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**PROCEEDINGS OF THE NATIONAL ASSEMBLY**

The House met at 10:00.

House Chairperson Ms M G Boroto took the Chair and requested members to observe a moment of silence for prayer or meditation.

# NEW MEMBERS

(Announcement)

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon members, I wish to announce that the vacancy which occurred in the National Assembly owing to the resignation of Ms V Ketabahle has been filled by the nomination of Ms Y N Yako with effect from

3 September 2018. [Applause.] You are welcome, hon Yako.

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The vacancy which occurred in the National Assembly owing to the resignation of Mr I M Ollis has been filled by the nomination of Mr M S Shackleton with effect from

1 September 2018. [Applause.] Is Mr Shackleton there?

Mr M WATERS: He’s arriving now!

The HOUSE CHAIRPERSON (Ms M G Boroto): Where? [Interjections.] [Applause.] That is not a nice thing for the first day. Mr Shackleton, you are welcome.

Dr M Q NDLOZI: Chair, Mr Shackleton must be referred to the Ethics Committee. [Laughter.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Lastly, hon members, the vacancy which occurred in the National Assembly due to the passing away of Ms Z Jongbloed has been filled by the nomination of Mr J J Londt with effect from 7 September 2018. [Applause.] You are also welcome. I really welcome all of you, hon members, to the National Assembly and Parliament.

# SUSPENSION OF RULE 130(7)

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(Draft Resolution)

The CHIEF WHIP OF THE MAJORITY PARTY: House Chairperson, I move the Draft Resolution printed in my name on the Order Paper, as follows:

That the House suspends Rule 130(7), which provides, inter alia, that there may only be one discussion in terms of this Rule on a sitting day, for the purposes of allowing the following debates on 12 September 2018:

1. Debate in terms of Rule 130: Ideas for economic revival following recession – the Leader of the Opposition; and
2. Debate in terms of Rule 130: Escalating fuel prices – Mr M Hlengwa.

Motion agreed to.

# ESTABLISHMENT OF AD HOC COMMITTEE FOR FILLING OF VACANCIES IN COMMISSION FOR GENDER EQUALITY

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(Draft Resolution)

The CHIEF WHIP OF THE MAJORITY PARTY: House Chairperson, I move the Draft Resolution printed in my name on the Order Paper, as follows:

That the House That the House –

1. notes the letter by the President of the Republic of South Africa, tabled on 10 May 2018, regarding the filling of vacancies in the Commission for Gender Equality; and
2. establishes an ad hoc committee to identify suitable candidates for the filling of vacancies in the commission in terms of the revised Commission for Gender Equality Act, which came into effect on

26 November 2013, the committee to –

* 1. consist of 11 members, as follows: ANC 6, DA 2, EFF 1 and other parties 2;

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* 1. exercise those powers in Rule 167 that may assist it in carrying out its task;
	2. recommend, where necessary, which commissioners should be appointed as full-time commissioners and which should be appointed as part-time commissioners; and
	3. report to the Assembly by no later than

16 November 2018.

Motion agreed to.

# THE PLIGHT OF #FEESMUSTFALL ACTIVISTS

(Matter of Public Importance)

Dr M Q NDLOZI: Chairperson, since the founding days of industrial colonial capitalism, this country has always hated, despised and neglected the black youth.

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Already in the 1940s, the colonial regime had painted the black youth as delinquent, idle and dangerous. The section of the black population that apartheid hated the most was the black youth, in particular black youth activists. This image of the black youth as dangerous found renewed emphasis in the early 1990s following the return of the liberation movement. In those days, the black youth was called the lost generation, even by many in the liberation movement.

Ask yourself why the ANC’s first statement on the 1976 Soweto uprising was to condemn the students and call on all of them to go back to school. Why would the ANC’s first reaction to the youth uprising be to condemn it in 1976? Essentially, it is because the 1976 youth was, above everything else, an abandoned generation, abandoned by its elders and parents.

More than 30 years later, the ANC has sustained this very attitude towards the black youth, in particular the activists of the #FeesMustFall movement. Through its Ministers, the ANC sent police to campuses, condemned students by painting them as being used by the Central Intelligence Agency, and called for their arrest. To this day, the ANC-led government

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continues to hold many of them in prisons, three years after the #FeesMustFall movement in 2015.

So, we have to just ask a simple question. In fact, even after society accepted the moral power of the #FeesMustFall demands, the security and disciplinary apparatus of the ANC-led government still takes pleasure in arresting, persecuting and expelling student activists from the universities. We know of Amos Amla Monageng, a second-year informatics student at the University of Pretoria arrested in 2016, who is at home, serving a two-year house arrest sentence. Khaya Cekeshe, Yolanda Dyantyi, Surprise Silowe, Wandile Masango, Thulani Masilela, and Mangaliso Sambo are all expelled, in prison or facing trial – sent there by the ANC-led government.

Many hypocrites will take the platform and tell us about the destruction of property, disruption of exams, infringement of individual conveniences – calling them individual rights – and the rule of law. They will speak of these ideals as fundamentals of our Constitution, but they deliberately ignore the hard truth that all these rights were brought about by the destruction of property, infringements of individual

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conveniences called rights – like the rights of white people to move freely in towns at night under apartheid without black people – and breaking the law. Even the democracies of established world democracies like America and France – in fact, worse for them – were not brought about by protest or civil rights movements but by war, men and women carrying guns, sworn into killing people.

Before you stand here today to tell us about the rule of law, think. Think very hard and very properly about this Constitution that you are going to defend here. It is the Constitution fundamentally brought about by people who had gone to war, who had sworn they would come into the country and liberate all of us by breaking apartheid laws. [Interjections.]

Had you focused on your responsibility to secure a future for the black youth, there would not have been a #FeesMustFall movement. Instead, you came here to sleep, filling your bellies with resources you looted from the state coffers.

Bloody sleepists! [Interjections.] Had you come here to work, the #FeesMustFall movement would not have happened. Had you

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come here to become the parents whose role and responsibility are at all times to secure a future for the young, you would have known that you have to prepare universities so that they are accessible, particular for the talented black youth.

Instead, you came here to sleep. [Interjections.]

We are therefore calling for all charges and sentences against #FeesMustFall activists to be dropped with immediate effect, particularly by the universities that have expelled all these activists. Let all those expulsions fall! Allow the children to go back and focus on their studies in the pursuit of the attainment of education. The same way you freed Nelson Mandela who was arrested for possession of explosives and guns, who had sworn as an uMkhonto weSizwe commander to kill people, the same you were willing to release him from prison, calling him a freedom fighter, you must free all #FeesMustFall activists from prison unconditionally. They never killed anybody. They never tried to kill anybody. They were fighting for access to education. Stop criminalising them. Let them go back to school and attain an education.

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These are not criminals like Duduzane Zuma, Mduduzi Manana or Andile Lungisa or potential criminals like some Ministers here who are serving in the Cabinet of Thuma Mina. They are freedom fighters who were simply seeking the attainment of economic freedom in their lifetime. That is why the EFF is the only organisation that has assisted them to fight all the difficult battles they face. Thank you. [Applause.]

*IsiXhosa:*

Mnu L K B MPUMLWANA: Sihlalo weNdlu ohloniphekileyo, amalungu ale Ndlu ahloniphekileyo, iindwendwe zethu ezixabisekileyo nesizwe ngokubanzi esindilisekileyo, bhotani. Lo mba singawo namhlanje unzulu kwaye umbaxa. Phambi kokuba ndinabe mawethu, ndivumeleni ndiqale ndicacise le nyewe. Naku ukwenzeka...

*English:*

Mr T RAWULA: Hon House Chair, on a point of order: Can we be taken seriously please? We have just given you a doctor with a high note. Can we get a doctor here?

The HOUSE CHAIRPERSON (Ms M G Boroto): That is not a point of order. Please, let us not waste time.

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Mr L K B MPUMLWANA: ...universities and colleges, mainly those that were previously meant for whites only, increased their fees exorbitantly. Thus poor students, mainly Africans, were indirectly excluded from education because of their poverty.

This is contrary to the ANC policies which promote free education for all citizens. This is evidenced by the provisions of the Clause 8 of the Freedom Charter, which was inserted by the ANC into the Section 29, (1) (a) and (b) of the Constitution as well as various conference resolutions of the ANC.

Students then tried to bring their problems to the attention of the government by marching from various campuses.

Unfortunately, during these marches, properties were burnt and or destroyed. According to the Minister of Higher Education and Training the damaged caused is about R880 million which is almost a billion. This of course is a setback.

However, the ANC has noted diverted from its noble cause. The ANC-led government has begun implementing free education. Free higher education is provided to students from poor and working class background. Thus, students whose joint annual family

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income is below R351 000 per year, would receive a bursary grant from government which includes tuition, accommodation, transport, books and food allowance. The policy will target the first year students in 2018 and reach all levels in five years. Thus, this year 240 000 will benefit.

The government has also made R2,4 billion available for infrastructure at universities, prioritising accommodation and teaching facilities. We are here dealing with future leaders of societies. There must a culture of respect, patriotism and appreciation of what the country is doing for them, irrespective of the pressure they are in. We cannot allow students to burn libraries and buildings or assault, rather murder people, just because they do not have money to pay for school fees.

The ANC is a parent of all South Africans. It has always been and will continue to provide society with all its needs. It is irresponsible...[Interjections.]

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

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Mr L K B MPUMLWANA: It is irresponsible for political parties to use the plight of the students to score political points. We are here building a nation and the young people should participate in that. They should preserve and not destroy the nation.

*IsiXhosa:*

Kunyanzelekile ukuba sibonise umkhomba-ndlela. [Kwaqhwatywa.] Kunyanzelekile ...

*English:*

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon members, I think we listened to Dr Ndlozi’s speech. Let us please give him a chance. [Interjections.]

Mr L K B MPUMLWANA: You cannot call a precedent and tell the nation that one can do anything because he is young. There are people who are not student who commit crimes. What must we do? Forgive them because they are students but not forgive others because they are not students. [Interjections.]

*IsiXhosa:*

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Ngokuqinisekileyo, kunyanzelekile ukuba sibe nomkhamba-ndlela.

*English:*

The ANC is a leader of the government and a leader of the nation. It has brought us here for so long. We were involved in the liberation to bring this country to where it is. We will continue to lead the people in the correct direction.

Crime is crime irrespective of who does it. [Applause.]

Secondly, we cannot create a precedent of intervention. How can the government come and tell the prosecuting authorities not to prosecute somebody? How can the government interfere and say do not take this one and please forgive that one? Why?

*IsiXhosa:*

Khaniyeke bantakwethu sinixabisile, zikhona izinto ezibalulekileyo eninokuzilwela kodwa lena anikwazi ukuba ningayisebenzisela ukugaya inkxaso yokhetho.

*English:*

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It is irresponsible of you. You cannot tell students that they can go and burn libraries because they will be forgiven. Each time...

*IsiXhosa:*

... bengenamali yokuya esikolweni kufuneka batshise.

*English:*

How do you burn a library and you expect to go and study next year? Go back to school. How do you do that?

*IsiXhosa:*

Ngxe, ngxe, asisakhi isizwe ngolo hlobo bantakwethu. Ndiyanicenga. Ndiyabulela.

Prof B BOZZOLI: What are the duties of the citizen in a democratic order? Once we have a democratic state which may have been brought about through violence is made up of institutions which allow citizens, rather than dictators, to govern; but which disallows them from imposing their views upon each other through violence. That is the whole point of having fought for a democracy.

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The rule of law, much as you might despise, Dr Ndlozi, protects us from our own and others worst instincts, while providing a series of procedures, created by the representatives of the people through legitimate means, which govern our behaviour.

Thus the law is fundamental to democracy. Without the rule of law, we are simply a mass of individuals who, when we disagree with one another, may fight to the death to impose our will.

You see this in failed states, where people are effectively governed by warlords.

Many hundreds of violent students, including Fees Must Fall activists, have undoubtedly broken the law. Over the past three years violent and destructive student protests have cost the fiscus at least R800 million.

Many of them have had legitimate grievances. Universities have been underfunded; National Student Financial Aid Scheme, NSFAS, has been inadequate and incompetent; accommodation is often appalling; and many others.

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We in the DA have fought hard for improvements in all these areas. But the violence has been an illegitimate and minority response. Here are some examples: The Cape Peninsula University of Technology has lost R45 million, security control office and sports hall set alight, auditorium damaged, financial aid office gutted and staff cars stoned. The Central University of Technology has lost R54 million, damage to substation, property and vehicles.

The Nelson Mandela University has lost R20 million. One building burnt down. Another damaged by fire. One petrol bombed, windows smashed and walls damaged.

The North West University has lost R49 million. Mafikeng campus set alight.

The Stellenbosch University has lost R21 million. Administration block, Chamber of Mines building, Community Services and residences vandalised.

The Tshwane University of Technology has lost R47 million. Dining hall set alight; building burnt down; windows smashed,

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fire extinguishers discharged, concrete and steel fencing damaged; residences doors and windows smashed.

The University of Cape Town has lost R2,5 million. Unique artworks, a vehicle and the Vice-Chancellor's office set alight. The University of Fort Hare has lost R8,2 million. Staff centre burnt down, buildings vandalised and looted, and students centre vandalised.

The University of Johannesburg has lost R144 million. Lift, guardhouse, students bus, main auditorium, small auditorium, classrooms, storeroom, restrooms, set alight and vandalised. Residences vandalised, fire extinguishing equipments stolen or damaged.

The University of KwaZulu-Natal has lost R103 million. Buildings set alight and vandalised, including the administration building, residences and the law library which was fully destroyed with all its precious contents.

The University of Limpopo has lost R7 million, damaged to lecture halls and administration buildings.

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The University of South Africa has lost R7,2 million. Chemistry Laboratory burnt, buildings vandalised and cars damaged. Dispatch department looted

The University of Free State has lost R8 million, building torched. The University of Western Cape has lost R63 million, multiple buildings burnt. The University of Zululand has lost R49,5 million. Library, bookshop, residences, water pipes were vandalised; police vehicle and staff vehicles were set alight.

The Vaal University of Technology has lost R24 million. CCTV cameras and gates broken, buildings burnt and vandalised, residences burnt; mattresses burnt and cafeteria burnt.

The University of the Witwatersrand has lost R29 million. Buildings and residences were vandalised and damaged.

This litany of destructiveness, violence and mob action is a national scandal.

Precious places have been destroyed against the interests of the very students themselves, including libraries, bookshops and the places where students live.

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Precious, unique works of art have been burnt, and our heritage compromised, with our most eminent photographer, the late David Goldblatt, sending his collection out of the country because he was no longer able to trust that it would be protected at our leading university.

The logical thing to do in such a situation is to arrest and charge those who have done these things. But somehow this rarely, seems to happen. Why?

Some students have become racketeers. The protection racket is this: Stake a claim say for exams to be postponed or something. If the claim is refused, engage in violence. Bring classes to a halt. Paralyse the institution. Break the institution's rules and perhaps the law. Get arrested or disciplined by the institution. Carry on being violent. Then say you will stop the violence if your demands are met and the students being charged are released and those being disciplined are not subjected to discipline. Martyrs are created and sympathy for them is engendered.

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At this point the initial demands are met, the students are not charged or disciplined and the situation calms down — at least until the next demand is made.

However, Vice-Chancellors and the broader society are increasingly refusing to engage in this Mafia-like racket. On occasion, we find that charges are being laid and not dropped; disciplinary cases are going ahead; demands are not being met in the face of blackmail. For the first time in many years students engaging in illegal acts may actually be jailed.

So, the racket is now playing itself out on a national stage. We now see the Minister of Justice being drawn into unseemly bargaining with students charged with serious crimes. We see a political party, itself a sort of glorified student movement, trying to turn these students into martyrs and bringing their situation to Parliament. It may well be that the ritualised pattern of violence ... [Interjections.]

Dr M Q NDLOZI: You are a glorified nationalist party, nati party in fact. [Interjections.]

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Mr J H STEENHUISEN: Point of order!

The HOUSE CHAIRPESRON (Ms M G Boroto): Hon Ndlozi? [Interjections.]

Dr M Q NDLOZI: Natists glorified natism party.

The HOUSE CHAIRPESRON (Ms M G Boroto): Hon Prof Bozzoli, please take your seat. Hon Ndlozi, you know very well that what you are doing is not allowed. You don’t just stand up and take the mic and speak. Okay, don’t do that again.

Prof B BOZZOLI: It may well be that the ritualised pattern of violence blackmail and concession will itself play out on a national stage — we don't know what students are threatening to do if they are not excused. But whatever it is, it is part of an ugly, undemocratic game which we should have no part of.

As a result of these poisonous games, intangible as well as material damage has been done. Universities have become unpleasant places. The job of Vice-Chancellor has become deeply unattractive. Academic staffs are demoralised. The

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profession is emotionally taxing. Prof Bongani Mayosi might be the most prominent victim of these Red Army tactics, but there are many others left traumatised by their experiences in universities.

The hundreds of thousands of students today and tomorrow, who want no part of the violence, and whose futures depend on their studies, are the ultimate losers. Campuses are closed for weeks at a time. Universities claim to have caught up the time but this is implausible in most situations. University education is in decline.

Education itself and not only the buildings in which it takes place, has been damaged.

It is these present and future students we ought to be thinking and caring about — the vast majority. We cannot allow the rule of law to decay, or our society and education to disintegrate, however much the EFF might want it. [Applause.]

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This Parliament may be able to say it must be able set a future generations that we protected them and that we did not allow their futures to be destroyed.

It is for their sakes that violence and mob rule must be brought to an end and legitimate grievances handled in a peaceful, democratic manner. Thank you. [Applause.]

Mr M HLENGWA: Hon House Chairperson, the rule of law, by its very definition, clearly states that all persons, institutions and entities are accountable to laws that are publicly promulgated and equally enforced. While the actions and convictions of the student activists are, in fact, the reason the government eventually announced free higher education for poor and working-class students – and no doubt many are grateful for it – we simply cannot ignore the millions of rand in damages to state-owned property. Those actions were against the law and are therefore punishable offences.

The simple law of physics is that for every action, there is a reaction. They took action and now they have to face the reaction. It’s as simple as that.

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Rights come with responsibilities, and the right to protest is not a free licence to destroy. Libraries were burnt, buildings were destroyed, and cars were vandalised. So, before we engage on the calls for amnesty, we must, first and foremost, engage the debate of accountability.

The calls for amnesty are justified, but they do not exist in a vacuum. It must be put into its proper context. We must separate the issues of protest from the issues of criminality. The two should not be conflated. From this very podium, the IFP warned, during the time of the #FeesMustFall campaign, that we must not allow violence to be the hallmark of a legitimate student protest for a legitimate cause, because violence is regressive.

Having said that, and speaking about accountability, it would be remiss of us not to mention that the fundamental reality facing students now is rightly justified to be raised, because accountability in South Africa is selective. Whether we look at Marikana, or Life Esidimeni, or Nkandla, we are now seeing a situation where the state pulls out a hammer to hit a fly when it was unable to do so to the bigwigs.

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Therefore, students may be aggrieved, rightly so, in feeling that they are the soft target of a state pretending to be macho and pretending to be doing something about accountability, whereas the trend has been contrary to that reality. [Interjections.] So, the macho stance, at this point in time, is a farce.

Let us therefore let the due processes of the law to run their course without interference and allow the law to arrive at a logical and legal conclusion, so that we do not set into motion precedents which are not substantiated in law.

IsiZulu:

Akukhona ehlathini la, umthetho wumthetho.

English:

Let us allow the law to run its course. I thank you. [Interjections.]

Mr N L S KWANKWA: House Chair, Frantz Fanon once said that every generation must, out of relative obscurity, discover its mission, and once that is done, do one of two things: fulfil

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it or betray it. These #FeesMustFall activists did exactly that. They discovered that their mission was to ensure fee- free higher education during their lifetime and, to a large extent, they have managed to achieve that.

I hear people talk about violence. I agree. We cannot condone violence. I mean, that is a no-brainer. However, we also need to consider the context within which those acts of violence occurred. One cannot deny that the government, at the time and during those protests, had taken leave of its sense of decency in how it dealt with the students.

As we speak, even some of the students consider the value of education firstly, at an individual level, and secondly, at a macro-societal level, saying we did not help them at that point in time to consider, indeed, or rather to say the people of South Africa should unite in support for the plea for amnesty for the #FeesMustFall activists who found themselves on the wrong side of the law and thus, are currently facing charges in various courts in the land.

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It is important, and the UDM wants to underscore the fact that we are not in favour of the blanket approach. It should be done on a case-by-case approach because there were instances

... there were criminal elements that took advantage of the #FeesMustFall activists. In addition, some of those people who were students were not interested in the cause of fighting for a better education system and trying to improve access to higher education for the black child. Rather, they had their own agendas.

It must be a matter of deep humiliation and shame for us that some of the people who made this fee-free higher education that the ANC is beating itself on the chest about are still languishing in jail. Others have been expelled from university and cannot finish their degrees. Those who have finished their degrees have criminal records and therefore are unable to participate in the labour market.

It’s not the ANC that made fee-free higher education possible. It’s the #FeesMustFall activists.

IsiXhosa:

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Masinixelele inyaniso, ukuba aniyithandi niye kuzixhoma.

English:

It’s as simple as that. [Interjections.]

It would not be fair to speak about this fee-free higher education without considering the benefits of higher education for all of us. In fact, let me put it this way. It’s like those people who celebrate having sunshine, who bask in the sunshine, who make merry in the sunlight, and who try to claim credit for the sunshine and in the sunlight that they didn’t bring. That is exactly what the ANC is doing.

IsiXhosa:

UMongameli uZuma wawuxhwila lo mba kula nkomfa yenu kuba wayefuma ukuzenza ngcono elungiselela uNDZ. Niyenzile, ngoku nishiya abafundi ngaphandle niqhubeka nodwa, la masela.

English:

Mr W W WESSELS: Hon Chairperson, the plight of the students because of financial exclusion is a legitimate plight.

However, we can never condone violence and lawlessness.

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[Interjections.] If you break the law, you should bear the consequences, no matter how noble the cause.

The HOUSE CHAIRPERSON (Ms M G Boroto): Order, hon members! I can’t hear the member at the podium. [Interjections.] Continue, hon Wessels.

Mr W W WESSELS: Chairperson, it is unacceptable that irreplaceable books, paintings, buildings, and so forth, were destroyed during these protests. This did not serve the goal of obtaining free higher education. It was detrimental to that goal.

Hon Ndlozi, R800 million could have funded 8 000 students to obtain a degree – 8 000 students! [Interjections.] However, that was destroyed by lawlessness, but the EFF doesn’t understand that because they are still in a revolution. You missed that party: the revolution is over!

We need restoration, not a revolution. We need to build this country, and what you are preaching is breaking down and destroying the country.

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Mr N F SHIVAMBU: Hon Chair ...

The HOUSE CHAIRPERSON (Ms M G Boroto): Please take your seat, hon Wessels. Yes? Why are you rising, hon member?

Mr N F SHIVAMBU: This member keeps on pointing at us and saying that we do not need a revolution. Of course, we need the restoration of the land.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon member, what is your point of order? You are debating.

Mr N F SHIVAMBU: He’s addressing us. He is supposed to address the House.

The HOUSE CHAIRPERSON (Ms M G Boroto): Alright. Thank you. That’s a point of order we will accept. Thank you.

Mr N F SHIVAMBU: [Inaudible.]

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The HOUSE CHAIRPERSON (Ms M G Boroto): No, don’t debate, hon member. Thank you very much. Hon Wessels, please continue, and you have heard the point of order.

Mr W W WESSELS: Thank you, Chairperson. It is unfortunate that some members’ minds are behind bars. [Interjections.] The problem is the tendency to break down when someone is unhappy.

Dr M Q NDLOZI: Hon Chairperson ...

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon Wessels, please take your seat. On what Rule are you rising, hon member?

Dr M Q NDLOZI: It’s a point of order, Chair: Isn’t it true that an empty vessel makes the most noise? [Laughter.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon member ... hon member, no. That’s not a point of order and we can’t continue like that. Continue, hon Wessels.

Mr W W WESSELS: And if you strike a full vessel, you won’t move it! [Laughter.]

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The tendency to destroy is not limited to #FeesMustFall, nor is it only the EFF that is preaching lawlessness. It is also the members of the ruling party and their alliance partners, who have had that tendency for years.

When members of the ANC in a municipality are unhappy, they burn. They burn houses. They burn constituency offices. They burn the mayor’s house – and then, it is factions within the ruling party. That is lawlessness and anarchy. We cannot build a country and be economically viable if we continue on this trend.

The hon Ndlozi is correct. These students do not fall into the same category of criminals as Duduzane Zuma, and so forth, nor in the same category as the hon Malema, who, with his former comrades, stole money which could have funded free higher education. [Interjections.] [Applause.] It is the corruption of people like Julius Malema and comrades in the ANC that are stealing the money from the students and the poor.

Ms N V MENTE: Chairperson, on a point of order: Can you please tell that man not to call our commander in chief, “Julius

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Malema”. He is the hon Julius Malema. Tell him. [Interjections.]

Mr W W WESSELS: I said “honourable”. You must listen. Mamela. [Listen.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon member, every member of the House should be referred to as an hon member. Please continue.

Mr W W WESSELS: I said “honourable” but I will say “dishonourable” this time.

Ms E N NTLANGWINI: Chairperson, on a point of order: That member must withdraw whatever he has said about the commander in chief. [Interjections.] He knows full well he must bring a substantive motion to the House. He must withdraw, otherwise he won’t continue speaking there. [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon member, you have made your point. Don’t give rulings. [Interjections.]

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Hon member, you know that to cast any aspersions, you have to bring a substantive motion. In this instance, you said a member of this House had looted. [Interjections.] Please withdraw that.

Mr W W WESSELS: Thank you, Chairperson. Unfortunately, I cannot withdraw the truth. [Interjections.] It is the dishonourable Malema who stole the money ... [Interjections.] [Inaudible.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon members! Hon Wessels ... [Interjections.] ... hon Wessels, we work according to the Rules of this House. I ask you to withdraw that part. [Interjections.] I am asking you to withdraw that part. [Interjections.] It’s on here. [Interjections.]

An HON MEMBER: He must leave the House!

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

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Ms H O MKHALIPHI: Please call the bouncers to take this man out! [Interjections.] Call the bouncers! [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon member ... Wait, hon Dlamini. Let me talk to Mr Wessels. [Interjections.]

Mr M M DLAMINI: No, he must withdraw ... [Inaudible.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon Wessels, please withdraw so that we can go on with the work. [Interjections.]

Mr W W WESSELS: For the first time, the second time, and the third time, I cannot withdraw the truth. [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): If you cannot withdraw, would you please leave the podium? Thank you. [Interjections.] [Applause.]

Ms H O MKHALIPHI: He must go to Orania from here! Go to Orania! [Interjections.] He must leave the House!

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The CHIEF WHIP OF THE OPPOSITION: Chairperson, on a point of order ...

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon Lekota, please ... No, they are leaving.

The CHIEF WHIP OF THE OPPOSITION: On a point of order ...

The HOUSE CHAIRPERSON (Ms M G Boroto): He knows he has to ... Yes, hon member?

The CHIEF WHIP OF THE OPPOSITION: House Chairperson, the Rules must apply consistently. If you are going to ask the hon Wessels to leave for what he said, to have this group of people shouting, “Go to Orania!” etc, is not parliamentary, either. [Interjections.] You must ask them to withdraw that. [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Unfortunately, I didn’t even hear that. Thank you for that.

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The CHIEF WHIP OF THE OPPOSITION: Well, that’s the problem. It’s always the opposition!

The HOUSE CHAIRPERSON (Ms M G Boroto): No, I didn’t hear that, hon member, and nobody stood up on a point of order. Please take your seats, hon members. I have ruled.

Ms H O MKHALIPHI: On a point of order, Chair ...

The HOUSE CHAIRPERSON (Ms M G Boroto): Take your seat.

Ms H O MKHALIPHI: Chair, I just want get some clarity. Who is a “group of people” here? We are hon members, here, in this House. [Interjections.] Who is a “group of people” here? [Interjections.] We must not be undermined here. We must not be undermined here!

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon members, I think I have ruled. Please take your seat. Hon Steenhuisen, I have ruled.

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The CHIEF WHIP OF THE OPPOSITION: House Chairperson, a group of people are not honourable when they ...

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon member, I did not ask you to respond ...

An HON MEMBER: We are not going to be bullied by Steenhuisen here. [Interjections.] We are not going to be bullied by Steenhuisen here!

The HOUSE CHAIRPERSON (Ms M G Boroto): I didn’t ask you to respond. Take your seat. [Interjections.]

An HON MEMBER: It’s because of being a racist!

The HOUSE CHAIRPERSON (Ms M G Boroto): Can we allow the hon Lekota to continue? Hon Lekota? [Interjections.] Hon Lekota, please continue. [Interjections.]

Mr M G P LEKOTA: Madam Chairperson ... [Interjections.]

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The HOUSE CHAIRPERSON (Ms M G Boroto): Order, hon members! Allow the hon Lekota to make his speech. Thank you.

Mr M G P LEKOTA: Thank you, Chairperson. [Interjections.] My understanding is that we are debating here whether we should give blanket amnesty to those who were arrested for the violence that erupted around #FeesMustFall.

The first point I’d like to make is that, in both national and international law, amnesty is, generally, granted to those who have already been convicted of proven crimes. So, it’s not possible to give someone amnesty unless you have proven that they have committed a crime. When it comes to the individuals who have been convicted, it’s going to be important to evaluate each case on its merits. So, these two elements are important to take into account as we deal with this matter.

Now, I would like to take some lessons from the history of our country. As we struggled under apartheid, we had no political rights. We had no political rights, and therefore, it often did happen ...

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Dr M Q NDLOZI: Joe Slovo! Joe Slovo! Joe Slovo!

Mr M G P LEKOTA: ... that genuine protest spilled over into violent activities. [Interjections.]

Dr M Q NDLOZI: Ruth First!

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

Mr M G P LEKOTA: Nevertheless ... [Interjections.] ... nevertheless, we insisted ... [Interjections.] ... we insisted and our leadership insisted, both at home, on Robben Island, and abroad, that when you struggle for a just cause, you must do so in a disciplined fashion.

Ms H O MKHALIPHI: Why were you arrested?

Mr M G P LEKOTA: So, it was very important ... I was arrested for transgressing the laws of apartheid. [Interjections.] What I didn’t do ...

Dr M Q NDLOZI: You are lying!

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Mr M G P LEKOTA: ... was to struggle ... [Interjections.] Is it parliamentary that when I am speaking ...

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

The CHIEF WHIP OF THE OPPOSITION: I rise on a point of order, Chair. I am sorry, this cannot carry on for a moment longer.

The HOUSE CHAIRPERSON (Ms M G Boroto): Can I hear your point of order?

The CHIEF WHIP OF THE OPPOSITION: The hon Ndlozi has just said to the hon Lekota, “You are lying.”

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

The CHIEF WHIP OF THE OPPOSITION: Now, since the beginning of this debate ...

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

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The CHIEF WHIP OF THE OPPOSITION: ... the EFF has howled and harangued every single speaker down.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon member, can you allow me ... I have heard your point of order.

The CHIEF WHIP OF THE OPPOSITION: I haven’t finished my point of order, actually! [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon Lekota ... hon Lekota, did you hear that? [Interjections.]

Mr M G P LEKOTA: I heard it.

The HOUSE CHAIRPERSON (Ms M G Boroto): Alright. Hon Ndlozi, did you say the hon Lekota was lying?

HON MEMBERS: Yes!

Dr M Q NDLOZI: No. [Interjections.] No. [Interjections.]

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

Mr M G P LEKOTA: Madam Chair ...

The HOUSE CHAIRPERSON (Ms M G Boroto): Alright. Hon Steenhuisen, neither the Table staff nor I heard that. [Interjections.] That’s why I’m asking you to please try and be quiet, so that I can hear what’s happening in the House. [Interjections.]

On this point, I am done, and if it’s possible that it can be heard from the Hansard, it is fine, and we will follow up on it. [Interjections.] Neither I nor the service officers heard that remark. Continue, hon Lekota.

Mr M G P LEKOTA: Madam Chair, the point I was making is that, even in those circumstances, continuously, as the leadership of the mass movement in the country, we had the duty to appeal continuously to our followers and supporters not to break the law, because that is what we were taught about how to lead the people in struggle. You want support. You wanted mass support

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when the community saw that what you were struggling for was a just cause, and you were doing it in a manner that enhanced the position of the organisation.

It is for that reason, by the way, that the late president, Oliver Tambo, went to sign the Geneva Conventions of 1949, to show that the liberation movement was a disciplined force that would act within accepted revolutionary action, as opposed to terrorist activity.

The HOUSE CHAIRPERSON (Ms M G Boroto): At that point, we want to thank you, hon Lekota. Your time has expired.

Mr M G P LEKOTA: I thank you very much.

Mr L RAMATLAKANE: Hon Chairperson, the ANC supports the rights of citizens and inhabitants of South Africa to have peaceful protests. The ANC adopted the resolution on free education and Polokwane affirmed this position, which the hypocritical parties want to hijack as its own policies today.

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The African National Congress wants to pledge its support to the legitimate call for free education by the #Fees Must Fall movement for free education. However, we do not agree with the method of violence and damaging of properties.

This call was made in 1955 in terms of the Freedom Charter and I quote:

The doors of learning and culture shall be opened; education shall be free, compulsory, universal and equal for all children; higher education and technical training shall be opened to all by means of state allowances and scholarships awarded on the basis of merit.

We are a constitutional democracy, with the Constitution that is the supreme law. Any conduct which is inconsistent with the Constitution is invalid and the state has an obligation to protect its citizens against such violation, within a democratic institution, operating within the parameters of the Constitution and the rule of law.

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Section 29(1) of the Bill of Rights in our Constitution, which is the basis for all our laws, also clearly spells out the responsibility of government to education, and I quote: “Everyone has the right to a basic education, including adult basic education; and to further education, which the state, through reasonable measures, must make progressively available and accessible.

So the principle of free education is well established and we do not want to question the legitimacy of the call articulated by campaigns such as the #Fees Must Fall movement. However, having said this, we are also aware of the number of #Fees Must Fall activists who have not respected the conventions of protests in South Africa. Our Constitution also provides that everyone has the right, peacefully and unarmed, to assemble, to demonstrate, to picket and to present petitions.

The #Fees Must Fall movement protests were heard by the majority of South Africans and the government. One of the pillars of the National Development Plan, NDP, states and I quote: “People living in South Africa feel safe at home, at

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school and work, and they enjoy a community life without of fear and violent crime.”

The government heard their call and in 2017, the former President of the Republic announced free education for students whose household income was below the R350 000 threshold. This indeed was a victory for South African learners, for our people‘s children, including the #Fees Must Fall movement and as such, giving expression to the Freedom Charter. We salute this victory.

We should not fool ourselves about what the Constitution states. The Constitution clearly states that all shall be equal before the law. Our Constitution does not call for those who commit violence during protests to be given a free get- out-of-jail card. The call by the EFF, if it was serious about considering ... In fact, it should consider that the Constitution is supreme. Everybody sitting in this House has sworn allegiance to the Constitution, has sworn allegiance to protect and support the Constitution.

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Our law does not allow a special deal for a special group. If this were the case, then we should have a special deal for hundreds of criminals who systematically engage in the destruction of state and private property.

The laws of this Republic must apply to all people. When we start to tinker with pardons and exemptions for this group and that group, then we are on a slippery slope in our democracy.

Let me remind the honourable members of this House why there have been convictions of students during these protests. They were given the right to protest, to freely state their demands. We agreed with their call. They were given the right to protest, but they burned and destroyed university properties, stoned and burned police vehicles, and did everything that is against the rule of law.

The EFF members in this House are no longer students. They are here to uphold our Constitution and the laws like any other member of any party represented in this House. [Interjections.] The EFF cannot go and agitate students to

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take this particular call, including destruction and then run to the House for the House to protect them. [Interjections.]

Mr M Q NDLOZI: Hon Chair, on a point of order: The hon member is deliberately misleading the House. This is a PHD candidate, the ... [Inaudible.] ... is doing well. You are anti- intellectual. How can you take this platform to encourage the

... [Inaudible.] ... not to study. There are many students here, everywhere. We are students. [Interjections.]

The HOUSE CHAIRPERSON (Ms MG BOROTO): Hon Ndlozi, take your seat! Take your seat! That is a point of debate. Thank you.

Ms HO MKHALIPHI: Chair, on a point of order: The Rule says that you must notify a member when you are going to switch off the microphone. Why did you break the law? Please, we are students here. It is only the ANC ... [Inaudible.] ... study. The EFF is studying.

The HOUSE CHAIRPERSON (Ms MG BOROTO): Please, take your seat! Please, take your seat! I am going to switch off your microphone.

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Mr L RAMATLAKANE: Hon Chair, I repeat, the EFF Members of Parliament are here like any other member of this House to protect and observe the Constitution. You are not going to be able to go back and agitate the students to embark on all the dangerous things and then run to Parliament to come to your rescue. [Interjections.] Then we will leave it. When will the EFF learn? We cannot go on protecting those who break the law. We cannot go on mollycoddling errant students who want to perpetrate violence in the name of all students.

The police have a job to do and they will have to react when people use violence. In this particular case, only 951 students were arrested out of which 497 were presented and 360 cases were withdrawn for various reason. Only 9 were convicted, with 8 cases still continuing in court.

I want to say to the students. We have heard you and we respect your stance on the #Fees Must Fall campaign. The majority of the thousands of protesters were peaceful at the universities in our country.

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We cannot allow violence to be the clarion call of the few. The state will react to violence and tyranny of the reactionary few. We do not underestimate the resolve of the state to govern in its own name. If you want to break the law, be prepared to do time. This applies to everybody in society. Violence does not ... If you do that, the best way is to negotiate, utilise the skill, demand and get what you want through the means.

In conclusion, let me state clearly, the African National Congress will listen and implement. We will engage and our government will support our students and other sections of our society with their legitimate demands. We can never make and agree to private deals for those whose purpose is to subvert the hard-won democracy and neither will we undo it to appease the EFF. Freedom has cost us and our people dearly. We will defend our freedom unconditionally. We shall not be moved!

The ANC government urges all people to protest peacefully and with dignity, that includes respect for the rule of law and respect for people’s lives and property, and not to take the law into their own hands. Thank you.

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Mr M P GALO: Chairperson, the 2016-17 nationwide protests that were sponsored by the university students represented the early form of toxic violence at our universities. The chanting of revolutionary slogans and the torching of university buildings became the bulwark of these protests. This approach to engagement was recently dismissed by Professor Xolela Mangcu whose article on Sunday Times lashed out at Professor Bongani Mayosi’s tormentors. Professor Mangcu concluded that

“I find it to hear that students were calling him a sellout, which is also what they did to me when I protested against their rude treatment of Ngugi wa Thiongo”.

Whereas these protests were accompanied by alien conduct to the rules of engagement, it is equally true that they had a semblance of merit. The exponents of free higher education, especially those who were on the forefront, are today petitioning the President of the country for amnesty**.** This is patently clear that these students are urging us to read into Sobukwe’s letters until we have made sense of their postulation. It was Sobukwe who cautioned that,

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“Tell a man whose house is on fire to give a moderate alarm; tell a man moderately to rescue his wife from the arms of a ravisher; tell a mother to extricate gradually her babe from the fire into which it has fallen; but do not ask me to use moderation in a cause like the present one”.

It is this lack of moderation on the part of students that we are called upon today to debate the EFF’s sponsored motion.

The torching of buildings, the intimidation of fellow students and the complete negation of the law ... [Time Expired.]

Mr A M SHAIK-EMAM: House Chair, hon members of this House, my colleague hon Khubisa was supposed to have done this speech but, I think he is unfortunately having a challenge, so he could not get here. However, as the NFP we are very clear on this matter. One of the most important things is that – I am actually surprised that this matter has even been brought into this House. Because the first point is that in this very House we repeatedly debated on the issue of political parties and politicians not to interfere in the rule of law or in another organ of state.

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Whilst we appreciate and understand the challenges that student may have faced in the tertiary institutions, we must also be mindful of the fact that a few people might be protesting - and what about the rights of the majority who are not protesting? Democracy demands that people must demands that people must be allowed to protest peacefully and that is actually what we have actually provided. But going and torching buildings and assaulting police officers is not acceptable and it is not the way we are supposed to conduct ourselves.

Let me add that in this very House we had repeatedly spoken about the interference of politicians in the tender processes, in the interference of the state, in the interference of police investigations. Yet, now, we come here and we ask for the opposite of that and I cannot understand it! For me, that is a higher level of hypocrisy. I think we need to deal with these issues.

I also want to add that out of the total number of students that were demonstrating or protesting, only a handful of them have been charged. And the question that must be asked is,

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why? We must also remember that pre 1994, quality education was provided only to a select few. What did we do as government? Despite the fact that many people will argue that we have not done much – a lot has changed in South Africa and let us be honest about that and admit that whilst we still have challenges.

After having put up these infrastructures to provide a better quality of education, you go out there and you destroy these things and then you expect government and the taxpayers, the poorest of the poor whom are suffering must come back and build those things. It is totally not acceptable.

As the NFP, whilst we support the students in their struggle for a better, quality of education to address the challenges that they are facing, we cannot support interference in the rule of law by any political party or anyone in this House. The law is equal for every one of us in South Africa.

Therefore, we cannot support this, thank you very much hon Chairperson.

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Mr L R MBINDA: Chairperson, as the PAC, we once again stand before this House to highlight an unwavering support for the brave and revolutionary activists of “#FeesMustFall”. We say this guided by our ideological principle and understanding of the importance of education in the development of a nation.

It is for this reason that we continue to condemn the commodification of education. Educations to us remain a liberatory tool that must be made freely available to all especially, the youth to any nation that is serious about its development.

We continue to condemn the double standards by the ruling party as they were with us in calling for free education as far back as the early 40s. Today, we are more than two decades into the new dispensation but university fees continue to rise like any other commodity.

The government’s intervention in the form of National Financial Aid Scheme, NSFAS, continue to be a chain against growth towards these youngsters as it leaves them with unreasonable debts.

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Student organisations have been in public marshes to departments of education and other government offices submitting memorandum, year in year out, with no decisive answers from government. It was expected that these students will continue to be agitated as they seem not to have be heard.

The rise of the “#FeesMustFall” movement is a generational continuation of a call that was long overdue on the top of the national agenda. We have students like Khaya Cekesha, Bonginkosi Khanyile, Masixole Mlandu, Athabile Nonxuba who were even subjected to a house arrest because of their call for free education. How do you criminalise these students when we are in agreement that their call was genuine?

As a nation we are still unable to deal decisively with the perpetrators of human genocide during apartheid against unarmed women and children, but we are here today ready to slaughter young students for demanding to go to school. With this, we are not condoning any usage of violence and burning of school facilities - but we are sitting here with people that have committed serious atrocities. And some of these

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students they do not even have their grandparents as a result of the evil system which was declared by international community as a crime. Thank you very much.

Mr Z N MBHELE: In debating the plight of fees must fall activists, we must be clear on three things.

Firstly, we must remember that we are speaking of at least three plights; secondly, we must not forget that this includes all individuals whose activism contributed to lobbying efforts for a fair deal on higher education funding; and thirdly, we must understand that the mere fact of being in a plight ... were an unfortunate and difficult situation is a neutral and objective one. It says nothing about the culpability or innocence of those affected until we look at the context of that plight.

So, what are the three plights of fees must fall activists? When we analyse them properly we see quite quickly that they are all rooted in the failing state that is the result of ANC misgovernance. The first original plight was the chronic neglect and underfunding of the higher education sector by

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successive ANC governments, which engendered fertile conditions for the eruption of fees must fall.

The second plight was that suffered by many fees must fall activists during the unfolding of protests in incidents of unprofessional or disproportionately violent treatment at the hands of a police service that was and continues to be under- resourced, understaffed, underequipped and undertrained to handle public unrest situations. These incidents were flashpoint examples of the general vulnerability faced by students and staff on university campuses when it comes to safety and security of person and property.

So, because successive ANC governments have, through negligence and mismanagement, allowed the Public Order Policing units to dwindle in numbers, not receive adequate training and be starved of resources to maintain and upgrade equipment, these units were unprepared to respond to and contain outbreaks of violence, arson and vandalism during fees must fall protests, and subsequent ones on campuses up till this year.

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As the Police Portfolio Committee heard in a briefing a few months ago, the Public Order Policing units are sitting at a complement of only 5 600 personnel when the ideal number is approximately 12 800, meaning that these units are operating at less than 50% capacity. How can the ANC government expect our service members in a specialised operational environment like Public Order Policing to be effective and efficient in such an emaciated state?

In addition, because of this undercapacity of the Public Order Policing units, it is often the case that station level personnel have to be first responders to public unrest, for which they are not adequately trained or equipped. It is this illpreparedness that makes the police prone to the rapid escalation of violence and heavy-handedness in these situations, to the extent of using live ammunition as was reported to be the case at the Tshwane University of Technology’s Soshanguve campus protests that resulted in the death of Katlego Monareng.

The third plight is that of the criminally accused and/or jailed individuals, and in each of these cases the rule of law

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must be upheld and due process followed. However, again we know that the criminal justice system is severely hampered owing to our detective service being in distress, overstretched, understaffed and unable to drive speedy quality investigations, coupled with an under-resourced public prosecution service.

The blame for the mismanagement that has caused all of these problems lies squarely at the feet of the ANC government and its deployment of cronies to state institutions, who then go on to undermine their independence and professionalism for the sake of politics and driving partisan agendas.

After 24 years in government, the ANC has proven that it does not have the political will to make the tough choices needed to get the basics of good governance right. A DA-led national government is the only hope for fixing the fundamentals and turning around our Public Service to efficiency, effectiveness and professionalism. Ngiyabonga Sihlalo. [Thank you Chairperson.] [Applause.]

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The HOUSE CHAIRPERSON (Ms A T Didiza): I’m now recognising hon Yako, who is a new member sworn in this morning in the Speaker’s office. So it’s her maiden speech. Hon Yako?

SiSwati:

Sihlalo Wendlu (Nkt. A T Didiza): HHayi kahleni, ningametfusi, ngoba usesemusha nkhosiyami! Chubeka wena sesi.

English:

Ms Y N YAKO: We are not going to entertain debates about the cost to the state brought about by said damages caused by fees must fall protests, when we are here to address the true costs of freedom for blacks in postapartheid South Africa.

It is clear that the ANC and DA are colluding to destroy the future of fees must fall activists. [Interjections.] We cannot

... [Inaudible.] ... a language of free education whilst forgetting the youth that put their bodies on the line to bring these injustices to the forefront.

Behind the criminalisation, abuse, trauma, suspensions and exclusions from institutions of higher learning, here we are

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talking about young people, individuals, and we will tell you their stories. Their stories, we must all acknowledge, are stories of heroes and heroines.

Bonginkosi “Education” Khanyile had to stand on his feet while preparing to write his final exam in the Durban Westville Prison because they do not have study desks for people awaiting trial. After missing his classes for six months whilst in prison, not only did he pass and complete his national diploma in public management and economics from the Durban University of Technology, but out of four exams that he wrote whilst in prison, he was able to get four distinctions. However, because of his activism during fees must fall protests, today he is a convicted criminal awaiting sentencing.

Amos “Amla” Monageng was a second-year informatics degree student at the University of Pretoria. Arrested in 2016 and barred from continuing with his degree, he now sits at home serving a one year house arrest sentence.

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Khanya Cekeshe, a first-year media student at Footprint Media Academy who did not have funds to study journalism at Witwatersrand, Wits, University, today sits in Leeuwkop Prison serving a five-year jail sentence. Khanya was a first-time offender with no previous convictions but now he has a criminal record.

Mcebo Dlamini, a law student at Wits University, spent 27 days in jail after being arrested and denied bail because of his activism during fees must fall protests.

There are hundreds of others who sit in jail, in and out of courts, instead of going to class to write their exams and complete their degrees.

People who are accused of rape, murder and all sorts of serious crimes get bail but students who protested against high fees and against the exploitation of workers, entrenched colonial education at white universities, rape culture and the use of language to exclude and discriminate, must either rot in jail or fight all the way to the highest court in the land to get bail.

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Not only have we criminalised and sent students to jail, hundreds are suspended from institutions of higher learning, some with lifetime bans.

Yolanda Dyantyi was expelled from Rhodes University in 2016 and furthermore, banned from the university for life. Surprise Silowe, Wandile Nasango, Thulani Masilela, Mangaliso Sambo, who were students at King Sabata Dalindyebo Technical and Vocational Education and Training, TVET, College, commonly known as Rhodes War Women, and many others were all expelled and cannot continue with their studies.

What kind of society do we want when we put excelling students in prison with hardened criminals? What kind of society do we want when we deny students free education when it is only education that would make adults who can contribute meaningfully to society? Minister, we must ask ourselves, if we continue to criminalise students, what kind of adults do we want the students to be when they leave the gates of prison after two years, after three years, after five years of imprisonment?

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If we are truly a country invested in freedom for its people, we show it by showing that those brave enough to fight an unjust system will not be imprisoned, suspended or expelled for daring to be brave enough to fight for freedom. Thank you. [Applause.]

An HON MEWMBER: A future Minister!

The HOUSE CHAIRPERSON (Ms A T Didiza): Thank you. Hon Mkhalipi! Hon Mkhalipi ...

SiSwati:

Sihlalo Wendlu(Nkt. A T Didiza): Lunga lelihloniphekile Mkhaliphi, ngitokucela ke sesi kwekutsi uma sewufundzisa sesi Yako, umfundzise kwekutsi kukhona bo Somlomo, lona bekamfungisa, bo Sekela Somlomo, kanye na Sihlalo be Ndlu ... [Kungena Emlonyeni.] ... cha, yebantfwabetfu, phela siyafundzisa. Angitsi ngikhumbuta lo sesi lohlala nabo kutsi kufuneka abafundzise kahle.

English:

Order hon members!

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Ms H O MKHALIPI: Chair, leave the future Minister alone.

The HOUSE CHAIRPERSON (Ms A T Didiza): Order! Order hon member! Take your seat. The hon member was very disciplined while speaking here. Hon Minister?

Dr M Q NDLOZI: [Inaudible.]

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

The MINSTER OF JUSTICE AND CORRECTIONAL SERVICES: Hon House

Chair and colleagues, before I proceed with my speech this morning, may I take the opportunity to align myself with all the colleagues who expressed their profound dismay at the utter lawlessness that prevails in our country. Indeed, the levels of violence have become intolerable, whether they are as a result of some or other form of service delivery protests, in particular, and I must express disappointment from the EFF, hon Ndlozi, for adopting a stance that equates the struggle against apartheid through civil disobedience and other forms of undermining apartheid laws to equate that to

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the kind of lawlessness that they have been propagating, whether in terms of land grabs and other forms of advancing their policies stances through propagating violence. Indeed, I think it is quite disappointing.

However, on the same note, let me on behalf of the African National Congress and government reach out to all those who suffered harm sustained injury or lost the property or had their property damaged during this protestation. I did indicate that as colleagues have correctly indicated that it is just a small number of protestors who actively used violent means to air their views.

Hon colleagues, whilst talking about apartheid and its draconian laws, let me invite us to go a little back in history. In 1910, when the Union of South Africa was formed the white regime of the time when establishing a new state had a unique opportunity to build the kind of state which the ANC envisage a nonsexist, nonracial and a prosperous society in which all South Africans would have place in the sun. Fast- forward 1994, the African National Congress was confronted with a murmur of task of having to respond to almost a century

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of racial exclusion, oppression and marginalisation that started back not in 1948 by the way, but actually in 1910 when the union was formed. Imagine 100 years down the line had the white regime at the time opted to build a nation that was inclusive where prosperity was shared amongst all where we would be today.

The population census in 1911, said that the South African population was just under six million. Fast-forward 100 years later we are almost 60 million. That is the size of the socioeconomic backlog that the ANC government is confronted today - 10 times higher and tougher than it was 100 years ago. Of course, as if that is not enough under colonial rule in 1910, the concern was only to dress the socioeconomic plight of only 10% of that six million. Today the ANC government is confronted with having to address the socioeconomic challenges of inequality, poverty and unemployment of the total population. Therefore, there are no comparisons in terms of the task that confronts an ANC government today compared to that which confronted the colonial regime back in 1910.

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However, hon members, let me proceed from where we are. Colleagues would prefer to forget that starting with the position of the African National Congress in 1955, we - as the African National Congress - adopted the Freedom Charter which articulated our policy stance on education by ensuring of stating that we wanted to ensure that education is accessible to all and the issue of economic exclusion should not serve as a barrier for access. We have also understood that the attainment of the goals and commitments of the Freedom Charter was never going to be a simple as preparing a cup of instant coffee. It is a work in progress and only those who have never had the responsibility to answer to the competing needs of our people in the context of limited resources will adopt a different posture and try to convince our people otherwise.

Nonetheless not withstanding the dramatic events in the tertiary education space before December 2017, it was precisely for our commitment to uplifting our people that the then President Jacob Zuma announced the implementation of free higher education starting from this year. As hon members are aware, some of these young activists recently marched to the Union Buildings demanding an immediate general amnesty from

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the President. On the instruction of President Cyril Ramaphosa, I engaged with students and agreed on a process of guiding those who wish to apply for Presidential pardon and other forms of assistance within the criminal justice system.

Let me clarify as the student themselves correctly acknowledge at no stage did we promise student that we are going to deviate or undermine the principle of the rule of law.

Therefore, at no stage did we promise or do we intend to violate the principle of separation of powers between government and state institutions established under our Constitution and the law and any insinuation to that effect must just be dismissed with the contempt that it deserves.

I wish to reiterate what I said in the public statement issued by myself in line with the principle of respect for the principles of separations of powers and the rule of law, that the executive branch of government had neither the mandate nor the inclination to favour any person or group of people with a specific or general reprieve outside the existing constitutional and legal framework provided for under our law in the Constitution. I also categorically made it clear that:

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Presidential pardons are granted in respect of convicted and sentenced persons only on the basis of the information they provide and in circumstances where the applicant has shown good cause. Under no circumstances can Presidential pardon be predetermined.

However, the criminal justice system provides avenues for various alternatives to outright criminal prosecution which include diversion, mediation and various forms of restorative justice mechanisms - depending on the nature and severity of the offense committed. The affected students fall under the following categories: One, those who are arrested and still in custody or detention or where their matters awaiting a decision for prosecution; those that are charged or awaiting prosecutorial decision as I indicated; and those that are on trial and sentenced — including those serving custodial sentences in a correctional facility. I have undertaken to guide the students in approaching the National Prosecuting Authority, NPA, to consider evaluating each case, specifically on its merit in order to determine the seriousness or otherwise of the charges, the weight or otherwise of the available evidence and, where appropriate, possibilities of

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the option for diversion, mediation or other forms of restorative justice in the case of those students who are yet to appear before the courts in line with the laws of the country. Therefore, there is nothing that we have offered to assist the students who have that is outside the existing framework of the law and the practices that are applicable.

Let me just, for the sake of hon members, indicate that for the nearly 500 000 matters that the NPA has to make this prosecutorial decisions about annually. At least about 160 000 of those are actually dealt with by way of diversion or mediation. This is not a unique or an exclusive arrangement that is provided for any category of alleged offenders.

Furthermore, I will, where appropriate, guide the students in making applications to the NPA for the review of prosecutorial decisions in cases of students who are already charged and whose matters are currently on trial. Let me just indicate here that, of course, once a person has pleaded in a criminal matter, there is no room for diversion because then there is a legal obligation for the matter to proceed to a verdict by the court.

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The Ministry of Justice will guide the students on the process of compiling applications for Presidential pardon for those students seeking to make such applications. That is the responsibility that we discharge on a daily basis and on this note, let me indicate, of course, any person who wishes to apply for Presidential pardon are at liberty to consult with their legal representatives for assistance. As the Department of Justice and Correctional Services on a daily basis we provide free legal guidance to everyone who wishes to apply for Presidential pardon or any other form of reprieve in terms of expungement of their criminal record by guiding them as to what information they need to provide what forms they need to apply and how to go about it, because it is our duty as government to provide those services to all our citizens and this is no exception that we are going to extend these services to the affected students.

Hon members, I would like to explain the process of pardons and alternative dispute resolution mechanisms to clear any misunderstandings that might have arisen or likely to arise in future. Section 84(2)(j) of the Constitution vests the power to grant pardons to the President as an executive power. It

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provides a unique opportunity for people who have been in conflict with the law and have a criminal conviction recorded against their name, to have their record cleared and thus start afresh with a clear record.

We are aware that a criminal record prevents one from, in some instances, obtaining employment because of the loss of confidence in their character by potential employers from obtaining visas to travel overseas sometimes, and most importantly it places a mark against one’s name which is difficult if not impossible to remove. The law provides, therefore, some relief in this instance to deserving cases – and I want to underline deserving cases because each case is dealt on its merit. There is no one glove fits all. In applying for a pardon, the Department of Justice and Constitutional Development processes applications for pardons. A guideline has been prepared for members of the public who wish to apply for pardon. A record of the offence or offences committed to what is referred to as the South African Police, SAP, 69 must be obtained from the South African Police.

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This information is crucial as a full official record of offences committed as part of the application and has a bearing on the application for pardon. I will refer to this further later. An application form has been prepared by the department as a guideline to applicants. This application form contains information that is essential for the consideration of pardon such as the nature of the offence, the circumstances under which it was committed, the personal circumstances of the applicant that warrant consideration for pardon, and importantly, references from persons other than the applicant that supports the application for pardon. It’s a very transparent process. Any person has the liberty to avail themselves ... [Interjections.]

The DEPUTY MINISTER OF RURAL DEVELOPMENT AND LAND REFORM:

Point of order, Chair. These members are not listening, Comrade Chair. [Laughter.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon member, that is not a point of order. Proceed, Minister.

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Mr N F SHIVAMBU: On a point of order, we only listen to informed perspective. We can’t hear what he is saying because he’s waffling. That is why we are busy ... [Interjections.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Can you please take your seat, hon member, that is not a point of order? Minister, continue.

The MINISTER OF JUSTICE AND CORRECTIONAL SERVICES: Well, if

you are not paying attention hon Shivambu, how are you going to advice your members who may be affected themselves.

The HOUSE CHAIRPERSON (Ms A T Didiza): Minister, your time will be going, proceed.

The MINISTER OF JUSTICE AND CORRECTIONAL SERVICES: In

exercising the power under section 84(2)(j), the President must make a rational decision. This means that the information placed before the President must consider all relevant factors about the applicant and the offence committed. The granting of a pardon must be in the public interest. In preparing an application for pardon for the President’s consideration,

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therefore, the process I set out earlier has been developed by the department in consultation with the Presidency to ensure that the process is lawful and fair. The type of information required such as the nature of the offences, personal circumstances assists the President in making a rational decision.

What has counted in favour of applicants, who have applied for pardon in the past, is evidence that the applicant has turned his or her life around and has become a fully productive member of society. Remorse for an offence committed on the part of the applicant is a critical element in the granting of pardon.

At times, the National Prosecuting Authority’s view on a matter is sought. Of course, where a victim supports the granting of pardon, this counts in favour of the applicant concerned. Prior to 2012, a huge backlog for the processing of pardons was created, due to the huge influx of applications from persons wishing to clear their criminal records. A quicker and simpler process was required, and therefore, the legislature passed legislation to amend the Criminal Procedure

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Act, 1977. Section 271B, among others for example, provides for the clearing of criminal records through an administrative process, grated by the Director-General of the Department of Justice and Constitutional Development.

This has enabled the department to clear the criminal records of approximately 21 000 individuals. Actually, there is a system out there that has benefited thousand of people and it’s not a question of dealing with an isolated case of a small group of convicted students. This process applies where

10 years have lapsed after the date of the conviction of an offence, and a person did not receive a direct prison sentence for conviction except a sentence of periodical imprisonment or correctional supervision or has not been convicted and imprisoned for any other offence during those 10 years, without the option of a fine. This is what we refer generally as expungement which is dealt with administratively as oppose to Presidential pardon.

A person does not qualify for an expungement if a period of 10 years has not lapsed since the conviction of the crime, if they were convicted of a sexual offence against a child or a

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mentally disabled person, if their name is included in the National Register for sexual offenses or the National Child Protection Register. They will however qualify if your name has been removed from the National Register. Serious cases where the sentence is one of imprisonment without the option of a fine, for example robbery, rape, murder and assault with the intention to do grievous bodily harm will not ordinarily qualify for the clearing of a criminal record whether by way of expungement. No such cases have ever been considered for Presidential pardon by the President.

Let me now turn to Alternative Dispute Resolution Methods, ADRM, which encompass several methods for the resolution of disputes between the parties. Within the NPA this includes diversion and informal mediation to ensure that these matters are resolved. Thank you very much, hon Chairperson. [Applause.] [Time expired.]

Debate concluded.

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**CONSIDERATION OF REPORT OF PORTFOLIO COMMITTEE ON ENVIRONMENTAL AFFAIRS ON NATIONAL ENVIRONMENTAL MANAGEMENT LAWS AMENDMENT BILL [B14-2017]**

(Consideration of Report)

# SECOND READING DEBATE – NATIONAL ENVIRONMENTAL MANAGEMENT LAWS AMENDMENT BILL

(Second Reading debate)

The CHIEF WHIP OF THE MAJORITY PARTY moved:

That the House –

1. notes concerns raised by the Minister of Environmental Affairs around the substantive nature of amendments to the National Environmental Management Laws Amendment Bill, affected by the Portfolio Committee on Environmental Affairs;

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1. further notes that the amendments affected to the Bill have implications for other portfolio committees and Government Departments, which necessitates further consultations with all relevant stakeholders;
2. recognizes that the nature of the amendments may require that the objectives of the Bill, as set out in the Long Title and Memorandum, may need to be amended and that the portfolio committee may therefore need to solicit further public inputs, therefore;
3. resolves, in terms of Rule 123 (1)(d), to refer the National Environmental Management Laws Amendment Bill back to the Portfolio Committee on Environmental Affairs for further consideration and report.

Question put.

Mr N SINGH: Hon Chair, we have no objection to the motion that was put by the hon Chief Whip of the ANC, but I must say this is a very clumsy way of dealing with legislation in this House. Last week I stood up here to ask that we put a time

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frame to this piece of legislation and we gave a time frame of seven days and now we are being told that the matter is going to be referred.

Hon Cabinet Ministers would know, that before any legislation is presented to a portfolio committee, a subcommittee of cabinet deals with the principle and objectives of the legislation, so one will take it that, that process has already taken place but now to be told almost a year later that there is need for more consultation just begs the question whether that process was really, thoroughly engaged upon.

However having said that hon Chair, I think this an important piece of legislation and we do not need to have any loopholes in environmental legislation in particular when there is going to be enforcement. So we will support the fact that the matter goes back to the portfolio committee but this should not happen again hon chairperson. Thank you.

The HOUSE CHAIRPERSON: Thank you hon Singh, I am sure members of the executive have noted and we appreciate from all parties

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for bringing that the matter indeed goes back to the committees. Before I call the Minister for the Ministerial statements, I would like to welcome all our guests in the gallery and in particular the Walter Teka Primary School from Nyanga East here in Cape Town. You are welcome (Applause).

Thank you very much.

# DEVELOPMENTS AT THE NATIONAL STUDENTS FINANCIAL AID SCHEME

(Ministerial Statement)

The MINISTER OF HIGHER EDUCATION AND TRAINING: Chairperson,

hon members, will be aware that there has been growing public concern at the inability of the National Student Financial Aid Scheme, NSFAS, to efficiently administer the processing of applications and dissepiments.

This concern didn’t begin this year. They have existed for several years. The public higher education institutions and students are right to be concerned given the important role that scheme plays and ensuring the transformation of the human resource profile of South Africa.

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Since its inception, the scheme has ensured that funds are made available to thousands of young people and working class backgrounds to support their access to and success in higher education. Efficient administration and disbursement of the funds are essential to ensuring that young people benefit from this critical support for the skills development of our country.

Hon members are aware that we have had serious concerns about the scheme for several years. In 2013, the new student centred model was introduced for applications and disbursements. It created a direct link between students at the scheme and yet by-passed institutions. The model was piloted for two years in five universities and fourteen colleges and then suddenly expanded to all institutions in 2017.

At the beginning of 2017, there was a significant breakdown of NSFAS computer system and processes and we had to relook at what needed to be done. The various processes of the scheme had to be undertaken manually in 2017 and the absence of data and systems integration worsened the problems. Due to these difficulties, many 2017 processes were incomplete by the end

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of 2017 and many applications were finalised and thus thousands of students didn’t receive funds in that academic year.

The year 2018, began with these backlog intact. The scheme was confronted with inadequate system processes and staff had to administer the new full bursary programme which introduced free higher education for poor and working class first year students in addition to the backlog. We began to work closely with NSFAS from early January in an effort to address the changes and to deal with the backlog of 2017.

The board also provided extensive hands on support to the scheme to help to address continued inadequacy. In March, I was alerted to the backlogs and the fact that many institutions had dipped into their own funds to give students minimum allowances and thus were owed by the scheme and thousands of applications had still not been processed.

It became clear that the problems were extremely severe. Following various board attempts to intervene and assess and

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even support from my department, we agreed with the board that extra ordinary measures were warranted.

I appointed a team made up of the Department of Higher Education and Training, DHET and institutional staff for six week period to support the processing of applications and ensure disbursement. The team worked with the board and made some progress in resolving some of the backlog, however it became clear that this was not enough of an intervention.

In July, I directed the board to take additional measures to address the 2017 backlog and to finalise 2018 applications. I wasn’t satisfied at the responses I received from the board and after the board chairperson informed me of his immediate resignation, I decided to seriously consider the appointment of an administrator. I called an emergency board meeting which affirmed my intention. The board asked me then to appoint an administrator, as had already been asked by unions represented in NSFAS, as well as by student organisations at TVET colleges and universities.

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In late August, I appointed Dr Randall Carolissen as administrator for twelve months. I have directed that he should urgently ensure eligible students receive funding for 2017 and this year, and that he should develop a viable plan for processing applications for 2019, plus ensure stability and efficiency at the scheme.

We have secured staff secondments from universities and TVET colleges to support him. He will add to this support team as the work progresses. There has been positive progress in the first two weeks of administration. Links have been re- established with all institutions and institution heads and student leaders have played a critical role in communicating with students and I want to thank all student organisations at our TVET, Technical and Vocational Education and Training, colleges and universities for the leadership role they have played.

Over fifty NSFAS staff has been deployed to be on site at institutions to ensure resolution of outstanding issues. I was shocked to learn that they identified 50 000 students who fit the NSFAS criteria but were not on the system as applicants or

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beneficiaries. Thus far, R17 billion has been disbursed and

275 000 new students and 243 000 returning students have had their funding confirmed.

I am really happy that we have recorded significant growth in TVET College funded students. However, the change that has emanated from the administration has also pointed to the critical need for more support to be provided to TVET Colleges to develop systems and capacity for student financial aid administration.

I wish to assure honourable members that the matter of the executive officer at the scheme NSFAS is one that will be addressed by the administrator and not by the Minister or the department.

The immediate work of the scheme is to continue close out of 2017 and 2018 funding cycles and to open 2019 applications and we have done so successfully. We will then focus on systems and processes that will create an effective model for the future. We have announced that from 3 September 2018 new applicants should apply to the scheme for funding and 30

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November 2018 will be the closing date for applications because we want to begin the 2019 academic year with students knowing whether they will be funded or not.

We have also requested universities and colleges to ensure students to apply and to support NSFAS in the turnaround. I seek the help of all parties in the House in getting the around 34 000 TVET College students who have not signed their statement of particulars to do so because they are not going to receive funding if they don’t sign those forms.

Once the immediate challenges have been fully addressed, the administrator will focus on identifying the root causes of problems that the scheme and developing solutions and a roadmap to address them.

We anticipate a significant business redesign which should be put in place after the 2019 academic year period. The steps taken by the administrator thus far have signalled that it will be possible to achieve significant improvements in his twelve month term of office and I hope hon members will

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support the scheme, the administrator and the department in executing this important work.

I am pleased that students in our universities have begun to benefit from the R2,2 billion rand that has been disbursed in the first eight days of administration. Colleges that now have confirmation of confirmed applicants are able to disburse the upfront funds that we had made available to them and so students now have resources in their hands. We will continue to ensure that the funding that our young people should have gets to them and support them to succeed academically. Thank you very much, Chairperson.

The HOUSE CHAIRPERSON (Ms A T Didiza): Order! I am sure hon members have noted the closing day for NSFAS. So, when you go back to your constituencies, please, remember for the academic year 2019 it is open already and closing date is 30 November 2018.

Prof B BOZZOLI: Thank you Minister Pandor for your decisive action and clarification on the state of NSFAS today and your hoped-for improvements in this complex and until now failing

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system. We in the DA have been highly vocal in calling for NSFAS to be revamped and for bringing the attention of the broader public to the plight many students have found themselves in.

For months we have pointed out that tens of thousands of students have remained without the funding recklessly promised to them by President Zuma at the end of last year, and for months we have seen how NSFAS has proved barely able to respond. We are particularly concerned about the fact that a lot of the problems seem to have arisen from the mismatch between the systems in NSFAS and those in universities and colleges.

This is a hugely frightening bureaucratic mess, which will be extremely complex to undo. It is very similar, in my view, to the case of the mismanagement of certificates in colleges, a problem which was similar and which has taken four years, at least, to begin to solve. We can only hope this does not happen in this phase. So, it is our fervent hope that your plans will come to fruition and NSFAS will become the smooth-

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running machine our students deserve. We will be monitoring it carefully.

However, there is another matter of considerable concern to students and NSFAS, which needs airing, and that is the long- term sustainability of the scheme of fee-free higher education itself. There is a very grave risk that the students of the future might find themselves with inadequate support even if NSFAS becomes as efficient as Amazon or as smooth running as Aliabad.

This is a widespread concern among the universities themselves, expressed by the SA Vice-Chancellor Association which has spoken of this worrying issue frequently. The problem is that we are trying to operate the most generous higher education system in the world in one of the most desperate and failing economies in the world. Our system is the only one in the world, that in my knowledge, which pays for all the costs of all the eligible students.

Other fee free systems such as in Brazil, New Zealand, Germany, Scotland and others, only exempt students from fees

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themselves. Here students have their fees, accommodation, food and other expenses fully paid for, with no expectation of having to pay any of it back even if they obtain an extremely well-paying job after their studies. This means the system is enormously expensive.

Fifty-eight billion rand has been set aside for it over three years, but our prediction is that this will not be sufficient, as students of all years of study would join the system over time. Paying for multiple years at once will be an entirely different story from paying or not paying simply for first year students. In six years time the fund will be paying for students in every one of the six years of study it takes to do a medical degree, for example.

And since higher education inflation has been calculated at 8% per annum these ever-increasing costs will be compounded above inflation. We predict that it will be absolutely impossible for the scheme to continue for more than five years, as our economy flounders and doesn’t seemed to be rescued, a crisis we think will develop in the funding scheme. We cannot afford fee free higher education misgenerous over time.

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An alternative less onerous system has to be developed eventually. How will this crisis manifest itself? In two ways: Student grants will not be sufficient to cope; and it is very likely that university grants will have to be cut to pay for the difference. This is precisely what has happened in New Zealand, for example, and that is a country with a strong economy compared to ours. It has also happened in Scotland and elsewhere.

As the costs of free higher education went up in these places, so the payments to universities went down. This has meant that the universities have taken drastic steps to find the alternative funds. In Scotland they have admitted increasing numbers of foreign fee-paying students, to the point where

non-fee-paying Scottish students cannot find a space. And in New Zealand serious concerns have been raised about the quality and stability of universities.

If the government believed when it introduced this, that fee- free higher education would prevent protests in universities, sadly I believe that this too is not sustainable. In fact, the amounts granted by NSFAS are modest and unlikely to increase

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with the cost of inflation. I predict further protests, protests to enlarge the scope of the grant, pretty soon.

So, this discussion relates directly to the discussion earlier today, of students use of violence on campuses to blackmail universities and the state to concede to their demands. What we are seeing here is the future elite of our society capturing through violence enormous amounts of funding for themselves, funding which has been paid for by the way, by raiding the budgets for the very poorest people, housing and basic education.

So, NSFAS is struggling to administer a system which cannot be sustained, which was ill-thought through, and which was imposed upon us at shockingly short notice by an outgoing President who had overseen the decay of higher education over the period of his tenure and who was desperate for a populist measure to keep up his support. We need to see a sober evaluation of these facts by NSFAS as well as a rapid improvement in its systems and processes for the sake of our students’ future. Thank you. [Applause.]

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Ms E N NTLANGWINI: Chair, NSFAS is broken and nothing the Minister says can change that. Students and EFF members of this House have been telling the ANC government for years that NSFAS needs to be fixed and that it is on the brink of collapse. But because the department does not listen and has done nothing, students are living in misery and are left in desperate situations, Minister.

Minister after Minister have come to this House and gives empty promises. At Universities, TVET colleges across the country, students are suffering as we speak. They sleep in libraries, and squat where they are three or four in a room, putting female students at danger of sexual violence. We are sending our girl child every time to these universities at a risk of being raped.

Only three weeks ago, students were kicked off residences at UWC because NSFAS has not made payments. Students eat nothing but bread and chips because they have no money, and because NSFAS allowances comes late. They share textbooks and in many occasions have to make copies because text books are too expensive and they can’t afford to buy them. You have backlogs

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stretching back years, Minister, meaning students who were meant to have the 2017 fees paid by NSFAS, still haven’t seen their fees paid.

Instead of helping students, NSFAS has become a problem in every step of the students’ life. But NSFAS isn’t just a badly managed system; NSFAS is flawed as a system. You know, Minister, and you know that we know, Minister, that the DG of the Higher Education has been using NSFAS as a fund raising scheme and deployed his comrades of the SACP into the board and nothing has been done about that.

You cannot study if you do not have a dry and safe place to stay; food to eat and study material. But for many students that get NSFAS allocations and allowances, the funding they receive is still not enough because there is no student accommodation available with the allocated budget, and because campus food are over-priced by all of these capitalists.

NSFAS has also created space for corruption and abuse. Go to any university or TVET in this country, the students will tell you how university management misuses, withholds, and steals

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funds meant to be given to students. There is no coordination between the Credit Management Offices and the NSFAS national offices, with universities blaming NSFAS and NSFAS blaming universities, while students get lost in the system, and simply don’t get their funding that they duly deserve, Minister.

That is the sad reality for students using NSFAS, or students trying to get NSFAS, and it paints a picture of a broken system, unable to meet the needs of students. We are yearly sending our students to these institutions and they don’t get the funding that they need. We don’t need promises anymore, Minister.

The only way forward is for fee-free higher education for all, and only then will we have an education system that allows students to get an education, and finish their degree without being burdened by cost of fees, accommodation, food and study material. Thank you.

Mr X NGWEZI: Hon House Chairperson, the effective administration of NSFAS remains one of the key critical areas

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of the education system in this country, particularly for the poor. Therefore, the interventions that the Minister has reported back today are a welcomed step in sorting out fundamentally what has been a systemic rot over a long period of time, which is characterised NSFAS.

The system has been riddled with inefficiencies and ineffectiveness and has been largely unresponsive to those with which whom it is supposed to benefit, which is the poor. The emergence of the Fees Must Fall movement was as in part a result of an NSFAS system which did not go far enough with dealing with the issues of student education and access.

The board has dismally failed and we hope that the interventions of the Minister in this regard will correct that. On the 10 August, the IFP stated that, while we welcome the appointment of an administrator, arises out of the fact that we called for the dissolution of the board and the appointment of an administrator.

Moving forward, NSFAS must be decentralised to universities for effective and maximum use but also, NSFAS must be seen as

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a social grant and there the department must work with the Department of Social Development for the purposes of concurrence, the purposes of plugging the holes of corruption where unintended recipients find themselves at the forefront of the list while those who need it most don’t get it. It must be part and parcel of the broader change as we seek to turn around NSFAS.

Mr A M SHAIK-EMAM: Hon Chair and Minister, it is quite clear that the administration of this fund leaves a lot to be desired and this appears to be an ongoing problem for many, many years. As a result of the poor administration, many students suffered and continue to suffer. We must not also forget about the challenges that we identified a while ago in terms of the collection and where we found that we were collecting under 10 or 12% of the loans of what we were giving out and we found that something needed to be drastically done about that. So, I think that it is one of the issues we need to talk about.

Added to that hon Chairperson and Minister, is the issue of the curriculum, while we as government are allocating a whole

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lot of money towards the National Students Financial Aid Scheme, NSFAS, and bursaries, we also appear to have a shortage of skills in the country and we repeatedly finding that the curriculums particularly of the Technical and Vocational Education and Training, TVET, colleges are not speaking to the skills needs. So, while we are talking about high unemployment here, we are also talking about skills shortage here and we finding that there is no co-ordination between the departments. So, we are asking the Minister to also intervene in them.

We welcome the intervention by the hon Minister, the hon Pandor, however, hon Chairperson, the backlog together with the current applications that are increasing at an alarming rate, means that drastic measures must be taken to identify what the weaknesses and the challenges are. And, again there has never been a consequence for failures on members or officials to comply or deliver to us. I think the time must come where we need to investigate this thing thoroughly and those that are failing us must be dealt with accordingly. They must be replaced and we must put capacity.

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Now many of us are arguing about free in higher education, hon Minister and Chairperson, yes, free education must be provided and that is not open for discussion. Maybe the timing was incorrect. However, I do not believe hon Chairperson, the issue is actually the money. The problem that we have here is the way this fund has been administered. So, the intervention by the Minister is already yielding some results. So, I think what we should be doing is giving full support to the Minister in terms of her interventions to ensure that the students receive the allocations timeously, because many of these students are either not getting enough money so, that they cannot buy food for themselves on a daily basis. They cannot have transport and they are suffering in terms of the accommodation, but Chairperson, as the NFP what we are saying: Rather than concentrate on the problems, let us concentrate on the solutions together united in this House rather than coming here and trying to grandstand and score points.

Let us work together with the department and with the intervention by the Minister and my colleagues from all different political parties so that we can find a meaningful

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and permanent solution to this problem. Thank you, very much. [Time expired.]

Mr M L W FILTANE: From the outset let me confirm that the UDM support the interventions and the efforts of the Minister.

However, we will take back just one step back hon Minister, the root cause of the systems failure lies at the absence an effective and efficient, monitoring and evaluation systems both on the part of the board as well as the Ministry itself. I will not say anything about who was at the helm of the department at the time.

With regard to consequence: Poor students were exposed to unnecessary anxiety, this on top of the expected anxiety on whether one would pass the exams or not if admitted. This bags the question: Did the personnel employed to process the applications, have the necessary capacity to do what they were employed to do in the first place? We would implore you hon Minister to check into that and we would appreciate the steps that you are taking to correct things, but you need to check deep into that.

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This country cannot and should not rely on crises management. The students are there to learn and they learn beyond what is in the classroom. Soon the students will think that crises management is the standard way to run an institution because they can see what is happening, they read newspapers.

Imagine what would have happened to the future of the 50 000 students, had this intervention not come about? We should not toy recklessly with the future of our youth. We wholly support your intervention and hope that it will indeed brighten the future of our youth. Thank you.

Ms D CARTER: Chair, we note the Minister’s statement and her appreciation to correct what has been wrong. In our opinion, the genesis of this problem is the following: The general incapacity of National Students Financial Aid Scheme, NSFAS, which is synonymous with the growing incapacity of the state as a whole under the rule of the ruling party.

The appointment of the unfit-for-purpose chief executive officer, CEO, who lacked the ability, integrity and ethical morality to head the organisation.

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[Interjections.]

It could have been a nonprofit. That is correct. The blunder to centralise all student financial aid under NSFAS administration - despite the organisation’s lack of capacity and credibility, and Zuma’s unilateral decision to implement fee-free higher education without any consultation with Cabinet under the then Minister of Higher Education and Training in an attempt to sway the ANC’s elective conference.

Now Chairperson, the fact that the organisation had

R153,8 million more cash left than projected at the end of 2017-18 financial year is indicative that fewer students received funding than should have.

Now the Minister did give an explanation of the challenges that they faced, but we question and we would like a reply from the Minister as to why R1,7 million offer was made to the NSFAS CEO Steven Zwane to resign - when he faced allegations of ineptitude, maladministration, corruption and the manipulation of procurement processes and also misleading the board.

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What do we continue with these practices of rewarding and enriching wrongdoers when we should be disciplining them? Minister, we are really looking at you and we are quite sure that in your department that you will stop this type of behaviour.

The Congress of the People believes that the predicament we find ourselves in can be alleviated by decentralising the administration of financial aid to those universities and Technical and Vocational Education and Training, TVET, colleges that have the capacity to do so, ensuring that student financial aid results in the development of skills that actually needed for our development, inculcating amongst students that access to financial aid comes with conditions as well as responsibilities, and realising that the fee-free higher education was a reckless decision that remains unsustainable to the fiscus without radical and by that I mean substantial economic growth. I thank you.

Mr L M NTSHAYISA: Hon Chairperson, as the AIC we welcome the statement by the Minister of Higher Education and Training so as to know what is going on in this National Students

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Financial Aid Scheme, NSFAS, issue, because this issue has been a great issue that is affecting our children. We hope that this time around this strategy will bring in the efficient administration for the processing of applications and the disbursement of funds.

We were always concerned about the fact that most of the people, the professionals that is teachers and nurses are not in a position to send their children to university because they are getting nothing, but they also belong to the so- called working class. I do not know on how this matter can be resolved. They have a problem.

We are saying Minister Pandor, you keep it up, because we are all waiting and looking forward now to this intervention. The centred model did not work very well. So, it is now good that you decided to appoint an administrator that is going to look thoroughly into the issue of the NSFAS.

The finalisation of applications and the disbursement of funds will now be done with great ease. So, these processes and

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systems should now be efficient enough so that they work towards the aim of helping our students.

Again, this NSFAS board that was very much dysfunctional that has to be replaced by the administrator is going to help us a lot as a country. We are also happy that there is going to be efficient communication between NSFAS institutions and the students. Students would like to be informed all the time, so that they exactly know what it is that is happening: Whether they are going to get these funds or not.

So, in addressing these challenges and in identifying the root causes of these will also help the country. Hon Minister, we are just aspiring to free education for all. We need to work hard, so that we grow our economy. So, helping these poor students from the working class will also bring a solution to the challenges that we are facing as a country. These students now in a long will work for the country and contribute to the growth of the economy of the country. So, you keep it up, hon Minister. Thank you, Chairperson.

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Mr L R MBINDA: Hon Chair, once again, as the PAC we continue with our call for a free and socialist education to be offered in all our academic institutions at the state’s cost. This we can achieve with a restructured economic framework that seeks to guarantee our full control of the means of production of this country.

The National Student Financial Aid Scheme, NSFAS, was supposed to be a temporary relief while government was looking into a sustainable funding model to offer free education. Over two decades, since 1994, government led by ANC continue to witness increments in the cost of education.

Chairperson of the session, as the PAC, we are of the belief that time has arrived that we take decisive economic decisions so as to offer to our nation services such as access to free tertiary education. It cannot be that we continue to pride ourselves with indebting our young students as this is an impediment of their growth and development financially.

As a nation, we are decades into a new dispensation that is supposed to be people-oriented and this requires drastic

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change in how we do things as NSFAS is one of those that needs to be dealt with to open way for the ushering of a free and socialist education.

In its current form, the NSFAS continues to be a milking cow for retailers like Pick n Pay, Spar etc because students have meal cards and only to find that these shops allow students to purchase items such as alcohol, cigarettes and so forth. This puts our students in an unreasonable debt that makes it difficult for them to respond to socioeconomic challenges faced by their families.

As the PAC, we are saying, at least we should do away with the centralisation of NSFAS and students should apply in each and every year more especially a year before. There should be a system to track students that are already getting this kind of support.

All the above should be done more especially for those who are in matric and first year students. This should be done during their matric year

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Ms C C SEPTEMBER: House Chairperson, as the ANC, we welcome the statement by the Minister. The Minister took the House into confidence today by giving us a better idea of the path that we have travelled, both in the committee and the department on the aspects relating to student funding.

We all know that the National Student Financial Aid Scheme plays a very critical role to ensure that students receive the much deserved funds from the entity and that the poor can equally ... and one of the main things that has to be understood in this debate is the need to ensure that the poor can equally gain access both to colleges and universities.

That is what NSFAS is all about.

We should therefore, hon members and Minister, never get into a situation where the NSFAS mandate is not upheld. We will continue as a committee to hold them to account to make sure that all those issues that we continue to raise with NSFAS and with the department, are being addressed and are attended to.

Indeed we have experienced that there has been a continuation of problems and none of them are related to the fact that the

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fee free education was introduced. The student fund model is something that came on in 2015-2016. We think that it is worthwhile that the administrator deals with a range of issues as they are being pointed out throughout this entire process so that we can put to bed all the issues that were and still are there.

As we move forward, we trust that the student model can become a model that is embraced by everyone, a model that makes sure that the entire higher education community can take ownership of, a model that unites everyone in the sector to make sure that their interests are the interest of students as well.

The challenges that both the colleges and the universities raised with us relate to the never ending IT system not being integrated. We think that it would be worthwhile to make some investments to ensure that we have a proper IT system that remains in place and connects everyone.

Minister, the funding for students that are living with disabilities cannot be forgotten in this entire debate. They have pleaded with us at many institutions on several occasions

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that theirs must also be attended to. Students with disabilities also have to be fast tracked; we can’t leave them behind. They require especial different devices, which they don’t always have, and they also have the right to fair chances of success alongside with everyone else.

We must remain thankful to the commitment made by parties that appeared before us in the committee to say that they are committed to help improve the entire system and that they will unite around the progress that they are making around this. We will continue to urge them to do exactly that. Each one of them has a responsibility in the entire system with NSFAS.

As we move forward and towards the 2019 opening, we think that it is important to ensure the implementation of the framework that brings together free education together with a moral duty of why we have decided to have free education. We also need to ensure that this policy comes before us so that we do not have a lacuna when it is 2019; why do we have free education and a range of other things that have not been addressed.

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We should also applaud the position the South African Union of Students has taken where they will be embarking on a nationwide road show. This road show is in line with the commitment they made before us, that students will prepare and equip themselves well and ensure that the 2019 application are also being met in a responsible manner. We think that it is a very good idea that they are doing a nationwide road show.

Free education, hon members, was not imposed upon, it is a policy of the ANC and must be accepted in a manner that we have done. The ANC will always look at the needs of poor people in this country, but we must ask everyone in this House if they know of anyone that is doing any corrupt practice in NSFAS such as what has been pointed out that apparently the director general did this and the other.

We must ask everyone in this House – they know where the police station is and they know where all the relevant places are. If they suspect anything then it would be correct not to use this podium only but to make sure they can bring these matters to where they really belong because it is wrong to say

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the director general has employed all sorts of people onto the board as if the board does not have a policy on that.

Of course, radical socioeconomic transformation, building human capacity, fighting unemployment is why the ANC supports free education. We support it for the poor. We make sure that the ability to learn and develop cannot only be measured by social status. Being poor should not be a barrier to education and therefore introducing free education speaks to the policy of the ANC and of recognition that we address poverty-related matters.

We call on students to use the progressive government policy as a lever and catalyst to bring about change in this country. I thank you.

The MINISTER OF HIGHER EDUCATION AND TRAINING: Thank you very

much Chairperson, and could I thank all hon members who have participated in the debate that followed my statement. I thank them for their contributions and I certainly will consider the advice they have provided seriously. I wish to just respond to one or two of the comments. Hon Bozzoli is right; we are

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seeking to address the certificate problem. It’s an ongoing one, big challenge that we must resolve. We have made inroads and I think there has been progress.

On the matter of the sustainability of the scheme, clearly this is a matter that our government must pay close attention to. We are committed to providing free-higher education to young people. Therefore, we must devise a sustainable programme that will ensure that overtime we are able to fund as many young people who come from poor and working class families.

I do think, we need to address the matter of the block grant to both universities and colleges because there has been a reliance on tuition fees, which are very high for many, many years and it is due to the inadequacy of the subsidy to institutions. I think, we must continue to engage and we will with students’ organisations to ensure that they understand the commitment the ANC government has, to ensuring that those who are in need of support receives support and this is the poor and working class as students.

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I assure the hon Ntlangwini that I do not stand here to make empty promises. I have taken action. I am working closely with the Administrator and I believe from what has been achieved in the first period of his appointment that, indeed, the hon Ntlangwini will be convinced when next time we debate the matter that progress has been made.

I know a number of the members of the former board which is now dissolved and most of them, as far as, I know will be horrified to be labelled communists. So, I found that one interesting. I might also say if indeed something has been done wrong, I will be keen to get a report as to that wrongdoing by any of my officials.

With respect to students and their being kicked out of accommodation if I could be provided with the institutions and the names so that I may engage the institutions and see whether there is a way we can assist those young people.

I assure the hon member of the IFP that the board is now dissolved. Once an administrator is appointed, hon Ngwezi, there is no longer a board. That one is done and it’s sealed.

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We are now happy - administrator executing both management and process executive obligations.

Hon member from Cope, I really don’t wish to deal with the staff matter at the podium in the House. I indicated that this is something the administrator will address and I think hon Carter, it will be very poor of me to begin to talk about separation, deliberations between the administrator and the chief executive officer of the National Students Financial Aids Scheme, NSFAS. I hope you will understand when I don’t go into this matter substantively.

I thank the hon Filtane for his support and, indeed, I agree with him. There is a need to address monitoring and evaluation and strengthen our capacity in that regard. I also agree, I think crisis management is a very bad form of management and that normally what you want are institutions that function maximally. And, that is the kind of system and institution I hope we will build for the future.

I assure, again, hon Carter that the ANC government is not incapacitated. We do have the ability and certainly, we are

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functioning in many, many areas and we will continue to do so. The matter of the supplies she referred to of 2017 is being disbursed as we speak because we are addressing the legacy issues as well as this academic year.

Again, hon Ntshayisa thank you for your support, I also hope that the intervention will work, in fact, not hope, but I will work hard to ensure that we succeed. Hon Mbinda, we are implementing free higher education. We said it will be incremental over five years. As to socialist education, I think in the wards that you win in 2021 do introduce it, that’s a brilliant idea. We never establish NSFAS as a temporary scheme. We did have a temporary agency called Tertiary Education Fund for SA, Tefsa, but NSFAS is a statutory body established to oversee funding for students who are poor and in need of financial support.

Finally, I agree with hon September that more attention must be given to the desperate plight of many students who have disabilities. I assure her that in terms of allocations we have made through the university capacity development grant that the attention is being given to proving improved support

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to young students, young persons, with disabilities in our institutions.

In conclusion, we are ensuring that we have a very vibrant, and robust communication campaign so that we don’t have 50 000 students on our campuses who do not know that they could be beneficiaries of the scheme and thus should have applied. We will work hard hon members to ensure the administration that we’ve put in place succeeds in building a strong, efficient and a viable NSFAS institution. Thank you very much. [Applause.]

The HOUSE CHAIRPERSON (Mr C T Frolick): That concludes the responses to the statement. Hon members, I will now suspend proceedings until 14:00 and wish to remind you that the Fourth Order will be taken at 14:00 this afternoon. The bells will be rung to alert members to the resumption of business. Business is now suspended.

The House Suspended at 12:33

BUSINESS RESUMED AT 14:02.

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**CONSIDERATION OF REPORT OF PORTFOLIO COMMITTEE ON DEFENCE AND MILITARY VETERANS ON DEFENCE AMENDMENT BILL**

There was no debate.

The Chief Whip of the Majority Party moved: That the Report be adopted.

Motion agreed to (Economic Freedom Fighters dissenting).

Report accordingly adopted.

# DEFENCE AMENDMENT BILL

(Second Reading Debate)

The MINISTER OF DEFENCE AND MILITARY VETERANS: Hon Speaker,

Deputy Minister of Defence and Military Veterans, hon Maphatsoe, fellow Cabinet colleagues and Deputy Ministers, chairperson of the Portfolio Committee on Defence and Military Veterans, hon Stanley Motimele and members of the portfolio committee, hon members, we are gathered here today for the

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Second Reading of the Defence Amendment Bill as passed by the Portfolio Committee on Defence and Military Veterans. This comes after extensive consultations on the Bill including public participation.

Members will recall that this amendment follows on the Defence Act of 2002, itself a product of years of overhauling the apartheid-era Defence Act of 1957. Unlike when we took through the Defence Act of 2002, the Bill seeks to effect relatively minor amendments to have it attuned to the changed organisational structure of the SA National Defence Force, SANDF, delegation of powers, utilisation of the defence force in international waters, regulate the matters related to the reserves etc. The objectives of the Bill are – just to mention the most salient highlights – firstly, to include the Chief of Staff in the military command of the defence force by the insertion of section 4A clause 1. It is [Inaudible.] that the defence Chief of Staff is part of the Military Command Council structure. It is necessary therefore to formalise this appointment and position. Secondly, to clarify the process in section 8(e) regarding the implementation by the chiefs of the defence force of the delegation of powers and assignment of

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duties to members by the Secretary for Defence as head and accounting officer of the department. The Secretary for Defence cannot directly delegate any of his functions to members of the SANDF without the consent of the Chief of the SANDF as it would be contrary to the Command and Control principles of the SANDF.

In order to enable a member of the SANDF to be able to carry out any function of the Secretary of Defence, SecDef, the SecDef must give specific guidelines to the Chief of the SANDF in order to enable the Chief of the SANDF to instruct the member to carry out the delegation. This also will provide for the employment of the defence force internationally whereas currently the wording which we have in our legislation refers to international waters, which has a specific meaning in international law. The amendment seeks to expand the international deployment of the SANDF by not only restricting it therefore to international waters. It also provides for the security vetting of contractors and service providers who are procured through the department. We are now here requesting that defence intelligence should be empowered to screen and vet the security of all contractors and service providers to

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the Department of Defence and Military Veterans. We are also proposing those minutes of meetings of the highest decision- making forum of the defence force, which is the Council on Defence, that these minutes should be properly regulated and that they should be properly noted. And this we are not taking lightly hence we are putting it in our legislation because this is where critical decisions of the defence force are taken.

To clarify also that a person does not the consent of an employer in order to enrol or remain a member of the reserve force. The current tradition is that if a person is employed, a person would then solicit support of the employer in order for the person to join the reserve force. To also regulate the termination of service of members of the regular force, to expand and create legislative provisions under which the service of members is terminated by operation of law and the circumstances under which members’ services may be administratively discharged. The provisions of the current section 59 of the Defence Act were retained in the Bill whilst provisions from the general regulations of the SANDF and the reserve force were incorporated into the Bill. The amended

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provisions in section 59 of the Bill are particularly aimed at empowering the commanders who are first and foremost directly involved in disciplinary matters of members. This amendment is directly related to managing the constitutional imperatives of the SANDF as contained in Section 200 of the Constitution of the Republic of South Africa of 1996 which requires that the SANDF be structured and mannered as a disciplined military force. Thank you very much Chair. [Applause.]

Mr M S MOTIMELE: Hon speaker, hon Minister of Defence and Military Veterans, hon Nosiviwe Mapisa-Nqakula, Deputy Minister, hon Kabby Maphatsoe, hon Members of Parliament. The Defence Amendment Bill [B 18-2017] was submitted to the Portfolio Committee on Defence and Military Veterans by the department in June 2017. The Bill seeks to align the Defence Act of 2002 with current departmental organisational requirements to enhance the efficiency of Defence and Military Veterans. The amendments are organisational in nature and apply internally to the Department of Defence and Military Veterans.

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Various consultations were conducted with stakeholders within the Department of Defence and Military Veterans and the Bill was published for public comment in line with all public participation processes. No responses were received. The committee agreed that the regulations would be dealt with at a later stage. The report of the Bill was adopted without amendments.

The Amendment Bill amends the Principal Act by, inter alia, providing for the inclusion of a Chief of Corporate Staff in the Military Command of the SA National Defence Force which is established by section 4A of the Act.

The Chief of Corporate Staff will be on the same level as Chiefs of Services and Divisions in the SA National Defence Force, SANDF, already included in the command. The Defence Amendment Act of 2010, for the first time set out the composition of the Military Command.

The Chief of Corporate Staff, as the Staff Officer of the Chief of the SANDF, is critical for the proper functioning and

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coordination of the activities of the SANDF hence the need to include the Chief of Corporate Staff in the Military Command.

Among other amendments, the Bill provides for the security vetting of contractors and service providers of the department. The issue of security at our military bases remains one of paramount importance therefore the Bill also provides for the prohibition of access to military property or areas, i.e. citizen should be made aware and be warned that you do not just stumble in a military area without notice. The amendment empowers the Minister to prescribe measures to regulate access into military property or areas.

The amendments provide for the simplification of matters when it comes to the identification cards issued to military police officials. Currently, the wording of the Act requires that regulations regarding these identification cards be promulgated by the Minister. The amendments provide for this issue to be dealt with by means of internal policies instead of regulations.

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The Bill proposes an amendment to the requirements for legal representation in order to align section 60 of the Defence Act with the Treasury Regulations regarding legal representation of SANDF members provided by the state in respect of an act committed in an official capacity.

The Bill also seeks to regulate the display of military decorations, medals and insignia. This aspect will be dealt with in the rules rather than the regulations. The Bill proposes that the criminal enforcement of the unlawful possession or wearing of military uniforms, distinctive marks or crests be regulated anew by amending section 104. This amendment is necessary as the unlawful wearing of military uniform does not only risk bringing the Defence Force into disrepute but it also confuses members of the public.

The Amendment Bill not only enhances the efficiency within the Department of Defence and Military Veterans, it also strengthens our territorial integrity and upholding the reputation of the Defence Force.

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We therefore propose that the Bill be adopted by this House. I thank you. [Applause.]

Mr S ESAU: Hon Speaker, the Defence Amendment Bill addresses the inefficiencies and therefore proposes changes to the Defence Act of 2002; and we acknowledge that this will be in the best interest of the military.

It affects also the Ministry of Defence, the Secretariat of Defence and also the Department of Defence, and it needs to address all sorts of the relationship between the Chief of Defence and the Secretary of Defence in order for delegations to be implemented.

The concern we have is about the vetting processes for service providers and contractors – normally the Department of State Security does that, and now we need the Defence Intelligence to take responsibility for the DODS vetting of contractors and service providers. We know that in the past we had serious challenges and we speak about empowerment and capacity.

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The issue is that there is no budget increase within the Defence Intelligence except for cyber security. So we just want to add to the Minister that within the financial constraints of that particular programme that we were able to effect the necessary changes to have a functional, effective, Defence Intelligence that can vet. It is important that we do not employ service providers and contractors in the military facilities, which are very sensitive areas.

The other issue - of course we acknowledge, insignia, medals and decorations that should be regulated uniform and to prevent the abuse of uniform, and the prohibition of access.

The concern I have with the access - we support that hundred percent – the issue is about the infrastructure. Does it align with the Critical Infrastructure Act that was passed in place of the National Key-Points Act; because within those Acts, we speak about also the security that must be added besides the prohibition of access?

Now, we know that there are also budgetary constraints in that regard and that this Bill that we have is a process of the

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amendment process, so we anticipate further amendments to be done.

We also acknowledge that the Defence Review was not being taken in consideration at this time because that is also under reconsideration and review concerning its implementation; and that will of course also have an impact later when we have to do further amendments to the Defence Act.

The issue that the regulatory environment will be regulated and simplified, I think that is encouraged and of course we see there will be shifts from regulations to policies, policies to rules, rules to determinations and also the capacity for new regulations to be drafted in order to facilitate this regulatory environment.

The legal representation, we welcome that. Also, in terms of our democracy, if there are official people on official duty they also have the recourse to legal representation, which we support.

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The reserve force members - I think we acknowledge that if they can serve and be registered without the necessary permission being required from an employer. So that relationship we must just ensure that employers understand the need for reserves to be on stand by; and it is of course an honour to serve your country and to be on stand by to defend your country.

Essentially, the amendments enhance military discipline, and I think we would like to see the Military Discipline Bill also coming to the table, and that we also implement that as soon as possible.

The SPEAKER: Excuse me hon Esau. What is the point hon Paulsen? On what point are you arising?

Mr N PAULSEN: Speaker, on a point of order - apologies to the speaker for interrupting. The hon Wessels was removed from the House and told to leave the House earlier today and he is back here again.

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AN HON MEMBER: No, no, no we are continuing. We are continuing. Ae, no, he must leave. He must leave.

The SPEAKER: Hon member, you know that you were removed from the House, and when you are removed from the House it is supposed to be for the rest of the day.

Afrikaans:

Dr P J GROENEWALD: Agb Speaker ...

English:

The SPEAKER: Wait, hon Groenewald I’m just finishing the matter at hand. Could you please let the hon member ... [Interjections.]

Dr P J GROENEWALD: No, before he leaves hon Speaker, on a point of order on that matter. Hon Speaker, we have listened to the tape, the video, and ... [Interjections.]

AN HON MEMBER: No, no, no.

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Dr P J GROENEWALD: How can you say no I have ... [Interjections.]

The SPEAKER: Hon Groenewald, can you allow us to just finish this business? Hon?

Afrikaans:

Dr P J GROENEWALD: Agb Speaker, die lid is gevra om die podium te verlaat, nie om die Raadsaal te verlaat nie. [Speaker, the member was requested to leave the podium, not the Chamber.]

English:

Can you please make your ruling?

Mrs H O MKHALIPHI: Speaker, he is out of order. Out of order please!

The SPEAKER: Can the hon member please leave the House.

Mr W W WESSELS: Madam Speaker!

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The SPEAKER: Hon member, I’m advised that you were removed from the House and you are supposed to stay out for the rest of the day.

Mr W W WESSELS: Madam Speaker, may I address you on this matter?

The SPEAKER: Therefore, I am not having a debate with you. I’m just requesting you to leave and not be here for the rest of the day.

Mr W W WESSELS: I’m just asking. I’m just asking did you hear what the presiding officer said. The presiding officer said I must leave the podium.

The SPEAKER: Hon member, you are now delaying us.

Ms H O MKHALIPHI: Speaker, please call the bouncers! Call bouncers!

Dr P J GROENEWALD: Speaker! May I ask Chair, on a point of order!

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Ms H O MKHALIPHI: Call the bouncers to remove this man to Orania, wooh!

The SPEAKER: Thank you. I look forward to seeing you tomorrow.

Dr P J GROENEWALD: Agb!

The SPEAKER: Hon Groenewald, what is your point? Is it still relevant?

Dr P J GROENEWALD: Hon Speaker, if it was not relevant I wouldn’t have asked to address you.

The SPEAKER: Okay, go ahead and address me.

Dr P J GROENEWALD: Can I then just ask you, in future, that if a decision is made by the Chair and the presiding officer that is quite clear – because the hon member Wessels was asked to leave the podium. You can go and check the video. If a person has to leave the House then he must be ordered to leave the House not to leave the podium so that the morality must be corrected. Thank you. [Applause.]

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The SPEAKER: Okay, thank you very much. We will check on that record and we will come and report to the House. Hon Esau, sorry to disturb you but you can finish off.

Mr S ESAU: In conclusion, the DA supports the Defence Amendment Bill. Thank you very much. [Laughter.] [Applause.]

Mr S P MHLONGO: Hon Speaker, the Defence Amendment Bill before us today, is a wrong answer to a poorly crafted question. It takes away our focus from crocodiles chasing after this great nation to the lizards, which is a useless act. Now the real challenge facing our defence force today has little to do with the amendment suggested to the Defence Act of 2002. The Defence Amendment Bill deals with the administrative matters relating to the powers of the defence secretary, the powers of the Minister to make regulations and the deployment of our forces to international missions. These pale in comparison towards other real challenges facing the defence force that needs legislative amendments.

From 2002, we have had one report after another, detailing the extent of decline of our defence force. The 2015 Defence

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Review report starkly demonstrated the declined defence allocation year on year by approximately 5% per annum in real terms over the last 20 years to less than 1% of the Gross Domestic Product resulting in the loss of essential defence capabilities. The result of this has been horrendous and the Defence Review noted the consequences as loss of significant impact on the capacity and capabilities of the Department of Defence and their level of our country to defend ambitions in support of national interest and foreign policy.

A probably thought legislative mechanism ought to have dealt with the funding model of our defence force to ensure that the ambitions of the defence force and their resources available are not out of sync with each other. The Defence Review did not end on the matter of funding alone; it also advocated a role for the military support of South African developmental state and the harnessing of national resources to the population as a whole.

This, the review claimed could be done through the virtues of military service in socialising and educating young adults and enhancing the national skills-base; the economic benefits that

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might flow from military procurements to local businesses and national industry; and the support that military engineers and medical staff, as well as the air force, can sometimes provide for civilian projects. None of these things have been done; no plan has been put in place to ensure this happens, and as a result, the real potential the military has to unlock economic benefits for our country has not been realised.

We could however, be training doctors, technicians, engineers, military scientists, pilots at a large scale, while at the same time improving our capacity to defend our nation. As a result of this negligence, by this government, just two of our nine C130 aircrafts are flying. This is because we have no coherent plan for training pilots for our defence force.

Therefore, if we were serious about improving our defence force, we would not be entertaining the artificial amendments proposed by this Amendment Bill. Rather, we would be focusing on rebuilding our defence force through legislative measures, but also through policies and sound leadership, to lift it out of the quagmire it finds itself in.

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Right now in our last meeting of defence and public works, we have a hospital where millions were planted in Free State hospital because of failures of this Parliament to oversee activities of the corrupt Department of Public Works. For this reason, the EFF rejects this. Thank you very much. [Applause.] [Time expired.]

Mr R N CEBEKHULU: Hon Speaker, this Bill firstly seeks to formalise the position of Chief of Staff in the existing military command structure. In general, it seeks to align the Defence Act 2002, Act No 42 of 2002 with current departmental organisational requirements to enhance the efficiency of defence and military veterans. Its amendments although largely organisational in nature and applicable internally to the Department of Defence, bring much needed structure realignment to our ailing defence force and thus military defence capability.

It looks at the realignment of providing effective organisational defence capability according to the principles of “Defence in a Democracy” with its primary and external mission being the conventional function of defence against

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foreign military aggression. The Bill also importantly expands the wording of section 18(1) and international deployment of South African Defence Force by not also restricting it to international waters which its approach is consistent with movement in international law.

With the current status and defence capability of our South African Defence Force, it is equally important that we bolster and make it simpler for military trained citizens to join our reserve forces. Clause 7 addresses this by removing the prior concern that was requires by an employer upon an employee joining the reserve forces. Fitness and moral of the troops in the South African Defence Force is currently low and health is poor.

The suggested amendment to clause 13 will empower the Minister prescribed regulations concerning health and fitness of troops. This is paramount if we are to have disciplined, fit, healthy and effective defence force capability. In order for the South African National Defence Force to be a balanced modern and technologically advanced military force, capable and executing its task effectively and efficiently, it is

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paramount that it keeps pace with global military technology advancement.

South African National Defence Force peace keeping forces that are sent out on missions, ill-equipped with defective technology will always end in disaster. If we are to bolster the morale of our troops, let’s begin by providing them with every advantage to successfully conduct and carry out their missions. I thank you.

Mr S C MNCWABE: Hon Speaker, the NFP welcomes the aims and objectives of the amendment to the current Defence Act of 2002. We have noted that the amendment seeks to formalise the position of the Chief of Staff within the military. We also commend that the amendment provides for the security vetting of contract and service providers of the department. We believe that this will go a long way in fighting corruption and irregularities within the department.

Our overall observation as the party, is that the main objectives of the amendment is to realign certain functions within the defence force with the current structure of the

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Department of Defence and Military Veterans, which in our view is an acceptable move. Lastly, the NFP supports the Defence Amendment Bill. Thank you.

Afrikaans:

Dr P J GROENEWALD: Speaker, ek wil in die eerste plek van die geleentheid gebruik maak om die Vryheidsfront Plus se leedwese met die afsterwe van Generaal Jannie Geldenhuys, ’n vorige Hoof van die Suid-Afrikaanse Weermag, uit te spreek. Ons wil aan sy gesin en familie ons innige meegevoel betuig en mag hulle hul vertroosting van ons Hemelse Vader ontvang.

Generaal Geldenhuys was bekend vir die feit dat hy nie net ’n soldaat was nie, maar ook ’n kenner van politiek en hy het ook ’n groot rol in die politieke ontwikkeling gespeel, selfs as Hoof van die Suid-Afrikaanse Weermag. Hy was ook ’n mens. Hy het ook die menswees van ’n soldaat goedgeken en almal het hom respekteer. So, ons wens die familie sterkte toe.

As dit by die wetsontwerp kom, is dit uit die aard van die saak, ’n aantal tegniese veranderinge wat ter sprake is, maar die belangrike deel is byvoorbeeld dat daar ’n hele aantal

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veranderinge is in terme van die handhaaf van beter dissipline in die Suid-Afrikaanse Nasionale Weermag.

As ek een voorbeeld kan vat, as ’n lid vir 10 agtereenvolgende dae afwesig was sonder verlof, sal so ’n lid se diens dan beëindig word. Dit is kommerwekkend dat ’n mens persone in uniform in die openbaar sien rondbeweeg. Sekere van hulle sal toestemming hê, maar mens kan ook sien dat baie van hulle net eenvoudig gaan inteken het en dan maar net weer die basis verlaat. Ek het al in Potchefstroom gesien dat daar eintlik gespog word met die feit dat hulle net tot tienuur by die basis bly en daarna in die dorp gaan rondloop. Ons verwelkom dus hierdie tipe maatreëls. Die agb Minister weet ook dat daar streng na dissipline gekyk moet word.

’n Ander aspek is byvoorbeeld dat die Minister die mag en die bevoegdhede het om sekere maatreëls wat militêre basisse meer veilig sal maak, aan te kondig. Agb Minister, ons ondersteun dit, maar die werklikheid is dat dit ook onaanvaarbaar is dat ’n mens dan in die media moet verneem van wagte by ingange van militêre basisse wat aan die slaap is, wat oorval word deur misdadigers met messe en dan word die wagte van hulle wapens -

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R4-gewere – asook hul lewendige ammunisie ontneem. Dit is nie aanvaarbaar dat ons sulke swak dissipline het nie.

So, hierdie maatreëls is wel in plek, maar ek wil ’n beroep op die agb Minister doen om te verseker dat die dissipline absoluut opgeskerp word in die Suid-Afrikaanse Nasionale Weermag. Ons kan watse wette en reëls maak, maar die sukses daarvan gaan afhang hoe gedissiplineerd ons lede dit toepas.

Dit is moontlik. Ons kan hulle behoorlike dissiplineerde opleiding gee en slegs dan sal ’n wetsontwerp soos hierdie wel sy nut hê. Die VF Plus sal dit ondersteun.

The CHIEF WHIP OF THE OPPOSITION: Madam Speaker, I apologise, the hon Marais is indisposed. He is not going to be able to make the debate this afternoon. [Interjections.] It means he is at surgery, which you need to your brain.

Mr D D GAMEDE: Hon Speaker, the Minister and Deputy Minister of Defence and Military Veterans, Ministers and Deputy Ministers present and hon members, firstly, the ANC supports this Bill.

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Ms E N NTLANGWINI: Speaker, on a point of order: I think the Minister was raising her hand there and I will never let any man undermine a woman like that in my presence.

The SPEAKER: No, hon member. Please, take ...

Ms E N NTLANGWINI: No, I want that man of the DA to withdraw that statement that he has made. [Interjections.]

The SPEAKER: No, hon member. Please, take your seat. [Interjections.] I have not allowed you to make a speech.

Ms E N NTLANGWINI: It was wrong. It was wrong. He should never be allowed. He has been bullying us the whole morning. He has been such a bully and a spoiled brat the whole morning. We can’t allow that. You can’t allow that. [Interjections.]

The MINISTER OF SMALL BUSINESS DEVELOPMENT: Speaker, on a

point of order: The hon member actually insulted me. Therefore, ...

The SPEAKER: Hon Minister, ...

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The MINISTER OF SMALL BUSINESS DEVELOPMENT: Hon Speaker, I beg

your indulgence. He needs to retract because ... He needs to withdraw because ...

IsiZulu:

... akakwazi ukungithuka ngengqondo yami. Akakwazi ukuyenza leyonto leyo. Uma ungazwanga Somlomo ngizocela ukuthi uyilalele lento ayishilo bese sibhekana nayo emuva kwalokho.

The SPEAKER: I will do that. I will refer to Hansard and I will bring back the issue. [Interjections.]

Mr D D GAMEDE: I said that the ANC supports the amendment of this Bill – B18-2017. South Africa’s national interest is centred on the advancement of its sovereignty, democracy, national values and freedom and its political economic independence. The South African National Security focuses on its sovereignty and other related priorities of territorial integrity, constitutional order, the security and continuance of national institutions, the well-being, prosperity and the upliftment of the people and the growth of the economy.

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South Africa’s National Security inextricably hinges on the stability, unity, prosperity of the South African region and the continent, in general. South Africa’s military capacity must commensurate with South Africa’s international status, strategic posture and inescapable leadership role.

The Defence Force makes a vital, unique contribution that complements South Africa’s diplomatic efforts and enhances South Africa’s influence within wider international development.

As South Africa expands its leadership role, it continuously assumes the obligation to provide experienced military leaders and proficient military forces for peace missions and other military operations.

The amendments of the intended Bill are to align it to the Defence Act of 2002, as mentioned. Clause 1 proposes that a chief of staff be included in the military command. Clause 2 proposes clarification of the process of section 8(e), regarding the implementation of the Chief of the Defence Force. Clause 3 proposes that provision be made for the

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employment of the Defence Force outside the Republic. Clause 4 proposes to simplify methods regarding identification cards issued to military police officials.

Clause 5 proposes a technical correction to the reference to the amendments. Clause 6 proposes the improved regulation of the minutes of the meetings of the Council on Defence. Clause

7 proposes to clarify that a person does not need the consent of the employer to enrol or to remain as a member of the Reserve Force. Clause 8 proposes to regulate anew the termination of service of members. Clause 9 proposes an amendment to the requirement for legal representation of members, in order to align it to section 60 of the Defence Act.

The following clauses – 10, 11 and 12 - are very important, which propose an amendment regarding the manner in which the display of military decorations, medals and insignia and the use of military uniforms, distinctive marks and crests are regulated.

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Clause 13 proposes to amend certain powers of the Minster to make the amendment, which will empower the Minister to prescribe the regulations on the medical establishment of health and fitness standards, and the provision of dental and hospital treatment.

Clause 14 proposes the amendment of a heading. Clause 15 proposes provision for regulation, prohibition of access to military areas. The last amendment, which will request all the Members of Parliament to communicate it to all communities, is Clause 16. Clause 16 proposes that the criminal enforcement of the unlawful possession of wearing of military uniforms, distinctive marks or crests be regulated anew by the amendment of the Act, which means that it now will be a criminal offence for anyone to wear a uniform that is similar to that of the Defence Force.

The Defence Force Amendment Bill is envisaged to align it to the Defence Act. As the ANC, we therefore support the amendment to this Bill with a big smile. I thank you.

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The MINISTER OF DEFENCE AND MILITARY VETERANS: Hon Speaker,

hon members, thank you for supporting this amendment to the Bill. I would like to make an appeal to the portfolio committee to also fast track the Military Discipline Bill; which has long been outstanding because it will help enhance our work of creating a disciplined force and a highly professionalised one for that matter.

I also want to thank the hon members for making reference to almost all the issues which we are amending in this Bill. With specific references, I must say, to the wearing of military uniforms, distinctive marks or crests, is now going to be regulated anew. This is a matter that we all know has created a lot of problems. This will now assist us to enforce it rather than to be talking about it without taking action. We cannot afford to have so many military uniforms being worn all over by anyone and thereby creating a situation where we have paramilitary structures which are not registered.

Lastly, the area of the reserve force, I am sure the hon members would recall that during the Budget Vote, one of the matters I raised was that there is a need to overhaul the

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reserve force. And of course, I am aware that last week Friday, the Reserve Force Council made some presentations to the joint committee of defence. I am also aware that there is work done in the department to deal with the same issues.

The reality is that we depend a lot on the reserve force; therefore, we have to create and regulate them in a manner that it is easy for us to have access to them. But also; that it is well-organised and that corruption should not be allowed in the process of getting people to come into the system to serve and exit again by the virtue of being reserved force members; they are not full time members of the regular force.

Lastly, of course, the matter of decorations has been raised and I am very happy about it. We have seen people who are wearing all manner of decorations and medals; some of which we don’t recognise as those belonging to the South African National Defence Force and even those belonging to the former statutory forces, the South African Defence Force.

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So, thank you very much hon members. Thank you for the support and thank you for the quick manner in which you dealt with these issues in the portfolio committee. Thank you.

Debate concluded.

Bill read a second time.

# CONSIDERATION OF REQUEST - PERMISSION IN TERMS OF RULE 286(4)(C) TO INQUIRE INTO AMENDING OTHER PROVISIONS OF COPYRIGHT ACT 78 OF 1978

The SPEAKER: I was expecting to see hon Fubbs, the chairperson of the committee who will introduce the report, but I see the hon Radebe’s pretty face here. [Interjections.]

Mr H O MKHALIPHI: Speaker!

The SPEAKER: Yes, hon Hlengiwe!

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Mr H O MKHALIPHI: This is not fair the hon German cut. He was demoted as a Whip; now he is being demoted here to come to the podium. This is unfair. [Laughter.]

The SPEAKER: We sympathise with you for feeling that he is being unfairly treated. Hon Fubbs, please proceed.

Ms L T FUBBS: Good afternoon hon Speaker and hon members of this House. This is an interim report of the Portfolio Committee on Trade and Industry, in terms of the National Assembly Rule 286(4)(c), on the Copyright Amendment Bill, B 13

– 2017. It seeks essentially to address the scope of the Bill.

The Bill came to the House and was redrafted by the committee. From the submission written and oral, as well as the deliberation we received, taking into account what we worked with at Arts and Culture. We also worked with a variety of departments and Ministries. It became apparent from those, the artists themselves, that there was a need for clearer definitions. So we had to capture that.

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There was also a recognition that the Bill tabled in this Parliament did not effectively deal with collecting societies. That we all know, or perhaps we may not, that they remain unregulated, which is one of the primary reasons why artists do not receive what is due to them.

We go on to the resale of royalty rights. How do we protect this? So, essentially the Bill has captured those gaps that existed and listened to the many submissions. When I say admission, hon Speaker, they were appeals and pleas from people who died before I stand here. We have taken them seriously on board as a committee.

We also dealt with the establishment of the copyright tribunal as an alternative mechanism. We can’t continue to send everything to the courts and clog them up. So, essentially then the committee recommends that the National Assembly grants permission in terms of Assembly Rule 286(4)(c) for it to amend other provisions of the Copyright Act 78 of 1978. I thank you. [Applause.]

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The SPEAKER: Are there any objections to the committee being granted permission in terms of Rule 286(4)(c), to inquire into amending other provisions of the Copyright Act 78 of 1978?

The CHIEF WHIP OF THE OPPOSITION: Madame Speaker, no objection, but we would like to make a declaration.

Declaration of vote:

Mr G K Y CACHALIA: Madam Speaker, copyright law is a complex minefield and is preferable informed by international best practice and expert views. The Bill, currently in the committee stage, addresses certain issues that have been crying out to be dealt with for decades. As such, the report merits support.

It makes laudable strides to modernise the Copyright Act of 1978, which is badly out of date while the world has been moving forward at a dizzy pace. Remember though, a fundamental of copyright protection is that is should not outweigh the right of freedom of expression, which remains a fundamental tenet of constitutional democracy. The Bill grapples with two approaches: Fair use; and fair dealing. Both aim to enhance

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creativity. Fair use provides a principle’s base test to see if a use is permitted or not; while fair dealing specifies permissible uses in legislation.

In respect of the Bill, criticisms have been levelled and some of these are now under review. One example is the terminology of the Bill which continues to foster uncertainty. The scope of fair use and fair dealing remains a controversial section of the Bill. The committee has now embarked on a hybrid option. However, this approach may well fudge the issue by continuing to shoe horn some uses into narrow legislative provisions.

The ownership by the state of state-funded works is another problematic section. Its arbitrary deprivation of a person’s right to property may be unconstitutional and one can think of many practical situations where this would be untenable.

Then there is the introduction of resale royalty rights. Here an artist can claim to receive a portion of the resale price of her artwork when onward sales are made. The implication on the art market and ownership are significant as our issues of

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retrospective application. There is a presumption against retrospective legislation and while an acted law trumps common law, it is essentially inferior.

There are also possible unconstitutional aspects of the Bill that allow the Minister responsible for Communication to prescribe local music content for television and radio broadcasting instead of Icasa doing so. All these issues merit attention but the ANC’s proclivity to be driven by populist redress without due consideration of the legal and socioeconomic consequences must be guarded against.

This has prompted Prof Owen Dean, chair of the intellectual property law at Stellenbosch University to say, and I quote:

I regret to say that I have not come across a piece of intellectual property writing that is as badly formulated and presented, and that exhibit such a lack of understanding of the basic principles of the subject. It contains terminology which is foreign to the Act and rides roughshod over the basic principles of copyright law. The Bill is riddled with contradictions and anomalies. It is

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frequently nonsensical or downright incomprehensible, even to someone who can claim expert knowledge of the subject matter.

The slap-drafting of the Bill is now being addressed. One hopes that there will be a satisfactory resolution in committee. Thankfully, some of the criticisms from stakeholders are being taken seriously, but as the Bill is being described, it remains a curate’s egg. Some authorities define a curate’s egg as something that is an indeterminate mix of good and bad. Others say it implies a preponderance of bad qualities, all of which lamentably describes the Bill which currently sits before us.

Copyright could do a much better job if freed from constraints to drive and incentivise ongoing creation and access, to give creators a fair shot and improve the preservation and dissemination of our cultural heritage.

Currently, neglected value could be unlocked and the pie made bigger. We need to disaggregate incentives and rewards, and in doing so, as with all things, we must be mindful of the

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sanctity of contracts. Contracts and intellectual property go hand in hand. The right to property implies the right to make contracts about that property, to give it away or to exchange titles of ownership for the property of another person. Best we do not lose sight of this in all our endeavours. I assure you, the DA won’t! [Applause.]

Ms E N NTLANGWINI: Speaker, while the EFF has no fundamental problem with the Copyright Act being amended, we do everything which is important what the amendment will be to the 40-year- old piece of legislation as the devil is always in the details.

Copywriting is a very sensitive issue. For centuries, white settlers have used this concept of an ideal of copywriting and patterns to claim what wasn’t theirs and profit from it throughout the world. We have seen that in Louis Vuitton with the Basotho blanket. We have seen that with the AmaXhosa pattern of Zahara. We have seen that, exploiting the knowledge of others for their own selfish reasons.

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Rooibos tea is also one of a perfect example of this. The bush from which the tea is made is indigenous to South Africa and has been used by the khoisan for thousands of years. They cultivated it and through trials and errors over time found out of the properties of the bush both for medical and other usage.

But the pattern and copyright laws have allowed the knowledge developed by the khoisan to be exploited for commercial use. Across South Africa and the world, people drink millions of litres of rooibos tea a year with companies making millions of rands in profit without the indigenous communities who develop rooibos tea seeing a single cent of this. This has gone so far as 1994. The rooibos tea was pattern in the United State, where the Department of Trade and Industry having to get involved in international corporate disputes.

The amendment which the portfolio committee in time discuss and proposed must be well defined with no loopholes.

Amendments are needed to protect our people and the ideas from exploitation of these white settlers that seems to take our people’s ideas. But at the same time, this amendment must

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allow individuals and trade mark obstacles, ideas, concepts and phrases that are used by South Africans and belong to us as our people collectively and should not be the property of a single individual. We can rest assure that the EFF will fight for these individuals. We will make sure that this piece of legislation protects our indigenous communities; will protect our black communities that this white people seek to exploit and take our ideas. We will not and not again allow that this white people take our ideas and make it as their own. I so move. Thanks, Speaker.

Mr J A ESTERHUIZEN: Madam Speaker, the Copyright Amendment Bill drawn up by the Department of Trade and Industry includes creating the rights that are solely still needed in South Africa. Although this is an interim report, a huge amount of work has already gone into creating rights for performers, writers and others to call on the law to protect their rights to earn from their work. Having said that, the Bill still falls short and fail to take into account the few fundamental principles and guidelines that should be the foundation and informed a well defined legislation.

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The Bill introduces limitation and exemptions without considering the fact that would have on the welfare of the right holder. The introducing of new rights, the retail of royalty rights, the amble of visiting of the state with copyright ownership, all works made under the direction funding or control of the state has little to do with the updating of copyright laws.

South Africa has already existing good copyright legislation but this needed to be updated precisely be due to technologically development. Many hours have been spent by members of the Department of Trade and Industry and various stakeholders and we trusted legal certainty will be the guiding principle that balances the right and interests of those that tend to be affected by the proposed amendment to modernise our Copyright Act in a forward and a positive direction for all of South Africans. The IFP support this interim report and the process for further amendment to be implemented. I thank you.

Mr A M SHAIK-EMAM: Hon Speaker, the NFP welcomes the report of the Department of Trade and Industry on the Copyright

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Amendment Bill tabled here today. The amendment is long overdue. For too long, a few of them have exploited the situation, particularly in our country at the expense of the majority of South Africans.

Hon Speaker, the Bill tabled here today seeks to define certain words and expressions to allow for the production of the Copyright Act in a sense to provide for the protection of copyright in autistic work. It further calls for the registration of collecting agencies of societies and also provides for procedures in settling disputes on royalties.

Hon Speaker, the amendment seeks to provide protection of authorship to orphans and also seeks to ensure excess for persons with disabilities in respect of copyright work. It further provides for the appointment of members of the intellectual property tribunal, including the powers of the tribunal.

Hon Speaker, one example is this: If you take, particularly medicines in South Africa, you can buy a similar product that will perform equally as good which in India will cost you one

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rupee and in South Africa it will cost you R360. Now, this intellectual property right or copyright – what it actually did is that it ensures a few, particularly the major organisations have benefited at the expense of the poorest of the poor.

So, in essence, I think the NFP is of the opinion that this amendment tabled here today will go a long way in levelling the playing field, particularly in the interest of individuals. The NFP support the amendment tabled here today.

Mr B A RADEBE: Hon Speaker, I will just say upfront that the ANC support this interim report. This interim report is very important because our creators of music, our creators of literature have been losing a lot for many years. I will make a first example, if you look at stalwart like Baba Mahlathini, Imbodlomane, he passed on being an indigent person whereas his music was being played all over the country and over the continent.

But what is very important about this Bill we are dealing with is that it addresses new technology which is in place. Around

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1978 when the Bee Gees where still a popular group, there was no You Tube. But I have just check last week one of their songs, how deep is your love, for one day, there were about

172 million hits on that day. The issue is if in South Africa we don’t have that protection, it means that in America or in the UK, the Bee Gees is the orphans or the beneficiaries of the foundation of the Bee Gees, they are going to receive royalties for that music even if the group has long diminished.

But what happens? When I look in South Africa, I looked at the performance of Mama Mariam Makeba, her song Phatha Phatha, last week, for one day, in You Tube, it had the hits of about 1,7 million. The issue is, does the foundation of Mama Mariam Makeba did get that money for that day because You Tube was going to get that?

So, this Bill we are dealing with is about protecting those rights. But what is very important – we know that as hon Cachalia has said here, they are not going to support this Bill because this Bill is fundamental because it is going to introduce the new orphans. If a radio station is going to play

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any music without keeping record of how many times they played that music, the chief executive officer of that radio station is going to be charged criminally, something which has not happened before. So, that’s why they know that we are touching the capital now. That’s why they scrambling away. They are trying to block it.

But what is very important is that where there is a dispute in the royalties, this Bill is going to provide for the corporal tribunal which is going to be manned by the retired judges.

Note, those retired judges are going to ensure that there is fair share of the distribution of royalties. It’s very simple, where the conflict is coming; you find that with the current law, the person who gains most on copyright is the person who is going to produce an act. But the actors, who are acting there, who are making that play, are not going to benefit. So, what is going to happen is that it is going to bring that balance in. So, I appeal for this House that it supports this interim Bill. Thank you. [Applause.]

Permission accordingly granted to the Portfolio Committee on Trade and Industry to inquire into amending other provisions

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of the Copyright Act, 1978 (Act No 78 of 1978) in terms of Rule 286(4)(c).

# CONSIDERATION OF REQUEST FOR APPROVAL BY PARLIAMENT OFAGREEMENT ESTABLISHING A TRIPARTITE FREE TRADE AREA (TFTA) AMONG THE COMMON MARKET FOR EASTERN AND SOUTHERN AFRICA (COMESA), THE EAST AFRICAN COMMUNITY (EAC) AND THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (SADC)

Ms J L FUBBS: House Chair, it gives me great pleasure after many years when we were looking at regional integration and the harmonisation of borders to come here to this House for the ratification of the agreement establishing the Tripartite Free Trade Area, TFTA, among the Southern African Development Community, SADC, the community of the Eastern and South Africa and the East African community.

Today, it is almost a celebration – I see Ministers who are formerly in this area of international relations. I see the Minister of Trade and Industry and Finance. Ministers who have worked with this over many years and indeed, members of this House. In accordance with section 231(2) of the Constitution

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of the Republic of South Africa, we present this agreement for ratification.

This agreement is anchored on development on integration - and that is the whole thing, market integration. We can’t talk about regional industrialisation unless we actually have this infrastructure and so on. It creates a single so important, a single set of rules for trade among the three African communities. Very different communities that there is a need to bring together and say do we agree on x, y and z. That is is important so that the prospect of stimulating industrialisation employment, not only in our own country but in Africa, income generation and poverty reduction.

What we can be aware of is, what is the population is this area? Is it 10 million or 60 million? What is it? It is nearly 630 million people that we will be interacting with as South Africans. That is what is important. As you might be aware currently, the intra African trade is estimated at a very low figure of 16%. But this agreement provides a framework to address the issues of industrialisation and infrastructure.

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We know that there is increased protectionism globally and that then, underlines the importance of ratifying this agreement. We need to diversify our export market. We need to trade more with Africa – intra African trade. And this ratification will be a positive step in this direction.

Hon Chair, when the Department of Trade and Industry, DTI, presented the agreement to the portfolio committee, we recognised the potential benefits and members of the committee raised possible threats and advantages to our economy. But I am pleased to say that the department returned to the portfolio committee to provide further details on potential risks.

At this point, we can safely say that the additional details and information that the department provided is an elaboration of the effective implementation of the agreement of various agencies including the South African Revenue Service, Sars, and we appreciate the collaborative effort. But we in the department and the relevant agency of state, there are currently three countries that have ratified the agreement, Egypt, Uganda and Kenya.

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Therefore, having been the 19th country to sign the agreement, we would like to ask this House here today, for South Africa’s ratification of the agreement because this will send a strong signal to all our countries involved. I thank you.

*Declaration*s *of vote*

Mr D W MACPHERSON: House Chairperson, the DA supports the ratification of the Tripartite Free Trade Area, TFTA. However, there are some very serious concerns that we need to highlight. We can only take advantage of the TFTA with a growing and expanding economy that gives us goods to export into those areas - duty free.

The problem is that we have an economy that is in recession. We have a manufacturing sector that is in decline and defaulting and we have Ministers, as the Minister of Finance said “who’s unaware to when a recession is about strike”.

In the manufacturing sector, just in the last quarter, we lost

105 thousand jobs. So the truth of the matter is that although we may agree to a free trade area, we are the ones that are not going to take advantage of it. Because at the heart of

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this is a customs system and a customs office that does not protect South Africa from the import of cheap and illegal goods into our country. We need a competent service that looks after borders and looks after our manufacturers.

We also need to have an ease of doing business in order for us to take advantage of the TFTA. Just this morning I told the trade and industry committee how you need a thousand pieces of paper and a 130 dollars to get goods from the Port of Durban into Namibia. That seems ludicrous and does not allow us to take advantage of free trade areas.

We also need to ensure that we support our exporters, the few that still exist to be able to take advantage of these free trade areas. We need a Department of Trade and Industry, DTI, that goes on aggressive and investor and opportunity missions to find them new business.

What we also need to see in this TFTA is to ensure the ease of movement for business people to come into South Africa to do business here. It is far too hard and for far too many business people to enter our country. I just used and example

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of a steel smelter in Port Elizabeth that is owned by an Indian Consortium and they cannot get a Visa to come into this country to come and view their own business. It seems completely ludicrous.

While the DTI may present a whole bunch of turnaround strategies and opportunities for South Africa, we as the Department of Trade and Industry Portfolio Committee need to continue to play our role of oversight and hold the Department of Finance and Department of Trade and Industry accountable and ensure that our manufacturers and exporters can take advantage of this free trade area. Thank you very much.

Mr N M PAULSEN: Chairperson, the six non-negotiable cardinal pillars of the EFF’s founding manifesto speaks to the need for rapid development of the African economy. The founding manifesto further states that development of South Africa is inextricable linked to the development of the African continent. No amount of sustainable socio-economic development and stability will be realised in South Africa unless the state plays an active role in the economic development of the African development.

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This obviously should include the development of trade corridors that link up the entire African continent and create capacity to consume goods and services produced on the continent. This is a re-emphasis of the numerous plans developed by Thought leaders in our continent that they will be no self perpetuating development of any country in the continent if that development is not at the same time pan African in nature and entails a unity and integration of the African continent as a unitary trading zone.

The Abuja Treaty had exactly this idea but, it was aborted by the neoliberals who took over the governance of the continent. For this reason, we support the establishment of the free trade zone between Common Market for Eastern and Southern Africa, Comesa, East African Community, EAC, and Southern African Development Community, SADC. It must be the first step towards complete economic unity of the African continent.

This unity must find expression in the unitisation of the African resources by African people for their own development. We must have the necessary capacity to use our own resources for industrial development. That is only possible through a

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unified Africa free of internal trade barriers. Thank you very much.

Declarations of Vote:

Mr J A ESTERHUIZEN: Chairperson, this free trade agreement for Africa is possibly the most significant event in and for Africa, as a whole, and its significance seems to have been largely underestimated. This can now be clearly seen when juxtaposed against the looming international trade war sparked by US President, Donald Trump, and the UK’s Brexit negotiations.

The IFP is of the opinion that it has absolutely made good business sense to diversify and spread risk, which this agreement is doing not only for South Africa, but for the continent, as a whole.

Our goal of partnering with markets and operators elsewhere in Africa is based on research and first-hand experience of working on the continent and seeing the potential which, I might add, is near limitless in terms of both natural and human resources.

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Like most countries in Africa, though, we also face many challenges. Africa is known for its poor critical infrastructure, porous borders, and the demon of corruption which remains so rife and port charges which are among the most unproductive and expensive in the world.

Those challenges must be overcome throughout Africa for this agreement to work. For now, South Africa remains one of the three major gateways to the African market with existing infrastructure, logistics, banking, manufacturing capabilities, education and legal structures.

South Africa can and should play a leading role in this free trade area agreement and assist other African countries to unlock the potential of their own market. Our aim should be to improve the export of value-added products, and opportunities are already opening up.

It is time for African leaders and business to get involved in intra-African trade in order to ensure Africa’s current and future economic freedom. The IFP supports the agreement.

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Mr A M SHAIK-EMAM: Hon House Chairperson, the NFP welcomes the report of the Department of Trade and Industry on their agreement in establishing a Tripartite Free Trade Area, TFTA among the Common Market for Eastern and Southern Africa, COMESA the East African Community, EAC and the Southern African Development Community, SADC, with the total membership of 27 African countries.

This is an important step and an initiative in accelerating regional integration efforts aimed at ensuring improvement in the inter-Africa trade. It also forms the basis for the ongoing continental free trade negotiations to unlock trade and investment opportunities in the entire African continent.

While this is a great initiative and ensuring that it benefits the country and its people if not taken advantages is another thing. One of the challenges we seem to have had is and I think I have spoken to one of the Ministers earlier on it is the manufacturing industry in South Africa and particularly with the rand-dollar-rate. The exports and how could it actually benefit South Africa extensively. We find it, if you take particularly the manufacturing industry while the

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automotive industry has improved the textile, leather and plastic industries have decline considerably resulting in job losses.

Now, if we could take advantage of this and export to the neighbouring countries, the regional and Africa, it will actually stimulate economic growth in South Africa. So, what does the NFP we are calling upon the government to take advantage of this agreement, so that it benefits our people in the country?

One good example, is that the manufacturing of medicines. We rely extensively particularly on the likes of the USA for our medicines and I know that we had an extensive discussions in the SADC region with respect to creating factory and industry in the SADC region alone, so that it could become self- sufficient, but also export to all the other countries.

So, in light of that and provided we take advantage of this, we believe it will benefit South Africans extensively. The NFP as a result thereof, will support this. Thank you.

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Mr N L S KWANKWA: House Chairperson, the UDM supports the ratification of the TFTA agreement, primarily because we feel that we are providing as a continent leadership in this area when the rest of the west, is moving in the opposite direction where there is rise and protectionism and unilateralism. As Africa, we are leading by example to say let us work together to improve trade and encourage issues of regional integration.

The other issue that is important is that, we have to first and foremost improve intra-African trade if we want to lift Africa out of the malice of poverty and underdevelopment as a strategy. This means, we have to find a way of trading with ourselves on the continent but I think I want to caution us as we embark upon this process that at times we fail to resist the illogical temptation to think that when we open up trade issues that we shouldn’t do it in a manner that is mutually beneficial.

It is not about South Africa benefiting alone out of this process. It is about us as a continent benefiting mutually out of the trade agreements that we are putting in place and the creation of the free trade area.

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Why am I making this point? Last year, we asked for instance President Zuma a question which said what steps has the country taken to ensure: the facilitation of the TFTA and unlike most free trade agreements the CFTA at that time didn’t skew trade and development in favour of more developed countries on the continent.

When you look at the agreement and read its objectives, it outlines clearly especially when it says adopting common standards of trade procedures within the tripartite free trade area where international requirements don’t suit the conditions or prevailing conditions and where they might actually affect the interest of member states that would serve as an important consideration.

It is amongst other reasons that we feel that this is an important agreement for Africa trade and for regional integration.

*IsiXhosa:*

N L S KWANKWA: Madiba, sanukundiphazamisa.

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*English:*

Mr N L S KWANKWA: We thank you very much.

Mr B A RADEBE: Chairperson, the foundational policy framework of the ANC of its international relations policy is encompassed in the Freedom Charter adopted in 1955, which declares that there shall be peace and friendship. The Freedom Charter therefore prescribed that the ANC and South Africa’s foreign policy outlook should emphasise peace and friendship as oppose to war and cohesion.

When South Africa joined the Organisations of African Unity, OAU, a number of treaties have already been agreed by the member states of the OAU. Amongst the treaties is the Abuja Treaty of 1991 in which the OAU agreed to establish African Economic Community. It is this treaty and many others that guide the activities of the ANC-led government in the continent.

At its national conference in 2017, the ANC resolved that Africa and its development remains the central objective of the ANC international perspective and policy with the African

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Renaissance remaining the key objective. The conference further reaffirm that the ANC and the ANC government remains committed to peaceful and prosperous Africa in pursuit of the aspirations of the Agenda 2063 of the African Union, AU.

When coming to the issue of the Tripartite Free Trade Area, it is an initiative which is consisted with the imperative of the Abuja Treaty of the AU to establish an African Economy Community. The AU, views regional economic communities as the building blocks towards the African economic community; hence the Tripartite Free Trade Area is seen as the building block which fills to the Africa Continental Trade Area.

This is an indication by the African policy makers of the need for major trade policy to reform amongst the African countries. The Tripartite Free Trade Area agreement represents a large supply of young dynamic and potential very productive labour force.

The specific objectives of this agreement are: the progressive elimination of tariffs and non tariffs barriers to trade and goods; liberalise trade and services, cooperate on customs,

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metals and implementation of trade facilitation measures, establish and promote cooperation in all trade related areas amongst the tripartite members; establish and maintain institutional framework for implementation and administration of the Tripartite Free Trade Area.

The member states of the Tripartite Free Trade agreement are determined to progressively liberalise the goods and services; promote industrial development; facilitate movement of business persons; support strengthening of infrastructure; promote competitiveness; build the capacity of micro, small and medium scale enterprises and continue to the Deeping of integration of the Tripartite Free Trade Area.

The Tripartite Free Trade Area, brings about twenty six countries together, representing 48% of the AU membership with a combined population of 632 million people which contributes 51% of the continental gross domestic product, GDP.

As the Africa, continues with its programme of economic integration of the continent, the impact of economic partnership agreement both bilaterally and multilaterally must

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be given a serious attention. If this House ratify this agreement, it will be in fulfilment of the founding fathers of the OAU, like former President of Ghana, Kwame Nkrumah, who once said by far the greatest wrong the departing colonialist inflated in Africa was the state of disunity of Africa, which left us divided into economically unviable states which bore no possibility of redevelopment.

If this House supports this agreement, it means that the historic mission would have been fulfilled. As the ANC, we fully support the Tripartite Free Trade Area agreement as it is in line with our foreign policy objectives. The agreement further emphasise the commitment of South Africa to advance the agenda of the economic development of Africa. Thank you, Chairperson.

The HOUSE CHAIRPERSON (Mr C T FROLICK): before we adjourn the House, I just want to make the following announcement: members are reminded that His Excellency, President Cyril Ramaphosa, together with the Speaker of the National Assembly and the Chairperson of the NCOP will today Launch the theme books published to celebrate the Constitution and the centenary

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birthdays of Madiba and Mrs Sisulu. The launch will take place today at 17:30pm in the Old Assembly Chamber.

Debate concluded.

The Agreement Establishing a Tripartite Free Trade Area, TFTA among the Common Market for Eastern and Southern Africa, COMESA, the East African Community, EAC, and the Southern African Development Community, SADC, accordingly approved.

The House adjourned at: 15:35