

Bar leaps transformation hurdle at AGM

Public Protector Thuli Madonsela honoured by GCB

Kerusha Pillay (Society of Advocates, KwaZulu – Natal and Johannesburg)

THE GENERAL COUNCIL OF THE BAR of South Africa (GCB), at its Annual General Meeting in Cape Town last month, committed the advocates' profession to acknowledging in public its recognition of the 'inadequate progress made on the transformation of the legal Profession in the past 21 years'.

To this end, at the meeting the GCB established a transformation committee to collate information from all its constituent Bars, to monitor the implementation of transformation initiatives, to report on them and to make recommendations on corrective measures (see the full text of the transformation resolution in box alongside).

At its gala dinner after the conclusion of its 70th AGM on 18 July the GCB conferred the Sydney and Felicia Kentridge Award for Service to Law in Southern Africa upon the Public Protector, Advocate Thuli Madonsela.

The award is presented annually to a person who has made an exceptional contribution to Law in Southern Africa which is considered worthy of public recognition.

The illustrious list of previous recipients of the award includes late Chief Justices Arthur Chaskalson and Pius Langa, Deputy Chief Justice Dikgang Moseneke, Justice Yvonne Magoor, Advocate George Bizos SC and Zimbabwean human rights lawyer Beatrice Mthethwa.

Presenting the award, GCB Chairman Jeremy Muller SC said: 'The public Protector needs no introduction and her service in support of the rule of law and constitutional democracy is a matter of public record.'

Madonsela said that she was deeply honoured by the award. 'The greatest value in these awards is the recognition and affirmation of the Public Protector as an institution. They also inspire interest in the institution as an important avenue for access to justice in the area of administrative law and public accountability as an essential for strengthening constitutional democracy.'

Since assuming office as the Public Protector on 19 October 2009, Madonsela has embarked on numerous controversial investigations, including an investigation into 'kickbacks' allegedly received by Julius Malema in the context of traffic department contracts given to On-Point Engineering.

Pursuant to her investigation on security upgrades to President Zuma's private residence at Nkandla, Madonsela sparked immense criticism when her report, *Secure in Comfort* was published in March 2014, in which she concluded that President Zuma had benefitted unduly from the R246-million spent by the State.

Notwithstanding the furor, she continues to demand accountability from government and has displayed unshakable courage in carrying out her duties as the Public Protector of South Africa. *The Daily Maverick* appropriately honoured

Transformation RESOLUTION

Embracing the constitutional imperative to realise the freedom and equality of everyone and accepting that our inequitable past has produced the economic and skills distortions overwhelmingly favouring white male practitioners to the prejudice of black and female practitioners in the advocates' profession and now committed to correct that history;

Acknowledging that, objectively measured, the efforts of the GCB and its constituent Bars to reverse the imbalances flowing from our past have failed to yield the desired transformation of the advocates' profession;

Accepting, in particular, that, generally speaking, our transformation initiatives have been met with some reluctance and resistance, on the part of some of our members and certain members of the established attorneys' profession broadly, to empower black and women advocates; and

Decrying the fact that government's stated objectives structurally to transform the legal profession to reflect, broadly, the demographics of our country, have not yielded the desired outcomes;

The GCB at its AGM held in Cape Town on Saturday, 18 July 2015, reflected on the transformation of the advocates' profession in the context of the fact that it remains significantly untransformed in terms of, *inter alia*, its empowerment culture, representivity, racial and gender barriers in work flow, skills transfer and the practice of window dressing

AND RESOLVED TO:

1. Make public its recognition of the inadequate progress made on the transformation of the legal profession in the past 21 years.
2. Establish a transformation committee to collate information from all Constituent Bars; monitor the implementation of the respective transformation initiatives, report thereon and make recommendations on what corrective measures may be undertaken.
3. Report, at every executive committee meeting and the AGM, progress as may have been made towards an acceptable transformation of the profession.
4. Engage with relevant role players to achieve these aims. 



At a gala dinner held at the conclusion of the AGM, the Sydney and Felicia Kentridge Award for Service to Law in Southern Africa was awarded by the GCB to the Public Protector, Advocate Thulisile Madonsela.

Steven Booth

her for 'serving her role as an ombudsman to the exercise of executive power with unwavering commitment to the truth'.

On naming her one of the 100 most influential people in the world, in the Leaders category, *Time* magazine described her as 'an inspirational example of what African public officers need to be'.

Like the late Lady Felicia Kentridge, Madonsela has displayed a remarkable commitment to attaining justice in our country and has left an indelible mark on our history books.

At the cocktail party that commenced the weekend, the Chairman of the Cape Bar Council, John Butler SC, welcomed members on behalf of the 'first and original Bar in the country'. It is of interest that the earliest record of a practising advocate in South Africa is that of Jacob van Heurn, who was admitted as an advocate and notary in the Cape in 1688.

The AGM was held on 18 July, coinciding with Mandela Day, which commemorates our late President, who facilitated immense change and transformation in our country. Upon a conspectus of the matters discussed, the issues of significance were the changes that shall be accomplished by the Legal Practice Act 28 of 2014 (LPA) and the lack of transformation of briefing patterns in the profession.

The LPA, which shall invoke major changes in the legal profession, came into effect on 1 February this year. It was reported to the AGM that Kgomotso Moroka SC was appointed as the Chairperson of the National Forum on the Legal Profession, which is the umbrella body that will regulate the legal profession. Willem van der Linde SC, Ismail Jamie SC, Greg Harpur SC, Thami Ncongwane SC and Dali Mpfou SC were appointed as the representatives of the GCB on the Forum. During the meeting, there were extensive discussions regarding the practicality and desirability of 'an advocate with

a trust account' as envisaged by the LPA and the importance of the Bars' involvement in the implementation of the LPA and the development of the National Forum (see also Chairman's annual report of this issue).

A considerable part of the debate during the morning segment of the meeting focused on the lack of transformation of the briefing patterns in the profession. It was pointed out that despite some progress being made in respect of transforming the governance of the profession, this was a shallow victory as briefing patterns continued to remain skewed, which is indicative of the fact that insignificant progress has been made in this vital area. While there might be a surge in Black advocates being accepted for pupillage, it is important that they are able to sustain their practices. Such transformation is an imperative to ensure that the demographics of the advocates' profession and the judiciary become properly reflective of the demographics of our country. A resolution was then passed, which has been issued in the form of a press statement by the GCB.

- At the AGM Jeremy Muller SC was re-elected as Chairman for 2015/16 with the following members of the executive: McCaps Motimele SC (deputy chairman), Craig Watt-Pringle SC (vice chairman), Johann Bernhardt (honorary secretary), Thandi Norman SC (assistant honorary secretary), Abraham Louw SC, Anthea Platt, Alasdair Sholto-Douglas SC, Mathobela Sishuba, Phillip Zilwa SC, and Archie Findlay SC (ex officio). John Butler SC and the Cape Bar are thanked for being gracious hosts for the weekend. The next AGM is to be held in Bloemfontein. **A**