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Sixth Parliament must drive process to decriminalise sex work



The Multi-Party Women's Caucus (MPWC) has recommended in its legacy report that the sixth Parliament should continue lobbying for the decriminalisation of sex work, writes Rajaa Azzakani.

The committee Chairperson, Ms Masefele Story Morutoa, said one of the key focus areas for the committee in the fifth parliamentary term was lobbying and advocating for legislative reform from a gender perspective, including the issue of sex work, with the MPWC advocating for the decriminalisation of sex work.

The SALRC report recommended for either continued criminalisation or partial criminalisation of sex work, but no position was taken by Cabinet on the matter as yet, so the current status quo remains with regard to sex work in South Africa.

In March 2018, the MPWC held a summit with various

stakeholders for their inputs and responses to the SALRC Report 107 on adult prostitution.

The summit's aim was to allow an opportunity for all stakeholders to submit their inputs on recommendations contained in the SALRC report to allow members of the committee an opportunity to engage with the content of submissions.

Ms Morutoa emphasised that the MPWC has previously pronounced its support for the decriminalisation of sex work and noted that other organisations, including the Commission for Gender Equality, also support decriminalisation.

“We want to assure the women out there that we are continuing with our engagements on sanitary dignity, as we advocate for the provision of free sanitary products to indigent women and girls.”

However, the MPWC is also aware that there are other organisations that are against the decriminalisation of sex work.

Another key project for the MPWC in the fifth Parliament was lobbying for free sanitary products for the poor and the indigent. The MPWC engaged at length with various stakeholders, including the National Treasury, on this matter. It celebrated the announcement in October 2018 by the Minister of Finance that

sanitary products would be exempted from value-added tax, but stated that the MPWC will, nonetheless, continue to advocate for sanitary products to be free.

Ms Morutoa said: “We want to assure the women out there that we are continuing with our engagements on sanitary dignity, as we advocate for the provision of free sanitary products to indigent women and girls.”

Ms Morutoa said the fifth Parliament's MPWC was committed to lobbying, influencing and advocating for the emancipation of all women in South Africa.

This includes identifying and addressing barriers and stereotypes affecting women today.

The MPWC has no oversight function over the executive and achieves its target through social activism, while moving away from being an event-based structure. 🌸

Parliament: improving the lives of workers



The Portfolio Committee on Labour's legacy report on its work in the fifth Parliament highlights successes, challenges and the recommendations to the committee of the sixth Parliament on its oversight work over the Department of Labour and its entities, writes Zizipho Klaas.

One of Parliament's mandates is to pass legislation and parliamentary committees play a major role in this.

The Houses of Parliament refer Bills to the relevant parliamentary committee, where the committee will discuss the Bill clause by clause, invite experts to make submissions and also conduct public hearings on the Bill. Once the committee is satisfied, the Bill is referred back to the House.

The Portfolio Committee on Labour processed a number of Bills during the fifth parliamentary term. These include the Unemployment Insurance Amendment Bill [2015], the Labour Laws Amendment Bill, the Labour Relations Amendment Bill [2017], the Basic Conditions of Employment Amendment Bill and the National Minimum Wage Bill. The committee finalised the National Minimum Wage Amendment Bill [B9-2019] on 19 March 2019.

The recommendations made by the committee to the Department of Labour include that the Minister of the Department of Labour fill vacant posts without delay to address poor performance in the department. The committee also told the department to make full use of its internal audit committee and then implement its reports, to avoid negative findings from the Auditor-General. The committee also advised that the Inspection and Enforcement Services programme must be adequately resourced, so that suitably qualified inspectors can be appointed.

The committee also recommended that the Commission for Conciliation, Mediation and Arbitration (CCMA) needs to be adequately funded, so that it can implement its statutory obligations in terms of the National Minimum Wage, the Basic Conditions of Employment Act and the



Labour Relations Act. The committee also recommended to the department that incidents of irregular, fruitless and wasteful expenditure must be investigated, while officials who are found to have flouted regulations must face remedial action.

In carrying out its mandate of oversight over the Department of Labour and its entities. The committee noted the illegal engagement of foreign nationals in the clothing and textile industry in KwaZulu-Natal and the Western Cape, and made recommendations to the next committee for further investigation into this problem.

did not have the documents required for migrant workers. Farm owners also complained to the committee about competition with farmers in neighbouring countries.

The committee discovered that farm workers in the farming sector are often unaware of their constitutional rights,

The committee discovered that farm workers in the farming sector are often unaware of their constitutional rights, which makes them vulnerable to exploitation.

which makes them vulnerable to exploitation. This is compounded by the seasonal nature of farm work.

The committee visited as many sectors of the South African economy as possible in the course of the fifth Parliament to monitor the implementation of labour laws.

These included the fishing industry, horse racing, mining, hospitality, wholesale, retail, construction, steel, clothing and textile industries. 🇷🇵

In 2015, the committee put the farming sector under scrutiny, checking compliance with labour legislation, and visiting farms in Mpumalanga.

The committee also discovered during one of its visits in the farms that some foreign nationals working on farms in Mpumalanga, in particular,



Eskom report to be submitted to the Zondo Commission

*The Portfolio Committee on Public Enterprises, which dealt with the inquiry into the mismanagement of funds in state-owned enterprises, upon concluding its inquiry; recommended to Parliament to hand over its report, together with the documentation and the entire record of evidence collected in the course of the inquiry; to the Judicial Commission of Inquiry into Allegations of State Capture headed by Deputy Chief Justice Raymond Zondo and law enforcement agencies for further investigation, writes **Yoliswa Landu**.*

The inquiry confirmed possible contraventions of the Eskom Conversion Act, the Public Finance Management Act (PFMA), internal and external governance requirements, as well as other relevant legislation, regulations and internal processes.

In its findings, the committee said it was clear that there was undue influence by private individuals and companies over the appointment of Eskom board members, as well as some procurement decisions.

The committee heard evidence which illustrated the extent to which public procurement processes, and the exercise of public power, had been used at Eskom to serve the interests of private businesses and individuals. The abuse of public resources to benefit these private interests stands in direct contradiction to Eskom's constitutional obligation to ensure that its procurement processes are equitable, transparent, fair, competitive and cost-effective.

The Eskom board failed dismally in its responsibility to ensure that Eskom complied with the applicable laws and supply chain management. In addition, various Eskom board members were conflicted in their dealings with some of the private businesses and may have acted unlawfully, together with senior management, to benefit a network that sought to achieve the capture of Eskom.



The committee heard evidence which illustrated the extent to which public procurement processes, and the exercise of public power, had been used at Eskom to serve the interests of private businesses and individuals.

Evidence was placed before the committee that various Eskom directors and senior employees acted inconsistently with their responsibilities in terms of various legislation, including the PFMA. It appears that such persons abused their positions and may have exploited confidential information for personal gain or to benefit other persons improperly. As set out above, key Eskom personnel failed to act with

fidelity, honesty, integrity and in the best interests of Eskom.

Various responsible persons, including Eskom board members, failed to investigate allegations of corruption, improper conduct, or failure to comply with the supply chain management system, and failed to take appropriate steps in relation to such allegations. Evidence before the committee also showed how persons entrusted with key public powers acted inconsistently with their responsibilities.

The corruption at Eskom has undoubtedly contributed to the substantial loss of public

funds, and in various instances, resulted in severe job losses in some companies competing with the Gupta family-owned companies, hampered transformation and may have caused environmental damage.

The Chairperson of the Inquiry, Ms Zukiswa Rantho, said: "The process undertaken by the committee was an inquisitorial inquiry, not a judicial hearing. The committee did not accuse anyone in the report, but recommended that law enforcement agencies make further investigations into the findings and observations made during the inquiry. 🇷🇺"



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Creating transparent and accountable financial administration

*The Joint Standing Committee on Financial Management of Parliament (JSCFMP) made detailed recommendations for the committee's work in the sixth Parliament and encouraged its successors to consider the annexure in its legacy report, which summarises the JSCFMP's recommendations between 2016 and 2018, writes **Mava Lukani**.*



In light of the poor implementation of recommendations during the fifth Parliament, the committee recommends that the sixth Parliament should develop a tracking tool, such as the example included in annexure B of the committee's legacy report to track Parliament's response to the committee's recommendations on a quarterly basis.

The sixth Parliament should ensure that the administration has the necessary technical support to make sure that its strategic and annual performance plans are drafted as indicated in the legacy report. The committee should

also be consulted timeously to allow for its recommendations on the drafting of the strategic plan to be fully considered. The committee also recommended that adequate consultation should also take place when annual performance plans are drafted.

The JSCFMP in the sixth Parliament should accommodate all the outstanding matters relating to the Parliamentary Oversight Authority (POA) in its programme.

The JSCFMP's research team should advise on how outstanding matters in the work of the POA could be

incorporated into the new committee's programme and method of work, and whether it would be advisable to establish a sub-committee to focus entirely on what had previously been handled by the POA.

The committee recommends that the sixth Parliament's JSCFMP should closely monitor the establishment and functioning of the Treasury Advice Office, as it will ensure that the executive authority receives impartial advice, especially in relation to matters referred to it in terms of section 37 of the Financial Management Act of Parliament.

The sixth Parliament should accelerate efforts informed by the Act to develop its own budget processes. A clear budget process would allow for transparency and more effective oversight of the institution's financial management. Clarity around the process will also allow the JSCFMP to use the avenues set out in that process to argue for additional funding for Parliament, as and when required.

The sixth Parliament's administration should prioritise finalising regulations and also ensure that sufficient consultation is provided for in that process.

The committee has proposed that the fifth Parliament's administration should conduct a review of labour relations and recommend ways in which the work environment may be improved in a report. The sixth Parliament should prioritise receiving this report and then review the JSCFMP's role in fostering a positive work environment. The matter should receive serious

attention to ensure that the challenges experienced in the fifth Parliament are not repeated in the sixth.

The committee argued that labour relations is a specialised area of work and many employers in both the private and public sectors do not have the expertise to manage labour relations. The committee encourages Parliament to ensure that the person employed to manage labour relations and promote the existence of constructive relationship between the employer and employees, has the necessary capacity to do so.

Disciplinary hearings and other recommendations

At the time of drafting the JSCFMP legacy report, disciplinary proceedings against the Secretary to Parliament, Mr Gengezi Mgidlana, had not been finalised. The committee therefore recommended that the sixth Parliament be kept abreast of developments

regarding Mr Mgidlana's disciplinary hearings, in particular the financial and other impacts the delays may have had. The committee said the matter should be concluded as a matter of urgency.

The committee further recommended that upon finalising the matter of the Secretary to Parliament, the sixth Parliament's JSCFMP should be briefed on findings relating to weaknesses in Parliament's financial controls and how those will be addressed. The committee also recommended that the sixth Parliament should develop an

appropriate monitoring system to assess the functioning of constituency offices. The JSCFMP should be kept abreast of developments in this regard.

The sixth Parliament should give consideration to whether the Oversight and Accountability Model, which dates back to the first Parliament, is still appropriate and relevant two decades later.

It is further recommended that the 2017/18 target to review and implement the model be included among the strategic objectives in the strategic plan of the sixth Parliament.

The sixth Parliament should prioritise a study tour for JSCFMP to countries whose parliaments have a similar oversight mechanism, as a benchmarking exercise.

The sixth Parliament should make every effort to identify alternate members to represent full-time members in the event of absence of a full-time member, to ensure that the JSCFMP is able to perform its oversight function with as little frustration as possible.

The JSCFMP of the sixth Parliament should be provided with its own dedicated support team, as the previous



committee had to rely on officials with commitments to other committees.

"The committee expresses its profound gratitude to its members, its secretariat and to the Parliamentary Budget Office for its commitment. "We wish the sixth Parliament

well as it continues to contribute to creating an environment of transparent financial management and accountability within the administration of the Parliament of the Republic of South Africa," said the co-chairpersons of the committee. 🌹

SANDF Rescues 100s in SADC countries following Cyclone Idai



In scenes reminiscent of the dramatic rescue of the newly born Rosita Mabuiango and her mother from a tree following floods in Mozambique in 2000, the South African National Defence Force (SANDF) extended a helping hand to Mozambique, Malawi and Zimbabwe after Cyclone Idai hit

the three Southern African Development Community (SADC) countries in March 2019, writes Malatswa Molepo.

As part of its humanitarian assistance and disaster relief work, the SANDF rescued about 417 people and continued to operate a mission to sustain people with food and medical supplies to the regions ravaged by Cyclone Idai. The work of the armed

forces was appreciated by both the Portfolio Committees on Defence and the Joint Standing Committee on Defence. The two committees said the work strengthens the SANDF's humanitarian work and shows the SANDF can be relied upon in the region.

"The willingness and speedy response of the SANDF speaks of a professional and willing defence force that can be counted on in times of disaster, whether it be local or across our borders. We extend our gratitude to our soldiers who risked their lives in difficult



circumstances for extended periods of time delivering humanitarian aid, especially to stranded Mozambicans," said Mr Dumisani Gamede, the Chairperson of the Portfolio Committee on Defence.

The SANDF's work after Cyclone Idai was not only limited to rescue and delivery of humanitarian aid to SADC countries, but also involved efforts to get back transmission lines from the Cahora Bassa hydroelectric station to South Africa. "This is important in the context of alleviating the pressure on the South African power grid, which is important for the well-being of the South African economy. In the current economic climate, the sustainability of our power grid is necessary and we are grateful for the participation of the SANDF in ensuring the sustainability of the grid,"

said Mr Emmanuel Mlambo, the Co-Chairperson of the Joint Standing Committee on Defence.

Both committees highlighted that this important work should be appreciated all the more in light of the SANDF's funding challenges. 🌹

"We extend our gratitude to our soldiers who risked their lives in difficult circumstances for extended periods of time delivering humanitarian aid, especially to stranded Mozambicans."

The Joint Standing Committee on Financial Management of Parliament (JSCFMP) was established in May 2016 according to the Financial Management Act of Parliament and Joint Rules of Parliament, writes Mava Lukani.

Section 4 of the Act provides for the establishment of an oversight mechanism to maintain oversight of the financial management of Parliament. The legislation provides that the committee, among other things, considers instructions in terms of section 37(5), that is, executive directives with financial implications that are likely to result in unauthorised expenditure; considers Parliament's annual report tabled and referred in terms of section 60; considers instructions issued by the executive authority in terms of section 66 for the purposes of implementing the Act; and performs any functions specified in the Act and by the rules of Parliament, and that are consistent with the objectives of the Act.

Broadly speaking, the committee interrogates the governance documents referred to it, manages stakeholder involvement, manages collaboration, makes recommendations to the National Assembly and the National Council of Provinces, monitors the implementation of the legislation and policies governing the institution, as

well as the implementation of its recommendations to the executive authority.

Before its establishment, the Parliamentary Oversight Authority (POA) had the mandate of oversight over Parliament.

Immediately after the committee was established, it met to develop its strategic and annual plans; considered Parliament's quarterly, mid-year and annual financial performance; received preparatory briefings by its research team and the Parliamentary Budget Office before each of the above-mentioned briefings by the Acting Secretary to Parliament, and by the Auditor-General of South Africa before the annual report briefings; and had discussions with the executive authority as required; and considered urgent matters as they arose.

The committee held a strategic planning session on 12 May 2017 where it identified priorities to focus on before the end of the fifth parliamentary term. Its priorities included ensuring that Parliament operates according to relevant prescripts and policies; ensuring that Parliament is adequately funded, and that it manages its resources efficiently; ensuring the effective functioning of Parliament; ensuring that Parliament is accountable; and ensuring effective oversight.

New financial oversight committee sets out its work at Parliament

The committee regrets to report that in the short period of time since its establishment, it has had little impact on

Fifth Parliament sets up finance oversight committee



Parliament's administrative performance. This was because of the "newness" of the oversight mechanism and the requirement that the executive authority and accounting officer should report to it on matters related to the institution's financial management.

Labour relations in the last two years of the fifth Parliament have improved, but challenges remain, highlighted by the high number of resignations and the tragic passing of a senior manager in September 2018.

The committee noted that its recommendations have had little impact, and have been responded to poorly by the fifth Parliament. The committee has since its establishment consistently recommended that the executive authority should ensure that the administration develops a sound understanding of effective performance management.

In particular, the committee has recommended that all programmes and sub-programmes should have clear key performance indicators (KPI) or outputs, that are

measured quarterly. In order to appropriately and adequately measure performance, each key performance indicator should have targets that are SMART – specific, measurable, achievable, realistic and time-bound.

At the time of reporting, it remained impossible to measure the institution's true performance, as most sub-programmes were not measured. The absence of KPIs led the committee to, in some instances, question the existence of whole divisions within the institution because it was unclear what output they were expected to produce.

In many instances where KPIs had been included, the targets that were meant to correspond to them were poorly developed and unmeasurable. In light of that, the committee regrets to report that despite its recommendations that weaknesses should be attended to, the institution's performance information remains unreliable.

The committee noted with concern that despite its recommendations for the speedy establishment of the Treasury Advice Office (TAO), that office, which will serve as an advisory to the executive authority on all matters related to Parliament's budget and

financial management, is yet to be established.

Parliamentary financial oversight committee shines spotlight on labour relations

While the committee had agreed that it would not become a forum for labour disputes, the strained labour relations that characterised most of the fifth Parliament cannot be ignored. The committee noted with concern the deterioration of relations between parliamentary employees and the employer.

Labour relations in the last two years of the fifth Parliament have improved, but challenges remain, highlighted by the high number of resignations and the tragic passing of a senior manager in September 2018.

The committee noted the suspension (with full benefits) of the Secretary to Parliament following various allegations of maladministration. The committee also noted with grave concern the long delay in the finalisation of the disciplinary proceedings, and has serious concerns about the prolonged process, especially given the financial impact the long delays have had for Parliament.

The committee noted with concern that constituency



offices, which are funded by Parliament, are inadequately monitored, something that Parliament's administration has confirmed. This makes it impossible to confirm if the offices exist as claimed, and if they do exist, whether they operate as claimed. The committee believes that the current system of monitoring constituency offices is inadequate.

The committee also expressed some concern about Parliament's oversight and accountability model. Of particular concern, the

committee said, is whether the model allows for effective oversight of the executive in order to ensure that the broad objectives of the National Development Plan (NDP) are achieved.

The committee said the manner in which oversight has been conducted has made it difficult to identify inefficiencies within the executive. In the main, the committee said this was because Parliament has in most cases opted to inform the executive of oversight visits in advance. The committee noted

that unannounced oversight visits – which would allow those who are being overseen little opportunity to “prepare”, and would therefore make a more accurate assessment of the situation more likely – are seldom, if ever, undertaken.

The committee noted with interest that Parliament's approved 2017/18 Annual Performance Plan (APP) provides for the review and implementation of the model, and that this target was not met. In its approved 2018/19 APP, Parliament rephrased

this target but it is not clear whether any work has been done to achieve it.

Although the committee planned to undertake a study tour to observe how similar oversight mechanisms worked in other parliaments, the parliamentary schedule did not allow time for such a benchmarking exercise to be undertaken.

The committee also experienced challenges convening meetings. This is because committee members have responsibilities on other

finance and appropriations committees in both Houses of Parliament, which makes scheduling committee meetings challenging.

The fact that political parties are not required to provide representatives who could represent full-time members when necessary is also a challenge.

The unpredictability of the parliamentary programme in the last months of the term further frustrated the committee's programming. 🗳️

A dedicated Petitions office is needed

The Chairperson of the Select Committee on Petitions and Executive Undertakings, Mr Dumisani Ximbi, advised in the committee's legacy report to the sixth Parliament that a dedicated office is needed to deal with the vast number of petitions received from the public, writes Felicia Lombard.

During the fifth parliamentary term, the Select Committee on Petitions and Executive Undertakings focused its attention on clearing the backlog of approximately 60 petitions it inherited from the fourth Parliament, whilst also dealing with petitions referred to it during the fifth Parliament.

One of these petitions was the Fuzane petition, which was particularly challenging. The Fuzane petition called for an



investigation by the National Council of Provinces (NCOP) into the complaints raised by Ms Nobuntu Fuzane (hereafter referred to as Ma Fuzane) against the Khayelitsha District Hospital (KDH) and the Groote Schuur Hospital, both in Cape Town.

During an unannounced visit to the KDH undertaken by the committee on 12 April 2018, Ma Fuzane claimed that her daughter, Ms Tamara Fuzane, had been negligently discharged from Groote Schuur hospital in or around July 2011, after undergoing an invasive brain operation. She also claimed that her daughter had been physically assaulted whilst admitted at the Khayelitsha hospital.

“We were told not to remove her clothes and to take her to the Lentegour Hospital in what she was wearing. But when we removed her clothes, we saw that she had bruises,” said Ma Fuzane as she explained the events of the day that she collected the 33-year-old Tamara Fuzane from the Khayelitsha hospital.

Since receiving the petition, the committee, together with the Portfolio Committee on Health, held three hearings at Parliament. The primary purpose of these hearings was to afford Ma Fuzane, as well as the relevant stakeholders, the opportunity to make first-hand oral submissions on the petition.

In light of the committee's responsibility to recommend to the NCOP any course of action it deems fit and proper, the committee emphasised in its report the need for the national Department of Health to undertake a thorough investigation. The

investigation should take into consideration the fact that no statements were taken from the relevant medical personnel at both the Khayelitsha and Groote Schuur hospitals during internal investigations, and the reluctance on the part of the provincial Department of Health to allow the relevant medical personnel from the Khayelitsha District Hospital to make oral submissions to the committee on the issues raised.

The committee further recommended that the National Prosecuting Authority and the Independent Police Investigative Directorate investigate the assault allegations raised by Ms Fuzane, as well as whether appropriate action was taken by the South African Police Service in investigating the allegations.

The petition will be finalised by the sixth Parliament. 🗳️



Trade and Industry committee speeds up change in sugar industry

*By the end of the fifth parliamentary term, the Portfolio Committee on Trade and Industry commended the sugar industry for its work in accelerating transformation in the industry; writes **Rajaa Azzakani**.*

This came after the Chairperson of the committee, Ms Joanmariae Fubbs, requested the South African Sugar Association (Sasa) to submit its transformation plan to the committee. The request was made when Sasa appeared before the multi-party committee to give an update on the transformation in the industry. The plan will also see the industry committing additional resources to address the urgent need for enhancing the skills development and jobs for black industry stakeholders (with a specific focus on black youth and women).

In October 2017, the committee was briefed by the South African Farmers' Development Association (Safda) on challenges faced by small, black sugarcane growers. A number of these challenges were as a result of the configuration of Sasa,

which was embedded in the Sugar Act, and the resultant lack of recognition of these growers' needs and concerns. The committee consequently held several meetings with the Department of Trade and Industry (DTI), Safda, Sasa, the South African Sugarcane Growers' Association (Sacga) and the South African Millers' Association (Sama) to discuss the challenges in the industry and to call for deeper transformation.

The committee also conducted an oversight visit in KwaZulu-Natal (KZN) to gain a better understanding of the industry. As a result of these engagements and the committee's intervention, Sasa revised its constitution to allow



Safda a temporary seat until a final solution was reached. The committee also resolved that the DTI should review the legislation and regulations.

Another issue raised during the oversight visit in KZN, was the need for further tariff protection due to cheap sugar imports and alleged dumping of sugar on the South African market.

The committee requested the National Treasury, the South African Revenue Service

(Sars) and the International Trade Administration Commission of South Africa to brief it on the status of tariff implementation and the review of the sugar tariff. The sugar tariff was subsequently reviewed and increased, but not to the level that Sasa had requested.

The committee requests the next committee to:

Monitor the review of the Sugar Act (No. 9 of 1978) and its regulations to ensure transformation. In conjunction with National Treasury and the Department of Health, consideration of the socio-economic impact of the Health Promotion Levy (HPL) on the sugar industry, as well as

broadly on the agricultural products.

Monitor the implementation of the mitigation measures agreed to at the National Economic Development and Labour Council (Nedlac) with respect to the implementation of the HPL.

Oversee the implementation of transformation commitments made by the South African Sugar Association in relation to small, black sugarcane growers; and

Engage with the DTI and the sugar industry for the purpose of ensuring diversification of the sugarcane value chain such as ethanol in order to take advantage of the existing European Union market under Southern African Development Community-European Union Economic Partnership Agreement. 🌱

Placing municipalities under administration should be a last resort, says NCOP

*Putting struggling municipalities under administration through section 139 of the Constitution in an effort to restore good governance and sound financial management, was scrutinised during the fifth democratic Parliament, with some MPs arguing that there is no evidence that this yields positive results, writes **Sakhile Mokoena**.*

Section 139 of the Constitution gives the provincial government powers to intervene when a municipality fails to fulfil its constitutional or legislative duties. A province must notify the National Council of Provinces (NCOP) of its intentions to implement section 139.

This section of the Constitution states that the province must submit a written notice of intervention to the Minister of Cooperative Governance and Traditional Affairs, the provincial legislature and the NCOP within 14 days of the start of the intervention. Upon receiving such notice, the Chairperson of the NCOP will refer

it to the Select Committee on Cooperative Governance and Traditional Affairs to verify that the intervention is constitutional.

When there is a notice for intervention, the NCOP goes to the municipality and invites MECs, councillors and trade unions involved to listen to the reason for intervention.

It also checks if all administrative and constitutional requirements are met before making a recommendation.

During a workshop of the NCOP and the South African Local Government Association (Salga) that took place at Parliament in 2017, it was agreed that putting municipalities under administration or disbanding

them should be the last resort, after all other measures have failed to save the municipality.

“If we apply all the policies properly and implement recommendations by the Auditor-General, our municipalities can get their houses in order and interventions will not be necessary.”

Welcoming the proposal to “avoid section 139 interventions at all cost”, the NCOP House Chairperson for International Relations and Members' Support, Ms Masefako Dikgale, said: “If we apply all the policies



properly and implement recommendations by the Auditor-General, our municipalities can get their houses in order and interventions will not be necessary.”

Mr Nhlakanipho Zuma representing Salga in the workshop, said that over the years there have been many section 139 interventions, but have yet to see any positive results from such a move. Municipalities under administration return to the same situation or worse after the intervention.

Workshop discusses usefulness of placing municipalities under administration

Delegates to a joint workshop with the National Council of Provinces (NCOP) and the South African Local Government Association (Salga) questioned the lack of a tool to check the effectiveness of placing municipalities under administration.

The Chairperson of the Select Committee on Finance, Mr Charel de Beer, supported the call that such interventions should only be done when all other steps have failed. “Before we go to section 139, we need to look at section 154, and if we realise that the way the municipality is run might lead to section 139,

we put measures in place to support it before the situation gets worse.”

Mr De Beer said it should not be easy to go for section 139. “We must satisfy ourselves that all the support has failed in terms of section 154 and when we are convinced that the level of support does not yield any results, then we can go for section 139.”

He urged provinces to put in place measures to avoid

a temporary solution to assist the municipality to return to normal function, the duration of an intervention depends on whether the municipality returns to normality,” Mr De Beer said.

“We need to start with section 154,” Mr De Beer said, “and if that doesn’t succeed, section 139 can be applied. The dissolution of a municipality must come as a last resort after we have taken all other steps to bring it to normality.”



interventions. The NCOP does not intervene, he reminded delegates, but rather decides if the intervention is within the Constitution. “If we ensure compliance with legislation and view the Auditor-General’s reports as diagnosis and findings as an action plan to improve performance, we can prevent most of these interventions in our municipalities.”

“Intervention is not meant to be a permanent measure. It is

Some other delegates at the workshop said that placing municipalities under administration fails because it is an attempt to resolve political matters through legal means. One municipality has been placed under administration twice and has still not recovered.

Select Committee on Cooperative Governance sums up its work in fifth Parliament

According to its legacy report on the work achieved in the fifth Parliament, the Select Committee on Cooperative Governance and Traditional Affairs dealt with over 50 interventions, with some municipalities being placed under administration more than once.

In its report, the select committee highlighted that prior to the intervention, most municipalities faced challenges related to management,

controls in respect of financial management, compliance with the law, regulations and performance reporting requirements.

The Constitution, through section 100, also empowers the national government to take over the administration of a provincial government in a case where the province is found to have failed to fulfil its executive obligation in terms of the Constitution and legislation.

Also, with regard to this intervention, like with section 139, the NCOP must be notified by the provincial and national government. The NCOP must review the intervention regularly and may make any appropriate recommendations to the national executive.

However, this intervention is not processed by the select committee, instead an Ad Hoc Committee is established to inquire and submit a report to the NCOP, with recommendations on whether such intervention is necessary or not. The latest section 100 intervention was in the North West provincial government, which will continue into the sixth Parliament, following an endorsement by the Ad Hoc Committee to Inquire into the Intervention in the North West Provincial Government in terms of section 100 of the Constitution. 🌟

service delivery and executive leadership, and were ultimately unable to provide basic services.

According to the committee’s report, municipalities faced many challenges, including not paying their debts and other financial problems. The committee also highlighted that leadership challenges included failure to fulfil oversight responsibilities with regard to the implementation and monitoring of internal

Public Works Committee: EPWP must assist with development

The Portfolio Committee on Public Works' focus in the fifth Parliament included monitoring the Department of Public Works' implementation of Phase Three of the Expanded Public Works Programme (EPWP), with a strong focus on the progression of beneficiaries from the unemployed to the formal employment sector of the economy; writes Faith Ndenze.

The Chairperson of the committee, Mr Humphrey Mmemezi, said the committee has required the EPWP branch and the department to develop a concept of sustainable development as



part of the next phase of the programme. "The committee had to note that the EPWP was not about solving the country's unemployment and underdevelopment on its own. It is part of programmes across all sectors and spheres of government to deal with this task," said Mr Mmemezi.

In its legacy report, the committee details how it specifically focused on the beneficiaries from vulnerable



groups and the importance of all projects having a better-scheduled training component. During the course of the fifth Parliament, the committee undertook oversight visits that allowed it to have deliberations with rural municipalities on the EPWP. During these deliberations, the committee emphasised the importance of rural and metropolitan municipalities, departments and public bodies to follow the standardised regulatory framework according to which beneficiaries are selected for participation in the programme.

During one of the meetings the committee had with the department, the committee sought to understand what the EPWP branch, as a coordinating component of the department's employment creating function, was doing to ensure that municipalities and other public bodies followed policy, regulatory frameworks and reporting requirements.

The EPWP branch reported that it engaged all public

bodies including municipalities throughout the five-year term in order to assist with identifying work opportunities that could be created across government. The committee also engaged with the branch with regard to the Integrated Development Frameworks and Plans of municipalities to identify work opportunities and it assisted with training to strengthen capacity in this regard.

The committee discovered that the branch did this without the necessary legislation in place to guide such a coordinating and reporting relationship. This meant that public bodies and municipalities often did not follow regulations and did not report on time for reports to the National Treasury as well as for auditing purposes. This lack of adherence to regulation often led to under-reporting, which the Auditor-General remarked on in his annual audit report in the department's annual reports over the past three years.

The committee has also noted that in spite of the challenges that technological advances of the fourth industrial revolution may bring to the coordination of EPWP projects, crucial projects in early childhood development and home-based care in the social sector could not be done by machines or mechanised systems. 🌱

Committee investigates Gupta naturalisation process

The Portfolio Committee on Home Affairs, following an extensive investigation into the process granting early naturalisation to members of the Gupta family, reported a number of irregularities around the process, and recommended that the matter should be probed further by the Commission of Inquiry into State Capture, writes Malatswa Molepo.

The committee's investigation followed a directive from the House Chairperson responsible for committees which was given to the portfolio committees of Home Affairs, Mineral Resources, Public Enterprises and Transport, to engage immediately with the Ministers concerned and to ensure that Parliament gets to the bottom of the allegations of state capture.



After the investigation, the committee made several recommendations to the sixth Parliament. These recommendations include a review of the Citizenship Act and regulations allowing for exceptional circumstances for early naturalisation, and to specify exactly how this discretion of the Minister needs to be applied. The committee found that the Act was not specific and this created loopholes that could be taken advantage of.

The committee also recommended that criminal charges should be laid against a Gupta employee who was allegedly involved in smoothing the naturalisation process, Mr Ashu Chawla, and members of the Gupta

family relating to false information submitted in their early naturalisation applications. The committee found that Mr Chawla misled the Department of Home Affairs when he submitted information on the grounds for exceptional circumstances.

This information included the false claim that the family's company had made donations to 76 schools in the North West province of sporting equipment from the Oakbay group. The committee discovered that one of the schools listed had closed before the suggested donation date. The committee criticised the department for not verifying the information provided by Mr Chawla.



Mr Chawla did not appear before the committee because he was out of the country and had requested Parliament to arrange a business-class return ticket from India to South Africa to attend the hearing.

The committee also recommended that Mr Chawla's fraudulent and corrupt activities relating to both the early naturalisation and facilitating illegal visas for Indian nationals working at news channel ANN7, should be considered by the Minister as grounds for the revocation of Ashu Chawla's South African citizenship in terms of section 8(1) of the Citizenship Act.

Meanwhile, Mr Haniff Hoosen, a member of the committee representing the Democratic Alliance, questioned the efforts by some members of the committee to whitewash the role of former Minister of Home Affairs, Malusi Gigaba, in the unlawful approval of the Guptas' application for early naturalisation and to cover up his wrongdoing.

Mr Hoosen called for the report to include the culpability of former Minister Gigaba and that the report should be referred to the Zondo Commission, per the recommendations of the report, without delay. 🗳️

The committee found that Mr Chawla misled the Department of Home Affairs when he submitted information on the grounds for exceptional circumstances.

Communications Committee kept SABC in line

The South African Broadcasting Corporation (SABC) dominated the agenda of the Portfolio Committee on Communications throughout the fifth term of Parliament where corporate governance, financial management, human resources and relationship with the defunct television channel, African News Network (ANN7), were put under the committee's scrutiny, writes Justice Molafo.

Photograph: ©SABC



In line with rule 227(1)(c) of the 9th edition Rules of the National Assembly, the committee took a resolution in 2016 to investigate into the then remaining three non-executive members of the SABC board with regard to their fitness to hold office, following consecutive qualified audit reports, as well as numerous allegations of low staff morale and victimisation at the SABC.

Subsequent to the committee's resolution to institute an inquiry, the three board members wrote a letter to the then Chairperson of the Portfolio Committee on Communications, Mr Humphrey Maxegwana, in which they objected to the committee executing the inquiry, citing fear of prejudice. They requested that another independent committee be appointed to carry out the task.

The National Assembly took a resolution in November 2016 to establish a multi party

Ad Hoc Committee that had a mandate to conduct an inquiry into the board.

Mr Maxegwana said: "The decision to institute an inquiry



into the board of the SABC was taken in the public interest, in order to establish facts regarding the state of affairs at the public broadcaster and ascertain the fitness of the current members of the board to hold office."

The Ad Hoc Committee on SABC Board Inquiry, which was chaired by Mr Vincent Smith, was given a deadline of 28 February 2017 to table a final report to the National Assembly. In its report, among other recommendations, the

Ad Hoc Committee called for the dissolution of the board and investigations on contracts that were suspected to have been awarded irregularly.

The Portfolio Committee on Communications acted on the recommendations of the Ad Hoc Committee and appointed five interim non-executive members onto the board of the SABC with a six months' term of office, in line with the Broadcasting Act.

A permanent board was appointed in the same year before the term of office of the interim board had lapsed, but in 2018 the committee was seized with another responsibility, filling eight vacancies on the board of the SABC, following some resignations. The process was completed in March 2019 when the National Assembly adopted a list of recommended names of people who should be appointed on the board of the SABC by President Cyril Ramaphosa. 🗳️



Cooperative Governance Committee: Municipalities must put citizens first

The Portfolio Committee on Cooperative Governance and Traditional Affairs was often in the news during the fifth Parliament, as it had to deal with Bills and oversight work that attracted national interest, writes Abel Mputing.

The committee recently released its legacy report accounting for its work in the fifth Parliament and informing Members of the sixth Parliament of key outstanding issues pertaining to the oversight and legislative programme of the Department of Cooperative Governance and Traditional Affairs (Cogta) and its entities.

The portfolio committee's work ensures that the department delivers on its mandate to develop a functional and developmental local government system that delivers on its constitutional and legislative mandates, within a system of cooperative governance.

One of the key areas identified in the legacy report is that poor management skills in municipalities have contributed to a debt crisis in municipalities.

To achieve this, the committee must ensure that all municipalities perform their basic responsibilities of putting citizens first. This pledge would be achieved "by supporting the delivery of municipal services to the right quality and standard. And through the promotion of good governance, transparency and accountability", states the committee's report. Now that Parliament has risen, the committee's legacy report reflected on its programmes and achievements.

One of the key areas identified in the legacy report is that poor management skills in municipalities have contributed to a debt crisis in municipalities. The committee's report highlights that the department and some of its entities do not always

adhere to the committee's recommendations or those of the Auditor-General.

During the fifth parliamentary term, the committee processed several Bills, including the National Disaster Management Amendment Bill, the Traditional Leadership and Governance Framework Amendment Bill, the Traditional and Khoi-San Leadership Bill, the Customary Initiation Bill and the Local Government: Municipal Structures Amendment Bill.

The most topical of these were the Traditional and Khoi-San Leadership and Customary Initiation Bills, due to the interest and contestation in

the Bills, much of which was expressed at public hearings on the Bills. The object of the former is to amend the Traditional Leadership Governance Framework Act, 2003, to make provision for extended timeframes within which kingship or queenship councils and traditional councils must be established. The Bill also sought to provide for the recognition of traditional and Khoi-San communities and leadership positions.

The Customary Initiation Bill sought to provide for the effective regulation of customary initiation practices, to establish a National Initiation Oversight Committee and Provincial Initiation

Coordination Committees and to provide responsibilities, roles and functions to various role players involved in initiation practices or in the governance aspects thereof.

The Money Bills Amendment Procedure and Related Matters Act (No. 9 of 2009) was also considered to afford Parliament through its respective committees a legislative mandate to make "recommendations to the Minister of Finance to amend the budget of a national department if they deem necessary".

The committee's legacy report recommends that in the sixth Parliament, the committee should tighten its oversight over the department and its entities to prevent recurrent performance and financial management transgressions. This would be feasible, the report states, if the committee holds joint meetings with other parliamentary committees, such as the portfolio committees on Small Business, Economic Development, Mining and with all the entities of the department to enhance local economic development at local government level.

The legacy report also recommends that the sixth Parliament Committee on Cogta should propose a colloquium with all sector departments and portfolio committees and other stakeholders to look at how to enhance service delivery through innovation. 🌟



Public Audit Act amendment relies on ethical leadership

“To correct the financial management wrongs often cited by the Auditor-General in government departments’ audit reports, we need ethical officials who are capable of managing, implementing and complying with the laws that govern the administration of public funds,” said the Chairperson of the Standing Committee on Public Accounts (Scopa), writes Abel Mputing.

The amendment of the PAA, which Scopa has been calling for, marks one of the achievements of the fifth Parliament, but political leadership is required.

“First and foremost, we need political leadership. Your Ministers and your President must be people who set up a government with the sole intention of serving the people,” Mr Themba Godi said.

“Secondly, we need to make sure that the laws and rules that are there to govern the management of the public purse are fully implemented and complied with,” but most importantly, Mr Godi said, those who do not comply must pay a heavy price for noncompliance. “Then you would have resolved the problem,” he emphasised.

These views define the character of Scopa’s constitutional mandate and the seriousness of the task. Unlike other committees, Scopa’s



mandate is to hold accountable the National Treasury and all entities that receive state funds. In pursuit of this mandate, Scopa can compel these bodies to account for spending and can scrutinise the value the state derives from their budgetary allocations.

“First and foremost, we need political leadership. Your Ministers and your President must be people who set up a government with the sole intention of serving the people.”

Uniquely, Scopa is the only committee in Parliament that is led by a Member of Parliament from the opposition. This is a trend in developed democracies and

ensures that the committee is robust and nonpartisan. Scopa submits questions to relevant departments before scheduled meetings and the department then elects an evidence leader to present the department’s information. Scopa sets a high standard for departmental responses and is known for sending departments away if it is not satisfied with the presentation of evidence.

In its endeavours, Scopa has relied much on its relationship with the Office of the Auditor-General. Both Scopa and the

The amendment was welcomed by the Chairperson of Scopa, Mr Themba Godi, as it heralds the end of an era. “Everybody now knows that the Auditor-General can sanction forensic investigation that can lead to prosecution on financial mismanagement in the public sector. It can be claimed that the era of impunity is now behind us.”

The Public Audit Act was amended to address the problems of recurring adverse audit outcomes, non-compliance, slow response

will give the Auditor-General more powers to enforce investigations, as well as to make claims to accounting officers for purposes of recovering money lost negligently.”

This is something that the Standing Committee on Auditor-General should receive praise for, he continued. “For once, it means the Auditor-General will not only report irregular expenditures, but will be able to direct the head of a department to investigate it, failing which the state will have to claim money personally from the head of the department.”

The report further states what Parliament expects to see as a result of the amendment. “Parliament expects that the amendment of the Public Audit Act will alleviate the material non-compliance with legislation and accounting standards by auditees, which continue to increase the levels of unauthorised, irregular, fruitless and wasteful expenditure.”

in addressing the adverse audit findings and the lack of consequences.

According to the Scopa report for the sixth Parliament: “Before, the Auditor-General had no powers in terms of the Constitution to issue surcharge certificates or recover losses from the auditees and to take remedial action.

“We can happily say the National Assembly has passed the Audit Act Amendment Bill,” Mr Godi said, “which

The responsiveness of Parliament in the initiation and amendment of the Public Audit Act has, in the end, facilitated its passing, says Scopa’s report.

“Parliament responded positively to the Standing Committee on Auditor-General when it took the decision to initiate the amendment of the PAA.

On 16 November 2017, the committee resolved to amend the PAA in order to strengthen the Auditor-General.”

The Public Audit Act amendment means end of era of impunity, says Scopa Chair



Transforming the SA economy through small business development



The fifth democratic Parliament saw the establishment of a new Portfolio Committee on Small Business Development, following a proclamation by former President Jacob Zuma, creating a Department of Small Business Development with a mandate to serve the interests of small, medium and micro-enterprises, as well as cooperatives. Previously, this responsibility belonged in the Department of Trade and Industry; writes Justice Molafo.

In line with Parliament's strategic plan and in order to perform its constitutional mandate, the committee held its first strategic session in 2016, wherein 30 strategic objectives were developed.

The committee then called for a new approach in the cooperatives sector in South Africa, following a study tour to the Basque region of Spain in September 2018. The week-long tour included a visit to the Mondragon Corporation, the Basque Ministry for Industry Economic Development, the Basque Trade and Investment Agency, the Spanish Parliament and the Spanish Business Confederation of Social Economy.

The Mondragon Corporation is the largest business group in the Basque region and the second largest in Spain, with 80 000 member employees, 266 cooperatives and total

revenue of €15 billion (R236 billion).

In its legacy report, the committee made a number of recommendations to both the Department of Small Business Development and the sixth Parliament's Portfolio Committee on Small Business Development.

The Chairperson of the portfolio committee, Ms Ruth Bhengu, who was the leader of the study tour delegation, said Mondragon Corporation's success could be attributed to education and training, a high level of investment of profit, a central bank for all cooperatives, open intellectual

debate, social security measures and democratic debates.

"Although they play a critical role in transforming the economy, cooperatives are not small businesses. They are there to ensure that workers don't only provide labour in exchange for a living wage, but they themselves become members and owners of the economy," Ms Bhengu explained at the time.

One of the biggest lessons learnt from the study tour was that the Basque region applies a bottom-up approach to policy formulation for cooperatives.

"This is the point that the committee has tried, in vain, over the past four years to get through to the Department of Small Business Development. We consistently advised that the support programmes and policies should be based on

the felt needs of cooperatives on the ground, but the department always did the opposite. The department provides services based on the perceived needs by the officials in the department," said Ms Bhengu.

In its legacy report, the committee made a number of recommendations to both the Department of Small Business Development and the sixth Parliament's Portfolio Committee on Small Business Development. The recommendations include, among other things, that South Africa's Cooperatives Development Act should be

reviewed, and the department should develop a master plan to include a Cooperatives Bank; a Cooperatives Development Agency; a Cooperatives Academy and a Cooperatives Tribunal.

The committee further recommended in its legacy report that the department should review the outdated National Small Enterprise Act, table a new Bill and finalise the revision of the Integrated Strategy on the Promotion of Entrepreneurship and Small Enterprises, as well as the Integrated Strategy on the Development and Promotion of Cooperatives. 🌟





Sixth Parliament must monitor zero harm goal in mining sector



The next Parliament must enhance monitoring of the zero harm goal in the mining sector in order to improve mine safety and minimise fatalities in the industry. The Portfolio Committee on Mineral Resources, chaired by Mr Sahlulele Luzipo, recommended this approach in its legacy report to mark the end of the fifth parliamentary term, writes Sakhile Mokoena.

The zero harm goal is a mining industry initiative to improve safety and eliminate fatalities in mining operations across the country. The report raised concern about the growing number of fatalities in 2017 and 2018. It also accounted for the committee's work over the past five years and informed the Members of Parliament in the sixth Parliament about key outstanding issues in the Department of Mineral Resources and its entities' oversight and legislative programme.

"Despite the improving safety record in the mining industry in the first three years of the fifth Parliament, the

committee noted with concern the declining performance in the 2017/18 financial year. Occupational health and safety regulations of the mining sector continue to concern the committee," the portfolio committee reported.

There has been a deterioration in mine safety and the number of fatalities has risen in comparison to previous years. Fall of ground incidents, a term used to classify accidents resulting from the unexpected movement of large masses of rock, contribute disproportionately to the disturbing trends.

The report recommended that the portfolio committee in the sixth Parliament should ensure that the Department of Mineral Resources continues to do everything possible to stop this trend, through vigilant inspections and continual investment in the mining safety research capacity of the Mine Health and Safety Council.

The legacy report, noted that Parliament and the government have not done enough to promote occupational health, or achieve zero harm or fair and timely compensation when mineworkers for work-related injuries.

Government and Parliament "dropped the ball on this issue, particularly when it comes to the compensation of ex-mineworkers for lung diseases. The issue has been unresolved

for more than 10 years because Parliament has been unable to deal with legislative changes that have been agreed by three departments: Labour, Health and Mineral Resources," the report noted.

The report also raised concerns about the rise in illegal mining and issues of transformation of the mining industry, which it said was inadequate.

The committee devoted many hours of meetings and oversight visits to the problem of illegal mining, but Parliament has been unable to solve problems of accountability because four portfolio committees are involved. "Mining laws regulate access to mineral resources by people and entities that have been given rights to minerals by the Minister. When people mine without such rights, the matter is in the jurisdiction of the justice system and, as

many of the illegal miners are foreigners, the Minister of Home Affairs is also a critical player in the effort to combat the scourge of illegal mining."

The committee was concerned about what it termed the "inadequate transformation" of the mining industry, and recommends that the next committee should continue to promote programmes that enhance collaboration between the Department of Mineral Resources, the Minerals Council of South Africa and labour representatives. "Issues pertaining to mining communities will continue to be a major area of focus for the committee, to ensure overall improved participation

of mining communities in economic activities of mining projects."

The committee also said that better coordination in Parliament is necessary when discussing, for example, laws relating to taxation, the environment and worker compensation, which currently are not discussed within the Portfolio Committee on Mineral Resources, even though they directly affect the effectiveness of the mining sector. The Portfolio Committee on Mineral Resources has to oversee the role of the government as a whole in its custodianship of the mineral wealth of the nation. 🌟



The road to the sixth Parliament



On 8 May the people of South Africa voted in the sixth non-racial democratic elections and determined which political parties should represent them in Parliament and in the Provincial Legislatures. This important election coincided with the 25th anniversary of our constitutional democracy.

As the legislative authority of our democratic republic, Parliament must ensure that there is government by the people, under the Constitution. The National Assembly (NA) ensures this by electing a President, by providing a national forum for public consideration of issues, by passing legislation and by checking and evaluating executive action of government.

The National Council of Provinces (NCOP) ensures that provincial interests are taken

into account in the national sphere of government. It does this mainly by participating in the national legislative processes and by providing a national forum for public consideration of issues affecting the provinces.

In terms of the law, within 14 days of the Independent Electoral Commission (IEC) of South Africa declaring the results of the election, the Houses of Parliament, NA and NCOP must be established.

The Chief Justice of the Republic of South Africa has the powers, under the Constitution, to determine the dates and times of these first sittings and presides over key aspects of them.

Following consultations between officials of the Office of the Chief Justice (OCJ) and Parliament, the first sitting of the National Assembly took place on 22 May. At this sitting, the Chief Justice presided over each Member of the NA's swearing-in or affirmation of faithfulness to the Republic of South Africa and obedience to the Constitution.

The President is expected to deliver the State of the Nation Address to a joint sitting of the sixth democratic Parliament on 20 June. By then, the parliamentary committees, which focus on specific government departments and entities, are expected to have been established.

The NA may be constituted of no fewer than 350 and no more than 400 members.

The Chief Justice also presided over the election of the Speaker of the NA, Ms Thandi Modise. She then presided over the election of the Deputy Speaker, Mr Lechesa Tsenoli. The Chief Justice then presided over the election of the President, Mr Matamela Cyril Ramaphosa, who was elected from among the Members of Parliament in the NA.

Once he is elected, President Ramaphosa ceases to be a Member of Parliament and must take up office within five

days of being elected. This happened when the President-elect, at the presidential inauguration on 25 May, swore faithfulness to the Republic of South Africa and obedience to the Constitution. He later announced the composition of his Cabinet.

For the first sitting of the NCOP, each of the provincial legislatures must have held their first sittings and swearing in of Members of the Provincial Legislatures (MPLs). As is the case with the NA, the first sittings of the provincial legislatures began on 22 May, a date announced by the Chief Justice in accordance with his constitutional prerogative. Additionally, the Chief Justice also designated the Judge President of the Divisions of the High Court to preside over the first sittings of the provincial legislatures. Provincial Premiers and Speakers were elected at these sittings and the swearing-in of the MPLs also took place.

The provincial legislatures appointed their permanent delegates – the NCOP is composed of a delegation of 10 delegates from each

The Chief Justice of the Republic of South Africa has the powers, under the Constitution, to determine the dates and times of these first sittings and presides over key aspects of them.

province. Four of them are special delegates and six are permanent delegates. Political parties are entitled to delegates in proportion to their representation. If a person who is a member of a provincial legislature is appointed as a permanent delegate, that person ceases to be a member of that provincial legislature.

At the first sitting of the NCOP on 23 May, following consultations between the Office of the Chief Justice officials and parliamentary staff, the Chief Justice presided over the swearing-in or affirmation of faithfulness to the Republic of South Africa and obedience to the Constitution from the House's permanent delegates.

The Chief Justice also presided over the election of the Chairperson of the NCOP, Mr Nkosiyakhe Amos Masondo, who was elected from the permanent delegates. The Chairperson then presided over the election of the Deputy Chairperson, Ms Sylvia Lucas, as well as the election of the Chief Whip.

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