

# **AN ANALYSIS OF THE APPOINTMENT PROCESS OF THE SOUTH AFRICAN HUMAN RIGHTS COMMISSIONERS – 2009**

**By Abongile Sipondo**

**Researcher/ Advocacy Manager: Democratic Governance & Rights Unit, UCT**

## **1. Introduction**

The process of appointment for new members to the South African Human Rights Commission, to replace five of the current sitting six Commissioners, has just been completed. The Portfolio Committee on Justice and Constitutional development interviewed about 27 candidates for 6 positions in the Human Rights Commission (4 full-time and 2 part-time). The interviews took place from the 14th to the 17th of September 2009.

As these appointments are a very important moment for Constitutional rights in South Africa, the committee had an obligation to ensure that it recommends to the National assembly individuals who have the necessary commitment to the protection and advancement of human rights and constitutionalism in South Africa, and the qualities and track record to demonstrate their suitability for such significant positions. This document seeks to analyse this process, and to see whether individuals chosen meet the criteria of an ideal Commissioner.

## **2. The characteristics on an 'ideal' Commissioner**

The Human Rights Commission Act 54 of 1994 (The Act) governs the formation, powers, duties and functions of the Commission. The Act provides that members of the Commission may be appointed as full-time or part-time and shall hold office for a period determined by the president of the Republic, but not exceeding seven years<sup>1</sup>.

The Act does not specifically set out the requirements for, or attributes of, a Commissioner, other than to provide that a member of the Commission should act in an independent and impartial manner, without favour, bias or prejudice<sup>2</sup>. However, the Constitution sets out more requirements for members elected to any of the institutions created by Chapter Nine of the Constitution. These requirements are:

- The member must act with Independence and impartiality;
- The member must be a fit and proper person;
- The member must possess broad knowledge of the content; and
- The member must be broadly representative of the South African community.

### **2.1 Independence and Impartiality**

The Commissioners are expected to advance and fulfil the mandate of the Commission, as set out in the Constitution and the Human Rights Commission Act. In performing their duties, they must be impartial, and should not be influenced by external pressures. The

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<sup>1</sup> Section 3 of the Human Rights Commission Act 54 of 1994 (the Act)

<sup>2</sup> Ibid, Section 4

Constitution clearly states, in section 181 (2), that the Chapter Nine institutions must be impartial and must exercise their powers and perform their functions without fear, favour or prejudice. Furthermore, the Human Rights Commission Act 54 of 1994 provides that the Commissioners ought to act in an independent and impartial manner. Section 4 (1) of this Act provides that a member of the Commission.....shall serve impartially and independently and exercise or perform his or her powers, duties and functions in good faith and without fear, favour, bias or prejudice and subject only to the Constitution and the law. These sections, read together, mean that the Commission and the Commissioners must, at all times, be willing to act independently, in other words without fear, favour or prejudice. Thus, the Commissioners should not act under political pressure and should make decisions regarding the investigations entirely on legal considerations.

In determining whether a Commissioner will act independently and impartially, one can draw on a test developed by the Constitutional Court in the SARFU v President judgement<sup>3</sup>. In this case, the constitutional Court ruled, that in evaluating whether a judicial officer will exercise his or her powers impartially, one will have to ask whether a reasonable, well-informed, person, armed with all the relevant facts, would have a reasonable apprehension that the relevant officer would potentially be biased in his or her decision making. Though the decision was on court officers, a similar conclusion can be reached when it comes to the members of the Human Rights Commission due to at least two reasons. First, both are categories of public officials tasked with the duty to protect and uphold the Constitution. Secondly, they have the mandate to adjudicate matters, albeit on different levels and forums.

## **2.2 Fit and proper person**

The Constitution provides that the Commission shall appoint, as the members of the Commission South African citizens who are fit and proper persons<sup>4</sup>. The requirement of “fit and proper person” insinuates persons of high competence and integrity<sup>5</sup>. The integrity and ethical standards of the Human Rights Commission lies at the heart of a fair and impartial Commission envisaged by the Constitution. The expression “fit and proper person” takes its meaning from the activities in which the person is or will be engaged and the ends to be served by those activities. It is a consideration of the person’s suitability, appropriateness, and legal eligibility to undertake the particular activity. The fit and proper person “test” incorporates considerations of honesty, integrity, reputation, knowledge, and ability. Considerations of “proper person” may incorporate aspects of credibility and conduct.

In determining a person’s honesty, integrity and reputation, the following issues need to be examined<sup>6</sup>:

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<sup>3</sup> President of the Republic of South Africa and Others v South African Rugby Football Union and Others (CCT16/98) [1998] ZACC 21;

<sup>4</sup> Section 193 of the South African constitution (1996)

<sup>5</sup> Envy Surty, Commonwealth Magistrates and Judges Association Conference, < [www.info.gov.za/speeches/2008/08101011451004.htm](http://www.info.gov.za/speeches/2008/08101011451004.htm) > accessed 5 September 2009

<sup>6</sup> ‘The Fit and Proper Person Handbook’, [www.fsa.gov.uk/pubs/hb-releases/rel27/rel27fit.pdf](http://www.fsa.gov.uk/pubs/hb-releases/rel27/rel27fit.pdf) accessed 8 September 2009. ; ‘Guidelines for fitness and Propriety’, < [www.cimoney.com.ky/.../GuidelinesFitnessAndPropriety.pdf](http://www.cimoney.com.ky/.../GuidelinesFitnessAndPropriety.pdf) > accessed 8 September 2009.

- Whether a person has been convicted of any criminal offence;
- Whether the person has been the subject of any adverse finding or any settlement in civil proceedings;
- Whether the person has been dismissed, or asked to resign, from employment or from a position of trust, fiduciary appointment or similar;
- Whether the person has the ability to execute the role without malice or partiality;
- Whether the person is acting careless or in a dishonest or criminal manner;
- Any other relevant factor.

### **2.3 Possessing knowledge of the content and application of Human Rights**

When making appointments to the Human Rights Commission, preference must be given to persons possessing knowledge of the content and application of human rights and of investigative or fact-finding procedures. The Commissioner must have the ability to know what should be done, and ability to execute the role diligently and not neglect it because of incapability.

In determining the person's competence and capability regard should be had to matters including, but not limited to:

- Whether the person has demonstrated by experience and training that the person is able to, or will be able to perform his/her duties.
- Whether the person possesses relevant qualifications;
- Whether the person has the knowledge of applicable legislation;
- Proven track record of commitment to the values of the Constitution; and
- Any previous relevant experience.

### **2.4 Broadly representative of the South African community**

The Constitution requires that the Human Rights Commission must reflect the demographics of the South African society. Section 193 (2) provides that the need for the Commission to reflect broadly the race and gender composition of South Africa must be considered when member are pointed. The constitution does not go further to explain what this means for the Chapter Nine institutions. However, in section 195, the Constitution goes further to state that in appointing public servants, employment and personnel management practices based on ability, objectivity, fairness and the need to redress the imbalances of the past to achieve broad representation. It can be argued that, in the spirit of the Constitution, the same standard is applicable to the Human Rights Commissioners as their mandate is also to serve the public.

## **3. The Interview Process**

The position of a Commissioner is a highly professional job, and a very important office for the South African democracy. The interview process for these positions has to be conducted in a rigorous and professional manner, in order to ensure that the best candidates are chosen for the positions.

The interview process conducted by the committee was marred by inconsistencies and sometimes blatant lack of professionalism. Some of the members, especially the opposition members, did take the process seriously. However, one could see that some did not take it so seriously, and were just doing a formality. This conclusion is drawn from a number of factors listed and explained below:

Firstly, some of the Committee members showed less interest in some of the candidates. They would be busy on their Blackberries and mobile phones or even worse walk out while some candidates were busy responding to questions. The question which rises is how is one going to make a fair judgement of a candidate if he was not present in the interview the entire time?

Secondly, there was not enough emphasis on the human rights content knowledge of the candidates. Some questions were sometimes surprising and completely irrelevant. For example, at one point Advocate Thimpanyane was asked about the availability of the budget to employ more Commissioners. It was as if he was standing before the Committee as the Commission's CEO, and not a candidate for the position of a Commissioner. Two members who really engaged the candidates on the knowledge of human rights were Ms Smuts and Mr Ambrossini. The rest of committee members had their favourite questions that kept on coming from candidate to candidate. Prof Ndabandaba's favourite questions were "what are your strengths and weaknesses?" and "can you work under pressure?". Ms Adams, the quietest member during the interviews, had a question about the Equality Act and Equality Courts, which was posed to a selected few of the candidates. Mr Holomisa's favourite questions were on cultural rights, and whether the candidate would prefer to be a fulltime or part-time Commissioner. The chair hardly asked questions other than setting the pace for the interview, and sometimes abruptly stopping a candidate in the middle of a response, claiming that the committee gets the gist of the answer.

Thirdly, during the interviews, a panel needs to show impartiality at all times during the interview process. As a member of the public, one could sense that some candidates were favoured by the committee members because they were known to the members. Advocate Mushwana was received warmly by some members, so was Janet Love. Carol Johnson even received some kisses from some committee members after the interview. Other candidates were not so lucky. For example, Ms Farrieda Dollie's interview was rushed because she had been delayed with the Committee doing her 'a favour' by squeezing her in between candidates.

Fourthly, some of the members hardly took notes during the interviews. The Committee secretary was not taking notes, either as he spent his time moving in and out of the room. This was so, despite the fact that there were no deliberations after each interview. The Committee rushed one candidate after the other as if they wanted to finish and get over the whole process. The question is then how could they remember what all candidates (nearly 30) said during the interviews, in order for them to make informed decisions as to the best suited candidates for the job?

#### **4. The Candidates recommended to the National Assembly**

The Committee recommended 6 names that were tabled in front of the National Assembly on the 22 September 2009 and the National Assembly overwhelmingly voted in favour. The question is whether these individuals meet the criteria set out in the Constitution of the ideal commissioner? Below, an analysis of their suitability to perform the job will be conducted, and a grade will be allocated to them, ranging from grades A to D. The A grade represents an individual who is most ideal to be a Commissioner and a D represents the lowest range.

##### **4.1 Danfred Titus (part-time)**

Dr. Titus possesses the broad knowledge of human rights issues. He holds a Master's degree and a Doctorate in international Human Rights Law. He also attended an intensive diplomatic course with other ANC members who were in exile. He was a senior researcher with the South African Law Commission, and is involved with the Human Rights Institute of Southern Africa (HURISA) as the chairperson of the Board. During the interview, he claimed to have engaged the Human Rights commission extensively on different issues.

He further demonstrated the knowledge of issues by the depth of answers to questions about some of the pressing issues in South Africa. For example, firstly, on race and equality, he argued that the South African society needs to look race with 'new eyes'. The South African society needs to put the issue of race on the table and understand the diversity of cultures. There is a need to understand what racism is. He mentioned that racism is a violation of human dignity. Secondly, on the intersection between the African customary Law and Human Rights, he argued that the South African society needs to look at the universality of human rights. The issue around customary law need to be debated and, there is a need to understand where the two fields of law can be linked. The areas of violation of human rights in customary practices need to be highlighted.

If one is to judge the answers during the interview, then one can argue that there is no reason to believe he would not act impartially and independently. He mentioned that he believes that the Human Rights commission has to be independent and the interest of the commission should be to bring back the values of the Constitution. He further argued that the executive infringes rights more than protecting them, and it is the duty of the Human Rights Commission to monitor the executive arm of government. When asked about examples of such human rights violations by the executive arm of government, he mentioned, among others, lack of service delivery and corruption within the executive as violations of human rights.

Dr. Titus meets the criteria for an ideal Human Rights Commissioner as he is a 'fit and proper' person, and has excellent knowledge of the human rights system. He should make an excellent Human Rights Commissioner.

**Score: A**

#### **4.2 Janet Love (part-time)**

Ms Janet Love possesses the broad knowledge of the human rights sector, having worked in the sector for many years. She is currently the Executive director of the Legal Resources Centre (LRC). Her involvement in human rights activism started in her days as an activist against apartheid. This was followed by her involvement in the negotiations for the interim Constitution and the compiling of the final Constitution. She works directly in human rights issues at LRC.

Her answers to questions raised by the committee members further demonstrated her excellent mind and thorough knowledge of issues. On the issue of Caster Semenya, she said that she finds the issue problematic in that it was highly personalised. The issue raises concerns around how the South African society views issues of gender, and a debate around gender needs to be started. When asked whether the HRC has reached rural areas, she responded that it has tried reaching out to rural areas, but has not attained the desired effect, due to, among others, huge resources needed to reach out to those areas. On cultural rights, she argued that customary law is part of our heritage and law. It is 'living' and therefore has to move on with times, and adapt to our current context of the constitution and rights culture.

On impartiality and independence, she said she can act independently, and that her involvement in the ANC would not interfere with her duties in the HRC. Her involvement in the ruling party may put a doubt to many people, but her track record on human rights issues at the LRC vindicates her. The LRC, especially the Constitutional Court Litigation Unit has acted independently, without fear, favour or bias.

Ms Love meets the criteria for an ideal Human Rights Commissioner as she is a 'fit and proper' person, and has a good knowledge of the human rights system. Her proven track record at LRC will make her a good Human Rights Commissioner. Her active involvement with the ruling party is the only small issue that may raise questions about whether she can act independently and impartially against the ANC led government.

**Score: A-**

#### **4.3 Joseph Malatji (Full-time)**

Joseph Malatji is an Advocate. Even though he is in the legal profession, he did not present evidence of human rights education. He has been with the Disability South Africa Council for two years.

Mr Malatji did not demonstrate astute knowledge of human rights issues in the interview, other than mentioning, among other things, that he thought he will be a link to the disabled people of South Africa, who experience human rights abuses everyday. He also said that there is a need to educate rural communities about human rights. When asked whether taking disabled children to special schools is discriminatory, he responded that there must be proper facilities for the disabled children, if you put the child in a user-friendly place, then you are serving the interests of that child.

Mr Malatji, as a member of the legal profession, has demonstrated that he is a “fit and proper” person, as is required to be admitted as an Advocate in South Africa. He also represents a particular section of the population, the disabled. However, the fact that he only represents a small sector of the population may be a limitation and a disadvantage.

Mr. Malatji has the passion to represent the disabled people in the Human Rights Commission. However, the disability sector seemed to be his only focus during the interview, and it remains to be seen if he will be able to transcend that and be able to deal with human rights issues in general.

**Score: B-**

#### **4.4 Lawrence Mushwana (Full-time)**

Laurence Mushwana has been in the public service for a number of years as a Public Protector. The office of the Public Protector is established by Chapter Nine of the Constitution, and the requirements are similar to those of a Human Rights Commissioner. Based on this one would assume that he is a ‘fit and proper person’, as he has gone through the ‘fit and proper’ person test.

The question of, as a Commissioner, acting independently and impartially is one that one needs to closely examine, and if he acted independently is the decisions he made as a Public Protector. Even though he claimed, during the interview, that he would not be afraid to rule against the government as a Human Rights Commissioner, as he has done so several times as a Public Protector, he has made suspect decisions in some cases – such as his decision in the Oilgate scandal where his report was set aside by the Gauteng High Court because the court said he failed properly to investigate the complaint implicating the ANC

His knowledge of human rights issues is also suspect. During his interview, he said that, as a Public Protector, he is already in the human rights sector, and he wants to continue what he has started. The Constitution states that the function of the Public Protector is to investigate any conduct in state affairs, or in the public administration in any sphere of government, that is alleged or suspected to be improper or to result in any impropriety or prejudice. It is not clear if one can draw an inference that a person who has been performing such duties has the expertise and knowledge required to be appointed as a Human Rights Commissioner.

His responses to questions about human rights issues did not redeem him, either. When asked what ought to be the relationship between the Human Rights Commission and arms of government, he said that the Human Rights Commission Act states that there must be cooperation between the government and the Human Rights Commission, and therefore this cooperation should be maintained. The Human Rights Commission is within the government and therefore needs to cooperate with the government.

He pointed out challenges to the Human Rights Commission are, first, that the Human Rights Act is outdated, and this makes it difficult for the Human Rights Commission to operate

properly, but did not mention how the Act is outdated. Secondly, he argued that the powers of the HRC given by the constitution are broad and wide and this put 'strain' into the HRC.

If his record as a Public Protector, which was marred by partiality and lack of independence, is anything to go by, then we can draw conclusions that he may lack independence, and could act partially. He also did not demonstrate a particular in-depth knowledge of human rights in the interviews.

**Score: D-**

#### **4.5 Loyiso Mpumlwana (Full-time)**

Advocate Mpumlwana is a lawyer, based in the Eastern Cape. He was the former regional head of the investigative unit in the Truth and Reconciliation Commission (TRC)'s East London office. In 2000, the Truth and Reconciliation Commission went to the High Court to sue Mr Mpumlwana for allegedly moonlighting while working for the provincial government. This issue raises questions of whether he is a 'fit and proper' person to hold the position of a Commissioner. This, especially that the fit and proper person "test" incorporates considerations of honesty, integrity, reputation, knowledge, and ability. Moonlighting while in a position which clearly states that you are not allowed to moonlight raises serious questions about one's credibility.

His answers to questions on human rights issues did not show broad knowledge of human rights. During the interview, he argued that he knows what justice is. He said that the poor should have access to justice, and high legal costs should not deter poor people from accessing justice. He further argued that if it was up to him, he would ban private practice, both in the legal and medical sectors because the high costs in these fields put the poor in a disadvantageous position. The current system of 'top to bottom', where the authority instructs is a challenge to human rights, and that a 'bottom-up' system is needed, where the public raises their concerns, and determine their rights to the authorities. There can never equal justice in an equal system.

When asked about his views on how to make the Human Rights system work, he suggested that there must be street Human Rights committee who would report human rights violations at community level to the Human Rights Commission.

The TRC saga raises questions of whether Mr Mpumlwana is a 'fit and proper' to hold the position of a Commissioner. He also failed during the interview to show good understanding of human rights issues. Making radical statements such as he would ban private practice if he had a choice raises questions about the positions he would take when he holds the position of a Commissioner. These aspects make him not to meet the criteria for an ideal Human Rights Commissioner.

**Score: D-**

#### **4.6 Lindiwe Mokate (Full-time)**



Ms Mokate is the former CEO the South African Human Rights Commission, who resigned at the end of 2005. At the time of her resignation, there was a lot of internal dissent at the Commission. Her resignation, which was widely covered by the media raises questions about whether she is a fit and proper person for the position of a Commissioner. When asked about her resignation, she responded that problems at the Commission were governance issues emanating from structural problems. She argued that when she left the Commission, there were no issues of incompetence, misbehaviour or fraud on her part. She resigned because the lack of clarity in roles of the chairperson and the CEO caused a lot of tension in the Commission. Despite her explanation, evidence shows that there was a lot of unhappiness in the Commission, something that she acknowledged during her interview. This questions her leadership abilities, a skill that is crucial for the position of a Commissioner

On the requirement that a Commissioner must have broad content knowledge, Ms Moakate is lacking. She does not have any human rights training. Her expertise is in education, economics and management. She stated that her lack of training in Human Rights should not be a problem as the Paris principles provides that the Commissions should have a mix-bag of skills and not only lawyers.

Even though she has no training in human rights, Ms Mokate showed a good understanding of human rights issues. She mentioned that South Africa still has a problem with the realisation of socio-economic rights. Even though the country has done well in the area of civil and political rights, ordinary people still have a problem accessing socio-economic rights. On how to improve the work of the Commission, Ms Mokate said that there is a need to improve communication between the Commission and government. At the moment, the Commission is isolated, and there is a need for the Commission to work with other stakeholders as this will not affect the independence of the Commission. Furthermore, awareness of rights should be raised as many South Africans are not aware of their rights. There are many pieces of legislation, such as PAIA and the Equality legislation, that South Africans are not aware of, especially rural dwellers who are the people who should be using those laws the most.

Ms Mokate was impressive during the interview. However, her responses to the questions do not guarantee that she will be a good Commissioner. The cloud surrounding her resignation as the CEO of the Commission raises questions about whether she is a fit and proper person to hold the position of a Commissioner. Furthermore, her lack of human rights training raises questions of whether she will be able to perform the demanding tasks assigned to a Commissioner.

**Score: C+**

## **5. Candidates who meet the characteristics of an 'ideal' Commissioner**

The list below shows candidates who possess all the characteristics of an 'ideal' Commissioner, as set out by the Constitutions and the Human Rights Act, but who were not recommended by the Portfolio Committee on Justice and constitutional Development. They

are 'fit and proper' persons, possess impressive qualifications and incredible skills, and showed astute understanding of human rights issues during the interviews.

### **5.1 Advocate Tseliso Thipanyane**

Advocate Tsepanyane performed his duties as the current CEO of the Human Rights Commission, and he served the Commission with integrity. There have been no scandals in the media or issues of lack of integrity around Mr Thipanyane, so a conclusion can be drawn that he is a 'fit and proper person' to be the Human Rights Commissioner.

Advocate Thipanyane clearly satisfies the requirement that a Commissioner should have broad content knowledge of human rights issues. He holds an LL.M. degree in Constitutional Litigation. He has taught law at university and published extensively in Human Rights Law. He sits in the Boards of UCT's Children Institute and ODAC respectively. He thinks his experience as the CEO of the Commission would add value to the Commission and would help him to make more strategic decisions as a Commissioner.

During the interview, AdvocateThipanyane portrayed deep understanding of human rights issues, and profound intellect. When asked about the challenges in the Commission, he listed, firstly, the inability of the Commission to reach out to people in rural areas. Secondly, is the failure of the Commission to force government to ratify the ICESR and to get government to report on their obligations on international treaties.

On whether the Commission should wait for complaints, Advocate Thipanyane said that the Commission should be both proactive and reactive. However, the Commission should be strategic as to which cases to take due to lack of capacity

On traditional customs, he said that customary law is part of this country, and there is a need to find balance between the practice and the law. Between 18 and 20 million South Africans live under customary law and therefore we cannot pretend that it does not exist.

Advocate Thipanyane meets the criteria for an ideal Human Rights Commissioner as he is a 'fit and proper' person, and has excellent knowledge of the human rights system. His experience in the Commission, first as head of research and as CEO places him in a good standing to be an excellent Human Rights Commissioner.

**Score: A**

### **5.2 Dr. Alli Chicktay**

Mr Chicktay has impressive list of qualifications. He holds numerous law degrees, including a PhD in law. He has taught constitutional law and a course on Alternative Dispute Resolution mechanisms. He has been an academic at Wits Law School for 10 years.

Mr Chicktay was impressive during the interview. When asked why he wanted to be part of the Commission, he mentioned that the continuation of transformation in South Africa is important and the commission has a crucial role to play in that process. He has done extensive research on human rights issues, such as the right to strike, and wants to ensure that the work of the Commission reaches the people.

On whether soldiers should be allowed to strike, Mr. Chicktay said that it is important to give people the right to protest but there is a need to balance this right with security issues.

On the weaknesses of the Equality Act, he mentioned that parts of the Act are written vaguely, for example the section on hate speech. The Equality court does not work properly; most of the cases have been settled out of the court as the court is under a lot of strain.

On cultural rights he said there is a Constitutional right to culture. One needs to be sensitive to culture and there is a need to look at what is behind a custom before judging that custom as unlawful.

Mr Chicktay's disadvantage is that he does not have practical human rights experience. When asked of his track record, he mentioned his involvement in the Law Students' Council, where he fought for transformation at Wits Law School. Other than this he does not have professional practical experience in human rights.

Mr Chicktay's qualifications and experience places him in a good position to be an excellent Human Rights Commissioner. His experience in labour rights, and more importantly in Alternative Dispute Resolution is skills desirable in the Commission.

**Score: A-**

### **5.3 Prof. Jeremy Sarkin**

Mr Sarkin is formerly a senior professor of human rights at the University of the Western Cape. He has held numerous visiting professor positions at some of the world's most prestigious universities. He holds a doctorate in human rights law; has written hundreds of articles in human rights law and has written about 12 human rights books. In May 2008, he was appointed by the Human Rights Council as a Special Rapporteur and to the UN Working Group for Enforced or Involuntary Disappearances, where he later became the chairperson of this working group.

During the interview, Mr Sarkin showed an astute knowledge of human rights. He argued that ongoing communication between the parliament and the Commission should be encouraged. Other avenues should be explored first and litigation should be the last resort if government fails to respond to the requests of the Commission.

When asked what the Commission ought to do about the criminal justice system, he said that there is a need to raise a culture of human rights in South Africa. If awareness about human rights is raised, then this will have positive impact on crime in the country. There should education about human rights in prisons. The Human Rights Commission should have a multi-strategy approach in dealing with the problem and should involve NGOs.

He further said that developing a culture of human rights is the work of the Commission, through awareness raising by training the communities about human rights, and ensure that there is more access to justice in general.

Mr Sarkin has all the attributes desirable in a Human Rights Commissioner. He is a respected human rights scholar, who also possesses practical human rights experience at both national and international level. He has adjudicating skills as a former acting judge, and has fantastic knowledge of human rights.

**Score: A+**

#### **5.4 Ms Farieda Dollie**

Ms Dollie possesses excellent knowledge of human rights issues. She gave good answers during the interview, despite being given only about ten minutes for the interview. She has vast human rights experience from many countries, and has worked for the Human Rights Commission as Senior Researcher for many years. Although her first degree is a Science degree, she has always been involved in human rights issues while in exile in Canada. She has coordinated research of many of the Human Rights Commission publications.

Ms Dollie was not given enough time to show what she could offer to the Commission, but her experience and knowledge of human rights could make her a good Commissioner.

**Score: A-**

## **6. Conclusion**

In general, an inference can be drawn that the interview process was not free and fair, and that it was just a mere formality. The lack of interest shown by some Committee members in some of the candidates was discouraging, and so was the lack of engagement by some members with content issues to test the candidates' knowledge of human rights. The way some of the interviews were rushed was alarming, and one could draw an inference that the Committee was not interested in those candidates. If one would rate the whole process, it would get a dismal D-. It raises significant questions about how we go about appointing people to such important bodies. It is time to have a thorough review, to ensure that justice is done to the process and to the Constitution.