



PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

roundtable meeting

ROUNDTABLE
MEETING BETWEEN THE
PRESIDING OFFICERS
AND **INSTITUTIONS**
SUPPORTING
DEMOCRACY

30 OCTOBER 2013



roundtable meeting

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PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

vision & mission

VISION

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

MISSION

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



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1 executive summary

On 30 October 2013 a Roundtable Discussion took place in Parliament between the Presiding Officers of the National Assembly and Institutions Supporting Democracy (ISDs).

The Speaker of the National Assembly, Hon MV Sisulu, delivered an opening address that set the tone for the discussions. He pointed out that the Roundtable was scheduled to discuss progress on challenges that were being dealt with on the one hand and also to strengthen the relationship between Parliament and the ISDs and to continue to find ways to improve on existing working relations. He highlighted the need for Parliament and the ISDs to work together in fulfilling their respective constitutional obligations. He pointed out that the work of Parliament and the ISDs was aimed at serving the same person, namely the South African citizen. The Speaker said Parliament was fully aware of the challenges that ISDs were experiencing. He urged those present to take advantage of the platform at their disposal to discuss matters, for solutions to be found together.

The Deputy Speaker, Hon NC Mfeketo added that the first Roundtable was one of the forums used to brainstorm on challenges experienced by the ISDs. She indicated that, that forum together with the workshop the ISDs had with OISD identified challenges that are currently being processed at various levels of Parliament. She made reference to a newly created forum of Chairpersons overseeing ISDs. She also made mention of the Ad Hoc Committee on Review of Chapter 9 and Related Institutions Report. She further indicated that it is being processed and that the intention is to come to some conclusion on it before the end of the term of this Parliament.

The main areas of the Roundtable discussion included the following:

- Protocols of Communication
- Parliamentary processes
- Independence and lines of accountability
- Funding models
- Filling of vacancies
- Governance
- Report of the Ad Hoc Committee on Chapter 9 and Associated Institutions

The Roundtable in summary resolved as follows:

1. The existing interaction platforms listed below should remain in use, respected and must be properly strengthened:
 - The Forum for Institutions Supporting Democracy
 - Internal parliamentary platforms, such as the Forum of Chairpersons overseeing ISDs and the Forum of Chairpersons of Committees
 - The Speakers' Forum, so as to open up more avenues for ISDs at provincial level
 - Committees of the National Assembly as allocated to ISDs
 - Office on Institutions Supporting Democracy
2. Protocols of Communication between ISDs and Parliament should be developed. The Forum of ISDs with the participation of OISD should develop a discussion document in this regard for consideration in the next meeting.
3. The Speaker and/or Deputy Speaker could be invited to attend specific meetings of the Forum for Institutions Supporting Democracy, if need be together with the Leader of Government Business, so that ISDs would have an opportunity to articulate their concerns in his presence.

4. A clear decision will be taken about the processing of the Ad hoc Committee Report on Review of Chapter 9 and Associated Institutions before the end of the Fourth Parliament. Issues emanating from the Report that could be agreed upon will be attended to before the end of the term. Complex issues such as the amendment of legislation would have to be deferred to the Fifth Parliament.

2 opening address by speaker

Mr M V Sisulu, MP, Speaker of the National Assembly



The Speaker addressed the Forum as follows:

Let me welcome you all to this second meeting between Parliament and the Institutions Supporting Democracy (ISDs). It is indeed an honour for me to welcome you to Parliament for the opportunity to strengthen our relationship and to continue to find ways to improve on the working relations between Parliament and ISDs.

I am pleased to report that since the establishment of the Office on Institutions Supporting Democracy, there is a discernible improvement in the relationship between Parliament and the ISDs. Let me take this opportunity to thank the Deputy Speaker and the team of the Office on Institutions Supporting Democracy for the hard work to improve on our working relationship and to ensure that there is a central point that coordinates the work of the ISDs with Parliament.

Like any other relationship, all of us need to commit and work harder to ensure that the relationship works and works well for all of our benefit.

As we all know, the ISDs complement and support Parliament's oversight function, therefore Parliament is duty bound not only to ensure that the ISDs are effective in their functioning, but that we must strengthen ISDs ability to discharge their primary roles.

This we do not only on the understanding of our Constitutional obligation but because we understand the importance of the ISDs in our democracy. Section 181 subsection 3 of the Constitution demands of the other organs of state to also assist and protect ISDs to ensure their independence, impartiality, dignity and effectiveness. However, differently from other organs of state, this obligation in the case of Parliament is also based on the fact that the ISDs account to the National Assembly.

We therefore have all the reasons to ensure that the relationship between us is strengthened and works well. We have to do this together not only for us but also for those whom we represent and serve to *heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights* as dictated by the Preamble of the Constitution.

Our work must be guided by the aspirations of those whom we represent and serve. The Constitution, which is the supreme law, binds all of us, Parliament, the Executive, the Judiciary and all organs of state, not only to ensure promotion of rights as enshrined in Chapter 2 of our Constitution but also not to negatively infringe them.

The ISDs have an important role to play in this regard by ensuring that democracy is realised by all our people and they do so by ensuring that government delivers on its responsibilities. This role is based on the understanding of section 181 subsection 1 of Chapter 9 of our Constitution that the ISDs are established to strengthen constitutional democracy.

Parliament and the ISDs must therefore work together to deepen democracy in our country and give meaning to the achievement of substantive equality. Human dignity, the advancement of human rights and freedoms, non-racism and non-sexism, a democratic system of governance and the rule of law are core values that together we must promote to assist and support our government to address the unrelenting problems of inequality and poverty in our society.

All of us work to serve the same person, the South African citizen. We should therefore work together, not against each other or in competition to each other, to serve our people.

We need to use the limited resources of our country to ensure that we reach and impact all the people of our country particularly the poor and the most vulnerable in our society.

Lately there have been comments in the media that Parliament seems to be interfering in the work of certain ISDs and that we intend to prescribe to them on how to carry out their mandates. Let me take this opportunity to clarify this matter. Parliament's involvement with the functioning of any organ of state is based on fulfilment of our oversight function which is based on section 55 subsection 2 (b) which empowers the National Assembly to maintain oversight of any organ of state.

It may not be easy for many commentators to understand this role of Parliament because the ISDs must, in terms of section 181 subsection 2 of the Constitution, be independent and subject only to the Constitution and the law. However, the reading of section 55 subsection 2 (b) and section 181 subsection 5 should clearly explain that the ISDs are required to report to Parliament on the implementation of their mandates and their expenditure of public funds. Therefore what is considered by others as interference is really the performance by Parliament of its constitutional obligation and we do so without interfering in their day-to-day running to respect their independence.

I would like to take this opportunity to commend the ISD for having established a forum where they share information and work together. It is always necessary and important to work together in any other environment, not only to stretch the limited resources of our country, but because it enriches that which you do and provides an opportunity to learn from others.

Parliament is fully aware of the challenges the ISDs are currently experiencing such as inadequate financial resources to effectively execute their mandates. The discussion today will also focus on the funding models for the ISDs.

I trust that our discussions will result in recommendations to address this problem to ensure sufficient funding to enable ISDs to carry out their constitutional mandates.

I urge you to take advantage of this platform to raise all your challenges for us together to find the solutions. We owe to our people to work together to deepen and entrench democracy in our country and to ensure that those we represent and serve realise the fruits of our freedom.

Let me conclude by quoting former President Nelson Mandela when he said and I quote: "Where men and women and children go burdened with hunger, talk of democracy and freedom that does not recognise those material aspects can ring hollow and erode confidence exactly in those values we seek to promote".

3 discussion: deputy speaker

Ms N Mfeketo, MP, Deputy Speaker of the National Assembly



The Deputy Speaker referred to the previous Roundtable Discussion, held in 2010, and the workshop that the ISDs had with OISD in 2011. She said the concerns that had been raised on those two occasions were all at different levels of being processed. She mentioned that there had been frequent interaction on issues related to ISDs between the Presiding Officers and Chairpersons of Committees overseeing ISDs.

The Deputy Speaker indicated that the one issue that had presented challenges of its own was the processing of the Report of the Ad hoc Committee on the Review of Chapter 9 and Associated Institutions. She said that discussion on the Report was taking place on various platforms and that a clear decision on its processing would be taken by the end of the current parliamentary term.

4 discussion: inputs by ISDs

The ISDs all expressed appreciation for the opportunity to meet with the Presiding Officers and their sister institutions on a platform of this nature. The institutions agreed that even though there were individual peculiarities, they were largely all grappling with similar issues. The following issues were referred to:

- Protocols of Communication
- Parliamentary processes
- Independence and lines of accountability
- Funding models
- Filling of vacancies
- Governance
- Report of the Ad Hoc Committee on Chapter 9 and Associated Institutions

4.1 Protocols of Communication

An issue was raised around communication between Parliament and ISDs, and among ISDs. There was general consensus that a mechanism in this regard is necessary. It was agreed that the Forum of ISDs with the participation of OISD should develop a draft document on Protocols of Communication.

It was suggested that it might be useful to link the question of communication between Parliament and ISDs and between the ISDs themselves to the intent and spirit of the Oversight and Accountability Model adopted by Parliament at the beginning of 2009. It was further suggested that such protocols should be:

- Broad and that they should, among other things, regulate how reports submitted by ISDs were to be dealt with, especially in cases where their impact goes beyond that of the committee to whom the ISD generally accounts.

- Shared with all portfolio committees, so as to create a better understanding of the nature and relevance of the ISDs, and
- Circulated to new Members of the Fifth Parliament together with the information on mandates of ISDs

4.2 Parliamentary Processes

A concern was raised that there aren't adequate mechanisms through which ISDs can get adequate feedback from the National Assembly on reports submitted to relevant Portfolio Committees. The ISDs also raised a need for a forum to which issues that Portfolio Committees are unable to resolve are escalated to, like Presiding Officers.

It was acknowledged that there is great improvement in terms of coordination since the establishment of the OISD. It was also expressed that a fully and adequately staffed OISD would perform to expectations, and complement the Portfolio Committee work. A need for strengthened relationship between OISD and Portfolio Committees is critical for well performing ISDs.

Reference was also made to the newly created forum of Chairpersons overseeing ISDs. The role of the forum was described as providing a platform for the Chairpersons to share issues of common interest raised in Portfolio Committee meetings and formulate common approach to solving them.

ISDs expressed a wish to engage the Executive on recommendations contained in their reports. They also expressed concern about the lack of a structured way at provincial level in which ISDs can engage the appropriate committees on reports that they had submitted. Most reports do not get the audience that they seek. They also expressed a desire for OISD to attend the quarterly meetings of the Forum for Institutions Supporting Democracy to strengthen the link between the ISDs and Parliament.

4.3 Independence and Lines of Accountability

A question was raised as to who ISDs should address leave matters. The response was that the Speaker was ultimately responsible for everything in the institution. However, since he cannot personally keep his hand on everything, committees that mirror departments have been created to process matters on behalf of the House and the Speaker. It was emphasised that platforms such as the roundtables, Presiding Officers and OISD exist to take issues to further level when the need, where need be, and to nurture the relationship between the ISDs and Parliament.

It was further explained in the absence of anything changing the status quo the existing mechanisms remain to be used as they exist. ISDs were however invited to submit any proposals they might have towards enhancing processes in this regard.

Reference was made to the inherent tension between section 181 and section 55 of the Constitution. Appreciation was expressed for the way in which the Speaker had addressed the matter. It was further noted that it is in this regard important to continuously strike a balance. Clarity was sought on the issue of accountability, administratively, and whether reports and letters regarding leave and/or activities outside the country should still be submitted to the Speaker.

The Public Protector enquired whether consideration could be given to setting up a committee that would deal specifically with matters related to the Office of the Public Protector. Her reasons are that this office is on issues of governance, ethics, maladministration and an element of administrative justice. Her view is not better placed for this responsibility as it is more on Justice and Constitutional Development ensuring that the courts are functioning appropriately in terms of Chapter 8 of the Constitution.

4.4 Funding Models

Several institutions expressed concern about the fact that inadequate funding hampers the full expression of their mandate. Their view is that it is considered inappropriate for ISDs, which are meant to be constitutionally independent bodies, to receive their funding through the departments. They believe this creates a perception that they are programmes of those departments.

A consideration was made that one or two ISDs at some point should be invited to make presentations to the Speakers' Forum on their role, mandate and other issues of specific interest.

4.5 Filling of Vacancies

ISDs expressed concern about delays in the filling of vacancies. Some felt the processes were particularly protracted in cases where provinces were involved.

4.6 Governance

The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities) felt that the orientation and induction of new Commissioners is not always adequate. Reference was made to complexities of Public finance and governance matters. It also expressed concern about the fact that the size of the Commission, with its two full-time and 15 part-time Commissioners, had made the Commission unwieldy.

A serious concern was raised by the Public Service Commission (PSC), as an institution established in terms of Chapter 10 of the Constitution, at having been excluded from the Remuneration of Constitutional Institutions Bill. The PSC expressed the view that its exclusion would have negative implications for in terms of service conditions of its Commissioners.

4.7 Report of the Ad hoc Committee on Chapter 9 & Associated Institutions

A question was raised about progress made by Parliament in considering the body-specific recommendations on various ISDs in terms of the Ad Hoc Committee Report on Chapter 9 and Associated Institutions, as well as those concerning legislative changes.

Some of the ISDs that might be affected by the amalgamation proposals contained in the Report felt that they were being left in an uncertain place while the Report was not being processed. They said that this might also influence the way in which they were being treated by Treasury.

5 | way forward

The Roundtable came to some common understanding on how to take issues forward.

5.1 Protocols of Communication

It was agreed that:

- Protocols of Communication between ISDs and Parliament be developed. Such protocols where appropriate should be linked to the Oversight and Accountability Model.
- The Forum of Institutions Supporting Democracy and OISD representing the National Assembly should develop a draft discussion document in this regard for consideration in the next meeting.

5.2 Parliamentary Processes

It was agreed that:

- Mechanisms should be put in place to provide improved feedback to ISDs on Committees' engagement with reports that had been submitted and on relevant other matters
- The relationship between Committees and OISD should be strengthened to complement the Committee work
- The Forum on Chairpersons overseeing ISDs should be strengthened, as the Forum provides a platform to share and provide common solutions
- The Forum for Institutions Supporting Democracy should be strengthened and supported.
- The Speakers Forum would be approached for ISDs to make presentations on their mandates

5.3 Independence and Lines of Accountability

It was agreed that:

- Communication on matters that are administrative in nature such as leave or activities outside the country should still be submitted to the Speaker.
- The following existing interaction platforms should remain in use and be properly strengthened:
 - The Forum for Institutions Supporting Democracy
 - Internal parliamentary platforms, such as the Forum of Chairpersons overseeing ISDs and the Forum of Chairpersons of Committees
 - The Speakers' Forum, so as to open up more avenues for ISDs at provincial level
 - Committees of the National Assembly as allocated to ISDs

5.4 Funding Models

It was agreed that:

- Concerns on insufficient budget allocation should be raised with the Leader of Government Business and the Minister of Finance.
- ISDs should take advantage of Budgetary Review and Recommendation period that takes place in September/October each year, and present motivated submissions on additional funding requirements to the committees to whom they account.

5.5 Filling of vacancies

It was agreed that:

- Challenges that require the attention of Members of the Executive be brought to the attention of the Leader of Government Business.
- Challenges in respect of appointment processes involving provinces be resolved through interaction with the Speakers' Forum.

5.6 Governance

It was agreed that:

- The exclusion of the Public Service Commission from the Remuneration of Constitutional Institutions Bill should be discussed between Speaker and the Public Service Commission.

5.7 Report of the Ad hoc Committee on Chapter 9 and Associated Institutions

It was agreed that the Speaker and the Deputy Speaker should continue with the processes embarked on around the report and see it to some finality.

The Deputy Speaker thanked everyone for their participation.

annexure A: register of attendance

Name & Designation	Institution
Sisulu, Mr Max, Speaker of the National Assembly	Parliament of the RSA
Mfeketo, Ms Nomaindia, Deputy Speaker of the NA	Parliament of the RSA
Frolick, Mr Cedric, House Chairperson: Committees, Oversight & ICT	Parliament of the RSA
Hajaig, Ms Fatima, House Chairperson: International Relations	Parliament of the RSA
Nhlengethwa, Ms Dumisile, Chairperson: Cooperative Governance & Traditional Affairs	Parliament of the RSA
Nombembe, Mr Terence, Auditor-General of SA	Office of the Auditor-General (AGSA)
Makwetu, Mr Kimi, Deputy Auditor-General of SA	Office of the Auditor-General (AGSA)
Shozi, Mr Mfanozelwe, Chairperson	Commission for Gender Equality (CGE)
Mabuza, Rev Dr Wesley, Chairperson	CRL Commission
Tlakula, Adv Pansy, Chairperson	Independent Electoral Commission (IEC)
Taljaard, Ms Raenette, Commissioner	Independent Electoral Commission (IEC)
Khumalo, Mr Bongani, Acting Chairperson	Financial and Fiscal Commission (FFC)

Madonsela, Adv Thuli, Public Protector	Office of the Public Protector (OPP)
Malunga, Mr Sifiso, Deputy Public Protector	Office of the Public Protector (OPP)
Tengeni, Ms Phelele, Deputy Chairperson	Public Service Commission (PSC)
Helepi, Mr Paul, Commissioner	Public Service Commission (PSC)
Sizani, MsLulu, Commissioner	Public Service Commission (PSC)
Mamphiswana, Dr Dovhani, Deputy Director-General	Public Service Commission (PSC)
Cetywayo, Adv Nonkosi, Head: OISD	Office on Institutions Supporting Democracy (OISD)
Zweni, Mr Kaya, OISD: Senior Manger - Constitutional & Legal Services	Office on Institutions Supporting Democracy (OISD)
Lewis, Ms Elmarie, OISD: Manager: Strategic Liaison & Coordination	Office on Institutions Supporting Democracy (OISD)
Lebeko, Mr Peter, Acting Executive Director	Office of the Speaker
Vassen, Mr Mukesh, Legal Adviser	Office of the Speaker
Jacobs, Mr Luzuko, Section Manager and Parliamentary Spokesperson	Parliamentary Communications Services



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