

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

the first time in its history, commenced an enquiry arising from a complaint of misconduct against a sitting judge in order to decide whether or not the conduct in question constituted gross misconduct. Before the enquiry was completed however, the judge in question resigned from the judiciary. None of the other complaints submitted to the Commission was found to justify action

by it pursuant to section 177(1) of the Constitution. Draft legislation has now been published which deals with disciplinary steps against judges arising from non-impeachable misconduct.

GCB reports to the JSC

Information supplied to the JSC by the GCB and its local Bars in connection with the suitability of candidates for

appointment to the Bench continues to play an important role when interviews for appointments are conducted by the Commission. I would again stress that, wherever possible, information be sought and provided, not only as to well-known candidates, but also those candidates who are not so well-known to the legal profession. 

Advocacy training

Report by Sharise Weiner SC, convenor of the GCB's Advocacy Training Committee

International workshops

The GCB's Advocacy Training Committee (the ATC) continued its ongoing relationship with Gray's Inn and made many more international connections over the year.

In August 2005, Judge Eberhard Bertelsmann attended at the Keble College Advanced Advocacy Course as a trainer invited by the ATC of the Bar of England and Wales. Joseph Senatle (North West Bar) attended as a junior.

In October 2005, Glenn Goosen SC (Eastern Cape Bar), Judge Stegmann, Marius Oosthuizen (Pretoria Bar) and Pete Koen (KwaZulu-Natal Bar) participated at the Gray's Inn workshop.

In May 2006, Terri-Lee Dix (as a junior), Reggie Reddy and Ismail Jamie SC as trainers, attended at the Gray's Inn workshop on our behalf.

Expert workshops

Two expert workshops were held in September 2005. The Johannesburg Bar conducted an accountancy workshop for juniors in conjunction with Deloitte. Once again, Simon de Quindt from Deloitte, London, came specifically to attend the workshop.

The Pretoria Bar held expert workshops in a medical negligence case, a road reconstruction case, and a forged document case. Edwin Glasgow QC and Michel Kallipetis QC from the ATC, London, attended at their own cost. The medical expert witnesses from the ear

nose and throat profession were very enthusiastic and 30 of their members attended as observers.

We have been approached by members of the obstetric profession to conduct workshops in conjunction with them, dealing in particular with 'informed consent.'

Teacher training workshop

In January 2006, we held our annual teacher training workshop. This time we chose Clarens, which was a beautiful but inconvenient venue. Edwin Glasgow QC and Nick Price QC (now a High Court judge) attended from the ATC. Judges Johann Kriegler, Ivor Schwartzman and Eberhard Bertelsmann attended to assist as trainers. It was a very successful weekend. We trained 40 new advocacy trainers and 27 pupils assisted in this.

Pupillage symposium

Several issues were raised and hopefully successfully dealt with at the pupillage symposium held in March 2006. At the GCB July 2006 AGM, the issue of assessments and their value to the NBEB and the question of compulsory continuing legal education were raised (see pages 36-48 of this issue).

World Bar Conference Hong Kong

Several members of our training team were invited to participate as trainers in the first advocacy training sessions conducted at the World Bar Conference

held in Hong Kong in April 2006. These sessions involved practical training for young members of the Hong Kong Bar. They were conducted with various degrees of success, mainly due to a lack of prior preparation by the organizers. From South Africa the following participated: Sharise Weiner SC, Spicko Dickson SC, Guy Hoffman SC, Denise Fisher, Tim Bruinders SC and Izak Smuts SC. In addition, four junior members, Fatimah Essop, Chris Woodrow, Paul de Villiers and Richard Makubela were sponsored by the GCB and Johannesburg Bar to attend.

Teacher training Hong Kong/ATC

After the WBC, a training workshop was held by the ATC in conjunction with the Hong Kong Bar Association. Justice Johann Kriegler and I were invited to participate as trainers at the workshop where members of the Hong Kong Bar and Bench were trained. Judging by the responses, this was a very successful workshop.

Advocacy training NPA/AFU

The GCB was requested by the NPA/Asset Forfeiture Unit to conduct a training workshop for its junior advocates on drafting skills and presentation of argument. As it was to be held in Johannesburg, members of that Bar took part as trainers in July 2006. The NPA agreed to pay for such training and an amount of R12 000 was charged for the day's training. This amount will be utilised in the advocacy training budget of the Johannesburg Bar for further training events.

Our thanks to Elize van den Heever and her team as well as to Joni Raff for her able assistance this year. 