

Monthly magazine of the Parliament of the Republic of South Africa

# in session



Vol. 15 ISSUE 7 2015



**Women have final word**  
*as Parliament closes Women's month*



**PARLIAMENT**  
OF THE REPUBLIC OF SOUTH AFRICA



Mace of National Assembly

## Vision

An activist and responsive people's Parliament that improves the quality of life of South Africans and ensures enduring equality in our society.

## Mission

Parliament aims to provide a service to the people of South Africa by providing the following:

- A vibrant people's Assembly that intervenes and transforms society and addresses the development challenges of our people;
- Effective oversight over the Executive by strengthening its scrutiny of actions against the needs of South Africans;
- Participation of South Africans in the decision-making processes that affect their lives;
- A healthy relationship between the three arms of the State, that promotes efficient co-operative governance between the spheres of government, and ensures appropriate links with our region and the world; and
- An innovative, transformative, effective and efficient parliamentary service and administration that enables Members of Parliament to fulfil their constitutional responsibilities.

## Strategic Objectives

1. Strengthening oversight and accountability
2. Enhancing public involvement
3. Deepening engagement in international fora
4. Strengthening co-operative government
5. Strengthening legislative capacity



Black Rod of National Council of Provinces

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**COVER:** The Multi-Party Women's Caucus ended Women's Month with a roundtable discussion on the theme Accelerating Women's empowerment and development through the National Development Plan. Our cover features Chairperson Masefele Morutoa contributing to the discussion. The event will be covered in full in the next issue of *InSession*.

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**OUR IDEALS**

**VISION** An activist and responsive people's Parliament that improves the quality of life of South Africans and ensures enduring equality in our society.

**STRATEGIC OBJECTIVES**

Strengthening oversight and accountability; enhancing public involvement; deepening engagement in international fora; strengthening cooperative government; strengthening legislative capacity.

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## MESSAGE FROM THE national council of provinces

The Chairperson of the National Council of Provinces, Ms Thandi Modise

**Gender** *equality it is a case for human rights, human dignity, for justice and for democracy. We understand that democracy is based on the principle of representation. We also understand that you cannot represent more than half the population of the world if that population of the world does not see itself at the decision-making tables.*

We also think that democracy means the right to see, to sit, to hear, and to speak and just to be. We think that the right to vote and the right to run for office are but a small portion of what public representation is all about. But it also means that public representation is transparent, and that frequent cycles of elections are held.

As women parliamentarians we must make sure that gender perspectives are incorporated in all the policies and standard-setting initiatives. As women we should believe that women at the decision-making tables will facilitate and promote utilisation of all resources in order to promote sustainable development for women in the future.

We are concerned about the lack of representation and participation of women in economics and the other social spheres of all our lives. We know that lack of resources, gender insensitive electoral policies, prevailing gender stereotypes based on culture and custom and sometimes just pure chauvinism continue to impede the progress for equal representation by men and women in both the politics and economy of any nation.

We want to recap that around the world men make up 78% of parliamentarians, 93% of elected heads of state, 82% of government and 95% of corporate executives. It is time to look closer at gender representation. We know that with gender representation we need to also have political will. We must be

committed to re-look at robust policies, such as the quotas in electoral systems that facilitate the election of women.

When we make these policies, we must set ambitious but practical targets that are stringently enforced and are accompanied by measures to remove barriers to campaign funding, to curb violence against women in politics and to eliminate negative stereotypes.

South Africa is resolute in promoting gender equality. In 1991, at its re-establishment conference, the African National Conference (ANC) agreed to a 30% quota for representation of women in all its decision-making structures. In 2007 it increased the quota to 50%.

These measures are largely responsible for the increased numbers for women in Parliament which stand at 44.1% in the National Assembly and 38% in the National Council of Provinces.

This is also reflected in the increased numbers of women cabinet and deputy cabinet ministers. It is also a reflection of attempts to increase the number of female jurists. In administration also, South Africa is beginning to make headway in ensuring that heads of administration in the corporate and public service worlds are women.

The 2014 MasterCard Index for Women's Advancement shows that gender inequality is still a big challenge. Women still earn less than men for similar work. We also note that the pay gap

has increased from 33% in 2009 to 38% in 2014 throughout the world. We know that enabling legislation has helped women's representation in the workplace from 14% in 2003 to 20.6% in 2013. Professional women increased from 36% to 43% and skilled women from 44.2% to 47%.

We note that no country in the world has closed the overall gender gap, according to the World Economic Forum 2014 report. At the current rate of progress, the report estimates that it will take 81 years to achieve gender parity. This is too long for women to wait.

We think that promoting gender balance in all fields and expanding the role of women in decision-making is not merely a moral imperative. It is a pre-requisite for effective poverty reduction and sustainable economic growth.

The responsibility to see women at the decision-making tables is important to parliaments because we have the responsibility. We are obliged to ensure that all citizens are treated equally.

Parliaments should therefore ensure that resources are allocated to empower women and to create opportunities. Democracy is not just about the majority having a say. It is about enabling that majority to understand to identify and to exercise all their freedoms and we think that as parliaments, as presiding officers we need to play our part. 🇿🇦

*This is the speech by the Chairperson of the National Council of Provinces (NCOP), Ms Thandi Modise, to the Inter-Parliamentary Union 10th Women Speakers conference in New York in August on the theme Democracy: Innovating for more gender-inclusive decision-making processes and bodies.*

# highlights from the committee rooms



**Every** month Parliament's Committees exercise their law-making and oversight functions. **Cedric Mboyisa** compiled this summary of Committees' deliberations.

**The Portfolio Committee on Sport and Recreation** paid tributes to rugby players Mr Claude Booyesen and Mr Freddie Arries who passed away in separate incidents. Mr Claude Booyesen, 32, who played for the Humansdorp All Blacks Rugby Club, died after suffering a heart attack while playing in a match against Auckland Tigers. Mr Freddie Arries, 21, who played for the Tierberg Rebels Rugby Club in the Boland, died after a match he played against the Excelsiors United after complaining of severe headaches.

The Committee said it is saddened that these young men died suddenly while in the prime of their careers. The Committee sent its condolences to the families, friends and loved ones, the South African Rugby Union, the Humansdorp All Blacks Rugby Club and the Tierberg Rebels Rugby Club for the loss of these two young talented players.

This sad occasion befell the rugby fraternity at a time when the nation is preparing for the Rugby World Cup that is scheduled to take place in September. The Committee said South Africa is proud of the contribution the two rugby players had made to rugby and to the South African sport fraternity.

**The Portfolio Committee on Water and Sanitation** has noted media reports of the looming strike action by members of the South African Municipal Workers' Union within Rand

Water that might impact negatively on the provision of water to areas in Gauteng and Mpumalanga.

While the Committee recognises the constitutional right of workers to strike, it calls on both parties to devise mitigating plans to ensure that the strike action does not infringe on the rights of South Africans to access to quality water. This call does not suggest that the rights of the workers are secondary, but is made in recognition of the central role of Gauteng as a major economic hub within the continent and seat of government.

Furthermore, the Committee urges all parties to return to the negotiating table to ensure that this impasse is resolved. It is in the interests of residents and the economy in general that the two parties find amicable and workable solutions that are sustainable. What is important is to ensure that the strike action doesn't impact negatively on the provision of water to highlighted areas.

**The Portfolio Committee on Public Service and Administration/ Performance Monitoring and Evaluation** is gravely concerned about the failure of most government departments to reach set targets regarding employment of people with disabilities and employment of women in senior management services.

The Committee remains of the view that this inability to reach the

2% target of employing people with disabilities and 50% women in SMS levels within government departments is holding back transformation and perpetuating injustices of the past as well as undermining years of the struggles for women's emancipation.

"It remains a grave concern to the Committee that only 8 729 people with disabilities were employed among the 1 324 228 workforce within the public service. This represents a mere 0.66%, which is totally unacceptable," said Ms Bertha Mabe, Chairperson of the Committee.

While the Committee notes slight improvements in average statistics of employment of people with disabilities by all provinces, excluding the Eastern Cape as well as all national departments, the Committee calls for a recommitment by departments to employ people with disabilities.

One way to achieve this is through compliance and submission of Gender Equality Strategic Framework and the Job Access Strategic Framework for the Recruitment, Appointment and Retention of People with Disabilities.

"It is only through effective planning that we can successfully surpass these challenges," Ms Mabe said. The Committee is further concerned that although there was a slight increase of employment of women within the senior management services over the last financial year the number still remains below the 50% target. It is further alarming that the number at the most senior level of the public service, levels 15 and 16, is lower. 🙄



# bill tracker

Bills tabled in Parliament in August

**Bills** before Parliament in August dealt with the protection and promotion of investments, amendments to the Criminal Procedure Act and refugees. *Sakhile Mokoena* tracks the legislation currently making its way through Parliament.

## The Protection and Promotion of Investments Bill

This Bill seeks to achieve a balance between the rights and obligations of all investors in South Africa, to provide adequate and equal protection to foreign investors and domestic investors, and to promote investment.

It also confirms that the investments of foreign and domestic investors are protected under the Constitution of the Republic of South Africa and applicable domestic legislation.

The Bill seeks to treat foreign investors and their investments no less favourably than South African investors in like circumstances.

The Bill confirms a commitment by South Africa to protect all investments irrespective of their origin.

The underlying philosophy of the Bill is to clarify the protection that an investor may expect in the Republic, and to promote all types of investments by creating a predictable business environment that is readily understandable to an investor.

In some instances it may be unavoidable to differentiate between foreign and domestic investors. However these instances are limited and do not violate the principle of equal treatment.

The government's right to regulate is emphasised since legitimate policy measures should be implemented in the public interest.

## Criminal Matters Amendment Bill

The aim of this Bill is to amend the Criminal Procedure Act, 1977, so as to regulate bail in respect of essential infrastructure-related offences.

It also regulates the imposition of discretionary minimum sentences for essential infrastructure-related offences; to create a new offence relating to essential infrastructure; and to provide for matters connected therewith.

The level of crime in South Africa relating to essential infrastructure, used to provide or distribute basic services to the public, especially involving both ferrous and non-ferrous metal, is unacceptably high and poses a risk to, among other things, public safety, electricity supply, provision of water, communications and transportation and has a negative impact on South Africa's economy, society and infrastructure.

Essential infrastructure-related offences are becoming increasingly more organised and are often committed by armed and dangerous criminal groups.

The amendments intend providing for changes to the law pertaining to infrastructure-related offences by providing stricter provisions for the granting of bail.

The amendments also provide for the sentencing of offenders and creating a new offence to criminalise tampering with, damaging or destroying of

essential infrastructure which may interfere with the provision of basic services to the public.

## Refugees Amendment Bill

The Bill addresses the Constitutional Court judgment in the Chipu case [Mr M] Chipu is Chairperson of the Refugee Appeal Board] by amending section 21(5) of the Refugees Act, 1998, so as to confer a discretion on the Refugee Appeals Authority (the name of the Refugee Appeal Board after the Refugees Amendment Act, 2008 (Act No. 33 of 2008), on application and on conditions it deems fit, to allow any person, including the media, to attend or report on its hearings.

## Public Service Commission Amendment Bill

The Bill seeks to amend the Public Service Commission (PSC) Act in order to ensure efficiency and certainty with regard to the process of renewal of term of office of a commissioner and designation of an acting chairperson for the commission.

The Bill seeks to provide for continuity in the PSC with respect to retention of commissioners with experience and with regard to the execution of the PSC's mandate. The Bill clarifies the process to be followed by the President whenever the President renews the term of office of a commissioner.

The Public Service Commission Amendment Bill further makes provision for the designation of a commissioner to act as chairperson of the PSC whenever both the chairperson and the deputy chairperson are absent or for any reason unable to act as chairperson. 🌐

# i put the question

Questions in Parliament in August asked the relevant ministers to account for the actions of South African National Defence Force personnel and of government health care workers, among other matters, reports Elijah Moholola.

**Ms Tasneem Motara (ANC) asked the Minister of Higher Education and Training, Dr Blade Nzimande,** whether his department has any plans to reopen the teaching colleges that were closed down; and whether this will include the Southern Cape Education Training College in the Eden District and many of the colleges that are currently being vandalised, illegally occupied and used for purposes other than benefiting communities.

**The Minister responded:** Yes, my department has been working consistently in reopening teaching colleges that were closed down. These efforts to expand teacher education capacity in the country are in line with the strategies described in the “Integrated Strategic Planning Framework for Teacher Education and Development in South Africa, 2011-2025” which I jointly launched with Minister [Angie] Motshekga in 2011.

The department is working in a logical manner to develop institutional capacity to ensure that the country is able to produce sufficient quality educators for our schools by:

- \* ensuring full utilisation of university campuses that currently offer teacher education programmes;
- \* extending capacity by expanding the delivery of teacher education programmes to additional campus sites, which will be identified based on the analysis of geographical reach and quantified need; and
- \* if it is identified that the existing capacity after being strengthened and extended, is still unable to meet national and provincial needs, new institutions will be opened.

The impact of these initiatives is displayed in the increase in enrolments and graduations in teacher education programmes. Current expansion efforts at universities have resulted in a substantial growth in the number of new teacher graduates since 2008. Enrolments in initial teacher education programmes, that is, Bachelor of Education and Post-Graduate Certificate in Education programmes have increased from 35 275 in 2008 to 104 144 in 2013. Over the same period, the number of graduates has increased from 5 939 in 2008 to 16 496 in 2013.

**Rev Kenneth Meshoe (ACDP) asked the Minister of Police, Mr Nathi Nhleko,** whether there are any investigations taking place into South African National Defence Force (SANDF) soldiers operating along the Mozambican border with orders to shoot and immobilise any threat, and also into vehicle tracking operatives that were allegedly in hot pursuit of a hijacked truck; and whether a case of attempted murder has been opened against the SANDF soldiers in question.

**The Minister answered:** The matter is being investigated. The members of the SANDF were not given any standing instruction to shoot unless their lives were in danger. This was confirmed by the Commanding Officer of the SANDF, that these members were informed of the instructions during the induction training. In addition the SANDF is conducting an internal enquiry into this matter.

A case of attempted murder and assault was opened and is being

investigated through Emanguzi CAS 99/07/2015.

**Ms Deidre Carter (Cope) asked the Minister of Health, Dr Aaron Motsoaledi,** whether he has investigated who instructed HIV-infected women to be sterilised without their written consent. She also asked if that investigation was used to bring to justice those who had transgressed medical ethics and violated the right to bodily integrity safeguarded in the Constitution.

**The Minister replied:** In June 2012, the Department of Health requested Prof Jack Moodley (Chairperson of the National Committee on Confidential Enquiry into Maternal Deaths) and Dr Nat Khaole (then Acting Chief Director for Maternal and Women’s Health) to investigate allegations that HIV-positive women have been sterilised without their consent. They visited two hospitals in Durban, Addington Hospital and King Edward Hospital, and found evidence of systematic abuse of the consent process as alleged by the researchers.

When the issue was first brought to the attention of the Department of Health, I requested that details be provided, including names of the complainants to enable the department to investigate the matter fully. However, the department was informed that the complainants did not wish to be identified as they were afraid of being victimised, despite our reassurance that I would personally ensure that the complainants are not victimised.

In 2015, the issue of forced sterilisation was raised with the Department of Health again. The department again requested the NGO, Her Rights Initiative, to provide the names of the complainants to enable the





Ms Tasneem Motara (ANC)

department to fully investigate the allegations.

In addition, a commitment was made that an independent team would investigate the allegations, if need be. However to date, there has been great reluctance in providing the department with the information necessary to investigate this matter.

**Mr Michael Bagraim (DA) asked the Minister of Labour, Ms Mildred Oliphant,** whether the Chief Financial Officer of the Unemployment Insurance Fund has a turnaround strategy for the Compensation Fund and what the plan entails.

**The Minister**

**responded:** Yes. We have put together a plan that aims to address the bottlenecks in service delivery and sound financial management. It entails focusing on improving the financial administration, improving the levels of customer service in the Fund, addressing human resource constraints in the Fund.

This is to be achieved by addressing the system deficiencies that prevent performance of basic financial management functions, improving access to benefits for

clients through a number of initiatives which include easing the process of access to chronic medication, filling the critical vacancies required in the adjudication of claims and addressing all systems' problems that contribute to slow rate of processing claims.

**Adv Anton Alberts (FF Plus) asked the Minister of Transport, Ms Dipuo Peters,** whether the SA National Roads Agency (Sanral) has at any stage applied for the certification or exemption from certification of the e-toll system and related technology in terms of the Trade Metrology Act, Act 77 of 1973, and/or the later Legal Metrology Act, Act 9 of 2014, and other supporting legislation applicable to certification.

**The Minister replied:** The GFIP e-toll system comprises a number of components, only certain of which are regulated by the legislation referred to. In the case of the camera equipment installed on the GFIP system, this equipment complies with the technical requirements of the current standard SANS 1795, Part 5, on data capturing and recording devices for road traffic law enforcement.

With regard to other equipment used and in the absence of specific technical regulations, this matter is being handled by the National Regulator for Compulsory Specifications (NRCS) in terms of the Legal Metrology Act of 1973.

The CEO of the NRCS will set requirements and conditions for use of the equipment in terms of Section 22 of the Legal Metrology Act. It must further be noted that Sanral has a classification system in place for motor vehicles and a representation procedure for users who wish to query the classification of a motor vehicle for a specific transaction. 📍

# Public representatives must make sure their conduct is above reproach

**Ethical** *behaviour and honesty by elected public representatives is expected not just to comply with the rules or to avoid penalties, but because it is the right thing to do, writes Sakhile Mokoena.*

The Co-Chairperson of the Joint Committee on Ethics and Members' Interests, Mr Amos Masondo, told a workshop on the Code of Conduct for public office bearers that Members of Parliament (MPs), Members of Provincial Legislatures (MPLs) and municipal councillors must develop a culture of ethics and integrity and move beyond compliance.

He said elected public representatives should not just aim to comply with respective codes of conduct, but should strive towards ensuring that their conduct is above reproach. Mr Masondo said the best codes of conduct could only be effective if they were properly implemented. He added that there was a need to develop a culture of no tolerance for unethical behaviour.

National Council of Provinces Chairperson, Ms Thandi Modise, hoped there would come a time when MPs will declare their interests automatically without being prompted.

She said public representatives must be able to say: "I am not ashamed to declare what I have because I got it honestly. As public representatives, what we say and what we do must find expression in how we earn, how we use our earnings and how we display our conduct. The Code of Conduct speaks to transparency, speaks to honesty in our definition of a leader. I always think that the first big word we must use is not vision. It is honesty. Can I trust this person?" she said.

Ms Modise advised the Committee to relook at the language in the Code, which she said at times creates confusion. "MPs have said sometimes it becomes difficult for families to work because one of them happens to be in the Executive or in Parliament. We need to be sure that what we say is good behaviour does not violate the rights of others, simply because they are related to me," she said.

Ms Fazela Mahomed, the Registrar of the Joint Committee, said the Code of Conduct is part of the Rules of Parliament and a system based on what she calls "peer review". She said the purpose of the Code is to hold MPs accountable in their exercise of public power, determine acceptable behaviour and help MPs conduct themselves appropriately as public representatives.

"It also seeks to establish minimum standards of behaviour, promotes values enshrined in the Constitution, reduces secrecy and ensures that MPs' personal interests are open to public scrutiny," she said. She added that the consequences of improper conduct could ruin an institution.

Co-Chairperson of the Joint Committee, Mr Aumsen Singh, said it was important for public representatives to ensure public trust. "Politicians are generally seen as suspect so we have to earn their trust, not only by following the book but also through our personal habits," said Mr Singh.

He said it was important for elected public representatives to conduct themselves in a manner that inspires public trust. Stakeholders in the ethics sector should focus on creating awareness of the level of ethical conduct that is expected from elected public representatives and ensure that the expected ethical level is adhered to, he said.

He said it was the Joint Committee's responsibility to assist MPs where they need help. "Our responsibility is to implement the Code where there is improper conduct. We must also create a climate of trust within a multi-party Committee so that it is not used for political games.

"The Code will only be effective if we ensure its proper implementation. It is easy to craft and produce documents. Those who are guilty of improper conduct must face the consequences," he said.

The workshop agreed that it was important for all spheres of government to discuss the concerns of the public and build a culture of ethics within all state institutions. MPs, MPLs and councillors who attended the workshop agreed that elected public representatives should always make ethical decisions for the benefit of the country and its people.

The Co-Chairpersons said two workshops will be organised with stakeholders in the ethics sector by the end of 2015. The Committee has already held similar events at the Gauteng Legislature, the City of Johannesburg and Sedibeng Municipality and will extend these workshops to other provinces. 🌍

# Gender inequality blocks development – Speaker

**This** *an edited version of the speech delivered by the Speaker of the National Assembly, Ms Baleka Mbete, on the occasion of the Inter-Parliamentary Union 10th Women Speakers conference in New York: Development and Innovative Financing on Gender Equity.*

Twenty years after Beijing, no country has achieved gender equality. From the African perspective the success of the post-2015 development agenda will be best tested through the successful implementation of regional programmes such as the Agenda 2063, through which the African leaders are determined to eradicate poverty in one generation and build shared prosperity through social and economic transformation of the continent.

Within that context, Financing for Development must help us to achieve gender equality. The full realisation of the human rights of women and girls is essential to achieving sustained, inclusive and equitable economic growth and sustainable development. In other words, no country can be recognised for economic growth when its women and girls are lagging behind.

We cannot promote women's economic empowerment or achieve broader development goals unless we really tackle the structural inequality and discrimination. Unequal power relations between women and men, and deeply held attitudes and beliefs and gender stereotypes, continue to underpin and reinforce gender inequality.

We are therefore very pleased that the Sustainable Development Goals (SDGs) include a strong, dedicated gender equality goal, goal 5. It addresses key structural constraints to gender equality, including gender-

based discrimination; violence against women and girls; harmful practices such as child and forced marriage; women's disproportionate share of unpaid care work; lack of equal participation in decision-making in political, economic and social life; and lack of access to sexual and reproductive health.

The three key issues are: First, we must ensure that we have robust data and evidence that can demonstrate whether progress is being made, and for whom. Data for all targets and indicators in the post-2015 development agenda must be disaggregated by sex, income, social group, age, disability and socioeconomic status, to really capture inequalities and disparities.

As the South African Parliament, we will be meeting with the Statistician General, on the roll out of the 52 standard indicators for gender equality and women's empowerment.

This must include 19 important indicators on economic structures, productive activities and access to resources, together with the nine standard indicators for violence against women, which have been adopted by the United Nations Statistical Commission. As Parliaments, we must make sure that we are ready to measure what we will be implementing, from 1 January 2016.

Second, our Parliament, has established a focal point specifically related to the implementation of our National Development Plan, which is our 30-year development roadmap. In this regard, we will be engaging the Executive on specifically localising the goals and targets, and ensuring the mainstreaming of these targets.

Most urgently, we must amend or overturn laws and policies that continue to discriminate against women. In this regard, our Parliament, will undertake an assessment of our Equality Legislation, together with civil society and the broader women's movement.

Third, we must have adequate investment in gender equality and women's rights. Gender budgeting is a vital tool to ensure that new commitments to gender equality become a reality. Through our Parliamentary Budget Office, relevant Committees, and our Multi-Party Women's Caucus, we will re-introduce gender-responsive budgeting.

In this regard, we will also be collaborating with provincial legislatures to ensure that we work together across the spheres of government. In South Africa we work together as the legislative sector through a networking mechanism called the Speakers' Forum.

In eight of the nine provinces the Speakers are women. At national level the Presiding Officers are two women. In addition to two male Deputies there are five further Assistant Speakers, three of whom are women.

As the post-2015 development agenda is adopted in the coming weeks, and as governments prepare for implementation, we have a once-in-a-generation opportunity to invest in gender equality, women's rights and women's empowerment, including women's economic empowerment. We cannot afford a slow start. We must see action to inspire action. 🌍

# Women united in moving South Africa forward

**During** *the apartheid era South African women worked hard to secure equal rights for all, a campaign that culminated in the famous 1956 Women's March. A joint sitting on Women's Day was held in August to commemorate this milestone, which underscored women's inalienable right to liberty and pursuit of self-determination, writes Abel Mputing.*

The sitting debated the theme "Women United in Moving South Africa Forward" and was an opportunity to reflect on how far women had come and on the challenges that remain, said the Minister of Women in the Presidency, Ms Susan Shabangu.

This year's debate coincided with the President's release of the Report on the Status of Women in the South African Economy. One of the recommendations it makes is that the economic cluster must ensure that women's access to ownership of land and property is fast-tracked.

"Our commitment as the Ministry in the Presidency is that women's issues and gender equality can no longer be attended to only in August. Hence among other things, we have launched a #365 days campaign; strengthening ongoing partnerships and regular dialogues. Our approach is to link ongoing work for women's socio-economic empowerment and gender equality into all the programmes of government, private sector and civil society," Ms Shabangu said.

The #365 days campaign will culminate in the 60th anniversary of the 1956 march, which will be linked

to the African Union (AU) development agenda. "Women's Month kick-starts the mobilisation and celebrations throughout 2016 that will culminate in various festivities of the 60<sup>th</sup> anniversary of Women's Month. Our mobilisation of women is part of the African Decade of Women and we continue to mobilise around the AU theme: "2015: the Year of Women's Empowerment – towards Agenda 2063."

The Democratic Alliance's (DA's) Ms Denise Robinson said: "Women are well represented in the world of politics. However, despite the government's commitment to equal representation, only one premier out of eight provinces is a female and there are very few female mayors in the municipalities. Is it any wonder then that the ANC Women's League declared not so long ago that South Africa was not yet ready for a female president? The idea that a country has to be ready for a female leader is insulting."

To address the lack of women's representation in local government, the South African Local Government Association (Salga) has formed a Women's Commission to advocate



for its 50/50 campaign, said Salga Councillor Ms Nombulelo Hermans.

"Salga has identified the need to support the national developmental goal of women's empowerment and gender equality at local government level, by ensuring that there is continued advocacy of these policies through the establishment of the Salga's Women Commission.

"The Women's Commission seeks to coordinate, promote and advocate for gender-appropriate strategies and practices within municipalities. One of its main objectives is to evaluate the representation of women within the local governance structures through the furtherance of its 50/50 campaign," she said.



**WOMEN UNITED:** Women face a gap between their legal rights and their ability as individuals to claim them.

The DA's Ms Bridget Masango is of the view that there is no shortage of laws to assist women. What is lacking is the political will to implement them.

"African countries are not short of good laws and policies, but we lack the political will to implement them. Among other things, plans should be developed to avoid tokenistic appointments during elections simply to meet quota requirements and also to monitor adherence to international instruments that our countries sign."

One of the greatest challenges facing women's empowerment is their ability to access their legal rights and this is made even worse by our Constitution's

recognition of parallel legal systems that don't complement each other, said the Economic Freedom Fighters' Mr Younus Vawda.

"One of the greatest challenges facing women in much of the world is the gap between their legal rights and their ability as individuals to claim them. This is exacerbated by national constitutions that, although they are increasingly likely to guarantee gender equality, also recognise the authority of parallel legal systems based on custom, religion or ethnic affiliation that often compromise each other."

Gender equity is still an issue to this day, said Ms Cynthia Majeke of the United Democratic Movement. She quoted former General Secretary of

the United Nations, Mr Kofi Annan, to make her point. "Gender equality is more than a goal in itself. It is a precondition for meeting the challenge of reducing poverty, promoting sustainable development and building good governance."

Echoing Ms Majeke's sentiments, Mr Mntomuhle Khawula of the Inkatha Freedom Party claimed that women make better statespeople than their male counterparts. "For example, it is during Dr Nkosazana Dlamini-Zuma's term that the AU has developed a vision for Africa, Agenda 2063. Secondly, the Office of the Public Protector has had male public protectors before but it is only during Adv Thuli Madonsela's term that it got known throughout the country." 🌟



## ‘We, as women, will fight until the end’

**This** is an edited extract of a speech delivered by House Chairperson Ms Thoko Didiza to the Eastern Cape Legislature to mark Women’s Day.

In 1954, women of South Africa met and adopted on 17 April, the Women’s Charter. I want to quote the preamble of that charter.

“We, the women of South Africa – wives and mothers, working women and housewives, Africans, Indians, Europeans and Coloureds – hereby declare our aim of striving for the removal of all laws, regulations, conventions and customs that discriminate against us as women and that deprive us in any way, of

our inherent right to the advantages, responsibilities and opportunities that society offers to any one section of the population.”

This is the preamble of the Women’s Charter which was adopted by the Federation of South African Women. It is through this declaration that these women of our country aimed to claim their rights as full citizens. It is important for me to note that such a chapter carried the aspirations of what

women wanted then but also what women want today in the new South Africa.

A year later, South Africans from all walks of life, men and women, met in Kliptown to declare for all what a new South Africa they wanted for themselves and their children. This was in direct contrast to the realities of the time in which a government, through various statutes, had disenfranchised the majority of its citizens. Together, in agreement, they said, South Africa belongs to all who live in it, black and white. It is this vision and roadmap which all of us aspire to in the new South Africa.

Through their sweat and blood, they worked tirelessly to fulfil these aspirations. Today we have inherited a country in which we are full citizens. It was women in 1956 who worked tirelessly to say never can we carry



**MONEY TALKS:** True equality for women is only a reality when women have the means to properly support themselves and their families with jobs that pay them enough to live with dignity.

those women like Seraai, who knew and understood that while she could not bear a child, she would be able to go the extra mile so that Abraham had an heir.

It is this kind of fearlessness of the women like Ms Harriet Colenzo who in 1910 mobilised the majority of those in South Africa who believed in pan-Africanism and said "We have to form an organisation that will represent the people to fight for our freedom."

Remember it was during those years when the apartheid government, the Union government at the time, took away land illegally in 1913.

In 1955 in Kliptown, all democratic-loving South Africans proclaimed and said "the people shall govern". I want to quote this clause. "Every man and woman shall have the right to vote for, and to stand as a candidate for all bodies which make laws. All people shall be able to take part in the administration of the country. The rights of people shall be the same, regardless of race, colour or sex. All bodies of minority rule, advisory boards, councils, shall be replaced by democratic organs of self-government."

Reflecting on these words of our forebears, 60 years ago and the adoption of our Freedom Charter, we can say all of us in this assembly, that indeed, the people are governing. We stand here as women having attained our right to vote and be voted for.

It is these aspirations that we continue to work towards in order to attain a South Africa that belongs to all who live in it. We meet here, just fifty nine years after the march to the Union Buildings, where South African women of all races, cultures, religions and creeds, came together to say "no" in carrying passes as a symbol of oppression and segregation.

It is 21 years since February 1994, when the Women's Charter for effective equality was adopted by the Women's National Coalition in which South African women affirmed and claimed their full citizenship of a democratic South Africa. Indeed, it is an honour to be with you today as a representative of our people in a democratic South Africa that our forebears fought for.

Today, we are the inheritors of freedoms and liberties that were denied to our forebears and many of us. Today we can say without fear that we are citizens of a free South Africa. We understand that in the many years of discrimination that we have endured, it will take years to eradicate poverty, discrimination and under-development. However, seated here, we can all say the journey has begun and we are on course.

If you look at the problems of Parliament and the Legislatures today, it has factored in that reality that we have children and families, something which was not heard before. Women in South Africa have recognised that the struggle for women's emancipation will not be fulfilled unless they also work beyond political parties, beyond religious formation, beyond culture.

We have not forgotten that we are women and we represent the interests of the womenfolk in this country. There are times when we are able to put aside our differences and say together we want to make a difference to create a better South Africa for our children.

It was the same spirit in the 1980s when women in the Black Sash held hands with women whose children were detained, were in jail, were in exile and said "not in our name". It was those women whose children were conscriptees who said "not in our name. What war are our children fighting?" 🙏

an identification that can exclude and oppress some of us.

It reminded me of a queen of Africa, in Ghana, when they were fighting the British. When their king was taken away, she realised that men were quiet, were scared, and as she sat amongst them, she said: "Our king has gone, and here you are seated. If you are scared, we as women will fight until the end to attain our king and our freedom."

It is those women, like the famous Queen of Sheba, who ruled Abyssinia, today Ethiopia, a fearless woman, who led many in the world, including King Solomon, to ask how has this woman ruled her land.

Many of those generation of women have taught us how it is to be tough but gentle. It is those women like Naomi and Ruth in the Bible. It is those women like Esther in the Bible. It is



Members of the public share their views with members of the Portfolio Committee of Cooperative Governance and Traditional Affairs and provincial and municipal leadership in Tswaing in North West province.

# NCOP travels countrywide to hear the people ‘first hand’

**The** *National Council of Provinces (NCOP) recently conducted a week of oversight in the provinces to assess service delivery and administration in municipalities. The InSession team travelled with them and report on activities of the various delegations.*



*Provincial intervention seems inevitable in Ventersdorp and Tswaing local municipalities, but it is the NCOP that remains the final arbiter on whether the North West Provincial Executive Cabinet should be granted permission to proceed with placing these municipalities under provincial administration, in terms of Section 139(1)(b) of the Constitution, writes Temba Gubula.*

This principle, according to Mr Jihad Mohapi who chairs the Select Committee on Cooperative Governance and Traditional Affairs, is not unique to North West, but it is a rule applicable to all provincial governments that intend to invoke the provisions of Section 139(1)(b) of the Constitution to beleaguered municipalities.

The Committee, as directed by legislation, embarked on fact-finding missions to Ventersdorp and Tswaing municipalities to ascertain the justifiability of invoking Section 139(1)(b) of the Constitution against these municipalities.

According to North West MEC for Local Government and Human Settlements, Mr Collen Maine, the intention of putting these municipalities under provincial administration is meant to guide them out of their dismal financial management and leadership performance, unhealthy labour relations, weak internal controls, flouting of supply chain management regulations, among other things.

Mr Maine said these irregularities, inefficiencies and poor performance led to deplorable levels of service delivery and thus necessitated the provincial government to take action and write to the NCOP in April this year to seek

approval for putting these municipalities under provincial administration.

Residents and stakeholders at these municipalities corroborated the concerns highlighted by the MEC, as their desperation for functional and viable municipalities was not only visible in their dejected faces, but also throughout their interactions with Committee members.

In Ventersdorp such an intervention seemed inevitable as the Committee, for example, heard from the Independent Municipal and Allied Trade Union and the South African Municipal Workers' Union who spoke about the difficult situation, which resulted from a dysfunctional Local Labour Forum, the appointment of unqualified personnel, non-adherence to the Occupational Health and Safety Act, lack of training and of the tools of trade.

The South African National Civic Organisation and ward committee members complained about dormant public participation where a year has passed without some councillors holding meetings with their respective wards. Irregular appointment of service providers was said to be a contributing factor to substandard service delivery. Residents at the meeting still complained about the lack of water and sanitation.

Following the application for the intervention in April this year, the MEC appointed and seconded an administrator and an acting municipal manager to turn this municipality around by May this year. This partnership has been able to make some strides by developing a revenue enhancement strategy, stabilising relations in the council, resuscitating labour engagement forums and

ensuring that senior managers signed performance agreements, as well as making a start in paying off their Eskom debt and other debts.

The municipality had also put in place plans to refurbish the ageing water and sanitation infrastructure and sort out all contractor-related challenges to ensure that residents get the quality service they deserve.

It has not been smooth sailing though for the intervention teams at these municipalities, as water and sanitation challenges were still abound. Despite the marked improvement in the provision of these basic services, some areas were still without them.

Committee members of the Select Committee wanted these municipalities to address deficiencies in public participation as most community members complained that Integrated Development Planning and budget processes were conducted without their involvement. The Committee condemned this and called on the municipalities to fix this as soon as possible.

Committee members also expressed their concern about revenue collection enhancement, income generation and debt recovery strategies and advised the municipalities to focus on this. The Tswaing Local Municipality, for example, is owed R18m by the Ngaka Modiri District Municipality. The Committee will engage with National Treasury and national Cogta to assist the municipality to recover the money.

Having concluded its fact-finding mission to Tswaing and Ventersdorp municipalities, the Committee will deliberate on the report and advise

the NCOP on how to proceed with the application of the North West Provincial Executive Council to invoke Section 139(1)(b) of the Constitution against these two municipalities.

*A fact-finding mission on economic growth to the North West Province means one thing: mining, mining and more mining. The Select Committee on Trade and International Relations heard of a stagnant industry as a result of dropping commodity prices. Mine companies intend retrenching workers and some are scaling down with a view to shutting down operations. It is bleak out there, writes Sibongile Maputi.*

The Committee undertook a week-long visit to North West's Bojanala district in an attempt to understand the challenges that hamper economic growth in the province. The visit was also meant to ascertain shortcomings in implementing national programmes of government and addressing key priorities as articulated in the National Development Plan (NDP).

The Chairperson of the Committee, Mr Eddie Makue, said the Committee also wanted to track progress on various initiatives of leveraging employment creation and export earnings from beneficiating locally mined minerals, tourism development and agro-processing. "Agricultural economy is crucial in a rural province like the North West. Another important aspect of growth is manufacturing as globally it is the driver of economies. The Committee is here to learn first-hand the challenges the province has, especially in the Bojanala district," Mr Makue said.

The Committee heard how harmful the pending retrenchments would be to the North West economy. "Mining contributes the highest to the economy not only in the North West

but also in the country. Rustenburg's 46% share of the economy is from mining and Moses Kotane's around 18%. The district is looking to new mines to lift the economy. We believe more opportunities will be created and economic spinoffs will increase," the Acting Bojanala District Municipal Manager Mr Tsatsi Ramagaga said.

"Dependence on mining will impact negatively on the area. These mines will be depleted in the next 50 years or so. The municipality has to look at other means of production," Mr Ramagaga said.

He said there was a need to ensure that mining companies stick to the Mining Charter, and that municipalities are involved in awarding mining licences, but also have an input in social labour plans of mining companies.

Member of Mayoral Committee on Economic Development, Councillor Sheila Mabale-Huma, agreed and said Lonmin has announced its intention to retrench about 6 000 workers. "Other mines are scaling down and considering closing operations. This will affect the financial viability of the municipality even further," she said.

Committee member Mr Boingotlo Nthebe said the district and the province need to be at the forefront of putting meaning to what local beneficiation of minerals mean. "South Africa is a developmental state and that means the state intervenes in sectors when there is a need to do so. The province should bring tangible meaning to localisation in the mining sector. Platinum recycling is one feasible area you could consider," Mr Nthebe said.

He said value adding, beneficiation and localisation will avoid the pending mass retrenchments in the mines.

Committee member Mr Fana Mokoena agreed and said the mining sector is in trouble and that experts warn that the sector is not likely to come out unscathed. "The proposed special economic zone (SEZ) is looking to employ 900 people and yet the unemployment rate is above 40%, translating into about a million job opportunities that need to be created. This is a challenge, and add to it what is happening to the mining sector," Mr Mokoena said.

He said emerging economies were now diversifying and were moving away from being single-commodity economies. "This is a trend and the North West should be moving in that direction. What are you doing to diversify, to create more jobs to at least get closer to the required million jobs? You should up the ante," he said.

"You need to be aggressive in diversifying the economy of mining towns so that you do not follow the route of many mining towns that have become ghost towns," he said.

The province said the plan is that all platinum beneficiation will be done locally. Electricity and water were highlighted as challenges but the province is working hard to have those in place when the SEZ begins.

*The NCOP's Select Committees on Appropriations and Finance are concerned that delays in completing government building projects are severely affecting service delivery and putting a strain on government budgeting through increased costs as a result of the extended deadlines, writes Sakhile Mokoena.*

During a joint oversight visit to the province of KwaZulu-Natal, the Committees were shocked to learn that work that started over 15 years ago



**DIVERSE ECONOMY NEEDED:** The Chairperson of the Select Committee on Trade and International Relations, Mr Eddie Makue (far right) with other members of the Committee visit the Pilansberg Airport in North West.

to renovate the King Dinuzulu Hospital Complex in Durban, through the government's Hospital Revitalisation Grant, was still nowhere near completion.

The Department of Public Works' officials told the Committees that total expenditure from 1997 to July this year for the construction of the hospital complex came to a total of more than R988m. "A 15-year delay is unacceptable. How do you explain a delay of 15 years? That means for all these years public money has been spent incorrectly. There is no bottomless pit of money. We need to correct our attitude towards the spending of public money. If we are not able to spend correctly, the taxpayer is not going to receive the services," said Ms Tasneem Motara, Whip for both Committees.

She said delays often resulted in additional costs and overspending, which meant that one project was taking from other priorities. We need to take better responsibilities and avoid unexplained delays and roll-overs," she said.

Hospital Chief Executive Officer Dr K Naidu, told the NCOP delegation the delays in the completion of the TB ward had a negative impact on the delivery of services and increased the risk of contagion.

Dr Naidu said the construction of a hospital with patients on-site is very difficult and advised that it must not happen again anywhere else. "At times we had to move patients to other hospitals to make way for construction," the CEO said.

The delays in the construction of the hospital were blamed on continuous structural changes due to design adjustments, as well as liquidation of on-site small contractors.

The Chairperson of the Select Committee, Mr Seiso Mohai, said it was a great concern that there were major projects in South Africa that took too long to complete. "Infrastructure development is key for the economic development of the country, but it cannot be correct to have projects that take forever to complete," he said.

This view was echoed by his counterpart in the Select Committee on Finance, Mr Charl de Beer, who gave the example of a mental hospital that has been under construction for 11 years in the Northern Cape. "The construction of the mental hospital in the Northern Cape started with a budget of R200m and now 11 years later, costs have increased to more than a billion rand and the project is still incomplete. Nobody can explain what happened to the R1bn," said Mr De Beer.

The delegation also visited other beneficiaries of the Hospital Revitalisation Grant in the province, Edendale Hospital in Pietermaritzburg and Ngwelezane Hospital at Empangeni, where the delays were considered reasonable.

The Committees also conducted oversight on the spending of the Municipal Infrastructure Grant for the provision of water and construction of roads and the School Infrastructure Grant.

Mr Mohai said the aim of the



**BREAKING NEW GROUND:** The completed phase 1 of the housing project in Marikana Extension 2 in North West.

oversight visit was to look into expenditure and evidence of the spending.

“If what you (municipalities and departments) are spending on translates into expected outcomes (government plans) and whether there is value for taxpayers’ money, we are mandated by the Constitution to conduct oversight to ensure accountability,” he said.

KwaZulu-Natal is drought-ridden and the Mkhanyakude District is the hardest hit with a huge water problem, especially in the rural areas.

The construction of the R205m Jozini Water Treatment Plant is expected to bring relief in the region once completed. Officials from the Department of Cooperative Governance and Traditional Affairs estimate that R42bn would be required to supply every citizen of the province with clean running water.

*The additional power of 800 megawatts (MW) into the national grid, generated daily from Unit 6 of*

*the Medupi Power Station alone, has increased the stability of Eskom’s power system. The company has provided uninterrupted power supply for at least two weeks, writes Justice Molafo.*

This was the news from Eskom’s Acting Executive for Group Capital, Mr Abram Masango, when he briefed members of the Select Committee on Communications and Public Enterprises when they visited Medupi in Lephalale, Limpopo Province.

The Medupi Power Station, one of the biggest projects in the country with a budget of R105.3bn, is a coal-fired power plant comprising six units rated at 800MW each. With the construction of Unit 6 having been completed and handed over to Eskom, the constructors are now focused on completing Unit 5 by March 2016.

The Select Committee, under the leadership of Ms Ellen Prins, visited the power station in order to assess progress, its impact on the local community and talk to the executives of Eskom as well as other stakeholders.

The meeting started off with Ms Prins delivering opening remarks, in which she clarified the purpose of the visit, saying the Select Committee needed to satisfy itself regarding the progress taking place on the ground.

“This project is of national importance and key to the Select Committee in the sense that the country’s economy is dependent largely on the efficient and sustainable power supply,” she said.

The Committee then had a site inspection of the plant, during which Eskom executives reported that unit one, the last unit on the construction line, is expected to be completed by December 2018.

Members of the Committee were satisfied to hear during the Eskom presentation that lessons learnt during the construction of Unit 6 will be applied during the construction of the other five units. They were also pleased with the number of jobs the project has created in the communities of Lephalale and Marapong.

The project has created 18 000 direct

jobs and 2 000 indirect jobs since 2013 and members of these communities have contributed 100% in unskilled and 45% in semi-skilled labour. Approximately R55.86bn has been spent on local procurement, of which R2.3bn was invested in community projects, including housing, roads, bridges, electricity, a sewerage plant, community halls and classrooms.

The Committee also met with representatives of stakeholders including traditional leaders, businesses, people living with disabilities, youth and civic organisations. The meeting took place at the Lephalale Local Municipality council chamber, and all three spheres of government plus the Limpopo Legislature were represented.

During the meeting, the stakeholders agreed that Medupi has made a positive contribution to the economy of Lephalale, but they had many complaints. A headman from Marapong Village, said his people continue to be overlooked for vacancies at Medupi.

Ms Rata Modiba, representing people living with disabilities, complained that disabled people are not fairly represented in the Medupi workforce. "We also need to be empowered," she said.

Mr Mmupi Moloto, who represented the youth, lamented the numerous challenges facing the youth in Lephalale. "Our challenge is lack of economic transformation, lack of skills development, Eskom's recruitment criteria, internships and bursaries," said Mr Moloto.

He explained that Eskom's requirements for bursaries and internships are too high for most of the youth and they (the youth) are not able to make use of the opportunities.

After everyone was given an opportunity to speak, the Committee resolved to extend an invitation to Eskom, the provincial legislature, the municipality and all the stakeholder representatives to discuss the establishment of a working committee. The Committee would oversee the implementation of social labour plans by Medupi and Matimba power stations as well as Exxaro mine, which is a sole provider of coal to both stations.

*The Select Committee on Social Services is impressed with progress made towards completing the housing project in Marikana, North West. The Committee is on a joint week-long oversight visit to North West and Gauteng to assess progress on service delivery, writes Malatswa Molepo.*

The Committee commends the Department of Human Settlements on the inspiring Phase 1 of the housing project in Marikana Extension 2. The Committee is impressed with the workmanship and has called for the project to be replicated in future projects across the country.

"As the Committee, we are pleased with the size as well as attention to detail we have witnessed. We are of the view that the houses will go a long way in restoring the dignity of South Africans who have long suffered in sub-standard temporary structures," said Ms Cathy Dlamini, the Chairperson of the Select Committee of Social Services and leader of the delegation.

While the Committee is impressed, it has cautioned against any manipulation of the list process. "Every recipient should receive a house based purely on merit and not on the basis of relation or acquaintance to people in positions of authority," Ms Dlamini emphasised.

Furthermore, while the Committee acknowledged the challenges that affected the delivery of the project on time, the Committee urged the department to ensure that the October deadline was met. "All the more than 500 rental as well as Breaking New Ground units must be occupied by December," Ms Dlamini said.

The Committee further commended mining companies that have contributed in one way or the other to ensure the project succeeded. The Committee is of the view that it will be only through a collaborative effort between government and the private sector that the project to revitalise mining towns would be a success.

Meanwhile, the Select Committee on Education and Recreation has welcomed the creation of teacher development centres in the North West. The Committee is cognisant of the need for teachers to be re-skilled from time to time and view these centres as central in improving the quality of teaching and learning.

The Committee has nonetheless cautioned against opening many centres while it faces financial constraints. Proper planning should ensure that the little financial resources the department currently has, are used for maximum impact.

The Committee was further informed that both the Departments of Education and Health were under administration and resolved to invite both departments to Parliament to brief the Committee on reasons that led to their departments being placed under administration. This briefing will be done in collaboration with the respective Provincial Legislature Portfolio Committees. 🇿🇦

# Bill set to improve SA's health care

**Protecting** *South Africans against dangerous medicines and related substances depends largely on the existence of an effective health regulatory authority, the Chairperson of the Portfolio Committee on Health, Ms Lindelwa Dunjwa, told Members of the National Assembly (NA) during the debate on the Medicines and Related Substances Amendment Bill in the National Assembly recently, writes Mava Lukani.*

Ms Dunjwa said South Africans should always be certain that medicines and related substances they buy are safe. "The amendment of the Medicines and Related Substances Act (Act No 101 of 1965) will ensure that people receive medicines that are safe and effective. The same goes for medical devices that are of good and effective quality," Ms Dunjwa said.

She told NA MPs that the Bill came before the Portfolio Committee on Health in September 2014 and after discussing the Bill and conducting public hearings, the Committee adopted it in August 2015. She said the Bill would introduce a shift in the regulation and control of medicines and medical devices.

"The Bill will create the South African Health Products Regulatory Authority (SAHPRA), which will replace the existing Medicines Control Council (MCC). The current MCC Committee will be replaced by a separate board that will oversee the work of SAHPRA."

Addressing the MPs during the debate, the Minister of Health, Dr Aaron Motsoaledi, said he was delighted to speak on a subject that strengthens the country's medicines

regulatory authority. "It is the role of a national medicines regulatory authority to guarantee the quality, safety and efficacy of medicines made available to the public," Dr Motsoaledi said.

He said the establishment of a new medicines regulatory authority in South Africa has been on the table for a few years as the current MCC is insufficient to manage the workload of reviewing and considering the ever-growing number of medicines applications. The MCC receives between 1 200 and 1 600 applications a year. Dr Motsoaledi also said in vitro diagnostic medical devices are among the products that previously have not been fully regulated in South Africa.

The new national medicines regulatory authority will have a mandate that will include management of the registration, regulation and control of medicines, complementary medicines, clinical trials, active pharmaceutical ingredients, medical devices and in vitro diagnostic (IVD) devices.

"The decision to establish SAHPRA as an organ of state within the public administration but outside of the



public service to regulate medicines and medical devices was taken in late 2007 and resulted in the Medicines and Related Substances Act, 1965 (Act No 101 of 1965) being amended by the Medicines Amendment Act, 2008 (Act No 72 of 2008)," Dr Motsoaledi said.

He assured MPs that SAHPRA will address the challenges of access to safe and affordable medicines and medical devices of good quality by improving efficiencies in the current system and fast-tracking the registration of priority public products. "An efficient SAHPRA will make essential medicines and products more readily available and potentially reduce prices through increased competition and licensing of generic



**SAFETY IS A PRIORITY:** One of the roles of the government is to ensure that South Africans have access to safe and effective medicines.

products,” Dr Motsoaledi explained. The Bill provides for the composition of the board of SAHPRA, including among other things, the appointment of board members and its chairperson and vice-chairperson, disqualification of board members, meetings of the board and the appointment of various committees as well as the board’s dissolution.

The Bill also empowers the board to appoint a chief executive officer (CEO) after consultation with the minister – and to require the CEO to conclude a performance agreement with the board and to make the CEO accountable to the board. In addition, the Bill allows the Minister of Health to prescribe acceptable and prohibited acts in consultation with the Pricing

Committee on matters relating to subsidising of medicines, medical devices and IVDs according to any rebate or incentive scheme.

NA MPs welcomed and supported the new amendment to the Act, as it was designed to strengthen drug regulatory capacity especially for inspection, quality control and laboratory work. NA MPs also highlighted the problem of the vacancy rate in the health care sector and urged Dr Motsoaledi to ensure that vacancies, especially of doctors, are filled.

A 2013 South African Institute of Race Relations survey showed a 56% vacancy rate for doctors and 46% for nurses in the public sector.

“If SAHRA follows this broader trend of staff deficiency it will become an anaemic and ultimately dysfunctional organisation,” said the Democratic Alliance’s NA MP Dr Heinrich Volmink.

Dr Volmink agreed with the Committee Chairperson Ms Dunjwa that the Bill had gone through a rigorous Committee process. “This is testimony to what can be accomplished if we work towards a common purpose and the Chairperson’s hard work in this instance should be recognised,” said Dr Volmink.

The Bill was adopted by the NA and will now be transmitted to the National Council of Provinces for concurrence. 🇿🇦

# New strategies to improve service delivery

**Ongoing** *service delivery challenges have motivated the Department of Cooperative Governance and Traditional Affairs (Cogta) to find strategies for the effective provision of services in local municipalities. It shared these plans with the Portfolio Committee on Cooperative Governance and Traditional Affairs, writes Abel Mputing.*

The Minister of Cogta, Mr Pravin Gordhan, told the Portfolio Committee on Cooperative Governance and Traditional Affairs that some of the barriers to service delivery are a lack of infrastructure and capacity. To address these problems, Cogta has proposed a two-pronged strategy that will reconceptualise the Municipal Infrastructure Grant (MIG) and promote the Back-to-Basics campaign as Cogta's integrated social service delivery approach.

"[MIG] was a Cabinet decision and to date it is the largest local government infrastructure development funding in South Africa that has dispensed approximately R104bn over 12 years. It provides municipalities with a consolidated capital grant that allows them the flexibility to prioritise infrastructure investment needs according to their circumstances, and in line with norms and standards set by national government departments," Mr Gordhan said.

Twelve years on, there are now calls for a review of the MIG to address changes in priorities and delivery

approaches, said the Senior Manager for Municipal Infrastructure Policy in Cogta, Mr Werner Heyndreich.

The outcome of the review advocated two MIG streams that will take into consideration different realities rather than a one-size-fits-all approach, he said. "The first phase of the MIG constitutes a project-based approach. Its second phase has less conditionality and is monitored based on overall capital programme and achievement of agreed outputs, rather than on a project-by-project basis. It has also introduced the Infrastructure Investment Plans as a condition for municipal allocations to ensure that selected MIG projects form part of Integrated Development Plans and are in line with the sustainable capital expenditure of respective municipalities."

The Chairperson of the Portfolio Committee on Cooperative Governance and Traditional Affairs, Mr Mzameni Mdakane, said the review gave the department space to determine how best to align the MIG to government service delivery imperatives.



"Twelve years down the line it was necessary for CoGTA to review the MIG's impact on service delivery. Its realisation of the ineffectiveness of piecemeal infrastructure grants in addressing some of the challenges that municipalities are faced with is encouraging. It shows that the department's finger is on the pulse of some of the bureaucratic constraints that need to be addressed for municipalities to be effective. The main intervention needed is to consolidate the grant into a multiple-year grant to allow municipalities to plan ahead."

He believes MIG's role should not be limited to the provision of water and sanitation and should extend to the





**BACK-TO-BASICS:** Municipalities are at the coalface of service delivery in South Africa.

development of local economies. "The lasting impact of the MIG will be measured on how it instigates the development of local economies ... It is critical to ensure that local municipalities realise their economic potential. Our country's economic growth is, in a way, aligned to the economic growth of local municipalities. The two are not divorced from each other because many investment portfolios fall within the jurisdiction of local municipalities.

"If municipalities manage their investment portfolios correctly, that will impact positively on our national growth index," Mr Mdakane said. To make a meaningful impact on municipalities' effectiveness, Cogta

also believes the Back-to-Basics concept is in need of review, said the Deputy Director-General of Cogta, Mr Themba Fosi.

Back-to-Basics is aimed at helping different components in local municipalities to work together well and provide effective, integrated and well-designed services. In the 12 months since its inception, the Back-to-Basics campaign has identified a lack of sound institutional competency and, to some extent, political instability as key areas of concern, Mr Fosi said.

"Political instability and weaknesses in governance are two of the primary causes of poor service delivery at

municipal level. Most of all, those who occupy middle management in municipalities are not adequately skilled and this leads to weaknesses in functions such as financial, human resources and supply-chain management."

The Committee Chairperson, Mr Mdakane, believes that Back-to-Basics is significant because it creates awareness about the importance of getting the bureaucracy of municipalities right.

"We have to ensure that the municipal spade works and to get that right we have to ensure that its bureaucracy is efficient. It is important to get that right because politicians come and go, but the bureaucratic machinery of the state remains. And if the bureaucracy of the state cannot deliver on its mandate, the state won't be able to meet its developmental agenda or in this case its socio-economic imperatives."

Now that the challenges have been captured in the MIG and Back-to-Basics frameworks, inter-governmental relations must be coordinated to create the necessary synergy required to make local government work, Mr Mdakane said.

"To ensure that this sector works is not only the responsibility of Cogta alone. Other departments have their role to play, because for local government to work we need to have a viable cooperative governance."

"We cannot allow this sphere of governance to fail," Mr Mdakane said. 🇿🇦



**LIFE-LONG LEARNING:** Adult education is an important responsibility of the Department of Higher Education and Training.

## Community education and training is key to success

**The** *Portfolio Committee on Higher Education and Training has highlighted the significance of community education and training (CET) centres in ensuring that South Africans have increased access to post-school education and training opportunities, writes Elijah Moholola.*

The learning centres, which were previously known as adult education training (AET) centres, were officially transferred from the Department of Basic Education to the Department of Higher Education and Training (DHET) with effect from 1 April this year. However, the migration process resulted in a number of challenges,

one of which was that several CET educators complained that they had not been paid.

At a meeting in August, the DHET led by Director-General Mr Gwebinkundla Qonde briefed the Committee on the transfer process and the measures put in place to address various problems

in the process. These challenges related mainly to queries around the remuneration of the CET educators, with cases being prevalent in at least seven provinces. Committee Chairperson Ms Yvonne Phosa said the department needed to urgently work on dealing with any challenges that were still outstanding in the CET sector.

“The Committee noted with concern the delays in the payment of claims and/or salaries of CET educators in different provinces since the migration of the former AET centres to the DHET. The Committee would

like an in-depth understanding on harmonisation of conditions of service of CET educators and various other interventions implemented by the department to address the challenges in the CET sector," said Ms Phosa.

She added that the CET sector was vital for people who have not completed school and needed a second chance.

"According to the latest Statistics SA report, 3.5 million young people were not in employment. Education or training and CET centres can offer people opportunities to be economically active. It is therefore vital for the department to prioritise the CET sector and resolve the outstanding challenges."

The DHET's report indicated that by 1 April 2015, 19 290 posts had been transferred from the Department of Basic Education. As of 31 July 2015, the DHET had received 269 queries from CET staff, mostly related to human resources administration (216) and salaries (139). Of the salary queries received, 124 have been resolved.

The DHET's plans to make the remuneration process more efficient include decentralising data capturing of bulk uploads at district level; filling more posts; reviewing the claims payment method; investigating the underlying causes of the salary queries; and harmonising conditions of service.

Mr Qonde indicated that most of the challenges relate to poor management at the CET centres. "Spaza shops are not something that one thinks of when it comes to basic administration, but through this

process we can say that some spaza shops are managed far better than some of the centres we visited during the process.

"We cannot explain how some of the things happened, but we are attending to those issues. It is not easy, but we are determined that we are going to succeed," Mr Qonde said.

The Committee further expressed concern about the department's non-achievement of targets for the first quarter of 2015/16, which stood at only 27.3%. The DHET presented its first quarter report in the same meeting.

Ms Phosa said the non-achievement of the first quarter targets posed serious challenges that could impact on the implementation of the National Development Plan, which puts an emphasis on increasing access to education, bridging the inequality gap and ensuring that quality education is offered.

Meanwhile, the Committee also dealt with the issue of backlogs in issuing technical and vocational education and training (TVET) college certificates in a follow-up meeting that saw an update on the matter being presented by the State Information Technology Agency (Sita). As a result of the Committee's intervention, Sita has committed itself to clearing the backlog in issuing TVET college certificates by January 2016.

Sita briefed the Committee on the progress made by the Backlog Elimination Project since July in clearing the National Certificate Vocational backlog, which stood at 192 000. In August, 129 932

certificates were still outstanding.

While Sita had initially committed itself to eradicating the backlog within 12 months when briefing the Committee in June, this has since been revised at the Committee's insistence and a new deadline was set.

Ms Phosa said: "The bottom line is that we would like to see the certificates backlog being cleared and to have a zero certificate backlog thereafter. We must commend Sita for implementing the Committee's resolve to reduce the period of clearing the current backlog from 12 months to six months.

"We also commend the good relationship between Sita, Umalusi and the DHET through a collaboration strategy that will ensure sustainability of zero certificate backlog even beyond January 2016. What is key is their alignment and working collaboratively in ensuring a quick issuing of certificates," she said.

Sita's Chief Executive Officer, Dr Setumo Mohapi, indicated that the certificates backlog from 2007 would be cleared by December 2015, and that certificates from November 2015 exams would be issued by the end of January 2016.

One of the factors contributing to the backlog in issuing certificates is the increasing number of students registering at TVET colleges, which has revealed weaknesses in the old system of issuing certificates. Furthermore, Sita did not have the capacity to carry out this function effectively and there have been problems in the data verification process. 🌐

# Local government drives development agenda

The performance of local municipalities is the focus of the National Council of Provinces' (NCOP's) Local Government Week that took place in August at Parliament, writes Abel Mputing.

In keeping with its 2015 theme, "Celebrating 15 Years of Democratic and Transformative Local Government – Entrenching Cooperative Government for People-Centred Development," the Chairperson of the NCOP, Ms Thandi Modise, emphasised the need to come up with new ideas and strategies that will advance the NCOP's role in fostering a cooperative governance.

"This year we have invited the provincial legislatures to be part of the Local Government Week to hold them to account, something which we have not done before. We invited them because local government is also their responsibility; it is their first port of call. We have also realised that our existence here at Parliament comes through our provincial nominations and we have not pointed out what the provincial legislatures are not doing that they are supposed to do. We have the mandate to do that because we are the only institution that can call all spheres of government to account, including the provincial legislatures," Ms Modise said.

The Chairperson of the South African Local Government Association (Salga), Mr Thabo Manyoni, emphasised the fact that local government is key in building a capable state that can dispense its developmental agenda as

stated in the National Development Plan. "Local Government Week comes at a critical moment in our existence because it will help us to take stock of the role that local government can play in improving the lives of our people. It is through an effective local government that we can foster the notion of a capable state. And that is the only way we can achieve our country's developmental agenda."

The Chairperson of the National House of Traditional Leaders, Kgosi Pontsho Maubane, said local government's Back-to-Basics movement is everyone's business, including traditional leaders. Local government needs a strong partnership with traditional leaders to advance service delivery, but the role of traditional leaders needs to be clearly defined for this partnership to be meaningful.

"Section 81 of the Municipal Structures Act prescribes 20% participation of traditional leaders in municipal councils. It is not enough to just determine the numbers without prescribing clearly what the role of traditional leaders in municipal councils is. Our role is to support and complement the work of government and that unique role should be clearly articulated so that our participation in local government can be meaningful."

The Minister of Cooperative Government and Traditional Affairs,

Mr Pravin Gordhan, said all is not doom and gloom. "Although we are conscious of the challenges faced by local government on various fronts, there have been significant achievements over the last 15 years of a democratic local government. The picture that all is bad in this sphere of governance is not a true reflection of its current state of affairs."

One of the strategic initiatives taken by the NCOP in 2010 is the inception of inter-governmental relations to strengthen its mandate of ensuring that there is effective cooperation in all spheres of government, said the Deputy Chairperson of the NCOP, Mr Raseriti Tau. "Although our Constitution realises a need for distinct and independent spheres of government, there was also a need for cooperative and inter-governmental relations for the

NC  
National  
Local

# COOP

l Council of Provinces

# l Government Week



betterment of service delivery. This has been one of the defining roles of the NCOP in advancing the developmental agenda of municipalities," he said.

#### **Gender equity**

In keeping with the Women's Month's principle, the NCOP Local Government Week also debated ways of institutionalising gender parity and gender mainstreaming in local municipalities. Salga is leading the way in this regard, said the National Commissioner of Salga Women's Commission, Ms Sindiswa Gomba.

"The Salga Women's Commission is established to coordinate, promote and advocate for gender-appropriate strategies and practices within member municipalities and feed into regional and continental processes. The Salga Women's Commission is

driven by a programme of action aimed at harmonising all the gender equity legislation that has been rectified to date to ensure that its implementation is monitored and evaluated constantly.

"Its programme of action will act as both a guideline for the functioning of the Salga Women's Commission as well as a monitoring and reporting tool that will ensure the effectiveness of the commission in meeting its objectives. It will also compile a status quo report on the current female representation in leadership positions in local government," she said.

#### **Millennium Development Goals**

There is a growing consensus that the economic and social development imperatives of both developed and developing countries rests on local

government. This responsibility is stipulated in the White Paper on Local Government, which outlines the responsibility in detail, said the Mayor of the Tshwane Metropolitan Municipality, Mr Kgosientso Ramokgopa.

A typical example of this responsibility is underlined by the alignment of local government to the achievement of the Millennium Development Goals (MDGs). "The MDGs are closely aligned to the local vision for developmental local government and municipalities. Locally, the country adopted the National Development Plan: Vision 2030 that set out the development path to be achieved by 2030. Once again municipalities, which are responsible for grassroots service delivery, will be at the forefront of delivering Vision 2030," he said. 🌐



## Promoting democracy in Africa

**Free** and fair elections are one of the defining features of a functioning democracy. In its endeavour to strengthen the efficacy of elections in the South African Development Community region, the SADC-Parliamentary Forum (SADC-PF) recently held an Election Observation and Monitoring Workshop on the benchmarks for assessing democratic elections for South African Members of Parliament, writes *Abel Mputing*.

In her welcoming remarks, the House Chairperson for International Relations, Ms Mmatlala Boroto, said South Africa's continued participation in the observation of elections in the region is just one way of giving effect to a key aspiration of South Africa's foreign policy: promotion of democracy in Africa.

"The promotion of democracy in Southern Africa and in Africa has long been one of the key aspirations of South Africa's foreign policy.

Given that parliamentarians are the products of elections, it puts us in a unique position to compare and share knowledge with our counterparts from neighbouring countries.

"Election observation provides SADC parliamentarians the opportunity to review our individual countries' compliance with the norms and standards for elections in the SADC region, benchmarks for assessing democratic elections in Southern Africa and the SADC principles and

guidelines governing democratic elections," she said.

SADC-PF Secretary-General Dr Esau Chiviya said the main objective of the training is to ensure that observers are guided by the overall principles of impartiality, comprehensiveness, transparency, inclusiveness and objectivity.

SADC-PF's Election Charter is widely recognised, said Dr Chiviya. "SADC-PF has long experience in the field of election observation and in setting of standards. It is widely recognised regionally and internationally. In 2001, SADC-PF developed the first instrument for democratic elections not just in the SADC region but in Africa, the Norms and Standards for Elections in the SADC Region. At the international level, SADC-PF was one



**YOUR VOTE IS YOUR VOICE:** Democracy depends on having elections that are free and fair.

election observation entails. "It is the gathering of information relating to the conduct of elections and the electoral environment with regard to law as processes, systems and institutions. And the objective analysis of such information and the drawing of conclusions are based on the above information and on the quality and character of the electoral processes."

According to Dr Victor Shale, Principal Consultant at Shalestone Elections and Governance Consultants, there are multiple causes of election-related conflicts, one of which is the absence of political tolerance during election campaigns. Various role players such as parliaments and parliamentarians, the media and the judiciary can mitigate election-related conflicts and can promote democracy before and after elections.

Dr Shale singled out the judiciary as important in settling election-related disputes. "During elections the role of the judiciary is to safeguard the rights of all citizens, particularly the minorities. It must also ensure that it creates space for conflicting parties to resolve their differences; ensure speedy resolution of election and other political disputes in order to arrest conflict from spreading and escalating. Most of all, it must be seen to be handling all cases with impartiality."

Dr Shale also said parliamentarians are also critical in mitigating election-related disputes. "Members of Parliament can build consensus around commonly held values through national dialogues. They can create sustainable relationships among parliamentary parties. They can work closely with civil society to receive people's needs and also to communicate parliamentary programmes and decisions.

Another way of managing conflict is for Parliament to ensure that its electoral rules and procedures are disseminated during elections and are adhered to."

The other critical role player is the media. Dr Chiviya said: "The media can use its platforms to explore options in dealing with the differences relating to the electoral process by taking an objective position and analysing the issues and seeking solutions to problems. The media has to prioritise legitimate needs and concerns of the people and help to make competing political sides see what is at stake in terms of those needs and concerns."

Despite all the norms and principles set out by the SADC-PF's Election Charter, the correlation between free and fair elections and the consolidation of democracy has had mixed results, said Dr Shale. "Over the past decades, electoral democracy in the SADC region has been subjected to a litmus test. Although multi-party systems replaced single-party and authoritarian rule, democratic consolidation is slow. SADC member states are still battling to deal effectively with election-related conflicts in countries like the Democratic Republic of Congo, Lesotho and Madagascar."

There is a need to look at electoral systems and their contribution to democracy, he said. "Different electoral systems have different effects on political representation, on the shape of the party system and indeed on democracy. Therefore, the choice of a system has to be mindful of the impact it will have on participatory or representative democracy or whether it will lead to long-lasting peace." 🌍

of only three African institutions that participated in the development of the Declaration of Principles for International Election Observation and the Code of Conduct for International Observers."

Points of inquiry in elections are electoral commissions and political parties, said Dr Chiviya. "Most often there is a concern about the use and abuse of incumbency by many political parties. And in some instances, the separation of powers between the state and the governing party can become difficult to observe. Also, the separation between the roles and functions of the head of state and the governing party's president can become blurred. And this often leads to disputes."

Mr Sheuneni Kurasha, SADC-PF Programme Manager: Democracy and Governance/Parliamentary Business Focal Person, explained what



## Transformation in mining sector a priority

**The** *multibillion rand mining industry in South Africa is in decline due to a falling global commodity price and labour instability. Against this backdrop the National Assembly debated transformation in the mining sector, reports Sakhile Mokoena.*

During the debate in the National Assembly on the topic “Transforming the mining sector and ensuring it remains a sustainable industry”, Mr David van Rooyen of the African National Congress pinned the blame for the decline in South Africa’s mining sector on the global commodity price and labour relations issues. “The global contest has become more uncertain with China’s growth no longer being commodity intensive in terms of demand. Work done by mining houses to sustain their competitive edge domestically, results in restructuring that is leading to massive job losses,” he said.

“New suppliers of low-cost mineral commodities come as a strain in an environment of very soft commodity prices, leading to further downward pressure on prices; and prices of coal,

iron ore and steel are suffering as a result.”

Mr van Rooyen said the Mineral and Petroleum Resources Development Amendment Bill should be finalised to create the legal framework to strengthen state-owned mining companies and to enhance the state’s intervention in the mining sector. This should enable the state to have more than one state-owned mining entity with mineral resources and rights as a whole vested in the state through the Department of Mineral Resources. It should also allow individual state-owned entities to control and manage the rights granted to them, he said.

The Democratic Alliance’s Adv Hendrik Schmidt told Members of Parliament that the World Economic Forum’s Global Competitive Index determined

that the South African mining industry slipped to 56th place in 2014. This slide was due to what he called “adversarial labour relations between mining companies and unions” and “ill-fated amendments” to the Mineral and Petroleum Resources Development Amendment Bill, which are still waiting further consideration by Parliament.

“This Bill is causing ever-growing discontent with mining companies, who regard the amendments as contributing ever more onerous conditions to local investment. There is a lack of clear and understandable macro-economic policies. The government should strive to develop sound economic policies to ensure that business, mining communities and labour buy into relevant policies,” said Adv Schmidt.

He added: “Poorly maintained rail networks and water and electricity infrastructure limit mining companies’ ability to mine continuously and transport their commodities to their





**COMPETITIVE EDGE:** South Africa's multibillion-rand mining industry is facing some tough challenges, both at home and globally.

respective destinations, whether locally or internationally."

The Economic Freedom Fighters' Mr Floyd Shivambu predicted that the situation would worsen in the next three years with more job losses not only in mining activities, but also in the associated activities happening around mining. "China's capacity to consume mineral resources from South Africa has decreased significantly and is going to decrease further.

"We still stand by what we said that the only solution to the crisis of mining in South Africa is to discontinue private ownership of mineral resources. It is high time that we utilise the state-owned mining company to play a much more significant role in the production, extraction and beneficiation of mineral resources," he said.

Deputy Minister of Mineral Resources Mr Godfrey Oliphant told Members of Parliament that government was mindful of the fact that some companies have indicated their intention of cutting costs, which may include retrenchments and said his department was engaging all stakeholders to minimise the impact.

"Engagements with the mining companies are continuing to ensure cooperation in addressing housing and related infrastructure in prioritised mining towns. Social and labour plans and which tools are meant to empower workers and contribute to the socio-economic development of local and labour-sending areas are also under focus."

Prof Nhlanhlakayise Khubisa of the National Freedom Party said sustainable growth in the mining sector has the potential to impact positively on people and communities in the vicinity of mines. "A stable partnership between mines, government and local communities could impact widely and positively on issues such as education, health and commerce at grassroots level, as schools and clinics can be built and opportunities for small business enterprises created," he said.

Mr Mncedisi Filtane of the United Democratic Movement accused mining companies of failing to invest in local enterprise development through procurement of services and goods, thus taking the resources away from the historically disadvantaged.

"The living standards of mineworkers

remain dehumanising and companies are dragging their feet with regard to investment in human capital development through purposeful and sustainable training programmes. Mining communities remain poverty-stricken, depressed and underdeveloped, a situation which is reflective of the reckless exploitation of our mineral resources and poor workers in order to enrich a few," he said.

According to Ms Cheryllyn Dudley of the African Christian Democratic Party there is some progress on the state of transformation in South Africa's mining sector particularly in ownership, human resources development, employee housing and living conditions, mine community development and sustainable development.

"We recognise that we have a long way to go. The Chamber of Mines, for example, believes that significant progress in transformation has been made and says the average black economic empowerment (BEE) ownership of its members is 38%. That's 12% higher than the mandatory requirement [26%]. More than R159bn in net value has been transferred to BEE beneficiaries in the past 12 years," she said. 🗨️

# Icasa committed to radical transformation in ICT sector

**This** *article written by the CEO of the Independent Communications Authority of South Africa (Icasa), Mr Pakamile Pongwana, is one in a series of columns published in InSession by the Office of the Institutions Supporting Democracy in the Office of the Speaker of the National Assembly.*

Icasa's mandate is spelled out in terms of the Electronic Communications Act, 2005 (the "ECA") for the licensing and regulation of electronic communications and broadcasting services, and in terms of the Postal Services Act, 1998 (the "PSA") for the regulation of the postal sector. It is critical to recognise that as a creature of statute, Icasa is constrained to act in accordance with and within the context of its empowering legislation. In executing its mandate, Icasa continually strives to ensure that its processes and decisions are administratively just and fair. However, the reality is that Icasa's decisions will invariably affect vested interests. It is therefore to be expected that those decisions will be challenged and/or reviewed in the courts.

In instances where Icasa's processes and decisions are found by the courts to have fallen short of the legal requirements, Icasa will improve its processes and procedures for the sake of all the stakeholders it serves. I would like to outline a few matters regarding Icasa's position.

## **Icasa's governance framework**

Much has been made of the fact that the Icasa Council currently comprises three members as opposed to a maximum of nine as provided for in terms of the Icasa Act, 2000. The legislation is quite clear. The quorum for any meeting of council is a majority of the councillors presently

serving as councillors. The current team of councillors is capable of providing the requisite strategic direction for the institution to fulfil its constitutional and legislative mandate. The process for filling the vacancies in the Council has already been initiated by Parliament. While the process has been completed, it is important that Icasa continues to function.

## **B-BBEE**

The ECA contemplates that every individual licence granted from the effective date of the ECA shall have a minimum shareholding by historically disadvantaged groups or individuals (HDIs) of no less than 30%. This rule also applies to every individual licence that is transferred after the effective date of the ECA. The intention of the legislature is that one should not be permitted to – after failing to acquire an individual licence through a competitive process which requires a minimum HDI shareholding of 30% in terms of Section 9 – go through the back door and acquire the same licence through a transfer in terms of Section 13. Hence Icasa is required in terms of Section 13(6) to ensure that the HDI ownership requirement is not bypassed through licence transfer processes. In this regard the legislation makes it mandatory that the transferee of the individual licence (or the individual licence subject to the transfer) also have a minimum shareholding of 30% by HDIs.

## **Spectrum management**

Icasa's primary mandate in relation to spectrum is to ensure efficient use of radio frequency spectrum. Critical to this mandate is the need to ensure that spectrum is assigned to licensees to enable and facilitate the provision of services and that no "available and usable" spectrum lies fallow. To this end, Icasa is eager to re-initiate the licensing process for the assignment of the high-demand spectrum (suitable for deployment of broadband services) which was abandoned a few years ago. Part of the reason why the sector has seen a wave of consolidations is mainly because the key players in the sector (Vodacom and MTN in particular) have been spectrum-constrained while new entrants have not been able to launch services in the market as they have not been assigned the requisite spectrum.

The information and communications technology (ICT) sector in South Africa is regressing because of indecision by both the regulator and the policy maker on critical issues, particularly as they relate to management and assignment of radio frequency spectrum. It is clear that we are lagging seriously behind in digital migration. By the time the set-top boxes become available, they may be irrelevant because of the already available digital television sets in the market. The state institution responsible for digital network roll-out (Sentech) will have to maintain outdated analogue transmitters and may not be able to recover the costs of deploying and maintaining the digital transmitter network it has rolled out for a number of years now. Meanwhile, broadcasters will be able to transmit digital signal to end users who may not be able to receive them

due to non-availability of set-top boxes.

In the mobile space there is continued shortage of spectrum for deployment of long-term evolution (LTE) services. Spectrum is tied up in analogue transmission and that which is available has not and/or is not being assigned or issued to operators. The implication of the consolidation is that a giant infrastructure-based player (or two) will be created in a first-tier level of the market. A huge number of entities may not have reasonable and easy access to that infrastructure under the current regulatory framework. That is why concepts like wholesale open access, infrastructure sharing and Mobile Virtual Network Operators become relevant for the South African context. Any future licensing process needs to take into account the need for the creation of a wholesale open access framework to enable access by many service-based players to ensure rapid deployment of broadband services.

#### **Promotion of competition**

Icasa is mindful of the effects of the consolidation trends on the competitive landscape in the market. It is also fully aware of its mandate over competition matters in the ICT sector. The ECA and the Icasa Act are clear about the process Icasa must follow in order to impose pro-competitive measures in any market. Icasa recognises that it cannot regulate the spectrum effects of market consolidation on competition in the various markets without undertaking an in-depth inquiry in terms of the legislation. The Authority intends to prioritise the identification of markets that are susceptible to anti-competitive effects.

The Authority is committed to radically transform the ICT sector to facilitate growth and employment in line with the government's national policy objectives. 🌍



**MEDIA MATTERS:** The CEO of the Independent Communications Authority of South Africa, Mr Pakamile Pongwana.



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