chief Executive Officer of Denel. From 2001 to 2003, he was the Chairperson of the South African Aerospace, Maritime and Defence Industries Association. Mr Sisulu served as one of Sasol's Group General Managers from 2003 to 2006.

He served as non-executive Director on a number of boards, including the Human Science Research Council; the National Environment Advisory Forum advising the Minister and Department of Environment Affairs; the Board of Imperial Holdings, the Board of African Rainbow Mineral, Resolve Group, Chairperson of Ukhamba Holdings, Chairperson of Londani Coa; Chairperson of African General Equity Logistics, and a trustee of the MK Military Veterans Association.

Academic qualifications

Mr Sisulu holds a Masters Degree in Economics from the Plekhonov National Economic Institute in Moscow, Russia, as well as a Masters Degree in Public Administration from the Kennedy School of Government, at Harvard University in the United States. He was awarded a Govan Mbeki research fellowship at the University of Amsterdam in Holland. 🌍



The Chairperson of the National Council of Provinces, Mr Mninwa Mahlangu

CHAIRPERSON OF THE national council of provinces



Biographical notes

Mr Mninwa Johannes Mahlangu, or “MJ” as he is affectionately called (born 8 October 1952), is one of the longest serving politicians in South Africa’s new democratic order, having joined Parliament as a member of the African National Congress (ANC) in 1994 under the leadership of former President Nelson Mandela.

Mr Mahlangu is currently the Chairperson of the National Council of Provinces (NCOP). He has also served as a member of a Working Group on the Pan African Parliament. He has served the ANC in different capacities at regional, provincial and national level, including as a member of the Legislature and Government Subcommittee of the National Executive Committee and the ANC’s Monitoring and Legal Task Team. In 2002, Mr Mahlangu was elected permanent Deputy Chairperson of the NCOP. In 2004, he was re-elected permanent Deputy Chairperson of the NCOP. In January 2005, he was elected the Chairperson of the NCOP, the position he currently occupies.

Public and political life

In the late 1960s, he was elected President of the Student Christian Movement, in the then Eastern Transvaal. From 1973 to 1976 he was Assistant Secretary of the Transvaal United African Teachers Association. He was active in politics in the 1970s and 1980s, and played a critical role in the emergence of a democratic government in South Africa in the early 1990s. Between 1991 and 1994, he was a negotiator at the Congress for a Democratic South Africa and the Multiparty Negotiation Forum. In 1993, he became the Co-Chairperson of these bodies.

From 1993 to 1994, he was a member of the Transitional Executive Council, which governed South Africa before the first general elections of April 1994. As a member of the first democratic Parliament, he became a member of the Constitutional Assembly (CA), the body tasked with the drafting of the Constitution, which was adopted in 1996. As a member of the CA, he chaired the Core Group of the Theme Committee and the Theme Committee on Structures of Government.

Mr Mahlangu has represented South Africa at many international conferences and presented many papers at international forums on behalf of Parliament. He was the Chairperson of the Commonwealth Parliamentary Association (Africa Region) and a member of South Africa’s Judicial Service Commission, a body tasked with, among other things, recommending judges for appointment by the President.

Academic qualifications

Mr Mahlangu holds a Bachelor of Arts degree from the University of Fairfax, 1995. He also studied religious education at Damelin College in 1976; photography at Damelin College in 1972 and is currently studying economic principles at the University of London. He matriculated at Botshabelo Training College in 1972. 🇿🇦

This is the last InSession of South Africa’s fourth democratic Parliament. Instead of our usual alternating messages from Parliament’s Presiding Officers, this issue bids them farewell in the form of a short biography. Both Mr Max Sisulu, the Speaker of the National Assembly, and Mr Mninwa Mahlangu, the Chairperson of the National Council of Provinces, have served Parliament in their leading roles for the duration of the fourth Parliament, providing a formidable two-man team at the head of both Chambers.



Keeping land claim dreams alive

Two crucial Bills for the land restitution process, the *Restitution of Land Rights Amendment Bill* and the *Property Valuation Bill*, have recently been adopted by the National Council of Provinces's (NCOP's) Select Committee on Land and Environmental Affairs, paving the way for more land claims to be lodged. This will help to restore the hopes of many who were dispossessed of land more than a century ago by the Natives' Land Act of 1913, reports **Foster Mohale**.

The approval of the two Bills, considered to be crucial in releasing the bottleneck that has hampered the land restitution process, follows a majority vote by the NCOP members in favour of the Property Valuation Bill. This Bill seeks to regulate excessive land prices, especially where government becomes a buyer of land for reform purposes. The Bill will also establish the office of the Valuer-General to determine the value of land the government wants for restitution purposes.

At the same meeting, the majority of provincial legislatures mandated their delegates to vote in favour of the Restitution of Land Rights Amendment Bill, which will pave the way for the second round of

lodgement of land claims since the beginning of democracy in 1994.

The passing of these two Bills has been described as a breakthrough by the Committee, following a marathon round of stakeholder consultations and countrywide public hearings by the National Assembly's Portfolio Committee on Rural Development and Land Reform and the National Council of Provinces Select Committee through the provincial legislatures.

Following the debate in the NCOP, the two Bills were referred to the President who will sign them into law and the official proclamation of a new date for the land claims process. The Restitution of Land Rights Amendment Bill sets the

new deadline for land claims at 31 December 2018.

However, the approval of the two pieces of legislation was not unopposed in the NCOP because the Western Cape representative voted against the Restitution Bill. The Democratic Alliance (DA) member in the NCOP, Mr Darryl Worth, also voted to reject the Property Valuation Bill. The DA said its proposals on the legislation had not been considered during the debates.

During the public hearings in Limpopo, Ms Sylvia Mdaka of the Progressive Women Movement of South Africa pleaded with the government to ensure that women were not left out of the new process.

Mr Patric Mashego of Sekhukhune Land Claims Forum (Ephraim Motsoaledi Municipality in Limpopo Province) also warned against the practice of giving traditional leaders priority where land claim disputes involved the traditional authorities and communities. 🌱

‘Attendance is key’ for MPs

Members of Parliament in the fifth term will find strict rules in place governing their leave after the Joint Rules Committee and both Houses of the fourth Parliament adopted a long-discussed policy for attendance of Members of Parliament during plenary sessions and meetings of parliamentary Committees and forums, as *Mava Lukani* reports.

The policy includes the provision of minimum standards for MPs’ attendance in parliamentary activities, including plenary sittings, Committee meetings, study tours, workshops, parliamentary forums or any other parliamentary activity sanctioned by Presiding Officers or a House or its Committees. It also defines the different categories of leave of absence, provides an equitable and consistent application of leave, and provides guidelines for sanction for unauthorised absence.

Veteran MPs said that discussions about the attendance policy began in the first democratic parliament after it was noticed that a tendency of non-attendance at parliamentary sittings and Committee meetings was developing.

Asked by *InSession* to comment on the delay in adopting the policy, the House Chairperson of the National Assembly (NA), Mr Cedric Frolick (who has also served in the previous parliamentary terms), attributed most of the delay to disagreement about who was responsible for monitoring attendance. “Political parties could not reach agreement on the location of responsibility for monitoring attendance of MPs – should it be Parliament or the MPs’ political party,” Mr Frolick explained.

Furthermore, he said, an agreement had to be reached on the proposed penalties to be imposed when the policy was violated, and to harmonise the existing attendance policies of the NA and the National

Council of Provinces (NCOP) in the new proposals. Mr Frolick cautioned that before the new policy could be implemented, an electronic system had to be put in place to register MPs’ attendance. “In this regard, Parliament’s information and communications technology section is looking at various options so that the policy can be implemented in the fifth Parliament.”

The NCOP’s Ms Mmatlala Boroto, who is the Whip of Mpumalanga Province’s permanent delegation to the NCOP, said that although the fourth Parliament delivered the policy, the fifth Parliament would have more work before the policy could be applied. “The fifth parliament must still work out the applicable consequences, such as monetary penalties for non-attendance, among

other things,” Ms Boroto explained. The policy states that if an MP has been absent for 15 or more consecutive sitting days of the NA or the NCOP without leave from the House, the Member will lose his or her seat. If an MP is absent from three consecutive meetings of a Committee to which he or she is a full member, outside of an approved absence agreed to by the Member’s political party, a fine of R1 000 for each day of absence may be applied by either the NA or the NCOP.

Ms Boroto praised the Joint Rules Committee and the fourth Parliament for the delivery of a policy she described as a landmark. She said she was confident the policy would curb non-attendance and, if strictly applied, would deepen the discipline of attendance to parliamentary sittings and Committee meetings by MPs. “Attendance at parliamentary sittings is at the core of the deployment of a Member to Parliament. Without it, parliamentary membership is non-existent,” Ms Boroto concluded. 🗣️

NO MORE EMPTY SEATS: The new attendance policy aims for a full House.



Linking Parliament and the People



ON COURSE: Mr Mninwa Mahlangu addresses students at Fort Hare University.

At the University of Fort Hare in the Eastern Cape on the occasion of the second annual National Council of Provinces (NCOP) lecture, the Chairperson of the NCOP, Mr Mninwa Mahlangu, said Parliament must work harder to draft legislation with a positive impact on the lives of people from disadvantaged communities. This summary of his address is by Sakhile Mokoena.

“There should be a more dynamic link between Parliament and the people. One critical aspect of our work as law-makers is to improve our ability to assess the impact of the laws on the lives of the people. Observing the impact of the Equality Act on the lives of women and people with disabilities reveals that while we may have produced good laws, our people are not benefitting from these laws. A case in point is the poor treatment of victims of domestic violence when they report cases at some police stations,” Mr Mahlangu said in his opening remarks.

“We must ensure that public participation inputs received are correctly channelled and utilised by the Committees in their oversight and legislative work. In 20 years, Parliament has made significant strides in leading social transformation. Parliament’s focus during the first decade of democracy was to repeal apartheid legislation and introduce transformation legislation,” he added.

He singled out legislation that transformed the education system, advanced the interests of workers, promoted gender equality and improved the health of the people. “Parliament is based on the

supremacy of the Constitution. We must ensure transparency by implementing the proceedings of Parliament, including Committee meetings, in an open manner, except where there are justifiable reasons to do otherwise.”

Parliament changed its focus in 2004, he added, to ensure sound governance and effective service delivery by the executive. This meant it has had to improve its capacity for oversight. “As the representative of the people of South Africa, Parliament finds itself in a fast-changing global domain. Political and economic relations and co-operation are furthered on global, continental and regional platforms. Guided by South Africa’s foreign policy, we have actively participated in various regional, continental and international forums to promote the African agenda and the role South Africa plays in this regard. We have also sought to build strong people-to-people relations to improve interaction between the people of our countries. All this work is underpinned or guided by parliamentary diplomacy,” Mr Mahlangu said.

In 2013, Parliament hosted the 59th Conference of the Commonwealth

Parliamentary Association (CPA). One of the outcomes was the adoption of the Commonwealth Charter, to strengthen the oversight mechanism of the CPA Parliaments with regard to accountability, good governance, parliamentary democracy and people-centred development.

“However, Parliament still needs to build capacity for monitoring the implementation of international agreements. In 20 years, we have made great strides in establishing and consolidating parliamentary democracy. We have made serious interventions to transform our society and to improve the status of our Parliament. We are on course towards making Parliament a popular organ of people’s power,” he said.

“The NCOP must ensure that provincial interests are taken into account in the national sphere of government. It does this mainly by participating in the national legislative process and by providing a national forum for public consideration of issues affecting the provinces. It must also provide for the representation of the different categories of municipalities by local authorities.”

As the institution that straddles the three spheres of government, the NCOP was well placed to promote co-operation and good intergovernmental relations. This is important in order to ensure that our people are served better by an effective, transparent, accountable and coherent government, he said. 🇿🇦

Senior MP elected to international climate change body

South Africa's growing participation in efforts to address climate change has seen one of the country's senior parliamentarians heading up an international organisation to manage the problem. **Sakhile Mokoena** has the details.

In the past, the fight against climate change has been led by the world powers of Canada, France, Germany, Italy, Japan, Russia, the United Kingdom and the United States (the so-called G8 countries). This is set to change with the election of South Africa's Mr Cedric Frolick, the House Chairperson of Committees, Oversight and ICT in the National Assembly, as President of the Global Legislators Organisation (Globe International). He is the first person from outside the G8 to be appointed to head the organisation and was elected with the full support of the body's members.

Globe International is made up of parliamentarians from over 80 countries working towards the implementation of laws supporting sustainable development. Although Globe International's focus is primarily climate change, it also has interests in deforestation and natural capital accounting (the process of calculating the total stocks and flows of natural resources and services in a given ecosystem or region). Natural capital accounting helps determine the value of natural resources before they are exploited, so that local communities

know what the value of that resource is and benefit from its exploitation.

"If we destroy the forests of the world, where are we going to get our oxygen from? A lot of people do not know that forests convert carbon dioxide into oxygen, so if we destroy the forests we will sit with depleted oxygen resources," Mr Frolick said.

Globe International meets twice a year, usually at the beginning of the year before the South African Parliament officially opens and at the end of the year just before the annual meeting of the Conference of the Parties (COP) of the United Nations Framework Convention on Climate Change.

As President of Globe International, Mr Frolick is the face of the organisation in interactions with the United Nations, the World Bank and other entities that work on climate change. "South Africa is one of the big pollution emitters of the world. The government is seeking ways to shift from a high-carbon to a low-carbon trajectory and we are doing that through the green economy. This is why we are working very closely with



GLOBE INTERNATIONAL PRESIDENT: Mr Cedric Frolick.

the World Bank on green initiatives in South Africa, including alternatives sources of energy, whether from solar or wind sources."

A new international climate dispensation must be in place soon, Mr Frolick said, and a new legal instrument must follow at the COP 2015 meeting in Paris. "We are busy with the build-up, getting those governments that are not inclined to discuss climate change to do things practically," Mr Frolick said.

Funding for sustainable energy projects remains a challenge and the World Bank is working on a trust fund to ensure that Globe International's member countries have the money to undertake projects of this nature.

"Globe International is saying we can't just talk. We must engage the United Nations and the World Bank so that programmes in developing countries are properly funded to ensure that the quality of life is not adversely affected by climate change. This also means introducing people to new ways of doing things – what we call the green economy," Mr Frolick said. 🌱



Is there vice or virtue in reform?

The *issue of proportional representation versus directly electing representatives to Parliament comes up at every election in South Africa. In this guest column, Deane Stuart and Ebrahim Fakir of the Electoral Institute for Sustainable Democracy in Africa consider the pros and cons of the two systems, and a possible solution to the debate.*

Elections, and the electoral system used to conduct elections, are primarily political instruments rather than dry technical or systemic exercises. They represent a process that facilitates participation by the people in a process of choosing leaders to represent them and create an equal opportunity for citizens to exercise choice, and give voice to their choice. Electoral systems have a profound impact on the nature and shape of the party system and specific government regimes, systems and the subsequent governance cultures of a society. By their nature they are process driven, serving to systematise and manage the competition and contestation over the issues and resources that may be at stake.

Each electoral system has distinct

advantages and disadvantages. For instance, pure proportional representation (PR) systems account for every single vote (except spoiled ballots) in determining the outcome of an election. But this system does not offer the potential for closer constituency responsiveness and accountability. In addition pure PR systems provide an inordinate amount of power to political party bosses to determine policy.

The first-past-the-post or winner-takes-all system, on the other hand, bears the potential for greater accountability to constituencies and allows ordinary members of political parties and backbench legislators greater influence in policy by virtue of the constituencies they command. But they are not always a fair reflection

of the choices made by an electorate. A very slim margin still takes all the power, while candidates who might lose by small margins are discarded.

Mixed systems may become indecipherable to citizens and they could create serious complications in the management and administration of elections and the tabulation of results. This can cast a pall of doubt on the credibility of electoral processes and consequently serve to delegitimise electoral outcomes.

Thus, in a PR system practically every ballot that is cast counts – only 0.76% of the votes cast in the 2009 National Assembly (NA) elections went to the 13 parties that won no seats and lost their deposits. The system is inclusive and ensures that a wide range of parties are represented. Again in 2009, nine of the 13 parties obtained less than 1% of the vote.

The PR system has drawbacks, one concern being that the individual members of the NA and provincial



legislatures are not directly responsible to their voters and that elected representatives may be less sensitive to the needs of voters and more concerned about pleasing the party that has the power to move them up or down the lists or even exclude members from the list entirely.

A single-member constituency system, despite its many defects, ensures at least that the member will be concerned about the needs and perceptions of those in the constituency that elects the person, while constituents know who to turn to with their grievances and problems.

Since the only prescription the Constitution makes is that the electoral system should generally result in proportionality of representation, the issue of a lack of accountability, responsiveness and answerability could easily be dealt with by the adoption of a simple mixed system. In this system, most of the seats are single-member constituencies, but further seats are allocated to parties from lists to ensure that each party is represented in a legislative body in general proportion to the votes it obtained.

In a constitutional democracy in which executive authority is subordinated and answerable to the legislature, the indirect election of the President by the National Assembly means that the President can be removed from office by it. A similar dispensation applies to provincial Premiers. Some electoral reform debates have proposed that the President, provincial Premiers and local council Mayors be directly elected.

This view ignores the fact that indirectly elected executive authorities are faced with an intermediary site of accountability at the legislative level because they are indirectly elected. This is an important safeguard and avoids the situation of directly elected Presidents believing that a direct mandate confers direct and unconstrained powers on them since they derived power directly from the people.

It is tempting in such a situation for leaders to relegate accountability for decision-making and implementation to a secondary virtue rather than a primary one. Where there are indirectly elected executive authorities, it is also possible that pre-legislative processes can serve as an additional curb on excessive executive authority through both legislative as well as political party structures. Thus, from an accountability perspective, indirectly elected executives and Presidents are better than directly elected ones.

Parliament consists of two houses, the NA, whose members are directly elected by the voters and the National Council of Provinces (NCOP) whose members are delegates sent by the various provincial legislatures, who in turn are directly elected by the voters. South Africa also has elected local-

level government with prescribed and limited but influential legislative and executive powers, where there is dual authority for Provincial and National governments.

The Constitution is not prescriptive about how the NA (about 400 members depending on population size) and provincial legislatures (30-80 members) are elected. The Constitution allows leeway that "results, in general, in proportional representation" (Section 46). This allows for a great deal of flexibility in the creation of and changes to the electoral system.

But, while the retention of the current system has led to much inclusivity and diversity, it has also resulted in the proliferation of parties, accompanied by excessive fragmentation and, consequently, a degree of ineffectiveness. It has been good for consociation (a political system formed by the cooperation of different, especially antagonistic, social groups on the basis of shared power) but not good for effective oversight, accountability and refined policy. In the face of the sustained low political, policy and governance impact of fragmented small parties, it may be worth considering, 20 years into South Africa's evolving transition, some degree of electoral reform to harness the potential benefits of a mixed PR and directly elected first-past-the-post electoral system to begin to construct a greater culture of oversight, accountability and responsiveness.

What do you think about South Africa's electoral system? Do you want it to change or are you happy with the current system? Email insession@parliament.gov.za and let us know. 🗳️

Anti-corruption Bill gets NA nod

Despite *a mixed reaction from political parties, civil society bodies and academics, the National Assembly (NA) has given the Public Administration Management Bill, also known as the Pam or Anti-corruption Bill, the green light, reports Foster Mohale.*

The Pam Bill has been described as a major step towards building an effective, efficient and ethical public service as it seeks to apply uniform norms and standards throughout the public service. It will prohibit state employees from conducting business with the State or of being directors of companies doing business with the State. If signed into law by the President, the Bill will also require public servants to disclose their financial interests.

In a performance audit of government employees doing business with national departments in 2007/8, the Auditor-General found that approximately R35.7m was paid into companies or close corporations staffed by government employees, 49 of whom served as directors or board members.

The Chairperson of the Portfolio Committee on Public Service and Administration, Ms Joyce Moloi-Moropa, said the Bill cut across the three spheres of government but gave particular attention to local government. She believed the Bill would be a useful tool to address

the problems that had led to service delivery protests across the country. Ms Moloi-Moropa said the Committee believed the Bill would help reverse the situation revealed by the Auditor-General in which State tenders worth approximately R600m had been awarded to suppliers linked to government department employees and their families.

In spite of general approval of the Bill at public hearings, stakeholders were concerned about certain clauses in it and made proposals to regulate the transfer of public servants from one department to another. Mr Neil Newman of the National Education, Health and Allied Workers Union (Nehawu) said his organisation supported the Bill in general, but had concerns about employees' working environments. Nehawu proposed that secondments should be linked to specific assignments and time-frames and should not be used to avoid the filling of vacancies. "If all vacant posts are filled, there won't be any need to second or transfer staff," Mr Newman said.

Nicola Whittaker of Corruption Watch

said her organisation welcomed the complete ban on employees doing business with the State. Corruption Watch called for the power to conduct investigations and disciplinary proceedings in respect of corruption-related misconduct. This should be initiated at national level after consultation at provincial and local level. "The proposed ban sends a strong signal about enriching oneself through exposure to the State in the employment context. We support a constitutional guarantee of fair and competitive public procurement," she added.

This is consistent with Section 30 of the Public Service Act which says that employees in the public sector shall not perform remunerative work outside their employment except with written permission from the executive authority of the department. Most stakeholders felt that prohibiting officials from conducting business with the State would lessen the opportunity for corruption and unethical conduct in the public sector.

A proposed 12-month no-trade period for public servants who leave government employment to work for companies in the private sector (particularly those that trade with the government) was described as a measure to prevent them from manipulating government tenders. 🌐



Residents plead for services

Both *Houses of Parliament have risen as the fourth Parliament has come to an end but this has not stopped Members of Parliament from visiting their constituencies to check on service delivery. Cedric Mboyisa and Mava Lukani accompanied MPs as they conducted oversight in KwaZulu-Natal, Eastern Cape and North West provinces.*

“In our village we have to compete with cattle for water.” These are the words of a 32-year-old woman from the rural village of eMachunwini, Mzimkhulu in KwaZulu-Natal. “When it comes to water provision, we have

never had any in our village,” she said.

On this sunny day, the woman was hard at work next to a small muddy river, doing washing for her husband

and children. She uses the same river as a source of drinking water for her family. Not far from her, a group of seven women carrying big containers of water on their heads could be seen walking to their homes after fetching water from one of several small rivers around the village.

Provision of water services is the main challenge in this area. Water projects have so far failed to bear fruit, according to residents. The latest

project designed to draw water from a nearby river also failed to get off the ground. The village forms part of Democratic Alliance MP Mr Francois Rogers' constituency and he has been trying to help sort out the water problem plaguing the community. "This is a prime example of a failed water project with good intentions. Five water projects have failed so far since 2008," Mr Rogers explained.

This latest project has a "mini water

purification plant" located near the source of the river. A pump draws the water from the river and channels it to the plant. After the purification process, the water is stored in reservoirs and then transported in pipes to another pair of tanks halfway up the hill. It is then supposed to go to reservoirs at the top of the hill where it should be distributed to strategically placed water taps, but this has never happened. One man who works for the project said the

pipes were not working. Residents of other nearby villages, such as Mvolozana, also complained about the lack of clean water.

Some homes have no toilets, despite being promised they would get them. "We are not educated, so those in charge mistreat us as they wish," said one dejected elderly man.

Mr Rogers explained asking the responsible district municipality



(Sisonke) to come to the residents' rescue had proved a futile exercise. "Talking to Sisonke is like talking to the wind," he said and he is now approaching the provincial water affairs entity and putting questions to the relevant Minister. He promised residents he would continue to fight their battle until the situation was resolved.

In Bhethanie in North West province, not even persistent rain could keep some residents from the Bakwena community from attending a street meeting to voice their grievances. African People's Convention Member of Parliament Mr Themba Godi had driven from Gauteng to listen to these residents. The meeting was initially scheduled to be held at a local hall, but the hall was locked. The residents' main grievance was that they did not benefit financially from the mines in the area. They claimed they were being kept in the dark about the amount of money in a trust fund meant for community development.

Mr Godi urged the Bakwena community to join hands when dealing with their problems. "There is no Messiah who is coming to rescue you. Power is critical, so the community must be properly organised and speak with one voice. Let us be active and fix our problems. We can solve this problem together," Mr Godi said.

"I don't want to work with cowards. You must finish what you started," he said. He gave the residents his word that he would pursue their problem further with relevant authorities. The community admitted that it was not properly organised. As a result, there had been little or no progress in their attempts to be given information regarding the fund meant for their

development. Since the street meeting, the residents have formed a committee to represent their interests.

The Amagqunukhwebe people living in the Nkonkobe municipality in the Eastern Cape say they have a mixture of good and bad stories to tell after 20 years of democracy. They all agree that life in South Africa since 1994 shines brighter than the darkness that came before, but as they contemplate two decades of democracy their feelings of celebration are tinged with sadness.

The Nkonkobe municipality includes the rural towns of Alice, Fort Beaufort and Middledrift and it formed the focus of the last constituency visit of the fourth Parliament for United Democratic Movement MP Mr Nqabayomzi Kwankwa when he visited his Amagqunukhwebe constituency in April.

"Except for the three towns of Alice, Fort Beaufort and Middledrift, Nkonkobe Municipality is a municipality of historically impoverished villages, hence I always prioritise villages in my constituency work programme," Mr Kwankwa explained.

He started visiting the Amagqunukhwebe villages when he was assigned the villages as part of his constituency. He said the villagers appreciated whatever the government did for them, but equally clearly highlighted what the government had failed to do and what they believed it should do as part of its service delivery responsibility.

"The people of Amagqunukhwebe, a community of 36 villages, complain in

one voice about poor service delivery in their communities," Mr Kwankwa said. He said the community complains about services which they say the government has budgeted, but which do not get delivered because of corruption, such as scholar transport and health services. They have also complained about the condition of the roads and the fencing between villages and grazing animals.

"According to the provincial government there is transport for primary school children but despite this there are still children from the poorest of families in Amagqunukhwebe villages who travel more than six kilometres on foot to reach their schools," Mr Kwankwa explained.

Ms Nobantu Kewuti of Nonaliti village said some people also had to travel very long distances on foot to reach health clinics, as the majority of Amagqunukhwebe villages do not have clinics. "People die on the way to clinics to get their treatments, as the weather can get very hot in this part of the province," Ms Kewuti explained.

She also complained about the lack of fencing that should separate the villages from grazing domestic animals. "We are unable to cultivate fields because of uncontrolled animals that destroy our crops."

Mr Kwankwa responded by saying that the lack of fencing to separate villagers and domestic animals diminished the government's call for people to plant crops to fight food poverty. He promised the villagers that he had informed the Office of the Premier in the Eastern Cape about these service delivery problems. 🗣️



Through the lens

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WELCOMING INTERNATIONAL VISITORS TO PARLIAMENT

One of Parliament's strategic imperatives, which was identified at the beginning of the fourth Parliament and which will be carried into the fifth, is to improve and widen the role of Parliament in international relations, co-operation and participation. Thus, many international delegations were invited to Parliament over the past five years.

These delegations pictured here came from India (opposite page), China (top left), Hungary (top right), Iran (above), Palestine (below) and Nigeria (left).



More than just a man

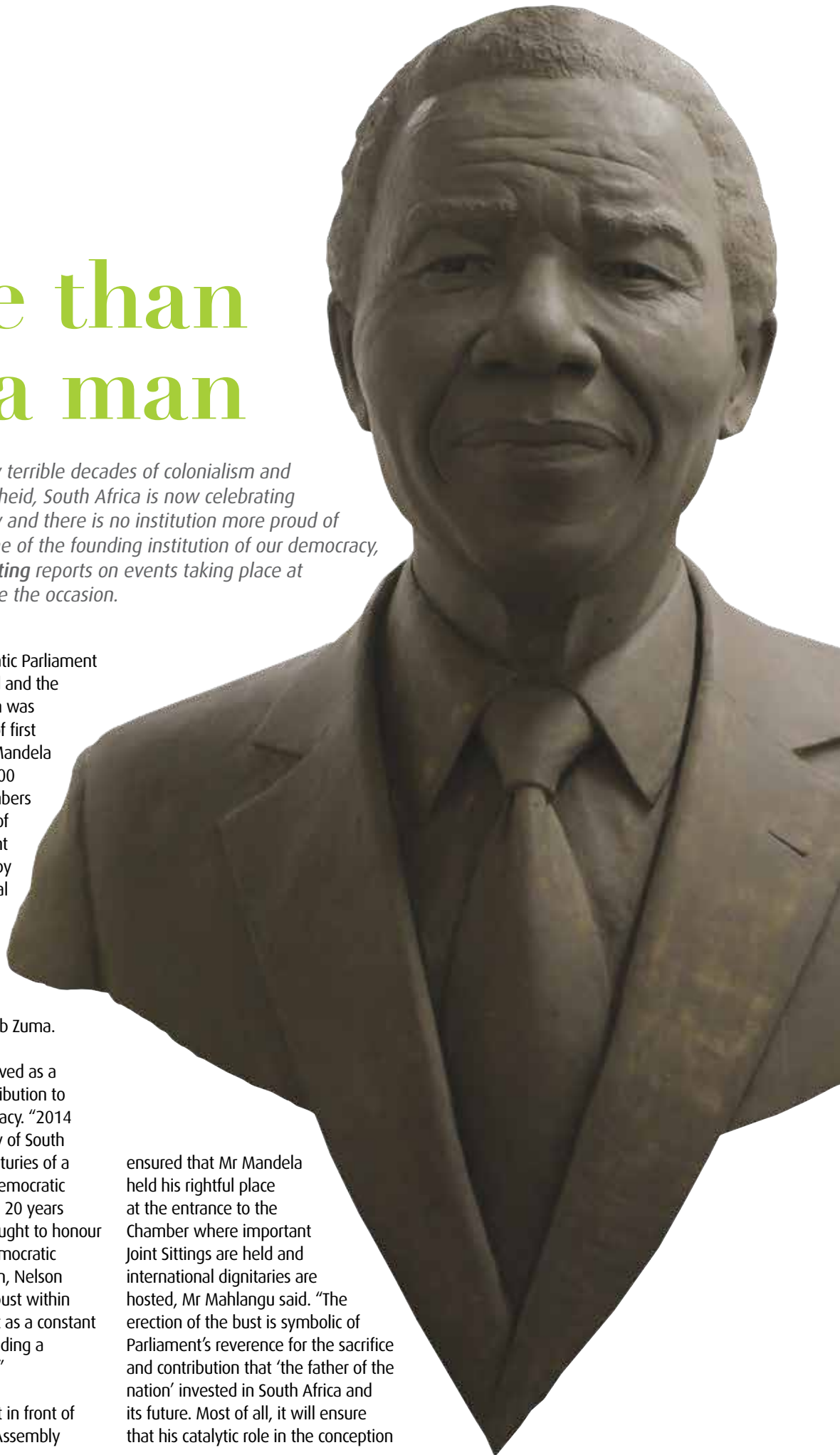
After *many terrible decades of colonialism and apartheid, South Africa is now celebrating 20 years of democracy and there is no institution more proud of this milestone than one of the founding institution of our democracy, Parliament. Abel Mputing reports on events taking place at Parliament to celebrate the occasion.*

The 20 years of a democratic Parliament project has been launched and the pinnacle of the celebration was the unveiling of the bust of first democratic President Mr Mandela on the 28 April. About 1 000 dignitaries, including Members of Parliament and guests of honour, attended the event which was presided over by the Speaker of the National Assembly, Max Sisulu and the Chairperson of the National Council of Provinces, Mr Mzinwa Mahlangu. The bust was unveiled by President Jacob Zuma.

Mr Sisulu said the bust served as a symbol of Mandela's contribution to our parliamentary democracy. "2014 marks the 20th anniversary of South Africa's transition from centuries of a discriminatory state to a democratic dispensation. As part of its 20 years celebration, Parliament sought to honour South Africa's founding democratic President and unifying icon, Nelson Mandela, by erecting his bust within the parliamentary precinct as a constant reminder of his role in building a parliamentary democracy."

The positioning of the bust in front of the steps of the National Assembly

ensured that Mr Mandela held his rightful place at the entrance to the Chamber where important Joint Sittings are held and international dignitaries are hosted, Mr Mahlangu said. "The erection of the bust is symbolic of Parliament's reverence for the sacrifice and contribution that 'the father of the nation' invested in South Africa and its future. Most of all, it will ensure that his catalytic role in the conception



and inception of the first South African democratic Constitution can never be forgotten," Mr Mahlangu said.

The company responsible for producing this historic bust, Keketso Growth, specialises in heritage research, conservation and display and is owned by Mr Dali Tambo, a son of liberation struggle hero, the late Oliver Tambo. The company's most notable work is the 9m bronze figure of Madiba that now stands at the Union Buildings in Pretoria.

Mr Tambo explained that the bust represented more than just the man; it was an expression of South Africa's struggle for freedom, exemplified in the body of the man. "The bust is symbolic of our nation's struggle, of our country's liberation movement, of individual sacrifices and of our people's long walk to freedom.

"Above all we wanted to create a bust that would depict Mandela's humility, his gracefulness and the cheerful demeanour that Mandela was known for because Mandela always attracted people wherever he was. We wanted a life-size bust that would be accessible and that people would be able to gather around to reminisce about this iconic leader."

Keketso Growth commissioned two sculptors, Mr Xhanti Mphakama and Mr Barry Jackson, to translate these qualities of Mandela into a sculpture. They told *InSession* how pleased they were to be selected to make a bust of one of the most iconic figures of modern politics. They agreed that this sculpture

was undoubtedly the most high-profile assignment of their sculpting careers.

"I am just a township artist," Mr Mphakama said. "To be involved in such a high-profile work of a high-profile figure is something that many township artists dream of. It is a dream come true and to think that this work will be at Parliament, one of the premier institutions of our democracy, for generations to come is something I am yet to fully comprehend. The impact this work will have on my career is unimaginable," he said.

Mr Jackson admitted he was overjoyed on hearing the news that they had been commissioned to make the bust but he was aware that "the stakes were high. We were charged with the task of conceiving a bust of a world-famous figure, a bust that everyone would be interested in. But also a bust of a figure that everyone has a mental vision of. In our conception of it, we had to have that at the back of our minds. As a result, we did various visual models and simulations to capture Mandela's personality and his legendary expression to make this bust one of his most memorable portraitures. And I think we have managed to achieve that," he said with a broad smile.

Both sculptors agreed that it helped to work together on the bust as this allowed them the space to examine the work critically and analyse each other's contribution. As they proceeded, they both felt their interpretation of Mandela improved.

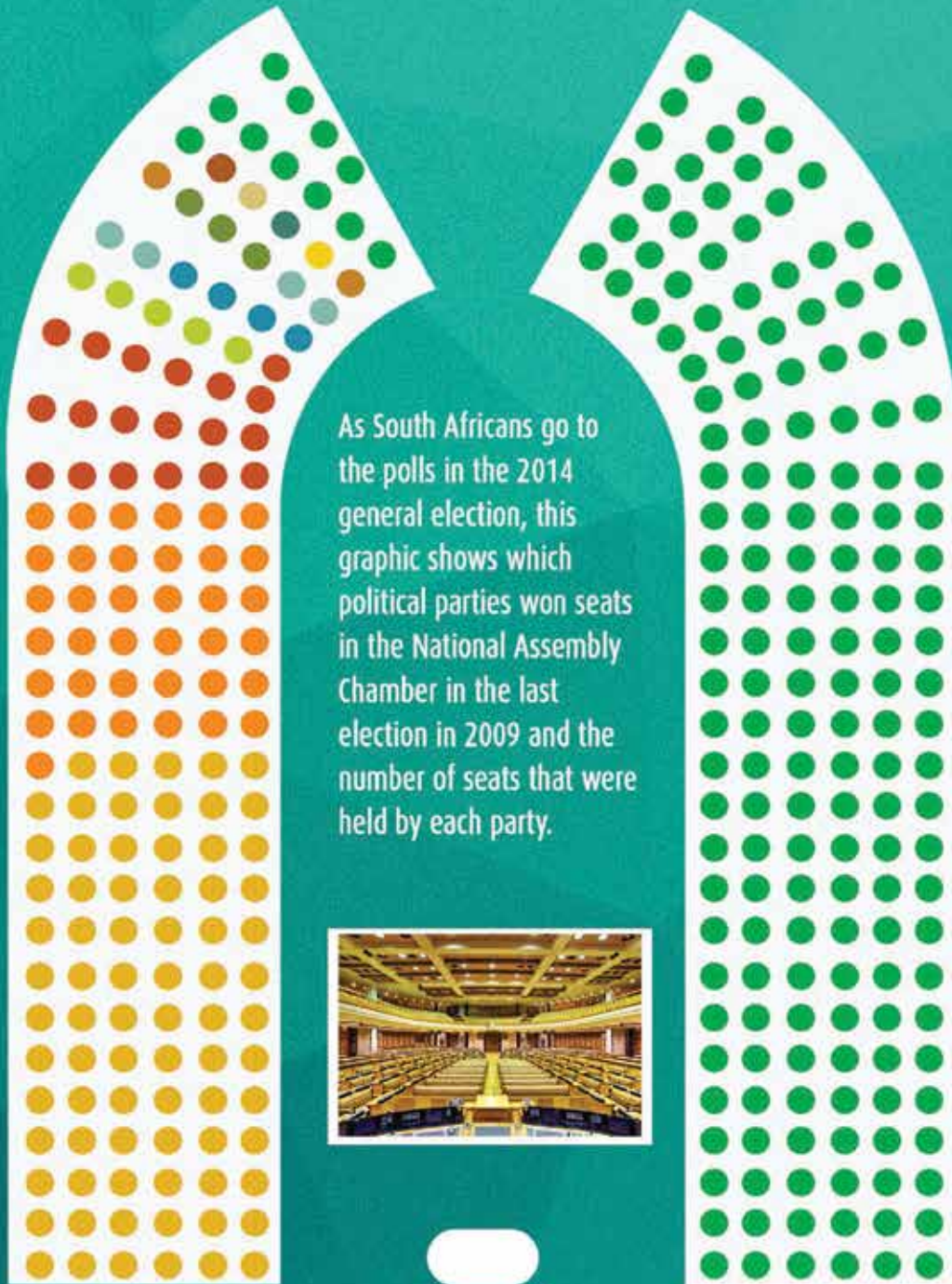
The launch of the bust was the first in a series of activities planned to celebrate Parliament's 20 Years of a Democratic Parliament project. One of the highlights planned for the commemoration is an "Art Against Apartheid Exhibition", which will showcase the critical role the arts played in building international

awareness of the moral bankruptcy of the regime during the apartheid years. Currently housed at the Mayibuye Centre at the University of the Western Cape, this collection will be shown at Parliament to mark this milestone in South Africa's democracy. A range of other events and activities – seminars, debates, road shows and book launches – will also commemorate 20 years of a democratic Parliament.

Most importantly, the 20 years of a democratic Parliament project will serve as a yardstick to assess Parliament's gains since 1994 and profile its successes and achievements. According to the planning document produced by the project leader, the Deputy Secretary of Parliament, Ms Baby Tyawa: "In the 20 years of a democratic Parliament, citizens have been able to participate in the law-making process. Parliament has been able to create various platforms for engagement on myriad matters, has passed enabling laws to improve the lives of people, held the executive to account on its effectiveness to implement legislation as well as its management of the public purse. And throughout Parliament has sustained its responsibility of upholding the separation of powers as articulated in the Constitution."

On the other hand, the 20 years of a democratic Parliament was seen as a fitting moment for introspection to establish not only how far Parliament has come but the challenges that lie ahead. "The two decades of a democratic Parliament are characterised by the successes and challenges that lie ahead. Therefore, Parliament will use this occasion to reflect on how Parliament has managed to meet the needs of the people, highlight challenges and make recommendations for corrective measures to be considered by successive parliamentary tenures," Ms Tyawa said. 🗣️

Political parties in South Africa's fourth Parliament



As South Africans go to the polls in the 2014 general election, this graphic shows which political parties won seats in the National Assembly Chamber in the last election in 2009 and the number of seats that were held by each party.



Legend

 African National Congress (ANC) 264 Seats, 63%	 United Democratic Movement (UDM) 4 Seats, 1%	 Minority Front (MF) 1 Seat, 0.2%
 Democratic Alliance (DA) 77 Seats, 18.4%	 Freedom Front Plus (FF+) 4 Seats, 1%	 Azanian People's Organisation (AZAPO) 1 Seat, 0.2%
 Congress of the People (COPE) 37 Seats, 8.8%	 African Christian Democratic Party (ACDP) 3 Seats, 0.7%	 African People's Convention (APC) 1 Seat, 0.2%
 Inkatha Freedom Party (IFP) 19 Seats, 4.5%	 United Christian Democratic Party (UCDP) 2 Seats, 0.5%	
 Independent Democrats (ID) 5 Seats, 1.2%	 Pan Africanist Congress of Azania (PAC) 1 Seat, 0.2%	

Committees in brief



Every *month* Parliament's committees diligently exercise their law-making and oversight functions. **Cedric Mboyisa** compiled this summary of some Committee deliberations, some of which are covered in more detail elsewhere in this publication.

* **The Joint Committee on Ethics and Members' Interests** has adopted a Code of Ethical Conduct and Disclosure of Members Interests' for National Assembly (NA) and National Council of Provinces (NCOP) Members.

This new Code is the culmination of a long process by the Committee, and seeks to maintain the integrity of Parliament and promote the ethical conduct of Members. To this end, the Code provides standards of ethical conduct, indicates the principles of public life, prohibits types of business activity and extends the disclosure requirements. It has also reviewed the sanctions and procedure for the investigation of complaints. (See page 9 for more on the new regulations governing MPs' conduct.)

* **The Portfolio Committee on Justice and Constitutional Development** recommended to the NA that magistrate Mr M.J Kgomo be provisionally suspended. The NA agreed with the recommendation. Committee Chairperson Mr Luwellyn Landers said this followed a request from the Magistrates' Commission. Mr Kgomo was appointed as a magistrate

in July 2000. He is presently an additional magistrate at the Randburg District Court in Gauteng. He was arrested on 5 December 2013 on a charge of corruption.

It is alleged that Mr Kgomo demanded and received R150 000 in exchange for positively influencing the outcome of an appeal against extradition. It is further alleged that the R150 000 was recovered in Mr Kgomo's briefcase in his office. Mr Landers said the magistrate was afforded an opportunity to comment on his provisional suspension by the Magistrates' Commission after which the Commission resolved on 4 February 2014 to recommend to Parliament that he be suspended pending an investigation into his fitness to hold office.

* **The Chairperson of the Portfolio Committee on Transport**, Ms Ruth Bhengu, has cautioned against parties attacking standing legislation for political expediency in the run-up to the elections. "It is wrong for any party to frustrate the South African courts, already overburdened with genuine work, with insignificant challenges merely to score cheap political points," Ms Bhengu said. "How Parliament tagged its legislation should be a parliamentary process and there are competent parliamentary committees, ably assisted by the Parliamentary Legal Unit and the State Law Advisor, to deal with that matter."

The Western Cape High Court ruled against the Democratic Alliance (DA)

after it had challenged Parliament on the tagging and validity of the e-tolling legislation passed last year. The Chairperson said the ruling last week was consistent with the host of other rulings that were in favour of Parliament regarding e-tolling legislation.

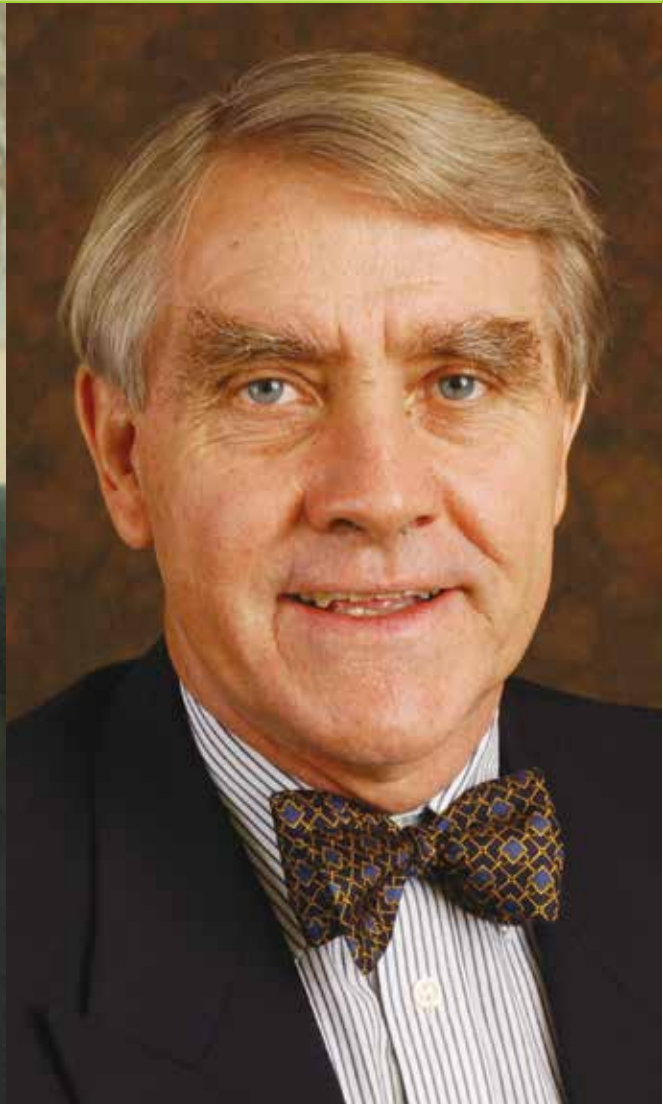
"The view of the Committee, despite opposition from the DA, had always been that the legislative process regarding e-tolls was done correctly," Ms Bhengu said.

* **The Portfolio Committee on Police** approached the Independent Police Investigative Directorate to probe the reported incidents of police brutality and negligence in the Western Cape and Gauteng provinces respectively. The Committee learnt with horror of two incidents that appear to bring the name of the South African Police Service into serious disrepute.

The two incidents, one in Olievenhoutbosch (Gauteng) and the other in Cape Town, were bound to have a negative effect on the credibility of the police. The Committee was outraged that the alleged incident in Olievenhoutbosch happened in the presence of the police who allegedly failed to assist because they were waiting for a hostage negotiator. "It is extremely worrying that this incident was allowed to happen, especially taking into consideration the rampant crime against women and children, and government prioritising the fight against these crimes. We condemn this in the strongest possible terms," Committee Chairperson Ms Annelizé van Wyk said. 🙏



Prof Ben Turok



Mr Graham McIntosh

‘Making SA better’

Retiring *Members of Parliament Prof Ben Turok and Mr Graham McIntosh spoke to InSession about their assessment of the institution over the past two decades of democracy and their hopes for Parliament in the future. They spoke to Sibongile Maputi.*

After 20 years of service to South Africa, the Prof, as he is affectionately known, will not be returning to Parliament after the May election, but his wish is that Parliament should not become simply a talk shop. “Parliament has passed a huge amount of legislation and has debated many issues. Parties work very well in the Committees, but there seems to be a challenge when it comes to the House. The same people heckle and attack from both sides. This has made parliamentary work a game or a debating society.

But whether anything can be done about it is debatable,” Prof Turok said.

“An ordinary person is not always aware of the importance of Parliament. Often what sounds like howling is actually of major national importance,” he said, citing the recently passed Labour Relations Bill. “Most MPs thought it was not a priority Bill. As the House prepared to vote on the Bill, members of the DA were disappearing one by one. When the time to vote arrived there was no quorum,” he said.

“Parliament is meant to be a product of the co-operation of all parties; it is designed for debate and cooperation. If one deliberately leaves in order to break the quorum it is tantamount to sabotage. This compromises the work of Parliament and could result in a crisis. Parliament needs cooperation or it will fail.”

He points out that the African National Congress (ANC) has 63% of the seats. “This means the ANC cannot form a quorum on its own. If the opposition deliberately walks out, that means Parliament cannot work.

“Imagine if after the elections the ANC has less than 60% of the seats. That will force a kind of coalition and cooperation in Parliament. If, in the whips committee, they do

not resolve programming issues, Parliament will not work. We need a degree of cooperation between parties, otherwise things will fall apart. Parliament is a place in which different parties and views are discussed in the national interest," he said.

Prof Turok, who left the House last year when it was time to vote on the Protection of State Information Bill, was candid about the failures of the administration.

"A glaring failure over the past five years was priorities, starting with former President Thabo Mbeki, who introduced the idea of 21 apex priorities. A government cannot have 21 priorities; even now with five it is still too many."

When a budget was designed there was a need for one priority plus subordinate priorities linking to the main one, he said.

"A country should have a key to open the door to its problems. In South Africa, we are entering a phase where we are not sure what the main problem is. Of course, challenges are interrelated but as one looks into the interrelationships of these issues, one still has to identify one key element that will drive the whole government agenda. The country has not done that."

Prof Turok also said the public service was letting the country down. "This is particularly evident when officials appear at parliamentary committee meetings. Some Ministers are not performing as well as they should. The question ought to be: Is the ANC and its government still true to the mission? The answer is largely yes, but not altogether. There is too much

opportunism, careerism, corruption and self-seeking. There are serious weaknesses that are being admitted but not rectified and the situation could get worse."

MP Mr Graham McIntosh, known for wearing his traditional Scottish kilt on important occasions, has also retired from Parliament to return to farming. He says he will leave Parliament a happy man because the political convictions he held when he became an MP in 1974 have been realised. "Votes for all have been achieved. There are regular, free and fair elections, and Parliament is tolerant of the opposition voice," Mr McIntosh explained.

"As long as one can speak freely in Parliament, we have a democracy. The institution is the best way to hold government to account for the way public money is spent. Politicians do recognise that they are responsible for distributing the wealth of the country. How taxes are spent requires close monitoring and care as the government takes billions of rands from ordinary people through value-added tax.

"Some MPs treat Parliament with contempt through absenteeism. This should be looked into more closely. Parliament allows MPs to be absent from the House from time to time, especially during the constituency period but some MPs exploit this and fail to attend meetings for no reason," he said.

"The absence of a policy to monitor attendance has frustrated the work of Parliament and currently it is difficult to deal with absenteeism. However, I do feel satisfied with the recently concluded policy on absenteeism.

MPs do not realise that they could contribute more by attending meetings than doing constituency work."

He firmly believes that experience counts for a lot in Parliament and personally canvassed political parties to ensure that 30% to 60% of people on their lists were MPs who had served between five and 10 years in Parliament.

"Young people are sharper at parliamentary work, better educated and adaptable to technology, but that should not be at the expense of experienced MPs and the depth they bring to Committees," he said.

He also said Hansard (the verbatim transcripts of parliamentary debates) could be produced more quickly. "This is one area that Parliament still has to improve on."

"Another thing that should be looked at going into the future is building Parliament's complex in Pretoria. The current arrangement is strange and has cost the public a lot of money. A well-designed parliamentary complex closer to the executive arm is desirable. The Minister of Finance raised this in one of his speeches. The current parliamentary buildings could be used for the Pan African Parliament and the Western Cape Legislature."

Mr McIntosh said although he will be relaxing in his retirement, he will not be idle. "It will be nice not to have the responsibility of being an MP. I need to relax and rest, but I will not be spending my life doing nothing. I could help NGOs or public interest bodies or perhaps ride in the Cape Argus Pick n Pay Cycle Tour," he said. 🍷

Hambani kahle, comrades

The *outgoing Deputy President, Mr Kgalema Motlanthe, and the outgoing Minister in the Presidency in charge of the National Planning Commission, Mr Trevor Manuel, bid farewell to public service. Elijah Moholola reports.*

When the fourth Parliament came to an end, and after serving Parliament for six years, Mr Motlanthe bowed out of Parliament, while Mr Manuel headed to the exit after 20 years of service to the institution.

Mr Motlanthe, who served as the President of the country for eight months during the third Parliament, said it was an emotional parting for him. "After six years of history, I am running the whole gamut of human emotions, from melancholy to elation. Humanity is conditioned to experience emotions attuned to the peculiarities of the moment. This is a moment laden with mixed emotions. For one thing, I am disconsolate at parting ways with members of the party I come from, the African National Congress (ANC). Six years back I stood on the ANC platform, in a prospective mood, looking forward to making my own little contribution to the vision that defines our nation. Entailed in this vision was and still is the need to consolidate unity, democracy, non-racialism and non-sexism, all of which constitute the strategic goal of post-apartheid South Africa," he said.

The outgoing Deputy President said he understood the role of Members of Parliament in the National Assembly as elected representatives of the people in the light of the words of the French philosopher, Mr Joseph Joubert,

who said that the aim of an argument or discussion should not be victory, but progress. "By and large, proceedings in this House lent colour to this conclusion. By definition, politics, especially parliamentary politics, seems at least partly to be about self-preservation to the extent that key players strut and preen themselves on the political stage, to capture the hearts of the electorate. This much seems to be a permanent feature of democratic politics across time and space. Happily, while we have not been exceptional to this universal characterisation, we have also been able to hold on to the purpose for which we are here, that is, to serve our people."

Mr Motlanthe reflected on debates in the House during his term of office. "While bare-knuckle engagements were par for the course, with bruising exchanges not uncommon, I have found this House to be a centre of rational and level-headed discourse that left many bloodied but unbowed. At the end we are all the richer for it. Our system of democracy is ultimately about creating a multi-vocal society, thriving on irreconcilable ideological differences, none of which can survive without the other. It is a political ecology, which, while rife with discordant voices on the surface, needs every voice for the survival of all," he said.



On being Leader of Government Business, Mr Motlanthe said there was a lighter side to this role. "When I was appointed, I was approached by many people who were interested in business who complimented me by saying that now the right person had been appointed. This, of course, was said in whispers until I explained that Leader of Government Business was the bridge between Cabinet and Parliament. It had nothing to do with public enterprise and business contracts."

Mr Trevor Manuel had held the same position in the first democratic Parliament. "A lesson from those initial years was that President Mandela appointed me as Leader of Government Business of an institution that I did not know. At the time, I was also Minister for Trade and Industry, which required extensive travel outside of the country. I think Mr Koos van der Merwe is one of the few remaining Whips from that period who must have wondered about the sanity of Madiba's choice at the



THEY SERVED THEIR COUNTRY: Mr Kgalema Motlanthe and Mr Trevor Manuel bid one another goodbye in Parliament.

time. This was a learning experience, about taking on responsibilities that could not be fulfilled," Mr Manuel explained.

Mr Manuel, who also served as Minister of Finance for 13 years and who led the team that drafted the National Development Plan, said he was leaving Parliament with incredible memories and the rich experience of participation in the life of the institution and helping to build a democracy.

"It was incredible to be part of a generation that brought down apartheid and engaged in the rebuilding of our nation. There have been many great events including the adoption of the Constitution, the repeal of destructive apartheid legislation, and putting in place legislation and systems to safeguard this democracy. It is this spirit that I hope will continue," he said.

Mr Manuel said he had the sense that Members of Parliament were

all bound together by the same oath of allegiance to the Constitution. "We may come to issues slightly differently but we are all here to serve our country and the people who have elected us."

One of the high points of his long tenure in Parliament, he said, was when he was sworn in as a Member of Parliament for the first time. "I had the great privilege to be part of the first group of 10 to be sworn in as Members of Parliament in a democratic South Africa on 9 May 1994. I stood in this House alongside Frene Ginwala, Jay Naidoo, Albertina Sisulu, Joe Slovo, Winnie Madikizela-Mandela, Cyril Ramaphosa, Thabo Mbeki and, of course, Nelson Mandela.

"The election this year brings to a conclusion 20 years of unbroken service as a public representative. Firstly, as a Member of this august Chamber, it bears saying that I still consider service in this House to be a privilege we sometimes take too lightly; it is a fundamentally

important issue. And secondly, the opportunity to have served as a member of Cabinet for two decades is an even rarer privilege," he said.

"The memories of those early days of robust debate, of the political sparring that took place between the Members on either side of this Chamber, of the level of preparedness by all MPs from parties when they rose here as I do today. It brings me back to a theme I have repeated often in my time here: do we really use this Chamber adequately to debate and understand topical issues impacting on the lives of those we represent?

"Issues such as the effect of the 2008 financial crisis and the consequent effect on economies across the globe should have been addressed in this House as an on-going issue. I watched the Portfolio Committee on Trade and Industry have interesting hearings on the impact of unsecured lending on the lives of the poor, and I wonder why it was not addressed in the same manner in the House first. 🙄

Value for money is our priority

As preparations are made for the start of the fifth Parliament, *InSession* looks at the unique achievements of the Standing Committee on Public Accounts (Scopa) during the fourth Parliament. *Abel Mputing* reports.

One of the statutory mandates of Parliament is to ensure accountability and transparency in how public funds are spent and accounted for by the Executive. It must also ensure that there is a correlation between departments' expenditure and value for money and Scopa is one of the parliamentary Committees charged with this task.

Scopa is a unique Committee, not only because it is led by a Member of the opposition, but also because its internal arrangements are different from other parliamentary Committees. The Chairperson, Mr Themba Godi (who is also leader of the African Peoples' Convention), pointed out that the idea behind Scopa hinges on its non-partisan principles and reliance on consensus rather than voting, as is the case with other Committees. "Scopa is



WORKING BY CONSENSUS: Mr Themba Godi is Chairperson of Scopa.

expected to be less partisan in its work, a Committee where matters are rarely taken to the vote and which works by consensus. We are united in seeking to ensure that public funds are spent in line with the Public Finance Management Act (PFMA), National Treasury regulations and any applicable regulations or policies to ensure that there is value for money in the Executive's expenditure of public funds," Mr Godi explained.

Scopa's greatest achievement over the past five years, he said, had been its ability to consolidate unity in a Committee that had historic problems emanating from the arms deal.

Mr Godi was pleased with Scopa's cohesion during his tenure and its improved oversight work, in particular that it had managed to institutionalise the appearance of ministers before Scopa. "We enhanced oversight by ensuring that the political heads, the ministers, appeared before us, not only the accounting officers. This has become institutionalised in the fourth Parliament and part of the accountability process. In terms of the Constitution, accountability to Parliament is a political matter. It is the Executive that must account, not the officials."

Mr Godi explained that Scopa made

sure it went on oversight visits to gain first-hand experience of issues affecting finance and performance. "In the fourth Parliament, we institutionalised oversight visits. Previously, we were known to be the Committee that sat at Parliament and looked at the figures. We decided to see for ourselves.

"This has been helpful, especially if we look at the performance audit report of the Auditor-General on the provision of infrastructure by the Department of Education in provinces. We visited schools in the Free State, Mpumalanga, North West and Limpopo, where we found serious problems in terms of demand management, monitoring and quality of work, which we would not have seen if we had not been there. Our engagement with departmental officials went a long way in ensuring that they refocus themselves on sound project management.

"I am glad to state that we have now put time frames on our oversight resolutions. We now need progress reports on a quarterly basis in order to keep track of what the Department is doing to respond to our resolution. We pushed this element of timeframes and monitoring to the Speaker's Office and we are glad the Speaker's Office accepted that it needed to create capacity to monitor compliance with commitments."

However, parliamentary oversight was a political function and, from time to time, "it stumbled on a political pothole. You need a driver who will keep the truck on track despite it hitting political potholes," Mr Godi explained.

Oversight is at the heart of Committees' work, but it still needs

to be nurtured so it could withstand the socio-political dynamics facing the country. "Oversight in South Africa is an evolving concept and practice; we had to start from scratch in 1994. For the first 10 years, the focus was on aligning legislation with the values of the Constitution. It was in the latter part of the third Parliament that we shifted more to oversight. Oversight is something which is still evolving. It will never be static because the issues that our country is faced with are dynamic."

Mr Godi realised South Africa had an excellent legislative framework, but it was the human factor which would make or break the country. "Laws merely create the framework, but it is the human factor that is critical. When the PFMA was promulgated, it was meant to allow managers to manage and then account, but managers don't account as properly as they should. We need people who can implement and follow the legislation to the letter."

The new Budget Office in Parliament was one of the biggest achievements of the fourth Parliament, Mr Godi said.

"We believe Scopa is one Committee that can greatly benefit from the work of that office. Once the budget is spent, I see a situation in which that office can come back to Scopa and say: 'When the budget was presented, these were priorities. Let's compare the expenditure against them'. That is the most critical area for scrutiny by Parliament, because it compares the variance between the intent and the practice. If positioned that way, that office would elevate the seriousness with which information presented to Parliament was taken."

Mr Godi said the Auditor-General's office had been the expert witness of Scopa's work and he was happy the new Auditor-General had embraced the notion of value-for-money audits, which had not been a feature of other parliamentary tenures. "The office of the Auditor-General is like an expert witness and we have told the new Auditor-General that we would like his office to do value-for-money audits. We must check whether departments' compliance with the PFMA is mechanical or if there is value for money in their compliance, because that talks to service delivery."

On the lack of sanctions against officials found to have flouted the rules governing public financial management, Mr Godi said he thought this was an area in which Parliament had little direct influence. "The challenge is with the Executive. How do they respond to the queries and findings of Parliament emanating from the Auditor-General reports? There is a separation of powers. Parliament does not appoint officials and therefore it cannot sanction them. It is the Executive's responsibility to do that. Parliament's responsibility is to show the Executive its shortcomings and to ascertain how it is going to sort them."

There was no law stipulating Scopa should be chaired by an opposition party, but Mr Godi believed there were benefits to this arrangement. "As the Chairperson of the Committee, you don't easily fall victim to internal party political pressures when things become a bit uncomfortable. Most of all, the arrangement allows debates on financial accountability to take place in a much clearer environment than it would have been if its Chairperson was from the ruling party." 🗣️

Legacy of the fourth Parliament

The *fourth Parliament has undergone a sea change in its strategy. After repealing the discriminatory laws of the past and introducing democratically-aligned legislation during the first three Parliaments, it moved to strengthen oversight and public participation, largely through the work of its Committees. Abel Mputing, Elijah Moholola, Sakhile Mokoena, Rajaa Azzakani and Yoliswa Landu look at the Committees' contribution to the fourth Parliament as it draws to a close.*

Committees are part of Parliament's core business and play a critical role in its constitutional obligations – making laws and conducting oversight. The core business of the first, second and third Parliaments was to repeal racial laws. As the fourth Parliament progressed, this work decreased and good governance and effective service delivery from the Executive and government departments became more important. This has meant drafting legislation to increase the effectiveness of Parliament's oversight capacity and Committees have played a critical role in this.

The House Chairperson of Committees, Oversight and ICT, Mr Cedric Frolick, said that the adoption of a new Oversight Model has aligned the work of the Committees to the new mandate. The purpose of the new model was to ensure greater coordination of oversight between the National Assembly and the National Council of



Provinces while deepening their level of engagements with the Executive. "This model is set to deepen the culture of oversight to ensure that there is clear understanding of what is expected of each House, and how they can optimise their engagement with the Executive to ensure that the two Houses of Parliament are optimally placed to hold the Executive accountable," he said.

Public participation was one of the defining features of the fourth Parliament, Mr Frolick continued. "The work of the fourth Parliament has been to ensure that it actively engages the citizenry."

An important lesson of the fourth parliament was the need to realign Committees with mandates and competencies that cut across one another. "Our intent is to cluster Committees to strategically allocate research and content personnel so that Members can do their work optimally," Mr Frolick explained.

Mr Frolick said the fourth Parliament

could be proud of its "activist" trajectory, which was epitomised by the Black Economic Empowerment Amendment Bill, the Land Restitution Amendment Bill and the Women Empowerment and Gender Equality Bill.

The concept of an "activist Parliament" as a guiding principle was also mentioned by Mr Raseriti Tau, the House Chairperson: Committees and Oversight in the National Council of Provinces (NCOP). He said this concept was reflected in the robust oversight provided by Committees and the increased public participation in parliamentary business in the past five years.

With active participation of citizens and robust oversight at its centre, NCOP Committees had gone beyond normal oversight responsibility over the Executive to engage more with the public on service delivery matters. "Committees built close relationships with communities through the *Taking Parliament to the People*," Mr Tau said. As part of strengthening Committees, the NCOP introduced a bi-annual



ACTIVIST PARLIAMENT: Parliament's Committees visit places such as this health clinic in Mpumalanga to conduct oversight over service delivery.

forum between the chairpersons of Committees and the whipper to look at their respective functions within the context of the programme of the NCOP and what it aimed to achieve. "Oversight cannot only be located within one institution; we also have legislatures and municipalities doing oversight," he pointed out.

The role of the South African Local Government Association (Salga) is provided for in the Constitution and the fourth Parliament saw it more involved than ever in the work of the NCOP, Mr Tau continued. "We were able to take it a step further by inviting Salga to participate at a Committee level as well as a House level, a move which produced positive spin offs," he said. As part of efforts to improve oversight, NCOP Committees strengthened their relationship with the office of the Auditor-General and developed a better understanding of the allocation of resources to departments and how these departments should spend them. "The municipal audit outcomes from the Auditor-General provided an indicator

of how municipalities were functioning and how their lack of commitment resulted in protests. We strengthened the relationship with Salga to the point where we introduced a unique programme called Local Government Week, in which we invited Salga and municipalities throughout the country to reflect on the problems and challenges they faced," Mr Tau said.

When interviewed by *InSession*, the House Chairperson of International Relations, Mrs Fatima Hajaig, said one of the aims of the fourth Parliament was to strengthen Parliament's participation in international relations and cooperation.

"In practice, the South African Parliament's participation in international relations is conducted by the Presiding Officers, Parliamentary Committees and Members of Parliament of the Focus Groups, with support from the Parliamentary Group on International Relations (PGIR). The role of the PGIR is to provide political advice on international participation and to oversee the participation of delegates involved in

parliamentary diplomacy. The PGIR is further tasked with implementing and monitoring decisions and resolutions adopted at multilateral forums and bilateral meetings. The PGIR is jointly convened by the House Chairperson for International Relations from the National Assembly and the NCOP and members of Parliament are nominated according to the formula of party representation," she said.

Parliament's role was anchored in international relations prioritising the African agenda, advancing multilateralism, establishing strategic bilateral relations, and promoting and protecting human rights and gender justice. "It also strives to reinforce democratic values, initiate contact with other parliaments, strengthen the role of the South African Development Community Parliamentary Forum (SADC-PF) and support Pan African Parliament (PAP) decisions. Conflict and post-conflict resolutions, strategising a role for Parliament in institutions of global governance, improving Parliament's role in debating and adopting international

agreements, and monitoring their implementation are paramount.

“Between 2009 and 2014, we facilitated visits with Iran, India, South Korea, Russia, Mozambique, Lesotho, Switzerland, Vietnam, Japan and China amongst others. Courtesy calls were facilitated with High Commissioners and Ambassadors from various countries. One major achievement was to sign a Protocol of Friendship and Cooperation with Mozambique. In the past five years, the South African Parliament entered into a strategic agreement with the European Union Parliament on a range of issues, including a consultative forum for both parties to meet and exchange views on the various areas of cooperation. This partnership was endorsed through reciprocal visits by the Presiding Officers of the South African and European Parliaments,” she said.

The work of SADC-PF and PAP was crucial in promoting an African Agenda, Ms Hajaig said. “PAP has registered a number of milestones in efforts to transform itself into a full legislative continental body as originally envisaged by the African Union (AU). PAP is supporting the efforts of the AU Commission in the ratification of the African Charter on Democracy, Elections and Governance. The Charter has been ratified by 17 member states, including South Africa and came into force on 15 February 2012.

During 2013, the 59th Commonwealth Parliamentary Conference was hosted by the South African Parliament. The conference was chaired by Mr Mninwa Mahlangu, Chairperson of the NCOP, and he was elected the 2013 CPA Chairperson.

Turning to the work of individual Committees, education was to be included in a legacy package for the fifth Parliament. The incoming Portfolio

Committee on Basic Education would have to continue to attend to learner teacher support material, school infrastructure, the working conditions and remuneration of teachers, and the question of subject advisors. This formed part of the recommendations of the outgoing Portfolio Committee on Basic Education in its legacy report, the Chairperson, Ms Hope Malgas, said. “It includes the provision of textbooks and stationery, which has been a challenge in some schools,” she said.

The Committee also said that the Department of Basic Education and Provincial Education Departments needed to intensify teacher training in specialised areas such as special needs. The Committee further recommended that vacancies in all critical areas should be dealt with as a matter of urgency. These included vacancies for subject advisors, circuit managers and teachers in critical subjects such as mathematics and physical science.

The Chairperson for the Portfolio Committee on Health, Dr Bevan Goqwana, said that on behalf of voters, the aim of Parliament was to shape and change the country’s way of doing things.

“One policy made by government is to have universal health coverage, which would transform health services in South Africa and provide a better life for all. If I could be honest, in the past 20 years we have not transformed the health services. It is only now that we are beginning to discuss the transformation of the sector. Universal health coverage will now become available with the National Healthcare System (NHS), although it is only at a piloting stage.” The incoming Committee should be informed about taking the issue forward. “They must look carefully into pilot projects needed in new areas,” Dr Goqwana said. In its final report,

the Committee recommended that the new incumbents closely monitor spending on the National Healthcare Insurance (NHI) grant and request the NHI pilot sites to report on a quarterly basis.

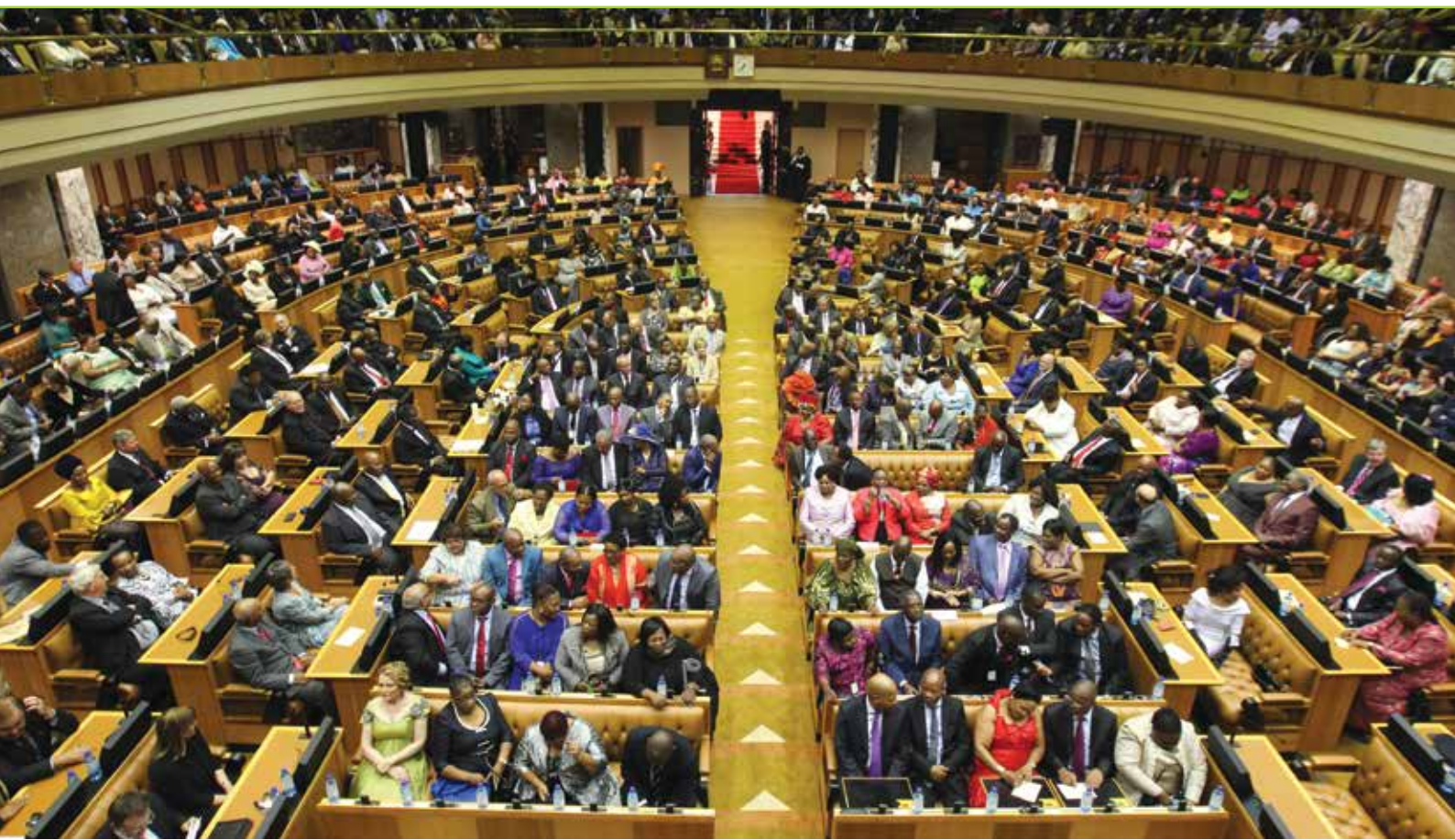
The new Committee should also follow up with the Department on revised strategies regarding staffing and staff retention. Staff shortages were something that had not been fully addressed by the current Committee.

“The shortage of staff was something that came across from all our oversight visits. We may say people are not doing their jobs, but in fact the major problem is the shortage of staff. Sometimes staff are overloaded with work and others are doing things they are not employed to do because of staff shortages,” Committee member Ms Tandiwe Kenye said.

The Committee further proposed close monitoring of the Compensation Commissioner for Occupational Diseases (CCOD) to ensure it delivers on its mandate. The new Committee should ensure that the findings of the Commission investigating prices in the private sector are presented in Parliament. Over the past five years, the Committee managed to process the Mental Health Care Amendment Bill and the National Health Care (NHC) Amendment Bill. The NHC resulted in the formation of the Office of Health Care Standards.

In his closing remarks, Dr Goqwana said it was important that people got good health care services: “Whether I am poor or rich, I must get good health care in South Africa,” he said. 🇿🇦

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Tracing five State of the Nation addresses

Five *priority areas for service delivery were initially identified for the fourth Parliament: education, the fight against crime, improvements in the country's health services, job creation, and rural development and land reform. Elijah Moholola reviews President Jacob Zuma's five State of the Nation Addresses and highlights some service delivery problems and prospects.*

EDUCATION

When delivering his first State of the Nation Address in 2009, President Zuma pinpointed education as "the key priority of his executive team" for the ensuing five years. By the end of the term of the current Parliament this year, the attendance figure at schools was closing in on 100%, at least for the seven to 15-year-old compulsory schooling group. In 2009, President Zuma also stated that emphasis on early childhood development would become more important with the aim of ensuring universal access to Grade R and doubling the number of children younger than four in schools by 2014. He also said the enrolment rate in secondary schools would be increased to 95% by 2014.

The Further Education and Training sector, with 50 colleges and 160 campuses nationally, was earmarked as the primary terrain for skills development training. The government would "improve the access to higher education of children from poor families and ensure a good funding structure for universities," he said.

A year later, in 2010, President Zuma said the aim was to increase the number of matric students who were eligible for university admission to 175 000 a year by 2014, while working to ensure that eligible students obtained financial assistance through the National Student Financial Aid Scheme.

In 2011, the aim in higher education was to expand access, especially for children of the poor, which focused on the conversion of loans into bursaries for qualifying final-year students and exempting qualifying FET students from fees.

In the 2012 State of the Nation Address, President Zuma said that Grade R enrolment had doubled from 300 000 in 2003 to 705 000 in 2011. Eight million learners attended no-fee schools while over eight million benefitted from the government's school feeding scheme. In order to expand access to tertiary education, R200m was used to assist 25 000 students to pay off their study debts.

When the latest Address was delivered in February this year, the matric pass rate had gone from 61% in 2009 to 78% in 2013. Nine million learners were getting meals at school, and 370 new schools had been built. "We have increased the

number of adults attending a mass literacy programme has increased from 2.2 million in 2008 to 3 million," President Zuma said. "While student enrolments at universities increased by 12%, FET college enrolments have increased by 90%. We have increased the budgets of the National Student Financial Aid Scheme to R9bn."

CRIME

Five years ago, Mr Zuma said "together we must do more to fight crime. Our aim is to establish a transformed, integrated, modernised, properly resourced and well-managed criminal justice system." In the current administration, the name of the Ministry of Safety and Security was changed to Police. "The Ministry's aim is to reduce serious and violent crimes by 7% to 10% per annum and to increase the number of policemen and women by 10%, up to 2010."

Two years into his term, President Zuma reported that the crime statistics showed a decrease in most crimes, particularly armed robberies, housebreakings and business robberies as well as contact crimes. The murder rate had declined by 8.6% in the preceding year. The picture improved again in 2012. "The crime statistics for the period 2010/2011 indicate that our country witnessed a decline of 5% in the number of reported serious crimes compared to the previous year," he said.

In 2013, the operations focusing on illegal firearms, stolen and robbed vehicles, liquor and drugs – which were regarded as main generators of crime – assisted in crime reduction. In 2014, President Zuma disclosed that "the overall crime rate has decreased by 21 percent since 2002 and work is ongoing to make communities safer."

HEALTH

A big concern in 2010 was that life expectancy had dropped from 60 in 1994 to just below 50. "We are seriously concerned about the deterioration of the quality of health care, aggravated by the steady increase in the burden of disease in the past decade and a half. We have set ourselves the goals of further reducing inequalities in health care provision, boosting human resource capacity, revitalising hospitals and clinics and stepping up the fight against

HIV and Aids, tuberculosis and other diseases," President Zuma said. Other targets included reducing the rate of new HIV infections by 50% by 2011 and reaching 80% of those in need of anti-retroviral treatment also by 2011, as well as introducing a National Health Insurance scheme.

"We are therefore making interventions to lower maternal mortality rates, to reduce new HIV infections and to effectively treat HIV and tuberculosis. We



will also reduce infant mortality through a massive immunisation programme,” he said. The fight against HIV and Aids had, in 2011, resulted in some 5 million people being tested in a campaign launched the previous year. In 2014, President Zuma reported: “Mother to child transmission of HIV has declined and we have doubled the number of people who are receiving anti-retroviral treatment from one million to 2.4 million people in 2013. More than 20 million South Africans have taken the HIV test since the launch of the campaign in 2011.” He also noted improvements were also reported in survival and life expectancy rates in children under five.

Updating plans for a National Health Insurance Fund, President Zuma said that, as a pilot project, a group of approximately 600 private medical practitioners were to be contracted to provide medical services at 533 clinics in villages and townships in 10 districts. He added that over the past five years, 300 new health facilities had been built, including 160 new clinics.

EMPLOYMENT

President Zuma’s term began a year after the worldwide financial crisis, so saving jobs became a priority. “There is an agreement in principle between government and the social partners on the introduction of a training layoff. Workers who would ordinarily be facing retrenchment due to economic difficulty will be kept in employment and re-skilled,” Mr Zuma announced in 2009.

But in 2010, Mr Zuma said the recession had cost the economy about 900 000 jobs. He said the Industrial Development Corporation (IDC) had put aside R6bn to help companies in distress. Having announced a year earlier that the Expanded Public Works Programme (EPWP) would create 500 000 work opportunities by December 2009,

President Zuma said that more than 480 000 public works job opportunities had been provided. The establishment of a fund of R9bn to finance job-creation over a three-year period was announced in 2011 and project allocations of over R1bn were committed. “During 2011, a total of 365 000 people were employed. This is the country’s best performance since the recession of 2008,” President Zuma said. Of the R10bn set aside by the IDC for job creation about R1,5bn was approved for 60 companies. In 2011, the Department of Rural Development and Land Reform’s National Rural Youth Service Corps (Narysec) programme, developed to assist youth in rural areas, led to more than 7 000 young people being employed.

The key highlight for 2013 was that R3bn from the job fund had been approved for projects. Narysec enrolled 11 740 young people in various training programmes. By 2014, 15 million people were employed and over 650 000 jobs were created in 2013, although President Zuma admitted that the unemployment rate remained high. He announced the Employment Tax Incentive Act to encourage employers to hire younger workers. The EPWP and the Community Work Programme created 3.7 million work opportunities over the past five years.

RURAL DEVELOPMENT & LAND REFORM

“People in rural areas have a right to electricity and water, flush toilets, roads, entertainment and sport centres, as well as better shopping centres,” President Zuma said in 2009. The first pilot site of the Comprehensive Rural Development Programme launched in Giyani, Limpopo, in 2009, resulted in 231 houses being built.

President Zuma announced in 2012 that only 8% of the 30% target of land

had been redistributed and said there was general agreement that the willing buyer-willing seller option had not been the best way to address the land issue. The following year, marking the centenary of the 1913 Natives’ Land Act, President Zuma admitted that the government would not be able to meet redistribution targets and said they would pursue a “just and equitable” principle for compensation instead of the “willing buyer, willing seller” principle to hasten the process.

President Zuma also announced in 2013 proposed amendments to the Restitution of Land Rights Act, 1994, to provide for the re-opening of the lodgement of restitution claims by people who missed the deadline of 31 December 1998. He also said that exceptions to the June 1913 cut-off date to accommodate claims by the descendants of the Khoi and San people would be explored.

The developments on land reform were described as “good progress” by President Zuma in 2014. “Since 1994, nearly 5 000 farms (4.2 million hectares) have been transferred to black people, benefitting over 200 000 families. Nearly 80 000 land claims, totalling 3.4 million hectares, have been settled and 1.8 million people have benefitted.”

He said the next administration would need to take forward a number of policy, legislative and practical interventions to further redress the dispossession of people of their land. These include matters relating to the establishment of the Office of the Valuer-General and reopening claim lodgements. 🌍

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