

the independent Bar (IAASA). This was quite an eye-opener, and demonstrated starkly the wide gulf between the GCB and the independent Bar. In fact, it was quite embarrassing in the meeting when some members of the independent Bar delegation indicated their willingness to subscribe to GCB rules and regulations, while others of their delegation indicated that they would not want to do so.

With an eye on the future, a future Bar Leaders' Symposium took place in Port Elizabeth on 14 and 15 July 2006, and topics included the Clementi proposals, restructuring of the Bar, the future of women at the Bar, and advocacy training. The symposium was addressed by Judge Froneman of the Eastern Cape Division. This symposium is an important event as it brings together future Bar leaders in a forum where they discuss matters relating to the profession and issues likely to arise in the future (see page 10 of this issue).

Having attended the IBA Council Meeting in Prague on 25-30 September 2005, the World Bar Conference in Hong Kong and Shanghai on 15-19 April 2006, and the first Bar Leaders' Conference in London on 24-26 May 2006, I have continually stressed the importance of the GCB maintaining contact at an international level. I have reported on all these conferences elsewhere.

The GCB maintains a good relationship with the judiciary and the magistracy. It has done so by demonstrating its support for an independent judiciary in the written submissions made to the Portfolio Committee in Parliament, and by meeting with the heads of court from time to time. Both meetings on 15 October 2005 and 1 April 2006 were dominated by the issues around the transformation of the Cape High Court. Other issues of mutual concern relating to magistrates, the Rules of Court, and the transformation of the legal profession are also routinely discussed.

As part of the GCB's communication with the outside world, media releases are issued from time to time. This is an important part of the business of the GCB as it demonstrates that the GCB recognises, and is concerned, about matters concerning the administration of justice. On 19 August 2005, the GCB issued a media release condemning the raid by the Scorpions on the office of Mr Zuma's legal representative. Subsequently, the warrants of search and seizure were set aside by the court.

On 30 January 2006, the GCB issued a press release relating to its concerns over the Fourteenth Constitutional Amendment and the Superior Courts Bill. A further press release was issued in this regard on 22 May 2006, when the GCB submitted its written representations to the Portfolio Committee.

I must again thank Elize van den Heever, and members of her staff, for the invaluable work that they do for the GCB. Their selfless commitment and dedication to the cause of practising advocates is appreciated. There are also a number of colleagues to whom I wish to extend my profound thanks and gratitude for their assistance during the course of the year. They know who they are, and I am not going to name them. Of course, the members on the GCB executive committee must be thanked for their hard work. On a personal note, I wish to thank the deputy chair, Jannie Eksteen SC for his invaluable support and encouragement during the year under review. The vice chair, Sharise Weiner SC, continues to do outstanding work not only generally on behalf of the GCB but more particularly as regards advocacy training. I also thank all the Bar chairs for their contributions. The GCB would struggle to function without their support. I thank particularly Semenya SC for holding the fort at the Johannesburg Bar. It is our biggest Bar and key to the future of the GCB. There are many others who play key roles in ensuring that the organised profession remains organised, and functions properly. To all of you, thank you very much, and I hope you will continue to assist and render assistance to the GCB as you have done in the past. 

Human Rights Committee

Report by Brian Spilg SC, convenor of the GCB's Human Rights Committee.

During the year under review, the members of the committee were Brahm Du Plessis, John Campbell, Gcina Malindi, Laurance Hodes, Terri-Lee Dix, Shirley Rose, Thabiso Machaba, Nadine Fourie, Steven Budlender, Nazreen Budlender and Brian Spilg SC.

Two initiatives have taken up most of the committee's time:

- The first related to the series of Judicial Bills proposed by the Department of Justice and Constitutional Development. In December last year, the Department decided to expedite the Bills concerned with amending the Constitution and with revising the Superior Courts Act. These Bills impacted fundamentally on the independence of the judiciary.

At short notice, we organised a confer-

ence on the Justice Bills for the Bar. The conference was held on 17 February 2006. Keynote speakers included Chief Justice Pius Langa, former Chief Justice Arthur Chaskalson, Deputy President of the SCA Judge Lex Mpati, Justice Kate O'Regan, SCA Judge Robert Nugent, Justice Johann Kriegler and Professor Cathi Albertyn. The topics covered judicial independence and the restructuring of the courts. Invited guests included judges, the Director General of Justice and Constitutional Development, representatives from universities, law societies, attorneys' firms, the SA Institute of Race Relations and the Law Reform Project. There were just under 100 attendees.

The conference appears to have been a success. The papers presented at the conference and the floor discussions were transcribed and appear on the GCB web-

site. Subsequent addresses on the topic by Nugent JA and George Bizos SC have also been posted on our website with their permission. The papers provide an invaluable resource on the issue.

The seminar elicited significant press interest which resulted in a number of press articles and media interviews. The conference would not have been a success without the commitment of Nadine Fourie and Steven Budlender. By the end of June 2006, the government announced that it would be redrafting, from scratch, the offending Bills.

- The second major initiative relates to overcrowding in prisons, and in particular the plight of awaiting-trial prisoners (especially the very young) and problems with parole boards. This subcommittee has been headed by Laurance Hodes. Both Brian Spilg SC and Laurance Hodes were appointed onto the National Initiative Forum on Overcrowding in Correctional Facilities chaired by Judge Eberhard Bertelsmann. Laurance was appointed on the Forum's subcommittee dealing with parole board issues.

During the year, the committee contributed to press releases on judicial independence issues and Mugabe's Drive out the Filth Operation.

It appears that NGOs involved in HIV/Aids projects have adequate capaci-

ty and the resources we have offered appear to be unnecessary. The issue of commuter passenger driving codes resulted in an approach being made to Cosatu, which at that time were not sure whether it impacted on their members

sufficiently. This initiative will be taken up again in view of the recent tragic death of 14 teachers who were Cosatu members.

There are a number of other initiatives still in the pipeline. 

Judicial Service Commission

Report by Milton Seligson SC, the GCB's representative on the JSC, for the period July 2005-June 2006.

Composition of the JSC

In terms of section 178 of the Constitution, the Judicial Service Commission (the Commission or JSC) is comprised of twenty-three members when it considers the appointment of judges. This includes the six persons who represent the National Assembly and the four persons who represent the National Council of Provinces. Also included in this number, when considering matters relating to a specific High Court, are the Judge President of that court and the premier of the province concerned, or an alternate designated by each of them.

When the Commission considers any matter other than the appointment of a judge, it sits without the representatives of the National Assembly and the National Council of Provinces, pursuant to the provisions of section 178(5) of the Constitution.

The Bar representatives on the JSC were Milton Seligson SC and Marumo Moerane SC, while the attorneys' profession was represented by Silas Nkanunu and Julian von Klemperer. The Commission is presided over by the Chief Justice and the President of the Supreme Court of Appeal is also a member.

Meetings of the JSC

The biannual meetings of the JSC were held in Cape Town at the Vineyard Hotel Conference Centre from 17-19 October 2005 and from 4-6 April 2006 respectively. At these meetings candidates for vacancies in the Constitutional Court, the Supreme Court of Appeal and various divisions of the High Court were interviewed by the Commission. The appointments which were subsequently made are detailed below.

Prior to the biannual meetings of the JSC, its Screening Committee considered applications and short-listed candidates for appointment to the Bench on 20 August 2005 and 25 February 2006. The Screening Committee consisted of the following members of the Commission: Milton Seligson SC (chairperson), MTK Moerane SC, KD Moroka SC, Prof J Neethling, and S Nkanunu and J von Klemperer, together with the Judges President of the respective High Courts in which the vacancies occurred.

Appointments to the judiciary

The following persons were nominated for appointment to the Judiciary at the October 2005 meeting of the JSC:

Constitutional Court – one vacancy

In terms of section 174(4) of the Constitution, the JSC is required to provide the President with three names more than the number of vacancies to be filled. The President makes the appointment from the list after consulting the Chief Justice and the leaders of parties represented in the National Assembly.

The Commission provided the names of Prof Catherine Hester Albertyn, Prof Glenda Carol Fick, Prof Cora Elizabeth Hoexter and Ms Judge Baaitse Elizabeth Nkabinde. The President subsequently appointed Ms Judge BE Nkabinde to fill the vacancy in the Constitutional Court.

Cape Provincial Division – two vacancies

Ms Patricia Lynette Goliath
Ms Acting Judge Tandazwa Cordelia Ndita

Eastern Cape Division – one vacancy Adv Nambitha Christabel Dambuza

Free State Provincial Division – one vacancy

Adv Corne van Zyl

Natal Provincial Division – one vacancy

Mr David Sakelene Vusumuzi Ntshangase

Transvaal Provincial Division – Deputy Judge President

Judge Jeremiah Buti Shongwe

Transvaal Provincial Division – four vacancies

The following three appointments were made.

Mr Aubrey Phago Ledwaba
Mr Rammaka Steven Mathopo
Mr John Raymond Murphy

The following persons were nominated for appointment to the judiciary at the April 2006 meeting of the JSC:

Supreme Court of Appeal – one vacancy

Judge Mandisa Muriel Lindelwa Maya

Natal Provincial Division – Deputy Judge President

Judge Phillip Levinsohn.

Transvaal Provincial Division – two vacancies

Advocate Cynthia Pretorius SC
Advocate Letty Mpho Molopa SC
(The second vacancy was not filled).

Judicial training and orientation

Legislation to implement a judicial training program is still under consideration.

Complaints against judges

Complaints are still regularly being made against sitting or acting judges in relation to their conduct on and off the Bench. The JSC only has jurisdiction in relation to judicial misconduct in cases of gross misconduct or incompetence which would justify impeachment in terms of section 177(1) of the Constitution. In the year under review, the Commission, for