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NATIONAL ASSEMBLY

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PROCEEDINGS OF THE NATIONAL ASSEMBLY

The House met at 14:02.

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

**CONSIDERATION OF REPORT OF AD HOC COMMITTEE ON PARLIAMENT AND
PROVINCIAL MEDICAL AID SCHEME**

Ms L M MASEKO: Deputy Speaker, hon members, good afternoon. The terms of reference of the Joint Ad Hoc Committee established to address pertinent issues relating to Parliamentary and Provincial Medical Aid Scheme Act, that is known as Parmed, were clear articulated and outlined as follows: The tariffs of members of the Parmed Medical Aid Scheme; the need for, and

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possible options with regard to Parmed and other competitive medical aids for Members of Parliament; the necessity of introducing amending legislation and the impact on retired members of Parmed.

The committee duly consulted with the following stakeholders: The Parliamentary and Provincial Medical Scheme, Parmed itself; the Council for Medical Schemes; Judges through the Office of the Chief Justice; National House of Traditional Leaders; SA Local Government Association and the Magistrates Commission.

A workshop was held with stakeholders on 13 June and the committee invited stakeholders, both at the workshop and at subsequent meetings, to make oral and written submissions to the committee on various issues related to the terms of reference. The inputs from stakeholders were therefore obtained and considered by the committee as part of continuous participation approach.

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We should emphasise that the private health care industry is faced with uncertainty in relation to National Health Insurance, including the Competition Commission's Private Health Care Market Inquiry. The Council for Medical Scheme, a regulatory body for medical schemes in South Africa has highlighted that the major policy considerations relate to the National Health Insurance Implementation Policy, which cover some of the following policy activities: Consolidation of schemes that are noncompliant with the requirement of 6 000 members, of which Parmed is one of them and consolidation of government employee schemes.

In the long term, these policy activities could have a direct impact on the Parmed. Currently, Parmed membership is less than 3 000. It's actually less than 2 500.

The challenge of healthcare reform is to broaden access to quality healthcare and manage healthcare resources better. The key issue is to address price escalation which threatens the viability of the sector and limits access to private healthcare.

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South Africa is faced with socioeconomic challenges, such as poverty, inequality and high rate of unemployment that continue to affect social stability. These socioeconomic challenges have a direct effect to the country social safety net and also have an effect to the medical scheme membership base.

The genesis of Parmed being mandatory dates back in 1975 with the Parliamentary and Provincial Medical Aid Scheme Act, 28 of 1975. That was to create a safety net for Members of Parliament, especially when they exit the Parliament.

It is important to note that Parmed is a good scheme, but Parmed is not in line and also does not balance the issue of the salaries of members. To make an example is that the projection of Parmed for 2019 increases is that Parmed will increase by 9,75%. So, it's almost 10 ... Okay, listen, it will increase by 9,75% and yet there is no salary increase that is envisage for members. So, it means that the whole 10% will be borne by us. So, it means that when we get our salaries in January, it will

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be less than what you are earning now, which is a matter that needs to be addressed.

In the deliberations of the committee - the committee recommended the observations that the change of the salary structure of 2008 from cost plus benefits to total cost remuneration by the Independent Commission for the Remuneration of the Public Office Bearers has a negative impact on section 1 of Parmed as a listed political official bearers.

As consequentially, the increase in Parmed cost had been more than the increase in salaries of affected political office bearers.

There was also another year where the members did not get an increase, but Parmed increases their subscription. There is evidence that shows that, for instance, ...

The DEPUTY SPEAKER: Order, hon members. Could we allow the member on the podium to be heard?

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Ms L M MASEKO: ... an ordinary member in April, 2008, was contributing R1 433 to medical aid and the employer was paying R4 600. So, you could see from your payslip what you have contributed and what the employee has contributed. In 2018, the same employer who was paying R1 433 is now paying R12 168. So, definitely, Parmed is not affordable. The fact that Parmed is a compulsory medical scheme makes matters worse.

In engagement with the Magistrates Commission, the Judges, Salga and House of Traditional Leaders, all those formations have an interest in joining Parmed. However, with the current salary structure, they are not able to join Parmed because it is not affordable.

Further, the adverse impact that befalls members of the scheme is as a result that a limited membership scheme in that it is legislatively prescribed which office bearers must belong to it, and thus impossible for other members to join to bring down the cost and make the scheme more viable.

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As I said, when the Commission for Remuneration of Office Bearers make a recommendation to the President, it deals with office bearers. However, Parmed Act only looks at Members of Parliament, members of the legislatures and the judges.

Other recommendation that I will come to is that when the amendment is also made it should include the House of Traditional Leaders, the magistrates and the councillors so that Parmed can grow.

So, Parmed is a small scheme and due to its restricted membership, it can only offer a single coverage option giving its compulsory members no control over the medical aid coverage they require in accordance to their needs, finances and age.

As I said, if those other office bearers could join Parmed, then Parmed will be able to have different plans that members can chose from according to their purses.

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The Committee wishes to present Option 1 to the National Assembly and the National Council of Provinces, which did that yesterday, as a recommendation to address the immediate unaffordability problem that this salary structure change has caused as it relates to Parmed membership, including consideration by Treasury of a once-off alignment to redress the imbalance of the escalating percentage of Parmed vis-a-vis the increases that members have been subjected to.

The committee also further recommends that Option 1 on the structural adjustment is that the unreasonable discrepancy between salary adjustment and medical aid subsidy has an adverse impact on Parmed contribution payable by members of the scheme. This is due to the fact that the two-thirds state-subsidised contribution that was calculated to the total cost remuneration package in 2008 has not been sufficiently adjusted over time.

The committee highlighted the urgent need for Parliament to submit formal request, inclusive of a copy of this report, to the Independent Commission for the Remuneration of Public Office

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Bearers to re-evaluate the status quo and consider reinstating the pre-2008 position of a cost plus benefit remuneration structure, instead of the total cost remuneration.

As I said, there is evidence that a member taking the specimens of payslip, was paying R1 822 67 and the state was contributing R4 320 66. Now, the same person is paying R12 146. That is after the commission that was headed by Judge Moseneke change the salary structure of members. Before that, members were not complaining about affordability of Parmed. As I have just mentioned that a member paid R1 600 vis-a vis the R12 600 that he is paying now.

This formal request to the commission should highlight the need for discussions between the commission and National Treasury with regard to the impact of any change in remuneration structure to the fiscus, including tax implication thereof. This position was supported in submissions received, including that of the judiciary.

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The implication of this option as a recommendation would not require the current Parmed Act to be repealed. However, there would be amendment that would be necessary. For instance, the Act referred to Senate with no reference to National Council of Provinces and also these technical amendments to update the drafting style of Parmed Act

Option 2 looks at the voluntary membership that it is important for the Remuneration Commission to ensure that the other aspects, the judges, the councillors, the magistrates and the house of traditional leaders do come and belong to Parmed so that then Parmed can be able to have more than 6 000 and have different plans for those who would want to. But also to ensure that the "shall" that it's more of a compulsory requirement of the Parmed Act must be change to "may" so that members can have an option to belong to Parmed or to opt out to Parmed.

But also at the end, the Ad Hoc Committee was requested as part of the mandate to look at the effect that will be to former members. For instance, we are not sure how many of us will be

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coming back in 2019 and most of the members of Parmed that constitute the 2 000 are primarily the former members of which they do benefit a lot. The state still contribute two-thirds to them, and yet it is not shown in our contributions.

So, that will then be the voluntary membership. It then goes to say that further, the committee recommends that Option 2 to amend the Parmed Act. We recommend that the National Assembly and the National Council of Provinces to instruct right at the beginning the Sixth Parliament to be task to further investigate the implementation of this option with the aim of making Parmed voluntary and expanding its membership base to include, amongst others, but not limited to the municipal councillors, magistrates and the traditional leaders.

We had spoken to the commission at the time we had the workshop, they did not want to be committal because they are looking at the total restructuring of the salaries of Members of Parliament, legislatures and councillors that they should have this report and further engagement with Treasury and the

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President or the presidency on the impact of Parmed to ordinary members. With that, we would require that the report be considered. I thank you.

Ms S V KALYAN: Deputy Speaker, as you may know, there was a motion on 23 November, which established an ad hoc committee, to look or enquire into statutory requirements regarding compulsory membership for Members of Parliament and based on the fact that we seem to be paying higher tariffs. In a nutshell, compulsory membership and resultant high costs is the issue of contention.

A little bit of history, the Parmed Act dates back to 1975 and it has been amended for four times since. The administration of this act does not reside with any particular Minister, but rather with the leader of government business who is the Deputy President. He chooses to have his medical treatment outside of the country, one wonders at whose cost. I wonder if he is a member of Parmed medical aid. Repealing the Parmed Act or closing Parmed medical aid scheme down will have far-reaching

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consequences, not only for you, but also for continuation members and should be the last resort.

If you look at the annual increase for members salaries from 2008 to 2018, over that period, we had an increase in salary of 58,68%. If you remember in one year, we had 0% increase. Over the same period, the medical increase has been 124,09%.

Therefore, the increase in the medical aid is greater than the salary increase and the shortfall comes out of our salaries. The member is not poorer because the medical aid is more expensive, but is poorer because your income is smaller. The employer's contribution has not maintained the same rate of increase as the increase in the medical aid scheme.

The question to ask is: Is this not a bridge of contract between the employer, which is Parliament and the employee which is you, the Members of Parliament. The discrepancy is big. For next year 2019 the increase is going to be 9,7%. Our salary increase has yet to be proclaimed and gazetted by the President, and it might be in the region of 4,5%. So, the discrepancy is quite huge. I

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looked at Parmed medical aid scheme increase and the Industry medical aid scheme increase. In 2014, Parmed medical aid scheme increase was 5,5%, and Industry medical aid 10,8%. In 2015, Parmed medical aid scheme was 10,5% and Industry medical aid was 8,4%. In 2016 Parmed medical aid scheme was 5,3% and Industry medical aid scheme was 8,6%. In 2017 Parmed medical aid scheme was 10,5% but Industry medical aid scheme was 12%. In 2018 Parmed medical aid scheme was 10,7% and Industry medical aid scheme we are looking at about 8,4%. Comparatively Parmed medical aid scheme is not doing that badly. I think members have to understand that Parmed medical aid scheme is a business. Their costs are associated with that business. Yes, the administrative costs of Parmed medical aid scheme are quite high but again, remember that this is a closed medical aid scheme - a restricted scheme, only 2 400 members, you can understand that it needs that kind of specialised staff in order to deal with that.

The current membership breakdown for 2018, Parmed medical aid scheme only has 185 principal members, 93 members who have one

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dependant each and 77 members who either have two or three dependants. The younger Members of Parliament feel that they do not need a comprehensive medical aid scheme and they object to being compelled to join Parmed medical aid scheme.

The benefits of Parmed medical aid scheme is excellent compared to any other medical aid scheme, whether it is Gems, Bonitas or Discovery. It has solvency rate of 72%, according to law, in order for a medical aid to function, it needs 25% solvency. With regard to limitations, it is indeed one of the smallest restricted medical aid schemes. In section 1 the Parmed medical aid scheme make membership compulsory, but while the wording imparts that membership is compulsory, that compulsory prescription is not absolute. Parmed medical aid scheme make provision for exemption, if you look at clause 6.1.2.5, it provides that the board may on good cause shown, grant exemption from membership to any person on receipt of a written application setting out reasons for such exemption.

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The option is there, I know when I first joined Parliament, I was able to exercise that option, but a little later I realised that Parmed medical aid scheme was far more beneficial to me.

Let us talk a little bit about continuation members for the medical aid, a continuation member is a member who has left Parliament and some of us in this House will not be coming back in 2019. Currently, two-thirds of your subscription is subsidised. As you have heard from the hon Maseko, the Moseneke Commission in 2008 introduced the cost to company but it has not been sufficiently adjusted over time, and that is why you have the situation. There are 952 continuation members currently - those are members in retirement. The dependants are 474 and children are 289. Additional membership maybe expanding their membership to magistrate councillors and traditional leaders, maybe an option, but they will not benefit from the two-thirds subsidy and it is unaffordable. The fiscal risk far outweighs the perceived benefits.

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As I alluded to earlier, nonhealth costs of Parmed medical aid scheme are very high, that is something that Parmed medical aid scheme needs to look at. It is currently 67,9% which is higher than the restricted scheme average. Two possible solutions could be offered even if both are problematic. Parmed medical aid scheme either closed down or the employer increases the salary and the contribution to the medical aid. To this end, the ad hoc committee is of the view that the Independent Commission for the Remuneration for Political Office Bearers re-evaluate the status quo and consider reinstating the pre-2008 position of a cost plus benefits instead of the cost to company remuneration structure.

The two options were presented to you; the first one is that we address the unaffordability problem that salary structure change has caused and the second one is that Treasury give us the one of payment. I am urging you to support this option because when you open your payslip on 15 December, you are going to be in for a surprise. Remember that the surprise is this, you pay your medical aid in advance and so the 9,7% increase for the medical

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aid in January is going to be deducted from your December salary.

[Interjections.] The 4,4% that we might or might not get - I do not know where President and why he is dragging his heels on this matter is - is the back pay that we are going to get from April up to now, it is going to be wiped out by the payback in the medical aid.

The second option is that we must task the next Parliament to investigate Parmed medical aid scheme voluntary and extending its membership but that is for the Sixth Parliament. I thank you. [Applause.]

Dr S S THEMBEKWAYO: Chairperson, it is both a shameful and sad day that a governing party that fought apartheid, today, come here to Parliament to protect apartheid law that gives old white men who served under apartheid luxurious healthcare in a country where public health care for millions has completely collapsed.

The Parliament and Provincial Medical Aid Scheme, Parmed, is a 1975 law that makes it compulsory for all Members of Parliament

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and other public office bearers such as judges to belong to a Parliament and Provincial Medical Aid Scheme.

In true apartheid spirit, PARMED Act 28 of 1975, deprive Members the right to not be arbitrarily deprived of property, meaning that whether you like it or not, they just deduct money from your salary

As the EFF, we approached the Western Cape High Court, because the ANC government refused to listen, and the court agreed with us that PARMED Act is inconsistent with the Constitution insofar that it made membership of the PARMED compulsory for certain office bearers and provided for deductions to be made from our monthly salaries.

That's the main reason why the Ad Hoc Committee was established in the first place. We also said that this medical aid is expensive and we cannot afford it. Either, we repeal the whole PARMED Act or amend section 1 to make it voluntarily.

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A structural adjustment of a PARMED Act that is inconsistent with the Constitution is misguided and not sustainable. To increase or adjust salaries to make PARMED Act affordable while it remains inconsistent with the Constitution and we will be left with no option but to go back to Court.

We must all ask ourselves why is the ANC-led caucus going out of its way to protect the privilege of former Members of Parliament who mostly belong to the racist National Party. The EFF rejects the Ad Hoc Committee Report; it was a waste of time and shameful that we have come to these conclusions. I thank you, Chairperson.

Mr X NGWEZI: Hon Deputy Speaker, I read this declaration on behalf of hon Singh who is a member of this committee. The PARMED act which was enacted during the height of the apartheid regime in 1975 has up and until now enjoyed complete monopoly and no competition.

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It should therefore be weary that it does not take such position of privilege for granted. The PARMED's mandate to Members of Parliament is to provide the best quality health care at the most competitive market-related prices.

Whilst recognizing that the private health care industry has many current challenges such as increasing claims, tariff increases, as well as the looming value added tax, VAT, increase to contend with, the IFP remain of the opinion that members of this Parliament are being made to bear the burden of unrealistic and unaffordable costs increases in medical aid by PARMED.

In essence all Members of Parliament are a captive market. With medical Aid premiums increasing at a rate of almost ten per cent per year, which is more than double of what Members of Parliament salary increases were last year, PARMED is quite simply becoming unaffordable.

The cover for members and their immediate families, especially our younger members with families is simply cost-prohibitive and

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in many instances one finds only the Members of Parliament belonging to PARMED and his immediate family being placed on another medical aid scheme, like it happened when I arrived here. I was paying almost R16 900 for myself and my family, just for the six of us and I had to take them out.

There are also complaints from our Members of Parliament about medical procedures that are not being fully covered and that are incurring further costs. In respect of solutions one must be cognisant of the fact of retired Members of Parliament still reliant on the scheme and this issue would have to be satisfactorily canvassed, addressed and agreed upon by all interested parties.

The scheme should also be made more widely available so as to attract a greater funding base and thus decrease the individual premiums required. The IFP fully support that a voluntary option for PARMED membership should be available to Members of Parliament MPs. The IFP supports this report. I thank you.

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Prof N M KHUBISA: Deputy Speaker, the Report before us shows that there appears to be a lack of will in resolving this matter once and for all. It is a kind of a scheme that was begun in 1975. When you read the literature in front of us, it has shown that PARMED has undergone various ramifications, repealed a number of times.

I can say that when I compare my experience as a former member of the legislature in KwaZulu-Natal, the PARMED has escalated to the highest level. I remember when we came here in 2014, the Chief Whip of the Majority Party complained about this and we all complained. We were saying that why are we subjected to one scheme? Why are we not allowed to choose, because we are really suffering?

I remember that time when the Chief Whip of the Majority Party said he was paying about R15 000 and if you pay as the main member and you put in as your spouse or any adult child, you pay more than R10 000. Once you put the minors, you could even go to

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about R20 000. Really, is not on. Why would one medical scheme be mandatory for Members of Parliament?

One-time, as I have said we thought that in 2014 there was going to be a change but of course we have to go via legislation when we can take a decision here and vote and say we want to choose the kind of medical scheme.

At this time and age in 2018, twenty three years into democracy, I don't understand that we can't be flexible and choose a medical scheme that will be suitable for all to us. We want to say as the NFP that we understand that we have to take legislation. We need to choose which one is best and we want to look at the 2008 model, but onus is with us here.

We are Members of Parliament. We can take a decision and say this is not on and we are saying PARMED is too much for all of us. We are not happy with the Report as such, even if we going to go and try to find out and go to the commission and say which one is best. Why as Members of Parliament we are not taking a

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decision, because this the House that makes laws? Thank you very much.

Mnu N L S KWANKWA: Sekela Somlomo, masicacise le nto ngolu hlobo lulandelayo. Kuqala, siyawubulela umsebenzi owenziwe ngamalungu ale komiti ekuzameni ukugqala lo mba wesibonelelo kwezonyango usichaphazelayo. Siyi-UDM asikwazi ukuvumelana nale ndawo ecaba ithi singakwazi ukunika abantu...

English:

... a choice to exercise their democratic right...

IsiXhosa:

... yokuba bangene nakweziphi na izibonelelo abazithandayo. Mna, andikwazi kule meko kuba kaloku ndizele kwaye andizalanga nje kancinci. Ndifuze utata ke kuloo ndawo. Andikwazi ukubhiyozela ukuba mna ndikhuselekile ngoku ndibekwisibonelelo sonyango babe abantwana endibazeleyo behleli ngaphandle ngenxa yesibonelelo sonyango esibiza kakhulu.

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Apha andizelanga kusebenzela isiqu sam kuphela koko ndize kusebenzela inzala yam nokuqinisekisa ukuba uMzantsi Afrika nawo uyancedakala kwangaxeshanye. Nina nithi mandime apha ndithi kulungile ukuba uKwankwa abe ukhuselekile yena yedwa ngaphandle kwabantwana bakhe babe benethwa zimvula phaya kude. Xa usithi aba bantwana abakhuselekanga kwisibonelelo sonyango yintoni ke osa yisebenzelayo? Xa ungakwazi nokufaka iqabane lakho eli usebenzela ntoni? Uzele ukuza kuthini apha? Uzele ukuba ubane uxhasa abantu ababelapha ngaphambili? Mayingenziwa ingxaki yam loo nto kuba yingxaki karhulumente. Kufanale ukuba azame indlela yokuyisombulula.

Unyanisile ohloniphekileyo uKaylan xa esithi...

English:

... the employer contribution is a problem because it did not keep up with the increases of the medical aid and the inflationary expenses over time. That is true.

IsiXhosa:

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Kodwa ke into ekuza kufuneka niyiqonde apha nina rhulumente we-ANC, ndinicebise kakuhle...

English:

... you have annual increases of the salaries that...

IsiXhosa:

... ukuba usethamsanqeni uza kuyifumana okanye ukuba uthe wamfumana kwaloo chintsi...

English:

... if you received it, it is just below the inflation rate. In the meantime, there is Parmed with exorbitant prices. There is also a catch when Members of Parliament are barred from doing business with the state.

IsiXhosa:

Uzibangela ukuba zinyoluke. SisiXhosa eso esimsulwa kwaye siyinyaniso.

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English:

You have your inflationary increases which are far lesser than the inflation rate and at 4% you have Parmed that increases by a rate that is above inflation rate. Meaning, in essence, these entire increases end up eroding the disposable income of MPs and public representatives. It means...

IsiXhosa:

... thina masizele nje ukuba ngamahlwempu sibane singxola nje apha babe nabantwana bethu behleli ngaphandle kwezi zibonelelo. Ngoku nina nifuna thina size kuxhasa loo nto? NguNotshe intombi kaNtoshe eNgcamngeni phantsi kweNtaba kaNdoda apho uMaqoma wayesilwa khona iimfazwe esilwela umhlaba. [Kwaqhwyatya.]

IsiXhosa:

Nks N B DAMBUZA: Ndiyaxolisa Sekela Somlomo,...

English:

... hon members, and fellow South Africans, the ANC categorically supports the report of the joint ad hoc committee

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with its recommendations. The reality is that our health as public office bearers and that of our families hold immeasurable value to us. It is also the least predictable factor in our lives. This unpredictability is precisely what made a medical aid so important because one cannot tell when one will certainly need it.

Having a good reputable medical aid such as Parmed is an essential part of alleviating pressure or anxiety on what is behind every proverbial corner. That is the main reason why the legislature ensures that office bearers have adequate access to medical assistance so that they, amongst others; perform their duties to their abilities. Parliament having noted that Parmed contributions and or tariffs are high and causing tremendous financial constrains to members of the scheme established a joint ad hoc committee constituted by both Houses to enquire and make recommendations on amongst others, the tariffs contributions by members on Parmed medical Aid.

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The committee engaged in various consultation processes with targeted stakeholders and having considered the input and embarked on extensive deliberation amongst its members and have made the following observations:

Parmed membership is restricted and compulsory subject to the rules by virtue of section 1 of the Parmed Act. Such rules do not make provision for exemption from such membership. However, reading section 1 of Parmed Act with section 28 of the medical scheme Act, Parmed has legislative roots. The idea of restricted and compulsory membership is not unique to Parmed.

The remuneration structure is one of the primary factors that has resulted to unreasonable discrepancies between salary adjustment and medical aid subsidy and further cause an adverse impact on Parmed contributions payable by members of the scheme. This is due to the fact that two-thirds state subsidised contribution that was circulated in the total cost remuneration package in 2008 has not been sufficiently adjusted over time.

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It is on this basis that the committee recommends the following and be presented to both Houses in order to address the immediate affordability problem:

Parliament should submit a formal request to the independent commission for remuneration of public office bearers; to re-evaluate the status quo and consider re-instituting the pre-2008 of a cost plus benefit remuneration structure to balance the equation of annual medical aid tariff increases.

IsiXhosa:

Sakukhumbula ukuba uchatha uyeza oli-9,5 ekhulwini ozayo kuthi, nto leyo ethetha ukuba xa kuphinde kwabakho uchatha kwisibonelelo sonyango esiqikelelwa kwi-4 ekhulwini amalungu...

English:

... are going to suffer more from the financial constraints. The implementation of this report is valued more highly on the basis that it would not require the current Parmed Act to be repealed immediately because we have got that first recommendation and

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nor would it require any substantive legislative amendments without any unintended consequences. For sustainability purposes other sets of recommendations have been presented to this House so that...

IsiXhosa:

... singaxhomekeki kule yodwa kuba le besithethe ngayo kuqala yeyokuba kube kukhawuleziswa ibe ibambisa okwangoku...

English:

... then the others will come in for sustainability of this current medical aid that we have. It was a shared view amongst members of the committee that this recommendation... ANC supports the recommendation and request adoption by the House. Thank you. [Time expired.] [Applause.]

Mr S M JAFTA: Hon Deputy Speaker, the Ad Hoc Joint Committee on Parliament and Provincial Medical Aid Scheme is a progeny of the constitutional litigation in the Western Cape High Court, which challenged some provisions of the Parliamentary Medical Aid

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Scheme Act in 2015. The Parmed legislation has gone into various amendments in the previous years. The ad hoc committee, too, had to delve into the provisions of the legislation. The committee's work was limited to looking into: the tariffs of members of the Parmed Medical Aid Scheme; the need and possible options for the competitive medical aid for members; the necessity of introducing amending legislation; and the impact on retired members of Parmed.

The three options that the committee assessed and looked into are central in the evaluation of this report. Except for the last option, which proposes that the Parmed legislation be repealed, we support the view that the Independent Commission for the Remuneration of Public Office-Bearers, revise the cost structure of total cost remuneration, the end-goal is to have an aligned package between the phased-in adjustment to salaries and the medical aid subsidies. If the costs of medical aid are not adjusted to the current salary scale, Parmed will forever be laden with controversy.

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We also support the option of widening the pool of Parmed membership, including making Parmed membership voluntary. The report of the committee recommends that the various stakeholders meet in the Sixth Parliament, to make the Committee's recommendations practicable. We will monitor this process closely. The AIC supports this Report. Thank you.

Mr S A TLEANE: Hon Deputy Speaker, most speakers have already introduced the main problem of Parmed which relates to the whole question of tariffs. However, in order to understand the kind of the recommendations that the ad hoc joint committee is proposing, it is absolutely crucial to understand the nature of the problem. This problem is mainly two-fold. The first part of it has already been explained here which relates to the system tariffs which changed in 2008 and 2009. The second problem is historical. During the previous dispensation Parmed was established to serve a small group of select people and was never intended to service a big group of public representatives.

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In the field of medical aid schemes, there exist two major types: A closed or restricted scheme with compulsory membership on the one hand and an open scheme with voluntary membership on the other. A restricted scheme has fewer members and fewer options, which often makes it unaffordable. On the other hand, an open scheme has to have 6 000 members or more, which helps to bring down costs and premiums. It is necessary to note that successful and sustainable medical aid schemes fall within this latter category. Unfortunately, Parmed is a closed scheme with compulsory membership, which means that members do not choose whether to join or leave the scheme for whatever reason.

Having said that, the democratic Fifth Parliament of the Republic of South Africa is nevertheless a Parliament for all South Africans and institutions. Given its dialectical relationship with both past and future Parliaments, its problem solving strategy must therefore remain comprehensive, holistic and futuristic in character. It cannot afford to engage in piece-meal decision-making processes. The first part of our recommendation requires the Independent Commission for the

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Remuneration of Public Office-Bearers to adjust members' salaries appropriately so as to be on par with high annual Parmed tariff increments effected from 2009. This also means that the system must revert back to what it was up to 2008 when Parliament absorbed two-third of a member's monthly premium.

This must be understood clearly not to be a request for salary increment for sitting and retired parliamentarians and judges, but this is just a necessary adjustment required to correct an imbalance created in the past. However, for purposes of sustainability and continuity, Parmed will have to become an open scheme and increase its membership to over 6 000 which will definitely bring down the high cost and also enable Parmed to introduce different options for members. Currently, there are members who feel that they are being forced to take Parmed membership against their will. In the final analyses, the Parmed Act will need to be amended to allow for voluntary membership.

According to the law, public office-bearers are not exclusively confined only to Members of Parliament, MPs, members of

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provincial legislature, MPLs, and judges, which is a prerequisite for admission to Parmed. Magistrates, municipal councillors and traditional leaders are also defined as public office-bearers. However, currently they are not included on Parmed, but they indicated during our consultative process that they would be happy to join Parmed, if the tariffs could be lowered and not become a financial burden. Parliament needs to consider triggering a process involving all relevant institutions and stakeholders that will culminate in councillors, magistrates and traditional leaders, among others, becoming Parmed members. The benefits of such a move have already been described above.

Such a fundamental development would ensure long-term sustainability while also opening up an opportunity for the relaxation and amendment of section 1 of the Parmed Act to allow for voluntary membership. We reiterate that the quality of services being offered by Parmed is unmatched thus far in the country. All that is lacking is for it to become affordable. If Parmed can acquire the status of an open system with reasonable

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tariffs, we doubt if there will still be huge numbers of members who will wish to leave the scheme. Now is the time to correct undemocratic and unsustainable policies of separate development, initiated during the apartheid era. There are those among us who might argue that the transformation of Parmed in this particular way will be a cumbersome, difficult and even expensive exercise which should be avoided.

We believe we that must never run away from our responsibilities. The fact that magistrates, councillors and traditional leaders who are also regarded as public office-bearers but do not have a dedicated medical aid scheme like all of us, creates an unavoidable task for Parliament. They must be included in Parmed which will have mutual benefits for all involved. Of course, this is not something that will happen overnight. However, Parliament must kick-start a process for the realignment of Parmed to meet the test of times and to achieve sustainability. One of the terms of reference of the ad hoc joint committee which is (b) says that the committee was established and tasked to enquire into and make recommendations

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on the need for, and possible options with regard to Parmed and other competitive medical aids for Members of Parliament.

Unfortunately, Parmed cannot become competitive like other schemes if it continues to remain a restricted scheme.

Our decision-making processes must be comprehensive, holistic and futuristic in character. We must look at the bigger picture. The Fifth Parliament is not an island but part of a journey that started a long time ago. Ours is to change the destination so that it is in line with the goal of the creation of a national democratic society. We reiterate that we are not asking for a salary increment, but that mistakes committed in the past be corrected. Amandla! I thank you, Deputy Speaker. [Applause.]

Debate concluded.

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

That the Report of the committee be adopted.

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Question put.

Motion agreed to.

Report accordingly adopted (Economic Freedom Fighters, United Democratic Movement and National Freedom Party dissenting).

COPYRIGHT AMENDMENT BILL

(Consideration of Report)

There was no debate.

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

Motion agreed to.

Report accordingly adopted.

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COPYRIGHT AMENDMENT BILL

(Second Reading debate)

Ms J L FUBBS: Deputy Speaker, hon members of this House, colleagues and compatriots, people of South Africa, good afternoon.

The 2017 Copyright Amendment Bill will transform the industry and contribute to a better life for all involved in the industry. Writers, musicians, authors - all the creative people in this industry - have been at the forefront of what this Bill seeks to address. This includes the loss of financial remuneration, which many South African artists are currently experiencing. Many have died impoverished. Not since 1978 has the copyright legislation been updated in its entirety. Various clauses in the Bill affecting authors have been addressed through a number of safeguards in the Bill. Broadly, exceptions and limitations are allowed under international law, and we are facing challenges in sectors where we are required to access

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materials for education, for stimulation of innovation of growth for the economy, and to achieve developmental goals.

I am told that currently students have to pay R1 000 to use one or one-and-a-half chapters in a textbook. This is no longer sustainable. South Africa is a developmental state, and the committee has sought to balance the various interests in the Bill, including public interest concerns of access to knowledge and education. Let me share with you the following: I heard that authors felt they may not be able to write again because there would be no benefits for them. However, the Bill directly addresses this under clauses (a), (b), (c), and (d). I would enjoin all South Africans in the publishing industry to study that again. There indeed are many, many vested interests within the copyright domain. Therefore, the protection and rights of those who have not yet or not fully benefited are incorporated in the Copyright Amendment Bill.

This Bill also informs the Performers' Protection Amendment Bill. It lays down an architectural legislative platform for

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that to be addressed. The committee became aware of so many injustices in the copyright, and the Amendment Bill hopes to address this. Yes, the impact of the Bill will be reviewed from time to time to check for any unintended consequences. May I say that secondary legislation, referred to as regulation, will also seek to clarify that. When we do adopt the Bill, and I do hope that this House - the National Assembly - will adopt the Bill, we will be able to refer it to the National Council of Provinces where further deliberations and consultations will take place.

The Copyright Amendment Bill incorporates the following international treaties to be ratified: the World Intellectual Property Organisation, WIPO, Copyright Treaty, WCT, the WIPO Performances and Phonograms Treaty, WPPT, and the Marrakesh Treaty to facilitate access to published works for the blind and visually impaired. Contrary to what I have heard and seen in the media, the blind will be able to get this done - the format - without having to pay for a license fee, as long as it is for its intended use, the blind. That is a great improvement. We have used "fair use" largely with limitations, listing the

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amendment schedules of them because this is the approach of the future - the digital age. In fact, there were many, many supporters for that approach.

The Bill has been with the committee for several months and even years in this regard. May I say that we received over 70 submissions in the first instance. Then we received a further 60 submissions on further advertisement. We received endless letters in this regard, but, yes, the Bill was sorely contested, as members of this House and the committee know. I do want to share with you this. We are striving to achieve a developmental state. Writers, creators, artists, all of these folks, including publishers, we do want to see them participate in an inclusive industry. We welcome public-private partnerships, and we want to just point out to a number of those who had certain fears that this will drive away foreign direct investment, FDI, that there are many other factors which influence the inflow of FDI, including local advantage and market size.

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Before my time is up, I want to, in particular, thank the hon Lerato Theko for chairing the subcommittee. I want to thank all of the members for participating. We may not have agreed on everything, but we would not have achieved this piece of legislation without the robust participation of all parties in the committee. We welcome that because when you have robust participation, you know the voice of South Africans is being heard.

The ANC supports this Thuma Mina piece of legislation. I thank you. [Applause.]

Mr G K Y CACHALIA: Through you, Deputy Speaker, let me take you through copyright 101 for the uninitiated, you'll need it after the hon Fubbs' address. Your work is an asset; your rights need protecting; and licensing is the way forward. In short, these precepts drive the lifeblood of the economy. It's based on law and the sanctity of contract. Never forget that.

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Copyright seeks to preserve the rights of individuals and businesses in this regard. In any robust jurisdiction, the following is necessary: Firstly, copyright must empower creativity, innovation, and the dissemination of knowledge, and ensure that creators be compensated for their creative efforts.

Secondly, copyright must benefit consumers by promoting free markets and competition. By recognizing well-defined and enforceable property rights, yes, property rights. It incentivises creators to take risks.

Thirdly, copyright must support an internet that works for everyone. Copyright must promote creativity while also promoting new technologies and business models.

Fourthly, copyright must provide creators with modern protections. Technology and the marketplace are evolving faster than the law. This requires flexibility and not prescription.

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Lastly, copyright must provide for incentives and accountability. Sound copyright policy must recognize that the solution to infringement is in society's interest and any revised Copyright Act must include provisions that ensure the effective protections of creative rights exist.

With this in mind, ask yourselves: Why are certain companies based in certain nations capable of consistent innovation? Why do they ruthlessly pursue improvements, seeking an ever more sophisticated source of competitive advantage? Why are they able to overcome the substantial barriers to change and innovation that so often accompany success? In no small measure, a robust copyright regime plays its part.

In this vein, we at the DA, where the brains trust of this House resides, have shown a willingness to work with others to review and update laws to better reflect changes in technology that have occurred over the years.

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But we will not support what has been called a “mock review” that becomes nothing more than a gutting of copyright law as we know it. What is clear is that in the depths of the dusty soul of the ANC policy is nothing but abject surrender to the lowest common denominator.

Professor Karjiker, an eminent professor of Intellectual Property Law at Stellenbosch University has been clear and vocal on this.

By getting the government out of the business of setting the terms and conditions, we could enable creators to further invest and experiment with new content and distribution models, and spend more time and resources composing new works to the benefit of consumers, creators and the strength of our cultural and creative economy.

A balance must be struck; bread and liberty are not incompatible. The market place can handle this. The laws are there. The courts have shown a consistent ability to find a

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balance between copyright owners and copyright users. Some laws need enacting. But overaggressive copyright law has adversely affected innovation and innovation as I have said, is crucial to economic growth.

Signing a treaty triggers a timeline within which the signatory must become compliant. Have we been able to domesticate international treaty obligations, in this regard, into our national law? No, we haven't. We should have been doing this over the past 15 years, but alas.

As Karjiker points out, the Standing Advisory Committee on Intellectual Property has been nonexistent for the past 10 years, I ask you. This committee should be overseeing intellectual property law developments.

The approach now seems to be to get the legislation to be in accordance with the relevant treaties and then to sign the treaties rather than the other way around. There's an expressive Afrikaans phrase to describe this.

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At this stage, the Bill traverses two regimes. The fair dealing approach, which has been our historical approach, is a closed list of exceptions and the American fair use type of approach, which is more open-ended, allowing the courts to decide. The Bill still has to decide if it is Arthur or Martha?

Legislation should not be hurried and moreover what we don't need is to look at complex law through the wrong end of a municipal drainpipe. Our minds need to be applied; expert opinion sought and all the views of all interested stakeholders taken into account.

When allowing universities to essentially copy publishers' books, it should have been preceded by an economic impact assessment. The Department of Trade and Industry, DTI, apparently did an investigation of sorts but this should have been released in full so that legislators and experts could review the principles applied.

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The revised version of this Copyright Amendment Bill has caused great concern for authors and publishers, who fear that the weakening of copyright protection will have an adverse impact on their very livelihood.

But here, anything can pass through Parliament as legislation. This places the country's legislation and the integrity of our intellectual property regime at peril. Not only has the technical drafting been poor, but the department and the ANC in the portfolio committee are railroading a particularly skewed agenda through Parliament.

It is necessary to guard against diluting of intellectual property rights without regard for the consequences for the country's future growth prospects. Our greatest chance of boosting our economy in the long run is by growing the knowledge economy.

Whilst many issues that the Bill seeks to address merit attention, the ANC's proclivity to be driven by populist redress

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and dubious lobby groups without due consideration of the legal and socioeconomic consequences must be guarded against.

The Minister should have demanded a full report, which should be made public on why this process has been so shambolic and skewed. The public need to know what information was relied upon for proposals and who was instrumental in shaping these proposals?

Following such a report, the department should have been sent back to the drawing board to start a legislative process that would pass constitutional muster, which this Bill, I assure you, will not. All in all, this is like trying to pick up mercury with a fork. The DA cannot support this Bill. The hon Williams will tell you why the DA is opposing everything. Perhaps you're now beginning to understand why we oppose these Bills of this sort. It's question of fact over fiction. I thank you.

[Applause.]

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Ms E N NTLANGWINI: You know, Deputy Speaker and commissars of the revolution, these professors were consulted and asked to be part. In fact, you know what they are doing now, they are just writing the negative. They all run away from the Bill saying that those things are too complicated and they can't do it. But why is it complicated for them? Now, we are having a Bill in its form. They are objecting to all of it. So, the narrative and the facts that the DA is finding is those people whom we asked to come and work with us hand in hand in this Bill refused to do it.

The EFF welcomes the copyright ... no, I am with the poor. The EFF welcomes the Copyright Bill so far as it deals with the outdated aspects of the 1978 Bill. At last, the South Africans will begin to move towards modern laws that govern copyright. It is important to protect writers and artists to make sure that they get recognition and reward for their work because for so far too long, we have seen artists die poor while the people continue to enjoy their work. Writers and artists are correct to

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be concerned about legislation that is not based on clear policy position.

It is a common trend with the ANC government to make laws not based to any policy position. When policies that are based on consultation exist, the law is not made to be in line with that policy. I hope these colleagues will correct that. Writers and artists depend largely on royalties to sustain themselves. If in any attempt to balance fair use of copyright will erode their ability to earn a living, it means that in future we will not have writers writing and will not have artists producing artistry work. We will find ourselves in a situation whereby we are failing to balance fair use and copyright because the Department of Arts and Culture and government in general have failed to support writers and artists. The government was supposed to make available sufficient resources at disposal to writers and artists because books are important to any society that is moving towards modernity and it is in the public interest. However, we welcome the exceptions that are made concerning access for blind people. The Bill also introduce

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important exceptions that for far too long have prevented blind people to access books in braille or other easy access to format such as audio. It means going forward, libraries and archives will have the ability to translate all of these materials without limitations of costs fees imposed by copyright.

The solution for the balanced legislation that will protect the rights of the writers and artists in public to get access to books and arty work is well funded writers. This legislation alone does not address that problem. Please, listen to these challenges, Minister. I hope you will correct it going forward. We stand with writers and artists until such time we find them properly. To deny them the rights, is equally to deny them the rights to earn income. We will continue to put our finger on the pulse, Minister. This is the first step towards that to ensure that our artists get recognition for the work that they put in and educational books are being accessed to the poor. Therefore, we support this Bill because it is in direct interest of the poor people which the DA is never about. I thank you.

[Applause.]

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Mr J A ESTERHUIZEN: Chairperson, Intellectual Property Rights are respected throughout the world. Notably they are specifically universally enshrined in the Universal Declaration of Human Rights in various other international treaties, of which South Africa is a member signatory. Our current Domestic Copyright Act, has a close list of exceptions to copyright protection which are presumably made in the public interest yet the Bill grant our courts virtually unbelievably discretion to make virtually any and all exceptions to protection that might suit them in the circumstances.

Whilst we fully respect the inherent jurisdiction of the courts we feel that such explicit discretions have contained in this Bill may cause undesirable legal uncertainty and prejudice to copyright owners to whom the Bill is meant to protect. Though a case may be made for more exceptions, a better approach would be to invite proposals for original specific exceptions which could then be debated with stakeholders to arrive at a balanced legislative solution. To its credit the portfolio committee

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[Inaudible.] the shortfalls and question the department legal advisors. Copyrighters are highly technical area of the law.

Realistically, for the Department of Trade and Industry, DTI, to develop a clear description of exactly what balances and changes that it wishes to make and the mandate that truly expect the committee, the Bill was placed before an advisory committee, but reappear substantively unchanged. The Bill now before Parliament is ideologically skewed and fundamentally flawed and technical in other respect. It is clear that the proposed regulations are not in the interest of the writers, the publishers and additionally the emphasis on the ease of the use of the copyright would be at the cost of those who created it. Large technical companies like google and others, would be the winners from this Bill. It is the IFP's opinion in its enactment domestic law will not only do untold damage to our law of copyright, but it is also a direct contravention of international law of which we are party to as well as the contravention to our own Constitution. For the above reasons the IFP cannot support this Bill. Thank you.

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Prof N M KHUBISA: Deputy Speaker, from the outset the National Freedom Party welcomes and supports this Bill. The Bill seeks to align copyright with the digital era and developments at a multilateral level. It also seeks to enhance the creative industry so as to widen the scope and the space of educators and researchers to further develop their research. It seeks to assist people with disabilities to acquire information. It is therefore important that intellectual property law be in line with the ever evolving digital space so that whoever wants to do research and get access to information is accordingly assisted.

Another cardinal object of this copyright Bill is to ensure that artists do not die as poppas due to ineffective protection or as a result of imbalance, vulnerabilities and abuse of their talent and resources which is taking place in the artistic industry.

Isizulu:

Solwazi N M KHUBISA: Ngithe ngiza lapha Sekela Somlomo, uzakwethu umhlonishwa uMncwabe uke wangikhumbuza ukuthi abantu abafana noPhuzushukela kanye Nomahlathini bawushiya lo mhlaba

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benganalutho kodwa besebenzile. Imisebenzi yabo ibidumile, .
kungakho ke sithi lo mthethosivivinywa ubalulekile.

English:

It is also a shame when some creative work of authors and artists stolen and when they pass on they are buried as 15:20 poppas and their children are left languishing in poverty. Our country needs knowledge and all other creative work which contributes to economic development. It is therefore important that we introduce a new regime which affords authors, performers and composers to benefit from knowledge and also have access to the corporate system. Thus, the Bill aims to make copyright consistence with the digital era development at a multilateral level, international standards and introduce improved exceptions and limitations into the corporate law.

It is important for artists to have the necessary digital and media literacy for them to get access to information and education research and the payment of royalties to alleviate the plight of the creative industry. Local artists and composers

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need information that introduces them to regional and international producers and directors and other international artists in the industry of their choice. Such a Bill is long overdue. In the past artists were not exposed to information that would help them to broaden their horizon, their level of thinking, have access to knowledge advancement and tapping on the gains that comes with the creative industry.

The Bill gives clarity on the issues of any copyright owned and also in the custody of the state and how it can be accessed. This is of prime importance in the issuing of licences so that the offspring are able to own some creative work and to benefit from the royalties especially when their parents who were in the creative industry have pass on. It also provides for the registration and regulation of collective societies and clause 24 of the Bill proposes an amendment of section 23 of the Copyright Act of 1978. We have said that we support the Bill. Thank you very much, hon Deputy Speaker. [Applause.] [Time expired.]

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Ms C N MAJEKE: Deputy Speaker and hon members the United Democratic Movement support this bill. However, we wish to register the following issues: The recent court decisions including the one lost by the AfriForum against the Constitutional Review Court are clear on the need to transform from quantitative public participation to a qualitative one. We would wish to implore this department to always ensure that this process is always adhered to, so that our laws subject to court review.

We can do this by making a genuine effort to obtain views from the broadest spectrum within the relevant industry. When an amendment Bill is subjected to public scrutiny, it should be made possible for the public to consider making input beyond the limited scope of the areas proposed in the amendment Bill. Traditional or indigenous knowledge is fundamentally different from that which is sought to be protected by intellectual property law, such as, copyright law.

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Lastly, in future, a government department whose work impacts on another must stop working in silos. This kind of operation risks repetition and a waste of public resources. It also confuses citizens as to they should be doing. So, the Department of Trade and Industry (DTI) and the Department of Science and Technology (DST), which is also preparing draft legislation that covers most of the same field, must not pull in different direction but work together. We support the Bill I thank you

Adv A D ALBERTS: Deputy Speaker, most artists in South Africa are poor, most authors and most people without copy right are poor. So it's important to protect their right, unfortunately, this Bill does not do that. In fact the are many flaws in the Bill, but the most important one is the covert expropriation without compensation that will be implemented via the importation of the nebulous "fair use" from the United State into law as part of a new and experimental hybrid model of copyright exception grounded in "fair use".

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This in a fact means that ill-defined term will allow anyone to apply their own view of fairness in making use of copyright at without payment. We actually just heard that universities after this Bill was passed will stop paying royalties to any authors, especially university libraries. Authors are already poor and suffer as a result of this, and it will be to the benefit of multinational co-operations like Google and Face book, that predicate their business model on providing the works for free on the internet and not only artists will be prejudiced by the "fair use" but also a whole economy.

The motion picture such Association of American members, who many invested millions of dollars in South Africa are very concerned about this including other online creators like Netlink and YouTube. However in the committee the Director General of the department said Google will invest instead if they pulled out. So our Government is willing to cut loose our current show in Hollywood investments for uncertain investments that may or may not realise from Google, who knows if they will

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invest, further more the fact that no impact study has been performed underscores the irrationality of this Bill.

Another fundamental problem is that this Bill does not comply with South Africa's international law obligations in terms of the Berne Convention and the Agreement on Trade Related Aspects of Intellectual Property Rights, TRIPS. In general, the amendments are strict, unworkable and will have unintended consequences. Let me explain this by an example let's say Steven Spielberg decides to make a film in South Africa, he directs and he produces and the money comes from Hollywood he upon contracting with actors realise that the Minister will prescribe what should be in their contracts and himself. He will also be faced with the fact that many of the contributions to the film, like the music, art work etc. are inalienable and therefore, he and the studio can never fully the film itself.

Literary rights like screenplays and books on which a film is based and musical works included in the film, will revert back to the owners after 25 years, but it can take more than 15

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sometimes for the film to be developed from idea, concept, book or screenplay to the film itself. Spielberg and the studio will then realise that film has a very limited window of distribution before the rights revert back. Even for the film production is finalised they will pack up leave for better film destinations. Many artists then would stay unemployed as results. Thank you very much.

Xitsonga:

Man L C THEKO: Xandla xa Xipikara, nhlango wa ANC wu seketela Nawumbisi lowu.

English:

Ministers and Deputy Ministers, hon members, today marks a day in our country where the House debates one of the most significant topics in the history of South Africa. As the chairperson has outlined, the Bill introduces a model of exceptions for copyright - a hybrid model - taking the best from available systems across the globe. To enhance access to copyrighted materials and achieve the developmental goals for

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education and knowledge transfer, South Africa must adopt pro-competitive measures under copyright legislation. The legislation must provide the maintenance and adoption of broad exceptions for educational, research and library uses.

The committee broke the massive task that informed the Copyright Bill down into a number of areas and through a sub-committee, a large portion of the debates on policy questions were finalised. The sub-committee spent a lot of time on these core issues and with the assistance of the support staff of Parliament, exhausted all avenues.

The committee has explored, consulted extensively, compared with other countries such as the USA, Israel, Singapore, Malaysia, Czech Republic, Poland, Canada and South Korea and arrived at a Bill before you.

We came up with a model which caters for all South Africans, yet aligned with the most recent global developments that increase and foster development in innovation, education and creativity.

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There is a shift in the copyright regime, moving towards open and flexible exceptions. The broad diffusion of the hybrid model indicates that there is no basis for preventing the more widespread adoption of this doctrine, with the benefit of the flexibility it brings to authors, publishers, consumers, technology companies, libraries, museums, educational institutions, and governments. In light of this, the committee adopted the Copyright Amendment Bill on 15 November 2018.

The Act that is being amended is outdated, as other members have indicated. As a country, intent on redressing the past, we must ensure that injustices are in fact addressed and not simply noted. Furthermore, there is an urgent need to take into consideration that the digital environment is evolving and drastically changing. The digital environment has transformed how we access and use knowledge, while the purposes remain steadfast - access to knowledge for education and research, and foster creativity and innovation.

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This resonates well with item 8 of the ANC's Freedom Charter, and I quote: "The doors of learning and culture shall be opened to all." Our role as the ANC leadership of today is to ensure the leveling of the playing field, for the aspirations of our forebears to be achieved.

Copyright law in the digital age must continue to reflect this transformational reality. Our task as legislators is to be proactive and create an enabling environment for our people. Chapter two of the Constitution of our country contains the Bill of rights - a human rights charter that protects the civil, political, social and economic rights of all people in South Africa.

Firstly, everyone has a right to education, and to address these existing imbalances, we need to create reasonable access to education material, without which, the ANC of 1955 would have agreed that this right rings hollow.

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Secondly, we must ensure access to information and make resources available so that persons with disability can access material with the same ease as an able bodied person. In this manner, the ANC government will be working hard to achieve everyone's right to education and thereby giving effect to Article 26 of the Universal Declaration of Human Rights and Articles 13 and 14 of the International Covenant on Economic, Social and Cultural Rights.

Lastly, we have a duty to protect our artists and ensure that they don't continue dying in poverty because of the ineffective protection provided by the current Copyright Act.

The ANC's goal for education is clear. Education is the key to fight poverty, unemployment and inequality. We want to improve the skills of our people, so that they can participate and contribute to a growing economy.

Clause 13 of the Bill proposes the sections 12(a), 12(b), 12(c) and 12(d) in the Act. Section 12(a) provides for a hybrid model

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of exceptions to apply in South Africa. In addition to specifically authorised exceptions, fair use will apply.

The rationale to extend the fair use exception is based on the fact that South Africa spends more than R600 million annually on licensed materials, 80% of which is from international publishers and pays double for material included in course packs or on e-platforms; and the existing fair dealing exception in the 1978 Copyright Act fails to provide an exception for education purpose and other uses necessary for teaching.

Section 12(a) also provides a four-factor test as a safeguard for what would constitute a use as fair. The nature of the work, how much of the work was used, the purpose of the use and the effect of that use on the market must all be considered. Section 12(b), 12(c) and 12(d) provide a list of exceptions specifically authorised. These include exceptions that are already known as copyright exceptions such as quotations and the reporting of current events. The exceptions now also provide for advances in

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technology and actions such as format shifting and making backup or transited copies are now included as exceptions.

South Korea decided to introduce the fair use doctrine six years ago. South Korea did so because the fair use doctrine can drive innovations for the industry, for users or works, and for creators in a fast-changing internet environment. Actually, for more than 30 years, South Korea has strengthened copyright for the benefit of creators. We believe our hybrid model can achieve this and more.

Section 12(d) provides that an exception related to reproduction is subject to the proviso that it may not exceed the extent justified by the purpose of the Bill. It thus aims to provide a balanced approach between protecting the rights of authors, allowing for reasonable access to teaching materials.

The ANC's vision is to build a more equal, just and humane society where all are treated with respect and dignity, where all enjoy the rights and protections enshrined in our Bill of

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Rights, and where no one exploits or discriminates against another.

This goal has been achieved through this process and clause 20 of section 19(d) supports the constitutional right to equality, by providing a specific exception to allow for a person with disability to access work in an alternative manner or form, so that the person with a disability is able to access the work as feasible and comfortable as a person without disability would.

The Bill is worded broader than the international treaties provide in that it extends this exception to all disabilities. The broader application of the treaty was also the African Group's position at the World Intellectual Property Organisation. The significance of the broader application of the Bill is that it extends to persons with learning disabilities who may need an alternative format or a person who suffers from dyslexia. The treaties focus only on alternative formats for the blind. In this respect, South Africa is breaking ground and showing itself to be a leader in the struggle for equal rights.

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Reciprocity is usually governed by a nation's law, even though it has global application. Reciprocity usually takes place practically through collecting societies when they make cross-border exchange of monies collected. However, this can only be done if allowed in the national laws.

Lastly, today marks the death of Nelson Mandela who shared his desire. I quote: "Education is the most powerful weapon which you can use to change the world. The ANC supports this Bill.

Rev K R J MESHOE: Deputy Speaker, the stated purpose of the Copyright Amendment Bill is to protect the economic interests of authors and creators of copyright works against infringement and to promote the progress of science, innovation and useful creative activities. It also aims to reward and incentivise authors of knowledge and art. It seeks to enhance access to and use of copyright works, to promote access to information for the advancement of education and research and payment of royalties to alleviate the plight of the creative industry and bring our copyright law in line with international treaties.

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Concerns have been raised by a number of organisations and experts who believe some of the proposed amendments in this Bill, particularly the introduction of fair use and the broadening of exceptions will weaken copyright protection, prejudice the creative industry and cultural sector, and could lead to a substantial loss of income to authors and publishers. But this has not happened in any of the countries that have fair use.

The International Authors Forum, IAF, raised concerns about how this Amendment Bill could affect the earnings of authors, particularly those who write for the education sector, stating that measures intended to support authors will not be effective. Pointing to our international obligations, where copyright exceptions must pass the "three-step test", they say this Bill fails. The exceptions are too broad to be limited to special cases and undermine the main source of remuneration for authors of educational works and local authors.

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Emeritus professor of copyright law at Stellenbosch University, Owen Dean, reportedly said that the Bill was "very badly drafted and is fundamentally flawed," saying, that "it goes much too far in the direction of the interests of the public and erodes the rights of the author completely. Potentially, you could have whole textbooks being copied for instance. This would mean that authors and publishers would make no money". He argued further that "the Bill could lead to a lot of litigation. It contravened our international treaty obligations and could be challenged in the Constitutional Court by industries that rely on copyright to make profits".

The ACDP therefore appeals to this House to address these concerns before passing the Bill. However, we support the brought aims of this Bill and we will support it. Thank you.

Mr D M MAHLOBO: Deputy Speaker, Ministers and Deputy Ministers, Chief Whip and Deputy Chief Whip, hon members, members of the creative industry, comrades and friends, fellow South Africans, this day the 5th of December marked eight years since our nation

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lost one of its greatest beloved sons and the finest leader the ANC, the country, continent and the world has ever produced.

The father of our democratic South Africa, Isithwalandwe Seaparankoe His Excellency President Tata Nelson Mandela ceased to breath on this day 2013. In honour of his immense contribution, this year 2018 was declared by His Excellency President Cyril Ramaphosa and the ANC as the Centenary year of Tata Nelson Mandela and Mama Sisulu. What a befitting tribute and honour to wind down the centenary celebrations by hosting the 2018 " Global Citizen Festival, Mandela 100" where our own artists and leaders shared the stage with the international acclaimed artists and personalities in Johannesburg on the 3rd of December 2018. The Freedom Charter our vision for the future and lodestar proclaimed that, "The doors of learning and culture shall be opened. The government shall discover, develop and encourage national talent for the enhancement of our cultural life. All the cultural treasures of mankind shall be open to all, by free exchanges of books, ideas and contact with other lands".

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Of all the freedoms that the apartheid regime could not deny our people was to express our ability through arts, culture, music and literature. We produced some of the world most acclaimed legendary artists across the spectrum of arts. We produced Mama Mirriam Makeba, Dorothy Masuka, Yvonne Chaka Chaka, Sam Nzima, Mahotella Queens, Mahlathini, Babsie Mlangeni, Alan Paton, Athol Fuggard and the list is endless.

Apartheid brutality through its suppression and subjugation prompted ... [Interjections.] ...I agree. prompted our artists across the spectrum to be creative and coded their messages to transmit across to avoid prohibitions and bannings. The regime considered their messages as inciting black violence and felt it is treasonous. Our art depicted our sufferings and pains as oppressed people in contrast to free nations where it depicted hope, faith, love and fruits of freedom.

Our artists have been exploited in this industry where jobs have been lost, the money that is due to them is not paid and a number of our artists have died as paupers whilst leaving their

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destitute families behind. Your tears and cries have not fallen on deaf ears hence our resolve to correct and redress this plight as the movement of our person that cares and listens you.

Though this amendment, the ANC seeks to say no to power imbalances, vulnerabilities and abuses that has continued unabated and regulating collecting societies and putting an end where our performers not receiving their needle time royalties due to them and provide protection where authors rights are transferred without appropriate compensation.

We must correct the DA, IFP and also the FFP that when you come here you want to maintain the status quo. You want to come here as if you have the interest of our people. When the apartheid regime could not silence our people because we know and we live with these communities and we know what is happening. The freedom of association is actually defended in this Bill. Contractual law is being protected but, we say no to all contracts that are exploiting our people. And these are the same

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contracts that we want to do that. "Tell no lies don't claim any easy victories".

Exceptions around books, the writers and the authors we are very clear you can't go to an educational facility and copy the whole book. It is not going to happen. The exploitation of economic interest of authors and creators of copyright works against infringement will never be allowed further. But we will promote innovation, science and useful creative activities.

We have also introduced a copyright tribunal that will have the clear powers, what are they going to do so that they can be able to do some of the things that they will do. But if they are any disputes the final arbiters will be our Courts and the Courts will be empowered to do what they are supposed to do.

Culture and art is the soul of a country and a nation. History and reality have proven that a nation which abandons or betrays its own history and culture cannot prosper and is likely to have devastating tragic end. Confidence in our culture and art works

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should be basic deep rooted, and reaches far and wide. It is a force that is more fundamental, stable and persistent. Without confidence in culture there is no way to create works that are hard-hitting, unique and charming.

Nations across the global village are influenced in profound ways by excellent art and literature as well as gifted writers and artists in each every phase of their historical development. Each era has its unique art and literature as well as unique spirit.

Each era epitomizes the social life and spirit of that era with coincident traces and features. At critical juncture of human development, creative works, arts and literature are the harbinger of social progress, heralding periodic zeitgeist, those artists across spectrum who indulge in self admiration are bound to be marginalized by society. Any significance of any work of art and literature lies in the ideas and values contained in it.

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The ANC reaffirms that never again shall our people in the industry should be treated as the skunk of the world and pariah in our land. You are the unsung heroes and heroines of our struggle for freedom, spiritual connect, moral guide and you define who we are, where come from and what we stand for. You represent the best of humanity through your continued touching chapter of literacy and artistic creations. You have ignited a sense of natural pride and honour to all South African people.

The ANC as a leader of our society we want to say we honour you and we respect you. We support you and hold you in high regard. We aim to present your stories in a respectful way. We need to complete a creative transformation of our work. Let us continue to represent our work like us and literature in the international arena with the distinct South Africa style and ethos. The ANC breathes the same breath with our people in this industry. The ANC lives and ANC leads. The ANC supports this Bill. Never again shall our people die as destitute. Long live the spirit of Nelson Mandela long live.

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**CONSIDERATION OF REPORT OF PORTFOLIO COMMITTEE ON TRADE AND
INDUSTRY ON COPYRIGHT AMENDMENT BILL**

The MINISTER OF TRADE AND INDUSTRY: Thank you very much, Deputy Speaker. Let me thank all the contributors to this debate. Predictably, many of the criticisms of this Bill have focused on just one issue: The fair use provisions in this Bill; and there have also been outsiders of this House, a set amount of lobbying taking place, particularly on this issue.

This lobbying I think has seen a huge amount of hyperbolic rhetoric, which of you believes it. You will think that because this law will allow students or lectures to photocopy parts of some academic work without paying the royalties, which probably wouldn't find their way to our office anyway, that author, of the novels of children's books, of academic works and even Paul old Stevens Speelbackers we heard today, are getting to be reduced to penury, I mean this is just nonsense it just not sir.

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The fair used clause is limited and does, in fact, conform to the Berne convention three step test. It is just it is confined to specific cases. It should not conflict with the normal exploitation of the copyrighted work, and; it should not unreasonably prejudice to the legitimate rights of the copyright holder. I think that the provisions in this Bill deal with that.

As other speakers have pointed out fair use exist in other jurisdictions, if it didn't exist in the United States, Trevor Noah would not be able to take a piece of *Fox News* and put it on his programme for the sake of Parody and Satire, it wouldn't be the case. He had to pay a royalty every time he did that.

I think that the hon Cachalia, this really is not a matter of expertise and these passionate experts offering now best technical advice - this is about vested interests, and as politicians, we have to make decisions. I think we made no apology for taking decisions in favour of students in education in favour of disabled people and so on. I think we take no apologies, and no apologies needed for that.

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However, he also asked another question, why does innovation take place in certain jurisdictions? Well, I have already mentioned the US having this kind of legislation. So for that matter, the Singapore so does South Korea and then the two that they might like, that will be Taiwan and Israel. They all have got fair use clauses in their legislation. So I think that really this is nonsense, the catastrophes and calamities that we are hearing.

Actually, this Bill on the next one is about something called Neighboring rights, the owners of copyright or performance protection rights are not just the publishing companies or the record companies or whatever, they are actually also the authors of the performers.

What we have seen and what we have noticed - I'm going to come to this in my next impart - yes, we noticed through the work of the Farlam Commission, and looking at this matter, that there are power relations which have meant that artists, performers and writers have been deprived of their royalties because of

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unfair contracts, because of the way collecting societies operates, and because of the lack of any remedy to deal with those kind of issues.

So this Bill of the next one they provide for the recognition of the rights, the Neighboring rights of actual authors and performers; and then I also provide a standard contract that talks about a division of the rights of royalties, but we know it is not too prescriptive but it can be overseen by a Tribunal, which will actually be staffed by retired judges. Then also it regulates the collecting societies.

I think that I want to thank all those parties that have indicated that the broader picture is what counts. We need authors. We need created people. We need writers and artists to get their fair share; and not be subsumed by other kinds of interest groups of other Neighboring rights that are basically hobbling the whole cake and reducing people to penury.

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This Bill, I think it is a piece of legislation that passes muster in terms of the World Intellectual Property Organization Treaties. Maybe it is a bit of a small problem, but a small problem that we haven't in fact passed, we haven't rectified the agreements, but I can tell you that Cabinet agreed today that we will submit those particular Treaties to Parliament for ratification. So we will be signing those particular agreements as well.

So I think that this is a piece of legislation that is, as everybody said "Home Grown", grafted for South African conditions; and in each jurisdiction, in each condition of each circumstance we all have to find what is the balance we need to strike; and I believe that we strike a balance that is correct for South Africa, a balance that recognises the rights of creative people.

However, also the rights of publishing companies and they will continue to - I'm sure, enjoy significant royalties in this jurisdiction; but at the same time it doesn't generate the

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ridiculous notion that every time you go to a photocopy machine you have to put a bucket of money into somebody's pocket that doesn't find its way to the author. I have no difficulty in commending this Bill to the House and I thank you for your attention. [Applause.]

Debate concluded.

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

Division demanded.

The House divided.

[TAKEN FROM MINUTES.]

As the result of the division showed that there was not a majority of the members of the National Assembly present for a vote to be taken on a Bill as required by Rule 96(b), decision of question postponed.

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**PERFORMERS' PROTECTION AMENDMENT BILL—CONSIDERATION OF REPORT OF
PORTFOLIO COMMITTEE ON TRADE AND INDUSTRY ON**

The DEPUTY SPEAKER: There is apparently the speaker's list. I don't have. Hon Minister, are you doing the ... please, you must let us know.

The MINISTER OF TRADE AND INDUSTRY: Okay, Chairperson, I was say in the last Debate that the origin of this two Bills, this one and the previous one were that back in 2001 ...

The CHIEF WHIP OF THE OPPOSITION: House Chairperson. Deputy Speaker?

The DEPUTY SPEAKER: Yes.

The CHIEF WHIP OF THE OPPOSITION: Is it appropriate for the member of the executive to be introducing this debate due to the chairperson of the portfolio committee?

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The DEPUTY SPEAKER: Just hold on. Let's just consult quickly.

The CHIEF WHIP OF THE MAJORITY PARTY: Chair.

The DEPUTY SPEAKER: before you do that, hon member. Let me just consult quickly.

The DEPUTY SPEAKER: No, hon members, the speaker's list I have before me has the Minister ahead of it. We don't interfere with the composition of the speaker's list. This is the authority of the whips who decide to come with these decisions.

The CHIEF WHIP OF THE OPPOSITION: Point of order, Deputy Speaker.

The DEPUTY SPEAKER: I got the speaker's list in front of me. It has hon J Fubbs as the first speaker. This is the matter about the separation of powers between the legislature who has introduced the legislation and she must deliberate on it.

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The CHIEF WHIP OF THE MAJORITY PARTY: Chair, can I respond.

The DEPUTY SPEAKER: Go ahead, Chief Whip.

The CHIEF WHIP OF THE MAJORITY PARTY: Chairperson, first of all, what is surprising is that we have been having Ministers here introducing their Bills from the executive all along. Then the chairperson of the committee will come after the Minister has introduced. That is the tradition that we have crafted for this House. This Bill is from this Minister. Is this Minister that can't introduce his Bill? Thank you very much.

The MINISTER OF TRADE AND INDUSTRY: Deputy Speaker, we are all sometimes asked where we were when big historical events happen. Well, I can remember where I was on 11 September 2001. We were right here in this House. We were passing a piece of Intellectual Property legislation when we heard the bigger news and this provide needle time royalties to be paid for performers of works that were broadcast on electronic and broadcasting platforms.

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Now, in the subsequent years, we heard from many artists that despite legislation, they were not actually receiving anything and so we commissioned Judge Farlam to head a Copyright Review Commission. This commission noted this issue and the judge said that despite that legislation not a single cent had been paid to performers in South Africa. That was the issue. Then, the judge unpacked what were the issues which were the reasons for this.

The reasons for this were the power relations in contracts. You are at the only stage of your career. You are happy to get any kind of contract. You signed away all your enabling rights to the record company. The next thing that happens is that they are the collecting societies, collecting royalties. They are only interested in collecting royalties on behalf of the large players who are after the record companies and others.

So, the enabling royalties that I was talking about earlier, the rights of performers, the rights of authors were not being respected in terms of the flow of income and we had many cases

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of people who were actually the creators of the creative people who were receiving no reward for their work.

So, this Bill like the previous one is intended to try to regulate the way in which contracts are arrived at. Providing basic norms and standards for contracts and also allow for the recognition of the rights of the artists. They are regulating also more on the previous Bill. The roles of collecting societies, the collecting societies have to work on behalf of defined constituencies and not just amalgamate everything and give all loot to one particular party.

There is now a strengthened tribunal that can look at all of these. This is the previous Bill which is dealing with copyright works. This is dealing with performer's protection. This is dealing with rights of performers.

So, you know there were extensive hearings. We heard a number of artists who said that this Bill was beginning to deliver not

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everything that they wanted maybe, but it was beginning to deliver.

So, have Florence Masebe who is well known for her role in the series Muvhango and she said, the absence of a legislative framework has led to artists being impoverished while they works benefits those who commission them, unless we speak into another issue. People are asked to commission a work about somebody else and then they are not receiving the royalties.

Actually, if intellectual property which is asked to roll a monopoly right, if it is supposed to support creativity, it must be supporting creativity by the act of creators. So, that is what this Bill is about. This Bill is about trying to make sure that there is a balance between the rights of the performers, rights of record companies, but also the public broadcasters, as well as commercial broadcasters pay the royalties that the artists are in titled to.

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So, I think that this Bill has support from artists, communities and is less controversial than the previous one because the fair uses contained in the previous one, but now I have no doubt that our friends on this side of the House will be disagreeable again and call for a division. I think that the rest of us are well advised to vote for a progressive piece of legislation that will assist our artists. Thank you very much.

Ms J L FUBBS: Hon Deputy Speaker, hon members of the house, colleagues and compatriots, people of South Africa especially our performers, artists, musicians and our respect to those who are late now and have passed on but died in poverty. The performers protection and Amendment Bill 2016, therefore seeks to restore the dignity of performers by recognising that they have a constitutional right to their work being remunerated within regulated framework. So, we are hoping like Thuma Mina, we want to be there and we know we will be there when musicians, singers and performers will no longer die in poverty.

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Mahlathini died a pauper in 1999 and the SABC said it owed him R4 million worth of royalties. It's great to say that after the event when people have died in poverty and we know so many of these artists who have enjoyed, watched them perform and then we hear on our little footnote or we hear it on TV. Well they club together to try and burry this person. We can no longer carry on in this manner. We can no longer say it's okay, we're alright and just wait.

Isizulu:

Ima kancane, lalela mama.

No, we can't say that anymore. Rather we know that from this Amendment Bill they will finally benefit. And the profits from their performances and the recordings on radio, TV and other forms of digital architecture will now be required by law, hoping this Bill will be passed today because these agencies and companies will be required by law to keep log books so that they can no longer say "we don't know, we don't know when it played, we don't know when it happened." There will now be a record.

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Then the other institution, the other agency are collecting societies. They will also have to account or be registered and audited on a regular basis. We were quite shocked to learn that a number of these collecting societies still owed those on their books whom they said they were collecting for. We also heard some strange news and pieces of information which was confirmed that one collecting agency had banked and send funds of artists that didn't belong to them in the first place. They were only supposed to take enough money to remunerate their own work. Whether they send it to Dubai, well goodbye Dubai. The artists are never going to smell that, the singers are never going to smell it; the dancers are never going to smell it unless we adopt this Bill, this piece of legislation today.

In fact we had so many submissions and in some ways it was a bitter sweet situation where people even cried and shed tears telling us their stories of how they had suffered and we got written submissions. At the time SABC had the nerve to send the research department when we had asked for their policy people and management to come. That is how seriously they took their

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obligations. But of course the performers' protection Amendment Bill has sort also to take account of the future. We're in the 21st century, so much is now digitised. Are our artists going to benefit from that new mode? And this we had to go into that great deal and again we're happy to say that the technical team...and I want to note for the record that in these Bills we asked a number of people to join us and assist including Dr Owen Dean. We never got his response. We did get a response from others but they said they were too busy, too busy to assist us with their technical expertise. We did however get two or three on board with this. But, the very same people who refused to assist us with their expertise came with several huge submissions to do x and y and we said yes we'll come in and be part of the process. We actually brought this Bill back to Parliament. And on the 30th of October 2018 the NA granted permission to the portfolio of Trade and Industry to inquire into amending other provisions that had come up, we had to advertise it. But, I do want to say at the outset, we've had great cooperation from the DTI, I want to thank the Parliamentary Committee, all members especially hon Theko and

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the ANC supports another Thuma Mina bill that will make poverty history.

Mr G K Y CACHALIA: Deputy Speaker, there is a thread that runs through the Bills presented in the committee: undue haste, populism, shoddy drafting, scant regard for the consequences of bad law or the impact on our hobbled economy - but this is lost on the ANC.

I welcome the opportunity of pricking this bloated bladder of baloney with the sharp rapier of fact. Whilst our law concerning performers' rights needs to be updated - make no mistake about the fact that it needs to - given international developments, this Amendment Bill is not currently in a state to be enacted. As with plans to amend the Copyright Act, it is important that care is taken to make sure that our legislation is the best that it can be. What we don't need is a Bill that is poised between a cliché and an indiscretion.

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Despite the need to update our law relating to intellectual property rights, it would be counterproductive to rush through half-baked proposals. You would do well to remember the words of John Locke who said that "government has no other end but the preservation of property". In fair measure - fair measure - this is true. That aside, the Bill challenges contractual freedom. The key contract of agreements will be largely determined by the Minister, leading to heightened investor anxiety, as producers will not have the freedom to construct contracts with the will of all parties. No one should be incentivised on the basis of getting legislation passed. Legislation needs to be properly considered and should only be passed if it is in the national interest. Sections of the Bill make rights of authors inalienable, so watertight that these rights cannot actually be used, resulting in producers becoming more selective and contracting only with top calibre or safe talent, thereby reducing opportunities for others - the very people you hope to assist. Goodness me! As I have said previously, we understand that bread and liberty and not incompatible, but this proposed legislation takes the cake.

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Now a bit of reality to rupture the relentless imperative to be "pro poor" - that phrase that covers a multitude of sins - and we know about the pathway to hell being paved with good intentions. A film, for example, from concept to cinema can take up to even more than 15 years to develop. The right of reversion can be imposed at any time, causing the complete project to fail if, for example, rights are revoked during the production phase. However, does the ANC in the committee understand the realities and the impact on investment, businesses, jobs and the economy? Evidently they do not. The approach of the ANC here is guaranteed to cause mental saddle sores. Retrospective provisions, new criminal sanctions, limitations on the freedom of contract, and exceptions taking away property rights all raise doubts whether the Bills pass muster under the Constitution.

South Africa should aspire to a world-class Performers' Protection Act that is consistent with the Beijing Treaty and the WIPO Performances and Phonograms Treaty, WPPT. Unless this Bill is redrafted, it will fall foul and short of this goal.

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Accession to these treaties would give South African performers the benefit of national treatment of their rights in other respective countries. The WPPT and the Beijing Treaty prescribe equitable remuneration for performers. However, the Bill does not follow international standards in order to achieve this goal. Moreover, as I have said, the Bill undermines, if not completely obviates, freedom of contract to the detriment of both performers and producers, making it extremely difficult for producers to make investment decisions that drive the economy, that give the jobs that we seek to protect - understand that, please.

Lamentably, this presents a one-size-fits-all approach to regulating, in a very prescriptive way, the contracts between creative talents and producers who would invest in their works across all copyright industries. There is no indication that the impact of this prescriptive regulatory approach on the creative industries has been researched and whether any comparison has been made to successful treaty-compliant approaches in other

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countries. Certainly, social and economic impact studies make no mention of such research.

Likewise, the method of achieving the goal of equitable remuneration for performers requires a complete reconsideration. The Bill is indicative of sloppy and skew drafting. It needs careful co-reading with the Copyright Amendment Bill. Unintended consequences with regard to implications on contract and international compliance need addressing, not ignoring. Here again the ANC committee and the Department of Trade and Industry proceeded with undue haste on the pretext of redress to saddle our system with substandard legislation. Whilst the Performers' Protection Amendment Bill strengthens the moral and economic rights of performers in the use of their performances and sound recordings of audiovisual works, which is laudable, the rights it enshrines are retrospective and applied to the future earnings of these types of works created before the commencement of the Bill. Really, the devil, as always, is in the detail.

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The legal impact of these complexities eludes the ANC in committee. They appear to have the backbone of a chocolate éclair and, in their haste, are unable to see a belt without hitting below it - to the detriment of our country. Yes, the Bill seeks to update this and to ensure that those who do not recognise the economic and moral rights of performers will be subject to consequences. This is quite right, but instead of updating and enforcing compliance, it errs on the side of draconian measures. As usual, the baby goes out with the bath water, as if industry matters not.

The ANC appears to be hellbent on burying business in this regard. All they can say is Thuma Mina! Send me! Whereto, though? To be the harbinger of economic destruction?

[Interjections.] This ANC has to understand that electoral vote-catching legislation will be seen for what it is and that it will not serve the interest of our nation. The problems accumulated by the proposed language and their compounding impact generally lead to the expropriation of intellectual property, which is unconstitutional. In fact, it smacks of

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halitosis of intellect. The effect of these defects will harm the intended primary beneficiaries of modernisation. It will prejudice the ability of the industry to invest in the creation and production and distribution of new content. This will ultimately be to the detriment of consumers, as well as to the thousands of South Africans who will not have the benefit of the many sustainable jobs that are offered by the sector.

The DA cannot and will not support this Bill. We will champion the rights of producers and performers, though, responsibly and dutifully. I thank you. [Interjections.]

Ms E N NTLANGWINI: Deputy Speaker, you know, the performers came to us and we heard their plea. It would be an injustice to have not listened to them what the industry is doing to them. The blot exploitation that performers are suffering within the industry is a shame that for 24 years in our democracy we still have our performers being exploited to that extent. For far too long the majority of our performing artists work their socks off in the industry, but often have nothing to show when they can no

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longer perform. Those become sort of repressive nature of the industry where a few in positions of authority have benefited from the work of ordinary performers.

The rights of performers have been made subordinate to the rights of those who control the industry. We support the provision that the performers must receive fair remuneration and royalties for their performances. We want this Bill specifically to include the recommendations made by MmeFlorence and MmeThabisa who came to the committee and said to us what the industry is doing to them. To say to a woman that she can't go for an operation that can save her life that she must go and perform. Those are the simple rights that this industry is doing to our performers and we cannot allow that. They have rights. This industry does not even care about our labour rights of this country. We can't allow that. We want that to be added within the Bill as well. We want a full recognition of the audiovisual performance rights to royalties across all broadcasting channels that it set minimum standards of all performers agreeing into the audiovisual sector, that it ensure an environment in which

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harsh consequences to those that contravene the law in this regard and that it recognise those performers economy and moral rights as set in the Beijing Treaty.

Therefore, we do support this Bill because we have seen how our performers are being abused by this industry. People have come here and talk about polonies and éclairs. If that is how they see black people and black people's struggles, it says much to be desired about this very DA. I would plea with Mr Cachalia, please, raise your points within the committee, you sat there and never talked yet you come here and want to raise these things that you are raising of polonies and éclairs. We will never give up the black struggle. We will always ensure that black people are free and liberated within this country. I do thank you. [Applause.]

Mr J A ESTERHUIZEN: Chairperson, this Bill seeks to challenge the fights in the creative arts industry and the prejudice to our performing artists from non-payment of royalties, lack of information in the creative industry which is exposed to abuse,

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piracy and in general rights of performances. Currently, actors are still the ones with the least to say on how their work is distributed and initial airings. They also reap the least rewards from further redistribution, which is patently unfair.

For many months of very intensive interaction and hard work I think the Department of Trade and Industry has acceded and producing agreements to an outdated Bill that can now be used in the television and film-making industry. Actors are still the ones with the least to say how their work is distributed after the initial airings and also reap the least rewards on further redistribution thereof. We must all be concerned to the fact that artists, writers and actors sell their work and if producers would have to pay every actor and every copyrighter for every small contribution every single time that their material was used, it would make most work unaffordable. A balance must be found. This was what this Bill had to be about.

We have seen very emotional presentations made to this portfolio. We have all said it that we must also find a balance.

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Nobody has ever done an impact study on this Bill and see what it will create. More jobs will be lost and people will lose their jobs if this Bill gets carried through in this current form. While, in this case, given international developments, our law concerning performance rights requires updating, the aforementioned comments should provide sufficient evidence that the current amendment Bill is not in a state fit enough to be passed into domestic legislation.

With the plans to amend the Copyright Act, it is important that care is taken to ensure that our legislation is the best that can be. It will have too many consequences. Despite a need to update our law relating into Intellectual Property Rights, it will be counterproductive to rush through half baked an ill-considered proposals. No one should be incentivised on the basis of getting legislation passed. Legislation needs to be properly considered and should only be passed once it has been thoroughly considered and it bears the national interest. The IFP cannot support this Bill.

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Prof N M KHUBISA: Deputy Speaker, there are so many performers who have been exploited in the past and did not get their royalties. This Bill seeks to safeguard the rights of contracting parties, promotes performers moral and economic rights for performances in the audiovisual fixation. The Bill amends the Protection Act No 11 of 1967 by aligning it with the objects of the national development plan, NDP, which seeks to bring about effective governance, social protection, employment creation, entertainment, recreation and leisure. The Bill seeks to accommodate all issues dealt with by the world intellectual property organisation and other treaties.

Our artists are creative enough and as such there is need for law enforcement regarding the manner in which they are paid so that they benefit from the work of their labour. We also circumvent all forms of abuse directed to them. The Bill introduces the norms and standards for constructing contracts. Clause 3 of the Bill proposes the insertion of sections 3(a) and 3(b) to provide for the transfer of rights where the performer has concerted to the fixation of his or her performance in an

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audiovisual fixation subject to written contractual agreement which shall give the performer the right to receive royalties for any use of performance.

It is proposed that the exercise of this right shall be valid for 25 years from the date of commencement of the agreement. This therefore, means that the work of the performers cannot be used anyhow and only to find that they are exploited having worked so hard for their artistic work. This Bill encourages creativity by bringing to the fore the legislative instrument to that effect. When the performers wake up in the morning to engage in long hours of practice and performance, they must be assured of the dividend that will accrue as a result of their hard work. As we support his Bill we call upon performers to unite and acclimatise themselves with the prescripts of this Bill.

A Bill of this nature restores dignity to our brothers and sisters who have to be recognized for the sweat of their labour.

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Why should performers spend sleepless nights featuring their artistic work and get nothing in return? A Bill of this nature is supported. It is therefore incumbent upon all of us to call all those members of this House who have packed their luggage and they are on their way to the airport to come back so that we vote for this Bill. We support it. Thank you.

Adv A de W ALBERTS: Deputy Speaker, this Bill is closely connected to the Copyright Amendment Act, and exhibits many of the same deficiencies unfortunately. One of the most important objectives in this Bill is to create economic rights for performers in audiovisual works. This is embedded in the logic and morality to protect the contributions made by actors and to ensure a continuous stream of income upon a successful exploitation of the audiovisual work. This idea is laudable and we support mechanisms to enhance the income of actors in relation to works that are financially successful. However, those mechanisms must work. Unfortunately, the mechanisms proposed in this Bill are destined to fail.

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Afrikaans:

Die oorspronklike 1967 Wet handel oor kopiereg vir musikante wat lewendig optree en wat deel vorm van musiekopnames. Dié Wetsontwerp probeer die ou Wet by die hare insleep na die nuwe era van televisie en die internet. Die probleem is egter dat die regte wat geskep word vir akteurs nie kopiereg daarstel nie, maar wel 'n ander soort ekonomiese reg tot deelname in die wins van die audio-visuele werk.

Wat dus eintlik moes gebeur het is dat 'n aparte Wet vir akteurs geskep moes gewees het aangesien hulle regte nie kopiereg – soos bepaal in die 1967 Wet – behels nie.

English:

Given the connections with the Copyright Amendment Bill, it is important to note that importation of a fair use principle in hybrid form will narrow the rights provided by this Bill and in some cases destroy the rights created. It will not protect copyright of authors. This Bill rate with the Copyright Amendment Bill was proposed to benefit South African authors and

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performers, yet many renowned authors are currently opposing the Copyright Amendment Bill in a petition because they can already see that it will not help them.

Some of them are well known people like Athol Fugard, Wilbur Smith, James Coetzee, Breyten Breytenbach, Deon Meyer, etc, and I have heard also that Bishop Tutu and John Kane signed that petition. So, if you think you will get votes on this Bill you can forget about it.

The Performance Protection Amendment Bill and the Copyright Amendment Bill must never be signed into law by the President. If it is so happens it will surely be litigated to death. I thank you.

Mr S H MBUYANE: Deputy Speaker, greetings to the House and the members of the performers industry, comrades and friends and South Africa, We stand here as the African National Congress, proud of this progressive initiative of the Performers' Protection Amendment Bill. This Bill is dedicated to the artists

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and performers who shone our path to freedom with their artistic performance, songs and dance. Let me on this occasion invoke the undying spirit of Mama Afrika Marriam Makeba, Sis Brenda Fassie, Bra Hugh Masekela, Bab'uMahlathini, Abdul Ibrahim, Sipho Gumede, Make LaMabuza, Bra Joe Mafela and many others whose soul continue to inspire us to soldier on as a nation. To them I say your creative thoughts and performance was not in vain! Thanks to Comrade Ray Phiri and Stimela for telling us that Singajindi. We must ...

I dedicate this Bill to the living legends in the music and performing industry. I am talking here of the people's Poet Mzwakhe Mbuli, Jonas Gwangwa, Babsy Mlangeni, Letta Mbulu, Sello Chicco Thwala, Steve Kekane, Blondie Makhene, Rebecca Malope, and many others who kept the hope of our nation alive with their songs during the difficult times of the apartheid regime. We honour these legends by passing this Bill to send a message that our performers deserve respect and recognition of their creative work. They deserve to earn royalties from their hard creative work. By passing this Bill, we will be assuring our current

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performers and aspiring ones of a better future. We are protecting their careers in the creative industry.

For far too long, our artists and performers in general, have endured many years of exploitation of their creative talent with low income from their royalties. This has led to a situation where our artist lived in squalor conditions, unable to make ends meet, their families subjected to poverty while the products of their creative work continue to be exploited in the creative industry. The exploitation of our performers without benefits from their royalties, has made a mockery of the creative career, the young were not encouraged by the reality of the poor conditions of our performers not to consider a career in the creative industry.

Hon Deputy Speaker, in our 52nd National Conference in Polokwane in 2007, we took note of the challenges faced by the creative industry, and as a caring movement, which understand and appreciate the role of performers, especially their role in bringing the tyranny of apartheid down through their songs,

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dance and screen play. We recognised that the entertainment industry remains one of the central pillars of economic development. For many years since its formation, the ANC has always advocated and fought for the rights of all South Africans to have a better life, to participate in the economic development of our country and improve their livelihood. The history of our country is such that we have inherited a system which was undemocratic and where certain rights of our citizens were not protected. Industries were not providing fair treatment to the majority of our people, especially with regard to their labour rights and the protection of their copyright rights.

We have witnessed many reports in the media of our creative artists dying as paupers and as such making mockery of their sweat in the industry. This among other things was a result of how royalties are collected and distributed among the stakeholders. Our government has met with an artist to understand their situation and for the artists and performers to raise their concerns. Among other things, as part of the intervention, there was a Commission established, under Judge

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Farlam, to look into this matter and it has made some recommendations which include, among other things, the amendment of existing legislation to protect performers.

It therefore meant that as people's organisation, we have to draft legislative policy framework, in this case the Performer's Protection Amendment Bill to address this challenge.

[Interjections.]

IsiZulu:

Nk M S KHAWULA: Ngiyabonga Sihlalo, sengifikelwa yizinyembezi. UVusi Ximba angizwa nje bembala Nkulunkulu wami, noLundi. Hhawu Nkosi yami, kwenzekalani kanti, uVusi Ximba.

USEKELA SOMLOMO: Hlala phansi! Hhayi mama akukona ukukhalima ophambukayo lokho.

Nk M S KHAWULA: Awumbale mntwana wami. [Uhleko.]

English:

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Mr S H MBUYANE: It therefore meant that as people's organisation, we have to draft legislative policy framework, in this case the Performer's Protection Amendment Bill to address this challenge, to bring dignity to our performers and their families, to ensure that the industry is properly regulated and that the industry is transformed. During the hearings, we have heard presentations from various players in the creative industry. They have expressed their views and recommendations to the portfolio committee, and as a committee, we have taken their views into consideration when we were deliberating on this Bill. Their views ranged from the call to ensure that when we deliberate on the Bill, we must ensure that whatever we decide should enhance the growth of the industry. We must ensure that the rights of performers are protected, we must ensure that we appreciate international norms and standards, we must ensure that the industry is transforming as well as the criminalisation of those who contravene the provisions of the Bill.

The objectives of this Bill include the provision of definitions of certain concepts and expressions, to provide for the

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performers' economic rights, to extend moral rights to performers in audiovisual fixation. The audiovisual fixation refers to the embodiment of images or moving images, whether or not accompanied by sounds or by the representations thereof, from which either can be perceived, reproduced or communicated through a device.

Hon Speaker, this Bill also provides transfer of rights, in clause 3(a) of the Bill, where a performer consents to fixation of a performance, to provide for royalties or equitable remuneration to be payable when a performance is sold or rented out, as well as to provide for a further offence and penalties, among other things. The Bill outlines prohibited conduct in respect of technological protection measures. No person will engage in practices which will infringe on the right of performers, especially in terms of sale, rental, make, import, distribution, offer and expose for sale, in a way that these practices will infringe the right of the performer. The Bill will ensure that the performers' benefits from their creative work, and as such contribute to their economic wellbeing.

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The Bill provides for the protection of the moral rights of the performer, so as to safeguard the dignity and the rights of the performer against any unfair exploitation. We conclude by reiterating that no South African performer shall ever again live in conditions of poverty, of squalor, and of hopelessness. The ANC reiterates in supporting this Bill.

Siswati:

Ngivile Make lapha ukhuluma ngaVusi Cimba, sibabalile bonkhe bakhona lapha, linyenti labo life lihlupheka ngobe bebangayitfoli imali yabo. Imali yabo iphelele ngalapha kusesancele sami kantsi nyalo siyavumelana njengeNdlu kutsi lesancele siyasitsatsa siba kusekudla, wonkhe umuntfu ubhadaleka ngendlela lefanele yena. Siyabonga Somlomo.

Mr A J WILLIAMS: Hon Deputy Speaker, hon Ministers and Deputy Ministers, hon members, guests and friends and most importantly, my fellow South Africans, five years ago, today, we, as a nation lost our greatest leader, Nelson Mandela, he said and I quote:

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"We know too well that our freedom is incomplete without the freedom of the Palestinians."

I would like to thank all the performers worldwide that have joined the cultural boycott of apartheid Israel and I would like to encourage other performers to join this boycott in support of the Palestinian people and their continued suffering under apartheid Israel.

The intent of the Bill before us today, is to protect the interests of our South African performers. The Bill defines performer as and I quote from section 1(h) of the Bill:

Performer means an actor, singer, musician, dancer, or other person, who acts, sings, delivers, declaims, plays in or otherwise performs literary works, musical works, artistic works, dramatic works or works of joint authorship or traditional works as contemplated in the Copyright Act.

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These are the very people this ANC-led, SACP, COSATU and SANCO government seek to protect. We are the people and that is why we will continue to protect the people.

The DA on the other hand objects to this bill. In other words, in the unlikely event of the DA ever coming into power they will not pass a Bill like this, they would rather see performers suffering in poverty forever.

Now is the time for the DA to consider whether the interests of the people outweigh the interests of their funders? Now is the time to defend the people and support this ANC Bill. Stop talking about your support of the people and actually start supporting them by saying "aye" when this Bill and report is put to this House.

We, as a nation have so much talent but we, as a nation don't recognise our own talent unless that talent has gone overseas to where the law protects their interests and makes them through their very hard work and talent, rich and famous.

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Our very own South African performers that live in South Africa work very hard and have talent but under our current law, that the DA doesn't want to change, those performers are exploited. I hope the performers are all paying attention today because they'll see the true colours of the DA. The ANC is passing law that will give performers more protection and basically the DA is opposed to it.

There are performers like Charlize Theron, Trevor Noah and many others that remain overseas because in the United States, performers get better working conditions. Charlize, it's time to come home. You can consider this as me asking you out on a date. [Interjections.]

As we say in South Africa, pull in Charlize. South African performers with international experience must start to share that experience. This government cannot liberate the people, the people must liberate themselves. This Bill, through the ANC government creates opportunities for the performers to liberate themselves, they must teach each other, help each other, they

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must build a South African economic sector that produces first class performers and attract investors that will create decent South African jobs.

This hon Ramaphosa government is putting the people first and we will not be deterred by the people's opposition, the DA.

As I started the speech, the intent of this Bill is to protect the interests of performers, let me quote the Bill itself:

It addresses issues relating to the payment of royalties to performers, safeguarding the rights of contracting parties, promotes performers moral and economic rights for performers in audiovisual fixations or sound recordings.

Some of you may well be wondering why there is opposition to this Bill as it protects our very own performers and you might think that this ANC-led government is imposing unrealistic laws on the sector and I quote from the Bill:

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The Bills proposals are premised partly on the World Property Organisation, WIPO, treaties such as the Beijing Treaty for the protection of Audio Visual Performances and the Performers and Phonograms Treaty.

The Bill is basically giving our performers the same rights as the rest of the world. This Cyril Ramaphosa, ANC-led government is moving our people forward and not desperately trying to keep us in the past as the DA are.

It is time for performers in South Africa to acknowledge that there are now political parties, like the ANC, that protects the people's interests. There are organisations, like the DA, that do not protect the people's interests.

As a nation, we need to strive for legislation that protects our people from exploitation. We, as a nation, must do our best work when we work together. We have proven this to the world and we must recognise this as a fact. We do better when we work together.

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The DA is opposed to this Bill because the DA doesn't care about the exploitation of our performers. Both in the past and in the future, they want to see our performers continually been exploited until, I don't know, whenever. They want to just continue with this exploitation. This ANC government will not tolerate that.

I am also very surprised by the IFP and FF Plus for opposing this Bill as it mainly protects their members. It is very surprising to me that they have basically sold out their own constituency. Shame on you, the IFP!

Lastly, let me thank the parliamentary legal office and staff and all other parliamentary staff for a very good job done on this Bill. The ANC supports this important Bill that protects the interests of our performers. Now, let us as South Africa watch who objects to this Bill. I thank you. [Applause.]

The MINISTER OF TRADE AND INDUSTRY: Deputy Speaker, in a limited time available to me, let me just enter the debate about baloney

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and éclairs. The hon Cachalia would have us believe that actually the DA shares the same objectives and all they are about is trying to find a more technically sound way of doing it. Actually, he gave it away.

All the baloney about John Locke led him to conclude that what he was on about was something called contractual freedom. He is a contractual freedom fundamentalist. Drawing on the philosophy of John Locke and others, he believes that individuals are all equal in all relationships and that therefore the contract is sacrosanct.

Well, it's a kind of philosophy that led the DA to oppose every single piece of labour legislation and every single piece of empowerment legislation that has ever been tabled since 1994. Actually, what we have here is a clearly defined set of problems that our attention has been drawn to by Judge Farlam. Judge Farlam has told us we need to address the imbalances in contractual relations between performers, record companies and

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others and that's what we are doing in this particular piece of legislation.

One last point, reference was made to the Beijing Treaty and I already indicated that Cabinet has agreed that we will be bringing these treaties for ratification. These treaties are not what is called self-actuating. We actually have to pass our own laws on the same principles. That's what this Bill is about - about giving performers a fair share. They haven't had a fair share up to now and I am sure that the majority of this House will support this Bill. Thank you very much.

Debate concluded.

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

Division demanded.

The House divided.

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[TAKE IN FROM MINUTES]

As the result of the division showed that there was not a majority of the members of the National Assembly present for a vote to be taken on a Bill as required by Rule 96(b), decision of question postponed.

PERFORMERS' PROTECTION AMENDMENT BILL

(Second Reading debate)

The DEPUTY SPEAKER: The Bill will be sent to the NCOP for concurrence.

The CHIEF WHIP OF THE MAJORITY PARTY: Deputy Speaker, I move in terms of section 100 of our rules, that the question be put as it regards the Copyright Amendment Bill and that be voted for again. Our rules allow us to do so. Thank you very much.

The CHIEF WHIP OF THE OPPOSITION: Deputy Speaker ...

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The DEPUTY SPEAKER: Yes, hon member.

The CHIEF WHIP OF THE OPPOSITION: Deputy Speaker, if you read Rule 100 carefully, it says very carefully that, the Speaker may after consultation of the programming committee in terms of rule 208, the programming committee is now to meet in time after consultation with the party Whips. There has been no consultation whatsoever by the Speaker concerning this Bill.

The CHIEF WHIP OF THE MAJORITY PARTY: We want to respond to that.

The DEPUTY SPEAKER: Yes, hon member.

The CHIEF WHIP OF THE MAJORITY PARTY: In fact, all the parties in this House were consulted by the programming Whip. Also, we did consult with the office of the Speaker; we did consult with the DA and they said that they are not agreeable. But we did make the consultations.

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The DEPUTY SPEAKER: Okay; alright.

Mr M WATERS: Deputy Speaker ... [Interjections.]

The DEPUTY SPEAKER: Hon members ... [Interjections.] I'm listening to you; yes.

Mr M WATERS: Deputy Speaker, the rule clearly states that the Speaker must do it; the Speaker, and the Speaker has not done it.

The DEPUTY SPEAKER: Alright; okay. Hon members, the guide to decisions that we use along side our rules says that, when we postpone decisions, it's in order to establish that there is quorum. Now that it exists, we would like to proceed, and if you want consultation, please check your rule 213 of the guide.

[Applause.]

The CHIEF WHIP OF THE OPPOSITION: Deputy Speaker ...

[Interjections.]

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The DEPUTY SPEAKER: Yes sir.

The CHIEF WHIP OF THE OPPOSITION: Deputy Speaker, we must be clear of the clear what the proper procedures of yesterday; we must be clear of the clear of what a postponement of a decision is.

The DEPUTY SPEAKER: Yes.

The CHIEF WHIP OF THE OPPOSITION: Yesterday before the votes on reps was put to the House; a merge was moved in terms of rule 99 to postpone the decision. What happened in this case is that a division took place. So, if you look at Rule 99, when the debate has been concluded, the question may be postponed. In the case of this Bill, the debate was concluded and we move to a vote. There was no motion to postpone the decision that was moved in the House; none whatsoever.

Nobody got up and asked to postpone it. What happened is that the Bill was defeated. Now, once the Bill is been defeated, it

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needs to be put back on the order paper by consensus. There was no consensus; the Speaker's office did not consult with the Whips and I would submit to you that what is being done now is not permitted in terms of the rules.

The rules specifically ensure that the decisions are not spun on other parties, and I think that it is unfair that is happening today.

The DEPUTY SPEAKER: Okay. Hon members, can I ...

[Interjections.]

Mr P J MNGUNI: Hon House Chair, can I make a point of order.

The DEPUTY SPEAKER: What's a point of order?

Mr P J MNGUNI: Hon House Chair, I think that you have made a determination or a ruling ... [Interjections.]

The DEPUTY SPEAKER: Deputy Speaker.

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Mr P J MNGUNI: Sorry, sorry, I am so sorry, Deputy Speaker, I am so sorry. Now, in terms of Rule 92.6, hon Steenhuisen shouldn't have even been heard. He should know what procedures there is if he is not satisfied with your ruling. You have now since ruled accordingly. Therefore, I propose that he is completely out of order in terms of Rule 92(6). Thank you.

The DEPUTY SPEAKER: Hon members, let me convey to members if perhaps this wasn't clear. I've been asked to act because the Speaker is away. Our offices was consulted on the matter that we are discussing and I was assured by the Chief Whip as he report that he is going to consult with political parties here. So, when he rises to speak, he assures me that it's as a result of his consultation with the parties. Therefore, I'm saying that I agree if that is more or less sufficient consensus that we proceed with the voting. Yes. [Applause.] Hon Steenhuisen, when your car stops on the road because there's a wheel that is not functioning and you put on a biscuit in order for it to take you home; that is an appropriate objective of the exercise. Your intention is to reach the objective. Consider me as a biscuit or

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a spare wheel. [Laughter.] [Applause.] In the absence of the Speaker, I do what she would otherwise have done. So, can we proceed members?

HON MEMBERS: Yes.

The DEPUTY SPEAKER: Do I have your permission?

HON MEMBERS: Yes.

The DEPUTY SPEAKER: Thank you. Hon members, I am going to ...
Hon members, the ... [Interjections.]

The CHIEF WHIP OF THE OPPOSITION: Deputy Speaker ...

The DEPUTY SPEAKER: Yes sir.

The CHIEF WHIP OF THE OPPOSITION: I request that your ruling is referred to Rules Committee for a determination.

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The DEPUTY SPEAKER: Hon members, I hear that and we will do as it is required as we proceed now, okay? About the postponed decision, if I may start right there, the question before the House is that the Copyright Amendment Bill be read a second time.

Mr M WATERS: Deputy Speaker, I'm sorry, may I rise on a point of order?

The DEPUTY SPEAKER: What is the point of order? [Interjections.]
Hon members, please hold on!

Mr M WATERS: The matter was not postponed; it was defeated. There's a big difference. It was not postponed.

The DEPUTY SPEAKER: Hon members, please ... [Interjections.]

Mr M WATERS: The postponement was yesterday under Rule 99. A vote took place and there were not enough votes in the House.

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It's a big difference from postponement, with all due respect, Deputy Speaker.

The DEPUTY SPEAKER: Okay. Hon members, I would like to proceed, please; allow me to proceed ... [Interjections.]

The CHIEF WHIP OF THE MAJORITY PARTY: Thank you, sir.

The DEPUTY SPEAKER: ... Let's take what you would like to say now to the meeting that has being required by the Chief Whip of the Opposition, and we will then proceed on that understanding. The question before the House now is that the Copyright Amendment Bill be read a second time. Are all members in their allocated seats?

HON MEMBERS: Yes.

The DEPUTY SPEAKER: Voting will now commence. Those in favour of the Bill being read a second time will press the yes button.

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HON MEMBERS: Yes.

The DEPUTY SPEAKER: Those against will press no button.

HON MEMBERS: No.

The DEPUTY SPEAKER: Those wishing to press the abstain button can do so. Have all members voted?

HON MEMBERS: Yes.

The DEPUTY SPEAKER: The voting session is now closed. Hon members, the Whips do note where you are. It's okay; it's alright. Thank you.

Ms M L DUNJWA: Hon Deputy Speaker, I just want to check if the Chief Whip of the DA is having early dinner now because he is chewing. [Laughter.]

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The CHIEF WHIP OF THE OPPOSITION: I am eating my biscuit.

[Laughter.]

Mr H P CHAUKE: Deputy Speaker, is it parliamentary for a member to eat biscuits in the House? [Laughter.] I am not referring to the biscuit that you earlier spoke about, but the biscuit that you are eating there.

The DEPUTY SPEAKER: Hon Chauke, please don't interrupt what I'm doing now.

[Take in from Minutes.]

The DEPUTY SPEAKER: The Bill will be read a second time.

Question agreed to.

Bill accordingly read a second time.

NATIONAL GAMBLING AMENDMENT BILL

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(Consideration of Report)

There was no debate.

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

Motion agreed to.

Report accordingly adopted.

NATIONAL GAMBLING AMENDMENT BILL

(Second Reading debate)

The MINISTER OF TRADE AND INDUSTRY: Deputy Speaker, this is a simple Bill, but it has been stripped of most of its content and this is concerning urgent organisational changes of changing the National Gambling Board into the International Gambling Regulator, establishing procedure when there is no quorum in the

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National Gambling Policy Council and extending the National Central Electronic Monitoring System to other forms of gambling. I know that this Bill is going to attract quite a lot of opposition. I know some of this is coming from views that are influenced by, amongst others, online betting companies based in the United Kingdom which have been sending out a line that really anything goes, that every form of gambling should be allowed and the only role of regulators must be to collect licence fees. This is a model which we have seen rolled out in the United Kingdom and in countries like Australia as well. The question that arises is: What is this model delivered in its home country? A little while ago – a few months ago, the Minister of Sport in the United Kingdom, a lady called Tracey Crouch resigned. She resigned because she felt that her colleagues were going slow on cutting a maximum stake in what is called a fixed-odds betting terminals. This are like limited payout machines from a £100 to £2. I then read about this and asked myself what is this about. People were spending a £100 in these machines in 20 seconds, according to the reports I read. She was saying that young people were now being affected by this

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and they were now even an increasing suicide related to gambling. I looked at this and asked myself what is happening. The number of addicts in the United Kingdom is grown by over a third over three years to now 430 000 people with probably 2 million people affected in one way or another by problem gambling.

In Australia, which has the very similar model, they are now recording 400 suicides directly attributable to gambling per year. I think the question we need to ask ourselves is: Is this what we want in our country? Is it what we want, as every kind of activity is subject to gambling? We don't view the figures about the state of problem gambling in the same way but if we look at the roll-out of gambling in this country, between 2016 and 2018 there was a 4,5% increase in gross gambling revenue. That is in an economy that was growing at less than 1%.

Twenty seven per cent of that gambling, according to research by the National Gambling Board, is illegal activities. I think in this context we need strong regulators. The National Gambling

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Board does not issue licences; it needs to be a solid important regulator. It has been achieving some successes. We may say that we cannot stop people doing online gambling but if they win, they have unlawful illegal winnings. They have actually intercepted 103 successful cases of illegal winnings and in six cases they recovered R1,3 million into the special fund. This Bill provides for the strengthening of the National Gambling Board which is not really needed to be a board, but a regulator which can actually ensure that we have much more robust regulation of gambling in this country. The other thing is that we have this requirement which is a national policy council between Ministers and MECs. Very often we do not call this meeting unless there are sufficient confirmations and on the day itself, normally people do not come and the meeting cannot happen. What this Bill is saying is that if that happens once, the next meeting can proceed, even if people do not rock up. It is an incentive for people to participate in this council because all of these decisions have to go through there as a whole - the decisions that we are recommending now.

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There is also the national central electronic monitoring system. This system monitors all kinds of transactions, it has just been installed - a new system has been successfully installed. It monitors limited payout machines. But we want to say that it needs to extend to other activities. Amongst other things is that it can monitor financial transactions. Financial transactions include recognition that gambling activity is a major source of money laundering. I saw an article in an overseas newspaper with a headline like this: Gambling machines help drug dealers to turn their dirty money into clean money. That is what happens, and through the roll-out of the National Central Electronic Monitoring System, what can happen is that we can monitor the financial transactions and deal with this issue which is a major issue which has been identified by the financial authorities of the country that this is a major source of money laundering. These are small operational amendments and I trust that the majority in the House will support them. Thank you very much.

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Ms J L FUBBS: Chairperson, I do apologise I fell yesterday. The National Gambling Amendment Bill has had an incredible long journey. I am going to try and address this issue because it comes up repeatedly in the committee. Indeed, I was chairing this committee in the previous term and it became apparent that it was imperative that we bring a comprehensive National Gambling Amendment Bill to the committee. Indeed, that was the case and a study was undertaken in this regard.

The board which was established became a very much rogue board. The opposition members found members of that board as it was tearing up, remnants, etc. Obviously, when the Minister became aware of that the board was suspended and got rid of and faced compliance measures. At that point in time an administrator was appointed from the DTI to regulate the chief financial officer, CFO. May I say that since Caroline Kongwa has been there we have had clean audits. That surely speaks and says a lot.

We finally got a comprehensive piece of legislation this year.

It was just most unfortunate that the time when it came we

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realised that it was not possible for us to deal with it effectively. I don't think there is one member of this House that wants us to rubber stamp Bills through. No, I know you are not as you are sitting here. We want to work with Bills and exercise oversight and deliberate within a framework of good governance.

So a decision was taken. We cannot allow the current situation to continue. So we do need to put a regulator in place. At that point in time the DA was of the opinion that we should put another board in place. We replaced the regulator with a board. That may well seem very reasonable. You can imagine my surprise as the chair when they did not object to the two clauses in the entire Bill. One of them was clause 14, which actually would install a national gambling regulator. So clearly, there was a rethink of the earlier position.

The other clause which was also not objected was clause 32, calling for intergovernmental relations in relation to gambling activities. When we were discussing those issues, they made it

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very clear that we should have greater respect for the concurrent powers that exist in gambling, and that, yes, provinces, local government, etc, should have this. I was again pleased to see that they have another change of heart into intergovernmental relations in relation to gambling activities which was also not objected to. I am of for members in the committee and in the House been able to review positions that they take as long as it is for the good of the country and good governance.

But as I was saying the decision we took was actually that we would only address the critical issues affecting good governance, and these were the reconfiguration of the National Gambling Board to the National Gambling Regulator and the related clauses. The consideration of governance challenges as it relates to the National Gambling Policy Council and the related clauses. You would have seen in papers and heard in corridors when provinces didn't want to agree to something they broke the quorum constantly. It became a chronic situation. As in any business or corporate entity knows the way to bring in

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poor governance is to break it with a quorum. Don't have a quorum and in that way you will succeed in bad governance. I am very pleased, very pleased that again we were able to directly to address the quorum issue in a responsible manner.

The other issue that all provinces seem to enjoy and I hope this is reflected later in the NCOP decisions and also members of the committee, that it was important to have a national central electronic monitoring system and related matters because as Garen Watson, a Cape Town-based lawyer in the sector from Watson Attorneys said,

Gambling in Africa is becoming prolific as the west sees this as the green fears to exploit it, and unless an effective regulatory system is in place it will do more harm than good.

One of the good things that he pointed out is with a sound regulatory framework, capital value is added to the respected gambling business. Indeed, it was resolved then that substantive

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matters will be noted in the committee's legacy report and should be urgently considered in the Sixth Parliament.

I want to appeal to all members of this House to please think carefully and please adopt this piece of legislation that will underpin good governance in the gambling industry. The ANC supports this Bill. I thank you.

The DEPUTY SPEAKER: Hon members, my apology to the next speaker, hon Cachalia. There seems to be an agreement that we should go for a break and come back at 18:00.

Prof N M KHUBISA: Deputy Speaker, on s point of order. We were not consulted on this one.

The DEPUTY CHIEF WHIP OF THE MAJORITY PARTY: Deputy Speaker, we consulted those who were in the House. Unfortunately, those who were not in the House, yes, we didn't consult them. But we really need a break. Yesterday we sat for nine hours and that is not good for our health. As of now we need this break. Hon

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Khubisa, please, we need this break. Yesterday we knocked off at 23:00pm which is not good for our health. Thank you.

Mr M WATERS: Deputy Speaker, can we continue and those who want to have a bloody break can go out while the debate is taking place.

The DEPUTY CHIEF WHIP OF THE MAJORITY PARTY: You were consulted and you agreed to that. You agreed to it.

Mr M WATERS: No, lets carry on. It's only 17:30pm.

The DEPUTY SPEAKER: Hon members, a break has been called, and I have done so. If there is a problem in the manner in which the decision was arrived at, can we attend to it please. I am acting out in the understanding that there was consultation on this matter.

Mr G K Y CACHALIA: Madam House Chair, section 54 of the National Act, which enforces the gambling and betting industries in the

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country, ensures that these are not closed off to competition but subject to normal market forces. But now the Minister has waded in again - as his and the ANC's won't is - the more regulation the better.

Some views support this judiciously - the Casino Association of South Africa, Casa, has warned that an unregulated online gambling industry remains dangerous. The Casino Association of South Africa Chief Executive Officer, Themba Ngobese said:

We believe that there are two options available to government - either maintain the status quo with respect to online gambling being illegal, but then take decisive action against illegal operators, or legalise it and subject it to an effective and credible legislative and regulatory dispensation.

The key words are effective and credible. The Amendment Bill emanates from the flawed gambling policy of 2016 which believes, amongst other things, that online gaming should be banned.

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Minister Davies says online gambling is strictly prohibited and he wants tougher measures to be implemented to curb it.

According to Mr Davies, the National Gambling Board must be given more powers and become the regulator. Proposals include, clamping down on advertising and unsolicited messages to entice vulnerable groups to gamble.

The biggest clampdown will be made on unlawful winnings via online gambling. He says the financial intelligence centre will work with financial institutions to verify and cease online winnings, the very financial institutions that he and his ANC are busy hobbling. He says if you go online, we may not be able to stop you but when you pay the game, but when you win, we will get you.

Like the apartheid government that attacked far fee players in a pre digital era. This approach is at odds with that of erstwhile Chief Director, McDonald Netshitenzhe, the man responsible for the mess in the first place. He goes further and says, we can stop online gambling and I kid you not - by banning the

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internet. This genius has re-emerged as Chief Director at the Consumer and Corporate Regulation Division, CCRD.

The unassailable fact is online gambling is a thriving industry with a constantly growing number of fans. Online gambling has increased worldwide and South Africa is no exception. It needs responsible and holistic engagement. Remember prohibition.

The Bill was introduced to the committee in 2018 and when the committee met, there was a strong view that an Amendment Bill should look at gambling holistically, including online gambling. The ANC voted this down and only wanted to deal with three matters: the regulator, the National Central Electronic Management System, NCEMS, and the policy council. The Bill was considered by the committee a few months after being introduced – this represents a record time and speaks to how flawed the process was.

Here again, we see the usual undue haste, the railroading, the strong-arm tactics of an ill-considered bunch of legislators,

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led by the nose by a Minister who believes that the state's duty is to facilitate the spiritual redemption of mankind by impoverishing them in life.

This conflation of communism and religious flagellation is mind boggling. The National Credit Regulator was presented as the only comparison in terms of a regulator and it became very clear in the process that this was going to be a bad idea.

The Deputy Director-General kept referring to the rationalisation report but would never actually present it until we demanded it, which she duly agreed to, one day before the committee was to consider the Bill line by line.

Fact – the Department of Trade and Industry hid from the committee a review document it commissioned on the rationalisation of the gambling entities under its aegis. What the document found is that the National gambling Board, NGB, and National lotteries Commission, NLC, should be merged to form a

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commission to provide a holistic overview and regulation of gambling.

So, the big question is: why did the Department of Trade and Industry ignore its own commissioned advice? The committee can not say it applied its mind because the ANC never read the report and didn't want to hear about it before going line by line.

On the NCEMS, there has been no study into it. It duplicates functions and costs 6% of Gross Gambling Revenue to administer. No one can tell us how they get to that figure. What it does do is generate R1,6 billion a year for the national pot – another stealth tax. In the end, this represents a fatal mistake to deal with legislation in a piecemeal approach. The committee has not applied its mind, the provinces are opposed to the Bill and there will be legal challenges, which the Department of Trade and Industry will lose hands down.

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Overall, Minister Davies's broad policy direction and his decisions over the last 12 months are damaging to the South African economy, deterring to investment and ultimately costing jobs.

Increasingly, the Minister's policy disposition is towards greater control, greater punitive measures, wider ministerial powers and heightened mistrust and antagonism of the business community.

This Amendment Bill is no exception. There was nothing stopping the administrator from carrying on for another six months to deal with gambling in an inclusive and holistic manner.

Instead, we are presented with one piece of shoddy legislation after another by a portfolio committee whose ANC MP's are so desperate for re-election, that all they do is wave Acts of Parliament in front of their political masters as a sign of their commitment to concepts they are unable to grasp.

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Now, lest I am accused of being ungenerous to this government and its Minister, let me assure you that generosity is part of my character. You must know that I will never make an allegation of dishonesty when a simple explanation of stupidity will suffice. Accordingly, the DA cannot support this Bill. I thank you.

Mrs E N NTLANGWINI: Hon Chairperson, [hayi siyasebenza namhlanje.] indeed we are today working. The National Gambling Amendment Bill is a Bill that focuses on technical amendments. However, these amendments have serious consequences in the administration of the gambling in South Africa. Issues on the lottery were raised during the public hearings. Bookmakers taking bets on behalf of the lottery product. Gaps in the legislation are being exploited and there is fragmentation and a lack of coordination between the provinces and the national government. These are major issues and could not be dealt with because the Bill came very late. We need to ask this to the Department of Trade and Industry, DTI, as to why do it take so long?

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In 2010 the Minister appointed the Gambling Review Commission. The report went to Parliament. Now it is 2018, eight years later, and we get the Bill at the last minute. It does not seem like the DTI is serious about the mandate of oversight in the gambling industry, Minister and that you will need to put your finger on that pulse definitely. It backs one to ask: What happened in between the eight years and more?

The lottery had said, billions are being lost to other operations that should go to good causes. The lottery in fact did come to us to say they are giving back I think close to or over something like R4 billion or it can be more to good causes and for the bookmakers to come and loot this part of the income, we need to look at.

In terms of the Bill itself, it is important to have a functional national gambling regulator and this was the objective of this specific Bill. The question is: Does this go far enough and does the regulator have adequate powers to control the provinces and monitor the industry? This is very

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important Minister. Hope the DTI is not running away from the responsibility to monitor this industry. How can this be improved so that the regulator does not have to take each other to court? Remember the National Gambling Board was removed because of the corruption. Hope the regulator is different this time.

We support this Bill Minister, because we believe that the regulator will do better, but we will want you to improve within this industry and look at the industry holistically. When we are coming back in this national Parliament and hopefully and wittingly we will be government as the EFF we will ensure that this industry will be fully transformed. We are putting it in existence. We do support this Bill. Thank you. [Applause.]

Sorry, on my last minute Chair, I will like to also thank the committee Chairperson that has always given us time to debate and the committee staff that has always come to all of the three Bills that we had today commissars I would like to give my full support to this staff and thank them. May they enjoy the

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Christmas and New Year with their families. I thank you.

[Applause.]

Mr J A ESTERHUIZEN: Madam Chair, this Bill introduces a whole series of amendments of its predecessors the National Gambling Amendment Act of 2004. Some of these amendments are exceptionally stringent and onerous on their participants on the market. Gambling is a controversial topic in South Africa and always has been as officials try to control the gambling industry because of the many social and economic negative effects it can have on the population.

Despite this fact casinos have prospered in South Africa and our country currently holds almost 60 licensed gambling facilities that include casinos and horse racing. A very good thing is that dog racing is now made illegal alongside with betting on it and it is a very ethical decision indeed. However, it was the question of integrity or ethical decisions the National Lotteries Commission Board clearly has got no idea what the word means. How could a board just cease providing funds to the

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Society for the Prevention of Cruelty to Animals, SPCA, this should be criminal and all the board members literally prosecuted for such an act.

Chairperson, the Gambling Amendment Bill centralised the power of issuing licenses, while previously all licenses for casinos and low-paid machines were granted by local authorities this mandate now falls under the National Gambling Board which obviously means a number of licenses going to decrease, but saying this is also not going to affect the big casinos at all. It is the small bookmakers that resell lottery tickets that are going to go out of business. We say there should be harsher punishment introduced for online gambling as part of the broader policy of cracking down on illegal gambling which has become an enslavement to many that could least afford it in this country and this Bill aims to do that.

For that reason, the IFP will support this Bill. Thank you.

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Mr S C MNCWABE: Hon Chair, I am reading this on behalf of my colleague the hon Khubisa. The Bill merely enhances what is contained in the National Gambling Act, Act 7 of 2004 and it does not bring in a new matter. The Bill also aims to protect the society from overstimulation of latent gambling through the limitation of gambling by providing the following: Firstly, the protection of players and the integrity and fairness of the industry through strict control of the supervision of the industry.

Secondly, uniformity and harmonisation of policy and legislation at all levels of government across provinces through minimum norms and standards, co-operation and co-ordination.

Thirdly, the generation for revenue and taxes for provincial government and for good causes, economic empowerment of the historically disadvantaged and promotion of economic growth, development and employment.

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Clause two of the Bill excludes bets on lottery or lottery results or sports pools except in terms of a license issued by the board of the National Lotteries Commission. Clause 6 proposes an amendment to section 15 of the principal Act to enhance restrictions on advertising and promotion of gambling activities. The advertising provision should be amended to include restrictions on unsolicited minors and other vulnerable persons. Offenders must be held responsible for transgressing the legislative guidelines when advertising.

The offender could however, be allowed to re-enter the market and apply for a license five years after being found guilty of such an offence. Clause 7 of the Bill proposes an amendment to section 16, so as to provide forfeiture of unlawful winnings to the National Gambling Regulator after the expiring of the three years. The NFP supports this Bill. Thank you.

Mr N L S KWANKWA: House Chair, the UDM supports this Bill.

Gambling in South Africa possesses major challenges for society

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as gambling has the potential to cause harm and destruction to families. This challenge ...

I should state that I am delivering this on behalf of Mr Filtane, I beg your pardon.

This challenge is especially destructive in poor and less fortunate communities where we find substance abuse, gambling and alcohol addiction to mention but a few.

However, on the other hand, gambling if regulated properly can act as a major source of income for state and provinces.

Furthermore, if we look at examples in Las Vegas in the United States of America and China, we find that the cities act as major sources of foreign and domestic income through gambling and tourism. For this reason, the state must perform a balancing act to ensure that we protect the citizens from the social ills gambling may produce, but also reap the rewards it can unlock.

Ultimately the success of this lies with the country's abilities to encourage an environment to create rather an environment that

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can safely promote gambling. For example and with specific reference to online gambling the state is extremely weak in this regard as there are no regulations which aim or seek to protect and ensure fair play thus leaving South African citizens open to unscrupulous operators.

We suggest that regulations be adequately addressed and researched in this regard.

Lastly, the National Gambling Authority should not attempt to restrict bookmakers on offering bets or sports pools on the outcome of the lottery. The effect of this would cause a major loss of revenue through tax for provincial governments and grants monopoly of these pools to the National Lottery.

Furthermore, the National Lottery's primary task is not geared to support this type of betting and will limit or even reduce the amount of taxable income by moving this competency away from the province. With this loss of income to provinces there will become ever more burdensome and dependent on national

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government. With these few suggestions as the UDM we support this bill. I thank you, so much.

The HOUSE CHAIRPERSON (Ms A T Didiza): Thank you, except that you did not seek for us as Filtane would have done. The hon Mantashe. [Applause.]

Ms P T MANTASHE: House Chairperson, hon members and fellow South Africans, good afternoon. The advancement of the developmental state requires our country to ensure good governance of its departments and its entities.

Our developmental state model is premised on the understanding that our state is located at the centre of mixed economy. It is a state which leads and guides the economy and which intervenes in the interest of the people as a whole.

It is in this context that as the ANC, we support the National Gambling Amendment Bill. Our support of the Gambling Bill reflects a balance between the advancement of the gambling

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sector for our economic growth as well as to ensure that gambling does not affect our people negatively.

Our support is based on the understanding that gambling should be done in a responsible manner. Addiction to gambling has negative effect on the gambler and their families as well as the economy as a whole.

Some of the challenges identified with regard to the National Gambling Policy Council, NGPC, is its inability to make decisions due to lack of quorum. There have been many incidences in which the NGPC could not quorate and therefore unable to take decisions. This has affected the effectiveness of the NGPC.

As a way of intervening to address the challenge of lack of quorum for the NGPC, the National Gambling Amendment Bill provides in Clause 63A that if a motion has been tabled at a meeting of the Council at which less than five voting members contemplated in section 61 are present, the motion may be passed at the next meeting of the Council, if it is supported by the

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Minister and the majority of the other voting members of the Council present at that meeting.

This provision in a way encourages members of the NGPC to attend their Council meetings and to participate in the decision-making processes of the council, unlike the current situation, where the council cannot take decision because more often, it does not reach quorum.

The reason why the committee has decided to concentrate on three items in amending this Act and putting this Bill on the table is that, it has come to the committee in a very short space of time and we couldn't hold back and not attend to it. So, we concentrated on this quorum issue and also in the transitional arrangements, whilst we are replacing the board with a regulator.

Experience in the National Gambling Board, members who are representatives of provinces wouldn't avail themselves for meeting and in the current proposed arrangement, we are saying

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despite section 63(6), if a motion has been tabled as I have said at a meeting of the council which five less than voting members in section 61 are present. The motion may be passed at the next meeting of the council.

In the transitional period, the board that is established in terms of section 64 of the principal act is hereby dissolved and the employees of the National Gambling Board, NGB, will be deemed employees of the Regulator. There will be no vacuum.

The removable properties used by Board are hereby transferred to the Regulator. All contractual obligations and liabilities of the board relating to activities of the board are vested in the NGR. All financial administrative and other records of the boards, including documents in possession of the board are transferred to the National Gambling Regulator, NGR.

We hear that the DA today is interested in protecting their constituency and are not interested in protecting the majority of South Africans who are suffering, because they are all

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addicted to gambling. We know that they are not what they say, they purport to be.

We also concentrated on the administrative part of the entity. All responsibilities pertaining to the function of the gambling regulator responsible for all income and expenditure of the NGR responsible for all assets and the discharge of liabilities of the NGR appoint the regulator in accordance with section 73.

The CEO will amongst other things report to the Minister on all matters. So, we don't think the regulator will ever fail in his duties, because he has somewhere to report to.

For the purposes of supporting of the NGR and to strengthen collaborative work with other government departments responsible for matters related to gambling, the NGR may enter into agreement with any other organ of the state as contemplated in the Constitution, to provide for the joint exercise of their respective powers and functions articulated in the Act. They may establish a forum similar or a similar body for such purposes.

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Regarding the finances of the regulator, their financial year will also commence on the 01 April and end on 31 March as other entities behave. The income derived from the regulator from investments must be deposited into the account opened in the name of the regulator with the registered bank in the Republic of South Africa. The ANC supports this Bill and we appeal to all organisations in this House for the benefit of all South Africans and in particular the poor people that the ANC is serving may assist and support this Bill. I thank you, Chairperson.

Mr B A RADEBE: Chairperson, Ministers and Deputy Ministers and members of this august House, the ANC supports the National Gambling Amendment Bill. The *African Business*, which is a Pan-African business magazine, in its November 2018 edition, states that gambling is booming in Africa and is driven by the growth of online betting. This magazine quotes a GeoPoll study which found that 54% of young people in six sub-Saharan African countries which are Nigeria, South Africa, Ghana, Tanzania, Uganda and Kenya are involved in gambling. This gambling pattern

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is fuelled by the high levels of unemployment and poverty amongst the young people in these countries. The gambling operators lure the youth with fancy advertisements which give hope by promising instant riches in winning millions of rand.

This is the false promise because there are more losers than winners because the house always wins. This leads to the high levels of indebtedness among the punters, old and young. The same study found that there is a poor gambling regulatory framework in the above-mentioned countries. These countries do not cope with the pace of gambling because of emerging technologies which offers the unscrupulous operators who target the consumers from distant servers. This phenomenon has led to the high levels of problem gambling in these countries. These countries do not have adequate resources to deal with problem gambling which has become a health and psychological issue when people borrow money to feed their gambling habits.

In some cases the people lost their properties and this led to suicides. In the townships of Johannesburg and Cape Town

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thousands of licensed and illicit betting outlets capitalise on the zeal for sports betting. The study by PricewaterhouseCoopers found that in 2016 the sport betting sector made a total of R2,6 billion which is expected to grow to R5,2 billion by 2020. Since the ANC defined itself as the disciplined force of the left, biased towards the poor and the working class, its government cannot sit back and allow the issue of problem gambling to flourish. Since the ANC is creating a developmental state which can intervene in the economy to redress any imbalances which can entrap the poor from the yoke of the unscrupulous gambling operators which do not care about the aftermath of gambling which usually results in the high levels of indebtedness. This Bill is one of the interventions to address this problem by asserting the national norms and standards as set out by the central government. The Clauses 39 and 40 of the Bill empowers the National Regulator to appoint inspectors who will monitor, investigate any matter in the gambling sector. The national inspectorate will work with their counterparts in the provinces.

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Firstly, to investigate illegal gambling activities; Secondly, to serve the suspected illegal operators with notices to stop operating pending an investigation, litigation or prosecution and ensure compliance of gambling institutions with the provisions of the Act. The Bill also proposes the extension of the National Central Electronic Monitoring System to other modes of gambling. This will help the regulator to follow the growth in the number of gambling machines in the casinos and Electronic Bingo Terminals. The system will provide unhindered access to betting machines in all the provinces and it will be monitored from the central office. The system will provide a managed communication network which will ensure that the regulators and the gambling operators have access to data which is maintained in a co-ordinated and stable manner. This will help regulators like the SA Revenue Services, Sars, to be able to collect the tax due. The system will provide for player protection by insuring that the punters are only exposed to licensed and certified gambling machines that are available for play, and that incidents related to the operation of gambling machines are logged as they happen, for example, when a punter hits a jackpot

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it will be registered in the central office. The stakeholders will have data captured in an accurate and high level of integrity this will result in the avoidance of money-laundering.

In the last month the Minister of Sport in the United Kingdom, UK, Ms Tracey Crouch resigned because of problem gambling in that country. What was very annoying for her was that the very government that she was serving in was actually on the side of the gambling operators whereby instead of curbing the Fixed Odds Betting Terminals by reducing the winning from £100 to £2, they stalled that because in the process the operators would have gained more than £3,6 billion by 2020. But what has happened is that, in her constituency people were remortgaging their houses, people were committing suicide because of problem gambling. So, what is very important about this incident is that it is not only because the members of the Tory Party were in connivance with the gambling operators whereby one of the members of the Tory Party was found to have accepted hospitality benefits from the gambling operators hence they tried at all costs to ensure that change could not happen. So, even here in South Africa we

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know very well that these lobby groups are very powerful and they try by all means to ensure that the gambling operators are the ones which are ahead of all of us. That is why all the peace-loving South Africans will always support this Bill. I request that the House supports this Bill. Thank you.

[Applause.]

The MINISTER OF TRADE AND INDUSTRY: Chairperson, a number of speakers referred to all sorts of intrusions that were coming in, all sorts of bookmakers on top of the lottery and all kinds of other things and the hon Cachalia - apart from his rude remarks - made one point, he said that the Casino Association of South Africa said there is a choice between the status quo or we can legalise online gambling.

Now that we had extensive interactions with them, this is what he didn't tell us or maybe they did not tell him either, what they are doing now in their fixed-line gambling operation, in return of a license, they build a hotel, a conference centre and all of that and they are saying that if online betting comes in

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and takes their market, they will go and invest in that. They will not do all the things that are the obligations of the fixed-line gambling licenses; we will lose out on that.

So, somehow rather we are going to have to draw a line somewhere. Now, the way it works at the moment is that the provinces license gambling activities. They get revenue for the provinces from doing that, its own revenue and they have a tendency of wanting to roll out the maximum. There is nobody at the moment that acts in the interest of the precautionary principle and tries to cut the balances in the interest of the people as a whole as well as trying to make sure that the benefits are maximised. That's where the regulator comes in. Caroline Kongwa and her team have done an excellent job since they had taken over as administrators.

They need to be empowered by becoming a full-time regulator and the other consequential things will follow the ... [Inaudible.] and the ... [Inaudible.] monitoring is part of their jobs. Their bigger debates, some of the reasons they didn't bring forward

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were among other things, that they included the horseracing industry and the Public Protector asked us to hold back because she is conducting an investigation. So I think this is an important interim and very urgent measure and I hope that the House will support it. Thank you very much. [Applause.]

Ms N K F HLONYANA: House Chair! House Chair, on a point of order: Can we please kindly request that the air conditioner ...

IsiZulu:

... ithi ukwehla nje kancane ngoba hayi kuyabanda bo.

The HOUSE CHAIRPERSON (Ms A T Didiza): Okay, we will attend to that. Thank you very much. Order!

IsiZulu:

Malungu ahloniphekile aleNdlu, masilalelaneni. Sesilugedile manje uhlu lwezikhulumi kulo mthetho obhekene nemisebenzi yamaphanta. Abanye benu bayokhumbula ukuthi kudala obaba babehamba beya emjahweni yamahhashi, uma sebedliwe babuye bedla

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amakinati. Kodwa manje seluphucukile uhlelo lokugembula,
asisababoni bedla amakinati bebodwa emakhaya.

Debate concluded.

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

Division demanded.

The House divided

[TAKE IN FROM MINUTES]

Question agreed to.

Bill accordingly read a second time.

**AMENDMENT TO THE CONVENTION ON THE PHYSICAL PROTECTION OF
NUCLEAR MATERIAL**

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(Consideration of Report)

EIGHTH ORDER STOOD OVER.

**47TH SESSION OF ACP PARLIAMENTARY ASSEMBLY
AND INTER-SESSIONAL MEETINGS OF ACP-EU JOINT PARLIAMENTARY
ASSEMBLY**

(Consideration of Report)

There was not debate.

The Chief Whip of the Majority Party: Chairperson, I move:

That the Report be adopted.

Motion agreed to.

Report accordingly adopted.

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**SUMMARY OF 138TH IPU ASSEMBLY AND RELATED
MEETINGS**

(Consideration of Report)

There was not debate.

The Chief Whip of the Majority Party: Chairperson, I move:

That the Report be adopted.

Democratic Alliance, Economic Freedom Fighters, Inkatha Freedom Party and African National Congress, dissenting.

Motion agreed to.

Report accordingly adopted.

Declaration of Vote:

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Mr M WATERS: Chairperson, let me say at the outset what privilege it is ... [interjection]

Mr H P CHAUKE: Chairperson, earlier I wanted to rise to bring to the attention the House that it's really unparliamentary that we spend the whole day and people are debating and members are outside... [interjection]

The HOUSE CHAIRPERSON (Ms AT DIDIZA): This is not the point of order, hon Chauke take your seat.

Mr J STEENHUISEN: House Chairperson, the public needs to know is that the 188 governing benches have not been here for the last four weeks.

Mr T RAWULA: House Chair, it is the abuse of power to release members during the work, we are supposed to be working here and release members just like that. Those members are earning salaries, for free, it's wrong. It is corruption!

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The HOUSE CHAIRPERSON (Ms A T DIDIZA): Hon members, the time is up, I have ruled. This is not the point of order. What the point of order Steenhuisen.

Mr J STEENHUISEN: House Chair, point of order in terms of rule 85, the hon member of EFF has pointed at our benches and said corruption; it's their leaders that are unfair and it shouldn't be Christmas to know that you're sitting behind turkeys.

Ms E N NTLANGWINI: House Chairperson, on the point of order, the hon Steenhuisen have seen that his own members are not here, so it clearly points out to his leadership authorities, he can't even keep his caucus in the House.

The HOUSE CHAIRPERSON (Ms A T DIDIZA): Hon members, these are not points of orders, all of you are tired, I can see. Can we move to next order?

Mr M WATERS: I think the ANC needs to understand that the DA is not here to give you a majority... [Interjection]

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Mr N PAULSEN: House Chairperson, it is not the first time John Steenhuisen... [Interjection.] has called EFF leaders names, he said two...[interjection], we must do something, because I going to teach him a lesson before this year is over.

THE HOUSE CHAIRPERSON (MS A T DIDIZA): Hon Paulsen, can you please take your seat. Hon Waters can you please proceed.

Ms E N NTLANGWINI: Chairperson, on a point of order because either Michael Waters won't speak here. It's unparliamentary for Steenhuisen to call members of this House "turkeys", he must know that if calls his workers on a farm like that and ... [interjection], he can't call our leaders "turkeys", he must just know that, that Michael Waters won't speak here.

The HOUSE CHAIRPERSON (Ms A T DIDIZA): Hon Members, take your seats, we will reflect on all the issues that you are raising and we will come back and rule. Hon Steenhuisen, can you please take your seat, hon Paulsen with due respect, deal with each other outside. Hon Waters can you please proceed.

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Mr M WATERS: Chairperson, to the ANC, the DA's job is not give you a majority in the House and to the EFF, we are not voting father for the ANC. But let me say at the outset, what an honour it is to serve on the Antiparliamentary Union, where most of all parliaments are represented. The delegation is headed up by the Speaker and chaired by hon Boroto. Who are amongst us that we are a team South Africa and we all we work as such, when we over there. Every morning we gather together in a Speaker's hotel room to report back on previous' day events and discuss program for the day. I had the privilege of serving on the Committee of Democracy in Human Rights as well as being a delegate to the General Assembly itself.

The Inter-Parliamentary Union, IPU, constitution states that the IPU shall contribute to the defence and promotion of human rights, which are universal in scope and respectful, which is an essential factor of parliamentary democracy and developments. Given the commitment to these values you can understand my disdain when the General Assembly prevented the Committee on Democracy and Human Rights on holding a discussion entitled

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"Ending discrimination based on sexual orientation and gender equality" despite this decision being unanimous decision of the committee.

This discussion would have had no resolution and would have not been binding in the country. It would however have been a historical step for the IPU, in having its first debate on lesbian, gay, bisexual, transgender, and intersex, LGBTI issues, however at the General Assembly several countries objected to the discussion taking place, leading them banging on tables in order to drown out the President of the IPU. She did capitulate and send them out back to the committee for a physical vote to take place through a roll call. Our very next meeting, 31 counties voted in favour of the debate taking place while 24 voted against, so a clear win and you wouldn't have thought being parliamentarians they would have accepted democratic outcome, not so.

Uganda led the charge once again on the floor of General Assembly objecting to the art of being on the agenda. Once again

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the IPU President compromised and deferred the matter to the following IPU meeting, where eventually a vote took place on the General Assembly floor. One has to wonder why certain countries are so vehemently opposed to discuss human rights issues such as LGBTI. Maybe it has to do with fact that in their own countries human rights are not a priority, you can judge for yourself.

Countries that have voted against the debate taking were the Democratic People's Republic of Korea, Iran, Iraq, Kenya, Morocco, Palestine surprisingly, Russia, Saudi Arabia, because they know what oppression is, that why and would thought they will stand up for human rights for LGBTI people that is why, Somalia, South Sudan, Sudan, Zambia and Zimbabwe. All these countries have one thing in common and that is questionable human rights records. Whether it's relating to equality of women, free and fair elections or elections at all, a tolerance of a vocal opposition or a free and critical press, it makes a fuss of IPU and its commitment to the promotion and defence of human rights.

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International organisations must decide whether they will continue to turn a blind eye on human rights offences for the sake of preserving unity in the organisation or are they going to draw a line in the sand and say no further. It is not just about LGBTI rights it's broader than that, it has got to do with women's rights as well, the rights of opposition's voices in those countries and the right of the media. Where people who are different are rounded up and rocked up as in Tanzania currently or those who are critical of government are silenced through intimidation or even elimination. We must stand up and speak out against these.

We have had a taste of that here in South Africa over the past week, where critics of the EFF had their shops were ransacked until they were force to bend the knee and grovel in front their leadership. The IPU does have an important role to play, however if it continues to exist for the sake of existence it holds and hold not hold its member countries to account, it will stand for nothing and become nothing. Last week the DA rainbow network led

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the march of shame to both Uganda and Tanzania embassies to protest the prosecution of LGBTI community in their countries. We as a country cannot share peak with human rights atrocities we want to highlight, while turning a blind eye to others, even if our friends and allies are committing atrocities, we the obligation to speak out. I thank you

Declarations of Vote:

Ms N R MASHABELA: Hon House Chairperson, the leadership of the EFF, hon members and fellow South Africans, the African Caribbean and pacific parliamentary assembly should and could be used as tools to strengthens the relations of countries of Africa, the Caribbean and the Pacific ... [Interjections.]

Mr M WALTERS: Chairperson, sorry to interrupt the hon member. But we are on the Inter-Parliamentary Union, IPU, Report and not the African, Caribbean and Pacific, ACP, Report. We are on the IPU item currently.

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Ms N R MASHABELA: ... There are many common in historical interest between the people of Africa and the Caribbean ...

[Interjections.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon member, the other report on the African, Caribbean and Pacific, ACP, there was no body who raised an opportunity for declaration so we are now on the other Report which is on the Inter-parliamentary Union. I am sorry hon member. Thank you very much.

Ms N R MASHABELA: At the 138 Inter-parliamentary Union, IPU, Assembly, there were four major issues that were discussed and unpacked. Firstly, it was sustaining peace as the vehicle for achieving sustainable development. Secondly, engaging the private sector in implementing the sustainable development goals especially on renewable energy. Thirdly, strengthening the global regime for migrants and refugees. Fourthly, the consequences of the US declaration on Jerusalem and the rise of the people of Palestine in Jerusalem.

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In some instances we agreed with the general consensus but on other topics we did not and we will therefore provide our perspective on each of these issues.

On peace, as the vehicle for sustainable development, we think it is important to recognise that as much as peace contributes to development, economic development and justice are the only true guarantees of peace. As long as there are the haves and the have-nots, the exploiter and the exploited, the oppressor and the oppressed, there can never be peace as the two groups have conflicting interests. If you are truly committed to long term peace, the only way this can be achieved is the equal distribution of resources and the end to exploitation and economic justice.

On the private sector and renewable energy, we must not forget that the very reason we are facing a climate crisis and are now as a matter of necessity moving towards renewable energy, it is because of capital and its narrow selfish pursuit of profit. Capital does not care for the planet or the people and it's only

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interested in accumulation. To think that private enterprise can lead us out of the climate crisis it is misinformed and shows a lack of understanding. Renewable energy must be owned and managed by the state and the people.

On strengthening for migrants and refugees. The walls of the west and its continued exploitation of the rest of the world and its resources. It is the number one reason for historic levels of migration. And ending this continued imperialism and accumulation is the only long term solution to mass migration.

On the African continent, we are guided by the principles of Pan Africanism and the idea that no African can be a foreigner on this continent. We support this Report. Thank you.

Mr M HLENGWA: House Chairperson, at the outset let me say the IFP support this Report. In particular, having had the opportunity to be part of this delegation to attend the 138 Inter-Parliamentary Union, IPU, Assembly in Geneva, this year where 134 delegations from around the world were present. It is

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indeed a pleasure for me to be here today to account for what was a great experience for global democracy.

I would like to commend the delegations for making a notable effort to have women delegates who were three out of the 148 who are completely composed of women. This is a step in the right direction where transformation and representation are concerned.

The forum of women parliamentarians that was held was, in the view of the IFP very effective in identifying and finding the root cause of why women are still under represented in politics throughout the world and of course making tangible and progressive suggestions to deal with this global under representation.

The narrowing gender pay-gap which has characterised the global community including South Africa was another important key focus area that is worth mentioning because the gender pay-gap is a persisting issue in all sectors of the working world globally. Rural women throughout the world are literally at the bottom of

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the food chain and suffer some of the worst injustices in their respective employment and that is only if they are employed.

The importance of youth representations in parliaments throughout the world cannot be overstressed. It is important also that in this context and of this country where youth representation remains grossly irrational that this issue is addressed. Of course, the interactions we have had with the hon Speaker of the National Assembly is encouraging but of course, we must put action to the words particularly, around the establishment of a parliamentary youth caucus to ensure that the youth representation which was so over stressed at the IPU actually becomes a prevailing reality even in this Parliament, so that the youth are given an opportunity to participate actively in the socio economic and political discourse of South Africa.

Therefore, hon House Chairperson, the IFP wants to take this opportunity to urge our own Parliament to take out a page out of the IPU Assembly and emulate the impressive decorum that was

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displayed at those meetings and of course the decorum of the IFP in this House. We hope hon Chair that all of us will know that it is easy to throw words but the unity of national unity, the issue of patriotism is what binds us. And we must literally as a country make sure that when we are on a globally stage we sing from the same hymn sheet. I think TeamSA successfully achieved that at IPU 138. Once again, the IFP support this Report. I thank you.

The HOUSE CHAIRPERSON (Ms A T Didiza): Thank you very much. I am sure you will keep the decorum as you go back.

Mr P J MNGUNI: Chairperson, the ANC supports the Report and declares its support for the Report of the 138 Inter-Parliamentary Union, IPU, Assembly, and the Report of also the related meetings that were held in Geneva, Switzerland, from the 24th to the 28th March instant. It was held under the theme "Strengthening the Global Refugee. The Need for Evidence Based Policy Solutions". That was a theme. More importantly, This theme also allows Parliaments to identify ways to strengthening

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the global regime for migrants and refugees through evidence based policy solutions.

This Assembly brought together 1500 delegates. And of this number 744 were parliamentarians including 59 Presiding Officers, 39 Deputy Presiding Officers as well as 227 women parliamentarians from across the globe. Our multiparty delegation to this Assembly was led by hon Speaker of the National Assembly, Baleka Mbete. It is important for me to note that our Parliament has been very consistent in attending the IPU Assemblies and coinciding committee meetings since 1994 hitherto.

I just want to jump and quickly highlight some of our Parliament's notable achievements during this Assembly. I will highlight three. Firstly, the IPU agreed to include the celebration of a centenary of a baba Nelson Mandela, during the 139 IPU Assembly to be held in October same year. Secondly, we made significant contributions to the following resolutions. Firstly, sustaining peace as a vehicle for achieving sustaining

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development resolution. Secondly, engaging the private sector in implementing the Sustainable Development Goals, SDGs, especially on renewable energy. Lastly, in terms of the three highlights we also used our allocated votes to support the adoption of an emergency item titled "The consequences of the US declaration on Jerusalem and the rights of the Palestinian people in Jerusalem in the light of the UN Charter and resolutions." so we supported that emergency item which was since discussed. Basically, that is our highlight in terms of us as the ANC.

As we do declarations, I do hear that the DA says it is not here to help the ANC form a majority in the House. Although, it is really not a point of order from where I stand. But, the DA must understand that it is your obligation whether you are minority - In all probability, in our life time you will remain minority here to attend the House. It is absolutely correct, you are supposed to attend the House and not keep jumping in and out of this House as if you are children in Sub A. you must attend the

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House consistently all the time, like any other member in actual fact. You justify, two wrongs do not make a right.

House Chair, as we declare the DA sights and points a finger on a number of sovereign states, this is really unfortunate. It will go down in history as though the South African Parliament is pointing fingers at other sovereign states. And strangely, the DA person who stood here was not even able to state that on climate change - which is an issue - an international topic at present. Some islands are drowning because the sea levels are now rising. And we have seen effects of climate change even in our own Cape Town where we were approaching "Dayzero" by an odd score days. Strangely, the greatest transgressor is one country that you are not even prepared to say a word on, it is the USA actually. Your counterpart there in governance happily sits there and even denies there is climate change. This is what some of your neoliberals else where are doing and saying ...

[Interjections.]

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Mr M WATERS: Chairperson, I rise on a point of order. If the hon member at podium knew that USA is not even a member of the IPU. It has got nothing to do with this Report. He should know that.

The HOUSE CHAIRPERSON (Ms A T Didiza): Order hon member, you can take a seat.

Mr P J MNGUNI: ... So we are just saying as you DA point fingers on people on an issue on which we all supported you by the way as South African the Lesbian, Gay, Bisexual, Trans and Intersex Association, LGBTIA, issue. We did support you and we lost in a democratic process - whatever! Call it better. It's fine I will grant you credits hon Steenhuisen if you call it better than myself. But we did support you unreservedly and we lost as a country. Yes, you win some and you loose some. In a democracy when you loose some of the issues you then accept that the people have spoken. So we lost on the item as a country no youth coming here to lament on an issue on which we have lost and point fingers at fellow members. In fact, in any society the most fundamental issue is the socio economic system underlying.

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All other issues rest on top of the foundations. Then at international platforms we should teach you about internationalism - the key issue is how to get a better world order for our people, for the poor to make sure that everyone reaps the fruits of the abundance, especially of the workers toil. The ANC supports the Report on the 138, IPU Assembly. Thank you.

Motion agreed to.

Report accordingly adopted.

**CONSIDERATION OF REPORT OF PARLIAMENTARY GROUP ON INTERNATIONAL
RELATIONS DELEGATION ON OVERVIEW OF CSW 2018 AND ITS
IMPLICATIONS FOR WORK OF PARLIAMENT**

The CHIEF WHIP OF THE MAJORITY PARTY: House Chair, we move that the report be adopted.

Question put: That the Report be adopted.

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Declaration(s) of Vote:

Ms D ROBINSON: Hon House Chair, members and fellow South Africans, I was honoured ... [Interjections.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Order hon members! You can proceed.

Ms D ROBINSON: Can you just give me my time back please. Thank you. I was honoured to represent the DA on the Portfolio Committee for Women at the 62nd session of the Commission on the Status of Women, CSW, at the UN in March 2018. The priority theme was, Challenges and opportunities in achieving gender equality and the empowerment of rural women.

The empowerment of rural women and girls is absolutely fundamental so that their human rights can be achieved and also for us to fit in with the Beijing Declaration and the 2030 Agenda for Sustainable Development.

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Achieving gender equality is linked to ending poverty, eradicating hunger, and improving food security and nutrition. Women in rural areas are excluded from leadership and decision-making, and it's not only in South Africa. This is something that we all have to strive for, internationally as well. Their contribution to gross domestic products through paid and unpaid care work is not recognised. Women also have lesser access to justice, with conflicting statutory and customary laws, and they remain second-class citizens. This is something that we have to stop by standing together.

Interestingly enough, the UN has, after years, achieved parity and equality at the level of senior leadership, with 23 women and 21 men at the helm. Globally, only 13% of women own the land that they work on and this is something that we must take into account as one looks at the redistribution of land. Also, narrowing the pay gap is absolutely vital. The World Economic ... report in 2017 said that it would take 170 years to close the pay gap. We have to make sure that that happens sooner. This

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also shows that patriarchy is worldwide, not only in South Africa. Phansi patriarchy, phansi!

It is vital that information and communications technology is expanded to all rural areas as this is the best way to accelerate development.

Minister Bathabile Dlamini assured the assembly that South Africa has a gender-sensitive framework in place and also mouthed platitudes about the status of women. There was nothing about funding and implementation. And bearing in mind the gender summit we attended, Minister Jeffery's, I appeal to you too, in the absence of the others whom I spoke to previously, make sure that funding is given for the enhancement of women's rights and development in the state of the nation budget.

The Minister was also silent on the subject of South Africa's country reports, as was the previous Minister, Susan Shabangu. Now that is pure dereliction of duty. How can we be part of an international organisation yet not submit ourselves to scrutiny?

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We have now secured a place on the Security Council. I hope that our representatives are going to vote against gross human rights ... and condemn discrimination against lesbian, gay, bisexual, transgender, queer, LGBTQ, people, also against religious persecution which is still happening in many parts of the world.

Deputy Speaker and the Chair of Chairs, I appeal to you to investigate the efficacy of the Office on Institutions Supporting Democracy, OISD, and the Speaker's Office with regard to international study tours and travel arrangements. The delays and confusion we accept are unacceptable. The invitation to the 2018 CSW was issued in November but we only got permission to travel three days before. Think what that does to the cost of the tickets and accommodation.

The Portfolio Committee on Women has just again experienced the terrible situation which we all object to; the fact that we were supposed to have left on 1 December. It was postponed. Then 8 December. Why is this office not able to make decisions and plan proactively? What does this look like in the eyes of the

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rest of the world? We must make sure that the administration improves in the next Parliament. [Applause.]

Ms E N NTLANGWINI: Thank you very much, Chair. Women are the rock on which society is built. We are providers; we are mothers; we are leaders; we are nation builders; and we are farmers.

When the Constitutional Review Committee travelled through South Africa, the women of the country told Members of Parliament, MPs, that they wanted land. They wanted land to live on; they wanted land for schools; they wanted land for clinics; and they wanted land to farm. Many argued, and rightfully so, that black women in the rural parts of South Africa are the most dispossessed and oppressed people within this country. They are oppressed and rendered landless, not only because they are black, but also because they are women. The dispossession and the theft of the land owned by black South Africans by white settlers is well documented and no-one can argue ... that.

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Black people were kicked off their land in the millions. The black majority was squeezed into 13% of South Africa while whites were allocated 87%. In fact, 13% women had very little, if any, access to land. So some traditional leaders used outdated practices to exclude women from owning land.

Twenty-four years later, little has changed. Black South Africans remain dispossessed, and amongst the dispossessed, women continue to be sidelined and denied access to land, especially in rural areas.

A key focus of the 62nd CSW held at the UN was on, Challenges and opportunities in achieving gender equality and the empowerment of rural women.

However, in South Africa the greatest challenge facing rural women is the lack of access to land. The decision that was taken yesterday in this Parliament to adopt the Constitutional Review Committee's recommendation that land can be expropriated without compensation is the greatest step that this country has ever

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taken in realising gender equality and the empowerment of our rural women. We have begun the process of addressing these very same challenges that this report has highlighted. We will give our land to the women, and women must ... one hectare one woman ... We will ensure that they do get the land back. We do support the report.

Ms L L VAN DER MERWE: Thank you very much, hon House Chairperson. The IFP has a number of concerns with this report that has been tabled here today, although we will support it.

Firstly, it's almost time for Parliament and government to travel to a yet another UN CSW, yet the resolutions that we agreed upon there in March of this year have not been implemented and have not received the attention of this Parliament. That's why we are only adopting this report now. It shows how little focus we actually put on women's issues.

For example, even though the session earlier this year dealt with rural women in the main, there was a resolution taken – one

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of many – that our government and other governments should implement policies and enforce regulations that promote decent work and uphold the principle of equal pay for equal work.

With only a few months to go to another CSW, South Africa's gender pay gap stands at 27%. One wonders what progress we can report on at the next commission. Well, we can't.

Secondly, it is the Department of Women in the Presidency that is responsible for South Africa's country report to the CSW, led by the Minister of Women in the Presidency. The oversight committee for the Department of Women in the Presidency is the Portfolio Committee on Women in the Presidency. Yet not even our committee chairperson made the cut to attend this conference. Only two members of the six member parliamentary delegation were actually members of this portfolio committee. However, it's not surprising because I've learnt before that these trips to New York are very popular, not often because of the issues that are discussed at the UN but mostly for sightseeing and shopping trips.

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Another concern is that I've seen first-hand that South Africa often sends some of the largest government delegations in the world to these UN junkets. And I've seen first-hand how the participation of MPs is limited and poorly co-ordinated as to who should attend, what, when and where.

Minister Dlamini told the CSW that our government has put in place a gender-sensitive legislative framework with the view of ensuring greeter equality and the empowerment of our women. As far as I know this is still a work in progress and it must be finalised without further delay.

Finally, it is our concern that Parliament's participation at the CSW is often a check-box exercise. Our delegations don't come back and vigorously drive the conclusions and resolutions in order to improve the lives of women. We must do more to ensure that decisions taken there are domesticated and implemented. As I always say, we can and must do more for the women of South Africa.

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Ms G K TSEKE: Thank you very much, House Chair. Hon MPs, dumelang.

I stand on the shoulders of me Albertina Sisulu, mama Winnie Madikizela-Mandela and many other heroines who fought, not only for the liberation of African societies, but for the liberation of African women in particular. It is these great women who stood before nations at the UN and convinced the world that apartheid not only oppresses the masses but it has very strong gender dimensions which does irreparable harm to the nation.

Established in 1946, the UN CSW provides us with the mechanism to promote and monitor issues relating to gender equality and the full realisation of equal and full participation of women in all sectors of our society. As a UN organ, it is aimed at promoting gender equality and the empowerment of women. The UN CSW is a commitment by all member states to eliminate all forms of discrimination against women.

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Every year, representatives from member states gather at the UN headquarters in New York to evaluate progress on gender equality, identify existing barriers and construct ways to further advance efforts aimed at achieving gender equality.

I don't know what hon Van der Merwe was talking about. She said we go for shopping. We are there to discuss issues of gender equality and women empowerment, and how as countries we move forward in making sure that we empower our women.

The 2018 session of the UN CSW, which is the 62nd, was held in New York from 12 to 22 March 2018, and the multiparty delegation of South Africa's Parliament was led by the hon Chairperson of the NCOP, me Thandi Modise.

The priority theme for this session was, Challenges and opportunities in achieving gender equality and the empowerment of rural women. The review theme was, Participation in and access of women to the media, information and communication technologies. I must say that even the delegation to this year's

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CSW was very limited, hon Liezl. Unfortunately, you were not part of the delegation. In line with the priority theme, the delegation identified a number of existing obstacles that still hinder the equitable participation of rural women and the achievement of gender equality.

The identified challenges include the following: The inability of rural women to enjoy an adequate standard of living; land ownership and security of tenure is still problematic and evasive for rural women throughout the world; the prevalence of violence and exposure to harmful practices; poor access to health care and other sexual reproductive health rights; poor quality of education of rural women and girls, including access to education; and issues of participation and access to the media, information and communication technologies.

It was an agreement amongst delegates that the empowerment of rural women and girls would be possible if member states identify and address all barriers and obstacles that are hindering equitable access by rural women and girls.

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It was on that observation that during this session a number of strong conclusions were reached. These conclusions are about ways and means of achieving gender equality and the empowerment of rural women and girls.

The agreed conclusions include a set of concrete recommendations for government, intergovernmental bodies and other institutions, civil society actors and other relevant stakeholders, to be implemented at international, national, regional and local levels. The conclusions agreed upon are a plea to member states to do as follows:

Firstly, to strengthen normative, legal and policy frameworks aimed at ensuring that women and girls in rural areas are able to enjoy equal and full rights, including the elimination of all forms of discrimination against them;

Secondly, to implement economic and social policies for the empowerment of all rural women and girls aimed at combating the feminisation of poverty, address the issue of unpaid care work,

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as well as to ensure the equitable participation of rural women in all economic and social sectors; and

Lastly, to strengthen the collective voice, leadership and decision-making of all rural women and girls by actively seeking their views and perspectives about anything that affects them.

Setswana:

Mo tshimologong ya batho botlhe, re netefaditse gore setšhaba ka kakaretso, bogolo segolo bomme, batla thuba kobo segole le go ja maungo a mefufutso ya balwela kgololosego ba rona; jaaka boMme Sophy De Bruyn, boMme Ruth Mompoti le ba bangwe. Naga ya rona e e eteletsweng pele ke mokgatho wa ANC, e tshwanetse go bona gore e diragatsa ditshwetso tse di tserweng ko kopanong ya Commission on the Status of Women, CSW.

Gape go mo magetleng a dikomiti tsa Ntlo e, tse di farologaneng go bona gore mafapha a puso a beela mananeo le madi a go bona gore re tokafatsa matshelo a basadi le bana, bogolo segolo bana ba basetsana. Gape go mo maikarabelong a rona mo Ntlong e gore

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dilelo le ditlhokwa tsa basadi ba metseselegae, di a utlwagala ebile ba tsaya karolo mo mabakeng otlhe a melao e e tlhamilweng.

English:

Hon members, it is also our responsibility as Parliament to ensure that the legislative framework passed is continuously monitored, reviewed and evaluated to ensure maximum positive impact for rural women and girls.

Before the end of this Fifth Parliament, let us as MPs follow on our commitments and ensure that rural women and girls have equal opportunities. In the words of mama Sisulu, a woman of fortitude, who said:

We are each required to walk our own road and then stop, assess what we have learnt and share it with others. It is only in this way that the next generation can learn from those who have walked before them. We can do no more than tell our story. Then it is up to them to make of it what they will.

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How long shall we continue telling the story of gender inequality? Surely this must come to an end.

Hon Robinson, Minister Jeff Radebe once said, "Women of fortitude are not armchair critics, but activists who get their boots dirty in the mud to work to build a better society for all our people".

Hon Robinson, I think ... join us in making this country a better place to stay. The ANC supports the report on the CSW.

[Applause.]

Motion agreed to.

Report accordingly adopted.

The House adjourned at 19:31.