



# ANC TODAY

ONLINE VOICE OF THE AFRICAN NATIONAL CONGRESS

HEALTH | BY MOLEFI SEFULARO

## Renew people's movement for health and human rights



We have worked very hard to introduce primary health care principles, policies, values and laws into the South African health system. We have pursued what are now universally recognised as Millennium Development Goals (MDGs).

On MDG 1, which calls for the eradication of extreme poverty and hunger, we managed to reduce severe under-five malnutrition from a total of 88,971 children in 2001 to 30,082 in 2005.

On MDG 4, which calls for the reduction of under-five child mortality by two-thirds between 1990 and 2015, there was a slight decrease from 59.4 to 57.6 between 1998 and 2005, a modest promise towards the goal of the national target of 20 per 1,000 live births.

Our performance on MDG 5, which calls on nations and governments to reduce by three-quarters the maternal mortality ratio between 1990 and 2015, turned out to be a huge disappointment, a harbinger of other forthcoming major failures in the ability of the South African health system to protect South African women against preventable pregnancy-related death. Instead of decreasing, the maternal mortality ratio increased from 81 in 1997 to 147 in 2004.

Failure to make the expected progress towards the Millennium Development Goals is mainly due to our collective failure to seriously pursue the right to health within the framework of the Bill of Rights of the Constitution.

In addition to the national failure to make the expected progress towards the Millennium Development Goals that are so critical to the fight against disease, disability or premature death, we have seen a prolonged period of strife and work avoidance over HIV and AIDS in our country. During this unfortunate period in the history of our young nation, we saw acute tragedies like the death of children due to klebsiella in the neonatal unit of Pelonomi Hospital, Mangaung; failed incubators in Frere Hospital; and acute gastrointestinal infection in Ukahlamba District of the Eastern Cape.

One of the most critical failings on the part of the activists of our times is that with the advent of democracy, we allowed ourselves to be demobilised. We trusted too much the legally prescribed form of democratic participation and governance.

Notwithstanding policy decisions and institutional arrangements for clinic and district health committees or hospital boards, including the National Consultative Health Forum, we saw the relentless shift of power relations in favour of the state and its various agencies.

Over time, the structures of health activism and participatory democracy became weaker and weaker. People's forums like the National People living with HIV and AIDS (NAPWA) and the National Committee on Children's Rights became increasingly emasculated over time.

### WEEK IN REVIEW

**Strong support for ANC in by-elections** | Results of by-elections confirm the strength in ANC support in areas that it won in the 2006 local government elections. In the midst of higher than usual turnouts, the ANC retained all of the seats it held in Eastern Cape, Northern Cape, Free State, North West, Gauteng and Limpopo.

**Taxi operators strike** | A taxi strike over the introduction of the bus rapid transit is marred with incidents of violence and damage to property, which is widely condemned. Despite their protests, all South Africans, including those in the minibus taxi sector, stand to benefit from safe, affordable, accessible and modern public transport.

### THIS WEEK IN HISTORY

**27 March 1968:** The Separate Representation of Voters Amendment Act is enacted to make laws affecting Coloureds on finance, local government, education, community welfare and pensions, rural settlements and agriculture. No bill could be introduced without the approval of the Minister of Coloured Relations.

**30 March 1960:** A state of emergency is declared following the Sharpeville massacre. Nearly 12,000 people are detained and the ANC and PAC subsequently banned.

As the mistake of this imbalance of power in favour of the state-centred approach to HIV policy and management became a more and more stark national tragedy and offence, we saw the confluence of many society centred groups which decided to challenge government authorities and their various allies.

We had increasingly ranged against state power groups and persons ranging from scientists, health and human rights activists, gender activists, COSATU, donor organisations, NGOs, churches and more prominently the Treatment Action Campaign.

The momentum of Polokwane has prioritised and strongly favours an accountable health service based on the will and participation of the people. The ANC is very serious about this commitment to a human rights-based approach to health policy, resource allocation and care. The promise lies in the fact that a special committee on health and education move from a principled stance on the side of human rights and evidence-based science and medicine.

Linked to this decision by the ruling party is the planned introduction of the National Health Insurance within the framework of a developmental state. The national health insurance will hopefully help government and the nation to realise more secure resources to provide quality comprehensive and human rights care for every South African.

The second opportunity lies in the passing of the law that entitles parliament to revise the budget that is annually adopted by cabinet and presented by the Minister of Finance. Within this space, organised groupings, constituencies and members of parliament can force policies and resource allocations that more and more fulfils a human-rights based health framework in our country.

Perhaps, with this law, the moment has arrived for the People's Budget Movement to be heard; with fewer excuses for members of parliament who in the past have claimed the absence of an empowering legislation for their passive endorsement for a budget that has proven in the past to have compromised our ability to achieve the Millennium Development Goals.

The third opportunity arises at a global level. The World Health Organisation's Commission into the Social Determinants of Health has completed its work and will be reporting to the World Health assembly in May 2009.

The Commission's mandate was amongst others to inform policy proposals and action on the following topics:

- early childhood development
- globalisation
- health systems
- urban settings
- women and gender equity
- social exclusion
- employment conditions
- priority public health conditions and
- measurement and evidence

All those that really care about the right to health should use the occasion of the Commission's report to the World Health Assembly to mount an active effort to link health to human rights as provided for in Article 25 of the Universal Declaration of Human Rights. They should be able to increase their effectiveness by linking up with organisations that were represented at the first People's Health Assembly, held in Savar, Bangladesh, in December 2000.

Here at home we will have to create a body-like formation to achieve two objectives.

First, to assist government to sustain and widen the shift in the balance of power between the state and the citizens such as was achieved in the development of the new national approach to HIV and AIDS.

Second, it will be the kind of national movement that will link up with progressive health and human right activist bodies like the People's Health Movement.

## LATEST STATEMENTS

[DA undermines rule of law](#),  
27 March 2009

[ANC sends well wishes to Bafana Bafana](#), 26 March 2009

[Media statement by Mlungisi Hlongwane](#), 26 March 2009

[By election results confirm strength of ANC support](#), 26 March 2009

[ANC president opens power station in Nkandla](#), 25 March 2009

[ANC welcomes interest rate cut](#),  
24 March 2009

[No ANC view on Transnet candidate](#),  
24 March 2009

[All benefit from affordable and modern public transport](#),  
24 March 2009

[ANC welcomes IEC decision on objections](#), 23 March 2009

[Democrat gains safe under ANC leadership - Zuma](#), 23 March 2009

[New government will be harsh on under-performers](#), 21 March 2009

We have to strengthen the voice of civil society and the ability to influence government policy because we dare not make the same mistake of demobilising the people and handing over power to the state, its officials and agencies.

Like those that were driven by the same ideals but later succumbed to the trappings of power, new wealth, bureaucratic politics and state interest policy management, we will have to guard and assist the new leadership corpse to stay true to the promises they are making to the people of South Africa.

>> Molefi Sefularo is a Deputy Minister of Health and ANC Deputy Provincial  
>> Chairperson in North West.

## NPA AND THE MEDIA | BY MATHEWS PHOSA

# Respect the law and the principles of the Constitution



The front page editorial in the Sunday Times of 22 March 2009, which appeared under the heading 'Killing the dream to save one man', cannot be left unchallenged.

As for the content, we agree that any person being charged in the criminal justice system is innocent until proven guilty.

For the rest of the article, that constitutional and legal principle is cast aside and the point of departure seems to be that ANC President Jacob Zuma is guilty until he proves himself innocent.

Let me refer to a number of principles that should, in my view, guide this discussion. We live in a constitutional state where disputes, such as the one that we are referring to, are placed before the court for a decision. Both parties, being the state and Zuma, are supposed to appear before such a court with equal rights.

Let us, for a moment, look at the history of this moment, and which "rights" have been exercised by the State:

- The National Prosecuting Authority (NPA) states publicly that it is not going to prosecute Zuma.
- The NPA changes its mind and decides to prosecute him.
- The NPA loses some of the legal disputes in this matter (the Nicholson judgement).
- The NPA exercises its right to appeal the above judgement.
- The NPA exercises the opportunity to comment to the media repeatedly on this matter.
- The NPA raids certain of the premises where it is of the view that relevant documentation is to be found.
- The NPA does not exercise the option of charging others alleged to have been involved in this matter.
- Making public remarks about the matter, including that, whatever the courts decide, the head of the NPA will always believe in Zuma's guilt.

In such an environment Zuma and his legal team are criticised for:

- Challenging the NPA, and the former Directorate of Special Operations (DSO), on a number of legal principles.
- Appealing decisions by courts at various levels.
- Requesting that the matter be placed before the Constitutional Court.
- Making representations to the NPA.

It boggles the mind that whilst it seems acceptable for the NPA to change its mind and exhaust all their possible legal remedies, it is portrayed as an offence by Zuma to do exactly the same. In a dispute between two parties, both parties have the right to exercise all their legal rights and potential remedies to settle a matter.

## LATEST SPEECHES

[Speech by ANC President Jacob Zuma at meeting with Afrikaner professionals business](#), 26 March 2009

[Speech by ANC President Jacob Zuma at the Solidarity Trade Union Congress](#), 26 March 2009

[Address by ANC President Jacob Zuma at KwaZulu Natal Progressive Professional Forum](#), 24 March 2009

## UPCOMING EVENTS

**ANC President to visit North West**  
Saturday, 28 March 2009

10H00: Meeting Mogwase residents at Unit 3 and 8

11H00: Walkabout and meeting commuters at Mabele a Podi

15H00: Attending the Nelson Mandela Challenge soccer match between Bafana Bafana and Norway at the Royal Bafokeng Stadium in Rustenburg.

Sunday, 29 March 2009

09H00: Attending a church service at the Rustenburg East (Covenant Church)

14h00: Addressing a rally at the Olympia Park Stadium

**ANC Deputy President Kgalema Motlanthe to address key stakeholders in the Eastern Cape**  
Friday, 27 March 2009  
First Floor, Kwantu Towers, Market Square, City Hall, 17h00

In a matter of such national and international importance, it is of the utmost importance that the NPA acts in such a way that its actions are above reproach, and that no suspicion exists that has neither encouraged media attention to the matter nor acted outside the spirit of section 179(5) of the Constitution, namely that it should execute its duties "without favour, fear or prejudice".

It would be helpful if, in such an atmosphere, the NPA could state clearly and publicly that there has never been any discussions or communications between political office bearers and its senior officials that could be construed as outside the confines of 179(5).

Inasmuch as any defendant in a criminal case has the right to have a case against him proven without reasonable doubt, there should, in addition, be no doubt whatsoever that the NPA, at all times, act within the letter and spirit of the relevant Acts and the Constitution.

In this case, one will have great difficulty to come that conclusion without nagging doubts.

There are a number of lessons to be learnt from this exercise. Some of them are:

- Further legal content needs to be given to section 179(5) of the Constitution.
- Consideration must be given to the period of time that a person can be under suspicion without being charged.
- The whole process of gathering information and what would constitute a legal search should be clarified.
- The process of making representations before and during a criminal case to the NPA must be clarified.
- Legislation regarding public statements by the NPA before and during a case should be considered.

In all of the above there are areas of legal vagueness that can be enlightened.

In summary: If a person is deemed to be innocent until proven guilty, the whole of society should respect that. In addition, an accused in a criminal case can, like the prosecution, exercise all its legal and constitutional rights to clarify matters and challenge assumptions.

>> Mathews Phosa is ANC Treasurer General.