

"Celebrating the legacy of freedom through strengthening the link between Parliament and the people"

# in session



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*Saluting the*  
**NCOP**  
*15 years on*



**PARLIAMENT**  
OF THE REPUBLIC OF SOUTH AFRICA



**Mace** of National Assembly

## Vision Statement

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

## Mission Statement

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

## Strategic Objectives

1. **Oversee executive action**
2. **Build a People's Parliament**
3. **Strengthen co-operative government**
4. **Improve international participation**
5. **Build an efficient, effective institution**



**Black Rod** of National Council of Provinces

# contents

## Regulars

- 5 **EDITOR'S NOTE**
- 6 **MESSAGE FROM NCOP**  
Chairperson of the National Council of Provinces,  
Mninwa Mahlangu
- 7 **FROM WHERE I SIT**  
Opinion piece
- 8 **I PUT THE QUESTION**  
Questions to Ministers
- 9 **GUEST COLUMN**  
Prof Ben Turok



9



## 10 SPECIAL REPORT

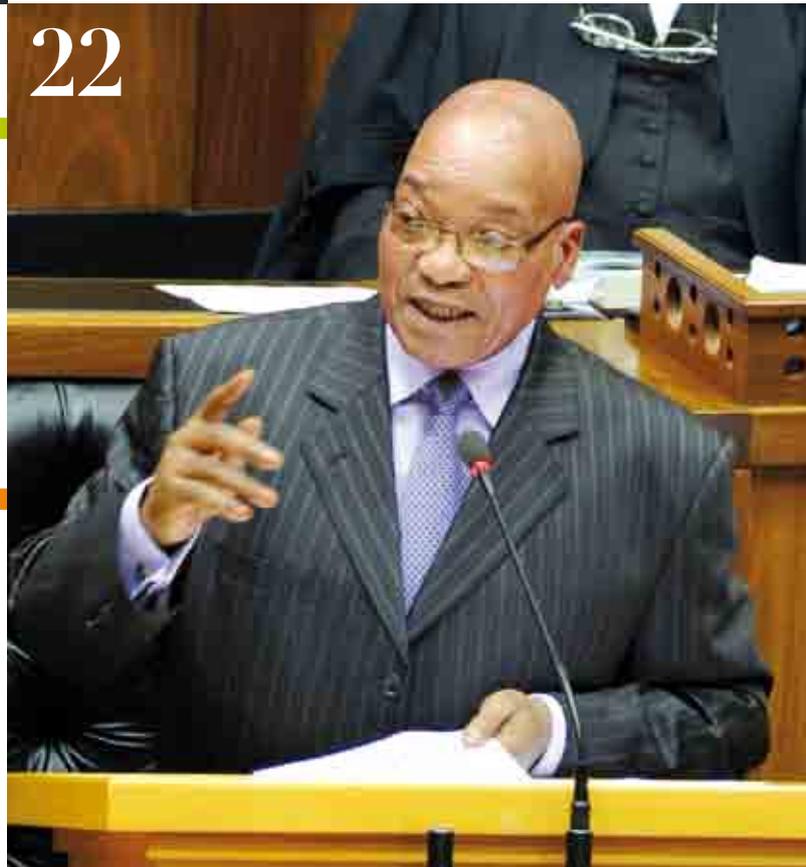
The Protection of State Information Bill will be back in Parliament in April, after being sent to the NCOP last year. A 15-member ad hoc Committee, appointed from a variety of parties, took the Bill to nine provinces to test public opinion. Our team reports on the hearings and the way forward.

## General News

- 15 **HOLDING BACK LEARNERS**  
Principals rapped for trying to boost matric figures
- 18 **TRADITIONAL COURTS BILL**  
What does it mean for rural women
- 20 **JUDGES CLOSE RANKS**  
To declare or not to declare

## State of our Nation

- 22 In his response to the debate on the State of the Nation Address, President Jacob Zuma reveals that new infrastructure development measures are being drafted
- 31 **OBITUARY:** Winkie Direko



22

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# editor's note

**O**ur focus in this *InSession* is on the 15th anniversary of the National Council of Provinces (NCOP), which opened its doors as a fully-fledged second House of Parliament on 6 February 1997, thereby replacing the old Senate. This unique South African institution has gone from strength to strength. We begin with a message from NCOP Chairperson, Mr Mninwa Mahlangu, and the NCOP features strongly in other stories in this issue. These include the measure requiring South African judges to disclose their financial interests, and the Traditional Courts Bill, which is also being dealt with by the NCOP. We ask if women, especially rural women, can expect a fair deal from the traditional leaders who rule in traditional courts in their areas.



This year, the NCOP made its mark with its rollout of public consultation on the Protection of State Information Bill. By the time the NCOP reports back to Parliament in April, the debate on this Bill will have reached the far-flung corners of the country. Midway through the consultation process, it was already clear that public awareness and education around the proposed legislation had grown.

Our team of reporters who followed all of the multiparty ad hoc Committee's public hearings found that there were citizens who raised unrelated queries on service delivery, but most of those present debated the Bill with vigour and interest. Our special report on page 10 records citizens' concerns that the Bill could put a veil of secrecy around corruption and irregularities by government officials. Our reporters also found a lot of support for the Bill at the public hearings, many of which were packed out. We quote Ms Nosipho Ntwanambi, Chief Whip in the NCOP and leader of the ad hoc Committee on the Bill, who urged the community to bring forward new issues to help the Committee when it deliberates on the Bill in Parliament. She said the Committee would take each submission into consideration (See page 10-14). "We want to express our gratitude to the people [of this district] for coming in numbers and raising their views. We listened and took notes. Those who feel they haven't had their say please write to us so that your views can be considered too," she said.

We set out to record and publish an accurate record of what proved to be an inspiring example of public consultation; we trust we do credit to that process in these pages. Our special report aims to be a forum reflecting the divergent views our writers heard at the public hearings they attended in all nine provinces and a fair reflection of their observations. In addition, 'Plainly Speaking' on pg 30 is our Public Education Office's brief overview of the proposed legislation to promote public understanding of it.

This issue introduces what we hope will become a regular opinion feature by the writers of the Parliamentary Communication Services. 'From Where I Sit' will reflect their thoughts and observations from inside the Parliamentary Chambers and Committee rooms where they have the privilege — and responsibility — to record and report on the workings of the people's Parliament.

We also consider our President's State of the Nation Address, using the time that has passed since the February 9 speech to cover his plans and programmes that may not have been given much attention in South Africa's news media.

Difficulties in our country's education system come under the spotlight again in this issue of *InSession*. A dangerous bottleneck has emerged in the past few years during the annual rush to register at the country's tertiary educational institutions. Attending to this has become crucial following the death of a parent during registration chaos at the University of Johannesburg. There is also an insightful story on the practice at some high schools of holding back grade 11 pupils who are not considered sharp enough to pass matric the following year.

Finally, we will follow up on the budget in our next issue, when most of the budget votes have been dealt with. 🍷

Enjoy the read.

Moira Levy  
**Editor**



# MESSAGE FROM THE national council of provinces

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



## Marking 15 years of provincial participation

**I invite** *all South Africans to reflect on the contribution of the National Council of Provinces (NCOP) to democracy. The NCOP turns 15 this year and we would like South Africans to use this anniversary to give us feedback on the institution's performance and its contribution to strengthening democracy in our country.*

A hallmark of the work of the NCOP has always been the extent to which it is prepared to engage ordinary citizens. Our guiding philosophy is that as the voice of the people, Parliament must always be close to the pulse. Hence, our consideration of the Protection of State Information Bill — which drew much attention when it was before the National Assembly — includes provincial outreach sessions to inform our view.

The NCOP came into being on 6 February 1997 as one of the two Houses of the Parliament of South Africa. This followed the finalisation of the constitutional process that gave us a world-class Constitution, signed by President Nelson Mandela on 10 December 1996.

The mandate of the institution is to represent the provinces and to ensure that provincial interests are taken into account in the national sphere of government. It does this mainly by participating in the national legislative process and by providing a national forum for public consideration of issues affecting the provinces.

The NCOP consists of ten delegates from each province. Each delegation has four special delegates who are based in provinces. The four include the Premier of the province who is the leader of the delegation, or his or her appointee. Six permanent delegates are based in Parliament. The ninety delegates together comprise the NCOP.

The manner in which we plan to mark the 15<sup>th</sup> anniversary of the NCOP will build on the work we did when we celebrated our tenth anniversary in 2007. At that point in the evolution of the institution we engaged in a process of self-reflection, which culminated in a conference dealing with co-operative government and intergovernmental matters. Our institutional memory project resulted in a documentary and the publication of a book about the institution.

This year, we will implement a programme that is geared towards promoting public education. We realise that many South Africans are still not familiar with how Parliament works, the content of its work, the general composition of the State and the functions of its three arms (ie the executive, the legislature and the judiciary). In promoting democracy we need to create different platforms to share information and the diverse opinions of our people. We would like to see people, especially in rural areas, use *makgotlas* to discuss matters before Parliament. Imagine if young and old alike sent comments directly to Parliament, or parliamentary constituency offices, on draft legislation that Parliament is dealing with!

To start the process of marking the NCOP's anniversary, public representatives from the national, provincial and local spheres will participate in a debate on what the NCOP has meant for South Africa.

We will also use the 15<sup>th</sup> anniversary to initiate a programme of engagement with high schools and tertiary institutions about the role of the NCOP in promoting generational awareness on civic matters.

We continue to be guided by you, the people, who are located in the different provinces and within municipalities, in our work as public representatives. Through the special platforms we will create, we need to hear your views on the kind of governance South Africa needs and the role of the NCOP in this. 🌍

**Mr Mninwa Mahlangu**

CHAIRPERSON OF THE NATIONAL COUNCIL OF PROVINCES

# from where **i** sit

## NCOP Info Bill submissions hit home



**I**t may be a bit early to speculate but the public hearings on the Protection of State Information Bill may serve a wider purpose than intended. This could well be the process that is called for when contentious legislation serves before Parliament, **reports Faith Kwaza.**

The nation-wide public consultation process conducted by the National Council of Provinces' ad hoc Committee on the Protection of State Information Bill, revealed clearly what South African citizens think about the Bill, and underlined the importance of public consultation in lawmaking.

Our reporting team tried to shy away from forming an actual opinion on which side the hearings favoured and focused instead on how the hearings conducted by the NCOP have elevated the public consultation element in the lawmaking process.

In the process the NCOP has emerged a House of Parliament with a right to amend or change legislation, partly refuting the notion that the oral submissions were just a rubber stamping exercise. It showed up well as a separate House performing its constitutional mandate in consulting the public on the Bill.

The hearings which started in the Western Cape and ended in the Northern Cape have emphasized the importance of public consultation and public participation in making laws. Oral evidence on the Bill was submitted by civil society, labour organizations, religious leaders and ordinary South Africans. It showed a

practical demonstration of Chapter 4 section 72 (a) of the Constitution which says, "The National Council of Provinces must facilitate public involvement in the legislative and other processes of the Council and its committees."

The constitution makes the role of the NCOP very clear in the lawmaking process when it says in Chapter 4 section 68 (a), "In exercising its legislative power, the National Council of Provinces may consider, pass, amend, propose amendments to or reject any legislation before the Council." This subsection on its own underlines what was seen in action: the important role of oral submissions in assisting the ad hoc committee to deal with this Bill in a way that would reflect the decision required by South African citizens.

The public hearings held in the nine provinces of South Africa from 31 January to 1 March, 2012 saw members of the ad hoc Committee listening to opposers of the Bill lambasting the piece of legislation and supporters of the Bill urging the committee to hasten its passage into law.

Those supporting the Bill in its current form and urging the committee to speedily pass the law included journalist, Mr. Elias Maluleke, who explained how as an investigative journalist under far

more stringent laws during apartheid he was able to write and publish articles that exposed the crimes committed by the apartheid government.

Those opposing the Bill included Mr. Yusuf Abramjee, Chairperson of the National Press Club who thanked the NCOP for engaging communities on the Bill and agreed that every government needed secrets but said there are proposed clauses in the Bill which "clearly infringe on the constitutional rights of ordinary citizens and the media".

These are just two examples among a long list of people who spoke for and against the Bill. They were promised by Committee Chairperson, Mr. Raseriti Tau, that all submissions made would be considered by the ad hoc Committee when the NCOP brought its deliberations on the Bill to Parliament.

The needs of the people of South Africa in the case of the Protection of State Information Bill have been heard during the extensive public consultation process. The responsibility lies with the Committee to decide what South Africans want and continue the law making process in a democratic manner. The NCOP has consulted the people. Now it must act on what they want. 🇿🇦

**Faith Kwaza is a Principal Communication Officer in the Parliamentary Communication Services**



Mr Dennis Bloem (COPE)

# i put the question

## A selection of questions asked in the Parliamentary chambers

**There** was a flurry of activity late in 2011 as Ministers tried to meet National Assembly and the National Council of Provinces deadlines to reply to Questions posed to them throughout the year by MPs of the two Houses of Parliament. With about 1 000 queries that had been put to Ministers unanswered by early December, the Chief Whip of the official Opposition in the NA Mr Armiston Watson, complained to Speaker Max Sisulu. **INSESSION** brings you some of the answers MPs are still waiting for.

**Mr Robert Lees (DA) asked the Minister of Defence and Military Veterans, Ms Lindiwe Sisulu, whether the SA Navy had sent any warships into the seas off Côte d'Ivoire; if so, the details of the warships involved and the purpose of sending them; and if the vessels would be used to intervene in the election dispute that existed (at the time) in Côte d'Ivoire?**

**The Minister of Defence, Ms Lindiwe Sisulu,** replied: "No, the South African Navy has not sent any warships into the sea in or around the vicinity of Côte d'Ivoire. What we have done, however, is to send the SAS Drakensberg into the international waters off the Gulf of Guinea. The SAS Drakensberg is a combat support vessel, which allows for cargo and accommodation space, but the vessel cannot be used for any other purpose.

"The ship was scheduled to be the communication and guard vessel for the 2011 Cape-to-Rio Yacht Race during the period January to February, and it was also required to conduct practicals in training. The SAS Drakensberg was diverted from participating in the Cape-to-Rio Yacht Race to embark on a mission in the Gulf of Guinea. The South African government confirmed that it instructed the SANDF [South

African National Defence Force] to preposition the South African Navy vessel, SAS Drakensberg, in the Gulf of Guinea for possible assistance to South African diplomats, designated personnel and other South Africans in the Côte d'Ivoire, should the situation require this. The vessel had been in international waters since it left South Africa and only entered the waters of Ghana to replenish with the full knowledge of the Ghanaian authorities. She will proceed back into international waters once this is completed. To date, the SAS Drakensberg has not, at any stage, entered Ivorian territorial waters."

**Mr Dennis Bloem (COPE) asked the Minister of Police, Mr Nathi Mthethwa, whether his department has a systematic national programme to deal with search and seizures at schools around the country; if not, why not; if so, what are the relevant details; whether this random approach is leading to the traumatising of learners at schools; if not, what is the position in this regard; if so, what are the relevant details?**

**The Minister of Police, Mr Nathi Mthethwa,** replied: "at a national level the South African Police Service issued guidelines for schools-

based crime prevention: it worked closely with the Department of Basic Education to build and ensure collaboration at local level between police stations and schools in their areas, in the interest of school safety. This approach addressed school safety by dealing with both prevention programmes and ensuring appropriate responses to safety concerns.

"Search and seizures should be undertaken as part of this broader approach and is one of the possible responses to concerns about drugs or dangerous weapons in a school. It should also be done in co-operation with the school management, school governing body or the safe school committee.

"Part of the South African Police Service school safety approach is to build a positive relationship between the learners and the SAPS, to ensure that they trust the SAPS and report crime and share their safety concerns. It is important that we keep that objective in mind when dealing with law enforcement duties like search and seizures, whilst, at the same time, instilling confidence with decisive and professional action when crimes are committed.

"The approach of the police should not lead to trauma amongst students because the terms and conditions of random searches should be agreed to between SAPS and the school community, to ensure that the rights of the children are protected, that learning is not disturbed unduly, and that children are not traumatised as a result of police action." 🙏

# guest column



Professor Ben Turok is the co-Chairperson of Parliament's Joint Committee on Ethics

**This** year marks the ANC's centenary. One of the foundations of its success is the Freedom Charter, which has been incorporated into the country's Constitution. Professor Ben Turok says the Freedom Charter guided the ANC in the task of writing a new Constitution.

Our Constitution is admired around the world, and it is often said to be one of the best anywhere. If you take the United Kingdom, it does not have a Constitution; it is governed by precedent and tradition. Given our past, we could not be governed by precedent and tradition. We needed to embrace new democratic values. It is these philosophical values that make our Constitution distinct.

The Freedom Charter became a natural font in its conception, inspiring one of the most liberal democratic Constitutions ever, and setting international precedents. The first clause of the Freedom Charter, which says that South Africa belongs to all who live in, black and white, is also in the Constitution. People often say the Freedom Charter is the reference point of our Constitution, it is not (just that), it is its genesis.

For years in exile, the ANC polished our country's democratic Constitution. Its existence was a sign of its readiness not only to govern, but of how it wanted to do so because it had always seen itself as the next government, way before it officially took over in 1994. There were some years of preparations, we had a guiding document and we were prepared to govern, even before we assumed power. We had constitutional guidelines prepared and refined in exile. The greatest challenge faced in writing the Constitution was how to mediate white power and to ensure that it put everyone's rights, regardless of colour, on the same legal footing.

The great challenge was the question of group rights. What former President FW

de Klerk wanted was a veto for whites and their political parties. We refused such a concession because 'group rights' was a cover term for 'white power'. They wanted to consolidate white power through the parliamentary systems. The ANC responded by saying group rights were a legacy of apartheid. We wanted, instead, individual rights for all citizens, and that was what we won. Hence, our parliamentary and electoral systems are based on one-person, one-vote.

For me, the Constitution is a story of a party that held true to its beliefs and was prepared to die for them. Because of the heightened political climate at the time the ANC had to make concessions that did not please others. But most importantly, such concessions did not override its core political mandate.

The omission of the economic clause as promulgated in the Freedom Charter is one of our Constitution's weaknesses. I concede that the omission of this clause is still haunting our country to this day. It is an issue that, in my view, can be ameliorated by the introduction of a developmental state. We need a state that is sensitive to the needs of the majority and which will intervene to alleviate the plight of the poor.

I must hasten to point out that nationalisation is not an answer to our country's economic challenges, as can be seen from the omission of this clause. As in other countries, a negotiated settlement came at a great cost – a cost that is an embodiment of a greater triumph. It is a triumph that handed ANC negotiators a lever to dictate the terms and conditions of the new Constitution.

We did not win the war, but we won the peace; the peace was Codesa. That is unusual in the history of society. We won the peace because the country was ungovernable. Having won the peace, we could dictate the terms of the Constitution. As a co-Chair of the Ethics Committee I use the Constitution and its powers to guide me all the time.

The powers of our committees embody the fundamental policies laid down in the Constitution. As much as I favour press freedom (because I believe that any democratic state needs a press that operates freely and without fear), I dismiss the press insistence on self-regulation as a joke.

I have read very carefully the code of conduct of the press and observed the (Press) Ombudsman and the Press Council. The values they articulate are fine, but I have one major reservation. The press is a business enterprise, and they never mention that. They talk about values and public interest, but they never mention that in every newspaper and article, the bottom line is what drives the content.

When we complain about sensationalism and incorrect reporting, we know that they are being sensational for commercial reasons. When reporters come to interview me I ask them to report fairly, but I know their bosses will say the headline should be sexier. We therefore need press regulation because of the media's commercial priorities, not the values for which it stands.

I am enchanted by the values of our Constitution, and will do whatever it takes to safeguard its gains. I realise that freedom needs constant defence. There are always groups that seek to push their own agendas. The defence of liberty and the Constitution requires constant effort. 🇿🇦



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# The Bill, please?

9 provinces in 4 weeks with Info Bill

**The** *Protection of State Information Bill will be back in Parliament in April, when the National Council of Provinces (NCOP) ad hoc Committee on the Bill reports back on a four-week tour by its 15 members to all nine provinces to test public opinion. The Bill was sent to the NCOP at the end of 2011 amid unhappiness about the exclusion of a public interest defence clause. Special report by Faith Kwaza, Foster Mohale, Elijah Moholola, Sakhile Mokoena & Abel Mputing*

“We are not here to claim victory,” said the leader of one of the ad hoc delegations, Ms Nosipho Ntwanambi, at one stage of the roadshow. She stressed that she wanted the public’s views on what may be one of the most controversial Bills ever to serve before the democratic Parliament in its 17 year history, so that it could be used to inform Parliament.

Earlier the Protection of State Information Bill went through major changes, including more than 120 amendments suggested by the ad hoc Committee before being adopted by the National Assembly on a straight majority vote. Opposition parties banded together on Tuesday 22 November in a show of unity against its passage.

The next step was to refer it back to the National Council of Provinces (NCOP), which established an ad hoc Committee consisting of 15 MPs, 10 from the African National Congress, two the Democratic Alliance and one each from the Congress of the People, Independent Democrats and Inkatha Freedom Party. The NCOP’s ad hoc Committee immediately drew up a plan to visit the nine provinces so that it could report back on the Bill by the scheduled date, 8 April 2012.

The Committee’s public hearings got off to a fast start in the Western Cape. The ad hoc Committee was split into

two, with public hearings being held simultaneously in Gugulethu and the Southern Cape. The hearings afforded the 15-member ad hoc Committee – which was split into two or three in the various provinces – an opportunity to hear from ordinary citizens what their views are on the Bill, as part of Parliament’s public participation function.

Committee members had a fruitful interaction with the citizens of the Eden District in George. Proceedings in George got underway when the leader of the delegation, Ms Nosipho Ntwanambi, explained the purpose of the hearings before a brief synopsis of the Bill was read by a representative of the Department of State Security and interpreted in the two main languages of the district - isiXhosa and Afrikaans.

There were members of the public who were against the Bill – including those from the lobby group Right2Know - but a majority at the packed Thembalethu Community Hall threw their weight behind the introduction of this legislation.

Among some of the concerns raised were that the Bill was viewed as having the potential to infringe freedom of expression, four clauses were regarded as having the possibility to lead to the persecution of whistleblowers.

These and other concerns raised were addressed by each member of the multi-party delegation. They explained that the Bill would apply specifically to State information and clarified the clauses relating to whistleblowers. “We need the public to tell us exactly how they view the bill so that when we go back to Parliament to deliberate we do not misrepresent the people. As we deliberate in Parliament, we want to amplify the people’s views. It is people’s right to disagree with whatever they feel they disagree with and we can’t expect people to agree with us on everything. But it’s important that if they criticise us, they do so in a constructive way,” Ms Ntwanambi said.

The ad hoc Committee’s next destination was the Eastern Cape.

## Tough questions

“We want to know what information is classified in its categories before we vote for this Bill, we heard a lot of contradictory stories about it, so you tell us how is it going to directly affect us”. Those questions came from the community members of OR Tambo District Municipality in the Eastern Cape regarding the Protection of State Information Bill, during the next round of public meetings throughout the country.

“We want to know what type of information is classified, confidential and top secret, who has access to it, how to treat that information if someone happen to be in its possession. We hear ‘classified.... classified’: what is it that you are talking about. If this is not called secrecy, then what is it called?” Mr Mzwandile Jam Jam of Port St Jones asked. His statement followed shortly after representatives of NGOs, political structures and individuals publicly opposed the Bill because they wanted



**IN ACTION:** NCOP ad hoc Committee on the Protection of State Information Bill visiting the provinces

examples of classified information, while others viewed classifying information as “an attempt by the government to cover up corrupt activities.”

Ms Thobeka Mtigaga, a local ward councillor drew applause and ululations when she gave the Bill a go-ahead with a caution that there should be some clear steps to apply for declassification, to ensure that people were not denied an opportunity because of not following the correct procedures.

Another Committee member, Mr Louis Nzimande, said classification was not tantamount to hiding anything or silencing anyone, including the media. Several media reports had claimed that the Bill was aimed at punishing those who publish corrupt activities, he said.

## District backs bill

The Protection of State Information Bill received near-unanimous backing from residents of Joe Qadi District, Eastern Cape. The turnout at the Barkly East Town Hall was massive with additional chairs being brought in to fill every available inch of space.

Five members of the 15-member ad hoc Committee on the Bill provided clarity on questions. Two similar meetings were held elsewhere at the same time, after the team split into three.

People who supported the Bill said like other countries in the world, South Africa needed to have legislation to protect State information. Sensitive

information that landed in the media could be harmful to the entire country. There were other avenues available for citizens to report corrupt activities and the Bill did not prohibit this. Citizens wanted to feel safe with the assurance that they lived in an information-tight country.

Those present wanted to know who would be responsible for classifying the information, and what the criteria would be. There should be no political influence on due process.

Ms Mmatlala Boroto said: “We were not only interested in hearing the people’s questions but we also wanted to hear their views on the Bill.” She also assured the citizens that Parliament would find means of sending copies of the Bill to as many municipalities as possible.

Committee member Mr Dennis Bloem said it was important that MPs heard from the people so that these views could be used to shape deliberations in Parliament. As they left the hall members of the public sang to show their approval.

## Mixed feelings

There were mixed feelings in Free State on the proposed law – ranging from full support, to conditional support and total opposition.

The leader of group one delegation of the Ad Hoc Committee on the Protection of State Information Bill, Mr Sam Mazosiwe, assured concerned

community members and journalists that the legislation was in no way meant to hide corruption or threaten media freedom.

Speaking during the Free State leg of public consultations, in Phuthaditjhaba, Mr Mazosiwe said the media and members of society needed not worry, as the Bill only sought to protect the national security and the sovereignty of South Africa.

It repealed the 1982 Act, which did not cover everything on protecting state information. “This is not new at all it’s just that it is introducing some elements that are not in the 1982 bill,” he said. Espionage is one area that was not adequately covered in the 1982 Act, he said.

“Some say the Bill is aimed at protecting corrupt leaders. That is not the case; the Bill is very clear about classification of information. We cannot classify information that is exposing corruption. The Bill will not protect people who are corrupt,” he said.

Ms Leona Kleyhans, a councillor at Maloti a Phofung Local Municipality, said it was incorrect that people were made to believe that South Africa was under threat from foreign spies and scaring the public into believing that the Bill was needed and it would help them. “Even if it’s not intended to suppress the media, it could do just that, opening the door to something that is going to be used to destroy democracy in our country,” she said.

## Sharpeville addresses bill

The community of Sharpeville came out in numbers to take part in the public hearings. Just after proceedings got underway at Rhoda Yende Community hall, Ms Ntwanambi had to step in and explain the purpose of the hearings

when some community members booed a group who held different views.

“We are not here to claim victory. We are not here as political parties but a multi-party committee. There is something you are not telling us here, which clauses in the Bill you think are unconstitutional and problematic. And please give us more amendments than complaints and booing, to ensure that whatever we do here is in line with democracy,” Ms Ntwanambi said.

- One of the audience members who express his views on the Bill, Mr Mafika Khumalo of Heidelberg, said “Before I support this Bill, I need to make my proposals. I have read both the Promotion of Access to Information Act (PAIA) and this Bill, and discovered a lot of similarities. So why can’t you just merge the two or strengthen the PAIA to deal with those controversial clauses contained in the Bill since I noticed only few disparities between the two,” he asked.
- But Mr Ignatius Mothibedi of Polokong thought the Bill should be made law. It was needed because the country was still run by old outdated apartheid laws. “It’s the responsibility of the State to protect information to save the public and the country, so go ahead with this Bill,” he said.

## Tshwane residents speak

Some residents of Tshwane in Gauteng called for the inclusion of the public interest defence clause and protection of whistleblowers in the Protection of State Information Bill. This was during the public hearings held at Mamelodi

International Assemblies of God Church hall in the Tshwane Metropolitan Municipality.

Ordinary members of the public, media organisations and interest groups who made submissions seemed to be in agreement that the introduction of the Bill was necessary, but insisted the protection of whistleblowers and issues of public interest had to be taken into account. Citizens who argued against the need for a public interest defence clause said such a term needed to be properly defined as it might only serve the interests of the media.

Ad hoc Committee member Mr Sam Mazosiwe, who chaired the hearings, said: “The Bill creates a balance between both freedom of expression and media freedom and the need to protect state information. There is an independent review panel which will be a body to guard against government officials or anyone abusing this piece of (proposed) legislation.”

The public commended the committee for consulting them in the law-making process and for showing transparency regarding the Bill. The agitation for the public interest clause continues to follow the Bill, says Mr Rasool Snyman. “Sometimes we do things with good intent, but we don’t get the right results. This Bill in its current form will inevitably do that. We the people, are in fact

the government. So, the peoples’ concerns should be put first. For instance, the recourse the Bill alludes to is not satisfactory because courts are expensive, they are inaccessible to the poor. Hence, I am of the view that public interest should override State interest.”

The committee’s next destination was KwaZulu Natal, where public hearings were held in the eThekweni Metropolitan Municipality, Ugu District Municipality and Zululand District Municipality.



**MUCH SUPPORT:** NCOP ad hoc Committee gained support from many citizens

# Can you bring us the bill, please?

**Halfway** *into the NCOP's ad hoc Committee public hearings on the Bill, reports Elijah Moholola, there was one frequently asked question: should a public interest clause be in, or not? These hearings might have shown that most citizens welcome the Bill, but some have a problem with the prospect of the Bill being passed into law in its current form. The main issue that has been raised time and again is the inclusion of the public interest defence clause.*

Not surprisingly, many who proposed a public interest defence clause were from the media, who contended that the Bill would stifle their ability to report on corruption.

But the exact definition of public interest is not clear. A resident (attending public hearings) from Mamelodi (in Tshwane, Gauteng) had this to say on public interest: "It is surprising that the media is talking about public interest but whenever one opens a newspaper what is on the front page?"

The divergent views on the Bill from residents, news entrepreneurs and interest groups could not have blindsided anyone, with the aim of the Committee being to hear all sorts of public input. There were impressive attendance figures at most venues with the majority of citizens showing

keen interest in the Bill.

Having been to almost half of the venues, it was impressive to see large crowds at those in remote areas such as Thembalethu and Barkly East. Equally impressive was the level and intensity of participation, with citizens commending the NCOP for showing transparency around the Bill and involving them in the legislation-making process.

Some even quipped that pre-1994 such an opportunity for citizens to influence the legislation had been as rare as a solar eclipse. The Protection of State Information Bill hearings could make a good entry into any law lecture as an example of how this function could be carried outwards by MPs.

In a country where bread and butter issues are the concern of most in the

remote areas, it was understandable that there could be unconnected issues, eg those relating to service delivery, raised during the public hearings. But these were few and far between and most people focused on the proposed law.

"Why not vote for and against the Info Bill, just like they do in Parliament?" suggested Mpumalanga resident Mr Thami Buthelezi after several divergent views were heard on the Bill. "I have noticed that several speakers who expressed different views in support of and against the Bill were applauded by the audience, which makes it difficult to establish how many people support or reject it. I therefore suggest a system of voting by show of hands, to determine how much support or disapproval this controversial law will receive from the community members present here today," he said to loud applause.

Numerous written submissions were handed in by those who preferred to express their concerns in detail, clause by clause, following an announcement by the delegation leader, Ms Nosipho Ntwanambi, that written submissions were welcome via e-mail, fax or post. 📧

**ISSUES RAISED:** Some citizens saw the need for a secure South Africa



# Matric Unlimited

## 'No holding back of learners'

by Sakhile Mokoena

**Some** school principals 'hold back' learners they consider not 'sharp' enough to pass Grade 12, even if they have passed grade 11: but the practice could be illegal and must not be allowed to continue. This was a concern raised by Members of Parliament, during a conference of the Portfolio Committee on Education and the Department of Basic Education, on the 2011 matric results.



The Portfolio Committee said the practice was to hold the poorest learners back from enrolling for Grade 12, because they could affect the schools overall matric pass rate. The trend became apparent during one of the Committee's oversight visits, when "there were indications that something was wrong with the other grades." It turned out that some schools were deliberately failing the poorer Grade 11s.

Dr Rufus Poliah, of the Department of Education, promised that the Department would in future audit all Grade 11 pass rates, to try to prevent this from happening again. He agreed that there had been 'gate-keeping' by principals to ensure a "good Grade 12 crop".

Briefing the Committee on the 2011 matric results the Council for Quality Assurance in General and Further Education and Training, *uMalusi*, said there had been growth and stability in the matric exemption examinations since the implementation of the National Senior Certificate in 2008.

"Although we cannot boast that we have been the best there is, when it comes to ensuring the quality of education we can say that we have consistently ensured that the standard and quality of the National Senior Certificate has been maintained," *uMalusi* reported to the Portfolio Committee.

The Department told the Committee that the focus in 2012 would be on

the 15 districts that had achieved results below 60%. There would have to be specific attention to mathematics, physical science, life sciences, economics and accounting.

Six of the districts were in the Eastern Cape and the Committee wanted to know how these underperforming districts would be assisted. In the past there had been concerns about the competency in numeracy and literacy of South African learners, because it raised questions about the country's education quality. The focus had been mainly on access to education, ensuring that more children attended school instead of paying enough attention to the quality of learning and teaching.

Although South Africa was in line with the Millennium Development Goal 2 (ensuring that every child completes primary education), it was equally important to monitor what and how the children were taught.

Other concerns included the competency of exam markers and the number of marking centres. Members wanted to know who "marked the markers" in the competency tests. They gave examples of shortcomings in marking: there were instances of inaccurate totalling of marks and even incorrect transferring of marks to the cover page during the final process. The criteria for the appointment of markers should be strictly adhered to, so as not to disadvantage candidates.

The MPs advised the Department to submit a plan to reduce the number of marking centres, because there were too many centres and this presented a security risk. 🌐

# Learning's big rush

New steps planned  
for registration



**TACKLING CHAOS** Universities have told Higher Education portfolio Committee Chairperson Adv Ishmael Malale that registration processes will improve

**As** South Africa's shortage of space at tertiary education institutions gets worse, a number of measures are being considered to resolve the annual problem of the big registration-time rush, reports *Elijah Moholola*

Ms Gloria Sekwane and her son Kgositsile left home in January this year for what should have been one of the happiest days of their lives: his registration at the University of Johannesburg (UJ). After all, former President Nelson Mandela himself described education as "the most powerful weapon which can be used to change the world."

But long queues as well as frustrated students and agitated administrative staff members have become a constant fixture at institutions of higher learning at the beginning of each year, as prospective students turn up to register for their ticket to a better life. The milling at the registration locale at UJ ended in a fatal stampede, which claimed the life

of Gloria Sekwane and left her family devastated.

Her death has prompted a ministerial review of the causes and viable solutions to the problem of the annual January registration rush. Among the problems – as identified by both the Portfolio Committee on Higher Education and Training Chairperson, Mr Ishmael Malale, and the Minister of Higher Education, Dr Blade Nzimande – is a tendency by prospective students to apply late, and their lack of awareness of how to go about processing applications.

"There are many reasons for this (rush), including late applications, especially by poor students, lack of timely replies and poor administrative systems at some

institutions and a lack of information on university admission requirements provided to many students," Dr Nzimande explained.

His view was shared by Mr Malale, who was assured by universities in Gauteng that they were working on improving their application systems. Both say the situation can be remedied and they are examining a range of solutions. Building new universities, the adoption of a centralised application systems and the implementation of the Green Paper on Higher Education that was launched by the Minister last month are among their proposals.

South Africa has 23 State-funded tertiary institutions – eleven universities, six universities of technology and six comprehensive institutions. These institutions were expected to accommodate most of the annual 90 000 who pass with university admission, that is, roughly 24% of the

348 000 matriculants who passed Grade 12 last year.

The headcount of public higher education institutions in 2010 was nearly 600 000 students at universities and just short of 300 000 at the University of South Africa. There is a great deal of interest from prospective students north of South Africa and abroad each year.

The pressure is worst in tertiary educational institutions in the northern regions, where five universities are just about able to accommodate most of the country's registered undergraduate and postgraduate students: 57 000 at the University of Pretoria, 55 000 at North West University, 51 000 at Tshwana University of Technology, 48 000 at UJ and 29 000 at the University of the Witwatersrand. What compounds the situation is that there are no universities in Mpumalanga and Northern Cape.

The latter two "university-less" provinces will have fully-fledged universities of their own in the not-too-distant future, said President Jacob Zuma during his State of the Nation Address.

Another factor in the annual rush is the unfortunate and costly situation learners find themselves in by having to pay high application fees to various institutions. Tertiary institutions charge between R100 and R350 non-refundable application fees.

"Imagine having to pay application fees at three universities when you are a poor learner. Some learners are unable to apply in time solely because of the resource challenge they face," Mr Malale added. The Department of Higher Education is already mulling over a move that will result in lower application fees.

"The Department has initiated a process to introduce a central applications office similar to the provincial system in KwaZulu-Natal. The Council on Higher Education (CHE) has advised our Department to extend this system nationally. This will relieve the burden of students applying to several universities, all with individual application fees," said

Dr Nzimande. The planned introduction of the central applications office has the backing of the CHE. "The Council welcomes the Minister's consideration of establishing a central applications system. It is long overdue," said the chief executive officer, Mr Ahmed Essop.

This idea was first mooted in the 1997 White Paper on the Transformation of Higher Education. "Subsequently, in 2002, the then Minister of Education commissioned a report, which outlined potential models that would underpin a central applications system. The report had a mixed response from the higher education sector. There were legitimate concerns with regard to the potential erosion of institutional autonomy if not properly managed, and the practical complexities of establishing a central applications system. But these concerns can be addressed," said Mr Essop.

He urged institutions to transcend "narrow interests for the greater good of future generations."

Both Dr Nzimande and Mr Malale agree that learners should be taught about application and registration procedures while still at secondary school.

"The Department intends, with the co-operation of the Department of Basic Education, to ensure that life orientation teachers in schools play a central role in this effort," said Dr Nzimande. Another option is the Further Education and Training (FET) colleges, often only seen by matriculants as a last resort.

"Universities alone cannot – nor should they – cater for all post-school education. This annual crisis requires that we change the widely-held perception that universities are the only acceptable option for post-school studies. The Department has taken bold steps to make study at FET colleges and other post-school institutions equally, if not more, attractive.

"As from 2011, all students who qualify for assistance under the National Student Financial Aid Scheme, and who are pursuing occupationally-directed certificate and diploma programmes,

do not have to pay fees at the FET colleges; with some also getting additional transport and accommodation subsidies," he said. Adequate funding has been pumped into this drive, with the FET college bursaries increasing almost fourfold, from about R380m in 2010 to more than R1.3bn last year.

Mr Malale underscored the importance of creating awareness among the sometimes starry-eyed learners. "We need to engage with schools and communities and make them aware of the importance of applying in advance. That would also mean having more collaboration between Higher Education and Basic Education so that this can be reinforced among learners. We also have to look at encouraging learners to consider colleges as a post-matric option, given our need for scarce skills such as artisans, technicians and engineers. We must elevate the relevance of colleges, and expand the infrastructure and skills base at that level," Mr Malale said.

"We also need to introduce attractive programmes at colleges. For instance in Germany they have a programme called Mechatronics, which teaches students both mechanics and electronics. Through a programme such as this, you get completely skilled graduates from colleges," he added.

There could be other innovative solutions, says Dr Nzimande. "To further expand post-school opportunities, we plan to introduce a new institutional type that we are provisionally calling Community Education and Training Centres, to address the needs of all out-of-school youths and adults, irrespective of their formal levels of education. These will absorb and transform the existing public adult learning centres and significantly strengthen the provision of education and training to all South Africans."

These initiatives are contained in the Green Paper for post-school education and training. It contains broad policy proposals for opening and expanding learning opportunities and calls for submissions from the public and interested parties by April 30. 🌐



# Traditional Courts Bill

**The** *re-submission of the Traditional Courts Bill in January 2012 by the Department of Justice and Constitutional Development to the Select Committee on Security and Constitutional Development has again caused uproar among constitutional experts, researchers and some traditional leaders, reports Foster Mohale.*

The proposed Traditional Courts Bill, now with the National Council of Provinces (NCOP's) Select Committee on Security and Constitutional Development, has been described by some as a way to oppress people, especially rural women.

The Bill was initially introduced in the National Assembly in 2008 and dealt with by the Portfolio Committee on Justice and Constitutional Development. It was later withdrawn and submitted to the NCOP for provincial public hearings.

When it was first debated, Parliament's Joint Monitoring Committee on the Improvement of the Quality of Life and Status of Women disapproved of the Bill, arguing that in its initial form it was not "gender-sensitive". The Committee stated that if the Bill was passed, more than 22 million South Africans who lived in rural areas outside municipal boundaries would find themselves subject to the authority of traditional leaders who were not elected, but appointed by the Minister of Justice.



Zulu Monarch observing one of the Zulu nation's sacred rituals, Umkhosi WoSelwa.  
Photo: GCIS

someone happens to be a women or, god forbid, gay or lesbian," he said.

Ms Thenjiwe Meyiwa, Research Professor at the Human Sciences Research Council (HSRC), said according to the Law, Race and Gender Research Institute of the HSRC many traditional courts are oppressive, not regulated by law, overwhelmingly male dominated and they discriminate against women.

Ms Meyiwa argued that many traditional leaders use these courts to promote their positions of power, as fines can be in the form of free labour or the forfeiture of communal rights such as the use of communal land.

"A greater concern is that the Bill does not provide for opting out of the traditional court system. This is a denial of a basic human right," she said. Government should rather conduct a wide consultation process at both provincial and local level to get the views of those who are most affected, especially community members who use such courts.

The South African Constitution says the State may not unfairly discriminate directly or indirectly against anyone on the basis of race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion conscience, belief, culture, language and birth. Chapter 2 of the Constitution, the Bill of Rights, emphasizes that everyone is equal before the law and has the right to equal protection and the benefit of the law. 🌍

The proposed legislation aims to affirm the recognition of the traditional justice system and its values by providing for the structure and functioning of traditional courts in line with constitutional imperatives and values. It is intended to enhance customary law in those communities that observe it.

It is set for further public scrutiny when the NCOP begins public hearings, but if the Bill is enacted in its current form, analysts foresee constitutional challenges.

Professor Pierre de Vos, a constitutional law expert at the University of Cape Town, said despite section 211(2) of the Constitution

which allows a traditional authority to observe a system of customary law, subject to applicable legislation and customs, it could present serious constitutional problems.

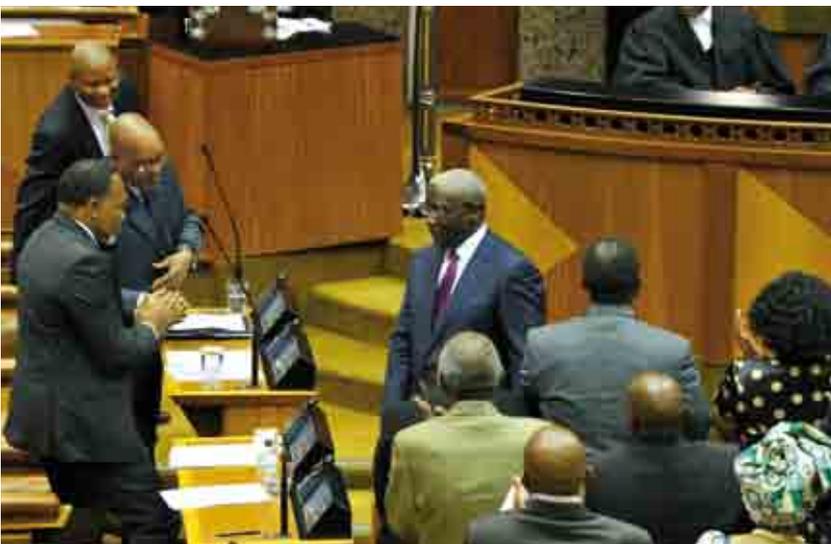
Professor de Vos argued that section 34 of the Constitution states that everyone has the right to have a dispute that can be resolved by the application of law decided in a fair public hearing before a court or, where appropriate, another independent and impartial tribunal or forum. "Courts staffed by unelected hereditary chiefs will be found to be unconstitutional as they will not be independent and nor will they be likely to administer justice in an impartial manner, especially if

# Judges close ranks

## Judiciary not keen to declare income

by Foster Mohale

A team of Supreme Court of Appeal judges told Members of Parliament that declaring their interests and those of their spouses could open doors for their business competitors, reports Foster Mohale.



**HANDS OFF** Former Chief Justice Sandile Ngcobo is also bound to disclose

"Some judges retire with family trusts and farms etc, but we don't know how they accumulated them." "What is the fear of disclosing by the judiciary sector when we as parliamentarians and cabinet members have to disclose?" "We are all organs of State. You never objected when it happened to other organs (of State)?" Why should you be treated differently?"

These were some of the questions posed by Mr Gerald Matila, the co-Chairperson of the National Council of Provinces' ad hoc Joint Committee on the Code of Judicial Conduct on Judges Disclosure of Interests. This was after a team of Supreme Court of Appeal judges told Members of Parliament that declaring their interests and those of their spouses could open doors for their business competitors.

The judicial team was concerned about the regulations that would require them to disclose their interests, just like public servants in other organs of State. In terms of regulations relating to the Judicial Service Commission, a judge must disclose particulars of all his or her registerable interests and those of every immediate family member.

This includes immovable property, shares in companies, sponsorships, gifts other than those received from an immediate family member with a value of more than R1000, or gifts received from a single source with a cumulative value of more than R1000 in a calendar year.

Judge Robert Nugent told the ad hoc Committee that there was no need for the State to have control over the lives of retired judges. He was supported by Pretoria High Court Judge-President

Bernard Ngoepe who warned that if the regulations were adopted, they would cause problems for acting judges since they only acted for a short period of time.

Retired Judge Gerald Friedman, former Judge President of the Cape High Court, argued that there was no proper reason why the financial interests of a retired judge should be disclosed. Once judges retired from the Bench they were free to engage in any activities, commercial or otherwise, as long as it did not bring the institution of the judiciary into disrepute, was his summation.

Lawyers' organisations have expressed divergent views on whether the judges should declare their interests or not. Advocate Paul Hoffman of the Institute for Accountability in Southern Africa (IFAISA) said there was no need to have executive control over retired judges' professional activities. He maintained that no real purpose could be served by requiring retired judges to register interests as there was no prospect of a conflict of interests arising since they no longer presided in court.

"Retired judges are entitled to freedom of association and to pursue a dignified retirement by augmenting their income by means of professional activities of their choice, that are consonant with their station in life," he said.

But the Council for the Advancement of the South African Constitution supported the call for judges to disclose interests just like other holders of public office including Members of Parliament or Members of the Executive.

The debate has been referred to a public hearing to allow other concerned groups to express their views on the regulations before the deadline is finalised. 🗣️

# Our VIPs

## Welcome to the Eminent

**Every** year, eminent persons are chosen to attend the State of the Nation Address. Former President Nelson Mandela introduced this aspect of the ceremony and it continues to be a central part of the proceedings. The President always acknowledges their presence and their role in the South African body politic. InSession introduces the eminent citizens of 2012.

### Eastern Cape

**Mr Mlungisi Mshotane** has had a long and illustrious political career. Born in 1951 in Ngcobo, Transkei, Mr Mshotane grew up in the "homelands" system that was at the heart of the National Party government's apartheid doctrine. In 1982, he survived the Maseru massacre. Mr Mshotane is still active in politics.

### Free State



**Mr Mochubeloa Jacob Seekoe:** "Like many others," said 73-year-old Mr Seekoe, "we had to flee our country to achieve what we all wanted: a

free and just South Africa." In 1960, Bloemfontein-born Mr Seekoe fled to Botswana where he survived an apartheid death squad attack in 1988. "Anyone who has played a part in the liberation of his country must appreciate seeing his countrymen acknowledge that."

### Gauteng

**Mrs Mamoteng Caroline Motsoaledi** was born in 1927. "Due to poverty, I could not even taste high school education and went to Johannesburg to look for employment." She attracted the eyes of the late struggle hero and former Rivonia treason trialist and Robben Island detainee, Mr Elias Motsoaledi. His arrest along with members of the MK High Command in Rivonia in 1963 led to her also being locked up in prison.

### Kwazulu-Natal



The story of 69-year-old Vryheid-born **Nkosi Jabulane Mdlalose** is characterised by altruistic human values, freedom and dignity for his people. Nkosi Mdlalose viewed his invitation to attend the State of the Nation Address not only as an honour to himself, but also a motivation to young people to realise that fighting for a good cause is never in vain. "Each man's contribution gets rewarded at some point."

### Limpopo



**Reverend Abraham Mitsi Maja** was born in 1931. His calling as a Presbyterian minister led him to challenge apartheid. His progressive organisations fought for the betterment of all citizens. Although retired from the active ministry and community work, he offers help when needed and serves on the Judicial Commission's Limpopo Branch.

### Mpumalanga



**Ms Magapane Sebotsana** said "I am honoured to be rubbing shoulders with important people of our country and to be part of this momentous occasion." About being nominated as one of the

distinguished guests at this year's Address, she said: "I would like the President to stress how to deal with our education system and poverty."

### North West



Meet real-life survivor **Israel Mabotse**, a former uMkhonto weSizwe (MK) commander and freedom fighter who survived snake bites, even ate snakes, and escaped death after a bullet ripped through his back and just missed his heart. The 67-year-old MK veteran from North-West does not regret all the suffering he endured in the name of freedom.

### Northern Cape



**Ms Evelyn Lubidla's** political life began at the tender age of 14 when she witnessed police brutality during the 1952 riots in Galeshewe, Northern Cape. The violent arrest of their priest and forced removal of the Majeng community to a barren area sparked her lifelong commitment to freedom and justice. Ms Lubidla, 73, helped in drafting the Constitution.

### Western Cape



Young engineer and space scientist **Khalid Manjoo** was last year identified by the media as one of 200 youths who will shape South Africa's future. The University of Cape Town graduate was part of the team that constructed SumbandilaSat, South Africa's micro earth-observation satellite, to be used for research and to monitor disasters like flooding, oil spills and fires. 🌍

# Unlocking a 2010 - Style future

New Bill for SA growth after President's plenary

**Buoyed** *by his well-received State of the Nation Address (Sona), President Jacob Zuma has taken opposition parties into his confidence about an imminent Bill, which will be used to kickstart the government's plans and programme of action for this fiscal year.*

In his response to the debate on the address, President Zuma revealed in the National Assembly that a new infrastructure development measure would be drafted. The aim of the Bill was to simplify administrative requirements and promote cooperative governance across the three spheres (local, provincial and national) of government, drawing from the country's experience in hosting the successful 2010 Soccer World Cup.

"The Presidential Infrastructure Coordination Commission (PICC) has developed a roadmap to finalise the components of each infrastructure project, relying on the results of technical and feasibility studies. There is no time to waste. I will convene a Presidential Infrastructure Summit in April to brief potential investors and social partners," President Zuma promised.

The PICC, comprising ministers, premiers and metro mayors under the leadership of President Zuma and Deputy President Kgalema Motlanthe, met on 17 February to do some further work on implementation.

The PICC has chosen five geographically-focused programmes:

- Development and integration of rail, road and infrastructure programme in Limpopo
- Improvement of movement of goods and economic integration through a Durban-Free State-Gauteng logistics and industrial corridor
- Development of a major new south eastern node linking up the Eastern Cape with the Northern Cape and KwaZulu-Natal
- Rollout of water projects, roads, rail and electricity infrastructure in the North West
- Improving the infrastructure along the west coast.

"For the year 2012 and beyond, we invite the nation to join government in a massive infrastructure development drive. We have also identified critical social infrastructure projects. These include projects aimed at laying the basis for the National Health Insurance system such as the refurbishment of hospitals and nurses' homes," President Zuma said in his address

before a packed public gallery, graced by a large number of senior citizens and veterans. In his response, he zoomed in on one of the minority parties in the National Assembly, the Freedom Front Plus (FF Plus) whose leader is also the Deputy Minister of Agriculture, Dr Pieter Mulder.

Dr Mulder caused a stir when he said that black people had no historical claim to about 40% of the country's land. This area was first settled by the KhoiSan, and Bantu-speakers moved in later, according to him. "Africans in particular, never in the past lived in the whole of South Africa. There is sufficient proof that there were no Bantu-speakers in the Western Cape and North-Western Cape. These parts form 40% of South Africa's land surface," he said.

President Zuma responded, "Dr Mulder has stunned all of us and the whole country with his bold denial of historical facts about land dispossession. The land question is one of the most emotive issues in our history and present, and must be handled with utmost care, and not in the careless and callous manner that Dr Mulder handled it. It is extremely sensitive and to the majority of people in this country, it is a matter of life and death," he said, to the applause of ANC MPs and the gallery.

While addressing the land issue in his reply, he also allowed a question by



*“I am sure the Member does not want me to go into the land question; how the land happened to be in the hands of the minority in the country.”*

*-President Jacobs Zuma*

Mr Petrus Groenewald, also of the FF Plus (the President usually replies to the SONA debate without questions being put to him). Mr Groenewald asked if it was responsible of some ANC leaders to say white people had stolen the land and were therefore “thieves”. President Zuma responded: “I am sure the Member does not want me to go into the land question; how the land happened to be in the hands of the minority in the country. We are dealing with this matter responsibly,” he said.

The centenary of the Land Act is only a few months away,” he added, referring to the Union of South Africa’s land-grab law which left black South Africans with 13% of the land and whites with 87%. “It is in the interests of black and white that we proceed faster to transform our policy framework. We are approaching this responsibly. Suffice it to say we have adopted a Constitution and no one must go outside it.”

Turning his attention to Inkatha Freedom Party leader and veteran

MP, Prince Mangosuthu Buthelezi – who had accused his administration of corruption – he hit back, saying “Shenge” (as Prince Buthelezi is fondly known) was a former homeland leader “who could not turn around Home Affairs”.

### Opposition views

The newly appointed parliamentary leader of the DA, **Ms Lindiwe Mazibuko**, said over the coming months and years, her party would exercise oversight, draft legislation and hold the governing party accountable for its outcomes. “To bring people together, we need to build a bridge across the divide between privilege and poverty that divides our people along racial lines,” she said.

President Jacob Zuma left the task of dealing with the Leader of the Official Opposition to Public Enterprises Minister, Mr Malusi Gigaba Gigaba: “The Honourable leader of the opposition is not only grossly inexperienced, she is also hopelessly clueless. Her speech in this House was a mere pipedream

and an incoherent wish-list that reminded me of where we were in 1994, and how far we have progressed since then, when we still stood at the dawn of freedom.”

Other opposition leaders in the debate referred inter alia to unemployment and corruption: **COPE, Mr Mosiuoa Lekota**: “This issue of unemployment is vital. Our own approach is the transformation of South Africa’s human resource element because many citizens of our country who are not only unemployed, are unemployable.”

**IFP, Prince Mangosuthu Buthelezi**: “Corruption is the bane of our country. It is a fundamental threat to our constitutional democracy. Yet you shy away from the issue. We know that when resources are made available, corrupt officials already begin to salivate. One is completely galled by the conspicuous consumption of State resources by these people.”

**ID, Mr Joe Mcluwa**: “Mr President, we note with interest that many

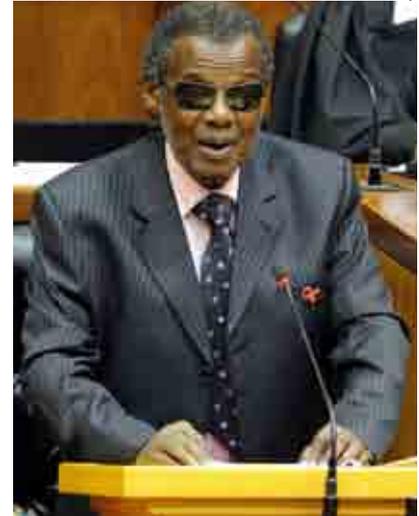
Ms Lindiwe Mazibuko, Democratic Alliance



Mr Mosiuoa Lekota, Congress of the People



Prince Mangosuthu Buthelezi, Inkatha Freedom Party



*Corruption is the bane of our country. It is a fundamental threat to our constitutional democracy.*

*-Prince Mangosuthu Buthelezi*

of the infrastructure plans you propose are actually old, repackaged proposals. We are glad that you have finally agreed to implement them.”

**UDM, Mr Bantu Holomisa:** “The 2012 State of the Nation Address clearly demonstrates that government has finally woken up to the reality that the fate of South Africans could no longer be left to the free market system alone. Government has a duty to invest in its economy through projects like infrastructure development.”

**PAC, Mr Letlapa Mphahlele:** “The return of the land must be the first prize of the revolution. Any liberation minus the return of our land, the liberation of every grain of the soil, is a Mickey Mouse – the ultimate, laughable, make-believe liberation. Africa always was and always will be African land.”

### Looking forward

President Zuma said without making the mistake of forgetting their history, South Africans should continue looking forward and

working for transformation. In this important year, in which the landmark Alexandra Township in Johannesburg turns 100, the government plans to mark a number of heritage events. Addressing the PAC, he said they should also tell the stories of their struggle heroes, not berate anyone else for leaving them out. “How do we know about your heroes if you don’t inform us?” he asked. This also applied to other political parties like the DA, who had a historical icon in the forward-looking Helen Suzman, for example.

President Zuma also referred to the knowledge economy and the way it benefitted South Africa. “I am thinking here of projects such as the broadband rollout for improved telecommunication and reduced costs, local loop unbundling and the terrestrial television rollout (via box-top sets). Six thousand South African schools have access to internet,” the President said. “But we are continuing to work tirelessly to bring change in our educational system, and the intervention in Eastern Cape schools is no doubt being watched

with great interest by the opposition. The most urgent programmes are the school nutrition programme, the allocation and appointment of teachers, provision of books, transport, and infrastructure. We are determined to replace the mud schools and unsafe structures that are still in use,” President Zuma said. “We sent a deputy ministerial team to the province recently to monitor progress and evaluate the situation. They have to solve the problems, working with the presidential task team,” the President added.

President Zuma thanked South Africans for their interest in the SONA which was watched on television by more than 4.3 viewers, doubling last year’s number of viewers, while many millions more listened in on radio. 📺

**He did not forget a very special senior citizen. “I would like to extend the best wishes of South Africa to the mother of former President Thabo Mbeki, Ms Epainette Mbeki, who turns 96 today,” President Zuma said.**

Mr Bantu Holomisa, United Democratic Movement



Rev Kenneth Moshoe, African Christian Democratic Party



Dr Pieter Mulder, Freedom Front Plus





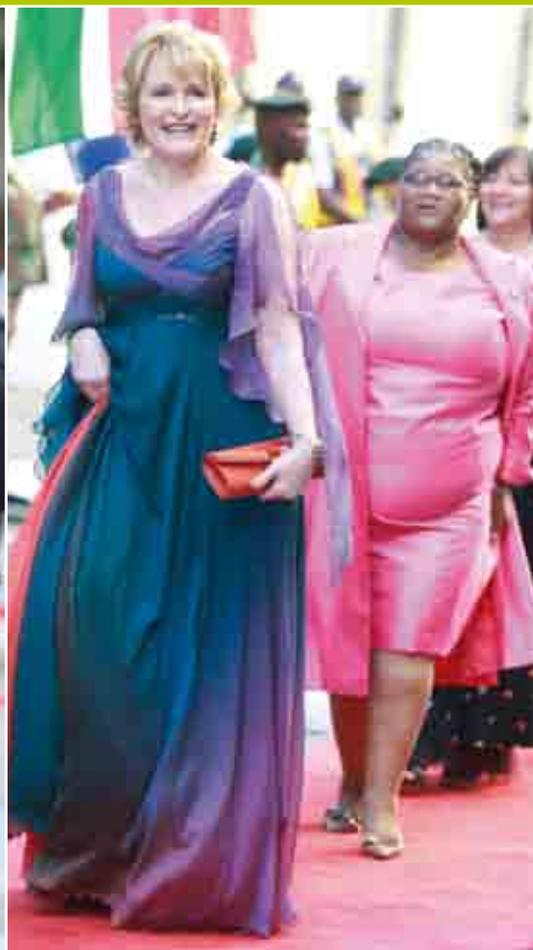
# Through the lens

SONA on the red carpet

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**COLOURFUL PARLIAMENT OPENING:** (Above) The official photo. (Below from left) Deputy President Kgalema Motlanthe; Leader of the Opposition, Ms Helen Zille; Speaker of the Gauteng legislature, Ms Lindiwe Maseko. (Opposite) VIP guests and entertainers.





# My story

## Wrestling with reconciling the roles of a woman

**Ms** *Fatima Hajaig, whose areas of expertise include foreign affairs, negotiation and conflict resolution, trade, investment and industrial policy, first became a Member of Parliament in 1994. She is currently the House Chairperson responsible for International Relations and Public Education. This is her story, as told to InSession*

It is sometimes a bit difficult to reconcile all my roles, as a prominent Muslim, notable politician and Member of Parliament. I think that being a Muslim woman in politics is still not quite accepted in South Africa. But it was the Koran that sensitized me to fight for justice: working for social justice is a necessary part of my life.

I come from a family of freedom fighters. My grandfather was a compatriot of Ghandi and was imprisoned with him. My father belonged to the South African Communist Party (SACP) and my aunt, Miriam, was part of the Indian Congress. It was natural for me to grow up in a highly politicised household. I took part in school boycotts at the age of 15. At varsity I was banned by the State and precluded from meeting anybody or attending any gathering. For five years while studying law I was not allowed to go to any educational institutions or to speak to the media. I was confined to the magisterial area of Johannesburg, and being a woman made this all more difficult for me.

But my family was very supportive, especially my father. He understood

even in those years, the 60s and late 50s, when few women were at varsity. My father had a great deal of foresight. It was difficult to get into university, especially with that system of applying to government for permission. There were few universities that admitted us. I went to Wits where you needed special permission, and there was also a quota system.

Sometimes when women were strong-minded it was not acceptable to the community. Of course I am taking about 50 years back: things have changed somewhat. When I was banned, there was a comrade who was thrown down from the 7<sup>th</sup> floor (of John Vorster Square police station) in Johannesburg. A decision was taken between the ANC and Indian Congress that those who were in the same cell should leave the country because we didn't know what had been divulged, so they asked me to leave the country.

I was first in Botswana, then in Zambia where we encountered the "final throes" of the British Empire. They promptly told us to leave: we went in a small bakkie to Tanzania, to Dar es Salaam. There I worked



for a magazine in the ANC office, then the organisation, until Oliver Tambo sent me to complete my studies. It was wonderful to meet and work with Oliver Tambo. He was a roving ambassador trying to ensure that countries understood that the liberation struggle of the ANC was a just struggle of the people, not "communists" as we were labelled. The communist label meant that no country would touch you, since (they assumed) you come from the east.

Tambo was like a father to me and I could go to him with any problem. He was very firm on the empowerment of women. He always said no country would be free if the women were not free. I think we are still trying to live up to that, although it has not been easy. In terms of the Cabinet we have 43% female participation, 44% in the National Assembly, and 38% in local government. But we must remember that we are a patriarchal society. Our traditional laws are very patriarchal no matter what cultural group you



Ms Fatima Hajaig, House Chairperson for International Relations and Public Education in the National Assembly

are talking about. You can pass any number of laws but until you change the mindset of people, it is very difficult to ensure that women have an equal opportunity in life.

I am quite excited about my new role as House Chairperson for International Relations and Public Education in the fourth democratic Parliament. I feel that Parliament needs to play a more vibrant role. We get delegations coming in and going out for study groups, and it is important for all MPs, including those who do not belong to the International Relations Committee, to understand foreign policy and answer all questions, not only those related to their committees.

We need to know why decisions in the UN are taken in a particular way, and why we need to resolve conflicts in Africa. We have a new intake of MPs every five years; 62% of the (current) MPs are new. So we need to empower new people, and bring them up to speed in terms of foreign policy.

This is partly how I see my role as an MP: we have various parliamentary groups that prepare the MPs on what roles to play when they go to certain conferences, how to understand issues and perspectives. My role in the Pan-African Parliament (PAP) is to help lead discussions on COP 17.

People sometimes ask me if I think women's views are taken seriously in the parliamentary platforms such as the Inter-Parliamentary Union and the Commonwealth Parliaments of Africa. When PAP [Pan African Parliament] was formed we found that some members held back from discussions due to systems in their own countries. Instead the documents remained with the executives and did not reach PAP. But I think most PAP members learnt from our Parliament.

We are strong on public participation, and that is at the heart of a people's Parliament. I think we need much more than that. People from rural areas should come and participate. We

need to role out a better programme for public participation using media and the radio. One of the deficiencies of public hearings is that only businesses come. We must never take our people for granted. I have made a point of getting to townships since 1994, Midrand, Ebony Park, Ivory Park, Tembisa. I enjoy working in informal settlements. I was deployed in Ekurhuleni, a difficult and mixed constituency, which has a diversity of people, including foreign citizens. But I prefer doing things like brick projects (where people save money by buying brick-making machines and building houses for themselves on a rotational basis). It makes me feel good that I manage to help others to help themselves.

I would like my legacy to be that people remember me as someone who tried to make their lives better. 🙏

See [http://www.parliament.gov.za/live/content.php?Item\\_ID=2034](http://www.parliament.gov.za/live/content.php?Item_ID=2034) for podcast of the interview



# plainly speaking

**The** *Protection of State Information Bill is being considered by Parliament to replace the Protection of Information Act of 1982. It seeks a coherent approach to managing and protecting State information and to provide for the protection of certain state information from alteration, destruction, loss or unlawful disclosure. It also seeks to regulate the manner in which such information may be protected and repeal the Protection of Information Act, 1982*

State information means information produced, acquired or received by organs of State or in the possession or control of organs of State. In summary, the purpose of the Protection of State Information Bill is to regulate the manner in which State information may be protected, promote transparency and accountability in governance while recognising that State information may be protected from disclosure.

The Bill establishes principles in terms of which State information may be made available, made accessible, or protected. It provides for a methodical approach to the determination of which State information may be protected and provides a regulatory framework in terms of which such information is safeguarded.

The accessibility of declassified information to the public will be regulated. In addition the Bill provides for the establishment of a Classification Review Panel to review and oversee status review, classification and declassification procedures, criminalise espionage and activities hostile to the Republic and provide for certain other offences and penalties. It also repeals the Protection of Information Act, 1982. State information protected under this Bill includes valuable information

which requires protection against unlawful alteration, destruction or loss. The unlawful alteration, destruction or loss of this type of information is likely to deny the public or individuals of a service or benefit to which they are entitled. Sensitive Information is State information in material or documented form which requires protection against unlawful disclosure.

This information may be protected by way of classification. There are three levels of classification, confidential, secret and top secret.

The Bill provides for the establishment of an independent Classification Review Panel that reports to the National Assembly. The functions of this Panel are to review and oversee status reviews, classifications and declassifications.

The State Security Agency is responsible for the monitoring of all organs of state to ensure compliance with the prescribed controls and measures to protect valuable information and to protect classified information. The South African Police Service and the South African National Defence Force will not be monitored by the Agency.

The proposed legislation includes

the offences of espionage, where a person unlawfully and intentionally communicates, delivers or makes available classified State information that would benefit a foreign State; or where the person makes, obtains, collects, captures or copies a record containing classified State information that would benefit a foreign State.

Receiving State information unlawfully is where a person unlawfully and intentionally receives classified State information that would benefit a foreign State.

A person who is in possession of classified information that is a State security matter and who intentionally discloses, publishes, uses, retains or fails to take proper care of the said information is guilty of an offence. The Bill also makes it an offence to intercept or interfere with classified information. Any attempt to conspire with and induce another person to commit is an offence in terms of this law. Unlawfully and intentionally disclosing classified information is an offence. Failure to report the possession of classified information is also unlawful. To provide false information to national intelligence structures, destroy or alter valuable information, and intentionally and improperly classify State information for ulterior purposes is considered an offence. Failure to comply with the Act (by a head of organ of State or official) is unlawful. 🇿🇦

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# tribute *to* Winkie Direko

27 November 1929 - 17 February 2012



**The** *Chairperson of the NCOP, Mr Mninwa Mahlangu, paid tribute to Bloemfontein-born Ms Isabella Winkie Direko, former Free State Premier and delegate to the National Council of Provinces (NCOP) who died of a stroke on 17 February, at the age of 82. Ms Direko was a founder member of the NCOP from 1994 to 1999 after which she served as Free State Premier until 2004.*

In a message to the Direko family, Mr Mahlangu said “it was no surprise that she was appointed Premier of Free State. She used that position to unify the people of the province. Please accept our condolences and words of encouragement. She will continue to be remembered by many in our country. South Africa has indeed lost a leader,” he said, “I hope her teachings will guide current and future generations.”

Free State Premier Ace Magashule expressed his heartfelt condolences to her family. “It’s very sad news that she is no longer with us. She always inspired those she knew,” he said. At the request of the Free State government President Jacob Zuma approved a provincial funeral for Ms Direko. A provincial funeral is reserved for distinguished individuals.

President Jacob Zuma said: “We have known Mme Direko as a caring leader. She was very passionate about education and development in particular. She spoke her mind on any issue, and her energy will be sorely missed at a time when the nation is addressing the challenges of poverty, unemployment and inequality.”

The Chief Whip of the ANC, Dr Mathole Motshekga, extended his heartfelt sympathies to the family, friends and comrades of the late MP who last served as a member of the National Assembly from 2004-2009. Dr Motshekga said he was deeply saddened by the passing of Mama Direko, with whom he worked closely, particularly during their tenure as Premiers of Gauteng and Free State respectively. “It is painful to lose a stalwart of such high calibre, a truly compassionate, committed and courageous servant,” he said.

The DA also expressed shock and sorrow at the death of Ms Direko. Free State DA spokesperson Patricia Kopane said she had played a crucial role in the politics of the Free State and South Africa. “Ms Direko served all Free State residents, regardless of their political affiliation,” Ms Kopane said.

Former President Thabo Mbeki described her as an outstanding human being. The elder statesman said: “I’m quite sure that all of us would want to be at the funeral. She was not just a politician, a political leader, she was also human and humane.”

A former teacher, Ms Direko served in numerous positions in the educational field and received the Bloemfontein of the Year Award in 1993. She served on the Council of Vista University and as Chancellor of the University of the Free State, her alma mater, where she obtained an M Ed degree in 2001. She also lobbied for the establishment of the Office of the Status of Women in the Free State Office of the Premier, and played a leading role in the Girl Guides Association of South Africa.

She became involved in the 1940s in the Youth League and after the banning of the ANC, she participated in underground structures. In the 1970s, during the student uprisings, she was among those who provided support to detained persons. She initiated the Bloemfontein branch of the National Institute for Crime Prevention and the Rehabilitation of Offenders (NICRO) to ensure that magistrates paid attention to the conditions of detainees. In the 1980s she provided valuable assistance to families to visit their loved ones on Robben Island. 🌹



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