# TUESDAY, 29 NOVEMBER 2016

***PROCEEDINGS OF THE NATIONAL ASSEMBLY***

The House met at 14:03.

The Deputy Speaker took the Chair and requested members to observe a moment of silence for prayer or meditation.

**ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS** – see col 000.

The DEPUTY SPEAKER: Hon members, before we start, I would like you to join me in welcoming hon Qiangba Puncog, the Vice Chairman of the Standing Committee of the National People‘s Congress of the People‘s Republic of China and his delegation who are on an official visit to Parliament. [Applause.] Welcome to the Parliament of the Republic and we hope you enjoy your stay. Thank you very much.

The first item on the Order Paper is the motion in the name of the Chief Whip of the Majority Party.

# SUSPENSION OF RULE 290(2)(A)(I)

(Draft Resolution)

The CHIEF WHIP OF THE MAJORITY PARTY: Hon Deputy Speaker, I move:

That this House suspends Rule 290(2)(a)(i) which provides *inter alia* that the debate on the Second Reading of a Bill may not commence before at least three working days have elapsed since the committee‘s report was tabled, for the purposes of conduction Second Reading debate today on the one, Rates and Monetary Amounts and Amendment of Revenue Laws Bill; two, Rates and Monetary Amounts and Amendment of Revenue Laws Administration; three, Taxation Laws Amendment Bill; and four, Tax Administration Laws Amendment Bill.

Motion agreed to.

# REPORT OF JOINT STANDING COMMITTEE ON INTELLIGENCE - CONSIDERATION OF CANDIDATE NOMINATED FOR APPOINTMENT AS INSPECTOR-GENERAL OF INTELLIGENCE SERVICES

Mr C NQAKULA: Hon Deputy Speaker and hon members of the House, it is the hope of the Joint Standing Committee on Intelligence that today‘s session of Parliament will constitute a part of the

steps that will culminate in the appointment, by the President, of the Inspector-General of Intelligence. This matter has been long coming. The previous Inspector-General left office on 31 March 2015, and until now, more than eight months later, we have not been able to fill the vacancy that occurred when the last incumbent left. It goes without saying that the different members of the committee, coming as they do from the various political parties in this House, had their own preferences of who should be appointed as the Inspector-General. This may have been caucused by the parties long before the interviews happened. It is possible too that the parties approached certain individuals and asked them to apply for the post.

Therefore, when the committee finally discussed the matter, there was convergence on one candidate who did very well during the interviews. We are asking this House, therefore, to endorse the committee‘s nomination of Dr Setlhomamaru Isaac Dintwe, as the next Inspector-General of Intelligence.

Before stepping off the matter of our nominee, allow me to commend members of the Joint Standing Committee on Intelligence for their effort to find a new Inspector-General. More than that, the members have moved closer to one another as a

collective whose main aim is to do its work in accordance with the principles of the Intelligence Services Oversight Act.

I must not be understood, hon members, to be saying that members of the committee throw overboard the policy imperatives of their political parties or spurn their political dictates in favour of coalition with each other. No. There are instances when the members disagree on some of the matters we handle. However, the aim always is to discharge our tasks as a united force, joined together by our tasks to exercise oversight on the entire intelligence community in our country. I am happy to be part of such a collective.

The search for a new Inspector-General exposed some of the gaps in our law and practice. It is necessary, therefore, to revisit some of the stipulations in the Intelligence Services Oversight Act and Schedule 2 of the Rules of the Joint Standing Committee on Intelligence.

Firstly, allow me to indicate that our advertisements for the post in question attracted only 17 candidates on 28 October, which was the lowest number of applicants since the beginning of the process on 16 January 2015. The biggest interest for the post was shown on 21 May 2015, where 58 applications were

received. I want to believe that some people who may have had an interest in the job were discouraged, possibly, by the uncertainty generated by the stops-and-starts that defined the process, which, in all intents and purposes, simply died after 8 April 2016 to resurface only on 14 October.

One of our challenges related to the fact that hon Connie September, our chairperson, was reassigned to the Higher Education Portfolio Committee. Her last task on the Joint Standing Committee on Intelligence, JSCI, was on 24 May. I was appointed to chair the committee on 14 September. The committee did not meet, therefore, between 24 May and 14 September. To resolve the matter, we want to refer this House to Article 4(1) of the Rules of the Joint Standing Committee on Intelligence.

That section determines that:

As soon as is practicable after the appointment of the chairperson, the presiding officers, acting with the concurrence of the President, who shall act after consultation with the leaders of the political parties represented on the committee, must appoint a member of the committee as the acting chairperson of the committee.

If we had an acting chairperson by the 24 May, our committee meetings would have started early enough when the hon September left and would have restarted the search for a new Inspector- General of Intelligence long before October. It is the intention of the committee, therefore, to initiate the process that is indicated by Section 4(1). It is important to have an acting chairperson for a structure like the Joint Standing Committee on Intelligence.

The other matter I would like to raise relates to the position of Inspector-General. As already mentioned, the office of the Inspector-General of Intelligence has no incumbent. The senior personnel in that office decided, nobly I believe, to keep the office functional. In the circumstances, they even performed some of the functions of the Inspector-General, contravening, therefore, the relevant injunctions of the Intelligence Services Oversight Act.

It is important for Parliament to consider amending section 7 of the Intelligence Services Oversight Act, to create a position for a deputy Inspector of Intelligence, who will act as the incumbent when the Inspector-General is not in office, for one reason or the other. On such occasions, the deputy would discharge all the functions of the Inspector-General of

intelligence. That is another matter that the Joint Standing Committee on Intelligence will process next year through the various channels of Parliament for the necessary consideration.

The Joint Standing Committee on Intelligence will monitor the performance of the Inspector-General, to ensure that he is subject, always, to the determinations of the Oversight Act, as they relate, especially, to section 7(4) with respect to his performance. Where incompetence or misconduct has been proved against the incumbent, or where his security clearance has been withdrawn by the State Security Agency, or some misdemeanour on his part has allegedly happened, the Inspector-General shall be investigated by the committee and, if guilt is proved, shall be recommended for dismissal from office by the President, in terms of section 7(5). I therefore, hon members, want to submit the nominee for the consideration of this House. Thank you. [Applause.]

The CHIEF WHIP OF THE OPPOSITION: Deputy Speaker, why do we have an Inspector-General of Intelligence? We have an Inspector- General of Intelligence to ensure that we have civilian monitoring of the intelligence services of South Africa. The finest of the Constitution sets up these important office to ensure that never again in the post-1994 democracy that South

Africa has fought so hard for, would we end up with the situation where the intelligent service was subject to the wholesale abuse by politicians, was used as a weapon against democracy, as a tool against political opponents and to unleash state aggression against civilians.

Because we have seen this movie before under the apartheid regime, it was the Bureau of State Security which was responsible for wholesale suppression of ordinary civilians and political legitimate political activity in the struggle for freedom in South Africa. It is for that reason too that the framers of the Constitution require a two-thirds majority of this House to ensure that we appoint an Inspector-General of Intelligence who has broad buy in. I think it is an indictment on this House that we have left this position unfilled for over a year and a half. Essentially, for a year and a half there has been no Inspector-General of Intelligence.

However, we would like to at this stage acknowledge the appointment of the new chairperson of the Joint Standing Committee of Intelligence, hon Nqcakula. We want to wish him well in his tenure as a chairperson of this important committee. [Applause.] We say to him we have already seen a massive sea

change in the efficiency and effect on this committee. Long may it may last!

It is for this reason as well that we rejected the appointment of Mr Cecil Burgess as the previous incumbent that the previous chairperson and the Minister tried so hard to drive through this House. We felt that he was inappropriate, he was executive- minded and a wrong person to fill this position.

Today, we will be supporting the appointment of Dr Dintwe. We have some concerns and we note that there are various items that had been shared on social media around a so-called a photograph with the Minister as well as subjects of affidavit. In our view he emerged from the interview process as the best candidate. He is also untainted by any former involvement with the security services and we believe that he will be the right candidate to conduct proper civilian oversight over this.

One of the first items of business that we will be writing to the Inspector-General of Intelligence upon his appointment, is the appointment of the Director-General. A couple of years ago a covert operation called the principal agent network was set up inside the State Security Agency. It spent over a billion rand buying 293 cars which were then stored in the warehouses, owned

and operated by family members of the State Security Agency. Relatives of this principal agent network were given massive jobs, funding, they were given safe houses and farms which were bought throughout the country for them. Over a billion rand worth of money was wasted, public tax payers‘ money wasted on this principal agent network.

The then Minister Cwele forwarded these matters because he rightly founded a very serious matter to the Hawks and National Prosecution Authority**,** NPA. But what has happened to the people that were involved in the principal agent network? Nothing! In fact, one of them, in the last two months, has returned to the agency after leaving under cloud as no less than a Director- General of Intelligence, Mr Arthur Fraser. We know that Mr Arthur Fraser has been appointed by the President for one reason alone –and one reason alone. It is because Mr Fraser helped his good buddy out during a very tough time by providing secret intelligence tapes, the so-called spy tapes, to the President enabling him to get off some difficulties that he was facing at that stage. No doubt that this is a reward.

What we cannot have as a situation like the Greek legend of Perseus who went on to slay the gorgon monster, but then there came the even worse tyrant effecting a horrific act on the very

people he had liberated again. That is why I have an affinity for former Minister of Intelligence, Ronnie Kasrils when he said, and I quote:

For too long the security and intelligence agencies have been able to operate as in bad old days of apartheid.

We need to ensure that we stop that; we need to ensure that we have proper and effective intelligence. Now you have very poor intelligence if you go to a spa for your nails to be done by somebody who is running a rhino horn operation. That is what we call poor intelligence and hopefully the Inspector-General will get to the bottom of that as well. Thank you very much.

Mr M Q NDLOZI: Deputy Speaker, we did not participate as the EFF in the recruitment process because our member sitting there who is myself has not been vetted, the processes of vetting has not been concluded yet. We oppose this nomination and we will explain later why. The Office of the Inspector-General of Intelligence services is a monumental office and has monumental tasks. This role is very important taking into account that our intelligent services since Mr Zuma took over have been used to fight political battles and not to make our country safe particularly for the poor of our people.

South Africa is generally an unsafe country. It is so because the intelligence capacities we have get deployed to fight political and factional battles, and not to make the country safe. Between April 2015 and March 2016, 18 673 000 murders were recorded, a 4,9% increase from 2014-15 alone. The Nyanga Township in the Western Cape has been known as the murder capital of South Africa for a very long time, but our intelligence services has not done anything to deal with the problem of violent crimes in the country. Going for gangs and organised crimes that affects the daily lives of our people. At any time Mr Zuma goes around with not less than 200 police protecting him. Ministers go with no less than two police guards and yet the majority of our people are left exposed with no recourse to justice when their rights are violated by criminals.

State security structures have been operating without the Inspector-General since 2015. In these times we have seen mounting scandals in the intelligence structures. The Right to Know campaign, for instance, indicates increasing concerns by journalists, activists and union structures that their phones are being tapped and their movements are being monitored. The United Nation Human Rights Committee, for an example, has issued damning findings on South Africa‘s intelligence regime. Media

has exposed details that show the use of grabber devices by South African security structures.

The State Security Minister, Minister Mahlobo, Minister Gigaba and Mr Zuma himself have repeatedly made dangerous remarks implying student protests and other civil society structures are linked to regime change agenda. It is a result of these utterances and the actions that follow which lead us to sincerely believe that South Africa has degenerated into a postcolonial disaster. They label those that they disagree with and they harass and arrest student activists for demanding free education. At the centre of their attempts to engender their kleptocracy they make excuses about being targets of imperialist forces, but they have done nothing to disagree to destabilise the imperialist hold in South Africa.

There is no imperialist that will be angry with your regime because you are not doing anything to disrupt their hold in South Africa. Every dictator in the country has used intelligence services to mark out those who are trying to get change and to hold the state accountable and say that they are imperialist forces against them and who are trying to remove them.

The EFF does not trust this candidate and we want to put it on record that even if we will be overwhelmed by the numbers in this House we place a serious discomfort because of the way in which the ANC generally went on around lobbying for him. We do not trust and we will properly investigate the failure of our intelligence agencies to protect our people and not Mr Zuma and his corrupt elites. Thank you very much. [Applause.]

Nkosi R N CEBEKHULU: Hon Deputy Speaker, this has been odious process which has been ongoing since April of 2015. The office of the Inspector-General of Intelligence has been vacant for almost two years because of the ruling party‘s insistence in supporting a previous candidate who was found to be partisan and wholly unsuitable for the position. The process then commenced afresh and whilst I was unfortunately not able to be a part of the entire process, I am satisfied with the choice of the candidate in the name of Dr Setlhomamaru Isaac Dintwe. He was the best performing of the candidates before the Joint Standing Committee on Intelligence.

It is our sincere hope, as is the hope of all the citizens of this country that our new Inspector-General of Intelligence will be above and beyond state capture and partisanship, acting always in the best interests of all South Africans. I

accordingly support Dr Dintwe‘s nomination as does my party, the IFP. I thank you. [Applause.]

Mr S C MNCWABE: Hon members, firstly, on behalf of my party, allow me to pass condolences to the people of Cuba by saying, may the commander, the people‘s hero rest in peace. The process to arrive at a formal nomination for the post of the Inspector- General was long and not always free of controversy. Yet, today the NFP is ready to voice its support for the recommendation of the Joint Standing Committee on Intelligence that Dr Setlhomamaru Isaac Dintwe be appointed as the next Inspector- General of Intelligence.

We recommended Dr Dintwe as our candidate of choice in the committee because of his outstanding performance during the interviews and for the fact that he is not perceived to be aligned to any political party. Dr Dintwe has impressive credentials. He holds a Masters Degree in forensic investigations and earned his Doctorate in Political Science from Unisa two years ago where he heads up Department of Police Practice in the School of Criminal Justice. Previously, he worked as a police constable, a detective and a principal anti- corruption investigator. He is also an expert in forensic investigation, has published a book on the subject and was a

senior member of Independent Police Investigative Directorate, Ipid, in Mpumalanga before joining the academic world.

In our view, he is the best candidate to fill the position of the Inspector-General of Intelligence which has been without its head for the last 18 months since Advocate Faith Radebe‘s term expired in March last year. The adverse effect of not having the Inspector-General of Intelligence means that there is currently no effective civilian oversight over all the intelligence agencies and for this reason, the NFP believes that this House will reach consensus today and approve the recommendation of Dr Dintwe to this position.

The office of the Inspector-General of Intelligence is entrusted with the very important duty to perform civilian oversight over all intelligence agencies. We believe that someone of high calibre like Dr Dintwe is highly relevant to serve in this office if we take into consideration his skills and varied experience he has. The NFP wishes Dr Dintwe well in his tenure as an Inspector-General of Intelligence and trust that he will execute his mandate with diligence and unwavering loyalty to the Constitution and our democracy. I thank you.

Mr N L S KWANKWA: Hawu, sawubona Sekela Somlomo, siyajabula ukubona. [Oh, greetings, Deputy Speaker, we are pleased to see you.]

The DEPUTY SPEAKER: Yebo. [Greetings.]

Mr N L S KWANKWA: Deputy Speaker and hon members, the Constitution provides for the establishment and control of intelligence services as well as for the appointment of Inspector-General of Intelligence to carry out civilian oversight of the intelligence services in our country. This institution therefore, has an important role to play in the co- ordination and monitoring of intelligence services in South Africa. In the interviews that took place earlier this month the Joint Standing Committee on Intelligence unanimously agreed to recommend to the President Dr Isaac Dintwe for appointment as Inspector-General of Intelligence. On behalf of the UDM I stand here to support the recommendations of Dr Dintwe to the President of the Republic of SA for the appointment as Inspector-General of Intelligence.

Dr Dintwe‘s wealth of knowledge and experience in the security cluster will stand him in good stead in his new appointment.

This is particularly important in light of the fact that the

backlog of work in the Inspector-General of Intelligence‘s office requires someone who will be able to hit the ground running.

However, as we support Dr Dintwe‘s nomination, we want to caution him against the prevalent use of intelligence services to settle political scores. In fact, with regard to the use of state resources or institutions rather, to settle political scores, I wish to say to you Dr Dintwe that our nation finds itself at a crossroads which provides an opportunity for reflection and self-correction.

You have an important choice to make. You can either choose to continue with the dangerous route of using state institutions as political machetes with which to settle political or personal scores which has dire consequences for the long-term stability of our country or you can choose to use your term in office to build intelligence services that supports law enforcement and ensures our national security. For the sake of our nation and that of our progeny we hope you choose the latter. I thank you very much.

Rev K R J MESHOE: Deputy Speaker, the position of Inspector- General of Intelligence Services is a very crucial one. It needs

to be filled by a person who is well qualified, competent and as far as possible, a person who is independent and who will not do the bidding of the powers that be.

The ACDP is concerned by some reports that indicate that Dr Isaac Setlhomamaru Dintwe, who impressed members of the Joint Standing Committee on Intelligence with his energy and oozing confidence, did not make a full disclosure of certain important information that should have been divulged.

Failure to do so has left somewhat of a credibility gap and trust deficit in this candidate who should be trusted as one who would put the interests of the country before the interests of friends and those who want to capture the intelligence services in our country.

Even though the ACDP has some reservations about this candidate, we nevertheless will support the nomination of Mr Dintwe to fill this vacancy that has been open for almost two years. He was indeed the best candidate among all the applicants and his qualifications and credentials were very impressive. It is because of these reasons that the ACDP will support his nomination, with reservations. Thank you.

Mr J J SKOSANA: Thank you, hon Deputy Speaker, Ministers, hon members and distinguished guests in the gallery. Let me start by supporting the report of the Joint Standing Committee on Intelligence. I support it because it‘s a collective report; a report that is going to assist us as a country in going forward.

Section 7(1) of the Intelligence Services Oversight Act 40 of 1994 mandates the Joint Standing Committee on Intelligence to nominate a candidate for recommendation to the National Assembly of an Inspector-General of Intelligence for the President to consider for appointment.

Since 31 March 2015, the office has been without a leader until to date. The Joint Standing Committee on Intelligence has initiated the process for the appointment of the Inspector- General of Intelligence. The committee took a collective resolution in terms of Rule 11 of the Joint Standing Committee on Intelligence, schedule b, to appoint a subcommittee to consider the applications and to shortlist candidates to be interviewed in an open session.

Due processes were followed and we collectively attempted to appoint the said official on the following dates: In March 2015, June 2015, April 2016, but all these attempts were in vain.

Finally on 8 to 9 November 2016 we unanimously nominated a suitable candidate for appointment of Inspector-General of Intelligence. The candidate is none other than Dr Setlhomamaru Isaac. He is qualified, has institutional memory, is an academic and a lecturer from the University of SA, Unisa, and is equal to the task in the office of Inspector-General of Intelligence.

I would like to thank the following organisations that greatly contributed during the process of the appointment of the Inspector-General of Intelligence. They are the ANC my organisation, DA, NFP, IFP and UDM. Our unity and togetherness has brought to finality the process of the appointment of the Inspector-General of Intelligence.

Before I sit down I just want to respond to the EFF. The EFF sent their member by the name of hon Ndlozi to participate in the intelligence ... after the withdrawal of Twala.

Unfortunately he is running away from vetting. That‘s why he‘s not participating in the committee. [Interjections.]

Mr M Q NDLOZI: Point of order.

The DEPUTY SPEAKER: Yes hon member? Hon Skosana, please take a seat.

Mr M Q NDLOZI: We are celebrating ... [Inaudible.] We must desist from embarrassingly misleading the country. I have not run away from any vetting. I am ready. Mahlobo can come and vet me now. We can meet outside for him to vet me now. I just won‘t do it in a spa. I just won‘t it with a manicure.

The DEPUTY SPEAKER: Okay hon member, that‘s okay. Take your seat. It‘s not a point of order. Go ahead, hon Skosana.

Mr J J SKOSANA: Hon Deputy Speaker, even today we are still waiting for him to come and attend the vetting because there is no shortcut in that committee. He must follow due process.

Mr M Q NDLOZI: Order, Deputy Speaker.

The DEPUTY SPEAKER: What are you rising on?

Mr M Q NDLOZI: The committee doesn‘t do vetting. Parliament doesn‘t do vetting. He doesn‘t do vetting. He wouldn‘t even know the first question to ask me. He is deliberately misleading the country and the House. He must withdraw. He is casting aspersions. He doesn‘t know my intentions. How can he say I am running away? How do you know I‘m running away? [Interjections.]

The DEPUTY SPEAKER: No. Hon member, please take your seat.

Mr M Q NDLOZI: I don‘t want to ... No my integrity is at stake here in front of the country. [Interjections.] I‘m not running away.

The DEPUTY SPEAKER: No hon member, that‘s a political statement. Go ahead, hon member.

Mr J J SKOSANA: Kusukela ngomnyaka we-2014, soloko safika lapha, sikhamba ... [Since 2014, when we arrived here, we have been going ...] [Interjections.]

The DEPUTY SPEAKER: Hon Skosana, please take your seat.

Ms H H MALGAS: Deputy Speaker, a point of order in terms of Rule

82. When the hon member referred to the Minister he did it in disrespectful terms. When he spoke about him he said Mahlobo. Thank you.

The DEPUTY SPEAKER: Hon members, please refer to members as the Rules demand. You know that.

Nom J J SKOSANA: Sekela Somlomo, kusukela ngomnyaka ween-2014, soloko safika lapha ePalamende, i-EFF yenza iinthembiso kodwana asikho nesisodwa ebasenzako emphakathini. Kwesibili, baphikisana nesabelomali sokuthuthukisa umpakathi, okutjho khona bonyana nabaphikisana nesabelomali abayifuni ituthuko. *(Translation of IsiNdebele paragraph follows.)*

[Mr J J SKOSANA: Deputy Speaker, since the year 2014, when we arrived here in Parliament, the EFF has made promises, but not even one them has materialised. Secondly, they disagree with the budget that will develop the community, meaning that if they disagree with the budget it means they don‘t want development.]

The DEPUTY SPEAKER: Hon Skosana, please take your seat. Yes, hon member?

Mr L G MOKOENA: I just wanted to remind the hon member there ...

The DEPUTY SPEAKER: Hon member, what‘s your point of order?

Mr L G MOKOENA: Yes, a point of order.

The DEPUTY SPEAKER: On what Rule and what are you pointing out?

Mr L G MOKOENA: Rule 92. I wanted to ... Yes, a point of order. We did get the President to pay back that money. We promised it and we delivered. He must not mislead the country here.

The DEPUTY SPEAKER: Hon member, take your seat. That‘s not a point of order. Go ahead, hon Skosana.

Mr J J SKOSANA: Sekela Somlomo, baphikisana godu nefundo yasimahla, yabentwana abatlhagako . . . [Deputy Speaker, they also disagree with free education, of the poor children ...] [Interjections.]

Mr L G MOKOENA: Point of order, hon Deputy Speaker. The member there is not being relevant to the subject. He is supposed to discuss the appointment of the chief of intelligence.

The DEPUTY SPEAKER: Hon member, okay. Take your seat. We will tell him. Go ahead, hon member.

Mr J J SKOSANA: Hon Deputy Speaker, they don‘t even respect the Rules of this House and the Constitution of the country. They interfere in all processes of the country.

Mr L G MOKOENA: Order, Chair. Order, hon Deputy Speaker. Can you please get this member to be relevant to the subject at hand?

The DEPUTY SPEAKER: Hon member, I will do so when I think he is being irrelevant. Proceed, hon Skosana.

Nom J J SKOSANA: Kungakho singarareki nabaphikisana nokuqhatjhwa koMhloli Mazombe wezobuHlakani. Yoke into esiyenzako lapha ePalamende bayayiphikisa; into ebayaziko kuphikisa kwaphela, abezi namahlelo amatjha azasisiza siragele phambili njengeSewula Afrika.

Iinhlangano lezi engikhulume ngazo: yi-DA, NFP, IFP, ne-UDM, sifuna ukunithokoza kwamambala ukuthi nizibandakanye besafika lapha sikhona. Ngicabanga bonyana i-EFF izazibuza lokha nasele ithumele ilunga layo, lihlolwe ngokungeneleleko ukuze lilungele ukuhlala kile ikomidi. Kulapho-ke bazakwazi khona ukusebenzisana nokukhambisana nabanye. Ngiyathokoza. *(Translation of isiNdebele paragraphs follows.)*

[Mr J J SKOSANA: That is why we are not surprised when they disagree about the appointment of the Auditor-General of Intelligence. Everything that we do here in Parliament they disagree with; the only thing that they know how to do is to

disagree. They don‘t come up with new programmes that will help us to go forward as South Africa.

As for the parties that I have spoken about, that is the DA, the NFP, the IFP and the UDM, we want to thank you for participating until we are where we are now. I think the EFF will think twice, when it has to send its member, about assessing properly whether they are the rightful one to sit in this committee. It is then that they will be able to work and unite with others. Thank you.]

Debate concluded.

Question put: That the nomination of Dr S I Dintwe for appointment as Inspector-General of Intelligence Services be approved.

The CHIEF WHIP OF THE OPPOSITION: Deputy Speaker, as it‘s a vote that requires a constitutional majority of two thirds you have to put it to a division by an order because you need to record the votes.

The DEPUTY SPEAKER: Hon member, you interrupted me in the process of going through the process. [Interjections.] No, no,

no, no, hon member. Please man, just hold your horses and allow the Chair to proceed with the meeting.

Hon members, with regard to the appointment of the Inspector- General it requires that there be two thirds of members present in the House, and for that reason the bells will be rung for five minutes to ensure that we go through that process. Thank you very much.

The CHIEF WHIP OF THE OPPOSITION: Sorry, sorry!

The DEPUTY SPEAKER: No, hon Hanekom, stay outside, sir. [Applause.] [Interjections.]

The CHIEF WHIP OF THE OPPOSITION: Deputy Speaker, may I seek guidance from you because the practice in this House has always been ... And I‘m really sorry that we are in this situation again that during a vote the seal has been broken. [Interjections.]

The DEPUTY SPEAKER: Hon member, you can‘t ... No, no, out, out out! [Interjections.] Order, order, hon members!

The CHIEF WHIP OF THE OPPOSITION: Deputy Speaker, I‘m not blaming the members. I don‘t know what you are getting excited about. It‘s the presiding officer‘s ...

The DEPUTY SPEAKER: No, no, no, no!

The CHIEF WHIP OF THE OPPOSITION: It‘s the presiding officer‘s and the Table staff‘s job to ensure that the doors are sealed. That seal has been broken and I would suggest that we input our votes again to ensure that the process is not challenged at a later stage. So I am asking that in terms of procedure we just take the vote again, making sure that the doors are properly sealed this time to ensure that this process isn‘t compromised. [Interjections.]

The DEPUTY SPEAKER: Hon members ... Hon Singh?

Mr N SINGH: Thank you, hon Deputy Speaker. Just following on from hon Steenhuisen, could you give us the reason why you asked Minister Hanekom to leave the House? Is it for something else than the Rules and procedures of this House? [Laughter.]

The DEPUTY SPEAKER: Hon Singh, I almost knew that‘s the line you were going to take. Hon members, I am advised by the Table that

we must take the advice to do this again. So we will do that again. [Interjections.] Hon members, the bells will be rung for

30 seconds.

An HON MEMBER: Hon Deputy Speaker, the doors are locked.

Mr M Q NDLOZI: No the bell is ringing, chief. The House is not in session.

An HON MEMBER: The doors are locked, Chair.

The DEPUTY SPEAKER: Open that door there. The bells are being rung. As soon as it‘s done they are going to be closed. Don‘t push the door, hon member.

AYES - 299: Abrahams, B L; Adams, F; Adams, P E; Atkinson, P G; Bagraim, M; Baker, T E; Bam-Mugwanya, V; Bapela, K O; Bara, M R; Basson, L J; Basson, J V; Bekwa, S D; Bergman, D; Beukman, F; Bhengu, P; Bhengu, F; Bhengu, N R; Bilankulu, N K; Bongo, B T; Booi, M S; Boroto, M G; Boshoff, H S; Bozzoli, B; Brauteseth, T J; Breytenbach, G; Bucwa, H; Buthelezi, N S; Capa, R N; Capa, N;

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| --- | --- | --- | --- |
| Cardo, M J; Carrim, Y I; | Cassim, Y; Cebekhulu, | R N; Cele, M | A; |
| Chance, R W T; Chauke, | H P; Chikunga, L S; | Chiloane, T | D; |

Chohan, F I; Chueu, M P; Coleman, E M; Cwele, S C; Dambuza, N B;

Didiza, A T; Dirks, M A; Dlakude, D E; Dlamini-Dubazana, Z S; Dlodlo, A; Dlomo, B J; Dlulane, B N; Dreyer, A M; Dudley, C; Dunjwa, M L; Edwards, J; Esau, S; Esterhuizen, J A; Figg, M J; Figlan, A M; Filtane, M L W; Frolick, C T; Fubbs, J L; Gamede, D D; Gcwabaza, N E; Gigaba, K M N; Gina, N; Godi, N T; Gqada, T; Groenewald, H B; Grootboom, G A; Gumede, D M; Gungubele, M; Hadebe, T Z; Hanekom, D A; Hlengwa, M; Holomisa, S P; Hoosen, M H; Horn, W; Hunsinger, C H H; Jafta, S M; Jeffery, J H; Joemat- Pettersson, T M; Johnson, M; Jonas, M H; Jongbloed, Z; Kalako, M U; Kalyan, S V; Kekana, P S; Kekana, H B; Kekana, M D; Kekana, E; Kekana, C D; Kenye, T E; Khoarai, L P; Khosa, D H; Khoza, T Z M; Khoza, M B; Khubisa, N M; Khunou, N P; Kilian, J D; King, C; Kohler, D; Koornhof, G W; Kota-Fredricks, Z A; Kruger, H C C; Krumbock, G R; Kubayi, M T; Kwankwa, N L S; Landers, L T; Lees, R A; Lesoma, R M M; Loliwe, F S; Lorimer, J R B; Luyenge, Z; Luzipo, S; Maake, J J; Mabasa, X; Mabe, P P; Mabija, L; Mabika, M S; Mabilo, S P; Mabudafhasi, T R; Mackay, G; Mackenzie, C; Macpherson, D W; Madella, A F; Madisha, W M; Madlopha, C Q; Maesela, P; Mafolo, M V; Mafu, N N; Magadla, N W; Magwanishe, G; Mahambehlala, T; Mahlalela, A F; Mahlangu, D G; Mahlangu, J L; Mahlobo, M D; Maila, M S A; Majeke, C N; Majola, F Z; Makhubela- Mashele, L S; Makhubele, Z S; Makondo, T; Makwetla, S P; Malgas, H H; Maloyi, P D N; Maluleke, B J; Manamela, K B; Manana, M N S; Manana, D P; Mandela, Z M D; Mantashe, P T; Maphanga, W B ;

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| --- | --- | --- |
| Maphatsoe, | E | R K; Mapisa-Nqakula, N N; Mapulane, M P; Marais, E |
| J; Marais, | S | J F; Masango, B S ; Masango, M S A; Masehela, E K |
| M; Maseko, | L | M; Mashego-Dlamini, K C; Mashile, B L; Masondo, N |
| A; Masuku, | M | B; Maswanganyi, M J; Mathale, C C; Mathebe, D H; |
| Matlala, M | H; | Matsepe, C D; Matshoba, M O; Matsimbi, C; Mavunda, |

R T; Maxegwana, C H M; Maynier, D J; Mazzone, N W A; Mbabama, T M; Mbhele, Z N; Mchunu, S; Mcloughlin, A R; Mdakane, M R; Memela, T C; Meshoe, K R J; Mfeketo, N C; Mileham, K J; Mjobo, L N; Mkhize, H B; Mmemezi, H M Z; Mmola, M P; Mncwabe, S C; Mnganga - Gcabashe, L A; Mnguni, P J; Mnguni, D; Mnisi, N A; Mokoto, N R; Molebatsi, M A; Molewa, B E E; Morutoa, M R; Motau, S C; Mothapo, M R M; Motimele, M S; Motshekga, M S; Motsoaledi, P A; Mpumlwana, L K B; Msibi, V Z; Mthembu, J M; Mthembu, N; Mthethwa, E M; Mudau, A M; Muthambi, A F; Nchabeleng, M E; Ndaba, C N; Ndabeni-Abrahams, S T; Ndongeni, N; Nel, A C; Newhoudt-Druchen, W S; Ngcobo, B T; Ngwenya-Mabila, P C; Nkadimeng, M F; Nkwinti, G E; Nobanda, G N; November, N T; Nqakula, C; Ntombela, M L D; Ntshayisa, L M; Nyambi, H V; Nzimande, B E; Oliphant, M N; Oliphant, G G; Oosthuizen, G C; Peters, E D; Phaahla, M J; Phosa, Y N; Pikinini, I A; Pilane- Majake, M C C; Plouamma, M A; Purdon, R K; Rabotapi, M W; Radebe, B A; Radebe, J T; Ralegoma, S M; Ramaphosa, M C; Ramatlakane, L; Ramatlhodi, N A; Rantho, D Z; Redelinghuys, M H; Robertson, K P; Robinson, D; Schmidt, H C; Semenya, M R;

Senokoanyane, D Z; September, C C; Shabangu, S; Shaik Emam, A M; Shelembe, M L; Shinn, M R; Shope-Sithole, S C N; Sibande, M P; Singh, N; Sisulu, L N; Sithole, K P; Siwela, E K; Skosana, J J; Skwatsha, M; Smith, V G; Sotyu, M M; Stander, T; Steenhuisen, J H; Steyn, A; Surty, M E; Swart, S N; Tarabella Marchesi, N I; Terblanche, J F; Tleane, S A; Tobias, T V; Tolashe, G N; Tom, X S; Tongwane, T M A; Tseke, G K; Tseli, R M; Tsoleli, S P; Tsotetsi, D R; Tuck, A; v R Koornhof, N J J; Van Dalen, P; Van Der Walt, D; Van Der Westhuizen, A P; Van Dyk, V; Van Schalkwyk, S R; Vos, J; Waters, M; Williams, A J; Wilson, E R; Xasa, T; Xego, S T; Yengeni, L E; Zokwana, S; Zulu, L D.

NOES - 14: Hlophe, H O; Khawula, M S; Mashabela, N R; Matiase, N S; Mbatha, M S; Mente, N V; Mokause, M O; Mokoena, L G; Mulaudzi, T E; Ndlozi, M Q; Paulsen, M N; Rawula, T; Sonti, N P; Xalisa, Z R.

Question agreed to.

The two-thirds supporting vote required in terms of section 7(1) of the Intelligence Services Oversight Act, Act 40 of 1994, obtained.

Dr S I Dintwe accordingly recommended for appointment as Inspector-General of Intelligence.

Mr M Q NDLOZI: Deputy Speaker, we want to subject those results to a security scrutiny and a vetting process. Can you please circulate them?

The DEPUTY SPEAKER: Yes, we‘ll ...

Mr B A RADEBE: Hon Deputy Speaker, firstly, I‘m rising in terms of Rule 115 which says that all the members inside the House must vote. Secondly, I‘m also rising in terms of Rule 103(2) which states that members can only vote from the seats which they are allocated to. I see two members of the EFF that are not in their seats. Can you check whether they voted or not? Thank you.

The DEPUTY SPEAKER: That will be in the records, hon member. So it will show if members didn‘t. Yes, hon member?

Ms H O HLOPHE: Deputy Speaker, I rise in terms of Rule 123, which relates to motions without notice. Can I propose that this House grants Minister Derek Hanekom ... to put that vote of no confidence on this platform? Because when he did it on another

platform but he didn‘t succeed but here he will be supported. Thank you.

# CONSIDERATION OF REPORT OF STANDING COMMITTEE ON FINANCE ON RATES AND MONETARY AMOUNTS AND AMENDMENT OF REVENUE LAWS BILL [B19 – 2016]

The CHIEF WHIP OF THE MAJORITY PARTY: Moved that the Report be adopted.

Motion agreed to.

Report accordingly adopted.

# RATES AND MONETARY AMOUNTS AND AMENDMENT OF REVENUE LAWS BILL [B19 – 2016]

(First Reading debate)

There was no debate.

*Declaration(s) of vote*:

Mnu R A LEES (DA): Somlomo oyideputy, ngiyehluleka ngesizulu ukuthi ideputy yini kodwa ngiyakuhlonipha. Isekela, nakhoke, ngiyabonga. *(Translation of isiZulu paragraph follows.)*

[Mr R A LEES (DA): Chair who is a deputy, I‘m failing to remember what deputy is in isiZulu but I respect you. ―Isekela‖, there we go, thank you.]

South Africa finds itself in a very difficult economic position with low growth and ever escalating debt. President Zuma calls for the opposition not to politicise the economics, but it is President Zuma who fired Finance Minister Nene. It is he who has apparently intimately involved in state capture. It is he who continues to support Minister Zwane with his attack on the banks. In short, it is President Zuma who has politicised the economy.

The DA does not like this Special Voluntary Disclosure Programme as it allows people who have broken the law to buy their way out of trouble. Nevertheless, because President Zuma and the ANC have stuffed up the economy and taxes are going to be increased, one way of limiting the ANC tax increases is to encourage the billions of rands apparently hidden abroad to be disclosed, to be taxed and to continue to be taxed every year thereafter.

Whilst the DA supports the Special Voluntary Disclosure Programme, SVDP, this special offer to delinquent taxpayers must not be repeated. This view is shared by the Davies Tax Committee. Indeed, it should not need to be repeated as financial disclosures between states come into operation in 2017. Thereafter, naughty taxpayers can still run but they will find it very difficult to hide.

The DA had supported the Administration Bill but cannot support the additional taxes contained in the Rates and Monetary Amounts Amendment Bill. Thank you, Deputy Speaker.

Ms N V MENTE (EFF): Deputy Speaker, these Bills before the House intend to adjust various rates of different taxes such as income tax, transfer and custom duties. But more importantly, the Bills also propose to re-establish a Special Voluntary Disclosure Programme. A programme that allows people hiding assets offshore to disclose and pay negotiated taxes and these assets without facing prosecution.

As the EFF, we view this programme as reactionary and not the way forward. While there are no easy methods to calculate capital flight and elicit financial flows, a prominent 2005 study found that capital flight and elicit financial flows in

South Africa averages 6,6% of Gross Domestic Product, GDP, since 1980.

This, hon Deputy Speaker, amounts to well over R200 billion. Money that is lost every year through financial crimes, a leakage and a threat to our fiscal stability that is preventable. That money could fund free higher education, National Health Insurance, decent housing, water infrastructure and deliver quality services to our people.

As the EFF, we asked the Minister of Finance in March this year as to how much have SA Revenue Service, Sars, collected in revenue in all previous voluntary disclosure programmes since 2012? To our shock and disbelieve, only R6,3 billion was collected since 2012. When one considered the R200 billion that is lost every year through elicit financial flows, this is just a drop in the ocean.

We have proposed the following practical solutions as a way forward. The National Treasury and Sars must immediately look into an Anti Tax Avoidance Act. We do not support the Report.

Mr M HLENGWA (IFP): Taxes are the lifeline for any country because we collect the money in order to dispense the services

and to ensure that the lives of the people are improved. So, any programme aimed at ensuring that more taxes are received by the state must be welcomed. Therefore, in this regard the IFP will support the Special Voluntary Disclosure Programme to ensure that people are given the reprieve that they need in order for them to bring back the money home and for us to ensure that the money that is available provides services.

Of course, the flip of the coin is that how the money is spent. It is all good and well to collect revenue, all good and well to ensure that systems are put in place for the people to be able to receive the reprieve that they want. But if the spending patterns are not responsive to the collective needs of the people, then obviously all those programmes are in vain.

Hon Deputy Speaker, what is also important is that you‘ve got the issue of the elicit flows in the country and this speaks to that as well that money must be investigated on how it left before we can just willy-nilly allow it to come back into the country.

The circumstances under which South Africa finds itself now with the economic growth and being as it is a 0,5% downgraded projections, the outlook of the rating agencies turning to

negative, speaks to a new financial discipline that need to emerge in the country to ensure that we put whatever money is available in South Africa.

The IFP is calling for a new discipline in the spending patterns to ensure that when we collect the money we do justice to the effort that have been made of collection. In that regard the IFP will support this. Thank you very much.

Mr A M SHAIK-EMAM (NFP): Deputy Speaker, the NFP supports this Bill. The Bill before us contains several changes to the existing taxation law, some technical in nature while others are intending to have a positive impact on the generation of state income or revenue.

Generally speaking, the NFP welcomes the changes proposed in the Bill. Just about every year we see Treasury introducing ways to close tax loopholes used by trusts to avoid tax and this year is no different. For many years trusts have been used as estate planning vehicles by individuals who wished to avoid certain tax consequences, specifically, estate duty and donation.

Hon Deputy Speaker, one of the serious challenges we‘ve had is the outflow of funds from the country, by specifically, I would

say conglomerates or big business. I think this will go a long way in trying to recover and bring back the money into the country and ensure this greater control measures are put in place so that most of the revenue that is generated especially by foreign nationals in the country will not leave the country but will benefit the people of this country. So, the National Freedom Party in light of that supports this. Thank you.

Ms T V TOBIAS: Hon Deputy Speaker, Deputy President, comrade Fidel Castro once said revolution is not a bed of roses. Having listened to the DA standing on this podium and not supporting this piece of legislation by mentioning the President makes us to understand that when we speak about the Special Voluntary Disclosure Programme, it affects their constituency.

People who take money offshore are not the constituencies of the ANC, it is big businesses and multinationals who take money they made in South Africa and go and hide it in lower tax havens.

That‘s why the DA will stand here and be worried about the Special Voluntary Disclosure Programme.

We, as the ANC, are saying take the opportunity of the window period, come voluntarily and tell us about the money you have hidden outside and we will pardon you, we will be able to

correct your books and then you will be taxpayers. This will address the concerns of the EFF.

The EFF should have stood here to support this legislation because it will make sure that the education Bill is addressed. This money will be able to educate our young people. Therefore, comrade Fidel was correct to say revolution is not a bed of roses. [Applause.]

The Bill provides for administrative matters related to the Special Voluntary Disclosure Programme, which application days were from 01 October 2016 to 30 June 2017. The committee reached consensus on the ... I beg your pardon? [Interjections.] You see, the problem is that you relate to an individual as opposed to a piece of legislation. The ANC supports the legislation.

Thank you. [Time expired.] [Applause.]

Question put: That the Bill be read a first time.

# RATES AND MONETARY AMOUNTS AND AMENDMENT OF REVENUE LAWS BILL

(Second Reading debate)

There was no debate.

Question put: That the Bill be read a second time

Question agreed to (Democratic Alliance and Economic Freedom Fighters dissenting).

Bill accordingly read a second time.

# CONSIDERATION OF REPORT OF STANDING COMMITTEE ON FINANCE ON RATES AND MONETARY AMOUNTS AND AMENDMENT OF REVENUE LAWS (ADMINISTRATION) BILL

(Second Reading debate)

There was no debate.

The Deputy Chief Whip of the Majority Party moved: House Chairperson, I move that the Report be adopted.

Motion agreed to.

Report accordingly adopted.

# RATES AND MONETARY AMOUNTS AND AMENDMENT OF REVENUE LAWS (ADMINISTRATION) BILL

(Second Reading debate)

There was no debate.

Question put: That the Bill be read a second time.

Question agreed to (Economic Freedom Fighters dissenting).

# TAXATION LAWS AMENDMENT BILL

(Consideration of Report of Standing Committee on Finance thereon)

There was no debate.

The DEPUTY CHIEF WHIP OF THE MAJORITY PARTY: House Chairperson,

I move that the Report be adopted.

Motion agreed to.

Report accordingly adopted.

# TAX ADMINISTRATION LAWS AMENDMENT BILL

(Consideration of Report of Standing Committee on Finance thereon)

There was no debate.

The DEPUTY CHIEF WHIP OF THE MAJORITY PARTY: House Chairperson,

I move that the Reports be adopted.

Motion agreed to.

Reports accordingly adopted.

# TAXATION LAWS AMENDMENT BILL

(First Reading debate)

# TAX ADMINISTRATION LAWS AMENDMENT BILL

(Second Reading debate)

*Declarations of vote*:

Mr S N BUTHELEZI: Hon Deputy Speaker, hon Deputy President, hon Ministers and Deputy Ministers, hon members and fellow South Africans, allow me to start by saluting the commander, the

internationalist, the revolutionary who has just fallen, allow me to thank him and the people of Cuba who shared the trenches with us in Malanga, in Xibashe, in Vienna and Mussafah and in Cuito Cuanavale. Thank you very much Comrade Fidel. The Taxation Laws Amendment Bill of 2016 marks the culmination of a very extensive consultation process by National Treasury and public hearings with members of the public in general, and labour and business in particular. There were a lot of consultations in keeping with the ANC‘s tradition of listening to people. The proposed amendments optimise tax collections and attempt to augment skills base and employment of our people.

The amendment proposes the removal of the R20 million cap an employer may claim per annum using employment tax incentive from

1 March 2017. The ANC agrees with this because unemployment has reached unacceptable levels in our country. The ANC has come up with many initiatives meant to increase employment opportunities and employability of its people, especially the youth. Employment tax incentive as it is known is one such initiative. The 27,1% unemployment rate released by Statistics SA enjoins us to do extraordinary things to mobilise this wasted resource back to being productive and contribute to the economic growth of our country. Hon members, the unpalatable truth is that this high unemployment still goes along racial lines, proving that the

destruction caused by apartheid will still be with us for some time to come.

The main contribution of employment tax initiative to young people is to give them confidence, enhance their dignity and self-worth. Without self-worth and confidence there remains very little hope for young people. Although employment tax initiative is just two years old, the research conducted shows the appreciation of the private sector of this government initiative. One of the respondents from the employers noted and I quote: ―Employment tax initiative has enabled us to compete with China as we could keep our costs competitive.‖ This was a very large manufacturing company.

Hon members, poverty with unemployment being the biggest contributor remains the biggest threat to our democracy. In 2002 learnership tax incentive, LTI, was introduced again to encourage skills development by providing tax deductions for an employer in respect of formal, Skills Education Training Authorities, SETA-registered training programmes. Again, because LTIs contribution to enhancing much-needed skills to grow the economy, we are of the strong view that it should continue until

31 March 2022. While learnerships will still qualify for these incentives, however, agreements with learners that have basic to

intermediate qualifications will be prioritised by providing a higher value of claims.

Of particular importance, is the incentivisation of employers to train people living with disabilities. These and many other government initiatives stress the importance of working together of government, labour and business in confronting the challenges faced by our people in these tough economic times.

This proves that it helps no one to fold arms and point fingers at each other about the failure of the economy to create much needed jobs. It says now more than ever before, we should work together. The scars of apartheid and the global economic crisis of 2008 can only be healed by ―samewerking‖[co-operation]. It is now an accepted truth that small and medium businesses are the drivers of economic growth and employment creation. We note that the use of these incentives by small, medium and micro enterprises, SMMEs, is not at the desired level. We have no doubt that if there was a wider understanding and usage of these incentives by SMMEs the impact would have been even larger. It is thus of critical importance to ensure that there is more education of these small businesses about these incentives.

Sekela Somlomo sithi amabhizinisi amancane nawo kufanele ahlomule kulolu hlelo lukahulumeni, kungabi uhlelo lomntwana kabani nabadla izambane likapondo. (*Translation of isiZulu paragraph follows.)*

[Deputy Speaker, we are saying that the small businesses must also benefit from the government incentives; they should not be incentives for a chosen few and the rich.]

The rural areas are hardest hit by high rates of unemployment and skills deficit. The usual bias against the rural areas should be bridged, amongst others, by ensuring that there is education on rural, small businesses about the existence of both the employment tax incentives and learnership tax incentives.

These are the places which much be incentivised to create employment opportunities there and in the process develop and grow their economies. This will ultimately redefine economic development. It may, with more rural businesses, creating more employment opportunities.

Taxation Laws Amendment Bill also introduces measures that prevent tax avoidance through the use of trusts. It includes provisions that restrict the use of interest—free loans to trusts as a mechanism to avoid estate duty and donations tax.

This is a welcome initiative to ensuring that every cent is collected by the SA Revenue Service, Sars. It is not right and it cannot be right that the people of South Africa are denied what rightfully belongs to them. This is even more important as the budget deficit increases. We urge National Treasury to be even tougher and continue researching any other aggressive tax schemes which may undermine tax collections.

The year 2016 draft Taxation Laws Amendment Bill also addresses the circumvention of rules dealing with employee-based share incentives schemes, which in most cases would result in lower tax rate than required being used - that is dividend tax and not tax on remuneration. It was recognised, hon members, that there may have been unintended negative consequences on Broad-Based Black Economic, BBBEE, schemes. Since BBBEE is an important government initiative to try and deal with racial economic ownership, the revised provisions avoid amendments to the vast majority of restricted equity investment schemes and instead target the particular instances of potential abuse.

Hon members, the committee is currently discussing the proposed sugar tax by the Department of Health. The Minister of Health is definitely concerned about the health effects of sugar, obesity and diseases associated with it. There is no doubt that there

have been different voices about this. The committee is looking carefully at this, wanting to understand the fuller implications. There are questions that we must satisfy ourselves, including but not limited to: One, the price elasticity or nonelasticity of sugar demand; in other words, will higher prices discourage sugar and related products consumption; two, impact on employment creation, especially when we consider the whole value chain; three, what is the impact on complementary goods, like packaging, tins, bottles etc; four, the timing of this tax is also very critical. Will it be judicious to introduce it when the country is struggling with low growth rates and very low levels of employment rates?

In short more information and science is required before we proceed. Because of tough economic times, we do agree that subordination agreements entered into in respect of debt instruments are not adversely impacted by the anti-hybrid debt rules when required for purposes of maintaining a debtor‘s company solvency. Hon Chair, you would have seen that the trust of our focus is protecting the jobs, creating new jobs, integrating our young people into mainstream economy so that they can contribute to the growth and development of our beautiful country.

As I conclude, Chair, allow me to borrow wise words from the late President of the ANC, the revolutionary and Commander, Oliver Reginald Tambo when he said about the young people and I quote:

The children of any nation are its future. A country, a movement, a person that does not value its youth and children does not deserve its future.

Tambo lenyoka lihlaba elimzondayo. [Praises Tambo.] Ngiyabonga. [Thank you.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Thank you very much, hon member. Once again, hon members, so that we don‘t raise points of order about issues of relevance, I am just reminding you that we are dealing with two orders, nine and ten. So, as speakers present themselves, they might actually deal with both legislations at the same time. Thank you very much, hon members. Hon Lees?

Mr R A LEES: Madam Chair, thank you very much, nice to see you as well. I have yet to meet a person who enjoys paying tax. Tax collectors generally have been reviled throughout the history of the world. Despite this, we can‘t avoid paying tax and indeed,

it remains the best known way to provide for the desperate needs of so many people in South Africa. The only thing that taxpayers require of the government is that the taxes raised are spent responsibly, legally and to the best benefit of all South Africans. That is why the DA welcomes the extension of the employment tax incentive for a further two years. This is tax well spent as it stimulates jobs for the 57% of young people in South Africa who are not registered on the tax database.

The scheme and the hundreds of thousands of jobs that have been created for our youth, owes its existence to the youth wage subsidy that the DA initiated and for which the DA fought hard and long. The employment tax incentive owes its existence to the blood of DA members that was spilt on the fateful day in May 2012, when thousands of DA members marched as a blue wave towards the Congress of South African Trade Unions, Cosatu, House to demand that Cosatu support the creation of jobs for our youth and not to block the youth wage subsidy in the National Economic Development and Labour Council, the Nedlac, negotiations. It was during this march that DA members were physically attacked and stoned by ANC and Cosatu supporters.

Pictures in newspapers of injured DA supporters stunned South Africans from all walks of life.

Sihlalo, uma ngibona mina akekho ozophika ukuthi ngalelo langa ngoNhlaba ngowezi-2012 ipolitiki lapha eMzansi Afrika ishintshile. Ishintshile ngaleso sikhathi babonile abantu baseMzansi Afrika ukuthi likhona elinye iqembu elihambisana nabo bonke abantu baseMzansi Afrika. Likhona elinye iqembu lizobasiza nalabo abangenalutho. [Ubewelewele.] Babonile ukuthi noma kukhona ukuchitheka kwegazi amalungu eDA amile awabalekanga ukuthi uhulumeni ezwe ukukhala kwentsha yabo. *(Translation of isiZulu paragraph follows.)*

[Chairperson, I do not think there is anyone who is going to disagree that, on that day in May 2012, the politics here in South Africa changed. They changed inasmuch as, at that time, South Africans realised that there is another party that supports all South Africans. There is such a party that will also help those who have nothing. [Interjections.] They saw that even though there was bloodshed, DA members stood there; they did not run away, in order that the government should listen to the youth‘s complaints.]

In the 2014-15 financial year, the employment tax incentive has stimulated the creation of 686 402 jobs.

The HOUSE CHAIRPERSON (Ms A T Didiza): Order, hon members! Order! Hon members, can we lessen our voice as we converse so that we allow the speaker on the podium.

Mr R A LEES: Ngiyabonga Sihlalo, kodwa angiwusabi umsindo mina. [Thank you, Chairperson, but I am not afraid of the noise.] [Interjections.]

This is far more than the original estimate of 423 000 jobs. These are real jobs that provide skills, experience and dignity to young South Africans. They give young South Africans a kick- start into the job market and allow them the opportunity to succeed and to bring a life of dignity to themselves and their families.

The DA is pleased that our proposal that the R20 million rand cap per employer that was initially proposed was removed by the Standing Committee on Finance. This cap would have resulted in the loss of some 80 000 jobs had it been in place in the 2014-15 financial year. The objective of the employment tax incentive was always to stimulate the creation of jobs and was never to reduce spending.

We are disappointed that our proposals to extend the employment tax incentive for three years, instead of the proposed two years were rejected. Our proposal to compensate for inflation over the past two years and to increase the salary qualification brackets of the employment tax incentive was also not accepted. As a result, the DA is concerned that the employment tax incentive programme will not achieve the maximum number of jobs that it potentially could achieve. The low take up of the employment tax incentive by small businesses has been disappointing. It is therefore vital that National Treasury ensure that Sars implement a system whereby employers are able to claim the employment tax incentive benefits even if they do not have an employee‘s tax liability from which they can deduct the employment tax incentive. We believe that this will go a long way to ensure that the employment tax incentive is taken up by smaller businesses and must surely encourage the growth of those small businesses.

We are pleased that our more stringent reporting regime of the employment tax incentive by the Minister was accepted and has been included in the Tax Administration Bill. In order to ensure that the maximum number of jobs are created, it is important that the implementation of the employment tax incentive is

monitored throughout its existence and is not just evaluated when it comes to an end.

Madam Chair, the DA welcomes the following changes contained in the Bills: The inclusion of personal service companies as part of the small business tax regime; the accelerated capital allowances for renewable energy projects; the inclusion of infrastructure spending in terms of social labour plans by mining companies as being tax—deductible expenses; and lastly the extension of the relief from capital gains tax to other land reform initiatives and will no longer be restricted just to land restitution projects.

The DA hopes that this will encourage more land reform projects in order to address the vital land reform imperative in South Africa. Madam Chair, Land Reform, despite the land rhetoric from the ANC, has all but stalled under the regime of President Zuma. Madam Chair, the DA supports both Bills. [Applause.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Siyabonga lungu elihloniphekile ngithembe ukuthi ngokulandelayo awu~~su~~zokusho ukuthi umsindo awuwesabi. [Thank you, hon member. I hope next time you will not say that you are not afraid of the noise.]

Ms H O HLOPHE: House Chair, I just want to check in terms of Rule 81. I just saw that the previous speaker from the DA has been given eight minutes and also the ANC eight minutes. So, can I just get the clarity why the EFF only gets four minutes?

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon member, seated here I may not have the knowledge in terms of the allocation of minutes, however, I will request that there be consultation amongst the members in relation to that one. Order. Hon Ndlozi.

Mr M Q NDLOZI: This Bill proposes to remove the cap of

R20 million per employee on the Employment Tax Incentive despite the recommendations by Parliamentary Budget Office to the contrary. This is done without a shred of evidence on how this tool actually increase employment or addresses the chronic problem of unemployment in our country. The only true benefit of this incentive is the very big business that enjoys proximity to the National Treasury.

With this incentive, we are on our knees legalising the bribery of private capital begging for them to develop the economy. The Employment Tax Incentive is based on a false notion that employment in South Africa is due to lack of skills, thus the solution is to bribe companies to provide the supposed skill.

This is not only abdication of responsibility to educate and train the youth, but government is literally saying to business, we will take taxpayers money to pay for wages and you can just take profits and go home. This is the same big business with no interest to develop the country and that is engaged in aggressive tax avoidance and illicit financial flows. It is the same big business that gets taxed low in an effort to appease them to expand and increase jobs. For the last 22 years, jobs have not come at all because the one who is possessed and driven by the desire to maximise profit and greed will never ever act in the interest of uplifting the unemployed.

The 47,6% of the youth aged between 20 and 25, are not employed, are not in school and are not being trained and so is more that 52% of the female youth in the same age group. It clearly illustrates that in terms of job creation the African national criminals have failed. [Interjections.]

So, what do you do in order to provide sustainable jobs? The first structural problem that you must resolve is the antiblack ownership of credit. Until you have a bank that is willing to lend billions of rands to talented black entrepreneurs, with real ideas for real industry, all that you do is in vain. Even

if you give them the tax incentive you have to be able to open up the credit.

South African banks control our ability as a nation to borrow from our own future. They do no care that millions of black entrepreneurs have no sureties, thus they do not lend them money at all. So, we need a state bank that all state departments and co-operations bank with, run efficiently and independently that will lend money to black new industrialists to emerge.

Secondly, we need to take our minds back and use all the proceeds to diversify the industry because on its own it has refused.

Thirdly, we need to invest in the agriculture by expropriating agrarian land for equal redistribution. Our secret to job creation lies here: After you give the land across to farmers, then protect them and give them much massive subsidy. With this you will guarantee quality jobs not just from farmers, but right through the food chain.

Finally, if we want jobs, we must tell the retail industries from Pick n Pay to Pep Stores, through legislation who are selling food and clothes inside the township malls to first buy

from local producers inside the townships. There is no country in the world that has managed to get out of underdevelopment, chronic unemployment and poverty with neoliberalism. We must protect infant industries and get involved in those industrial activities that private business find risky.

Above all these, are the environmentally friendly ways of generating energy: solar, wind and power. Giving business tax incentives will not make any shifts whatsoever to the problem of unemployment. We have to get directly involved. Thank you. [Applause.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Thank you, hon Ndlozi and thanks for the National Assembly, NA, Table for having assisted all of us who are challenged in terms of height. Thank you, very much. Hon Hlengwa. [Laughter.]

Mr M HLENGWA: Mhlonishwa Sihlalo, malungu ahloniphekile ale Ndlu

... [Hon Chairperson, hon members of this House ...]

... the IFP supports the Tax Administration Laws Amendment Bill and the Tax Laws Amendment Bill. The Bill proposes to effect amendments to no less than eight Acts dealing with the fiscal revenue in South Africa. It proposes deletions of now obsolete

provisions and various technical corrections. In essence it tightens, aligns and seeks to create a great synergy between tax legislation in the country.

Of significant to input to the IFP are the proposed amendments with regards to enhancing the independents of the Tax Ombud by extending his tenure in office and by allowing the Ombud to employ its own staff. However, the concern is that out of 961 complains being dealt with by the office of the Tax Ombud as of the 16 October this year, 432 still have not been finalised by SA Revenue Service, Sars. The proposed amendments of section 20 of the Tax Administration Act will assist in resolving disputes once it comes to enforcing by compelling Sars and the taxpayer to respond with reasons within 30 days of receiving the Ombud‘s recommendations.

In respect of lodging a dispute with regard to a specific tax period, the extension of the period for an additional 30 days will provide relief for taxpayers and this must be welcomed.

The IFP wants to congratulate the extension of the Employment Tax Incentive by two years because we believe that every effort needs to be made at ensuring that jobs are created. Having interacted with quite a number of stakeholders in their field

and those that have actually utilised the Employment Tax Incentive, ETI, it is quite clear that it is assisting. We are obviously are concerned that there was a toing and froing between the R20 million cap and so on, but we believe that the removal of the cap is going to broaden the scope and the space for those who are going to continue making use of this facility.

However, we want to encourage small businesses as well to actually make use of this particular programme and for us to create opportunities and space for them to be able to use it because we believe they have a role to play. We cannot count on big business to be the silver bullet of all our problems. Small business is the backbone of any economy that hopes to grow and we believe that work in that regard still needs to be made. This ETI creates a conducive environment for the creation of jobs and the transfer of skills; and having interacted, as I have said, with the relevant players in the field it is quite evident that it is working.

With regards to the Learnership Tax Incentive, we also welcome the fact that it deals with skills training for artisans and having been available now since 2002 markets welcomed this, and we welcome the bias, of course, that it deals directly with those persons with disabilities.

Finally we want to emphasise that the geographical spread in this regard as very important. Let us pay a heavy emphasis on rural businesses and rural communities to ensure ...

... ukuthi imali ayipheleli emadolobheni. Ngiyathokoza Sihlalo. [... that the money is not only spent in urban areas.]

Mr A M SHAIK-EMAM: Hon House Chair, allow me to start by acknowledging the role that the great leader Fidel Castro played in the liberation of our people in South Africa. [Applause.] It is said that a cat has seven lives, ... [Interjections.] ... but a great leader Fidel Castro had 632 attempts at his life, including having his wife being used to murder him, but all that failed. So, our condolences to the people of Cuba on the role that he played in providing or liberating the people of South Africa, despite the fact that the imperialists tried to oppose him and murder him and do everything else. [Interjections.]

The NFP welcomes the harmonising of tax deductions to calculation for contributions to the pension funds, provident funds and retirement annuity funds. Any change which encourages people to invest in their retirement must be welcomed because the more people invest in their retirement, the less money

government has to spend on pensions and funds could be redirected to other worthy social issues.

Another change which we welcome is the increase on thresholds for exemption of employer provided bursaries in the current climate created by the Fees Must Fall campaign. It is imperative that any initiative aimed at improving access to higher education must be supported whilst government works out a way to provide free education for all as has been alluded to.

The tax to be levied on sugar must be welcomed given the fact that diabetes is fast becoming number one cause of death worldwide. The challenges of obesity cannot be overemphasised. The cost to the state presently is at an excess of R28 billion, as a result of the scourge of diabetes and obesity. So, I think we must actually encourage that tax. I think the perception out there that it is going to create greater unemployment is not true. What is generally happening is that those conglomerates and organisations that live on the blood of the people in terms of these beverages and things that they provide, continue to even want to use the people in going on these marches and I think we must discourage them. What I think is very important is the role that the Minister of Health is playing in trying to

create a better and healthy life for the people of South Africa, and that must be encouraged, hon Chairperson.

The NFP supports this and in any event what we are saying is that whilst there is an argument that it will create unemployment, what we can assure the House is this that by creating this sugar tax you will discourage people from going out there and purchasing goods which has a harmful effect on them. So, in light of that the NFP believes that we are moving in the right direction and we will support this. Thank you, very much.

Ms D G MAHLANGU: Hon Chairperson, hon Ministers and Deputy Ministers ...

... bantu bekhethu namalunga ahloniphekako, lotjhani. [... compatriots and hon members, greetings.]

The very high unemployment rate of 27,7% released by Statistics SA is a challenge which requires all of us to mobilise our energies, our resolve and our resources to challenge it head on. The people who are ravaged by this scourge are unfortunately the future of our country, the young people, whose unemployment rate is even higher than the average national rate. The other

vulnerable sections of our society are women, the rural communities and people living with disabilities.

Any intervention which ignores this reality will in no doubt not impact decisively on employment creation. The Employment Tax Incentive, ETI, and the Learnership Tax Incentive Tax, LTI, are such interventions by government; interventions which are meant to assist with creation of decent job opportunities for the most vulnerable sections of our society.

Hon members, unemployment does not just hit an individual in his or her pocket, but it also does the following: The longer you are unemployed, the more unlikely you are to get a job. It has also been found that unemployment has devastating psychological effects; the self-esteem of the unemployed is highly compromised. Your self-worth is perceived by yourself and the society to be suboptimal. Scars of being unemployed for a long time may remain with you long after you have been employed.

The wider economic effects of unemployment, especially for the young people are huge. It means the most creative resource is left idle resulting in lower economic growth, getting into a vicious circle of further unemployment. We all complain about high crime rates. This is negative externality of unemployment.

The prisons which are overflowing are a reminder of the society which has failed to provide employment opportunities for its young people.

That is why we, as the ANC, unreservedly support the Taxation Laws Amendment Bill 2016, because amongst others, it tries to restore the dignity of young people by getting them in a job environment.

Since ETI is only two years old, it is a toddler by any standards and therefore still has a lot of teething problems. However there were concerns which have been raised before, by the committee and fortunately some of them are being answered now. The primary concern has been the possibility of abuse of the incentives. No obvious abuses have been found which does not mean they are not there. We have however stressed with National Treasury that they should remain perpetually vigilant.

Other questions hon members who had been of concern since the inception of the ETI were: Do these companies who benefit from the scheme retain the young people in their employ? We were worried about the train-and-dump phenomenon. Does ETI promote a change in attitudes towards employing the youth? Does ETI create new jobs? Is there a genuine transfer of skills in companies?

Contrary to what hon Lees said, hon members, Singizi Consulting conducted a research for Business Unity SA which started to answer some of the concerns raised. The following outcomes came out and they were indeed very encouraging. Many employers indicated that they have been able to keep employment numbers relatively stable because of the ETI.

Employers indicated that experience of employing young people has in many cases changed their views about the value of employing young people. As to whether ETI created new jobs, indeed the research confirmed that there were certain industries where companies were able to increase employment like in the clothing manufacturing sector. They stated that they have been able to increase employment through the ETI.

In the environment of very high levels of employment, the impact of ETI is so far very encouraging. However, it will be very naïve of us to think that this cannot be abused by some of the unscrupulous companies out there. That is why the National Treasury and SA Revenue Service, Sars, should remain vigilant and make sure the scheme is used to benefit the young people who desperately need employment opportunities.

It is also very important that the small, medium and micro enterprises, SMMEs be encouraged to access the scheme as hon Buthelezi has said. There was a clear indication that it is big companies who have largely accessed the scheme. This cannot be right. The SMMEs must be encouraged to access the scheme which therefore means awareness campaigns should be conducted about the existence of ETI. We are aware that more impact of the scheme will be felt if young women are targeted to benefit both as employees and whose companies also access ETI.

Unemployment is the worst in the rural areas, hon Chair. The need to deliberately focus in the rural areas cannot be overemphasised. Employment Tax Incentive Scheme and Learnership Tax Incentive Scheme cannot be seen as panacea or remedy for all our unemployment challenges of the youth and skills deficit.

However, they are part of a suite of interventions by government.

Again it is a clear indication of the ANC-led government commitment to the future of our young people. It should not be forgotten that despite our very tight fiscal position we managed to do something. But what we are saying is that young people cannot be sacrificed. We need to call upon our youth to take this opportunity by both hands so as to shed off the chains of

poverty. As the former President of the ANC Nelson Mandela said, and I quote, ―Young people are capable, when aroused, of bringing down the towers of oppression and raising the banners of freedom‖.

Sihlalo, ngithokoza khulu kwamambala begodu ngithi inarha ayilale, iinhliziyo zipharumelane. [Chairperson, thank you so much and let there be peace.]

Thank you. [Applause.]

Dkt M B KHOZA: Sihlalo, angibonge. Ngiphinde ngibonge nenhlambuluko kamhlonishwa [hon] u-Lees ngenkathi eyixoxa lendaba yakhe ukuthi cha uyakubalekela kwayena ukuthi akhokhe intela. [Ubuwelewele.] [Uhleko.] Uyabona mhlonishwa u-Lees umane wazitshengisa ukuthi umeleni nokuthi yiziphi izinhloso anazo noma iqembu lakhe lezombusazwe elinazo. Ngiyazibuza ukuthi kaze bangaki abantu abafunde i-*Mail and Guardian* yesonto eledlule [last week] ngibonile nceku yeNkosi ukuthi usuzama ukuthi uthole laba abangathi banamakhono abamnyama. Ngiyacabanga ukuthi o- Ndlozi bazofaka izicelo [apply] ngoba engathi i-DA ithe iyabafuna abantu abazoza ngoba wena nceku yeNkosi usucabange ukuthi kuhle ukuthi wandise abantu abamnyama laphayana ngoba

leNdlu imhlophe kakhulu. *(Translation of isiZulu paragraph follows.)*

[Dr M B KHOZA: Thank you, Chairperson. Let me also thank hon Lees for the confession he made when he was telling us his story that he also avoids paying taxes. [Interjections.] [Applause.] You see hon member, the hon Lees had just exposed himself of what he stands for and of what his objectives are or those of his political party. I am asking myself how many people read last week‘s *Mail and Guardian -* I have noticed man of God that you are trying to lure blacks with qualifications. I think people like Ndlozi will apply because it seems like the DA wants people to come because you man of God have thought that it is good to increase a number of blacks there for this House is too white.]

Chairperson, in processing the Taxation Laws Amendment Bill, 2016, we drew our mandate ... [Interjections.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Order! Hon Khoza, please take your seat. Hon member, what is your point of order?

Ms H O HLOPHE: I rise on Rule 92. But this is an insult. You can‘t call our commissar to apply. He is a leader, our spokesperson. He is our leader.

The HOUSE CHAIRPERSON (Ms A T Didiza): Order, hon member! Hon Mkhaliphi, can you take your seat.

Ms H O HLOPHE: She must withdraw.

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon Khoza, please proceed.

Dr M B KHOZA: Thank you, Chair. In fact, let me congratulate you, hon Ndlozi, that you have completed ... I understand you have completed your PhD. You may apply, actually; you now qualify. You have done a study on the youth. You will help them. You speak like them, anyway. [Laughter.]

In processing the Taxation Laws Amendment Bill, 2016, we drew our mandate from the 53rd conference of the ANC ... [Interjections.]

Ms H O HLOPHE: But Chair, ...

The HOUSE CHAIRPERSON (Ms A T Didiza): Order, hon member, please take your seat.

Dr M B KHOZA: Eyi, uyabona lo ... [Akuzwakali.] [Geez, you see this one ...] [Inaudible.]]

Ms H O HLOPHE: Chair, I rose on a point of order earlier on. I said she must withdraw. What she said is an insult to our spokesperson. Again, according to Rule 68, what she said is irrelevant to the topic being discussed.

The HOUSE CHAIRPERSON (Ms A T Didiza): Order, hon member. You raised a point of order claiming that what the member had said is an insult. Reflecting on the Rule that you have raised, I don‘t think the statement impugns a member. All she said is that a member can apply and I think the member has a right not to apply.

Dr M B KHOZA: And he qualifies!

The HOUSE CHAIRPERSON (Ms A T Didiza): So, it is not impugning nor casting any aspersions. Hon Mkhaliphi, ...

Ms H O HLOPHE: Sihlalo, angazi noma ukuthi nigqqoke amajazi [coats] afanayo yingakho uthatha [to side] uhlangothi lwakhe. [Chairperson, I am not sure whether it is because you are wearing identical coats hence you are taking her side.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon Mkhaliphi ...

Ngiyabonga kakhulu. Singaqhubeka lungu elihloniphekile nenkulumo.

Dkt M B KHOZA: Hayi, ungakhathazeki mhlonishwa Sihlalo, uHlophe laphayana uyazi ukuthi uyakhumbula ekhaya futhi sisamlindele bandla abuye eze ekhaya. *(Translation of isiZulu paragraph follows.)*

[Thank you very much. Let us proceed with the speech, hon member.

Dr M B KHOZA: Hey, do not worry hon Chairperson, hon Hlophe over there knows that she misses home and we are still waiting for her to come back home, shame.]

Dr M B KHOZA: In processing the Taxation Laws Amendment Bill, 2016, we drew our mandate from the 53rd conference of the ANC in

Mangaung which observed that youth aged between 15 and 34 accounted for 37% of South Africa‘s population, of which more than half of 18 to 24-year-olds in 2011 lived under the lower bound of the poverty line of R604 per month.

The ANC leads by facts, and we do not necessarily come to this podium to brainstorm whatever policies. When we consider these amendments we are actually informed by facts. It is for this reason that this organisation of the people is acutely aware that, even if the employment average annual economic growth were to rise by 5% — which we all know is not the case due to a number of complex factors — unemployment amongst 18 to 24-year- olds would be 44% by 2020 and 31% by 2030. Our focus on skills development is motivated more by our desire and vision to see more young South Africans able to access the job market and start their own businesses.

Notwithstanding the ambiguities, challenges and divergent voices directed at the ANC, we cannot despair nor can we afford to be impaired from focusing our attention on the needs and demands of our primary constituency. We are talking about those people that

... when you are about to land in Cape Town, you see those tin shacks and the faces of poverty. These are the people whom we represent. The people who are unemployed and those who have

stopped seeking employment – those are our constituency. We are talking about that man looking for a job in Khayelitsha and Mitchells Plain; the poor woman with her child on the back; our people who remain trapped in the tin shacks.

The colour of the unemployed youth whose hopes and dreams are shattered on a daily basis is a brutal reminder of the face of capital, the face of poverty, the face of destitution which is undeniably not colourless in South Africa. It is perfidious to expect that a struggle that began more than 400 years ago in 1488 — when the first Khoi herder threw the first stone at the Portuguese buccaneers commanded by Bartolomeu Dias in what is today known as the Mossel Bay — can be undone in 20 years. It is also mendacious to expect a 100-year-old people‘s movement not to go through a process of metamorphosis or some kind of evolution as the material and political conditions change.

The biggest challenge is that, as we fight all social ills such as corruption and advancing a moral pursuit for the restoration of the dignity of the black African and coloureds in particular, the narratives of our opponents who are hellbent on retaining the status quo, covertly paint corruption black and thus distort the economic and political reality of South Africa.

The struggle is not yet over. Those who think they have arrived at freedom are making a mistake. The bloodless decolonisation war is much harder than fighting for the removal of racial profiling statutes.

The Taxation Laws Amendment Bill 2016 comes at a time when the demands on the fiscus are sky high and the sources of revenue are, strictly speaking, shrinking due to tax base erosion, profit shifting, illicit financial flows, and an immoral form of capitalism which puts profits before people. And that is the DA. An HON MEMBER: Viva, DA! Viva, DA!

Dr M B KHOZA: The Taxation Laws space is a highly contested ideological space. This is simply because we represent different interests in the committee. There are those who would stop at nothing to sustain the dual economy, with the first one being for the beneficiaries of colonialism and racial capitalism, and the second being a survivalist economy exclusively reserved for those who were at the bottom of the colonial social ladder.

The ANC will not be distracted from its noble mission of decolonising the economy of the Republic of South Africa.

Our bloodless war against perpetual colonial domination in every form is inspired by Sun Tzu, who lived in 544 BC to 496 BC. In his book, *The Art of War*, he argued that the art of war is of vital importance to the state. He argued that ―the supreme art of war is to subdue the enemy without fighting‖. Thank you. [Time expired.]

The DEPUTY MINISTER OF FINANCE: Hon Chair, hon members, the four tax Bills before the House today give effect to the proposals made in the 2016 Budget in February this year. It takes a long time to adopt the tax Bills, as the Division of Revenue and Appropriation Bills from the Budget have long been passed, and we are now dealing with the Medium-Term Budget Policy Statement, MTBPS, adjustment Bills.

Underlying the entire budget is the revenue raised in terms of the tax Bills, and it is our task today to pass the tax Bills.

Whilst the revenue expected to be collected for 2016-17 has been revised downwards by R23 billion with the latest information available from last month‘s MTBPS, these Bills deal with the tax proposals announced in the Budget. The tax proposal process is a consultative process, and takes much longer than the expenditure approval process.

The tax proposals in the Bills need to be seen within the framework of the February 2016 Budget, which, in anticipating the deteriorating economic outlook, set a course of a more rapid consolidation. The proposals are intended to narrow the budget deficit more quickly than previously projected and stabilise the growth of debt.

There might be those who assume that fiscal consolidation is in itself a reactionary measure. I would want to assure you that, without fiscal consolidation, the fiscal space necessary to drive industrial development in some of the progressive projects adopted by this government, is impossible.

Underlying the tax proposals is the need to protect and improve tax morality, which is very critical to achieving the objectives of nation-building and those objectives contained in the National Development Plan, NDP. Taxpayers are willing to pay their taxes in order to ensure that the state has the funds to redistribute, fund and sustain social investments particularly in poor and less wealthy communities, be it in the form of roads, municipal services, education, health and social grants and other services.

Critical to tax morality is the need to spend as efficiently and effectively as possible. The publication of the Expenditure Reviews is a big step in this direction, because it ensures that we guarantee accountability in our spending decisions.

It is also vital that everyone is treated equitably in the tax system and that everyone pays their fair share. Not only can tax morality be severely undermined if people think their taxes are not well spent, but also if they know that others are not paying the tax they should and are abusing the system for their own advantage. We need to be firm on enforcement and quick to stop the schemes people use to avoid paying taxes. Bringing noncompliant taxpayers into the system will improve revenues while also creating a more just and legitimate tax regime.

It is important that we ensure that everyone is actually brought into the comprehensive taxpaying base where all taxpayers contribute according to their means.

While all these measures gradually shift the tax system to meet our needs in the medium term, slower economic growth in recent years has resulted in increasing pressure on the fiscal position, requiring an announcement in the 2016 Budget of measures to increase tax revenues by R18,1 billion for the 2016-

17 fiscal year. The Rates and Monetary Amounts and Amendment of Revenue Laws Bill is the primary mechanism through which rate or threshold changes have been made to bolster tax revenues. These additional tax revenues are required to continue with our public programme of development.

The Taxation Laws Amendment Bill enacts the more comprehensive amendments announced in the Budget to close down loopholes, extend and modify specific tax incentives, and refine certain provisions to create a simpler and more effective tax system. The Bill prioritises the need to promote youth employment and learnerships by extending both the employment tax incentive and the learnership incentive, demonstrating our commitment to deal with the challenge of youth unemployment. If we are to focus on evidence and less on ideology, the employment tax incentive supported over 645 000 youth jobs in the first full tax year, with over R6,3 billion worth of claims being made in the first two years.

Though we may not have reached an agreement on some aspects of this thing, there is a general consensus based on research that the Employment Tax Incentive, ETI, is effective and has a positive impact on youth employment. So the further extension of

the incentive is warranted in order to gather more data and try to ensure that we improve levels of youth employment.

Hon Ndlozi, I think it is important that, when we make broad and sweeping statements about performance of programmes, we do look at facts. The reality is that, I think, we are not being ideological about driving the programme. It is based on its impact. The numbers show it.

We have recently adopted a program together with our partners, the Youth Employment Services Initiative, through which government is partnering with a whole range of stakeholders, and the aim is to create an additional 500 000 new jobs for the youth over the next three years. Again, all of these programs need to be looked at in conjunction with and within the context of a number of other measures government is taking to drive development and growth in our economy. Most of those measures were outlined in the MTBPS statement by the Minister.

A review of the learnership tax incentive was also completed and published. Again, the issue of youth skills is critical to the growth of the economy and the review showed the importance of ensuring that we maximise skills development.

We are also in conversation with the Department of Higher Education to ensure that we align most of these with the Skills Education Training Authorities, Seta, programme and there is a lot of proposals on the table to deal with this issue.

Estate duty and donations tax continue to play a small part in the collection of total tax revenues, which is primarily due to the available ... [Interjections.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon Deputy Minister, please summarise.

The DEPUTY MINISTER OF FINANCE: In conclusion, therefore, I want to end by reminding us all that the February Budget and the Medium-Term Budget Policy Statement show that we continue to face a tough period ahead. We need to take bold steps to avoid the low growth trap, and hence the proposed a balanced consolidation, with proposals that include a combination of both tax policy measures and a reduction in the expenditure ceiling. We are also focussing on ensuring that we drive the growth strategy. Thank you very much. [Time expired.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon members, I was reminded by hon Khoza that actually some of the members here in

this House, apart from the work that they are doing, they are also studying. I want to congratulate all of you who have done well in your studies in my capacity as the House Chairperson responsible for learning and development. [Applause.] I also note that some of you are still continuing. So, please do well, and remember that if you don‘t pass, there‘s a penalty. Well done to all of you who have passed.

# TAXATION LAWS AMENDMENT BILL

(Second Reading debate)

There was no debate.

Question put: That the Bill be read a second time.

Question agreed to.

Bill accordingly read a second time.

# CONSIDERATION OF REQUEST FOR APPROVAL OF PROTOCOL AMENDING THE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA AND THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL FOR THE

**AVOIDANCE OF DOUBLE TAXATION AND PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME**

**CONSIDERATION OF REQUEST FOR APPROVAL BY PARLIAMENT OF AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA AND THE GOVERNMENT OF ZIMBABWE FOR THE AVOIDANCE OF DOUBLE TAXATION AND PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME**

There was no debate.

Mr M Q NDLOZI: We want to make the declaration to both orders because the DA has set a precedent last time, so we want to speak.

The HOUSE CHAIRPERSON (Ms A T Didiza): Thank you very much. No, I understand, hon Ndlozi, it‘s just that you indicated late. But I will grant those parties who wishes to make declarations. As hon Paulsen prepares himself to speak, I think it is important for all of us to remember in our hearts the squad of the Brazilian team who died in the air crash that was discovered early this morning in Columbia. There were five survivors and some did not make it. I just remembered as we are dealing with this protocol in terms of the agreement between us and the Republic of Brazil. Over to you, Mr Paulsen!

*Declarations of vote:*

Mr M N PAULSEN: Chairperson, tax treaties and the agreements particularly dealing with double taxation and tax avoidance are necessary and important to safeguard our fiscus. The modernisation of such tax treaties is in line with the international tax standards, and can only improve the quality and work of the South African Revenue Service, Sars.

Given the aggressive and complex nature of illicit financial flows, and the threats to the fiscus stability, we must prioritise exchange of information and the assistance of tax collection with the other countries. The problem is that we are not dealing aggressively with the illicit financial flows, particularly in the mining and financial industries. We are failing to enforce the tax administrative legislation as it exist and we give authority to Sars to dig very deep to get what is due to the fiscus from multinational co-operations.

We are failing to build the much needed and necessary capacity to deal with illicit financial flows as it is. We cannot even calculate the scale of illicit financial flows to get a good understanding of the scale of financial crimes. If we deal with the financial flows in a more aggressive manner, we can boost the revenues by billions annually. As the EFF, we have presented

our concern to the Davies commission. We have also met with Sars and other stakeholders to provide proper and concrete recommendations.

One of the recommendations was for an illicit financial flow information tax task team that will co-ordinate information between the relevant stakeholders, because we were shocked to learn that the Reserve Bank doesn‘t have the mandate to deal with the illicit financial flows when they have the information. Thank you very much.

Mr A M SHAIK EMAM: Chairperson, allow me to extend our condolences on behalf of the NFP to the people of Brazil on the loss of their loved ones in this tragic air crash that took place this morning. Taxation is a form of government revenue.

Its great importance is that it enables the government to maintain law and order and peace and security to satisfy the requirements of basic needs and public utilities.

Tax is however more than source of revenue and growth. It also plays a key role in building up institutions, markets and democracy through making the state accountable to its taxpayers. Just as the excessive tax burdens might hinder growth in wealthier countries in developing economy, lack of tax structure

is a major cause of weak and unresponsive government. It also leads to an over reliance on aid with tax, the public and hold the government to account for the decisions and not feel tired to the will of aid donors.

Because the tax revenues are relatively predictable, the government can plan ahead with greater certainty. The bilateral taxing agreements are very important for these reasons: Firstly, such agreements avoid double taxation on persons and business enterprises. Secondly, they prevent fiscal evasion with respect to taxes on income. The bilateral tax agreement which we are requested to approve today, will assist both South Africa and the Republic of Brazil and the Republic of Zimbabwe to regulate taxes on cross boarder income.

These agreements are very comprehensive and cover the majority of income tax catered in ensuring that taxation related ambiguity is raised and certainly established. The NFP believes that ratification of the bilateral tax agreements is in the interest of South Africa, illuminating double taxation to protect South African residents, business and institutions which are recipients of cross-border income.

The ratifying agreements will also ensure that none of the parties are deprived from tax revenue. The NFP supports the Bills.

Ms T V TOBIAS: Chair and the hon members, today we entertained Judge Davies. Had the EFF attended our committee meeting, they would have an opportunity to understand that we agree with them on illicit financial flows. The hon Shivambu who sits in our committee knows that we agree in principle that we need to eradicate illicit financial flows. So, we are at the same page. Therefore, that speech doesn‘t belong here. Thank you.

The ANC supports the Protocol Amendments for Avoidance of Double Taxation ... [Interjections.]

Ms H O HLOPHE: I am standing on a point of order, Chair!

The HOUSE CHAIRPERSON (Ms A T Didiza): Order! Hon member, what‘s the point of order?

Ms H O HLOPHE: The point of order is that the member there at the podium, instead of sticking to her speech, she is provoking the EFF, and you as the Chair don‘t even protect us.

The HOUSE CHAIRPERSON (Ms A T Didiza): Order!

Ms H O HLOPHE: That is unfair, Chair!

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon Hlophe-Mkhaliphi!

Ms H O HLOPHE: We can protect ourselves against hon Thandi and she knows that!

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon Hlophe-Mkhaliphi! Firstly, you‘re breaking the Rules yourself. You were supposed to call her hon Tobias. Having said that, let me just advise members that this is not a point of order, it is a point of debate. So, I don‘t think that there was any provocation. I think that you‘re agreeing with the member on the podium on the issue that hon Ndlozi raised. Continue hon Tobias!

Ms T V TOBIAS: Chair, I‘ll get her some other time. The ANC supports the amendment ... [Interjections.]

Nk M S KHAWULA: Uxolo weSihlalo, awusikhuzele uTobias ukuthi akaziphathe kahle.

USIHLALO WENDLU (Nk A T Didiza): Asisale sesiyeka ngoba sengimphendulile umama uKhawula ngalolu daba. Bekungekho ukuhlokolozana noma ukuchukuluzana ubesho nje ukuthi empeleni uyavumelana neqembu lenu ngalolu daba lwe-illicit financial flows. *(Translation of isiZulu paragraphs follows.)*

[Ms M S KHAWULA: Excuse me, Chairperson, would you please tell Tobias to behave?

The HOUSE CHAIRPERSON (Ms A T Didiza): Let us drop this now. I have already answered hon Khawula about this matter. There was no provocation; in fact, she was supporting your party on the illicit financial flows matter.]

Ms M L MASEKO: I‘m standing on a point of order, Chairperson. The hon Khawula addressed the hon Tobias, as just, Tobias.

Ilungu elihloniphekile. [She is an hon member.]

USIHLALO WENDLU (Nk A T Didiza)): Ngiyabonga lungu elihloniphekile. Ngiyathemba ukuthi singamalungu angeke siwukhohlwe umthetho waleNdlu. Qhubeka lungu elihloniphekile. *(Translation of isiZulu paragraph follows.)*

[The HOUSE CHAIRPERSON (Ms A T Didiza): Thank you, hon member. I hope, as hon members, we are not going to forget the Rules of this House. Continue, hon member.]

Ms T V TOBIAS: Chair, I lost my minutes.

The HOUSE CHAIRPERSON (Ms A T Didiza): Order!

Mr M Q NDLOZI: House Chairperson, there‘s nothing honourable about the suppression of freedom of speech.

The HOUSE CHAIRPERSON (Ms A T Didiza): What is the point of order?

Mr M Q NDLOZI: You can‘t say that someone is honourable when you say to them what they must say and what they must not say. The hon member takes a platform and says that we must not give speeches in Parliament. That is very dishonourable.

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon Ndlozi, take your seat! What we are dealing with is what we‘ve agreed with in the Rules, which you know very well, on how we address one another. You can say hon or you can say Mr, Ms or Mrs. So, that‘s all

that we are correcting. Thank you very much. Hon member Tobias, can you please continue with your speech?

Ms T V TOBIAS: Chairperson, the ANC-led government has dealt with base erosion and profit shifting and profit shifting, therefore, the committee supports the work of National Treasury, Sars and the Financial Intelligence Centre in the work of combating tax avoidance by multinational companies in countries where they make profit other than in lower jurisdictions. The information shared will address challenges like the Panama Papers and mispricing. As the ANC, we support this Bill. Thank you. [Applause.]

The HOUSE CHAIRPERSON (Ms A T Didiza): I have not seen any other party requesting to make a declaration. I now put the question. Those in favour will say aye.

HON MEMBERS: Aye!

The HOUSE CHAIRPERSON (Ms A T Didiza): Those against will say no.

The HOUSE CHAIRPERSON (Ms A T Didiza): No objections, agreed to.

Are there any objections to the approval of the agreement between the governments of the Republic of South Africa and the government of Zimbabwe as it appears on the order paper? None.

Agreed to.

# THE IMPACT ON THE ECONOMY OF THE RECENT DECISIONS BY THE NATIONAL PROSECUTING AUTHORITY

(Urgent Matter of National Public Importance)

The LEADER OF THE OPPOSITION: House Chair, hon members, fellow South Africans, bagaetsho, dumelang [good day]. Every one of us in this House knows that the Office of the National Prosecuting Authority has been abused by the President, over and over again, to shield himself from the law and pursue his enemies. We have all been witness to this. Instead of debating whether or not this is the case, we should rather be using this opportunity to plot a way forward to ensure that this won‘t happen again.

The position of National Director of Public Prosecutions is meant to be a 10-year term, but over the past decade, it has been reduced to a revolving door of deployed cadres. Since 2008, we‘ve had no fewer than six National or Acting National

Directors of Public Prosecutions: from Vusi Pikoli, Mokotedi Mpshe and Menzi Simelane to Nomgcobo Jiba, Mxolisi Nxasana and, lastly, Shaun Abrahams. None of them lasted more than a couple of years, and they all had to vacate this office primarily because of one man: Mr Jacob Zuma. [Interjections.] This was either because they weren‘t prepared to do his bidding or because it was blatantly obvious that they were being controlled

– so much so that the courts had to pull the plug on them.

Of these six people, only Vusi Pikoli and Mxolisi Nxasana acted with integrity and independence, and this, I am afraid, is what cost them their jobs. All the other National Directors of Public Prosecutions have helped turn the National Prosecuting Authority into what it is today: a shambles of failed court cases, shameful dismissals and political shenanigans. Instead of fighting crime and corruption, this vital institution of our democracy has now become a key ally of the criminal syndicate that is dominant in the ANC.

Remember Vusi Pikoli? When he did his job by issuing a warrant of arrest against Jackie Selebi, he got himself suspended. When he refused to withdraw the corruption charges against Mr Zuma, or #JZ783, he got himself fired. In the words of Frene Ginwala,

Adv Pikoli was ―a person of unimpeachable integrity‖. It is as a result of that that he was removed from his job.

Pikoli was replaced by Mokotedi Mpshe, a man whose sole claim to fame was that he dropped the charges of 783 counts of corruption, fraud, money-laundering and racketeering against Mr Jacob Zuma. This decision was found by the courts to be baseless and irrational.

After Mpshe came the famous Menzi Simelane, another Zuma yes man so thoroughly discredited that the courts had no choice but to rule that his appointment was invalid.

Mr P J MNGUNI: Hon House Chair, I rise on a point of order: The hon member knows only too well that he can only refer to the President as ―Mr‖ or as ―the hon President of the Republic‖. [Interjections.] He can‘t just call him ―Zuma‖. He knows that and I think it‘s mere mischief. He needs to be reprimanded.

The HOUSE CHAIRPERSON (Ms A T Didiza): Thank you very much. Hon Maimane?

The LEADER OF THE OPPOSITION: Chair, it is another Mr Zuma‘s yes man ...

Mr M L W FILTANE: House Chair, on a point of order: The word, the name, ―Zuma‖, was used as an adjectival noun, not a pronoun. [Interjections.] So, there‘s no point in prefixing it.

The HOUSE CHAIRPERSON (Ms A T Didiza): Order, hon member. Thank you very much. [Interjections.] Order! The hon member Filtane is true in the context in which the name was used. If there are concerns, we will actually reflect on that and come back to the House. However, it was in reference, as it was indicated. Hon member Mandela?

Mr Z M D MANDELA: Hon Chair, the hon speaker cannot refer to a member of this House as a ―yes man‖ of the President. [Interjections.] Can he please withdraw that? [Interjections.] We are all hon members in this House. [Interjections.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Order! Order! Hon member, the issue that was raised related to a person who is not a member of the House. [Interjections.] I want to clarify that to members. What was made as a reference in an adjectival way was a person of so-and-so, and that person referred to is not a member of the House. So, there is ... hon member, can I please clarify?

The member was referring in his statement to the National Prosecuting Authority, the members who were appointed and those who were acting. So, he was making reference to say this one left and another so-and-so, in an adjectival form, you know ... relating to a person who is not a member of the House. [Interjections.] So, can we please proceed with the debate?

Mr M Q NDLOZI: Chair, I just need you to clarify for us that it is not true that we are all supposed to call one other

―honourable‖. Mr Mandela says that we must do that. I mean, he has been found guilty of assaulting someone. He can never be called honourable.

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon member! Hon Ndlozi! Hon Ndlozi!

Mr M Q NDLOZI: We can‘t call people who assault people

―honourable‖ in this House.

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon Ndlozi! Hon Ndlozi, can you please ...

Mr M Q NDLOZI: And found guilty by a court! Yoh! You want to be

―honourable‖?

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon Ndlozi!

Mr M Q NDLOZI: No, you are not!

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon Ndlozi, I will switch off your microphone now. Can you allow me to ...

Mr M Q NDLOZI: Chair, it‘s just for clarity.

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon members, for our own sake in terms of time, can we please ensure that we do not have spurious points of order?

On the issue that you are raising, hon Ndlozi, you know very well that in the Rules, we agreed that you can call a member

―honourable‖ and if you don‘t want to so, you can say ―Mr‖. However, there is nothing wrong with a member asking that a phrase referring to a member be appropriate. You can say

―honourable‖ or ―Mr‖. The choice is that of the one who is speaking. Can we please ensure that we do not disturb ourselves in this debate? Hon Maimane, you can proceed.

THE LEADER OF THE OPPOSITION: Thank you, House Chair. We are discussing a Zuma yes man. So, how does one rephrase that?

Simelane, another one, is, in fact, on record as stating that he believed the National Director of Public Prosecutions should not be independent and that the Justice Minister should be able to override decisions to prosecute. Sadly, this harks back to a past that we don‘t want to return to, a past where a politician was able to decide who could and who couldn‘t be charged.

Simelane was followed by Nomgcobo Jiba, an Acting National Director of Public Prosecutions who was heavily criticised by 12 judges – not just a few – on four benches in three high-profile matters. She was then blasted by the Supreme Court of Appeal for refusing to hand over the spy tapes. She was also found to have lied to the court in the Richard Mdluli case and was charged with perjury and lying under oath in the Johan Booysen matter.

She has subsequently been struck off the roll of advocates.

Then came Mxolisi Nxasana, an appointment that the President immediately regretted, when Nxasana reinstated charges against the President‘s friends, Richard Mdluli, Lawrence Mrwebi and Nomgcobo Jiba. Fellow South Africans, it is, of course, not appropriate that when people do their jobs in a way that is inconsistent with the Constitution that they should keep their jobs. He regretted that decision and now it was Nxasana‘s turn to go, as well.

This brings me to the last appointment – the latest, Shaun Abrahams. He goes by the title, ―Shaun the Sheep‖ but, fellow South Africans, don‘t let this fool you. This man is a wolf in sheep‘s clothing.

Abrahams immediately dropped the charges against Jiba and Mrwebi before setting his sights on the one man standing between the President and access to our Treasury - Finance Minister Pravin Gordhan. This is a fight that has sent our economy on a downward spiral and has led to numerous instances of backtracking by Abrahams every time his agenda is exposed for what it is.

His curriculum vitae already includes the dropping of charges against Nomgcobo Jiba, appealing the spy tapes ruling, re- charging Gen Johan Booysen, trying to prosecute Shadrack Sibiya and Robert McBride, and finally, charging the Finance Minister, Pravin Gordhan, on a trumped-up charge – a charge he made after meeting the President at Luthuli House.

What kind of a National Director of Public Prosecutions has the right to have a private meeting with a political party at their offices? It proves that he dances to their tune rather than doing his job as the National Director of Public Prosecutions. [Applause.] It is, in fact, only a matter of time before

Abrahams will find it impossible to continue protecting his boss, and then he, too, will find himself shoved out of the revolving door to make way for someone else.

There have been six National Prosecuting Authority heads in less than a decade, and all because of one man. This cannot continue. We cannot continue leaving the appointment of the National Director of Public Prosecutions entirely in the hands of the President. As it currently stands in our Constitution and supporting legislation, it serves no one but the President himself.

We need to change the way the head of the National Prosecuting Authority is appointed - and not to limit the powers of Mr Zuma, but to limit the powers of all future Presidents. We need to admit that the authors of our Constitution, perhaps when they were drafting the Constitution, had President Nelson Mandela in mind. They never foresaw that a man with 783 charges of corruption and racketeering would one day occupy the highest office and have the right to choose the National Director of Public Prosecutions. They would have treated the selection of National Directors of Public Prosecutions in the same way ...

Dr M S MOTSHEKGA: [Inaudible.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon Maimane, you are being asked if you would take a question.

The LEADER OF THE OPPOSITION: No, no, no, no, hon Chair. [Interjections.]

Fellow South Africans, the view I am expressing is not only the view of the DA. Even members of the ANC have expressed the same view. [Interjections.] Back in 2008, then President Kgalema Motlanthe said that he supported the calls for the National Director of Public Prosecutions to be independently appointed by a body such as the Judicial Service Commission. Constitutional Court judge, Justice Zak Yacoob, in the Menzi Simelane case, expressed a similar opinion when he explained that the Constitution left it to an Act of Parliament – and not only the President‘s discretion - to determine whether a candidate was appropriately qualified.

While the DA has been calling for a constitutional amendment to limit the President‘s powers of appointment since 2013, there is another way that hon members can ensure that the candidates for the position of the National Director of Public Prosecutions are qualified and independent. The subordinate legislation – the National Prosecuting Authority Act, Act 32 of 1998 – is already

clearly intended to curtail the President‘s powers of appointment, and it can be further amended to set out the requirements of the National Director of Public Prosecutions. I will therefore propose that an amendment be brought to the

National Prosecuting Authority Act in line with the appointments for judges and constitutional bodies such as the Public Protector and the Auditor-General.

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon member, I am not interrupting your speech, but I would like to remind you again that the topic under discussion is the impact on the economy.

The LEADER OF THE OPPOSITION: Sure. I can ... [Inaudible.] [Interjections.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Yes? I‘m just reminding the speaker.

The LEADER OF THE OPPOSITION: It is clear that if we continue in the manner that we are regarding appointments, we will always have a President who captures the state and, ultimately, controls the National Director of Public Prosecutions. This has a significant impact on the political economy of our country and

I think Minister Gordhan would be the first to testify to that point.

Ultimately, if we amend the legislation, it will not be asking the President to lose his constitutional powers to appoint the National Director of Public Prosecutions. He will be appointing someone who has been through a thorough and transparent process.

Our Constitution is considered to be one of the most progressive Constitutions in the world. This is our supreme law. Nothing – no law or action – can supersede what is written in this text.

Governments, especially a government like this one, will come and go. Some leaders will inspire us and some leaders will disappoint us. However, at the end of the day, we must appoint somebody who will ensure that the Bill of Rights ...

Ms R N CAPA: Sihlalo weNdlu ohloniphekileyo, ilungu elihloniphekileyo lingaphandle kwaphela emxholweni. Ndicela libuyele kuwo. Enkosi. [Hon House Chairperson, the hon member is totally out of the topic. May he speak on the topic?]

The HOUSE CHAIRPERSON (Ms A T Didiza): Enkosi, besele ndilazisile kwaye liyagqibezela ngoku. [Thank you, I have already informed him and he is wrapping up now.]

Hon member, you can proceed.

The LEADER OF THE OPPOSITION: The very first thing that is mentioned in the Bill of Rights is that everyone is equal before the law and enjoys the protection and benefit of that law. That same justice must apply, whether you are an ordinary citizen or the President.

This is something we can only ever achieve through a National Prosecuting Authority that stands completely independent and free from political interference. That means appointing a National Director of Public Prosecutions who answers to no one but the people of South Africa. So, I want to call on every member to support the amendment that we will be tabling. Thank you. [Applause.]

Mr M U KALAKO: Chairperson, hon members, the ANC-led government has always championed the independence of the National Prosecuting Authority, NPA. [Interjections.] The ANC and its alliance partners were the first to condemn the use of state institutions to pursue political agendas. The ANC has always encouraged an impartial stance for the NPA, so that it can act without fear or favour.

We do not deny that actions and utterances by state organs do impact on the image of the country in all respects. Equally so, actions and utterances by opposition parties do negatively impact on the confidence investors have in our country.

Credit ratings have been used and played a crucial role in the international markets for more than 150 years. There are more than 70 agencies in the world, but three dominate. These are Standard & Poor‘s, Fitch and Moody‘s.

Credit ratings are important for developing countries insofar as they influence and compel developing countries to pursue more prudent and sensible monetary and fiscal policies. They serve as an incentive for sound monetary and fiscal policies because performance on these policies forms an integral part of rating agencies‘ methodologies.

Investors from both the developed and developing worlds rely heavily on rating agencies when making investment decisions. Favourable ratings assist governments and companies to raise capital on the international financial markets because they are important opinions about credit risks. Credit ratings agencies scrutinise countries on fiscal balances, external debt levels and growth prospects.

Currently, our government is implementing measures to achieve positive growth. We know that, to achieve that positive growth, we must do things differently. Any economic reforms we make must balance the needs of the poor and shared economic growth. What we need is not only labour market reforms, but also, more importantly, a commitment from private capital, especially domestic capital, to invest in our economy and contribute to upskilling our labour force so that it can break through our rigid and inaccessible labour market.

As proud South Africans we must always be bearers of good news about our country. There is a lot that our government is doing right to better the lives of South Africans.

The Secretary-General of the United Nations Conference on Trade and Development, UNCTAD, Dr Kituyi, has commended South Africa for leading the debate on investment policy reform. He stated that South Africa was at the cutting edge of investment policy reform globally. He applauded the South African government‘s decision to announce a sunset clause to its old stock of investment agreements.

Our government has the capacity to develop and implement sound economic policies that foster economic growth and prosperity.

Government is presently looking at the performance of state- owned entities, SOEs, and at streamlining them to that they can be self-sustaining.

Through Treasury, government is implementing measures to curb wasteful expenditure by government departments and municipalities. These are the areas that ratings agencies examine in any country.

Team SA should be commended for its efforts to make sure that the country avoids being downgraded to junk status. That we remained at investment grade is important for the country.

Treasury should continue to lead Team SA to focus on growth, as this was a concern raised by the ratings agencies.

In conclusion, it would be good for the country if all South Africans, irrespective of ideological outlook, market the country positively internationally. We should stop bad-mouthing our country abroad. We should encourage investors to come and invest in this country.

The leader of the DA ... I couldn‘t understand what topic he spoke about. [Interjections.] Instead of speaking on the impact

— which is the topic suggested — he was all over speaking about

the NPA. [Interjections.] So, it‘s very important. When you place a debate, you place it with seriousness, chief. You don‘t play-place it just for, you know, grandstanding, just to come here and ... We know all what happened to NPA and we are not denying it. [Interjections.] But what ... you must always be serious about Parliament. You can‘t place a topic on the impact of the economy, and then all of a sudden you are all over. What type of a leader you are, as you project yourself to lead the country. [Applause.]

So, these are the things which the opposition ... You know, if you want to be taken seriously as an opposition, especially by the majority of the people of this country, be serious when you deal with their matters. Because the impact of ... which happens in the economy, people who are actually direct victims of that, are the poor, there on the ground. Not to come here and grandstand and politick around the issue not saying anything about the economy of the country. [Interjections.]

No, no! I ... You ... Your leader didn‘t say anything! Your leader didn‘t say anything about your topic you placed on the agenda.

So, with that, you won‘t be taken seriously, chief. At all. Nobody will take you seriously. If you place a topic, speak on the topic. Stick to what you wanted us to debate. And this is what we are debating. Thank you. [Interjection.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon Breytenbach, please wait. Hon Plouamma, on what point are you rising?

Mr M A PLOUAMMA: Hon Chair, hon Minister Derek Hanekom seems lonely. I want him to come to this side. [Inaudible.]

The HOUSE CHAIRPERSON (Ms M G Boroto): On what point are you raising? I‘m not switching off your mic. You are continuing to speak and I am still asking.

Mr M A PLOUAMMA: I was saying, hon Minister Derek Hanekom ... since you are lonely, can you come this side? [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon member ... Hon members, let us respect the time of this sitting. Continue, hon Breytenbach.

Ms G BREYTENBACH: Chairperson, I‘m not sure which nirvana the hon Kolako lives in, but it‘s clearly not the same one we live

in! And he clearly ran out of things to say and so he decided to use up the last seven minutes of his time insulting the hon Maimane.

The foundation of a stable democracy is grounded in its respect for and adherence to the Constitution and the rule of law. This principle is enshrined in section 179 of the Constitution and the National Prosecuting Authority Act that requires the prosecuting authority to exercise its functions without fear, favour or prejudice.

But the National Prosecuting Authority, NPA‘s, ability to act without fear, favour or prejudice has deliberately been eroded during the Mbeki and Zuma presidencies. This undermines the Constitution and threatens the rule of law in South Africa.

To understand the cynical erosion of the independence of the NPA, we need to look at its history. A major aspect of the early success of the NPA came from the establishment of the Directorate of Special Operations, DSO, more commonly known as The Scorpions.

They quickly made a name for themselves, in large part due to their success in the early investigation of the Arms Deal and

Travelgate. Travelgate, of course, refers to the investigation of travel voucher fraud and corruption by Members of Parliament in 2004.

This resulted in 38 prosecutions against Members of Parliament. The exposure of the corrupt MPs and the ensuing investigation by the Scorpions solidified the reputation of the DSO and the NPA to tackle government corruption without fear, favour or prejudice, as constitutionally mandated.

It also marked the end of any semblance of an independent DSO or NPA.

Thereafter followed the demise of Vusi Pikoli.

After the 52nd National Conference of the ANC, the Scorpions were disbanded.

This was intended to crush any notions of independence and also as serve as a warning signal to the rest of the NPA not to investigate high-ranking ANC members or their politically connected friends.

Thereafter, and with the exception of Mxolisi Nxasana, the NPA has been subjected to a raft of pliable and incompetent leaders willing to do political favours.

This is clearly illustrated by the withdrawal of charges against Richard Mdluli and Nomcgobo Jiba in contravention of the constitutional imperative to prosecute without fear, favour or prejudice.

Similarly, this insidious abuse is apparent in the continued prosecution of Johan Booysen to protect Panday, the charging of Anwa Dramat and Shadrack Sibiya to prevent an investigation into Nkandla and the 783 corruption charges, and the bizarre and bungled charging of late of the hon Gordhan, only to drop the charges days later.

On 11 October 2016, Shaun the Sheep, in an unprecedented press conference lasting well over an hour, announced to the world in the most vivid detail and with unequivocal force that the NPA was to prefer fraud and theft charges against the sitting Finance Minister and two other senior SARS officials.

By 31 October 2016, as a result of public outrage and huge pressure, the charges — which were never sustainable in law —

were withdrawn with no apology offered, with Abrahams laying the blame for the debacle at the feet of his juniors.

This displays a level of incompetence of a magnitude so stupefying that it beggars belief. Not only was it a complete disregard for the rights of the individuals involved, but it sent the economy into a nosedive and wiped R50 billion of the JSE almost immediately.

The lack of independence of the NPA was sharply highlighted by the hon Pilane-Mojake, who stated — for once, honestly — that the National Director of Public Prosecutions, NDPP, could visit Luthuli House with impunity as he headed the NPA in order to implement the policies of the ANC.

This continued erosion of the independence of the NPA damages not only the ability of the state to prosecute crime, but also severely damages respect for the rule of law and civic trust in government.

Aware and active citizens are responsible for making sure that government respects the Constitution and the mandate of the NPA, and they can punish those who do not by not re-electing them.

Mrs H O HLOPE-MKHALIPHI: Chairperson, the most important thing about the recent decision by the NPA here is its impact on our democracy. The only reason why the Minister of Finance, Pravin Gordan was charged is because the Guptas wanted to get hold of the National Treasury, a final move to fully capture South Africa and its purse, after they have successfully captured the Head of State. If a Gupta puppet controls the National Treasury, SA Airways will get endless and unlimited guarantees regardless of the corruption Dudu Myeni-Zuma is doing on daily basis. If a Gupta puppet controls the National Treasury, Denel together with the Gupta and Duduzane Zuma company will loot state money in Asia without disruption.

If a Gupta puppet controls National Treasury, pension fund money at the Public Investment Corporation, PIC, will be looted to Dubai using Air Force One. We saw what happened when a Gupta puppet controlled Eskom, state money was used to buy Duduzane Zuma mining companies left and right. Illegal and corrupt contracts are awarded to Gupta companies without following procedures.

As the EFF we wrote to the Johannesburg Bar Council requesting them to remove Mr Shaun Abrahams. Mr Shaun Abrahams must fall. He must fall for taking political orders from Luthuli House and

he must fall for threatening the independence of the NPA. But the most dangerous person beyond Mr Shaun Abrahams at the NPA is Mr Zuma and the ANC collective. This is clear demonstration beyond reasonable doubt that Mr Zuma and the ANC are beyond salvation.

There is no ANC, it is a dead organisation you like it or not. It has no respect for our democracy or our wellbeing. Like the appointment of a Minister just to serve on a weekend – a weekend special Minister. That appointment cost South Africa a lot of money, but the ANC did not see anything wrong, hence they retained Mr Zuma on their NEC yesterday. All they care about is corruption and capturing. Mr Zuma wants to capture everything on earth even himself. [Laughter.]

To restore the independence of the NPA, firstly, Mr Abrahams must fall and he will fall. He will fall with his father Mr Zuma. Thank you.

The DEPUTY MINISTER OF JUSTICE AND CORRECTIONAL SERVICES RESPONSIBLE FOR JUSTICE AND CONSTITUTIONAL DEVELOPMENT (Mr J

Jeffry): Chairperson, I rise on a point of order: I draw your attention to Rule 88 which its reflections relates to the last speaker and the first speaker, the hon Breytenbacht - reflection

upon judges and other holders of public office. No member may reflect on the competence or integrity of a judge or a superior court, the holder of a public office in a state institution whose removal from such office is dependent upon the decision of this House, except upon a separate substantive motion in this House presenting clearly formulated and properly substantiated charges which, if true, would in the opinion of the Speaker *prima facie* warrant such a decision.

Now on the decision whether the House has the power to take a decision to remove the national director, I would argue then in terms of Rule 88 that members cannot reflect on the competence of the national director, as there is no substantive motion before the House.

The CHIEF WHIP OF THE OPPOSITION: House Chairperson.

The HOUSE CHAIRPERSON (Ms M G Boroto): Let me respond first, hon Steenhuisen. Hon member, we know that there is a need for a substantive motion, but we will look into that. Thank you. Hon Steenhuisen.

The CHIEF WHIP OF THE OPPOSITION: House Chair, may I address you in terms of Rule 88?

The HOUSE CHAIRPERSON (Ms M G Boroto): Yes.

The CHIEF WHIP OF THE OPPOSITION: I think it is quite staggering that the Deputy Minister of Justice does not know ... [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Okay. [Interjections.]

The CHIEF WHIP OF THE OPPOSITION: ... let me finish please. ...

that this house does [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): No, hon member, hon member [Interjections.]

The CHIEF WHIP OF THE OPPOSITION: ... that this House. [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon Steenhuisen, I had thought you are coming from a different angle ...

[Interjections.]

The CHIEF WHIP OF THE OPPOSITION: I am taking a point of order. [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): I have already ruled on what the hon Deputy Minister is saying. [Interjections.]

The CHIEF WHIP OF THE OPPOSITION: Madam House Chair, with respect, it is a ... [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): I said I am going to look into what he was saying. [Interjections.]

The CHIEF WHIP OF THE OPPOSITION: I wish to bring something to your attention now, because it is going to affect your ruling. If I may. [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): If it is still on this issue that has been raised by the Deputy Minister about what was said by the previous speakers reflecting on Rule 88; I ruled on it, hon Steenhuisen please allow the House to continue. Thank you.

The CHIEF WHIP OF THE OPPOSITION: With respect House Chairperson, if I may. If I may, with respect.

The HOUSE CHAIRPERSON (Ms M G Boroto): Is it a different issue?

The CHIEF WHIP OF THE OPPOSITION: I want to make a point that this House on its own cannot remove Mr Abrahams ...

The HOUSE CHAIRPERSON (Ms M G Boroto): Okay.

The CHIEF WHIP OF THE OPPOSITION: It has to be done in conjunction with the resolution passed in the same session by the National Council of Provinces. So, Rule 88 does not apply in this particular matter.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon member, that job has been done by my Table. They have advised me on the same issue. Thank you. Hon Ndlozi, you may continue. On which rule are you rising, hon Ndlozi?

Mr M Q NDLOZI: Can I rise on Rule 88.

The HOUSE CHAIRPERSON (Ms M G Boroto): Rise, hon Ndlozi.

Mr M Q NDLOZI: Hon Chairperson, I think you must not reserve this judgement and ruling. [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Honourable ... [Interjections.]

Mr M Q NDLOZI: What we must say with immediate effect is that the Deputy Minister is wrong ... [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon Ndlozi. Mr M Q NDLOZI: He is out of order.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon Ndlozi.

Mr M Q NDLOZI: There is a motion on the table that we must debate. [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon Ndlozi, please.

Mr M Q NDLOZI: The recent decisions ... [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon Ndlozi! [Interjections.]

Mr M Q NDLOZI: And that is what we are doing.

The HOUSE CHAIRPERSON (Ms M G Boroto): Thank you, take your seat. [Interjections.]

Mr M Q NDLOZI: The debate has been called in the name of the recent decisions. [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Thank you.

Mr M Q NDLOZI: How can we talk about those decisions without reflecting on that guy?

The HOUSE CHAIRPERSON (Ms M G Boroto): I am going to switch off your mic now, hon Ndlozi if you continue. [Interjections.]

Mr M Q NDLOZI: He is out of order. He is wasting time. He is abusing us.

The HOUSE CHAIRPERSON (Ms M G Boroto): Thank you hon members, the ruling has been made. Hon Hlengwa, you may continue.

Mr M HLENGWA: Hon House Chairperson, a wise man once said,

―Eternal vigilance is the prize of liberty.‖ When South Africa closed the door on apartheid in 1994 and ushered in an era of freedom and democracy we undertook the responsibility of vigilance to safeguard our new discourse against political abuse and undue interference. To achieve this noble objective we

anchored our systems of checks and balances in independent organs and institutions of state.

The NPA is one such institution, designed to pursue justice without fear, favour or compromise. Yet the charges levelled and subsequently dropped against the Minister of Finance were nothing but a desperate act of politics at the behest of the corrupt and morally bankrupt leaders, all at the expense of the national interest.

The prosecution which the NPA sought to pursue against the Minister of Finance was the best capitally constructed within the confines of mafia justice where rational conduct is sacrificed upon the altar of expedience for the purposes of the unrivalled appeasement of the underlings master. We can ill afford to sacrifice our economy any further on the altar of vendettas to settle political scores especially when the stakes and risks are so high for our people and collective future.

Hon Chairperson, this means we must avoid repeating Nenegate through your Gordangate. The fate of the trumped up and spurious charges against the Minister of Finance are now history. They disappeared like dew before the morning sun. But their consequences have left a lasting and negative imprint on our body politic and economy. A moment of national reflection is

required such as now. We must ask ourselves how we got hear and importantly determine how we will get out of the firm grip of the blatant disregard of law, order, democracy and constitutionalism.

This realities call for eternal vigilance from all of us in this House and well beyond its walls. Eternal vigilance and principled action are a noble price to pay compared to the destructive consequences of the actions of those entrusted with the responsibility to govern our country if their actions continue unchecked and their relentless assault on our economy is unabated, and we stand idle on the sidelines. We will be complicit in the death of our democracy, our institutions of state and our economy.

The former Minister of Finance, Nhlanhla Nene, was fired because he refused to abandon the patriotic duty of eternal vigilance.

Now the Minister of Finance, Mr Pravin Gordan, is in the firing line because he refuses to abandon his patriotic convictions of vigilance to protect the public purse.

Eternal vigilance is patriotic and patriotism is eternal vigilance. If the NPA is worth its salt it must pursue the 783 charges of corruption brought against President Zuma because a

failure do so will be a dereliction of duty and a permanent stain on the minds of the office. [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Thank you, hon member, your time has expired.

Mr M HLENGWA: Hon House Chair, eternal vigilance is the price of liberty and we must respond to that call right now. I thank you.

Mr M L SHILEMBE: Chairperson, hon members, South Africa has several public institutions that are holding fast to the checks and balances and constitutional mandate preventing the state from being wholly captured. The National Prosecuting Authority, NPA, is clearly not one of those institutions.

The NPA has been a battleground for political capture for a long time, and there is considerable suspicion that the recent charges against the Minister of Finance were political in nature. This attack on the Minister was timed carefully and it became rapidly clear that the fraud charged, which related to what were essentially administrative pension fund issues, were chosen because the NPA prosecutors had been unable to find the evidence for any other rogue unit type charges.

However, as the fraud case began to unravel, it became clear too that the NPA had failed to do even the minimum of homework in a case that was entirely politically inspired legal experts who have studied the evidence said from the onset that there was simply no case and that the decision was politically motivated. Similarly, commentators have proposed that either the head of the NPA is politically capture or, at best, horribly incompetent.

The impact of the decision to prosecute the Minister of Finance cannot be quantified but we know that the decision to charge the Minister was widely seen as politically motivated and it sparked panic on the markets. The rand tumbled by 3% and weakened substantially against major global currencies after the news broke. Conversely, the rand immediately strengthened considerably after the charges were withdrawn.

The NFP is concerned about the negative effect that the actions of the NPA might have on South Africa‘s international credit rating. We are on the verge of having our credit rating downgraded to a junk status, which hold massive negative consequences for the country and we should all be working together to divert such a crisis despite any difference we might have. Yet those who play political power games have severely

jeopardised our future economic stability and exposed just how fragile our democracy is.

However, the NFP believes that the humiliation of the head of the NPA, and that of his institution, is not something South Africa should be rejoicing about. Amid all the political shenanigans, we need to keep in mind that the NPA is the core of South Africa‘s law enforcement system and, it is the institution that is supposed to uphold the rule of law. That its competence and credibility have been so systematically eroded is not just tragic but ... [Time expired.]

Mr N L S KWANKA: House Chairperson, hon members, much has already been said about the economic impact of the National Prosecuting Authority‘s decision to charge the Minister of Finance. To repeat it would be an exercise in intellectual indolence.

It would however be remiss of us not to state emphatically that by charging the Finance Minister for what Prof Pierre de Vos fittingly described as ―motives other than to secure a criminal conviction in a court of law,‖ the NPA has betrayed our nation. Its actions demonstrated that it has sadly become a political machete of the dominant ruling party faction.

The question we ought to ask is: What caused the NPA and institution that has an important constitutional mandate, to behave with such unbelievable inanity and irresponsibility? The answer to this question boils down to an ancient phrase which states that; the fish rots from the head down – the head, obviously, being President of the Republic.

At the risk of sounding like a broken record since President Zuma‘s poor leadership has been a subject of debate many times during our numerous motions of no confidence debates in him, let me repeat: it will be impossible to successfully redefine ourselves with a view to chart a new way forward with President Zuma at the helm.

We know we made this point mindful of the fact that it would be most imprudent to blame all our problems on him, but he is indisputably a major part of the problem. I now wish to momentarily take a slight detour to underscore this point.

In an effort to downplay the severity of a downgrade during his responses to question to the President, last week, he cited Brazil and Russia as examples of countries that have been downgraded but that, according to him, are doing just fine.

Granted, these tow countries face a compendium of complex

challenges, of which the credit rating downgrades are a critical part.

However, for the record, Brazil, whose credit rating was downgraded to junk status in September last year, is experiencing its longest recession since the 1930s; and the IMF estimates that it will grow slowly next year. Similarly, Russia, whose credit rating was also downgraded to junk status contracted by 3,7% in 2015.

I now wish to on-ramp back to the topic of discussion. The above notwithstanding, and as already indicated that our problem is bigger than President Zuma. The use of state institutions such as the NPA to settle political scores has become a common feature in our democratic dispensation. And this warrants us to put measures to curb the powers of the president in order to ensure proper use of the presidency.

More specifically and in line with today‘s topic, the UDM proposes that we look into amendment the Constitution and other relevant legislation in order to ensue that Parliament has a role to play in the appointment and the removal of the National Director of Public Prosecutions. Such a step would guarantee the

independence and integrity of this important institution. Siyaqhuba. [Moving forward.]

Mr C P MULDER: House Chairperson, a disservice has been done to this debate. The fact of the matter is that this debate was asked for in terms of Rule 130 of the Rules of Parliament, which deals with urgent matters of national public importance.

Obviously, the topic does not favour what the ruling party would have liked to have on the table.

However, the schedule of this debate 14 days after it was requested and at 16:20 in the afternoon, does not do justice to the topic of the debate. Because two weeks ago, this was very relevant and very topical; the hon Kalako, on behalf of the ANC, started off the debate by making the following statement, and said; the ANC has always championed independence of the prosecuting authority. That is not true, that is a lie. It is not true. And I can prove it to you.

You know on 4 November, about three weeks ago, we had a discussion in the justice committee; and one of your colleagues a senior whip who normally sits here, tried to defend what the ANC did with regard to the prosecuting authority after the Director of Public Prosecutions, Mr Abrahams, was asked to come

to Luthuli House. And she defended it by saying there is nothing wrong in visiting the ANC because working for the NPA means that you are actually rolling out the mandate of the ANC as the ruling party. That was her point of view.

By working for the NPA you are supposed to roll out the mandate of the ruling party. That member comes around and says they respect independence of the prosecuting authority. We all know that that is not true. And then the hon member continues and said we should not badmouth South Africa. We should as a united team try to foster the whole situation of investments in South Africa.

There is no worse way to badmouth South Africa to charge the Minister of Finance on trumped up false charges and to send that message to South Africa. We can all do our very best to project positive image of this country, but if you charge the Minister of Finance you should not be 100% sure, you should be a million percent sure.

The Director of Public Prosecution said in his press conference he perused evidence and despite that allowed the prosecution of the Minister of Finance to continue. Only to comeback three week later, completely ashamed, and withdraw those charges. What

happened in terms of this whole process is an absolute travesty of justices.

Why did the Director of Public Prosecution have had to go to the Luthuli House where the political decisions are taken by the ruling party? Why should he go there? It is absolutely unacceptable he should not be seen anywhere near that specific place.

Die feit van die saak is dat hierdie vervolgingsgesag misbruik word deur die ANC, en daarom is dit absoluut onaanvaarbaar. Baie dankie. [Tyd verstreke.] [The fact of the matter is that the ANC abuses this prosecuting authority, which is completely unacceptable. Thank you very much. [Time expired.]]

Mr S N SWART: Chairperson, the ACDP shares the concerns expressed b other speakers about the impact of charging and then withdrawing of charges against finance Minister had on our economy.

At a time when the country could least afford it, and as a apart of the ongoing internal battles within the majority party, as well as the battle to gain control of National Treasury, we saw

the laying of very serious charges against the person no less than a sitting Minister of Finance.

This naturally impacted the economy causing the bond and equity markets to lose approximately R50 billion, and the currency to weaken substantially. The question that can be asked is: Why do we appear to continually shoot ourselves in the foot?

International markets rely on the stability of state institutions. And, it is naïve to suggest, as Adv Abrahams did, that there is: ―nothing special about charging the Minister of Finance‖.

In terms of the prosecuting guidelines, the public interest must be taken into consideration whenever a prosecution is instituted. The impact on the economy appears not to have been given sufficient, if any, consideration when that decision was taken.

If there was any doubt as to the economic impact, one need only consider what transpired when Adv Abrahams in response to my question in the justice committee indicated that he had not taken the decision to prosecute Mr Gordhan, and would consider representations on the charges. What happened? This statement

immediately caused the rand to substantially strengthen as was the case similarly when the decision was taken not to proceed with the prosecution.

The Banking Association South Africa, Cassim Coovadia, said that the economic impact was very negative and that the dropping of charges was – what they referred to as a pyrrhic victory – a victory won at great cost to the victor, and that was the finance Minister and, of course, our economy. That cost being the damage to our international standing and investor sentiment towards South Africa.

This also contributed to the political tensions highlighted by credit rating agencies last week; whilst we are thankfully able to retain our investment grading. The stricter agency standard and Poor will be taking their decision this week. And they said in June for the first-time ever we felt obliged to highlight political risk and tension.

Sadly, President Zuma did not address this increasing political tension when I gave him the opportunity to do that in a follow- up question last week, choosing rather to accuse the ACDP of politicising the sovereign rating issues. We will see later this

week what the outcome will be but we remain trusting that there will not be a downgrade to a junk status

So, the ongoing political tensions have had a substantial impact on our economy and the ongoing issues with the NPA have contributed to that. I thank you.

Mr S M JAFTA: Hon Chairperson, it is only the National Prosecution Authority, NPA that knows whether fraud charges it instituted against the Minister of Finance, Minister Pravin Gordhan, were valid or unfounded. Whether that had any political motives or not, the fact remains and is that the economy of the country was hampered by such actions.

Since the fall of the Eastern Socialist block in the late 80s dictated that the only fully surviving economic system is capitalism worldwide, our country had no option whatsoever, but to join the kraal of capitalists. With capitalism, the profit is the main reason for the existence of any business and capitalists would leave no stone unturned to protect their investments.

South Africa is the most industrialised state in Africa and the best destination for investors. This is something which leads to

the creation of jobs in the country, which many South Africans want so as to alleviate the plight which is not of their own making, but is the ghost of apartheid which does not seem to want to rest.

Stability in government is one of the prerequisites for the investors to go to any country. The recent confusion about whether or not the NPA should arrest the Minister of Finance created a lot of uncertainty in the economy of this country itself. That surely led to the instability of the rand and downward spiral in investor‘s confidence. This, is turn, costed the country and the poor became vulnerable as jobs could not be created in the atmosphere of instability in the economic field.

The slow or no economic growth is highly the result of that uncertainty. The world checks the potential of a country to be investors friendly by using certain agencies like the Moody‘s. This year Moody‘s confirmed that the rating of South Africa, instead of growing, is stagnant. South Africa should have grown in rating but because of the constant uncertainty between the NPA and the economic cluster, the country could be downgraded soon.

The government needs to appoint competent people with the potential and ability to fill crucial positions as that one of the Director of the National Prosecuting Authority, DNPA. I thank you.

Mnu L K B MPUMLWANA: Sihlalo, malungu ahloniphekileyo nesizwe ngokubanzi, molweni. Mfo kaMaimane ohloniphekileyo, akwaneli ukundikhwankqisa, siba ngakuxelela ukuba i-ANC ngumbutho ogxininisa uzimelegeqe womzi wezotshutshiso, uyankaniza. Siba ngathi kuwe khumbhula ukuba yi-ANC eyakubethelelayo oku kuMgaqo- siseko kuba ikwayiyo eyenza uMgaqo-siseko olawula I-NPA, nalapho yaqisekisa ukuba I-NPA iyazimela ngeSolotya 32(1)(a) yalo mthetho, awuyeki ukusityhola ngokulukuhla eli ziko.

Simanxadanxada silawula ilizwe, sisa iinkonzo ebantwini, awuyeki nombutho wakho ukusigibisela ngezagweba ezitenxileyo. Makhe ndikucacisele ngolwimi lasebukhweni bakho. *(Translation of isiXhosa paragraph follows.)*

[Mr L K B MPUMLWANA: Chairperson, hon members and the nation at large, I greet you all. Hon Mr Maimane, you can’ t stop amazing me; no matter how many times we tell you that the ANC emphasises the independence of the prosecuting authority, you persist with your view. No matter how many times we remind you that it is also the ANC which came with the Constitution that governs the NPA and

also ensured that the NPA is independent in terms of Clause 32(1)(a) of this Act, you do not stop accusing us of interfering in this institution. We are busy running the country, bringing services to the people, yet your party cannot stop throwing missiles at us. Let me explain this in the language of your in- laws.]

Please, accept the truth that with the birth of democracy, one of the milestones the ANC achieved was to create a constitutionally-guaranteed independent prosecuting authority. It was also the ANC that enacted the National Prosecuting Authority, NPA Act, Act 32 of 1998, which, by the way, was opposed by the DA when it was enacted. Section 32(1)(a) of the NPA Act provides that:

A member of the [prosecuting authority](https://www.acts.co.za/national-prosecuting-authority-act-1998/prosecuting_authority.php) shall serve impartially and exercise, carry out or perform his or her powers, duties and functions in good faith and without fear, favour or prejudice and subject only to the [Constitution](https://www.acts.co.za/national-prosecuting-authority-act-1998/constitution.php) and the law.

Also enshrined in section 9(1) of the Constitution, which by the way was introduced by the ANC, is the principle of equality. It provides that all are equal before the law and have the right to equal protection and benefit of the law. The work of the NPA has

been a shining achievement of our democracy. It has done this without fear or favour and without being influenced by anyone.

Let me tell you the procedure followed by the NPA. A junior prosecutor or a Deputy Director of Public Prosecutions investigates a case. If he or she is satisfied that there is a *prima facie* case that may secure a conviction, he decides to prosecute. However, the accused or affected person has a right, in terms of the NPA Act, to make representation to the Director of Public Prosecution.

In this particular case, the decision to prosecute was taken by Dr Pretorius. He is a highly qualified person with LLB, LLM and LLD, and he is a senior counsel. He joined the Department of Justice in 1976, and has been employed in prosecution since then. He was the evidence leader at the Goldstone Commission. He was a member of the Scorpions and a former member of the Priority Crimes Litigation Unit, PCLU. He has been a Special Director of PCLU since October 2015.

Then, the Director of Public Prosecution, DPP, offered that if you want to make representation come to me, and they did. They showed that there is a latter or an opinion coming from a lawyer showing that these people did not let the intention. Before then

there was no such. Therefore, it is not a change of mind. Now, I do not understand the DA ...

Uyandikhwanqisa nyhani tata, uyandikhwanqisa. [You really amaze me, sir.]

For example, you made a very serious mistake here. The mistake is - don‘ t bother me – you bring in the hon Breitenbach, who is facing serious charges before the court of law and being investigated by the same NPA, to come to this podium and attack it. [Applause.] That is not all. You also come here, Baba, and decide who you want to be the NDPA. If he is on your side, he is a good man or an angel - no, no, no it‘s not Parliament. If you don‘ t like him or he does not toe your line, then he is a bad guy and he must go immediately. You always say it is the President ... He supports the President. How dare you put Ms Breitenbach here, who is facing charges, and you let her talk about the same person because you don‘ t like him to do that?

The HOUSE CHAIRPERSON (Ms M G Boroto ): Hon Mpumlwana, please don‘ t enter into dialogues, concentrate on your speech. Thank you. [Interjections.]

Mr L K B MPUMLWANA: What is clear is that the National Director of Public Prosecution is being used by political opposition as a ball. Mr Nxasana for example, agreed to withdraw some charges against the hon Breitenbach. He is a good man. This one decided to charge the hon Breitenbach. He is a bad person. I think if the rand ...

- eyinkenenkene nale randi. [... – and it is very vulnerable, this rand - ...]

... will always fall and go up and our decisions or the decision of the NPA to prosecute depends on the rand, then we‘ ll will never run this country. Remember, we are ruling and it is a very good thing that the DA is not ruling this country. I think the mistake has been made by whoever gave them power in the Western Cape and in Gauteng. I m sure they are already regretting now.

We will not repeat that.

The ANC will, as united as it is, [Interjections.] rule this country and we shall.

The HOUSE CHAIRPERSON (Ms M G Boroto ): Order! Hon members, no you cannot howl in the House. Order! Order, hon members, you are

now making noise and you are drowning the speaker. Continue hon Mpumlwana.

Kaloku abafuni ukuyiva inyani. Iyakrakra, iyakrakra. Isizwe sibonile ukuba ukuba kungaze kulawule i-DA , hayi singabuyela emva tata kwafaro. Zeniyazi into yokuba ... *(Translation of isiXhosa paragraph follows.)*

[Indeed they do not want to hear the truth. The truth is bitter. The nation has seen that if the DA were to come to power, we would return to the old days of oppression. You should know that

...]

... there is nothing wrong in the decision made by the independent NDP. There is absolutely nothing and ...

... wena tata uMaimane le Zumaphobia yakho [... you Mr Maimane, this Zumaphobia of yours, ...]

... please stop it! [Time expired].

Mr M A PLOUAMMA: Hon Chair, can we declare a day of mourning today because the ANC failed to remove the hon President Zuma? So, we must declare today a mourning day. [Interjections.] It is

now very clear that the appointment of Mr Shaun Abrahams is a form of indemnity from prosecution by hon President Zuma and his cohorts. Such appointments of puppets and incompetence shown by Mr Shaun Abrahams provide a canopy of protection to predators that are capitulating truly our rule of law.

The Zuma administration is like a plague of locusts and frogs into our economy, a Berlin Wall against the economic growth. Without the rule of law our country cannot attract or give confidence to the investor community. Control of state and security apparatus has become the battleground for rival factions in the ruling party and corruption enterprises are at full throttle.

We must possess our soul again and recommend ...

The HOUSE CHAIRPERSON (Ms M G Boroto): Ke kgopela o tšee setulo sa gago, ntate. Mohl Motshega ... [Sir, can you please sit down. Hon Motshega ...]

... on what point are you rising?

Mr M S MOTSHEKGA: I want to know if the hon member will take a question, a quick question.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon Plouamma, are you prepared to take a question?

Mr M A PLOUAMMA: No, no, no, House Chair, I do not have enough time.

The HOUSE CHAIRPERSON (Ms M G Boroto): Thank you, he is not prepared.

Mr M A PLOUAMMA: We must possess our soul again and recommend the expulsion of Shaun Abrahams. The truth is to be told. The executive, through Mr Zuma and his cronies are like a heavy branch in a tree to be cut if our economy is to survive. Mr Shaun Abrahams is an example of a topography of parasitism. He just epitomises a silent coup of dishonest people taking over our public institutions.

The road of deception is too deep. We are now approaching a dysfunctional state and our economy is suffering while our hon President behaves like a god of cartel who has reduced our state institutions as his deadly traps for his enemies. Our economy will continue to suffer under this administration. The integrity and trust of this institution have been stolen by these schizophrenic decisions. We are at a mercy of these corrupt

souls. The sooner we remove this administration and the ruling ANC the better. I thank you.

Mr W HORN: Hon Chair, the ANC speakers in this debate have in a stunning manner contradicted each other. The hon Kalako, in response to the speech of hon Maimane in which he unequivocally stated that the National Prosecuting Authority, NPA, has been captured by President Zuma, said: ―We all know what is happening in the NPA and we do not deny it.‖

Then came the hon Mpumlwana who assured us that the current National Director of Public Prosecutions, NDPP, is a shining example of independence. So, hon Kalako admitted what we all know and what the ANC has up until now denied, that the current President has continued to try to politically manipulate the NPA into charging his enemies while shielding him from prosecution on those charges he must really face. Hon Kalako also said, in a feeble attempt to draw attention away from malice to what he has admitted on behalf of the ANC:

The problem is rather what the opposition party is saying on this topic. This is why rating agencies are negative about our economy.

Then hon Kalako laments at length about the speech of hon Maimane saying that this speech will prevent South Africans from taking the hon Maimane seriously. I think everybody who has been following this debate will agree. The contempt the ANC has for the independence of the NPA has been laid bare for all to see and the trust therefore South Africans have on this issue is with the ANC. Hon Mpumlwana also seems to buy into the strategy of the President to have opponents found guilty rather by way of implication, associations, embarrassment and prosecution. He says hon Breytenbach should not have been chosen to speak in this debate. Well Sir, if this is the yardstick we should use, we really should not have allowed President Zuma of #78thief- fame to address this House at all. [Applause.]

Chairperson, next up in this debate is the Deputy Minister of Justice, a man who has dubious distinction of having prophets in debates of this Fifth Parliament. Firstly, in argument that the powers of the Public Protector are only that of recommendations and then that government would on appeal be proven right in its decision to ignore the court order to arrest Omar al-Bashir. We all know that in both instances our courts have found our Deputy Minister of Justice to be wanting in respect of his knowledge of the law. [Applause.] I think it would not be wrong of us to be

sceptical of the assurance he is about to give about the independence of the NPA. I thank you. [Applause.]

The DEPUTY MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT:

Hon House Chairperson and members, just with regard to the hon Horn - as you know that courts make different decisions, look at the number of decisions even of the Supreme Court of Appeal that the Constitutional Court has overturned. But our Constitution refers to the fact that the National Prosecuting Authority must exercise its functions without fear, favour or prejudice. And this is something upon which we surely all must agree. So, decisions to prosecute should be taken without fear, favour or prejudice. Presumably, this means in theory that the impact of the decision to prosecute considering the economy should not be a criteria. This is where a number of opposition parties have contradicted themselves, saying that you can‘t decide to prosecute if it would damage the economy.

They have also previously criticised government. For example, they said failing to arrest President al-Bashir will stop him from leaving the country, when there were serious consequences that could occur if he had been arrested. In that case they meant that arrest regardless of the consequences for South Africa. [Interjections.]

Before democracy there were four heads of prosecution or attorneys-general in each of the four provinces as well as attorneys-general in each of the so-called independent homelands. The new Constitution created the position of a National Director of Public Prosecutions to head the National Prosecuting Authority, NPA. During the Constitution‘s certification process, objections were raised against this, based primarily on the fact that the National Director of Public Prosecutions is appointed by the President as head of the national executive.

The Constitutional Court, however, rejected this objection. Just as it was raised by the hon Maimane that it was ... and I read from the paragraph 141 of the certification judgement that the objection was based primarily on the fact that in terms of section 179 of the Constitution, the National Director of Public Prosecutions, NDPP, is appointed by the President as head of the national executive. There is no substance in this contention.

The National Prosecuting Authority is not part of the judiciary and therefore the constitutional principle has no application to it. In any event, even if it were part of the judiciary, the mere fact that the appointments of the heads of the National

Prosecuting Authority is made by the President does not in itself contravene the doctrine of the separation of powers.

The independence of the NPA was an important matter then as it is now and it is crucial that the NPA must remain independent. Unnecessary speculation about the real motives for prosecution or nonprosecution and allegations of bias manipulation were the real or perceived harm in the institution. Unfortunately, opposition parties are politicising the NPA. [Interjections.] They accuse government and the NPA of not respecting the independence of the NPA but opposition parties themselves are very quick to demand who they think should be charged and who should not be charged - that‘s how they want to uphold the independence of the NPA, by telling the NPA who to charge and who not to charge.

Also just to be clear ... I think it is the hon Maimane ... the NDPP doesn‘t take the initial decision to prosecute or not to prosecute. The powers are to review a decision to prosecute or not to prosecute after consulting the relevant Director of Public Prosecutions. Incidentally, hon Maimane, the hon Vusi Pikoli, the second National Director of Public Prosecutions was suspended by ... you blame President Zuma for everything ... but he was suspended by President Mbeki and dismissed after a

decision by this House in the NCOP by President Motlanthe. [Interjections.] The hon Breytenbach raised the reason General Booysen was prosecuted was to protect Toshen Panday, but it was the current National Director of Public Prosecutions who in December, on review of a decision, decided to continue with the prosecution of Toshen Panday.

The issue which impacts on the independence of the NPA is a relationship with the executive. This is something which I think listening to opposition members of this House is not something understood. They accuse the government of the United Nations Office on Drugs and Crime guide which provides that when it comes to independence of prosecutors and the executive branch, different legal traditions and legal systems deals with the principles in different ways. Some prosecution services form part of the executive branch of the Unites States government.

Other prosecution services, while remaining part of the executive branch of government, have also been developed into stand-alone entities in order to further guarantee their independence.

In Ireland, for example, the Director of Public Prosecutions, DPP, is an independence office within the executive branch.

Ireland is not a colonial government, Mr Steenhuisen; it was a

colony of Britain - so much for your knowledge of history. In some civil law countries such as France, Italy and Tunisia, prosecutors belong to the judiciary. But another aspect is accountability - the independence of the prosecutor does not mean that the prosecutor is completely autonomous and accountable to no one.

And so under the United Nations Office on Drugs and Crime guide, prosecution services are accountable to the executive and legislative branches of government to the public and to an extent, the judiciary.

Accountability of the prosecutor means that the prosecution service may be required to account for its actions, either by filing reports, responding to inquiries or in some situations, acting as a respondent in a court hearing. Section 33 of the National Prosecuting Authority Act which complies with section

179 of the Constitution gives the Minister of Justice the final responsibility for the National Prosecuting Authority. A lot turns out on how the NPA handles, in particular, high profile cases.

The NPA‘s Prosecution Policy provides that the prosecutions of sensitive or contentious nature including cases involving the

so-called high profile accused persons, victims or witnesses. Prosecutors should timeously inform the Director of Public Prosecutions concerned in writing of the nature and details and such DPP should similarly inform the National Director of Public Prosecutions. When the National Director of Public Prosecutions directs institutions of a prosecution in the area of jurisdiction of any DPP, such DPP shall monitor the progress of the case, keep the National Director of Public Prosecutions informed in writing of all developments in the case and submit a written report to the National Director of Public Prosecutions on the outcome of the trial. Reasons as to why criminal proceedings are to be proceeded with or why particular charges are formulated should be handled with care, in order not to cause embarrassment or unnecessary debate. That is the prosecution policy of the NPA.

Prosecution decisions are notoriously difficult to make, for example, in the murder charges against Glenn Agliotti for the murder of Brett Kebble. Some of the state witnesses were self- confessed hitmen. They were controversially given indemnity from prosecution in exchange for testimony against Mr Agglioti. That prosecution failed, which meant that the alleged mastermind was acquitted and the self-confessed hitmen were identified.

Prosecutors are expected to take the best decisions they can, with the available facts they have at that time. With regard to the National Director of Public Prosecutions, the President has written a letter to Adv Abrahams, requesting him to provide reasons why he should not be suspended from his position as National Director of Public Prosecutions. The Helen Suzman Foundation and the Freedom Under Law took the matter to court seeking an order that the President must institute an inquiry and suspend the NDPP, Dr Pretorius and Mr Mzinyathi for their handling of fraud charges against the Minister of Finance and two former SA Revenue Service officials. The court, however, a full bench of three judges rejected the application saying that it was not urgent. The court also held that the President‘s request for additional time to give Adv Abrahams an opportunity to respond was not unreasonable.

It is time for cool heads. It is important for us to restore the credibility and public confidence in an institution which is at the very heart of our criminal justice system, and as such it‘s one of the factors that are going to affect our economy. There are some important lessons to be learned. I would argue that the main issue to be addressed as it is in high profile matters, there really is a need to have a very proper and thorough process.

In the past, there was a formal process where the NDPP and deputies received a detailed briefing in such matters before any announcement was made. This is not for the NDPP to become involved in the decision but it is essentially about quality assurance – about dotting the i‘s and crossing the t‘s. It is then up to the prosecutor and his or her DPP to run the case and make the decision.

The DPP have similar processes with high profile cases in the regions but there are in a different position as the prosecution is instituted in their name and they can change decisions without a formal review, unlike the National Director of Public Prosecutions. The National Director of Public Prosecutions‘ deputies must not make the decisions, for example, announcing or commenting on it in detail. The prosecutors or the DPP should do this. The NDPP should not get any person involved in cases, this is also vital if he has to review the decision later on. And as for press conferences, while greater transparency is to be supported, it is appropriate to deal with matters of press conferences only for changes to be made later on. This is not after all the first controversial press conference convened by NDPP to explain the decision whether or not to prosecute. We all remember the first National Director of Public Prosecutions‘

press conference on his decision to charge Schabir Shaik but not to charge our current President.

In terms of the National Prosecuting Authority Act, section 225, there is provision for a structure to be set up by a regulation to conduct oversights over the National Prosecuting Authority and this is something we should probably look at. Currently, the only place to get a prosecutorial decision reviewed is by the court and I think we should look at invoking in that section on whether or not to establish a structure to deal with complaints regarding decisions to prosecute or not prosecute.

In England and Wales, the Crown Prosecuting Service is overseen by the Crown Prosecution Services Inspectorate. There is an inspectorate of prosecutions in Scotland and last year calls were made in South Australia for the prosecutorial decisions to be reviewed by an independent body.

In some cases, these commissions have the power to overturn prosecutor‘s decisions if the investigations find that the prosecutor erred in making their decision. The main issue with such a body would be to ensure that it does not infringe on the NPA intent independence. Obviously, the economy was raised not much spoken about by the DA but the opposition party seem to

want to lay the blame for a possible downgrade, squarely on the NPA‘s door. But in truth there are many factors that come into play in the country‘s credit ratings, factors like real GDP per capita income, headline inflation rate, government revenue to GDP, government expenditure to GDP, political risk, socioeconomic risk and external vulnerability risk.

An equally important criterion that rating agencies access is the country‘s institutional strength. Moody‘s released a statement this past weekend saying that South Africa has a record of sound fiscal management, especially on the spending side. The Treasury has consistently made spending ceilings introduced in 2012 and is aiming to reach primary balance in the next fiscal year.

The Minister of Finance himself recently remarked that government business and labour have done phenomenal work in trying to prevent a credit rating downgrade. We must continue to build on the trajectory of growth as envisaged and to create jobs as outlined by the Minister of Finance in the recent

Medium-Term Budget Policy Statement. Government has been hard at work to prevent a possible downgrade. But if anyone is politicising the NPA, it‘s the opposition.

The DA calls the NPA a political hit squad but fails to mention that this is the same organisation that has delivered successful conviction rates of 89% in the high courts, 88% conviction rates in organised crime cases and 82% in trivial crimes in the 2015-

16 financial year - convictions that take criminals off our streets. Opposition parties must not stand there and be disingenuous; they must stop politicising the NPA. Speaking of independence, how independent of mind is their Justice Shadow Minister, the hon Glynnis Breytenbach? Is it appropriate that someone who is an accused in a criminal matter and is on trial

...

Mr G G HILL-LEWIS: House Chairperson? [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon Deputy Minister. Yes, hon member?

Mr G G HILL-LEWIS: Will he take a question?

The HOUSE CHAIRPERSON (Ms M G Boroto): Are you prepared to take a question?

The DEPUTY MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT: I

noted that hon Maimane refused to take a question and that‘s

your leader. So, I think I will follow his example. [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): He is not prepared. Thank you.

The DEPUTY MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT:

So, they speak of independence but how independent of mind is their Justice Shadow Minister, the hon Glynnis Breytenbach. Is it appropriate that someone who is an accused person in a criminal matter and whom we know is on trial for contravening the National Prosecuting Authority Act and two charges of defeating the ends of justice with charges for fraud and perjury relating to a false affidavit having been added be a Shadow Minister?. [Interjections.]

Is it appropriate that such a person is a Shadow Minister of Justice, of all things? Remember that hon Breytenbach left the NPA in the time of Mxolisi Nxasana, who the Leader of the Opposition says he admires. They agreed not to appeal against her disciplinary matter; she agreed not to take them on review for moving her from the Specialised Commercial Crime Unit, SCCU.

Hon Breytenbach, I don‘t think anyone in the DA should be able to deny this, clearly has an axe to grind with the NPA. How can she sit in this House and pretend to be objective? How should she be the Shadow Minister of Justice when she has an axe to grind? Yes, the DA will say she is innocent until proven guilty, just like every other person who the DA so desperately wants to suspend and charge and fire and dismiss. Let us follow due process in all cases. The job of the NPA is to ensure justice.

As US Supreme Court Justice, Sonia Sotomayor once said and I quote:

My job as a prosecutor is to do justice. And justice is served when a guilty man is convicted and an innocent man is not.

That is what justice is.

This is not what the DA wants it to be. I thank you.

Debate concluded.

# THE POSSIBILITY OF PROVIDING FREE HIGHER EDUCATION FOR ALL IN SOUTH AFRICA

(Subject for Discussion)

Ms C C SEPTEMBER: House Chair, I would like to start this speech by locating it within the ANC policies. I start with the reconstruction development programme and remind you that it said that all people will have access to education and training throughout their lives to improve skills and to develop themselves, and that further education will be provided by formal institutions such as technikons, colleges and universities and also at the workplace and in community learning centres.

We are reminded that the democratic government inherited a higher education system that was seriously distorted by apartheid and whose funding arrangements have led to serious crises for both the students and the institutions themselves.

In order to address the structural problems that it inherited, the democratic government consulted with significant stakeholders with a view to appoint an expert higher education commission to investigate, amongst other things, the resource based for higher education and, indeed, the system of student finance.

It might just be possible to clarify — and we think we should do this today — what the Freedom Charter says. The Freedom Charter

says education shall be free, compulsory and universal and equal for all children. But it goes on to say that higher education and technical training shall be open to all by means of state allowances and scholarships awarded on the basis of merit.

I think it will appropriate, House Chair, for you to allow a remembrance of Fidel Castro ... [Interjections] ... who made education the largest share of his government‘s budget and a major issue of his revolution. Under Fidel Castro‘s leadership, primary education was made compulsory. South Africans can learn from Cuba. They ensured education as the key to revolution and the creation of a literate population loyal to their country. [Interjections] The Cuban government‘s literacy campaign under the leadership of Fidel Castro was an early example of mobilisation. May his soul rest in peace.

The ANC already recognised way back in 1994 that the funding arrangements of the higher education system have led to serious crises for both institutions and students.

The ANC proposes that the development of new financing arrangements for education and training should support the goals of educational reconstruction, along the lines of state financing of higher education, specifically vocational education

and research. Such reconstruction must seek an overall balance between the demands of the educational institutions within higher education.

Furthermore, the then funding formula needed to be reviewed and restructured in terms of the need to expand the system and redress institutional inequalities and increase the intake of disadvantaged students.

What we have achieved in this regard? What we have been able to do is to make sure that we expand excess to post school education and training as called for in the White Paper. Since 2010, we have transformed higher education funding injections — as you might have seen — to support the progressive introduction of free education and training for the working class and the poor. We have transformed the content and funding to the National Student Financial Aid Scheme, Nsfas, to ensure that it addresses inequality. We have insisted that infrastructure development — such as accommodation, college infrastructure, upgrading and maintenance, building of universities — be attended to. And indeed, we have ensured that skills development work is done through the sector education and training authorities, Setas, the Technical Vocational Education and

Training, TVET, colleges and many others as in the National Skills Fund.

There is a critical difference between free higher education for all and free education for the poor. It will have conflict between developmental objectives especially around increasing access and improving success. There will also be conflicting priorities around resources within the post-school education and training sector, and as a whole especially as the emerging sector, the colleges and indeed we don‘t forget the basic education.

We thus agree, Minister, with the findings of those that you have asked to do some research in higher education around the impact of poverty and unemployment especially amongst youth and its effect on both financial and epistemic access to university education. It points to the need not only of student funding but also to the need to fund appropriate staffing and other infrastructure for effective learning to take place. We think that these are quite important.

Free university education for the poor has the potential to improve both access and the quality of outcomes in higher

education, but it will require a significant outlay by the state.

What then has to be done to obtain free education especially for the poor in South Africa? Our realisation to progressively achieve free university education for the poor is in using a combination of what we have in the Nsfas and a proportion of the Seta funds which were set aside by both the private and public sectors for skills development. That, together with new sources of funding and not discounting the national budget, large financial institutions and sometimes international donors ...

But, very importantly, it recommends also that the model it uses should be used to develop a costing model for a comprehensive student financial aid and academic support system that takes into account adequate housing, proper nutrition, cultural inclusion and an enhanced awareness through career and vocational guidance at school level.

Why should we not have cost sharing and challenge the private sector to also contribute? Indeed it will also benefit immensely from government resources on higher education and training.

Our premise is the White Paper on Post-school Education and Training and where the ANC is going with higher education. And they are in the following areas and that is what we ought to achieve is fulfilling the targets of the country‘s key national policy documents such as the National Development Plan 2030, the New Growth Path. What we can‘t forget is human resource development strategy for South Africa and target set out to cover the medium-term expenditure.

What we do require is transformation within the sectors. And what we should have is linking the different sectors, bringing them all together so that, collectively, they meet the desired outcomes of the National Development Plan.

What we also need is a post-school education and training system that is responsive to the needs of the economy. We need tp create an integrated system of post-school education and training that is able to contribute to the eradication of the legacy of apartheid, and can assist in the building of a nonracial, nonsexist South Africa characterised by the progressive narrowing of inequalities. It is critical that we remain a national democratic society. Critical to this is the developmental state that the ANC is building and the

relationship between the developmental state and post-school education.

The state must therefore decisively intervene in the economy. It has to ascertain what the needs of the economy are and it has to implement a progressive agenda to attain those needs. Critical in this regard are the skills needed by the economy, by the human resource development and the financing of the post-school education and training system.

The funding of education is not an end in itself but it is essential for the achievement of socio-political, cultural and transformative goals against the background of a society characterised by the cleavages of racist oppression and exploitative social relations.

Policies that are designed to provide for full cost of study are essential to an overarching social objective in which the goals are to develop a democratic and socially just society.

So, free education for the poor has the potential to improve both access to and the quality of outcomes in higher education. But it will require a significant outlay by the state. After all, nowhere there is free education, as someone has to pay.

Our Constitution advocates affordability. Is it possible? Is it feasible? We cannot widen inequality and privilege the rich. We need a sustainable higher education. As comrade Nelson Mandela said, we don‘t have the resources to help every child, but we do have the responsibility to give each child the tools to help themselves. Free education for the poor is the first step in that direction. I thank you.

Prof B BOZZOLI: Chairperson, thank you very much. It is interesting that the ANC itself put forward a topic but none of its members attend.

The very topic of this debate is proof that the ANC can‘t manage anything, even by crisis. They wait until things are so bad that it is almost impossible to continue, and then, when it‘s too late to do anything thoughtful, the ANC clumsily step in. It‘s the same everywhere — in electricity, water, rugby, and even the Presidency. It doesn‘t matter that the ANC‘s own experts have repeatedly told them in advance that things are bad. They won‘t do anything until it actually collapses, by which time it‘s too late.

This is a government that will go down in history for breaking everything it touches. This is what has happened to Higher

Education. In spite of numerous commissions, sober visits from Vice-Chancellors, student protests, task teams, opposition warnings, etc. The ANC has continued to neglect Higher Education for at least ten years, in spite of what hon September says.

When the inevitable crisis hits, they have no option but to act in emergency mode. This year and last year, for example, they ran out of time and simply threw money at Higher Education; nothing of a long-term there. This will no doubt happen again in 2017. By the time the ponderous commission of enquiry submits its report in July the system will already be in upheaval over the 2018 fees. It will be impossible to take any serious long- term decisions or suddenly implement new systems.

I raised this in President‘s Questions last week, but he seemed not to comprehend the problem. He appears to believe that the commission will have all the answers. But the commission is unlikely to come up with anything that several committees, commissions and task teams which have worked on the problem for the past ten years haven‘t already thought of.

The problem lies in ANC failure to implement ideas rather than in coming up with new ones. Under a DA government this sort of thing would not be allowed to happen. We have our own crisp and

clear vision of how Higher Education should be rescued. We base this on two principles — excellence and that no student should be excluded on financial grounds alone.

We have five points: we believe that society has a responsibility to support the poor. Those who have nothing cannot be left to rot at the bottom of the pile. We are social liberals, social democratic liberals, if you like. We are not so called neoliberals.

We will completely revamp the NSFAS, and introduce a slick professionalised operation with a sliding scale of support. The less your family earns the more support you will receive. The funding will be a mixture of loans and bursaries. Families that earn over R600, 000 will not receive NSFAS at all. They are eligible for bank loans if they ever need them. This will not only help and support students from poorer backgrounds; it will also significantly reduce the dropout and failure rates, many of which are caused by financial hardship.

We take seriously the subsidy that government gives to the average university. This should cover about 50% of overall costs. But under the ANC this proportion has fallen to 40% over the past 20 years - a 20% decline. This is why fees have risen

so much. So we will increase the level back to 50%. This will stabilise universities, make them to sustainable and keep fee increases at the level of Higher Education inflation.

We will expect universities to contribute to developing a less wasteful system; through better admissions procedures, world class student support systems, and high quality staff. The increase in their subsidies should pay for this.

Extra funding will be needed. Only a tiny proportion of our GDP goes into Higher Education at the moment- about 0,7%, again in spite of hon September‘s claims. India for example is at 1,2%, Ghana at 1,4%, and Malaysia at 1,7%. These are all middle income countries. Our level should be increased to well over 1%. All of this will be done over time. Full fee free higher education for all would cost an extra R60 billion per annum. That amount cannot even be contemplated in current circumstances.

The DA scheme, gradually introduced, could be implemented for a third of that cost. The DA scheme will make the system more sustainable and stable. It will create a well-supported, diverse student body that is able to concentrate on high level skills and intellectual and creative insights.

Unlike the ANC we will not manage by crisis, and we will not allow any one sector to decay before we intervene. The ANC cannot be trusted to fix the things it has broken, including the universities. It is time to loosen the death grip they have upon us and our precious institutions. Thank you. [Applause.]

Mr S M MBATHA: House Chairperson, to us as the EFF free Higher Education is a generational mission. It is the mission that needs no introduction. It is a mission that has been shared on black tears and struggle.

It is so scandalous that today the ANC introduces this motion. We believe this motion is pre-emptive. It is pre-emptive in an attempt to dismiss the struggles of students that will continue at the beginning of January.

We believe that we are trying to disown and frustrate the struggles of students by ridiculing them in front of the public. Saying to the public these struggles are meaningless. They actually have no future in our course of struggle. Majombosi, Abram Tiro, Tsietsi Mashinini, Hector Peterson and Peter Mokaba; these are generations of young students and youth leaders who will be so ashamed to be associated with you today. [Applause.]

Free Higher Education is possible. Even Chris Hani in his grave, he must be sleeping sleeplessly because today we have a communist that is managing and the authority in Higher Education, which Chris Hani fought so dearly and this communist no less no solution.

We believe Chairperson, as the organisation and this Parliament that have champion free Higher Education from the beginning, we understood why we said that. We said that before the

―Decolonised Movement‖ and before the ―Fees Must Fall Movement.‖ All that we are trying do is to dismiss the struggles of the students.

The Parliamentary Budget Office has estimated that over the next three years, the following amounts will be needed to provide fee-free higher education: R67,2 billion for the year 2016-17; R75,1 billion for 2017-18; R83,9 billion for 2018-19 and R93,8 billion for 2019-20. The reason why you cannot provide this is because there is nothing to steal under Higher Education, while in all other departments you have got your hands dirty. [Applause.]

The recent report of the Statistician-General highlights the extra ordinary levels of inequality. These levels of inequality

happened post 1994, and guess who? They affect the black African youth, in fact, if they are not attended now, they move straight to the next generation.

You have been nothing but the bunch of losers to young people who started voting in either 2014 and continued to vote in 2016. At the height of their struggles in 2016 you said nothing about Higher Education, which speaks a lot about your campaigning types.

The Council on Higher Education has said it is possible to provide fee-free higher education in South Africa. You have systematically disinvested in universities from the year 1997, and the year 2000. You have consistently from Bhengu, to Kader Asmal, to Naledi Pandor, now to you Nzimamnde. You have failed the system and you were the most educated Ministers to have even understood the need for education. There were two things that apartheid stole from the majority. They stole our land and they took our pride on education; and you sit here like a bunch of

... [Time expired.] [Applause.]

Prof C T MSIMANG: Thank you, hon House Chair. The question we are grappling with today demands answers which are well-thought through. Those who argue in the favour of free university

education for all, motivate this by reference to the Freedom Charter, which is the basis of government policy.

In quoting the Freedom Charter we must bear in mind that it was strategising for a world of the 1950‘s which was radically different from the 21 century real world. During the last weekend, former President Mbeki was quoted in the media where he cited the world famous revolutionary communist, the late Fidel Castro of Cuba that he warned the ANC about economic promises made in the Freedom Charter for he feared that some of them could not be attained.

Another short coming of the Freedom Charter is that it made many claims without drawing up plans on how to attain them. It is true that many African states on achieving independence did offer free university education. This was necessitated by the fact that the colonial powers who had occupied those states had not prepared Africans educationally to run governments. But in comparing those states with South Africa we must bear in mind that each state has only one university or two whereas South Africa has 26.

Germany is one big European democracy which offers free university education. There are two reasons which help Germany

to afford this. Firstly, few students attend university. The large number is absorbed by a very effective technical and vocational college system. In South Africa, even a teacher must be trained at a university, even a nurse must be trained in a university.

Secondly, in Germany the income tax rate has been increased to 45%. In Sweden it has been increased to 55%. What is the South African reality? Firstly, in a country of 55 million citizens only 13% are taxpayers, while 16% are dependent on social grants and over 8 million are unemployed.

The conclusion I reach is that free university education for every student is neither affordable nor sustainable but it is a must for the poor. I thank you. [Time expired.]

Mr C D KEKANA: House Chair, the topic whether free education is possible, is of course a very hot one today in South Africa. I want to start by correcting hon Bozzoli when she says the ANC is messing up and if it was the DA, they would provide electricity and water to the poor. The point is, the ANC-led government is the first one after 1994 that provided universal coverage for electricity and water. [Applause.] The rural areas that were under the so-called homelands or Bantustans in this country did

not have tap water before the intervention of the ANC-led government. The townships of South Africa did not have electricity, and we know that it was only post 1976 that electricity was supplied with the reforms that P W Botha brought about.

Mr M Q NDLOZI: Point of order.

The HOUSE CHAIRPERSON (Mr C T Frolick): Yes, hon member, why are you rising?

Mr M Q NDLOZI: House Chairperson, we are being abused in terms of relevance to the topic here. We are not discussing water and RDPs; we are discussing whether free education is affordable for all. And this motion was brought to us by the ANC.

Ngoku utata uthetha ngamanzi apha, tyhini! [No! Now tata is talking about water here. ]

The HOUSE CHAIRPERSON (Mr C T Frolick): Thank you, hon member.

Mr C D KEKANA: That is part of the alliance ... [Interjections.]

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon Kekana, can you hold there please? Hon Deputy Minister, why are you rising?

The DEPUTY MINISTER OF RURAL DEVELOPMENT AND LAND REFORM (Mr M

Skwatsha): On a point of order, House Chair: A speaker has a right to develop his or her argument, and that is all the speaker was doing. [Interjections.]

The HOUSE CHAIRPERSON (Mr C T Frolick): No, hon member. Hon members, let us keep the topic of discussion in mind when we engage in this debate. Continue, hon member.

Mr C D KEKANA: Yes, I was responding to hon Belinda Bozzoli ... [Interjections.]

Mr M Q NDLOZI: No, no. House Chairperson?

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon Kekana? [Interjections.]

Mr C D KEKANA: Yes, let me continue ... [Interjections.]

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon Kekana? [Interjections.]

Mr C D KEKANA: Let me continue ... [Interjections.]

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon Kekana? [Interjections.]

Mr C D KEKANA: Yes.

The HOUSE CHAIRPERSON (Mr C T Frolick): Will you just hold there for a while? Why are you rising, hon member?

Mr M Q NDLOZI: Because you have not ruled.

The HOUSE CHAIRPERSON (Mr C T Frolick): No, I have ruled, hon member.

Mr M Q NDLOZI: Can you call the member to order to stick to the topic?

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon member, I have ruled and will you take your seat now so that he can continue on the topic.

Mr M Q NDLOZI: House Chairperson, can you please enlighten us, what is your ruling?

The HOUSE CHAIRPERSON (Mr C T Frolick): You should have listened, hon member, what the ruling was ... [Interjections.]

Mr M Q NDLOZI: That Minister was shouting, I couldn‘t hear.

The HOUSE CHAIRPERSON (Mr C T Frolick): No, hon member, I have requested the member and the members who will follow to stick to the topic of debate.

Mr C D KEKANA: Okay, besides the infrastructural issue that was raised before, the ANC policy is very clear; it states that we should provide access to free education, especially to the poor. The 52nd and 53rd ANC National Conference resolved that the ANC must provide education to the youth of the country; it must develop human resource for the purposes of growing the economy and creating job opportunities for everybody in the country. [Interjections.]

An hon MEMBER: And how is that going?

Mr C D KEKANA: Very well actually. [Interjections.] Now ... [Interjections.]

The HOUSE CHAIRPERSON (Mr C T Frolick): Order, hon members.

Mr C D KEKANA: ... I want to say that free basic education has been achieved and provided for. However, there is still a big battle in terms of trying to provide total free post-school education. But now you must remember how much is being spent by NSFAS on poor students. A budget of R9 billion allocated to NSFAS is meant to provide support to poor students in the form of bursaries and loans.

If we take Kenya for example - because when we talk about these things we need to look at those countries that are comparable to us in terms of GDP and developmental index – it is one of those African countries that never had a university until its independence in 1960. When a university was started in Kenya, it had about 500 students and as a result they could afford free education.

However, in the 80s the population of students at universities grew to 5000 and this made free education not easy anymore.

Currently, as we speak, the university student population has grown to 29 000 and as a result free education in Kenya is a big struggle. There are problems in Kenya now.

Just like other people did, we are using Germany as another example of a country that provides free post-school education.

However the difference is that, unlike in South Africa where parents have to pay for accommodation, pocket money and books, Germany only pays for tuition.

So, when talking about free education in the first world countries, it is actually not 100% free education but partial free education. [Applause.] European Union has said that it wants all students in its member states to access education, but that is also not total free education.

This is a very interesting topic in our country. We have achieved a lot as far as free education is concerned, and we are progressively continuing with the battle to provide free education for the poor. I thank you. [Applause.]

Prof N M KHUBISA: House Chairperson and hon members, the National Freedom Party is of the opinion that free higher education for all is possible and we believe that it can be affordable. However, we also need to talk about free quality basic education because the two are inseparable, but that is a debate for another time.

The narrative of free education for all ensues from the Freedom Charter, from our Constitution and it should be translated into

government policy. Education is a right, not a privilege, and ultimately, the most dynamic investment any country can make in its future. To this effect, it is our view that public education, including higher education, is primarily the responsibility of the state.

Higher education, currently, gets allocated merely 0,78% of the GDP in terms of funding, whilst countries like Senegal, Ghana and Malaysia are funded at a rate of 0,75% to 1% of the GDP, respectively. Cuba, a shining example of a state that has prioritised education, is funding higher education at 4,5% of the GDP and the NFP believes that our government would do well to study the Cuban model of state funding for higher education.

The NFP would like to make various suggestions and recommendations to assist in this debate on free higher education.

Firstly, we say that government has the responsibility and duty to create a stable political and economic climate with regard to matters of governance, and sound fiscal discipline. Such a climate will be conducive to the furtherance of effective and quality higher education.

We also believe that government must deal with corruption and graft as well as wasteful and fruitless expenditure across departments and SOEs, as evident in the Auditor General‘s report. Moneys saved from such preventative action could well fund quality higher education for all deserving students.

Another way to raise funds for free higher education, as supposed by other economists, is to include a graduate tax, to increase corporate tax, and to deal decisively with the illicit outflow of moneys by rich people, multinationals and other companies.

We are aware that the Department of Higher Education and Training has made efforts to address funding for the missing middle and students from humble families, but there is a cry for free higher education.

We are also disappointed that, although the residential commission has not tabled the report, it does not talk to free education directly, but it talks to the feasibility of free higher education. This inability to address the burning question of free higher education, directly compounds the problem even further, particularly so if it is combined with the perception that the commission is sluggish, slow and not transparent.

The NFP believes we also have to consider how to deal effectively with the numerous barriers and inequalities, which influence access to quality higher education. We also need to look into the issue of university autonomy.

Finally, it is imperative that the government clarifies its initiatives in a way that is clear and consonant, to assist in free education for all. [Time expired.] I thank you.

Mr M L W FILTANE: Hon Speaker and members, I quote: ―The old order changeth, yielding place to new, ... Lest one good custom should corrupt the whole world‖.

Maybe we need to go back to the basics and ponder, what happened to the Education Charter Campaign and the concept of, people‘s education for people‘s power. People‘s education for people‘s power was a vision and programme of action which rejected an apartheid education system that entrenched underdevelopment of the majority, whilst segregating society.

The discontinuities between the antiapartheid movement‘s people‘s education on the one hand, and democratic competitive elitism on the other, have to be understood in the context of a negotiated transition from apartheid to democracy - a compromise

that ultimately gave way to democratic elitism in postapartheid education.

People‘s education was not a neutral phenomenon but was aimed at instilling particular values necessary for building an alternative society - a society of co-operation, solidarity, creativity, critical thinking, active participation and democracy. It was opposed to authoritarian, individualistic, competitive values propagated by the capitalist apartheid education system. This system must prepare people for full participation in a democratic society and its social, political and economic life.

In 1993, the National Education and Training Forum defined its mission as, and I quote: ―The formulation of policy framework of the education and training system, which is linked to the human, social and economic development needs of South Africa‖. We need to look at it as a necessary enabler and support to our total socioeconomic goal as society.

Looking at it from the 360-degree perspective, one is persuaded to say, yes, fee-free education is possible, provided each sector spares a budget for educating its potential human capital

base, guided by the transformation goals we all agree on. In other words, each sector must prepare its own students.

If we are involved in a radical economic transformation, surely, we should prepare our people to take over the economy of their country.

We need to consider the creation of a single and seamless education system that interfaces at levels from early childhood development to higher education. It can be done in that way.

We do not need to allow ourselves to be captives of the past commitments, 22 years into democracy. We have seen that these have failed South Africa in many fronts.

If we understand and accept that education is an integral part of the broader transformation projects, as was defined by the Education Charter Campaign, then issues of funding, its underlying principles, methods and content will be resolved.

Thank you.

Mnr P J GROENEWALD: Agb Voorsitter, ek wil begin deur te sê dat daar nie so iets soos gratis hoër onderwys bestaan nie. Daar mag ‘n idee wees dat as studente nie vir hul klasgelde betaal nie,

dat dit gratis is. Dit is nie gratis nie, want aan die einde van die dag, is dit die belastingbetaler wat moet opdok.

Universiteite is duur. Ja, die ANC-regering is skuldig daaraan dat hy byvoorbeeld nie die subsidies aan universiteite behoorlik aangepas het nie en daarom sit die universiteite met die probleem dat hulle nou hoër fooie moet vra om hulle studente te akkomodeer.

Dit is ‘n vraag wat die regering homself moet vra: Hoekom het hy in die eerste plek agter geraak met die bedrag van daardie subsidies, ook in terme van die inflasiekoers?

Ons moet ook vir mekaar sê dat die vraag dan eintlik is: Kan die regering of kan ‘n staat dit bekostig om gratis hoër onderwys te verskaf? Selfs ontwikkelde lande, die sogenaamde ryk lande, kan dit nie bekostig nie.

Daar is baie uitdagings in Suid-Afrika. Natuurlik het die VF Plus simpatie en ons glo dat klasgelde nie onnodig verhoog moet word nie en dat hoër onderwys nie onbekostigbaar moet raak nie, want dit word ‘n probleem in Suid-Afrika, as gevolg van een van die probleme wat ek reeds genoem het.

Natuurlik wil mens ‘n gelyke geleentheid vir studente gee om hulself behoorlik aan die universiteite te kwalifiseer. Maar, ons moet ook vir mekaar sê dat as ons die land se ekonomie wil laat groei, om te verseker dat daar meer geld is, sodat dit meer bekostigbaar kan raak om universiteitstoelaes te kan verhoog, dan moet ons weet wat aangaan in terme van die onderwys in Suid- Afrika.

Navorsing toon dat as jy ‘n matriekklas vat, dan is dit slegs 50% wat tot in Graad 12 vorder. Daarvan kwalifiseer slegs 12% om universiteit toe te gaan. Aan die einde, is daar slegs 5% wat wel ‘n graad behaal.

‘n Groot probleem is met ons jeug wat nie universiteit toe kan gaan nie, ook nie gaan nie en nie slaag nie. Daar moet ook indringend gekyk word hoe om geld vir die opleiding van daardie jeug beskikbaar te stel, sodat die ekonomie gestimuleer kan word, sodat daar meer geld beskikbaar is om aan die einde van die dag ‘n beter toelaag te gee vir ons universiteite en dit meer bekostigbaar te maak. Ek dank u. *(Translation of Afrikaans speech follows.)*

[Mr P J GROENEWALD: Hon Chairperson, I want to start by saying that there is no such thing as free tertiary education. There

might be a perception that if students don‘t pay for tuition fees, that the tuition is free. It is not free because, at the end of the day, the tax payer will have to foot the bill.

Universities are expensive. Yes, the ANC government is guilty of, for instance, not properly adjusting the subsidies of universities, and therefore universities now have the problem that they must charge higher fees in order to accommodate their students.

This is a question government has to ask itself: Why did it, in the first place, fall behind regarding the amount of the subsidies, and also regarding the inflation rate?

We must also say to each other that the question really is: Can a government or a state afford to provide free education? Even developed countries, the so called rich countries, cannot afford it.

There are many challenges in South Africa. Naturally, the FF Plus is sympathetic with the situation and we believe that tuition fees should not be raised unnecessarily and that tuition fees should not become unaffordable because, it is becoming a

problem in South Africa, as a result of the problems that I have already mentioned.

Naturally, one wants to give students a fair chance to qualify themselves adequately at university. But we also have to say to each other that we want to grow the country‘s economy, in order to ensure that it becomes more affordable to raise university subsidies, then we have to be informed about education in South Africa.

Research has shown that when you take a cohort starting in Grade 1, only 50% will reach Grade 12. That is why only 12% qualify to go to university. In the end only 5% will eventually obtain a degree.

A big problem is the fact that our youth cannot go to university; do not go, and also fail at university. An incisive analysis regarding ways of providing money for training for those youth should also be made available, so that the economy can be stimulated, so that more money is available at the end of the day to give a better subsidy to our universities and to make it more affordable. I thank you.]

Ms C DUDLEY: Hon Speaker, as hon September said, there is, of course, no such thing as free higher education or pretty much free anything, for that matter; someone always pays. So the question really is about who must pay and who must not. The person who has met the criteria for university entrance should not be turned away on the basis of affordability, but free higher education for all, stands to benefit families who can afford to pay university fees for their children, and not just that, at the expense of quality education.

We must ensure that intimidation tactics do not lead to policies that do not address the problem and only increase the inequality that already exists.

Talking about criteria, Prof Nico Cloete of the University of the Western Cape has said that vast numbers of people don‘t qualify for university and many struggle when they get there, which shows in the high drop-out rate.

Most students in South Africa are young people whose home or primary language is not English. They arrive at varsity or college, unaware of the requirements of the study culture of tertiary education. It is not surprising that the average time

taken in achieving a BA Degree is five to six years for a three- year course.

This translates into climbing costs for students and educational institutes. In the opinion of some experts, the solution is a foundational bridging year at both technical and vocational education and training, TVET, colleges and universities.

Increased access alone will not improve education.

The ACDP urges government to implement a bridging year across the board that would rapidly empower young people and save money.

In terms of the recent announcement by the Minister of Higher Education, only about 30% of the undergraduate student population will pay for any fee increases in 2017.

Fulfilling, to some degree, the Constitutional requirement that the state, through reasonable measures, must make higher education progressively available and accessible, the ACDP calls for a greater proportion of the state budget to go to higher education. South Africa spends 0,75%, while developmental states like Malaysia spend 1,75%, China spends almost 3% and Cuba spends 4,5%. Successful developmental states invest heavily in

higher education, plus they charge fees and have financial aid schemes for the poor.

Where there is quality free higher education like in the Nordic countries, unemployment is less than 5% and tax is a flat 50% for everybody. So, everyone is working, everyone earns a good salary and everyone pays 50% plus to the government.

The ACDP notes that, internationally, there is. [Time

expired.]

Mr L M NTSHAYISA: House Chairperson, South Africa is still a developing country that is still faced with these challenges of poverty and unemployment. The country does not have all the economic power to provide for each and every need. The country‘s national debt is so high that it cannot satisfy all social needs.

The Constitution of South Africa however, does provide for free education, but it goes on to say that if the state does not have enough money, it must indicate when and how this can be possible. The free education may not be possible for all. The country can provide free education for the poor and the middle class, it cannot provide for all.

It cannot be free for students whose parents are getting more than a million per annum. It cannot be free for students whose parents own big businesses with big profits. To make things easier, the state should start taxing the rich people in line with their profits.

Students should also avoid destroying properties, libraries, and buildings so that money shouldn‘t be used to repair, but be used to fund free higher. This is a drawback indeed. The country cannot afford to provide for the students coming from outside the country because it is still developing.

Each and every citizen must begin to contribute to the growth of the economy so that we can avoid downgrading since it has a negative impact on our economy. The growth of the economy leads to free higher education.

Everybody should be encouraged; the small-scale farmers, commercial farmers, big businesses and small businesses can also be encouraged to contribute to the growth economy so that we have enough money to help in getting free education. Tax avoidance should be fought at all costs, because the monies that are supposed to be collected from taxpayers can assist in the provision for free education.

The National Students Financial Aid Scheme, NSFAS, should not only be a loan but a bursary, because if students are to repay back the loan at the end of their studies, it means that education has not been free at all.

The monies that are wasted through corruption could have been used to contribute to free education. It can also be good for students to study relevant courses that could contribute to the growth of the economy so that we don‘t find ourselves in economic problems in future.

So, everybody must contribute, everybody must make the free education idea to be fully realized. Thank you very much. [Time expired.]

Mr Y CASSIM: House Chairperson, the DA believes in an open opportunity society for all grounded in the values of freedom, fairness and opportunity. In an opportunity society, a child of a domestic worker would receive free quality basic education, would have access to quality healthcare and nutrition, and would have access to the necessary tools to succeed including dignified living conditions, electricity, Wi-Fi and developmental facilities. This child would be able to freely

pursue further education and training and be supported to succeed in this regard.

In an opportunity society every South African would have the opportunity to fulfil their dreams regardless of the circumstances of their birth. This is the South African dream. This is the dream that the DA stands for. What we are living in now, is the South African nightmare.

Under the ANC government, this very same child would still receive Bantu education at schools which have been captured by SA Democratic Teachers Union, SADTU. This child would still be constrained by the legacies of apartheid, which continue to conspire to suppress mainly poor black South Africans from reaching their potential.

If against all odds, this child manages to matriculate with the required results to access a higher education institution, he or she would be told that there would be insufficient funding for half of them. If access is acquired, there would therefore, be another 50% chance of this child dropping out in their first year.

The reality is that the ANC government simply does not care about a poor child, and this was reiterated in this debate today. The hon Cornelia September, walked up here, and in the midst of putting us all to sleep, started quoting President Nelson Mandela about giving each child the tools to succeed. When 50% ... [Interjections.] No, I saw the hon Hanekom dreaming about a post-Zuma South Africa, but I think that‘s beside the point. When 50% of poor South Africans drop out in their first year as a result of lack of support, they aren‘t given the tools to succeed.

The hon Kekana came up here and started talking about water and electricity. I am not sure if he came to the right debate, but I will remind him, because we all agree that after 1994 we made progress as a country. Let me use the example that he has given. Where the DA governs, there is higher access to basic services such as water and electricity, and actually in the City of Cape Town, there is the most generous package of free water and electricity.

Hon Kekana, the point is not that the ANC can do a small amount of something; the point is that the DA can do 10 times better than the ANC. [Applause.] The question posed by the ANC motion brought before the House today, is whether free higher education

for all is possible. Well, almost anything is possible. Some would even argue that a President, I wouldn‘t say which one, can get away with 783 charges of fraud, racketeering and corruption. I think you might know him.

We should rather decide as a society whether providing free higher education for all including the rich is in the interest of social justice. Given our highly unequal society, surely, funding the rich at the expense of increased support for the poor and missing middle can never be just. In fact, funding those that can afford would eliminate around R14 billion which would otherwise cross-subsidise poorer students.

Free higher education for all including the rich in highly unequal societies mainly benefit the already privileged, who have the significant social, cultural, and economic capital required to access, participate and succeed in education.

Inherent inequalities and inequities render the argument for a blanket free education for all is simply unfair and unjust. Free education for the poor with support for the missing middle on the other hand is critical to redress and creating a fair society. Just as important is ensuring that these students are

capacitated to succeed, and not set up to fail as is currently the case.

The DA believes in a fair society. When the DA becomes the government in 2019, we will ensure that there is free education for the poor with support for the missing middle. We will ensure that no student is left behind, and we will ensure that we champion an opportunity society that would take our country forward and create a prosperous society. This is possible if the priorities of government were adjusted. [Time expired.] [Applause.]

The MINISTER OF HIGHER EDUCATION AND TRAINING: Chairperson and

hon members, I participate in this important debate in memory of Comrade Fidel Castro Ruz ... [Interjections.] ... former President of Cuba and the first secretary of the Communist Party of Cuba and in solidarity with the Palestinian struggle. [Interjections.]

I would like to start by thanking the ANC for calling this debate. It is very appropriate. Hon members, I also wish to say that this government has prioritised access to affordable postschool education and training. To ensure the progressive realisation of the right to further education, as contained in

the Constitution, government has developed a roadmap – we have a roadmap – for the transformation of our universities and Technical and Vocational Education and Training, TVET, colleges.

Government has been addressing these challenges since 1994.

Ms M S KHAWULA: Sorry, Chair ...

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon Minister, will you just take a seat, please? Why are you rising, hon member?

Ms M S KHAWULA: Ungqongqoshe Wezokuthuthukiswa Komphakathi efika nje usukela u-Nazier, umkhombisa ukuthi uzomqhumbuza. [The Minister of Social Development has just come in but picks a fight with hon Nazier, by showing him that she will box him.]

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon members, let us continue with this debate, and let‘s leave all these unnecessary gestures and things out of the equation. Continue, hon Minister.

The MINISTER OF HIGHER EDUCATION AND TRAINING: Thank you very

much, Chair.

Kusukela ngo-1994 lo hulumeni wandise kakhulu amathuba okufunda kubantwana bakithi, ikakhulukazi abamnyama ezikhungweni zemfundo ephakeme. [Ihlombe.] *(Translation of isiZulu paragraph follows)*

[As from 1994, this government has increased study opportunities in institutions of higher learning for our children, particularly blacks. [Applause.]]

Section 29(1) of the Constitution is a reflection, in fact, of the content of the Freedom Charter which asserted that education

shall be free, compulsory, and universal for all children – that is basic education – and higher education and technical training

shall be opened to all by means of allowances and scholarships awarded on the basis of merit.

That is what the Freedom Charter says, and that is exactly what

we have done since 1994. Our Constitution guarantees access ―to

further education, which the state, through reasonable measures, must make progressively available and accessible‖.

The principled position adopted by the ANC in Polokwane in 2007, in line with the Freedom Charter and the Constitution, is expressed through various government policy documents. This was the basis for the establishment of the National Student

Financial Aid Scheme, NSFAS – to support financially needy and academically capable young people in universities and TVET colleges to pay their upfront fees and thus open access to higher education, especially those to whom it was denied before.

Let me reiterate that, without any shadow of doubt, the policy of this government has always been the progressive realisation

of access to higher education, particularly for the poor. That

is why NSFAS has funded, since 1994, more than 1,7 million students... [Applause.] ... and has spent just over R59 billion.

The scheme currently supports approximately 480 000 poor undergraduate students to access university and TVET colleges.

Kufanele sibalalele abafundi, sizwelane nezimfuno zabo kodwa

iqiniso weShandu, kade sayiqala le nto. Imfundo yamahhala emazingeni aphakeme ikhona kuleli zwe. Baningi abafundi abafunda

mahhala ... *(Translation of isiZulu paragraph follows.)*

[We need to listen to the students, and be sympathetic to their

demands but it is true, hon Shandu (clan name for the Mbathas), it is a long time since we have started with this issue. There is a free higher education in this country. There are many students who are studying free ...]

Mr Y CASSIM: On a point of order, Chair ...

The MINISTER OF HIGHER EDUCATION AND TRAINING: ... inselelo

ukuthi ayikafiki kubona bonke. [... the challenge is that it has not reached everybody.]

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon Minister, let me just take this point of order. Hon member, what is the point of order?

Mr Y CASSIM: Chairperson, I just want to check whether the hon Minister would be gracious enough to accept a question.

The HOUSE CHAIRPERSON (Mr C T Frolick): Would you want to take a question, hon Minister?

Mr M WATERS: Come on, Blade! Take the question!

The MINISTER OF HIGHER EDUCATION AND TRAINING: He has a lot of

time in the portfolio committee, so I am not going to take any question from him.

We have also asked the chairperson of NSFAS ...

Mr M WATERS: Tell us about Irene!

The MINISTER OF HIGHER EDUCATION AND TRAINING: ... to look into

a system now to support those students who do not quality for NSFAS.

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon Minister, will you just take your seat again? Why are you rising, hon member? In terms of which Rule are you rising?

Mr M A PLOUAMMA: Chair, I rise on Rule 92.

The HOUSE CHAIRPERSON (Mr C T Frolick): What is the point of order, hon member?

Mr M A PLOUAMMA: Can the hon Minister stop referring to Fidel Castro?

The HOUSE CHAIRPERSON (Mr C T Frolick): No, hon member, take your seat.

Mr M A PLOUAMMA: He is getting a salary. I see he is a communist. It must reflect in his salary.

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon member, take your seat! Hon member, please do not interrupt another speaker by raising a point of order that really is not a point of order. Continue, hon member.

The MINISTER OF HIGHER EDUCATION AND TRAINING: Agang should not

abuse the generosity of our democracy. Normally, in most democracies the world over, you don‘t get representation in Parliament if you have less than 5% of the vote.

An HON MEMBER: They don‘t even have 1%.

The MINISTER OF HIGHER EDUCATION AND TRAINING: They don‘t even

have 1%, for that matter. You are right! So, don‘t abuse that generosity.

Sikungenisile nje la ngopotsho. [Uhleko.] [We brought you in here through short cuts. [Applause.]]

Mr Nxasana has come up with proposals to actually assist those students ...

Ms H O HLOPHE: Chair, I rise on a point of order in terms of Rule 92: Is it parliamentary ...

... ukubiza iLungu lePhalamende ngokuthi lingene ngopotsho lapha

...? [... to say the Member of Parliament had entered here through short cuts ...?]

... whilst he was voted by the people of South Africa, hon Minister?

Chair, can you rule? Is it parliamentary to say that this member is there by upotsho [short cut]?

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon Minister, will you withdraw that remark, please?

The MINISTER OF HIGHER EDUCATION AND TRAINING: Ngiyaxolisa,

ngiyahoxisa, ngiyaxolisa. [Uhleko.] [I am sorry, I withdraw, I am sorry. [Laughter.]]

The CHIEF WHIP OF THE OPPOSITION: House Chairperson, the Minister made disparaging remarks about how many votes Agang received. Can he tell us how many the SACP received? [Laughter.]

The HOUSE CHAIRPERSON (Mr C T Frolick): No, hon member. That is not a point of order. That is a debate for another day.

The MINISTER OF HIGHER EDUCATION AND TRAINING: Yes, that is a

debate for another day. Those who are saying and arguing that government must find the funding to provide all students with free higher education are, in fact, arguing for further privileging the most privileged of all students. In fact, you are asking the poor to subsidise the rich.

Le nto izwakala sengathi ukhulumela wonke umuntu. Uma uthi asikhokhele izingane zabantu abadla izambane likapondo kufana nokuthi sithatha imali emindenini ehluphekayo bese siyoyifaka la iyiningi khona. KwaZulu-Natali siye sithi amalahle awangabuyiselwa e-Dundee. *(Translation of isiZulu paragraph follows.)*

[This sounds as if you are speaking on behalf of everybody. If you say we must pay for children of the rich people is like taking money from the poor families and take it to a place where there is plenty of it. In KwaZulu-Natal we usually say coal cannot be taken back to Dundee.]

Now, it is very important, and it is a pity that hon Shivambu

...

... akekho la ... [... is not here ...]

... because at least, much as he is in the EFF, he is the one who understands Marxism because we taught him. [Laughter.] If he had been here, I would be saying that the latest edition of the *African Communist* also reminds us of what Karl Marx said in 1871 about the same matter in his critique of a certain faction of German communists who were calling for free higher education for all, as they claimed it was happening in some of the states in the United States at the time.

Marx had said the following: If in some states of the United

States, higher education institutions are also ―free‖, that only means in fact defraying the cost of education of the upper

classes from the general tax receipts.

Usho njalo u-Marx ngo-1871. Umhlonishwa uMbatha, ungangibheki ngoba i-Marx wayifunda uhhafu. [Uhleko.] Kodwa u-Marx wayibona

kudala le nto ukuthi ... *(Translation of isiZulu paragraph*

*follows.)*

[Marx said so in 1871. Do not look at me, hon Mbatha because you learnt half of what Marxism is. [Laughter.] But Marx saw this issue a long time ago.]

... actually, this call for free higher education for all, especially in a country like ours, is a reactionary call – even if it may sound progressive. In Cuba, we must honour and remember Fidel for providing free higher education for all because Cuba is a socialist society. There is no private accumulation by certain sections of the population. [Applause.]

Almost, we must remember, and that is why I agree with the chairperson of the portfolio committee, Comrade Connie September, that we also need to look into ... looking into this, we must look at postschool education as a whole. For instance, out of every 100 children who started school in 2008, only

12 eventually entered university education. We also have to address the rest. That is the challenge and the task for this government. In other words, the challenge of university education will not be solved only by addressing university education but will be solved by addressing TVET colleges and community colleges. That is very important. So, higher education cannot be free for all South Africans. That is the way to actually answer this question. Perhaps in another context it will, but under the current conditions it actually cannot be.

Hon Bozzoli, I don‘t know when last you were at Wits University. I don‘t think you will even recognise Wits University today

because today the majority of the students at the university are black and female. This is a far cry from when you were there as a deputy vice chancellor. [Applause.] So, you cannot say, like hon Cassim ...

Prof B BOZZOLI: Chair, on a point of order ...

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon Minister, let me just take this point of order. Why are you rising, hon member?

Prof B BOZZOLI: Well, I am still at Wits University. I am an honorary professor there. I was there last week.

The HOUSE CHAIRPERSON (Mr C T Frolick): Thank you for the information. Continue, hon Minister. [Interjections.] Order, hon members! Order!

The MINISTER OF HIGHER EDUCATION AND TRAINING: The fact of the

matter is, as I am saying to you, hon Bozzoli, that the ANC-led government has transformed Wits and done 10 times better than you did when you were a deputy vice chancellor there. That is a fact. [Applause.] So, you must look at our record. You mustn‘t sound like a broken record.

I want to repeat this thing all the time. By the way, thank you very much. What Prof Bozzoli was articulating here as supposed DA policies and what the DA has done ... we have read the Nxasana report. That is what you are articulating here. We have read the Ramaphosa report that we did on how to fund higher education. All the things they say are DA policies are what we briefed them about in the portfolio committee. [Applause.] [Interjections.] Those are actually ANC policies. There is absolutely nothing new. If you are talking about a sliding scale, that is what we are looking at. A mix of loans and bursaries – since NSFAS was established, it has always been a mixture of a loan and a bursary. So, what you are saying is absolutely nothing new.

By the way, in 2009, about 9% of people older than 20 years of age had a tertiary qualification. By 2015, it stood at 14,5%. That is the ANC record, according to Statistics SA and the Statistician-General.

WeShandu ngane yakwethu, wena sasikuthuma uyohlala kumakhansela emanyuvesi. Namhlanje ukwazi nokukhuluma ngamanyuvesi nje ngoba wawuthunya yithina ukuthi uhambe uyohlala kula makhansela emanyuvesi. *(Translation of isiZulu paragraph follows.)*

[Hon Shandu (clan name for the Mbathas) my brother, remember that we used to send you to go and sit in the university council meetings. Today you are able to speak about universities because we used to send you to go to sit in these university council meetings.]

We need much more concrete ideas from you.

Hamba uyothsela laba bantu be-Student Command se-EFF ukuthi abayeke ukushisa amanyuvesi akithi uma ngabe beteleka. [Ihlombe.] [Go tell these people who belong to the EFF Student Command that they should desist from burning our universities when protesting.]

That is a real challenge.

Mr T RAWULA: On a point of order, Chair ...

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon Minister, take your seat. Why are you rising, hon Member?

Mr T RAWULA: Chair, I rise on Rule 92. The Minister should not mislead the nation by saying the EFF student command team is burning universities. He must not because he is lying.

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon member, that is not a point of order. Take your seat, please.

Mr T RAWULA: It is a point of order because he is casting aspersions ...

The HOUSE CHAIRPERSON (Mr C T Frolick): Take your seat.

Mr T RAWULA: ... the revolutionary cadres of the EFF.

The HOUSE CHAIRPERSON (Mr C T Frolick): Take your seat, hon member. Thank you. Continue, hon Minister.

The MINISTER OF HIGHER EDUCATION AND TRAINING: Hon Kekana was

right. It is very important when we debate this that members come with knowledge and facts. As he was saying, in Germany only tuition is free – nothing else. NSFAS pays for everything: tuition, accommodation, transport in some instances, food, and books. That is what it actually does. No other country does that, with the possible exception of Cuba. [Interjections.]

Hon Filtane, people‘s education for people‘s power – I am happy when you talk about that because what ...

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon Minister, take your seat. Why are you rising, hon member?

Mr T RAWULA: I rise again on Rule 92, Chairperson. The reality is that the Minister must qualify that NSFAS remains a loan. So, he must never ... no, it is wrong. [Interjections.]

The HOUSE CHAIRPERSON (Mr C T Frolick): That is not a point of order.

Mr T RAWULA: The NSFAS extends loans. It is not free education. What we are debating is a loan – NSFAS is a loan! It is not free education.

The HOUSE CHAIRPERSON (Mr C T Frolick): Take your seat! That is a point for debate. Really, it is not a point of order.

Continue, hon Minister.

The MINISTER OF HIGHER EDUCATION AND TRAINING: Chair, NSFAS

means you don‘t have to pay upfront until you finish your first qualification. In any case, if you have a university qualification, the likelihood is that you will get a good job. We are saying that in a poor and developing country, once you

start earning well, pay back so that those who come after you can also benefit from that. That is free. [Applause.]

Hon Filtane, we are now implementing some of the key demands of the National Education Co-ordinating Committee on people‘s education for people‘s power. Possibly the reason why you are asking where it is, is because you had left the organisation, if you were ever part of it. If you had not left it, you would know what we are implementing here is exactly people‘s education for people‘s power. Maybe it would do you good ...

... ukuthi ubuye emahlathini laphaya ku-UDM ubuyele ekhaya la wawukhona noma ngabe wawuvele ukhona. [... that you come back from the wilderness which is the UDM and come back home where you were or if you have ever been there.]

Mr M L W FILTANE: Chair, on a point order ...

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon Minister, take your seat. What Rule do you rise on, hon member?

Mr M L W FILTANE: Chair, I have never ever been a member of the ANC.

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon member, that is not a point of order.

Mr M L W FILTANE: That is a point of order. Never!

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon member, it is not a point of order. Continue, hon Minister.

The MINISTER OF HIGHER EDUCATION AND TRAINING: Chair, I am glad

that my comment then has actually told us about the fact that the hon member was never in the ANC.

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon Minister, just take your seat, please. Why are you rising, hon member?

Ms H O HLOPHE: Rule 92.

Ungqongqoshe uyathanda ... [The Minister likes ...]

... to claim. He started by claiming Comrade Floyd Shivambu who, in fact, taught you Marxism ...

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon member, that is not a point of order! Hon members, let‘s not abuse Rule 92 just to

say something and then sit down. Those are points for debate, hon members. Continue, hon Minister.

The MINISTER OF HIGHER EDUCATION AND TRAINING: Hon Dudley, thank

you for your comments. The many points you have raised are valid. Even if we may not agree on some, at least we are raising issues that are very important to debate and which are very concrete.

Okuyinto ebalulekile ukuthi siyenze ukuze sikwazi ukuya phambili, ungenzi njengale nsizwa eyilungu elihloniphekile yakwa-Cassim. Le nsizwa ihlala ithukuthele ngaso sonke

isikhathi. Angazi ukuthi ngayenzani, inele ingangibona nje kuthi sengathi ingangidla ingiqele. [Uhleko.] Inkinga yami yinye enginayo ngo-Cassim ukuthi ... *(Translation of isiZulu paragraph follows.)*

[Which is an important thing to do for us to move forward, and not to emulate this lad who is the hon member Cassim. This lad is always angry. I do not know what it is that I have done to him, when he sees me he just sees red. [Laughter.] I have only one problem with Cassim that ...]

Mr M S MBATHA: Chair, on a point of order ...

The MINISTER OF HIGHER EDUCATION AND TRAINING: Hhayi Shandu! [No

Shandu (clan name for the Mbathas.)!]

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon Minister! Why are you rising, hon member?

Mr M S MBATHA: I am rising on Rule 92. I have seen hon Cassim smiling. He is not often angry.

The HOUSE CHAIRPERSON (Mr C T Frolick): That is not a point of order, hon Mbatha.

Mr M S MBATHA: The hon Cassim is a nice man.

The HOUSE CHAIRPERSON (Mr C T Frolick): As a member of the Portfolio Committee on Higher Education and Training, you should know that is not a point of order.

Mr Y CASSIM: On a point of order, Chairperson: For the Minister to imply that I am somewhat of a murderer, that I feel like killing him – I think that is out of order, and I want you to rule on it, please. I don‘t think that is parliamentary.

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon Minister, did you refer to the hon Cassim in that way?

The MINISTER OF HIGHER EDUCATION AND TRAINING: No, not at all.

Ukuthi umuntu akangidle angidele ... [To say that someone is angry with me ...]

... does not mean ...

... ukuthi ngithi umuntu ungumbulali. [... that someone is a killer]

It is a Zulu saying that means a person is angry with me. I would maybe request, hon Chair, that you study the Hansard ...

The HOUSE CHAIRPERSON (Mr C T Frolick): I will check the Hansard, hon Minister.

The MINISTER OF HIGHER EDUCATION AND TRAINING: ... and also

consult so that you are able to come back on that. I think the translation is the issue.

Umhlonishwa u-Steenhuisen, uyazi ukuthi ngisho ukuthini uma ngisho njalo ngoba isiZulu usazi kancane. [Hon Steenhuisen knows what I mean by saying that for he knows a little bit of isiZulu.]

For hon Cassim to say there has been no progress since the ANC came to power is actually downright objectionable and is to look down on our people who have benefited enormously from the policies that the ANC has been pursuing since 1994.

I want to come back to this, as we remember Cmdt Fidel Castro. When are you sending poor students from the Western Cape to do medicine in Cuba? [Interjections.] Thank you very much. [Applause.]

Mrs C C SEPTEMBER: Thank you again, House Chair.

The HOUSE CHAIRPERSON (Mr C T Frolick): Order, hon members. Continue hon member.

Mrs C C SEPTEMBER: Well, indeed I think there is absolutely no argument in saying that we as the ANC government are not realising at least a progressive realisation in Higher

Education. It is clear for everyone to see in each and every one of the nine provinces.

However, I think it would be wrong to say that we should not give the commission a chance. Hon Bozzoli, we must give the commission a chance. They gave an interim report and we should allow them to bring a final report. From the word go the commission has been put down by yourselves and I think it can‘t be correct to say that the commission should not be given a chance.

Indeed, I think the Minister has answered that the majority of the things that hon Bozzoli has said are ANC things and we are happy that they are now coming by in following ANC policies. We are extremely excited that the ANC‘s influence is getting into the DA.

Hon Mbatha, indeed not. There is no hidden intention to this debate. Parliament is a place where we need to have discussions and debate. We don‘t have an intention to say what is going to happen and that we have a precursor for 2017.

However, I think all the countries that were mentioned here, from India to wherever and so on, free education ... If you even

go to the Nordic countries you will see that it is paid by virtue of the fact that everyone there earns a high and very good salary, and of course they pay taxes that are up to 50%. In South Africa the majority of people are poor and therefore it is a debate as to whether there is enough money for free education. Indeed, the commitment is there.

We can‘t ignore ... out of all the things that you have said and I thank you for your contribution ... but we can‘t ignore fixing undergraduates in university and indeed the college system that we have to put in place. Of course we should discuss the proposal that the ANC ... not the proposal but the decision that the ANC took at its own conference, on the modern graduation tax instead of wanting to talk about outdated loans and so on, and a rush to raid the Treasury all the time. South Africa desperately needs tertiary education and we must end the unequalness in our society.

Of course we agree with the NFP that we must end corruption. However, you can‘t budget for corruption and say every time that we must end corruption and that‘s where we should stay at.

I reiterate that a strong Higher Education needs a combination of a range of different things and one of it must be

affordability, and indeed we must have something for the poor. We have made steps to now even deal with the missing middle.

I think the FF Plus‘ point is taken and indeed we agree of course. Yes, in Cuba they spend 4,5% from a small and very stagnant economy. Very successful developmental states invest heavily in the fees that they charge and they invest very much in the financial aid schemes for the poor. I think that is a case which can be made as to whether South Africa is there.

I thought it was quite interesting when hon Bozzoli spoke, about the fact that they are now embracing social democracy. I think as the ANC we must say that the DA‘s conceptualisation of social democracy is very different ... [Inaudible.]

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon September? Hon September, I just ... Hon member, I just want to take this point of order. Will you take your seat please?

Mr T RAWULA: No, it‘s not a point of order.

The HOUSE CHAIRPERSON (Mr C T Frolick): Now why are you rising, hon member?

Mr T RAWULA: I want to ask whether madam September can take a question.

The HOUSE CHAIRPERSON (Mr C T Frolick): Are you prepared to take a question, hon member?

Mrs C C SEPTEMBER: No, hon Chair.

The HOUSE CHAIRPERSON (Mr C T Frolick): Unfortunately not, hon member. Continue, hon member.

Mrs C C SEPTEMBER: I want to say again that the DA‘s conceptualisation of social democracy is very different to the ANC‘s. South Africa‘s people have a constitutional democracy where we embrace multiparty ... The character of that is that we talk social democracy and sometimes ... and in most instances when we talk about social democracy we talk about inclusivity in our society. Yet, we can‘t believe when they say they are now social democrats when one of their own councillors said that the homeless, the mentally retarded or the social outcasts have to behave in a manner which is acceptable to the higher echelons, probably of the DA. How can we believe that they now embrace social democracy? I thank you. [Applause.]

# PASSING OF FIDEL CASTRO

(Member‘s Statement)

Mr B A RADEBE (ANC): Chairperson, it is with great sadness that we learn of the passing on of President Fidel Castro, a towering figure of the 20th century and the leader of the Cuban Revolution, at the age of 90. The ANC lowers its revolutionary banner in mourning this great giant and friend of the African people.

President Castro died on Friday 25 November after surviving

11 USA administrations and hundreds of assassination attempts during his term. He maintained the independence and sovereignty of Cuba in the face of the vicious imperialist-orchestrated campaign to destroy the impressive gains made in the Cuban Revolution. Under his leadership the living standards of the Cuban people were vastly improved and millions of young Cubans were educated and skilled.

Africa‘s independence struggles and now its development had always been close to the heart of President Castro. His love for this continent was selfless, boundless and humane-driven by a great feeling of love. At the apex of Cuba‘s contribution to

Africa was the backing of Angola‘s Movimento Popular de Libertação de Angola, MPLA, government in its war against the USA and apartheid South Africa-backed National Union for the Total Independence of Angola, Unita, rebels. Cuba‘s help culminated in the famous battle of Cuito Cuanavale, which indirectly led to the liberation of Namibia from South Africa and expedited the fall of apartheid.

As people of South Africa in particular, we will forever be indebted to the Cuban people. President Castro‘s death is a great loss to the people of Africa and the world. As the USA‘s President, Barrack Obama reacted, indeed ... [Time expired.]

# ANC INCAPABLE OF SELF-CORRECTION

(Member‘s Statement)

The CHIEF WHIP OF THE OPPOSITION (DA): Thank you, House Chair. The ANC has shown for all of South Africa to see that they are simply incapable of self-correction. Once again the ANC has placed Mr Zuma and his crony network before the people of South Africa, before the Constitution and before our economy. [Interjections.] The ANC has had two opportunities to do the right thing ...

The HOUSE CHAIRPERSON (Mr C T Frolick): Order, hon members.

The CHIEF WHIP OF THE OPPOSITION: ... yet you have bottled them on both occasions; firstly, in the House a fortnight ago and secondly, at your national executive committee, NEC. Your party has been captured by a vampire network that will suck the lifeblood out of your party while lulling you into a narcosis of so-called collective accountability. The ANC never misses an opportunity to miss an opportunity. You seem determined to hand the keys to the Union Buildings in 2019 to the DA. Thank you, we will take them.

South Africans need to know that if they want to rid South Africa of Mr Zuma then they will have to rid South Africa of his host, not the few good men and women who had the courage to stand up against the majority who defend President Zuma at all costs. If the people of South Africa want change that creates employment and that solves the problems of our time then they are going to have to vote the ANC out of office. [Applause.]

# PASSING OF FIDEL CASTRO

(Member‘s Statement)

Ms H O HLOPHE (EFF): The EFF mourns the passing of the leader of the Cuban Revolution, commandant Fidel Castro who passed away at the age of 90 on the 26th of this month. We send our revolutionary condolences to the family, close friends, as well as the people of Cuba as a whole. We know too well that commandant Fidel Castro‗s 90 years of existence touched the lives of many in the world, particularly socialist militants who are still fighting capitalism and imperialism. We pass revolutionary condolences to them as well, wishing revolutionary peace to their painful hearts.

The founding of the EFF is realised on the memory and history of the 26th of July Movement which laid the foundation and guaranteed victory for the Cuban Revolution in 1959. At the age of only 27, commander Castro led this movement from its first military activities in 1953 up to its revolutionary victory in 1959.

We draw inspiration that revolution and militant struggle often requires the youth at its forefront as it manifested in Cuba itself. We in South Africa know that our liberation from apartheid is unthinkable without the contribution of the Cuban people. Above all, it is the Cuban role in the Angolan Civil

War, in particular at the battle of Cuito Cuanavale, which humbled the arrogance of the apartheid armies.

We will forever be indebted to the Cubans and to commandant Fidel Castro. His passing, though it brings pain to our hearts, also brings hope in the fact that a life of revolutionary conviction and commitment to human freedom is possible. Amandla!

# WORLD OBSERVES INTERNATIONAL DAY OF SOLIDARITY WITH PALESTINIAN PEOPLE

(Member‘s Statement)

Mr M S A MASANGO (ANC): Chairperson, President Nelson Mandela once correctly noted that, we know too well that our freedom is incomplete without the freedom of the Palestinians.

As the world observes the International Day of Solidarity with the Palestinian People today, 29 November, the ANC wishes to reaffirm its unequivocal support for the Palestinian people in their struggle for self-determination. We are unapologetic in our view that the Palestinians are the victims and the oppressed in the conflict with Israel. This day, 29 November was declared

the International Day of Solidarity with the Palestinian People by the United Nations General Assembly in 1977.

This resolution encourages member states to continue to give the widest support and publicity to the observance of the Day of Solidarity. The International Day of Solidarity has traditionally provided an opportunity for the international community to focus its attention on the fact that the question of Palestine remained unresolved and that the Palestinian people are yet to attain their rights to self-determination without external interference; the right to national independence and sovereignty; and the right to return to their homes and property from which they had been displaced. The ANC remembers that in delivering ... [Time expired.] [Applause.]

# RHINO HOPE DIES FROM BACTERIAL INFECTION

(Member‘s Statement)

Mr J A ESTERHUIZEN (IFP): In April 2015, a rhino named Hope had her horn brutally hacked off by poachers in the Eastern Cape province and was left for dead. She survived but since had to endure 16 extremely painful reconstructive medical procedures to close the gaping hole that was left by her butchers. The

multiple treatment effected by conservation groups saving the survivors closed her open wounds by 60% over the period but sadly she passed away two weeks ago from reported bacterial infection.

Hope must be a stark reminder to us of the current plight of South African rhinos. They must receive maximum protection, not only in the wild life reserves and farms upon which they reside, but also in terms of antipoaching legislation and harsh criminal sentences handed down by courts on those found guilty of rhino poaching. In respect of a rhino that has been brutalised by poachers and is still alive, government must ensure that welfare remains a top priority and the need for assistance a priority.

This statement is a plea to the Ministers of Agriculture, Forestry and Fisheries and Environment to act, and to act swiftly for the sake of the few rhinos left in South Africa. Thank you.

# DRUG DEALERS TARGET HIGH SCHOOL PUPILS

(Member‘s Statement)

Ms C N MAJEKE (UDM): Hon Chair and hon members, drug dealers seem to have targeted high school pupils as their new market for selling ecstasy, cocaine and other dangerous drugs. We welcome and appreciate the swift move by the Hawks and other stake holders in arresting 12 suspected drug dealers in East London over the weekend, on 26 November 2016. We also welcome the whistle blowers who tipped the SA Narcotics Enforcement Bureau about this cruelty aimed at destroying the lives of our children and rob the country of future leaders.

These drug lords are now targeting school pupils in rural areas in the Eastern Cape. And by extension, elsewhere in the country in Wards 17 and 18 in the Mhlontlo Municipality, people are now even scared to talk against these dangerous elements in our society because they may be targeted for victimisation. Equally, communities, traditional leaders, political leaders, religious leaders and all members of the society must unite against this brutality meted against our children, and which destroys our future as a nation.

Finally, during the festive season, these activities will be on the increase and thus, it is important that families and the community in general are mobilised and assisted by swift actions from the law enforcement agencies. I thank you.

# PRESIDENT JACOB ZUMA PROCLAIMS QUEENSHIP OF MUDJADJI DYNASTY

(Member‘s Statement)

Dr M S MOTSHEKGA (ANC): House Chairperson, on 31 March 2016, the President of the Republic, Hon Jacob Zuma, issued the proclamation recognising the queenship of the Mudjadji Dynasty and in particular, the President recognised the 11-year-old Masalanavo, daughter of Queen Makobo Mudjadji VI as Queen Masalanavo Mudjadji VII. On 18 July 2016, the Minister for Co- operative Governance and Traditional Affairs visited the Mudjadji Great Place and informed the Royal Council and senior traditional leaders of the recognition of the Mudjadj Queenship and the queenship of the 11 year-old Masalanavo Mudjadji VII.

The government also recognised the Khilovedu, also called Khilozwi as the national language of Valovedu. The Bible Society of SA has agreed to take active steps to translate the Bible into Khilovedu. Chairperson, we therefore congratulate Valovedu of Mudjadji the Rain Queen on their achievement. Thank you. [Applause.]

# APC OPPOSED TO EXPLOITATION OF PRIVATE SECURITY COMPANIES’ EMPLOYEES

(Member‘s Statement)

MR N T GODI (APC): Chair, the APC as a socialist party will forever be opposed to the super exploitation of workers. All researches have shown that in the ranks of the poor are the majority of the employed proletariat. In this regard, we want to bring to the fore the plight of private security companies‘ employees. These brave men and women who secure our public and private places are just like the generality of the proletariat in South Africa paid starvation wages; work long hours; suffer unfair dismissals; unaccounted deductions; and deployment to places without toilets, water, shelter, etc.

Security guards deserve better. Security guards keep us safe. Security guards are suffering like most workers in South Africa. The APC is therefore making a call that, as the country considers issues of the minimum wage, one of the greatest challenges facing workers is starvation wages. I thank you.

# DA RACISM IN WESTERN CAPE EXPOSED ON SOCIAL MEDIA

(Member‘s Statement)

Ms H H MALGAS (ANC): Hon House Whip ... [Laughter.] ... sorry, House Chair, the latest statements made by Councillor Shayne Ramsay on a Facebook page on homeless people are indicative of the challenge of racism that we still face in our society.

Sadly, these statements are made by public representatives from one of the parties that are present in this august House, the DA, which is also the governing party in the Western Cape province.

While we applaud the swift action by the city, it places enormous responsibility on the DA as the party to join forces with those like us who are fighting for nonracial society in South Africa. It is important to remind Councillor Ramsey, the DA and those like her the preamble of our Constitution:

We, the people of South Africa, Recognise the injustices of our past;

Honour those who suffered for justice and freedom in our land; Respect those who have worked to build and develop our country; and

Believe that South Africa belongs to all who live in it, united in our diversity.

It is important to remind Councillor Shayne Ramsay, the DA and those like her that homeless people are not retarded vagrants and social outcasts but they are the product of injustices of our past and as such, ours is to improve the quality of their lives. Shame on you! [Time expired.]

# DA CONDEMNS ANC COUNCILLOR, JOEL MASILELA’S SEXUAL ASSAULT OF DA COUNCILLOR, JACQUI UYS

(Member‘s Statement)

Ms N I TARABELLA-MARCHESI (DA): Chair, the DA condemns in the strongest terms the actions of the ANC Councillor, Joel Masilela who sexually assaulted a pregnant DA Councillor, Jacqui Uys during a council sitting in Tshwane last week. This is not the first time Councillor Masilela has shown contempt for the rights of women. He has previously been accused of assaulting two female councillors and sexually assaulting another.

The four victims of his crimes now fear to attend council meetings. To add insult to injury, the latest incident happened just minutes before a debate on 16 Days of Activism on Violence against Women and Children. And what did the ANC do about this?

True to form, the ANC caucus went to great length to defend his action and prevent his removal from the Chamber.

The hypocrisy of the ANC is sickening and is clear for all to see. This defiance is reminiscent of the actions of former ANC Western Cape Chairperson, Marius Fransman, ANC Youth League leader, Patrick Wisane and many others within the ANC who show that they do not uphold the values of the Constitution and denigrate the human rights of women. How can the ANC talk about the rights of women and children but defend men who violate these very rights? Thank you, Chair. [Applause.]

# WORLD OBSERVES UN INTERNATIONAL DAY OF SOLIDARITY WITH PALESTINIAN PEOPLE

(Member‘s Statement)

Ms M V MENTE (EFF): Today, we recognise the UN International Day of Solidarity with the People of Palestine who have lived under the worst form of colonial occupation and apartheid forms of militarism. No other people since the dawn of democratic dispensation have faced so long an evil, condemned to a permanent regime of murder, human rights abuse and total disregard than the Palestinians.

The colonial expansion in the west bank has increased with a demolition of Palestinian homes that are subject to destruction on a daily basis. Gaza remains the world‘s worst populated area with Israel controlling its land, sea and air spaces.

Palestinian refugees are the worst in modern history. They have been displaced in millions since the 1940s and refused the right to return to their homes.

Israel with its racist murderous Zionist ideology has killed half the number of Palestinians since 1948 compared to all the Jews that were exterminated under the direct regime of Adolf Hitler. This number is increasing daily and to stop it, the Palestinians have not asked us for arms but for a human rights- driven international solidarity campaign based on boycotts, disinvestments and sanctions against the Zionist colonial and apartheid state of Israel.

We therefore call on our government and all governments of the world to join in the international isolation of Israel until Palestine is free, for our freedom is not complete until Palestine is free. Thank you.

# BEIJING AUTOMOBILE INTERNATIONAL CORPORATION INVESTS R11 BILLION IN NELSON MANDELA BAY METRO

(Member‘s Statement)

Ms P T MANTASHE (ANC): House Chair, the ANC congratulates the ANC-led government for the investment of R11 billion by the Beijing Automobile International Corporation, Baic, in Nelson Mandela Bay Metro. This comes as a result of the economic policy of the ANC as well as the visionary leadership that was evident in the development of Coega as an Industrial Development Zone, IDZ.

This initiative has brought a range of investment in the Nelson Mandela Bay Metro and the Eastern Cape province. We also wish to congratulate Coega Development Corporation on achieving the Top Performing Public Service Organisation Award. I thank you.

# FIFTEEN PERCENT OF GRANT BY NATIONAL GOVERNMENT TO MUNICIPALITIES FOR SPORTS FACILITIES MISAPPROPRIATED

(Member‘s Statement)

Mr L M NTSHAYISA (AIC): House Chair, out of the Municipal Infrastructure Grant, MIG that is given by national government to the municipalities 15% is supposed to be used for sports and recreation facilities. As we were conducting oversight as the

sports committee, it became clear that 15% of this MIG is misappropriated by many municipalities.

There are no sports entertainment facilities in many towns and townships. It is worse with the grassroots people in rural areas. This is one of the reasons why our youth easily become criminals because they have nothing to do most of the time. It is the idle hands that are made use of by the devil. It is high time now that we look thoroughly into the 15% of the MIG.

The communities should be made aware of these monies to which they are entitled. All the wrongdoers should be brought to book. Misappropriation of funds and irregular expenditure can no longer be tolerated. The government must act. Thank you very much, Chairperson.

Mr P J MNGUNI (ANC): House Chair, the ANC NEC met this past weekend and received reports in particular that of the meeting with the organisation‘s own veterans, and agreed on the unity of the organisation and how to build the movement, going forward.

The ANC has once again proven its resilience during this past weekend.

The experience of 104 years of its existence is an indication that its foundation and traditions will always remain its strength during the different epochs in history. It being the final NEC for the year, it went further to outline a programme including the 2017 centenary celebration of the birth of the giant Oliver Tambo, the organisation‘s longest serving president; the 105 years celebration of the movement to be held in Gauteng on 8 January next year; the policy conference and the 54th ANC National Conference.

The ANC continues to anchor its identity in correct political identity and ideology with emphasis on deepening the orientation through political education of its members. The continuing NDR has been affirmed. The ANC lives, the ANC leads. Thank you. [Applause.]

# PERFORMANCE OF THE DA IN THE WESTERN CAPE

(Member‘s Statement)

Mr S C MOTAU (DA): Hon Chair, The DA-governed Western Cape Province has outperformed all provinces and national departments and registered improvement over the past three years, 2013 to 2016, according to the latest results of the Department of

Planning, Monitoring and Evaluation‘s Management Performance Assessment Tool, MPAT 2015.

The DA-led Western Cape Departments of Transport and Health were also among the eight national and provincial departments identified as pockets of excellence by the government‘s assessment tool.

MPAT measures management performance on a scale of 0 to 4 in strategic management, governance and accountability, human resource management and financial management.

The DA-governed Western Cape was the best performer with scores of 3,2; 3,3 and 3,5 for 2013, 2014 and 2015. [Applause.] The second best province was the Free State with scores of 2,3; 2,7 and 3,1 respectively. The worst performer was the North West Province with scores of 2,1; 2,2 and 2,3 respectively. Clearly the DA-governed Western Cape is a star performer in strategic, human resource and financial management, and in governance and accountability. And that is not what the DA says but MPAT 2015. Thank you.

# CONGRATULATIONS TO THE EASTERN CAPE DEPARTMENT OF HEALTH ON A TRANSPLANT

(Member‘s Statement)

Ms M L DUNJWA (ANC): The ANC congratulates the Port Elizabeth Provincial Hospital for their brave and courageous decision of performing a Stemcell transplant to a 6 year-old girl Tashnay Memphies of Schauderville in PE who was diagnosed with leukaemia and not responding to chemotherapy.

These Doctors and their staff made the Department of Health in the Eastern Cape proud for their ground breaking performance, as that was the first time in the history of Paediatrics Oncology to perform a procedure which was always performed in Red Cross Children Hospital Cape Town Western Cape.

We also thank her brother on agreeing to be a donor when it was discovered that he is a perfect match. That was a brave decision he took to save his sister‘s life. A number of patients have waited for long time for admission in the Red Cross Hospital; others unfortunately could not make it in life.

The ANC is very proud of the leadership that has been displayed by these brave women under the leadership of Prof L Pepeta who is the Head of the Department of Paediatrics. This is one of the examples that public hospitals are not a place to die – as some

people have been saying - as a young girl was given a second chance to live a normal life by these dedicated health workers at all levels. Siyaqhuba. [Moving forward.]

# THE DEPARTMENT OF BASIC EDUCATION MAKING SCHOOLS SAFE AND CARING ENVORONMENTS

(Minister‘s Response)

The DEPUTY MINISTER OF BASIC EDUCATION: Hon Chairperson, indeed the Department of Basic Education is committed to creating schools as safe and caring environments for our children.

The problems with regard to drugs and alcohol abuse is something but we have to take it seriously as it is no longer a phenomenon in our metropolitan areas but is also creeping in our rural areas.

We have ensured that our schools are gun free or weapon free, alcohol free and drug free. The Department of Basic Education has prepared guides to assist parents as well as educators in managing drug abuse and alcohol abuse within schools. We have also suggested that all governing bodies create safety committees to assist learners.

The department has also entered into an agreement with the South African Police Service in terms whereof more than 15 500 schools have been adopted by the South African Police Service.

With regard to schools as a safety and caring environment we recognised the plight of the Palestinians as not very long ago in the conflict with Ramallah; over and over again schools were being bombed by the Israelis.

We have, as the South African government with our sister member states, taken a resolution in Incheon to ensure that our schools do not become the target of any conflict or war. This is our commitment as South Africans to the creation of caring and humane system in terms whereof our children who are vulnerable are protected, not only from drugs but also from any other form of abuse. I thank you, hon Chairperson.

# ABUSE ON WORKERS REGARDING THE NATIONAL MINIMUM WAGE

(Minister‘s Response)

The MINISTER OF LABOUR: House Chair, the statement that was raised by Comrade Godi of APC; is that firstly, I would like to say to the workers, they must give their mandate on the national

minimum wage to their representatives at National Economic Development and Labour Council, Nedlac, particularly organised labour and the community constituencies.

Secondly, at the present moment they are being catered for through the sectoral minimum wage and some of them have the bargaining council agreements because they are unionised.

But I also want encourage the workers to use the legislation, particularly the Basic Condition of Employment and employment Equity Act as their protective tool.

On the motion that was raised by the DA, particularly on the National Executive Council, NEC, I just want to tell them that the ANC has the constitution and the role of the ANC structures are outlined in the constitution. It‘s unfortunate that they don‘t understand the constitution of the ANC because they are not members of the ANC; and therefore they must allow the ANC to participate in its structures and they have to look at their own political party because as ANC members we are elected by the structures, we don‘t apply for any position to participate in. than k you very much Chair.

# ANC’s DEMOCRATIC PROCESSES

(Minister‘s Response)

The MINISTER OF RURAL DEVELOPMENT AND LAND REFORM: Hon Chair,

the ANC‘s internal democratic processes have always escaped the imagination of political parties that focus on a leader rather than a leadership and organisation.

What you see out there and think as revolts in the ANC is actually self-correction. What you see that‘s ... [Interjection.] ... exactly.

Hon Chair, the DA‘s hon members, I was watching them on the other side. They were visibly shaken by the statement made by the hon Mente from the EFF. But hon members could not react because they are nursing their opportunistic coalition with the EFF in Johannesburg, Tshwane and Nelson Mandela Bay Metros.

Clearly, the unholy coalition is quite strenuous, the question is ―Is it going to last?‖ I guess hon Chair, that‘s really worrying them, I was just watching their faces as the hon Mente was going on about Israel and all of that and they were looking at each other; they couldn‘t speak because they are worried, if they were to oppose here they will collapse the coalitions in the three metros, that‘s the problem. You are not going to last,

we will meet in the polls when you collapse your coalition we will beat you. Thank you very much.

# HOMELESS PEOPLE OF THE WESTERN CAPE

(Minister‘s Response)

The DEPUTY MINISTER OF HUMAN SETTLEMENTS: DA is praising itself of saying is a star performer. It reminds me of your very premier who said there are refugees in the Western Cape. So the council that says homeless people inside western ... [Interjection.] ... no, no, no, listen to the truth. Your good performance is only for Constantia, Rondebosch ... [Interjection.]

The HOUSE CHAIRPERSON (MR C T Frolick): Hon Deputy Minister, will you just hold?

Hon members, this is unacceptable, when you make a statement there‘s a ministerial response, how uncomfortable it may be there‘s a response.

Continue hon Deputy Minister.

The DEPUTY MINISTER OF HUMAN SETTLEMENTS: I just want to remind the DA that South Africa is a non-racial South Africa. It definitely has a room for everybody including refugees and homeless people.

Homeless people have blood, feelings and veins. They need a government that is caring; a government that will ensure that it gives them access to opportunities not vilify them. I thank you.

# PERFORMANCE OF A LIFE-SAVING PROCEDURE

(Minister‘s Response)

The DEPUTY MINISTER OF HEALTH: Let me thank hon Dunjwa for highlighting the performance of a very life-saving procedure at the Elizabeth Hospital in Port Elizabeth.

This, hon members, is again an indication that in our public health facilities they‘re very experienced and well-trained specialists who do a lot of good work, a lot of live a being saved but unfortunately because of the high demand for services and the pressure, what comes out in the media is often where there has been some failures of the system. But when you look deeper you‘ll find that in all our facilities all over the

country, it may be Red Cross Children‘s Hospital, Steve Biko Hospital, any other of our facilities there is a lot of good work happening and we want to congratulate the staff and the family and wish the young patient speedy recovery; and also the staff that they must keep up the good work that they‘re doing. Thank you.

# INTERNATIONAL DAY OF SOLIDARITY WITH PALESTINIANS

(Minister‘s Response)

The DEPUTY MINISTER OF INTERNATIONAL RELATIONS AND COOPERATION:

The International Day of Solidarity with Palestinian people should re-energise us to double our efforts towards attaining the independent and peaceful Palestine.

This day in 2016 comes at a time when the plight of our Palestinian brothers and sisters has been removed from the centre of mankind attention.

The setters of international agenda and narrative tell us that there are more pressing problems than the international community must attend to. Thus, indirectly saying that

Palestinian people must endure a little bit more suffering whilst the world attends to those pressing matters.

Those of us who have experienced the gruesome years of colonialism and apartheid oppression know that one day of oppression is intolerable.

To us, Palestinians to hold back a bit therefore, is a painful insult to their aspiration.

The South African government will always strive to keep the question of the Palestinian and the Middle-East peace process at the centre of the world‘s attention.

We steadfastly hold the everlasting peace in the Middle-East will only possible if it is preceded by the establishment of a Palestinian state within internationally recognised borders based on the June 1967 line with East Jerusalem as its capital. Such an independent state will live in peace side-by-side with the state of Israel.

We believe, Chairperson, there‘s enough international resolution and agreement on this issue [Time expired.]

# NOTICES OF MOTIONS

Mr B A RADEBE: Chairperson, I hereby give notice that on the next sitting day of the House I shall move on behalf of the ANC:

That the House debates the celebration of the Freedom Charter as the cornerstone of the Constitution of South Africa and the progressive policies of our new democratic dispensation including the National Development Plan, NDP.

Mr T J BRAUTESETH: Hon Chair, I hereby give notice that on the next sitting day of the House I shall move on behalf of the DA:

That the House debates ministerial compensation for victims of blue light brigade incidents on our roads. [Applause.]

Vho T MULAUDZI: Mudzulatshindulo, ndi khou ima ndo imela ḽihoro ḽa EFF. Ḽihoro ḽa u lwela mbofholowo ya ikonomi nga tshifhinga tsha zwino, ndi tshi dzinginya:

Uri Nnḓu heyi kha dzulo ḽi tevhelaho i ambe nga u shumisa dzisaini dza zwanḓa kha zwiimiswa zwoṱhe zwa lushaka; maungelo, Muhasho wa zwa Muno, Muhasho wa Vhuendi na kha mimasipala yashu, u itela uri vhathu vha re na vhuholefhali ha

u sa pfa na u amba vha kone u wana tshumelo u fana na nnyi na nnyi.

*(Translation of Tshivenḓa notice of motion follows.)*

[Mr T Mulaudzi: Chairperson, I move on behalf of the EFF, the party that is fighting for economic freedom at the moment, that on the next sitting day of the House:

That the House debates the use of sign language in all national institutions, health care centres, the Department of Home Affairs, the Department of Transport and in all our municipalities so that deaf and mute people can receive services like everyone else.]

Mr M S A MASANGO: House Chair, I hereby give notice that on the next sitting day of the House I shall move on behalf of the ANC:

That the House debates the current developments in Palestine. Ngiyathokoza. [Thank you.]

Mnu M HLENGWA: Sihlalo, ngiyokuphakamisa egameni le-IFP ekuhlaleni kweNdlu okulandelayo:

Ukuba iNdlu –

1. ibhale ukuthi –
	1. umonakalo owenzakalayo eNquthu naseMzinyathi soloko kusukela kukhetho umkhandlu ungagcotshwa,
	2. ukuba leNdlu ixoxe ngezindlela sokulungisa lesi simo kanye,
	3. nokuba uNgqongqoshe ophethe Kwezohulumeni Wokubambisana kanye Nezindaba Zezendabuko kusifundazwe naye alungiswe ngendlela aphatha ngayo, nokuthi
	4. kuqinisekiswe izingqalasizinda ziyashesha ukufikelela kwabantu ngenxa yesimo esiphuthumayo sokugqoza kwentuthuko kulowa mphakathi. Ngiyathokoza.

*(Translation of isiZulu notice of motion follows.)*

[Mr M HLENGWA: Chairperson, I hereby give notice that on the next sitting day of the House I shall move on behalf of the IFP:

That this House –

1. notes the damage that is happening at Nquthu and at uMzinyathi, in that the council has not been appointed since the elections;
2. debates models to remedy this situation;
3. further notes that the Minister of Co-operative Governance and Traditional Affairs of the province is to be corrected in regard to the way in which he is leading; and
4. ensures that there is speedy access to infrastructure by the people because of an emergency situation of no development in that community.

Thank you.]

Mr M S MABIKA: House Chairperson, I hereby give notice that on the next sitting day of the House I shall move on behalf of the NFP:

That the House deliberates on the recent downgrading of Eskom‘s long term corporate credit rating by Standard and Poor

and implications of the power utility‘s rising debt levels for its ability to meet the future energy needs of the country.

Ms L DUNJWA: House Chairperson, I hereby give notice that on the next sitting day of the House I shall move on behalf of the ANC:

That the House debates the realignment and the strengthening of the state-owned enterprises, SOEs, to optimal functions so as to support radical economic transformation.

Ms C N MAJEKE: House Chairperson, I hereby give notice that on the next sitting of the House I shall move on behalf of the UDM:

That the House discusses the external environmental issues that constrain qualitative teaching and learning at schools.

Ms T GQADA: Chairperson, I hereby give notice that on the next sitting day of the House I shall move on behalf of the DA:

That, in light of the City of Cape Town‘s Harmony Village project in Mitchells Plain being named the best institutional housing project in the country at the 2016 National Govan Mbeki awards ceremony, the House debates the political will by

the political government to deliver houses to its residents. [Applause.]

Mr T RAWULA: Chair, I hereby give notice that on the next sitting day of the House I shall move on behalf of the EFF:

That the House debates a need for a state-led tomato processing company that will make tomato sauce and other tomato products in Limpopo for the purposes of job creation and food security.

Ms H H MALGAS: Chairperson, I hereby give notice that on the next sitting day of the House I shall move on behalf of the ANC:

That the House debates the improvement of public and private sector capacity to combat private sector capacity to combat private sector corruption, collusion and profiteering.

Ms T MANTASHE: Chairperson, I hereby give notice that on the next sitting day of the House I shall move on behalf of the ANC:

That the House debates the strengthening of government, private sector, trade unions and civil society commitment to

stabilise the economy for inclusive growth and sustainable job creation. [Applause.]

Mr S M JAFTA: Chairperson, I hereby give notice that on the next sitting day of the House I shall move on behalf of the AIC:

That, despite the recent rains that have brought relief to many drought-stricken parts of the country, the House debates the concerns around the management of water infrastructure.

Nk R LESOMA: Mhlali ngaphambili, egameni likaKhongolose [ANC] ngiyophakamisa:

1. ibhale ukuthi –
	1. idingide izindlela namasu okunqanda nokwehlisa izinga lokungasebenzi ezweni lethu. Siyabonga.

(*Translation of isiZulu notice of motion follows.)*

[Ms R LESOMA: Chairperson, I hereby give notice that on the next sitting day of the House I shall move on behalf the ANC:

1. That the House –
	1. discusses plans and strategies to circumvent and reduce the unemployment rate in our country.

Thank you.]

Mnr H C C KRUGER: Voorsitter, hiermee gee ek namens die DA kennis dat die Huis in die volgende sitting, die muslukte strategie wat die regering volg om kleinsakeontwikkeling te bevorder, bespreek. *(Translation of Afrikaans notice of motion follows.)*

[Mr H C C KRUGER: Chairperson, I hereby give notice on behalf of the DA that the House, in its next sitting, discusses the failed government strategy for promoting small business development.]

Mr L K B MPUMLWANA: House Chairperson, I hereby give notice that on the next sitting day of the House I shall move on behalf of the ANC:

That the House debates the positive contribution that could be played by the parliamentary opposition in fostering social cohesion and nation-building and assisting in moving South Africa forward.

House adjourned at 19:51

# ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS

**FRIDAY, 25 NOVEMBER 2016**

**ANNOUNCEMENTS**

**National Assembly**

**The Speaker**

1. **Guidelines and determinations**
	1. The National Assembly Rules Committee, at its meeting of 16 November 2016 agreed, in terms of the Rules of the National Assembly (9th Edition) to the following guidelines and determinations:

# Chapter 3: Presiding Officers and Members

1. **Removal from office of Speaker or Deputy Speaker (Rule 28)**
	1. A notice of a motion to remove the Speaker or Deputy Speaker, as the case may be,

must be given in the House or in writing on any other parliamentary working day;

* 1. The notice of motion to remove the Speaker or Deputy Speaker must comply with the rules generally and those on notices of motion and may not contain statements, arguments or other matters not strictly necessary to make the proposed resolution intelligible;
	2. If the notice of motion relates to the removal of the Speaker or Deputy Speaker for alleged improper or unethical conduct, the motion must comply with Rule 85;
	3. A notice of motion given in the House to remove the Speaker or Deputy Speaker must be delivered during the time allocated to parties by the Programme Committee for members of political parties to give notices of motion;
	4. A member may propose an amendment to a motion to remove the Speaker or Deputy Speaker provided it complies with the rules for amendments to motions generally;
	5. The Speaker may not preside in the House when a motion to remove the Speaker is debated or voted on; and the Deputy Speaker may not preside when a motion to remove the Deputy Speaker is debated or voted on.

# Appointment and responsibilities of whips (Rule 33(3)(a))

1. A joint request to the Speaker by political parties which do not qualify for a whip to have one or more whips appointed to represent them or to alter a previous appointment in terms of Rule 33(3)(a) must –
	1. contain the name(s) of the member(s) nominated for appointment as a whip; and
	2. be endorsed / signed by the leaders or duly authorised persons of the relevant parties affected by such request / nomination.
2. In considering a request to appoint a whip or to alter an appointment previously made in terms of Rule 33(3)(a), the Speaker must ensure that –
	1. the member nominated for appointment as a whip is a member of one of the relevant parties affected by such nomination;
	2. the parties jointly are entitled to the number of whips nominated for appointment, in line with the formula agreed to by the Rules Committee in terms of Rule 33(1); and
	3. the request and nomination have been endorsed [signed] by the leaders or duly authorised persons of the parties affected by such request/nomination.
3. Once the Speaker is satisfied that the request and nomination complies with the rules and

guidelines of the House, the Speaker must appoint the whip(s) and thereafter publish the name(s) of the appointed whip(s) in the ATC in terms of Rule 33.

# (3) Rule 33(1): Determination of the number of whips to be allocated to parties represented in the House.

(1) The current formula of 1 whip to 6 members is retained. The NA Rules Committee will determine the formula for appointing whips for each Parliament.

# Chapter 6: Decision of Questions

**Rules 103 and 104 require predetermined procedures by the Speaker to be followed for electronic voting and manual voting respectively.**

1. **Electronic Voting**
	1. In terms of the Rules, every member present in the Chamber when the question is put with the doors barred must vote or record an abstention.
	2. The presiding officer will request members to be in their allocated seats before voting can commence.
	3. Once the electronic system has been activated, the Presiding officer will direct members to indicate whether they are „for‟, „against‟ or „abstain from‟ the question by pressing the relevant button on the electronic system.
	4. Members press the yes, no or abstain button on the electronic consoles at their seats when directed by the Presiding officer.
	5. The Presiding officer announces when the voting is closed. If a member has experienced problems with the recording of their vote, they must draw the attention of the Chair and may in person or through a whip of his or her party inform the Secretary at the table of his or her vote.

# Manual Voting Procedure (When electronic system is inoperable)

* 1. When a question is put to the House and a member calls for a Division, the presiding officer may determine that a manual vote will take place.
	2. The Presiding officer will announce that the bells will be rung for five minutes in order to alert members to a call for a division having being made.
	3. After the five minutes have elapsed, the doors of the Chamber will be barred / locked.
	4. The presiding officer will request members to be in their allocated seats before voting can commence.
	5. The presiding officer will request members in favour of the question to raise their hands.
	6. The presiding officer appoints party whips as tellers and directs them to count the number of members that are in favour of the question.
	7. Thereafter the same procedure is followed with members against the question and members abstaining, in that order.
	8. Whips are directed to submit the results of the manual vote to the Secretary at the Table.
	9. A member who wishes to vote against the party vote may inform the Table staff accordingly in person.
	10. The Minutes of Proceedings will only indicate how parties voted and members‟ names would not be reflected as is done when an electronic voting system is used.

# Chapter 10: Guidelines for Questions (Rule 134(4) and (6))

1. **Editing of Questions (Rule 134(6))**
	1. Whenever questions are edited this is done under the authority of the Speaker and in accordance with the guidelines as approved by the Rules Committee.
	2. When a question is edited in terms of rules and guidelines, the member who submitted the question, or the party to which the member belongs, must be consulted before the edited question is published.

# Object of Questions

1. The purpose of parliamentary questions is to:
	1. obtain information; and/or
	2. press for action on matters related to the official responsibility of Cabinet members.

# (3) General Form and Content of Questions

1. A question must:
	1. deal with only one substantive matter;
	2. comply with the Constitution, the law and the Rules;
2. be subject to the rule of anticipation; and
3. not contain unbecoming or offensive expressions.
4. A question is not permissible which –
	1. contains offensive expressions;
	2. casts a reflection on the conduct or character of persons whose conduct may only be challenged in a substantive motion;
	3. anticipates discussion of matters on the Order Paper or that is scheduled to be placed on the Order Paper within a reasonable time;
	4. request details or deal with the merits of any matter on which a judicial decision in a court of law is pending;
	5. repeats, in substance, questions already answered in that annual session, or that is awaiting an answer, or that the Minister has refused to answer or that is a class of question substantively the same as another. However, a similar question different in some respects may be asked and the same question may be put to different members of the Cabinet to the extent that they have a responsibility in terms of their portfolios;
	6. criticises decisions of either House of Parliament;
	7. publishes any name or statement not strictly necessary to make the question intelligible, unless the Cabinet member has used the name or statement or it has been cited in a charge before a court; and
	8. is of a statistical nature when put as a question for oral reply by asking for more

than two figures (dates are not regarded as statistical).

1. Questions may not –
	1. express an opinion or seek the expression of one;
	2. contain arguments, inferences or imputations;
	3. contain unnecessary descriptive words or phrases added to or substituted for a person‟s name (epithets);
	4. contain rhetorical, controversial, ironical or offensive expressions; and
	5. contain extracts from newspapers or books, or paraphrases or quotations from speeches. The facts on which a question is based may be set out briefly, but the questioner is responsible for ascertaining the accuracy of the facts.
2. In addition, Questions may not –
	1. only provide information;
	2. convey a particular point of view;
	3. constitute a speech, or be excessively long;
	4. refer to communications between an individual member (other than the questioner) and a Cabinet member;
	5. be based on a hypothetical proposition;
	6. seek an opinion on a question of law, such as an interpretation of a statute, an international document or a Cabinet member‟s own powers. However, it is in order to ask under what statutory authority a Cabinet member acted in a particular instance;
	7. seek a solution to a legal question;
	8. raise questions which would require an impractically extensive answer;
	9. seek information on matters of past history for the purposes of argument;
	10. be trivial, vague or meaningless; or

(l) be a repeat of other questions with some trivial variations.

1. While it is the basic tenet of all questions that a question should be related to a Cabinet member‟s official responsibility, the following criteria are applied:
	1. Requests for information are not usually accommodated in respect of matters falling under local or other statutory authorities;
	2. It is not in order to ask for information about matters that are the responsibility of bodies or persons not responsible to the Government, such as banks, the Stock Exchange, employers‟ organizations and trade unions;
	3. Questions relating to semi-state bodies are restricted to matters for which Cabinet members are responsible by statute or other legislation. However, questions on national statistics in relation to these bodies are in order;
	4. Questions may not refer to matters under consideration of a parliamentary committee or deal with matters within the jurisdiction of the chairperson of a parliamentary committee or a House of Parliament;
	5. Questions may not be asked about the action of a Cabinet member for which he or she is not responsible to Parliament;
	6. It is not in order to put a question to a Cabinet member for which another Cabinet member is more directly responsible, or to ask a Cabinet member to influence a colleague;
	7. Questions suggesting amendments to a Bill before the Assembly or in Committee are inadmissible unless such amendments may only be moved by a Cabinet member;
	8. It is inadmissible to ask a Cabinet member whether statements in the press or by private persons or unofficial bodies are accurate, or to call for comment on statements by persons in other countries (unless the statement is contained in a message from another government);
	9. Questions may not seek information about the internal affairs of other independent countries, unless such countries form part of a common organisation through which the information is obtainable;
	10. It is permissible to ask questions calling on Cabinet members to grant relief to South African citizens in foreign countries who are under arrest or to protect persons or companies from discrimination in foreign countries; but questions on the actions of foreign states in refusing entry to South African citizens have not been allowed;
	11. Questions that require information that is readily accessible are not allowed; and
	12. It is in order to ask for a Cabinet member‟s intentions with regard to matters for which that Cabinet member is officially responsible and to ask for administrative or legislative action in regard to such matters.
2. The form and content recorded herein may be further developed by Rulings of the Speaker with regard to any matter not recorded herein.

# (4) Form and Content of Questions to the President

1. While the above criteria on form and content apply to questions generally, some additional specific criteria have been established in respect of questions to the President.
2. The President represents the executive authority of the Republic, and while delegating these responsibilities to members of the Cabinet, he or she does not abdicate overall responsibility. The President performs the powers and functions and the executive authority within a unitary state.
3. Questions to the President may relate to –
	1. Matters in respect of the powers and functions of the President and the executive authority of the Republic that he represents;
	2. Matters for which the Government is responsible – this may include line function responsibilities of Ministers where they give rise to issues of national or international concern;
	3. Broad matters of national or international importance that are topical;
	4. Matters of provincial or local concern to the extent that such questions give effect to the unitary nature of the Constitution of the RSA, 1996, that provides for intervention in the affairs of provincial and local spheres of government;
	5. The granting of honours;
	6. The dissolution of Parliament;
	7. The definition of the responsibilities of Cabinet members;
	8. Statements made by Cabinet members (not Deputy Ministers, who are not members of the Cabinet) on public occasions and whether such statements represent the policy of the Government; and
	9. A speech made by the President on a public occasion outside Parliament and whether it represents Government policy.

# (5) Guidelines on Criteria for Questions to the Deputy President

(1) While the President is assisted by the Deputy President in the execution of the functions of government, the President allocates responsibilities to the Deputy President from time to time. Questions to the Deputy President must relate to these responsibilities, and a list of these responsibilities must be maintained for each Parliament, in accordance with information officially received from the Leader of Government Business in terms of the Rules.

# An Authorised Representative Rule 137(7)

* 1. The person designated by a party to deal with its questions is deemed to be the authorised representative;
	2. The party must advise the Speaker in writing of its authorised representative at the beginning of each Parliament;
	3. Such a person liaises with the Speaker with regard to all matters related to the questions of the members of its party; and
	4. The Speaker must also liaise with the relevant representative in the event that any matters arise with regard to the questions of the members of the relevant party.

# Party order for questions (Rule 134(4))

(1) The current practice is retained.

# (8) Ministerial clusters for questions (Rule 138 (1))

(1) The current practice remains unchanged until further notice.

# (9) System to monitor questions (Rule 136(1))

1. Rule 136 provides that the Speaker, in consultation with the Rules Committee, must establish a system to monitor and report regularly to the House on questions that have been endorsed as unanswered on the Question Paper in terms of Rules 143(2), 144(5) and 146(3).
2. The following system to monitor and report on questions that have been endorsed as unanswered is proposed:
	1. The Speaker submits a written report every quarter to the Rules Committee on questions endorsed on the Question Paper as “Unanswered” in terms of the Rules, the period of time over which they have appeared as endorsed, the responsible Ministers and any communication sent or received by the Speaker in that regard.
	2. The Rules Committee must set up a permanent subcommittee which must meet at least quarterly to receive and consider the Speaker's reports.
	3. The subcommittee would be composed of the number of members and party representation as determined by the Rules Committee.
	4. The subcommittee would be chaired by the Deputy Speaker or other designated presiding officer and also include, in its membership, the Leader of Government Business or a designated representative.
	5. The subcommittee would receive and engage with the Speaker's report and invite relevant Ministers to respond on why questions to them have been endorsed as “Unanswered”.
	6. The subcommittee would then report within a specified time to the Rules

Committee on its findings in each case and any recommendations to address identified challenges or concerns. The subcommittee's report should specifically include information on responses it has received from the executive.

* 1. The Rules Committee would then consider the subcommittee's report and it would, in accordance with Rule 136, report to the House on the outcome of the monitoring process, including any findings and recommendations with a view to strengthening effective executive accountability to the Assembly. Appropriate recommendations could be developed by the Rules Committee, responding to the circumstances in any particular case.

# Chapter 12: Committee System

(1) The guidelines required for committee programmes and meetings in terms of the Rules are deferred for purposes of further consultation and discussion.

# COMMITTEE REPORTS

**National Assembly**

Please see pages 11-38 of the ATCs.

# MONDAY, 28 NOVEMBER 2016

**ANNOUNCEMENTS**

**National Assembly and National Council of Provinces**

**The Speaker and the Chairperson**

1. **Draft Bills submitted in terms of Joint Rule 159**
	1. **Communal Property Associations Amendment Bill**, 2016, submitted by the Minister of Rural Development and Land Reform.

Referred to the **Portfolio Committee on Rural Development and Land Reform**

# and the Select Committee on Land and Mineral Resources.

**National Assembly**

**The Speaker**

1. **Referral to Committees of papers tabled**
	1. The following paper is referred to the **Portfolio Committee on Police** for consideration:
		1. Letter dated 10 November 2016 from the Minister of Police, requesting the Assembly to mandate the Portfolio Committee on Police to consider exercising its powers in terms of subsections 17DA(3) to 17DA(7) of the South African Police Services Act, 1995 (No 68 of 1995, as read into section 6(6) of the Independent Police Investigative Act, 2011 (No 1 of 2011) by the Constitutional Court in its order in *McBride v Minister of Police and Another [2016] ZACC 30.*

# TUESDAY, 29 NOVEMBER 2016

**COMMITTEE REPORTS**

**National Assembly**

Please see pages 3-25 of the ATCs.