# TUESDAY 3 NOVEMBER 2020

***PROCEEDINGS OF THE NATIONAL ASSEMBLY***

The House met at 14:01.

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

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon members, just a reminder as usual, for the interest of safety to all present in the Chamber, please keep your masks on and sit in your designated areas. I also want to request you to sign your attendance slip on your desks. Thank you very much.

# CONSIDERATION OF REPORT OF PORTFOLIO COMMITTEE ON JUSTICE AND CORRECTIONAL SERVICES ON APPOINTMENT OF A PART-TIME MEMBER TO INFORMATION REGULATOR

Mr G MAGWANISHE: House Chairperson, I rise to present the report of the Portfolio Committee on Justice and Correctional Services on the appointment of a part-time member to Information Regulator

dated 7 October 2020. On 20 November 2019, the Committee was informed that Professor Tana Pistorius, a part-time member of the Information Regulator had resigned from her position.

The committee was requested to start the process on the vacancy created by the resignation. Section 41(2)(a) of the Protection of Personal Information Act provides for the president to appoint the Chairperson and the members of the Information Regulator on the recommendation of the National Assembly. Section 41(2)(b) of the Act requires that the National Assembly must recommend a person for appointment who is nominated by the committee of the Assembly and approved by the Assembly by a resolution adopted by a supporting vote of the majority of its members.

The recommendation must also include whether the member is to be appointed on a full-time or part-time capacity. The Act also provides that any member who is appointed to fill a vacancy, hold the office for the rest of the period of the predecessor’s term of office. Unless the President or the National Assembly’ recommendation appoints that member for a longer period which may not exceed five years. The committee advertised the position and received 25 applications or nominations.

The committee agreed to shortlist five candidates. However, one the candidate withdrew from the process before the interviews took place. On 6 October 2020, the committee interviewed all four candidates, making use of the virtual platform, zoom. After deliberating, the committee resolved by nominating Ms Tilley to the National Assembly for appointment as a part-time member of the Information Regulator. The committee also considered the period of the term of office.

Professor Pistorius’s term of office would have ended on 31 November 2021. As the committee does not believe that it is desirable to appoint a new member for such a short period, it recommends that the appointment for a longer period which may not exceed five years. The committee, therefore, recommends that the National Assembly resolves to recommend Ms Alison Tilley to be appointed as a member of Information Regulator in a part-time capacity and the term of appointment for a longer period which may not exceed five years.

Finally, the committee would like to thank all candidates for making themselves to be available to be considered for the appointment. I recommend that the report be supported. I thank you, Chairperson.

*Declaration(s) of Vote:*

Mr W HORN: House Chair, the world we live in has changed dramatically over the last 30 years, with technology, computers,

... [Inaudible.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon member, Mr Horn. Is that hon Horn? Hon horn just switch your video off to get a better bird with.

Mr W HORN: House Chair, the world we live in has changed dramatically over the last 30 years, with technology, computers, the sudden virtual world taking up more and more time and spacing all of our lives. This has certain advantages. Information is readily available and information available to us as humans, are proliferating at what can only be described as work speed. Chair, if knowledge is really power, we as human beings must be nearing the pinnacle of our might.

However, it also has certain distinct disadvantages, not only is it more and more difficult to determine which specifically information available online is credible and which must be deemed with care and suspicion. Add to that, is fact that our own online activities which are never completely private, is being used more and more to expose us to information, which even though is

disguised at general and informative in nature, is ultimately ended with one thing and one thing only, that’s the manipulation of our attitude and behaviour, as well as the fact that our personal information is less and less personal, and more and more public.

It must be clear to us all, that to be worried about the risks to our safety as individuals and as a society, and to be fearful of a permanent less of privacy due to the existence and omnipresence in our lives of the cyber world, is no longer the preserve of the paranoid and those who believe in conspiracy theories. So, what have governments and legislatures all over the world done?

Legislation has been passed, and information watchdog has been set up.

In our case, protection of personal information has been promulgated in 2013. Our own watchdog by reading, the Information Regulator, has been established, and a first set of Regulators took office on 1 December 2016. Unfortunately, House Chair, the fact that they took office did not mean that they became operational and effective. The process of operationalisation has been much slower than the pace at which new developments in cleansing the cyber world which threaten our personal information and safety has developed since then.

Not all of the reasons for the small pace that which the Information Regulator has been operationalised should be laid at the feet of the first team of Regulators. Bureaucratic, legislative and administrative red tape, along with the lack of proper funding from government has played a major role. House Chair, the date for the final implementation of the sections of the Act, which enables the Regulator to look after our rights and interests as citizens of this country, has now been set as 1 July next year.

But it is doubtful whether the Regulator will be ready to handle this burden by then. Amidst all of this, the portfolio committee now had the duty of advising ... [Inaudible.]

The HOUSE CHAIRPERSON (Ms M G Boroto): We lost you, Mr Horn.

Mr W HORN: ... [Inaudible.]

The HOUSE CHAIRPERSON (Ms M G Boroto): We are losing you, Mr Horn.

The CHIEF WHIP OF THE OPPOSITION: House Chair, it would seem like Mr Horn’s signal has failed him, and House Chair, if it is alright with you I will finish his declaration for him which he has sent

me, if you let me because the connection is unstable. Is that alright, House Chair?

The HOUSE CHAIRPERSON (Ms M G Boroto): Mr Horn, are you there? Can we proceed with hon Mazonne? He’s gone.

Mr W HORN: Of course, House Chair.

The HOUSE CHAIRPERSON (Ms M G Boroto): Thank you. You can continue, Ms Mazonne.

The CHIEF WHIP OF THE OPPOSITION: Our own watchdog, the Information Regulator, has been established, and a first set of Regulators took office on 1 December 2016. Unfortunately, the fact that they took office did not mean that they became operational and effective. The process of operationalism has been much slower a pace than the new developments in cleansing the cyber world would determine. This threatens our personal information and safety since developed then.

Not all of the reasons for the small pace at which the Information Regulator has been operationalised could be laid at the feet of the first team of Regulators. Bureaucratic, legislative and administrative red tape along with the lack of proper funding from

government has played a major role. The date for the final implementation of the sections of the Act, enables the Regulator to look after our rights and interests as citizens of the country, and has now been set as 1 July 2021.

But it is doubtful whether the Regulator will be ready by then. Amidst all of this, the portfolio committee has the duty of advising and replacing all of these with the Regulators. The interview process revealed that we have enough people in this country with skills and passion about the protection of personal information, to enable the Regulator to fulfil its duty and its role.

From the portfolio committee, it has chosen Ms Alison Tilley as our preferred candidate. She has a long and proud history of service. She will be both willing and fully commit herself to make the Regulator work to the benefit and protection of all South Africans, even while serving on a part-time basis. We support this selection and this nomination.

Mrs Y N YAKO: Chairperson, South Africa is fast descending into a period of unguarded lawlessness, where criminals aided by the state have a free pass to encroach the rights of citizens. These acts of criminality go as far as encroaching on personal

information of citizens, which is required and then used for notorious purposes. The state is also at the forefront of violating the right of citizens, to the protection of personal information.

The Protection of Personal Information Act provides us with a necessary vehicle protection against this Act. It is for this reason that we need an independent and strong Information Regulator in this country, to guard against the violation of these rights to personal information. It is for these reasons that institutions such as the Information Regulator must not be used for deployment of comrades, but rather, must reflect the diversity of skills in this country, because this is an institution tasked with guarding rights guaranteed in section 14 of the Constitution.

Sadly, the institution has not done very well in raising public awareness about its existence and what it offers to South African citizens. Despite this, we do trust Ms Alison Tilley as a new part-time member of the Information Regulator. Her advocacy will in making law accessible and understood by the people, is commendable, and has not yet fall into the trap of many occupying wills such as she does, to use those wills to push for particular agendas that are anti-transformation.

We particularly commend the role she has played in the Judge’s matter, an initiative that seeks to open up our judiciary to the public, so that South Africans know exactly what kind of judicial system they have. We have no reason not to support her name as a new part-time member of the Information Regulator, and we hope that she will use her knowledge and experience to further strengthen the Information Regulator. Thank you very much, Chairperson.

The HOUSE CHAIRPERSON (Ms M G Boroto): The IFP. Is the member of The IFP on virtual platform? Prof Msimang, Prof.

Mr N SINGH: Hon Chairperson he was online. I do not know if he is having a problem. Can we just give him a second, please? This is the Chief Whip of the IFP here.

The HOUSE CHAIRPERSON (Ms M G Boroto): They say he is on the line. He needs to unmute. Hon Msimang! We will come back to you. Please be ready to unmute if you are not in yet. Hon Singh.

Mr N SINGH: I will do it on his behalf, hon House Chairperson.

The HOUSE CHAIRPERSON (Ms M G Boroto): No problem. We will come back to you after the FF Plus. The hon member from the FF Plus.

Mr F J MULDER: Hon House Chair, the Protection of Personal Information Act has been signed into law by the President on 19 November 2013 declaring some parts of the Protection of Personal Information Act effective from 11 April 2014. The sections have become effective in dealing with the appointment of the Information Regulator.

Adv Pansy Tlakula was appointed as Information Regulator with effect from 1 December 2016. Two fulltime members and two part time, members to the term of office for five years.

The FF Plus is concerned about the slow progress that has been made since 2013 in the implementation process of the Act, as well as the constrains the regulator faces as other regulators in South Africa do.

We support the recommendation of the committee before the vacation for a period longer than the rest of ... [Inaudible.] ... the process through the ability for the regulator to carry out this mandate.

The FF Plus support the appointment of Ms Alison Tilley as the member of the Information Regulator on the part time capacity. We trust that her knowledge and experience as a member of the SA Law

Reform Commission and contribution towards the development of the Protection of Personal Information Act will to add value to the regulator. Thank you, House Chair.

The HOUSE CHAIRPERSON (Ms M G Boroto): May I advise all the members on the virtual platform to please ensure that your microphones are muted, unless you are called to speak. There is a disturbance that is happening frequently. Please check your gadgets.

Mr [Baba] Msimang from the IFP, are you back?

Mr X NGWEZI: Hon House Chair, it is Ngwezi.

The HOUSE CHAIRPERSON (Ms M G Boroto): Yes, Mr Ngwezi

Mr X NGWEZI: I am sorry hon House Chair. I have just consulted with the hon Prof Msimang. He says the host muted him. It is not him failing, but the problem is with the host. Thanks.

*Afrikaans*:

The HOUSE CHAIRPERSON (Ms M G Boroto): Dis ontmoontlik.

*English*:

When the host mutes we are unable to mute individuals. It mutes everybody. So, we will pass again. The ACDP!

Mr N SINGH: House Chairperson, may I proceed on behalf of the IFP?

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon member you will speak after the hon Swart has spoken. No problem.

Mr N SINGH: Thank you.

Mr S N SWART: Hon House Chair, the ACDP rises in support of the nomination of Ms Alison Tilley as a part time member of the Information Regulator. Now as we know the regulator has a very wide mandate. It deals with the right of access to information once that function has been transferred from the SA Human Right Commission and of course the right to Protection of Personal Information Act.

As the other speakers have indicated, Ms Tilley comes with a wealth of experience in the development and implementation of both these pieces of legislation. She will be undoubtedly be an asset to the regulator even though it will be on part time basis.

She will assist in fully operationalising the regulator. That has been one of the concerns at the time that it has taken to operationalise the regulator. Given that the number of the sections who only commence next year that is section 114, that is of particular importance as it states that all forms of processes, personal information must within one year and that is from 1 July this year conform with the Act. So, there is going to be a lot of implementation that will be required.

It is crucial that the right to privacy and protection of personal data is protected across the board. Private data can be abused for gain such as we saw where deductions from grants were not authorised and were taken and this was graphically illustrated in the case of the *Black Sash Trust v Minister of Social Development* where the Information Regulator joined as the amicus to the court and argued that personal data is not a good that can be bought and be sold, but rather it is a right that the person should not and does not forfeit and this argument was accepted by the court.

So, many people are unaware of how important their personal data is and that direct marketing companies for example can and do abuse that information.

We also have the deeply worrying trend of data breaches. In August this year we had a significant Experian data breach that exposed the personal information of approximately 24 million South Africans to a suspected fraudster. This highlights the importance of cyber security in our country. Thankfully the Cybercrimes Bill will hopefully be finalised by the Portfolio Committee and Justice and Correctional Services Committee tomorrow.

So, a further issue of concern is the usage of personal information relating to COVID-19 testing, tracking and tracing. I, myself experienced a breach of my privacy when it was announced on national Television that I tested positive before I had even been tested!

In addition, information on the extent on the spread of COVID-19, the rational for government decisions, including model into projections, reports should be readily accessible.

To conclude, I have known Ms Tilley for a number of years. She is an excellent lawyer. I join my colleagues in the unanimous nomination of Ms Tilley to this position. We wish her well with her appointment to this very important regulator at this very crucial time, when access to information is required, but privacy needs to be protected. I thank you.

Mr N SINGH: Hon House Chairperson, on behalf of the hon Prof Msimang, at the outset we would like to say that the IFP would like to thank the outgoing Prof Tallip Pistorius for her excellent work and contribution during her term as a part time member at the Information Regulator. As the chairperson of the committee has said hon Chair, upon request by the President of the Republic to the National Assembly to fill the vacancy created by the resignation of Prof Pistorius, the Portfolio Committee on Justice and Constitutional Development immediately began the process of filling this particular vacancy within the prescribed legislative procedure.

Unfortunately, the process was overtaken in some respect by the outbreak of COVID-19 and thus has taken more time than initially contemplated. Nevertheless, the portfolio committee under the leadership of the chairperson performed its work as quickly as possible whilst maintaining and adhering to all the necessary and due diligence one would expect for such a senior position.

As we have heard, 25 nominations were received of which there were two withdrawals and then commenced the odious process of shortlisting and the gruelling interviews ... [Inaudible.] ... Of the five candidates shortlisted, unfortunately one withdrew, but

nevertheless we thought that the nomination by the portfolio committee of Ms Alison Tilley was a correct choice.

The IFP supports the recommendation and we wish Ms Tilley all the very best during her period as a member of Information Regulator in a part time capacity.

May I say on a personal note hon Chairperson that I have had the great pleasure and privilege as a member of Judicial Service Commission, JSC, for the last six or seven years OF meeting Ms Tilley regularly at the JSC meetings. She and her organisation have provided valuable advice to ensuring that when we make choices of Judges that the input by her organisation is taken into consideration.

We want to wish her well and thank all the candidates that have applied, Thank you, House Chairperson.

Mr A M SHAIK EMAM: Hon House Chair, allow me first of all to thank Prof Tallip Pistorius on the role that she had played in the Information Regulator during her term of office. Now we do know that the Information Regulator has had limited success. There is no doubt, however we are quite satisfied that due processes had been followed. Shortlisting has taken place and that the committee

has recommended the name of Ms Alison Tilley to be appointed as a part time member of the Information Regulator.

Now, Alison Tilley is an attorney and the co-ordinator of the justice. ... [Inaudible.] ... She monitors the Judicial Service Commission, JSC, appointments also those of Judges and aims to improve civil society scrutiny of judicial appointment.

She has litigated on access to information and whistle blowing issues in a number of High Court matters the Labour Court, Constitutional and the Supreme Court of Appeal had publications include *The Right to Know and the Right to Live* edited by Richard Calland and herself and she contributes to the *Daily Maverick*.

She works on issues surrounding gender-based violence and particularly the role of sexual offences for the Rape Survivor Justice Campaign.

The NFP having taken note of the role and the work that she has done over the period of time together with the experience and her qualifications and her activism on gender-based issues recognises the pandemic in South Africa welcomes and accepts the nomination for her appointment as a part time member of the Information Regulator. Thank you.

The HOUSE CHAIRPERSON (Ms M G Boroto): The hon Ntshayisa or the hon Galo of the AIC.

*Sepedi*:

Abagona.

*English*:

The PAC.

*Afrikaans*:

Die PAC is nie hier nie.

*English*:

Al jama-ah. Hon Hendricks! Not there.

We have exhausted all the parties for declarations.

The DEPUTY SPEAKER: House Chairperson. House Chairperson.

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

The DEPUTY SPEAKER: The hon Ntshayisa is manually raising his hand! He is on the platform. I do not know why he cannot unmute. He is raising his hand manually there.

The HOUSE CHAIRPERSON (Ms M G Boroto): The hon Ntshayisa! We can hear if you can unmute. Yes, we can hear you!

Mr L M NTSHAYISA: Hon House Chairperson, I am sorry. I am not part of this now. I just made a mistake.

The HOUSE CHAIRPERSON (Ms M G Boroto): Oh, you are waiting for the debate. Thank you very much. When it is your time just make sure that your face is visible. We can only see your head. Thank you very much.

Mr L M NTSHAYISA: Thank you.

Ms J M MOFOKENG: Thank you very much, House Chairperson. I will just start where he left. Everyone has the right to privacy which includes the right not to have the person or home searched, their properties searched, their possessions ceased and their privacy or their communication infringed. The Protection of Personal Information Act 4 of 2013, gives effect to section 14 of the Constitution. It further gives expression to the constitutional values of democracy and openness. The Protection of Personal Information Act has value and to regulate in harmony with international standards the processing of personal information by public and private bodies in a manner that gives effect to the

right to privacy subject to justifiable limitations that are aimed at protecting other rights and important interests.

The Information Regulator is an independent body subject to the law and the Constitution and accountable to the National Assembly. It is empowered to, among others, monitor and enforce compliance by public and private bodies with the provision of the Protection of Personal Information Act. A vacancy occurred when the regulator’s part time member, Professor Pistorius, tendered a resignation letter dated 20 September 2019. On 5 January 2020, the Portfolio Committee on Justice and Correctional Services invited nominations from the individuals, organisations, institutions and civil society for one suitable person to be appointed as a part time member of the Information Regulator for a period of five years. The section 42(2b) of the Protection of Personal Information Act provides that any member appointed in terms of the section is appointed for the rest of the period of the predecessor, House Chair, unless the President on recommendations by the National Assembly appoints that member for a longer period which does not exceed five years.

Section 41(2e) of the Act provides that President appoints the chairperson and the member of the regulator in the recommendations of the National Assembly. The National Assembly must recommend

persons who are nominated by a committee of the National Assembly composed of members of parties represented in the Assembly and approved by the Assembly by a resolution adopted with a supporting vote of the majority of the members of the Assembly. Nominations will be received by the portfolio committee.

A fair and transparent shortlisting and interview process took place. After a careful consideration the ANC supports the recommended name of Ms Alison Tilley for the position as a part- time member of the Information Regulator for the appointment for the next five years. Ms Tilley has done extensive work on the Cybercrimes and Cybersecurity Bill 2017. She has worked as a member of the technical committee advising the Department of Justice on the Bill. Ms Tilley has produced a policy Bill with recommendations on the matter. Ms Tilley is an attorney and has worked as co-ordinator for the organisation Judges Matter. She has co-authored an article on Cybercrime Bill and Protection of Personal Information Act.

Ms Tilley possesses a strong research skills and her writing reflects progressive views on issues such as transformation of the judiciary, gender-based violence, the availability uses of sexual offenses courts and justice as a whole. Ms Tilley’s views reflect that she has appreciation of the injustices experience by

communities and the inequalities in our society. It appears that Ms Tilley orientation is in sync with the type of society we are working towards achieving. She had a good interview with the portfolio committee.

We wish to thank Professor Pistorius for her service to South Africa for the Information Regulator and wish her well in her future endeavours. Furthermore, we wish Ms Tilley everything of the best and have confidence that she will be an asset to the Information Regulator. In closure, I wish to quote from the feminist revolutionary, Thomas Sankara, we can quote:

Women’s emancipation is a basic necessity, in order for any revolution to triumph, women hold up the other half of the sky.

The ANC supports. Thank you.

Question put: That Ms Alison Tilley be recommended for appointment as a part-time member to the Information Regulator.

# USING MANUAL VOTING PROCEDURE

(Announcement)

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon members, in terms of section 41(2)(a) and (b)(ii) of the Protection of Personal Information Act, 2013, persons nominated for appointment to serve on the Information Regulator must be approved by a majority of members of the Assembly. Although there has not been a demand for a division, members are required to record their support for nomination. Therefore, hon members, to allow Whips to consolidate the numbers, I will allow the bells to be rung for five minutes so that we conclude this Order. Thank you, the bells will be rung.

Having said that I must say that the doors are closed and no more counting from the virtual platform or from the House. Thank you very much. The House has voted on the appointment of Ms Alison Tilley to be a part-time member of the Information Regulator with

279 votes. [Applause.] We really appreciate that ... [Applause.]

... and congratulate Ms Alison Tilley as the nominated member of the Information Regulator.

Ayes – 280: (ANC – 160; DA - 61; EFF – 29; IFP – 13; FF Plus - 9;

ACDP - 4; NFP - 2; Cope - 2).

Question agreed to.

Nomination accordingly agreed to in accordance with section 41(2)(a) and (b)(ii) of the Protection of Personal Information Act, 2013.

The CHIEF WHIP OF THE OPPOSITION: House Chairperson, if I may, I think that it is appropriate to congratulate Parliament and yet another unanimous approval, and I think that it is a great achievement and something we should all be very proud of as the Parliament of South Africa. [Applause.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Thank you very much. I hope it represents all the parties in the House and the presiding officers too that we really are together in these issues. The recommendation has been agreed to in terms of section 41(2)(a) and (b)(ii) of the Protection of Personal Information Act, 2013. Thank you very much. We now move to the next item on the Order Paper, hon members. It is a debate on a matter of urgent national public importance in terms of Rule 130, in the name of the Chief Whip of the Majority Party, Pemmy Majodina, on the impact on economic lives of the most vulnerable and poor of commuters due to ongoing damage to public rail infrastructure. May I now recognise the hon the Chief Whip of the Majority Party from the Chamber. The hon Majodina!

# THE IMPACT ON ECONOMIC LIVES OF THE MOST VULNERABLE AND POOR OF COMMUTERS DUE TO ONGOING DAMAGE TO PUBLIC RAIL INFRASTRUCTURE.

(Matter of urgent national public importance)

The CHIEF WHIP OF THE MAJORITY PARTY: Hon House Chair, hon members in the Chamber and in virtual platform ...

*IsiXhosa*:

... abantu ababukeleyo emakhaya, vumani ndinibulise ngale njikalanga xa siza kuxoxa umba obaluleke kakhulu kwaye ochaphazela nina.

*Sesotho*:

Ke le dumedisa kaofela.

*English*:

Let me start by congratulating the DA leader who was elected this past weekend John “vul’igate” Steenhuisen [Laughter and Applause]. With the maturing democracy, we also wish you well, but we are here. We are here to stay. You can be elected, appointed and come up with your resolutions but ...

*IsiXhosa*:

... silapha thina kule ndawo [Kwahlekwa.]

*English*:

House Chair the debate is about the people. The most vulnerable, the poor and the working class who without being consulted and without any consideration for their fragile economic existence have been subjected to the destruction of a mode of transport that supported them in their endeavour to seek work opportunities and connection to economic forms of subsistence.

*IsiXhosa*:

Abantu abachaphazelekayo kukutshatyalaliswa kwemizila yoololiwe, zimpula zikaLujaca.

*English*:

When I wrote to the Speaker proposing this debate, I did so because the ANC together with our people is outraged on the graphic images on TV on what wanton destruction of rail infrastructure. This comes at a time when the country has entered level one of risk adjusted strategy, and rail commuters needed to return to work.

*IsiXhosa*:

Isimbonono sabantu bakowethu sivakele. Yiyo loso nto namhlanje sime apha sisithi mazikhuselwe ezi ziseko zikhoyo.

*English*:

The past weeks have shown that it is no longer just strategic matters that are being stripped, but the complete rail infrastructure or station is being removed.

*IsiXhosa*:

Luvukelo lombuso ...

*Sesotho*:

Tsoelo ya puso…

*IsiXhosa*:

... ngohlobo lokuba kuqhokrwa uqoqosho.

*English*:

That is economic sabotage. The impact on the poorest and the most vulnerable who are dependent on finding the cheapest mode of transport which is rail, has been devastating. Not only did the cost of their travel dramatically increase from rail to taxis, from rail to buses, this has come on top of COVID 19 on their emaciated incomes.

*IsiXhosa*:

Uqhagamshelwano ke kwezothutho luphuhlisa uqoqosho ukuze kuvuleke amathuba emisebenzi. Amawaka-waka abantu asebenzisa oololiwe ukufikelela kwiindando zeengqesho, kumaziko emfundo, nakwiindawo zoshishino. Abantu bahamba ngoololiwe kwaye xa ukhwele phaya uye ubeve abantu bevuselelana ngokwasemoyeni inkonzo kweli khareji nakwamanye amakhareji. Ayipheleli apho, kwakhiwa ubuhlobo nobuntu, apho kubakho amakhareji ezomzabalazo nalapho kuxoxwa khona ukwakhiwa kwelizwe, kube kuxhaswa nezokhenketho.

*English*:

The objective of the opening of the economy so that the most vulnerable can travel to enhance their opportunities, both to sustain their income or find employment is being thwarted through the destruction of rail infrastructure. These activities reverse and the spirit and intention of trying to reconstruct the economy led by an infrastructure strategy. The urgency of this matter is underpinned by the plight and the voice of the poor who have already economically had their income reduced. Their voices must be heard, heard by us as the public representatives.

The intention of government through the Economic Recovery and Reconstruction Plan as tabled to this Parliament on 15 October

2020 by the President, is among others to build an inclusive economy especially for the vulnerable who use the rail network.

Hon House Chair, these attacks on state infrastructure constitute economic sabotage. Parliament on an annual basis passes a Budget Vote which gives rise to the financing of rail infrastructure.

This means that Parliament’s intention to provide for the financing affordable public transport is being frustrated.

*IsiXhosa*:

Amamthandazwe ke mawaphakame akhusele iziseko ezikhoyo zingatshatyalaliswa zintswelaboya.

*English*:

Patriotism must at all times be displayed, ...

*IsiXhosa*:

... bakhusele konke oku kwenzekayo ukuze abantu bafumane imisebenzi.

*Sesotho*:

Haeba re rata Afrika Borwa ena e re phelang ho yona, ha re tshireletse dintho kaofela tseo re di tsebang hore di bohlokwa ho rona.

*IsiXhosa*:

Impendulo etsolileyo ifuna thina bamaeli boluntu siququzelele abahlali ukuba bakhusele oku kubalulekileyo kubo.

*English*:

In defence of public service that belongs to the people and its structured to provide the cheapest mode of transport ...

*IsiXhosa*:

... umhlathi wokuqala kula Mqulu weNkululeko uthi, “abantu bayakulawula”. Malubonakale ke olu lawulo lwabantu ngokuthi babenesikhwele ngeziseko kwaye sisebenzisane kunye kuba kuxhamla bona, ukuze kungonakaliswa nanye into elungiselelwe ukuphucula abantu.

*English*:

This requires the society as a whole to protect state infrastructure which is held by the state as a public good on behalf of the nation. Our argument is based on evidence when studying the development of economically prosperous countries globally. All these have one thing in common, they have grown through industrialization and beneficiation of the economies using the rail network as a backbone upon which industrialisation grows.

In this regard, commuter rail plays a critical role as an enabler of economic mobility across economic sectors.

Hon Chair, we acknowledge that the ANC government has been steadfast in developing an integrated, effective, reliable, safe and cost effective public rail system. A backbone for different sectors of the economy to fit off and to enable workers to have a safe and reliable system of transport to and from work.

*IsiXhosa*:

Lo ngumqolo wezoqoqosho.

*English*:

The ANC policy when it comes to passenger rail and entity that manages it; the Passenger Rail Agency of South Africa, Prasa calls for increasing investment hon Minister in public transport as an investment in moving the economy, providing the incentives for public transport and renewing the commuter train fleet which is already happening through your department.

Our National Development Plan directs investment to bridge geographical distances, provide affordability and to provide safety and reliability so that South Africans can access economic opportunities and activities. The ANC government in practice has

committed the country to move both commuter and freight from road to rail, to save our road infrastructure for longevity. It is also a criminal act to dig and burn road infrastructure. When communities protest for service delivery related matters, they must not burn the infrastructure that is already there because they are taking the country back.

Since the democratic government took over in 1994, billions have been spent to turn around Metrorail to be a mass based transport carrier. The ANC is committed through its government to ensure that our rail services remain the most affordable form of public transport. In response to the destruction of the rail infrastructure, the President in March 2019 brought about a decisive intervention to turnaround Prasa and improve its operational performance whilst rebuilding its engineering capacity to drive modernisation programme is in place. For our people who have to commute.

The immediate with Prasa board that is focused on improving the reliability of trains, improving on train cancellations is the direction that we are calling for. We also say, securing trains for our people and passengers by deploying security personnel on trains for asset protection. Fencing or walling of corridors and depos in all regions must be expanded. The theft and damage on

rail infrastructure is a very selfish act, antisocial and criminal.

Hon Chair, the ANC’s fight for defence of rail infrastructure is part of our fight against lawlessness, criminality and a respect for the infrastructure that works for the public good in the interest of the poor and the vulnerable.

*Sesotho*:

Ha re lwaneleng hore re boloke setjhaba sa rona, haholo ha re bua ka mmila ya diterene.

*English*:

An assessment of the indicate to us that some progress has been made despite many bottlenecks Prasa had to navigate. The fast tracking of Prasa’s capital spending programme is critical to recover the services of the desired levels that our people have demanded.

The call on this debate must be to support the action that has been taken to involve communities in the turnaround strategy whilst continuing the commitment to rail infrastructure development as announced by the President through the state of the nation address and as part of the economic recovery plan.

*IsiXhosa*:

Isicwangciso esi sithiwe thaca nguMongameli sineendawo ezimbini nezingundoqo kulo mxholo wanamhlanje. Ngenxa yesithwakumbe se- COVID-19, nesankxwe ...

*English*:

... the government had to deal with immediate actions towards economic recovery and to rebuild and grow the economy ensuring sustainability, resilience and inclusion.

*IsiXhosa*:

Eli liphulo lokungenelela nokwakha uqoqosho ...

*English*:

... to lift the country’s overall economic performance by delivering South Africa to the generation of inclusive growth by using infrastructure, localisation, reindustrialisation as levers to stimulate economic activity and to raise the standard of living for the motive forces.

Rail was a connector of Africa. Rail has been used by migrant workers. Rail has been used by students who came all the way from the continent to study in the University of Fort Hare and Lovedale College. Rail has made relationships. It is in this context that

this debate has called to deal with stabilising mode of transport that the poorest and the economically marginalised can call their own, which is cheaper and efficient transport. The destruction of rail infrastructure has negatively affected their livelihoods.

*IsiXhosa*:

Ongasekhoyo uStompie Mavi, unecwecwe elithi, “*Uzubathathe loliwe*” kuba kaloku uloliwe ubetyhutyha imiwewe nemixwexwe ethatha abantu kwelinye icala esiya kwelinye icala khonukuze babone uphuhliso lwabo lwemisebenzi kunye noqoqosho.

Ngenxa yokubaluleka kwakhe uloliwe, sibonile ngexesha lendebe yombhoxo yehlabathi ngowe-1995, isizwe sonke soMzantsi Afrika sisithi xa sucula [Kwaculwa]:

Shosholoza Ku lezontaba

Stimela si qhamuka eSouth Africa

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

*IsiXhosa*:

UMBHEXESHI OYINTLOKO WEQELA ELILAWULAYO: Lo shosholoza ke ucacisa ukuba ukuze uqoqosho ludibane, kufuneka kubekho uloliwe ozakuhamba

etyhutyha eshosholoza edibanisa isizwe. Sima apha nammhlanje siyi- ANC sisithi makuphinde kushosholozwe kudityaniswe isizwe. Masibone abantu besima kwiiplatfomu belinde ukukhwela oololilwe.

*English*:

Every progressive minded public representative need to commit ourselves to ensure protection of this public property from distractors and criminals. Thank you very much hon Chair.

Mr I S SEITHLOLO: Thank you very much. When it comes to the importance of the railway system to ordinary South Africans, this is what Andile Zwane had to say. In a country where the majority live so far from places of employment; so far from places of economic opportunities, it is an injustice that the rail infrastructure has been allowed to deteriorate to this point. Like everything else under the control of the ANC government, it is the poorest of the poor who carry the biggest load from the mismanagement of state facilities and services.

Firstly, train rides are cheaper than any other form of transport. This is a fact. This makes a huge difference between a family starving and a family having a meal. In short, the unavailability of trains has taken money from the poorest in our society and has contributed to far greater inequality.

Secondly, trains have historically provided a livelihood for small-time traders that go from train to train selling anything from a packet of peanuts to vegetables. This means that, besides its core duty, the rail system with its millions of passengers has played a crucial role as a moving economic hub for many young entrepreneurs from poor backgrounds.

The third point is that it is generally accepted that it is a smart idea to have trains running as opposed to the form of transport that is used on road. Not only does this mean less greenhouse emissions and a healthier environment, it also means less spending on developing a mainstream ... and maintaining road infrastructure by the state.

Overall, the rail system connects the poorest communities to markets and it connects them to economic opportunities, including self-employment. The rail system connects families who live far away from each other.

That, hon Majodina, is the real impact on the poorest of the poor. [Applause.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Deputy Speaker, as I call on hon Nolutshungu you may come in. Hon Nolutshungu?

Ms N J NOLUTSHUNGU: Thank you Chair. Sorry about that. Deputy Speaker, we cannot speak about the ongoing damage to public railway infrastructure and understand it fully if we do not speak honestly about the economy of South Africa, its neocolonial nature and the people it continues to exploit.

More than 160 years ago, a Cape Town Railway and Dock Company was formed and the company was set up to receive ships of racist settlers and repair them, trade in agricultural products and exploit the development of South Africa’s natural resources. This was the main reason the company was created to support the exploitation of South Africa’s natural resources for the benefit of colonisers and imperialist forces.

This has become a permanent feature of South Africa’s railway system. As a colony, like all colonies across the world, South Africa’s economy was positioned as a supplier of raw materials, mainly mineral resources, and import finished goods. That is why, for more than 160 years, South Africa’s transport and logistics infrastructure has been designed in such a way that anchors the exploitation of natural and mineral resources by way of the ocean and not through any regional and continental integration by road, air and rail.

We do not have regional integration to trade with Namibia, Zimbabwe, Mozambique, Tanzania and the Democratic Republic of the Congo, DRC, in an affordable, efficient and sustainable way.

Instead, we transport manganese from the Northern Cape to Durban; we transport coal from eMalahleni to Richards Bay on the CoalLink line. This includes coal from Mahlabatini and Somkele in Zululand which is exported as raw materials. We transport more than

1,9 million tons of coal every year by rail towards the ocean, compared to 300 000 tons by road. All strategic railways from South Africa’s inland mines and natural resources lead to the ocean.

We are still trapped in the colonial division of labour in which we supply commodities to the UK, USA and Europe. Even the inconsequential railway system that was eventually built to serve the poor and working class, takes workers from their overpopulated townships and informal settlements to white-owned industries, offices and mines. None of these was meant to improve workers’ standard of living. The railway in South Africa is a key component of exploitation.

Many of the railway systems meant to serve the working class have deteriorated so much that whatever is left in the railway system

... only in name. Workers are often stranded because trains are

late; trains don’t run; trains are not serviced; and trains are overpopulated. No-one seems to care; not the ruling party, not the Passenger Rail Agency of SA, Prasa and certainly not the government.

There are not enough railway networks, which is why we have too much traffic on our roads, increasing fatalities. The trains have become so unreliable; so much so that workers have to leave home four hours before they are supposed to be at work and they are home just in time to bath and go back to the trenches.

In fact, many of our people spend too much money on transport because they rely on minibus taxis to go to work as the railway system has completely collapsed. The only way to change the situation is to build state and government internal capacity — internal state capacity to build and maintain railway infrastructure without relying on tenders. We must expand the railway system, buy new trains and insist on locally built trains to build industry around the transportation and logistics economy, and create sustainable jobs.

We must invest in affordable speed trains along the Moloto Road; between the Tshwane and Nkangala region in Mpumalanga; between Soweto and Johannesburg; between Musina and Johannesburg; between

Johannesburg and Cape Town; and most importantly, between Durban and Johannesburg to transport people and goods that come from the harbour.

We must increase the number of carriages on public transport railways so that trains are a transport of choice for many of our people. We must build railway infrastructure in and around Eskom power plants and coal mines to facilitate easy access to the coal market. We must build trains that provide a means of travel for students at institutions of higher learning. We must ensure that major institutions of higher learning are connected to a railway. We must build a new railway system that supports industrialisation. This should also include the complete digitalisation of South Africa’s railway network to improve efficiency in management and maintenance.

However, it is more important and urgent to rebuild a railway network as part of rebuilding the economy; a process that needs land. That is why we call for the expropriation of land without compensation. We need land to rebuild the economy. We need land to rebuild the railway network system and we need land to build industries where workers will travel a short distance in reliable and safe trains from their homes.

Mr K P SITHOLE: Thank you Chairpersons. In South Africa, travel by train ... and media reports around our rail infrastructure has become synonymous with vandalism. Cable theft, unexpected delays and suspended service ... [Inaudible.] ... this was before the ravages of the COVID-19 pandemic.

Recently, the *Daily Maverick* ... special report entitled, Stripped bare: Looting till there is nothing of Gauteng’s rail network. [Inaudible.] ... took place during the months of the hard lockdown with not only rail and cables stolen but stations stripped bare, even of doors, window frames and taps.

In the Western Cape, Metrorail’s central line, described as the busiest line that services the poorest communities including Khayelitsha, Mitchells Plain, Nyanga, as well as ... [Inaudible.]

... closed since October 2019. This too is due to the vandalism and theft of rail infrastructure. According to the media report, the service will only be up and running again by the end of 2021.

None of this bodes well for poorer South Africans; many who ride on our rail networks for transportation to their places of employment, as well as learners and students travelling to their schools, colleges and universities. Yes, there are alternative modes of transport available but the costs are significantly

higher. For example, according to the most recently available fees for Metrorail and other service providers, a one-way trip from Khayelitsha to Cape Town by train would cost R10,00 compared to the cost of a one-way bus ticket which costs R32,00 or the same trip in a minibus taxi which could cost R20,00.

The extra money being spent adds up very quickly. Over the course of one week, a commuter forced to make use of a bus to get to work

... with spending and travel ... R20,00 for a week rather than R100,00. That means a family breadwinner is out of pocket of R220,00. That is money that could’ve been used to buy food, power and other necessities.

[Inaudible.] ... many weeks and months that poor South Africans have been forced to make do without a working rail network, and it translates into many more families being pushed over the precipice into abject poverty.

According to Prasa, over two million commuters are transported daily with Metrorail’s service in Cape Town, in Gauteng, eThekwini, Port Elizabeth and East London. This is a huge responsibility and one that should be taken seriously. Amongst others, in their presentation to the Portfolio Committee on Transport in May 2020, Prasa committed to reducing the cost of

living by providing affordable rail fees for people travelling to and from their places of employment. With our communities, in particular the poorest households, under immense pressure due to the COVID-19 pandemic, this is one ... [Inaudible.] ... ever before.

As the IFP, we will closely monitor the steps taken by the newly appointed Prasa board under the leadership of the chairperson, Leonard Ramatlakane, to get Prasa back on track.

*Isizulu*:

Sethemba ukuthi kukhona abazoboshwa, nabasebeboshiwe kulobu bugebengu obudlangile bokucekela phansi ingqalasizinda zabantu abahluphekile kunabahluphekileyo. Ngiyathokoza kakhulu.

Dr C P MULDER: Deputy Speaker, I would like to start off by thanking the hon Chief Whip of the ANC who brought this topic for discussion to the House. I understand that the hon Chief Whip feels very strongly about this, and I can understand where she comes from, she means very well. She says in her speech earlier today that, this is about our people, the poor people and the working class but my concern is, it goes way beyond the poor and the working class. What is affecting all of us, it’s affecting our economy in total, it has a huge impact on our infrastructure and

what’s happening. If you look at who would be responsible for this situation and I had to look at the Passenger Rail Agency of South Africa, PRASA and Metrorail websites, what is it saying:

Welcome to Metrorail - South Africa’s biggest and preferred provider of passenger and commuter rail services. Owned by PRASA, PRASA is a state-owned enterprise, SOE, under the auspices of the Department of Transport.

Our primary mandate in accordance with the Legal Succession Act to SATS Act (Act 9 of 1989) is to ensure that, at the request of the National Department of Transport or any sphere of government, rail commuter services are provided in the public interest, and to promote rail as the primary mode of mass commuter transportation.

but it’s not happening, it’s not happening! Now the problem is this, hon Chief Whip, you referred to the corruption, you referred to the bad people and you said what they are doing is treason, but mam if you go and have a look at PRASA itself – and I know a new board has been appointed and you will find some of the real criminals and the real crooks, you will find in those institutions.

You talked about the President who said we need a turnaround strategy. Name one thing with all due respect that the ANC touched since 1994 that does not need at some stage a turnaround strategy. Name one, the fact of the matter is this, I remember clearly watching the news that evening when PRASA proudly paraded a young gentleman called Dr Daniel Mthimkhulu on television and we were told, he was a person who engineered the Class Afro 4000 locomotive. He was supposed to be the wonder kid, who did this wonderful thing, he was not a genius, he was a crook, he was a crook, not only did they lie about his doctorate, he didn’t have a doctorate, then he said he’s got a diploma in engineering, he lied about that as well, no qualifications. Then he lied to PRASA and he said, he was offered a job for €200 000 in Germany and PRASA needed to match the offer and double the salary. That was also a lie. Those people were in charge and playing a role in PRASA, during this time that you referred to.

A lot of damages was done during the COVID-19 period, in terms of infrastructure destruction, cables theft, etc. A lot of that happened during the COVID-19 time. During the same time the whole of a South African Defence Force was deployed, what did they do, they take parade and patrol citizens who walked out in the gardens, who looks after the infrastructure? During that same

time, we had huge amount of damage to infrastructure, schools were burned down, stations were burned down.

PRASA now says one of the things they are going to do is, they are going to use diesel locomotives, to try and keep the train going because the electric cables have been stolen. Diesel locomotives need tracks, the tracks are being carried away and sold as scrap metal. That’s what is happening at the moment. My problem - I understand what the hon Chief Whip is saying and I really understand that and I feel very strongly about that as well, but the failure is on different level.

You say that what these people are doing is high treason, no man! Yes, it is very bad, it is high treason when people destroy infrastructure, but what the ANC has done to our economy, that is real high treason, it is, you can think about it. Thank you.

The DEPUTY SPEAKER: Is the UDM present in the House or on virtual? ATM... [Interjection.] ...

Mr S N SWART: ...Deputy Speaker, point of order...

The DEPUTY SPEAKER: ...yes...

Mr S N SWART: ... the ACDP that is next, Kenneth Meshoe, he follows the FF Plus.

The DEPUTY SPEAKER: Oh yes, you are right, thank you very much. These two is already clear they are not in the House. It’s ok thank you, hon Meshoe.

Rev K R J MESHOE: Deputy Speaker, the negative impact of ongoing damage to public rail infrastructure is costing commuters dearly. Medium or former train commuters now have to pay up to 500% more to travel to and from work by taxi. Instead of Passenger Rail Agency of South Africa, PRASA, safeguarding our public rail infrastructure, they allow vandals to strip train stations [Inaudible.] and to put many commuter routes out of action.

Workers that used to spend R7,90 on train fare, as an example from Garankuwa to work in Pretoria, now have to pay R45,00 to get to work by taxi in the morning and R45,00 to go back home. Those who used to spend R114,00 on a monthly train ticket to their place of work, are now spending R960,00 a month to use taxis to the same work place. As a result of this high transport cost, these workers are now unable to meet their financial obligations and the needs of their families. Those badly affected are now calling for the trains to be brought back as a matter of urgency, as trains are the most affordable public transport for the poor.

Even before lockdown, PRASA was experiencing serious problems. Country wide metro commuters dropped from 543 million in 2013 to

147 million in 2019. Between 2017 and 2019 almost a billion rands of damage was done to our rail infrastructure by vandals and arsonists, while guarded by a security company contracted to PRASA. In April this year, however our state-owned rail entity ended their security contract and put its own security guards in place, vandals became bolder and plundered tickets office routes overhead power line breeds, copper and whatever else they could the lay the hands on.

On 20 February 2019, the President signed the Critical Infrastructure Protection Act into law. The law provides for sentences of up to 20 years’ prison sentences for train arsonists and to my knowledge nobody so far has received such a sentence for destroying our infrastructure. The ACDP believes that government must take full responsibility, for this sad state of affairs in our country because of their soft approach when they are dealing with criminals.

There must be some serious consequences for those damaging and destroying public infrastructure. Without server punishment for those who are destroying property, then the problem we are debating today will continue unabated and the poor and vulnerable

will continue to be the ones who suffered the most. Government must have the political will to hunt down and punish those destroying infrastructure. Unless a clear message is sent out there, that there will be punished severely, then criminals will continue doing it as they have no fear of punishment.

We further want to know as I close, when is government going to start implementing the Critical Infrastructure Protection Act. The ACDP calls on government to show that they have a will to stop this destruction of our valuable infrastructure. Thank you.

Mr A M SHAIK EMAM: Deputy Speaker, welcome and thank you for giving me this opportunity. Allow me to start off by saying and congratulating hon John Steenhuisen on his great success over the weekend. The lack of an integrated public transport system in South Africa continues to cripple the heart of its economy, that’s laying in its middle and lower working class. Many poor South Africans rely on public transport [Inaudible.] to commute to and from work and home, thus an unstable public transport system strips off the poor their livelihood, as they are forced to rely on much expensive modes of transport.

Now, let me give you some statistics, more than two-third of households who fall in the lowest income [Inaudible.] spend more

than 20% of the monthly household income per capital on public transport which is 66,6%. Less than 3% of households from the highest income [Inaudible.], spend more 20% spend their monthly income that is 2,9 on transport. About four in 10 workers use public transport to reach the workplace. Now the question is; do we have an effective transport system, particularly the rail transport system? The answer is clearly no!

Now, I must tell you this, that in Atlantis which is already a ghost town, there was a factory there, that manufactured crane wheels and this PRASA recently sold it as scrap, let me repeat, sold it as scrap, which had a potential to create 300 jobs. Let me also say this that when the Standing Committee on Appropriation of went to Gauteng Province to visit this[Inaudible.] factory to manufacture trains. Indeed, we were told on our way there... only find that there was no factory holding there. The question that arising is; what is the problem in terms of test of this rail material? Is it not that there is a market for these things?

Should we not be dealing with the root cause of the problem like the scrapyard that are willy nilly participating in this criminal act of buying these things?

Don’t you think we should to the bottom...deal with them, because if there is no market for it these people are not making

[Inaudible.], nobody is [Inaudible.] keeping it for themselves, they are stealing because there is market and sell that stuff.

These scrapyards are working in collusion with these criminals. The question we should be asking is; are they working in syndicates, are they working in isolation? Clearly whatever it is, it is clear that there is a market for these things and that is why I think we need to look at that.

You know, when I was a Chairperson of Human and Social Development in the Southern Africa Development Community, SADC, we unanimously took a motion to strengthen the rail network between South Africa and the SADC countries. There is a great opportunity and a potential [Inaudible.]. If we can only work on this and create a better environment. Boost this rail network, ensure that PRASA it selves plays a greater role, ensure that railway police are effective. I can tell you that indeed, this can be one of the instruments of creating job opportunities in South Africa and economic development. Thank you very much.

Mr C H H HUNSINGER: Deputy Speaker, Public Rail and Passenger Rail Agency of South Africa, PRASA, specifically is in the bad state which it is not because of COVID-19 but because of the many unwell relations it has had - dealings which has caused the current debility and absolute futility.

Full regain of Metrorail’s commuter service on the 35 routes in Gauteng Province, Western Cape Province, KwaZulu-Natal and Eastern Cape Province are growing slimmer by the day and the sooner separation of infrastructure and operations with service level agreements come in place, the better.

The reluctance to protect our rail infrastructure by allowing security contracts to lapse and by not taking action against second-hand steel and cable trade has led to the current condition. A situation where less than 200 out of 2228km of the PRASA controlled network is functioning. PRASA’s relationship with four different Ministers in just five years have led to the eight so-called recovery plan papers, each acknowledging: “Rail as the backbone of transport” yet all ending up in a dustbin collections flanked by Kentucky Fried Chicken, KFC, bones.

In just 10 years, four ANC Ministers caused more than 3 Million regular rail commuting users to abandon rail as their first choice of mobility resulting in rail now only having a 4% market share in public transport. With a vehicle fleet of 1432 these days, PRASA has a bigger vehicle car fleet than train coaches. While many employees and staff at PRASA are trying their absolute best to make things work - as an organisation PRASA has lost its passion and relationship with rail and commuters.

The DA solution is simple, specific and ready. Merge PRASA and the official rail and transport service, Transnet, and get rid of the bizarre practice of cross-invoicing between the two entities, use the billion rand saving and immediately put 250 couches on the network. Appoint local protection for users, staff, infrastructure and assets and supply the 174 train stations with electricity, something they’ve never had before to this day. These are some game changing relationships that will see rail repaired.

Having to watch how a technician scratch in a waste bin amongst rubbish for brake spares and least rusted parts in an effort to fix commuter coaches was unforgettable and embarrassing. That brings me to the abnormal relationship-construct with the Railway Safety Regulator. Given the safety debility of Metrorail, fines and penalty income has benefitted RSR to nearly double their revenue and cash reserves in just three years. RSR has become a wealthy entity from January 2018 when 35 000 manual train authorisations increased to 152 000 in 12 months, to well over a million until January this year.

Fact is, that cable theft and vandalism accounted for less than 20% of unsafe conditions while management failure and outright reluctance to fix faulty signal equipment and damaged rail tracks

accounted for 70% of reasons for unsafe conditions until February this year.

Rail commuters ask three basic things: safe, reliable and clean trains while the DA says; give us a chance, we’ll run it better. Ndiyabulela ngexesha enidindiphe lona [Thank you for the time you gave me]. I thank you, Ek dank u [I thank you].

*IsiXhosa*:

Mnu L N MANGCU: Andifuni ukubabhuda, ndifuna ukuyijonga kakuhle le nto ukuze ndiyiqale entloko ndihle nayo ndiyikhuphe ezantsi, sizakubaqhuba ngoku. Sekela Somlomo wale Ndlu ohloniphekileyo, aBaphathiswa nooSekela Baphathiswa abakhoyo kule Ndlu bambi besijonge besemakhaya, maLungu ahloniphekileyo ale Ndlu ngokwezintlu namanqwanqwa enu, babukeli nabantu abasemakhaya, ngqanaga neentsiba zayo, ndiyabulisa.

Mandithathe eli thuba ndibulele ngokungazenzisiyo nangakumbi kuwe Mbhexeshi Oyintloko ngeli thuba usinike lona lokuba sixhamle nathi, sithethe ngalo mba ubaluleke kangaka uwuthe thaca apha phambi kwale Ndlu yoWiso-mthetho. Uyabona ke, kumnandi ukuthetha ngakumbi xa ungaphethanga. Bafikile apha bathetha, kodwa akukho nto siyaziyo bakhe bayenza. Into abayaziyo kukugxeka.

Ilungu elihloniphekileyo uMulder uthe akukho nanye into eyakhe yenziwa ngulo mbutho wesizwe ayaziyo ethe yaphumelela.

Khawusixelele into ibenye othe wena wayenza yaphumelela apho uphethe khona. Ayikho kwaye asikhange sikubone ukuba uphethe phi na.

*English*:

Let us first and foremost as the ANC condemn in the strangest terms the recent uncalled deliberate acts of criminality, economic sabotage and heinous acts of marauding criminals stealing from the poor through these acts which we have witnessed on the country’s infrastructure.

*IsiXhosa*:

Ngamanye amagama sithi siyakugxeka kwaye siyakunyevulela obu bundlavini sibubonayo kutsha nje.

*English*:

It would’ve been nice if all of us could have least stood up from all walks of life and political persuasions and agree and condemned that one thing. But our colleagues find it very difficult to stand and condemn that. Hon Hunsinger, I think and hope the debate that has been brought by the Chief Whip will bring us closer before we give solutions to condemn what has happened.

If you want half a minute of my time to come and condemn I will offer it if the Deputy Speaker aggress. At least I want you to condemn it. [Interjections.] Come again! I did not hear you. I can take questions don’t worry. If you want to ask a questions don’t haul. Ask the Deputy Speaker and I will take the question.

Secondly, we need to call peace-loving people, as the Chief Whip has said, and patriotic South Africans to stand, unite and fight this scourge in the same way we stood up against all odds and fought the criminal and evil system of apartheid which its defenders today can stand here as a result of our efforts and claim all the glory. We need to do that and call on all South Africans. Where I come from we can all sing, but we can’t all talk. If you want to talk, ask and I will keep quiet and then you are given an opportunity to talk so that we don’t miss each other.

As the ANC we are appalled by the damage caused to the rail infrastructure and across our public infrastructure. We call on government, we cal on you Minister, Cabinet and all law enforcement agencies, to take decisive action against such destruction and those behind it which is intended to sabotage the critical economic infrastructure of the country and negatively affect the lives of poor communities which are the majority and the working class. There are people who come here and speak about

working class, but if we were to get in to a class and say can you categorise and explain to us what the working class is, they would be found wanting. So let’s not come here and grand stand when there is a real issue at stake to talk about. Let us expose these criminals as they live amongst us, fellow South Africans. They are our uncles, they are our sons and they are our brothers. We know where they live. Let us expose them for what they are. This is what we are standing here for as the ANC. This is what we are saying and need to do.

The ANC-led government has for the past 25 years developed and implemented interventions seeking to reverse years of underinvestment - by some who were standing here today - in rail which had a direct socioeconomic impact. As the ANC we are resolute in developing an efficient rail commuter service for enhancing the economic lives of the poor and marginalised. These acts of criminality and economic sabotage should not, and not, derail us from our goal of an inclusive economy for every investment in rail by our government, the ANC government. We are talking about people who are in government and not those who are dreaming to be in government with a proven track record. We can say this is what we have done. Obviously, there are those people who don’t want to see it.

*IsiXhosa*:

Yiyo loo nto athi Umbhexeshi Oyintloko umfi uStompie Mavi wayicula naye le nto ngenye imini wathi:

Ubumon’uyakulawula Awufan’ungcucalaza njengengqeqe Buya kweso simo

Uzibizela unomnganga

*English*:

Over the last six months. [Interjections.] Thank you hon, Chief Whip! Did you hear it, hon Hunsinger? In the past six months the Passenger Rail Agency of South Africa, Prasa, has experienced unprecedented levels of sabotage to pure criminality with one aim, to vandalise our rail network. We have realised that a number of narratives have been advanced with narrow understanding of what are the challenges facing Prasa rail operations. Many have stood here and gave statistics, figure and everything which is okay. But the purpose of this debate is to rally us. It is a rally call for all of us to condemn what is happening and to stand fully behind the efforts that the Minister and Prasa are doing to sort out the problems that are there.

During the latter part of 2019, as some people said, Prasa board of control took decisions to terminate security contract that were deemed irregular and unlawful by the Public Protector. The Passenger Rail Agency of South Africa did not just wake up and decide to terminate them as one hon member said here. There was a report of the Public Protector. Any reasonable board, any reasonable administration would respond to that. This is what happened, and not what was being said here. We talk about the ruling in the Western Cape and the ruling in Gauteng which specifically said what needed to happen. The above was effected in April 2020. Unfortunately, it coincided with the lockdown and all that we all know what happened. The assets of Prasa remain state assets and should be treated as such. What is happening at Prasa has been a reflection of the microcosm of the state of vandalism of the state assets which should be respected. Essentially, what we have noticed is the undermining of the institution of the state. We once again call upon the executive Minister to lead the charge as you always do to bring these criminals to book. The security situation at Prasa has reached a breaking point as Prasa is losing mission critical assets. I am sure the Minister is more capable to deal with those than I would.

The CHIEF WHIP OF THE OPPOSITION: House Chair, can I ask a question, please?

The DEPUTY SPEAKER: Do you allow the member to ask you a question, hon Magcu?

Mr L N MANGCU: Yes, Deputy Speaker, I am ready for the question?

The DEPUTY SPEAKER: Go ahead, hon Natasha.

The CHIEF WHIP OF THE OPPOSITION: Deputy Speaker, I was so happy when the member who is at the podium said that he wanted us to ask questions. The Passenger Rail Agency of South Africa has been at the Zondo Commission and State Capture has been an obsession of mine since it started. I want to congratulate you of something because of your fantastic singing today. Did you lay charges against doctor, maybe engineer Mthimkhulu? I want to offer you a service. Hon Hunsinger and I would go with you to lay criminal charges so that he goes to Zondo. [Applause.] My question to you is, will you come with me to Cape Town Central Police Station? We can go this afternoon or whenever suits you, but together we go and lay charges against him.

Mr L N MANGCU: Deputy Speaker, really, I was waiting for a real hard-hitting question from hon Mazzone. But I am sure we can talk over. You said you will listen to me singing any time and I will sing for you. Let’s have coffee and sort that out.

In conclusion, it is a pity what the criminals have destroyed has impacted our communities and negatively affected our economy. The Passenger Rail Agency of South Africa continues to spend public money that has been destroyed. The debate today should also remind us that the destruction, if not properly addressed, will affect other state-owned entities. We are dealing with a network of organised syndicates with serious resources behind them. However, this destruction creates opportunities that are Fourth Industrial Revolution-linked where we again call on Prasa and its board to look at all intelligent means to sort out the problems.

The Department of Transport should assist Prasa in identifying opportunities available to use cables which are being cut daily to sort that out. One thing that my colleague and my big friend hon Hunsinger didn’t say but he hide behind is that they are advocating for decentralising the rail infrastructure to local government or province. They themselves are not sure yet and they are still deciding that. Whatever they are resolving doesn’t work, and it has not worked. I am standing here to say we will not allow it to happen because here we have a central type of government. We don’t have a federal system. The same happened in the British rail system which I am sure you know much better. They tried to privatise it, but it failed. We want to stand here once more as the ANC [Interjections.] I told you that I am not a hauler that’s

why I always pause when you talk. Haulers and not... and there are people who still think that speaking is an achievement. At times even keeping quiet and listening is a very big achievement. [Applause.]

Deputy Speaker, thank you so much and once more we condemn this vandalism. We call again on government to act decisively on these things.

*IsiXhosa*:

Ndizamile ukuwagawula ndiwarhuqa noxa bendiphazamisa. Ndiyabulela Sekela Somlomo.

Mr L M NTSHAYISA: Thank you very much, Deputy Speaker, let me first congratulate John Steenhuisen for being elected as the leader of the DA. I heard from the Chief Whip of the Majority Party that his other name Vulindlela or Vul’igate, that’s great. [Laughter.] Hon Deputy Speaker, sometimes to speak of an eloquent speaker like him is not very easy but I’ll speak.

Hon Deputy Speaker, the enhanced infrastructure investment to unlock domestic economic growth has been part of the government’s economic plan for some time. The role of Passenger Rail Agency of SA, Prasa, in this regard is crucially indispensable for the

growth of our economy. In other words, it cannot be done away with. We have to focus on that.

However, there has been glaring challenges at the Prasa despite boosting of Metrorail, Shosholoza Meyl, and Autopax which operates Translux, City to City and Intersite Property Management Services under its wing, Prasa has suffered major setbacks. As the centre of railways, commuter rail services and goods, the Prasa has acknowledged that security mass vandalism of the electrical wires and the destruction of its infrastructure have resulted in vast sections being closed down due to lack of electrical lines.

Deputy Speaker, on 16 September, this year, the Minister of Transport also acknowledged that the criminality that ravages our railway environment undermines our efforts to modernise our passenger rail system and deliver a good service that is safe, reliable and affordable. The cost to the economy caused by these acts of economic sabotage are diabolical.

In a reply to a parliamentary question, the Minister of Transport revealed that R173 million was lost annually in the Gauteng province due to the acts of vandalism to the railway infrastructure, which is very bad. That needs us to come together

and get down to business and work out solutions to problems of these nature.

In some cases, relying on the anecdote evidence, some corrupt suppliers are involved in these illegal activities in order to stay afloat. They have mastered the trickery of clinging on self- induced contracts.

Hon Deputy Speaker, cumulatively, these factors have the effect of placing our commuters on the receiving end. They are the ones that are suffering a lot. The poor’s travelling experience has a bearing not only on the commuters’ wellbeing but also on the country’s economic growth prospects. It means that the economic growth of our country suffers a lot.

The railway service infrastructure, as of today, must be seen with the broad objective of maximising social and rail infrastructure to boost economic growth. The Minister must rise to the occasion and stamp his authority. I believe that if we can all come together and try to find solutions because it cannot be solutions of the government alone, even the people have to get down to business and look for criminals, like if we can bring back the railway police that used to patrol train stations, it can be good.

You remember, we used to have the so-called ticket examiners. Those were the people that maintained order in the trains. It would therefore not be easy for these criminals to do what they want to do. Let’s come together and do things together and restore the infrastructure of our country. Without infrastructure, our economy cannot grow. It is important that we have good and sound infrastructure so that we can contribute to the growth of our economy. So, we need to do this together. Thank you very much, Deputy Speaker. [Applause.]

The DEPUTY SPEAKER: I suppose the COPE, PAC and Al Jama-ah are still not here. If they are not, I do not have the name of the ANC speaker who should be following. Chief Whip, who is the next speaker from the ANC? I don’t have the name.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon Deputy Speaker!

The DEPUTY SPEAKER: Yes, ma’am!

The HOUSE CHAIRPERSON (Ms M G Boroto): We have hon Mabhena from the DA to be followed by the Minister of Transport as he makes his closing remarks. Thank you.

The DEPUTY SPEAKER: It means the list that I received was wrong because there is the ANC on it. That’s fine.

Mr T B MABHENA: The impact on the continued vandalisation of the Prasa infrastructure is endemic on the lack of leadership, decision-making and incapacity to government by the ANC government. The ANC Chief Whip stood here and said this debate is about the forgotten poor people. She fell short of confirming that the ANC forgot these people; the forgotten contract security guards.

The DA met with these forgotten and dismissed contract security guards. What we heard was heartbreaking and nausity. It was like listening to warrior stories sponsored by this corrupt ANC. Firstly, contract security personnel were working under the most trying conditions. Two security personnel, a male and female were deployed in the bush to guard and patrol a two kilometer radius of cable without toilets in the vicinity. They were forced to relieve themselves in the bush. The indignity of a women to relieve herself in the bush and in front of a male counterpart, who must look out for criminals and possibly compromising her right to privacy just to be safe.

About three women who were once deployed at night in the bush were robbed at gunpoint and their cellphones taken while one of them was raped and her male counterpart was beaten to the pulp. Their firearms were taken on separate occasions. Guess what? The Prasa has done nothing about these horrific incidents.

Hon Mangcu also stood here and just sang. Well, this is all they can do, just sing. They fail to lead and to govern.

The Prasa embarked on an insourcing process that is riddled with corruption and fraud. Security guards that have been working for the Prasa on contractual basis for over 15 years have been overlooked for insourcing for the benefit of former Luthuli employees. Many of the dismissed Prasa security guards bag the qualifying criteria for insourcing, which stated that they needed to be in possession of a matric, driver’s license, Private Security Industry Regulatory Authority, PSIRA, license and firearm competency. However, they were advised that they don’t qualify in contrast to the newly insourced former Luthuli house employees who don’t even meet the criteria.

The Prasa conducted medical fitness assessments for the insourced workers in Braamfontein this year ... [Interjections.]

Ms T LETSIE: Deputy Speaker, can a member take a question?

The DEPUTY SPEAKER: Hon Mabhena, will you take a question?

Mr T B MABHENA: No, man, I can’t take a question.

Ms T LETSIE: Can you take a question? Which mode of transport do you use? Did you employ those people?

Mr T B MABHENA: I will take your question afterwards ...

The DEPUTY SPEAKER: Hon member, no. Don’t engage in a dialogue. Go ahead hon Mabhena.

Mr T B MABHENA: You’ll have a heart attack. Okay, the Prasa conducted medical fitness assessment for the insourced workers in Braamfontein, this year, of which it included running a 2,5 km distance in just 11 minutes. During the same time, a lady from Limpopo was eight months pregnant and in no condition to run, but guess what, she had the certificate indicating that she ran the 2,5 km in record time and today she is a full-time employee of the Prasa as a security guard.

Deputy Speaker, this is an ANC sponsored problem. We need real hope and real change now. I thank you. [Applause.]

*Isizulu*:

Bayede Ngonyama.

The MINISTER OF TRANSPORT: Hon Deputy Speaker, members of the House, hon members, let me thank the Chief Whip of the ruling party for placing this matter on the agenda of Parliament.

*IsiZulu:*

Amasi abekwe elangeni.

*English:*

The jig is up. Torching of trains, theft of signalling cable, theft of track, damage to stations and theft of equipment, do not only cripple the service intended for the poor, but creates untenable situation where the taxpayer is expected to foot the bill for replacing such stolen and damaged infrastructure.

We are a democracy founded on the foundations of human rights and the rule of law. All our interventions must ensure that the rights of those who rely on the commuter rail system are protected and respected. In the same vein, the might of the law must be

unleashed on those who continue to destroy and steal public assets for their narrow, self-serving ends. We agree with hon members when they say that those who are arrested should not only be charged with mere theft, but with serious economic sabotage.

Our rail system continues to be a target of theft and vandalism, senseless attacks on employees and private security while on duty, and sabotage. These have seen security-related incidents in the rail environments, increasing by 20% between 2017-18 and 2018-19

from 7 734 to 9 000. Since 2012-13, security-related incidents per million train kilometres increased by 175%. The harsh reality is that security-related incidents in the rail environment are out of control and need urgent attention. Over the same period, the overall harm to persons increased by 15% from 2017-18. Theft and vandalism accounted for 88% of all security-related incidents in 2018-19.

In addressing the pressing challenges that impact on the livelihoods of the poor who rely on the rail system for their mobility needs, we have sought to secure the passenger rail environment by bolstering passenger security. The previous security arrangement was based on 100% outsourcing model and placed reliance on private security firms. Nothing wrong with

that. Notwithstanding the huge cost that intervention was clearly not realising the desired outcome.

So, hon Mabhena, this particular arrangement of private security companies was tried and tested, and never delivered the goods. In fact, some of these security companies were in cahoots with criminals. What are we dealing with in Passenger Rail Agency of SA, Prasa? We are dealing with syndicates; we are dealing with organised crime. A new security plan was recently unveiled and this plan is premised on developing the requisite internal capability and capacity to mitigate and combat theft and vandalism of the rail infrastructure.

The plan prioritises internal security capability for armed response, control room operations and increasing the number of physical security officials will also be created. An e-guarding solution for the protection of mission-critical assets, which includes substations, relay rooms and sites for global system for mobile communications. Specialised investigation services, with legal support and access to criminal laboratory – has been procured. This capability will assist the department in securing better sentences and also improve the prosecution rate of offenders. Remotely piloted aircrafts systems, also referred to as drones, have been deployed to conduct to virtual patrols.

These interventions are not only security force multipliers, but also enablers that would make a valuable contribution to the enhancement of security responses to theft and vandalism. We’ll also result in significant reduction in crime statistics in the rail environment. This will be implemented by the walling of corridors with Mabopane in Gauteng, and the central line in Cape Town already at procurement phase. We have a secured land to move those who have settled in the corridor line, central line in Cape Town, to a secure place together with the Department of Human Settlements and the Department of Public Works and the City of Cape Town.

Hon Deputy Speaker, the security measures highlighted are meant to secure not only the massive investments in modernising our commuter rail system, but also to protect the livelihoods of millions of South Africans who rely on the system for their livelihoods. This is a necessary building block for recovery following the devastation of COVID-19 pandemic left in its wake.

Our economic recovery plans will be characterised by, among others, an infrastructure investment drive to improve the state of rail infrastructure and to ensure that it enables economic growth. In the rail sector a number of infrastructure programme will be intensified, to prioritise, repairs and maintenance and also to

modernise the passenger rail services. Capital transfers to Prasa will fund acquisition, new trains and locomotives, refurbishing of train coaches, upgrading and improvement of stations. Once completed, this infrastructure programmes will drive the increase in passenger trips for the user, for users accessing economic opportunities and social amenities.

I wish to bring to the attention of members that the Gibela operation in Nigel is up and running. We intend to invest more resources. [Applause.] The Blue trains - even though I don’t like the colour – will be the new trains you will see in our corridors in the country. This programme will also create job opportunities. This programme has already created many jobs. The interventions will have a strong bias in favour of women, youth and persons with disabilities. This bias is critical in ensuring meaningful access to economic opportunities for vulnerable groups.

At the core of the investment drive lies a pertinent issue of funding. We also believe that funding is a policy matter. Once the transport-economic regulator is established, funding issues will be addressed adequately. This issue is compounded by the challenge around ownership of rail infrastructure, particularly pair ways railway lines. We hold a strong view and I wish to agree that the current agreement between Prasa and Transnet do not provide the

most optimal benefits for the sector and require a rethink. [Applause.] That is what we are dealing with and you are going to see a better announcement with regard to this matter.

Deputy Speaker, others have been quick in calling for a devolution of a railway to the metros. It is your policy not our policy. As a Minister, I am not mandated to devolve railways to the metros. [Interjections.] The mandate of the ANC government is to strengthen Prasa. I want to admit that Prasa has been ravaged, run down and completely a mess as characterised even by the judge in the case with regard to the appointment of the administrator.

Now, what are we doing about that? We are ensuring that law- enforcement deal with all the criminal suspects in relation to those who have run Prasa down. This calls for the devolution or rather opportunistic and self-serving. Such devolution will exacerbate the problem that we are confronted with. Modernising, maintaining, expanding rail infrastructure and network requires massive investments that can best be harnessed through a single ownership and operation model.

A fragmented approach would also mean metros and provinces that do not have the requisite resources or capacity to operate the services will be neglected. We are not advocating for

privatisation. We must not be second guessed on this matter. Prasa is not being privatised nor its main branch lines. The government is working in concession out some of the utilised branch lines and thereby extending the commuter rail service ploughing in private sector investors and players to enter the main stream rail services.

We believe this is key to the future of rail and to the diversification of the sector as well as an important catalyst towards the improvement of the quality of services to the commuter. The intent is to ensure a reliable, affordable and an efficient commuter-rail service and the example for those who would know Botshabelo, Bloemfontein and Thaba Nchu, with intent to ensure that such branch lines are actually concessioned with private sector in order to operationalise them. However, the railway infrastructure as it is, at the current moment, it is not our policy to privatise that. We are going to refurbish, reboost, try to integrate with Transnet in order to address the challenges that are there in relation to overlapping of tasks with regard to Prasa and Transnet.

In a nutshell, the value-based solution is to build a solid and a sustainable Prasa by resourcing it, creating fair market prices, ensuring fair access and ensuring that fair service standard and

quality of services are offered. It is only through these interventions, that we can cushion the most vulnerable and the poor from the devastating impact of relentless criminality in the form of theft and vandalism of the public railway infrastructure. The long arm of the law must find these criminals and courts must consider the devastating impact of these crimes when handing down judgement.

We have acted with speed on issues of governance, as required by the law, particularly the recent judgement by the Cape High Court. We have appointed the board. The board is with people with requisite skills. We have engineers. We have accountants, not the one I see at the Zondo Commission. [Laughter.] We have a good mixed of age and women. We have good people with good governance skills, so that they understand their fiduciary duties. That is the board that we have appointed. That board is expected to accelerate the programme of ensuring that we employ the group chief executive officer, the GCEO, at Prasa alongside the management that has been crippled over the years.

We are confident, even though we are facing a devastating situation of probably a disclaimer from the past. Going forward, there is a base to build on to bring Prasa back to line. I am confident that next year when we meet in this House, you will get

a very encouraging report. What are we dealing again within Prasa? Prasa is not outside our plans in terms of the integrated public transport network in the country. We deal with taxis, in terms of their formalisation. We also deal with upgrading and ensuring that we implement our policies of moving from rail to road. Then increasing and upgrading the branch lines that are underutilised. The aim is to ensure that we move in full scale by bringing and diversifying our mode of transport and ensuring that the modes of transport like rail, also do give us an input in relation to what we want to achieve as a country. What are we dealing with in terms of Prasa, we are dealing with syndicates? We are dealing with entrenched criminality both within and outside. That is why we have an integrated approach in relation to an integrated plan of security that we are implementing at Prasa, as we speak. Thank you very much.

Dr C P MULDER (POINT OF ORDER): Hon Deputy Speaker.

The MINISTER OF TRANSPORT: Deputy Speaker.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon Deputy Speaker ...is it Frolick? Hon Frolick, there is a point of order from the House.

Dr C P MULDER: Hon Chairperson, it’s not a point of order. I would like to ask the Minister whether he is prepared to take a question?

The MINISTER OF TRANSPORT: Yes, you can ask.

The HOUSE CHAIRPERSON (Mr C T Frolick): No, hon Mulder, unfortunately the Minister’s time has expired.

Dr C P MULDER: The Minister says its right, he is ready to do it.

The HOUSE CHAIRPERSON (Mr C T Frolick): He can do it outside the Chamber, hon Mulder. Unfortunately, he doesn’t have speaking time left. Thank you.

# CONSIDERATION OF REPORT OF PORTFOLIO COMMITTEE ON WOMEN, YOUTH AND PERSONS WITH DISABILITIES ON DRAFT NOTICE ON DETERMINATION OF SALARIES AND ALLOWANCES OF COMMISSIONERS OF COMMISSION FOR GENDER EQUALITY IN TERMS OF DETERMINATION OF REMUNERATION OF OFFICE- BEARERS OF INDEPENDENT CONSTITUTIONAL INSTITUTIONS LAWS AMENDMENT ACT, 2014

Ms C N NDABA: House Chairperson, I hereby present a report on determination of numeration of independent constitutional institutions on behalf of the portfolio committee.

A letter dated 26 March 2020 was received from the President of the Republic requesting the National Assembly to consider the draft notice of determination of salaries and allowances payable to office-bearers of independent constitutional institutions including the commissioners of Commission for Gender Equality in terms of the Determination of Remuneration of Office-Bearers of Independent Constitutional Institutions Laws Amendment Act 22 of 2014 with effect from 01 April 2019.

On 30 June 2020 the matter was referred to the committee for it to consider the proposed determination for the salaries and allowances payable to the commissioners of the Commission for Gender Equality. The Portfolio Committee on Women, Youth and Persons with Disabilities met on 18 August 2020 and considered the draft notice on the determination of remuneration of independent constitutional institutions.

Section 219(5) of the Constitution of the Republic of South Africa 1996 provides that the national legislation must establish frameworks for determining the salaries, allowances and benefits

of judges, the Public Protector, the Auditor-General and members of any commission provided for in the Constitution, including Commission for Gender Equality referred to in section 187 of the Constitution.

The Determination of Remuneration of Office-Bearers of Independent Constitutional Institutions Laws Amendment Act 22 of 2014 which came into operation on 01 April 2019 creates the necessary framework to determine the salaries of office-bearers of Chapter 9 institutions mentioned in the Constitution.

Section 8(1) of the Commission for Gender Equality Act 29 of 1996 stipulates clearly that the remuneration, allowances and other terms and conditions of office and service benefits of the full time and part time members of the commission shall be determined by the President.

The Independent Commission for Public Office-Bearers gazetted its recommendation on 13 February 2020 on the Government Gazette

No 43019 13 February 2020 having consulted with the institutions concerned and the relevant Ministers to better understand the remuneration of office-bearers in the various independent constitutional institutions as well as related concerns and challenges.

Pending a majority salary review, the independent commission recommended that the office-bearers be treated in line with other public office-bearers receiving a 3% adjustment to the remuneration of all categories of public office-bearers earning above R1,5 million and 4% for all categories earning below

R1,5 million.

Having taken into account the serious economic challenges that country faces and the constraint fiscal environment, the President, however, has proposed a salary freeze for office- bearers earning R1,5 million and above; a 2,8% adjustment for office-bearers earning between R1 million and R1,5 million; and a 4,5% adjustment for office-bearers earning below R1 million.

The committee deliberated and concur with the President’s determination on the remuneration adjustment of the Commission for Gender Equality commissioners that a retrospective salary freezes or 0% increase be implement for the chairperson and other full time commissioners given their salary level for the 2019 -2020 financial year. For the part time commissioner, a similar freeze will thus apply to the daily or hourly-rate which they received for 2019-2020.

The committee recommends that the National Assembly approves the draft notice determining the remuneration of commissioners of the Commission for Gender Equality. Furthermore, the committee is mindful too of the impact of the COVID-19 pandemic on the country’s economy. The Portfolio Committee on Women, Youth and Persons with Disabilities adopted the report and noted that the DA reserved its right to adopt the report. The report to be considered by the House. I thank you very much, House Chairperson. [Applause.]

*Declarations of vote:*

Mr L MPHITI: Hon House Chairperson, it is always important to be reminded of the importance of the independence of constitutional institutions, particularly one like the Commission for Gender Equality, which has a significant role to play in promoting and protecting the rights of South Africans.

The Portfolio Committee on Women, Youth and Persons with Disabilities has considered a draft notice on the remuneration of independent constitutional institutions, referred to it by the President of the Republic on 30 June 2020. Considering the report, it was hard to forget the millions of South African people who have been hit the hardest during this Covid-19 pandemic. They have taken blow by blow. The ANC’s hard lockdown has killed millions of

jobs and left many destitute. The current fiscal constraints and challenges continue to hit us all where it hurts.

The DA recognises that the country finds itself on the edge of a fiscal cliff. Let us not make the mistake of forgetting that young people continue to bear the brunt of unemployment, poverty and inequality. For South Africans in the age groups between 15 and 34, the situation is far, far worse.

We have a serious challenge. As the DA, we would like to remind this government to make financially sound decisions that take cognisance of the economic challenges that we face. The DA welcomes the salary freeze on office bearers earning above R1,5 million, which is in line with what we, as the DA has been saying.

It is time for the ANC to choose South Africans over millionaire managers and protect the public purse. The DA supports the findings of the committee and reminds the ANC that a measured and responsible government is crucial at a time like this for all South Africans, in particular young people. I thank you.

Ms N K F HLONYANA: Hon House Chairperson, we have just been told by the Minister of Finance that, as part of their attempt to control the public wage gap, public servants will not be getting

their salary increase for a while. If this is a genuine attempt to reprioritise government spending, then it should be extended to political appointments too. We know that it is not genuine and seeks to scapegoat public servants for bad management decisions taken by politicians. This determination on the remuneration and benefits payable to commissioners of the Commission for Gender Equality is proof that what is good for the goose is not necessarily good for the gender, in the eyes of our leaders.

We are one of the most unequal societies in the world. This inequality is sharpened by the abnormal large gap in salaries in the public service. We have to systematically address this problem and ensure that those at the bottom of the wage gap have their salaries gradually increased, while those earning a lot already, need to make the necessary compromises.

We welcome the salary freeze for the commissioners and we want to call for the freeze across the board for all commissioners.

Commissioners cannot be rewarded with increases, while they fail to execute a critical institutional mandate.

Of note, the Commission for Gender Equality, CGE, investigation report on the forced and coerced sterilisation of women living with HIV and Aids in South Africa released on 24 February 2020 is

a prime example of the commissioners’ failure to serve South Africa.

The horrific finding in the report do not match the binding recommendations of the report. How did the commissioners have findings that are criminal, yet not make a single recommendation that those matters be criminally investigated and prosecuted?

Not on our watch will we support mediocracy of any Chapter 9 institution. When commissioners take their mandate seriously, we will take the reimbursement increase seriously. We do not support any increase and we certainly do not support the report. I thank you.

Ms L L VAN DER MERWE: House Chairperson, the hon Hlengwa is in the House. She is at the podium.

Ms M D HLENGWA: Hon Chairperson, hon members, the IFP has considered the report by the Portfolio Committee on Women, Youth and Persons with Disabilities, in relation to the determination of salaries and allowances of commissioners of the Commission for Gender Equality. We support the committee’s recommendation.

The determination made by the President in relation to the salaries and allowances of the commissioners of the Commission for Gender Equality has been informed by the stark economic reality our country faces.

The IFP sadly recognises that the results of the serious economic constraints will inevitably place pressure on our constitutional institution in fulfilling their mandate. This institution such as the Commission for Gender Equality plays a vital role in our constitutional democracy. Now more than ever, as our country is plague by gender-based violence and femicide, the work of the Commission for Gender equality is very critical.

It is our duty as a Parliament to support the Commission for Gender Equality and to lend support to all constitutional institutions. [Applause.] We have to ensure that the financial impact of the pandemic do not cripple this institution and prevent it from fulfilling its mandate.

We need to carefully monitor its expenditure, measure its performance and ensure accountability. At the recent portfolio committee meeting on the 2020-21 first quarter financial performance, concerns were raised by various members on the use of consultants by the commission and the failure of the commissioners

to submit quarterly reports. This cannot simply be ignored. The unpredicted times call for strenuous checks and balances

We cannot afford to waste any more of our scarce and available resources. The IFP will continuously monitor the performance of the commission and provides support to ensure that it fulfils its constitutional duty, despite these unforeseen economic constraints. I thank you.

Dr C P MULDER: Hon Chairperson, the FF Plus is not going to make a declaration. Thank you.

Mr S N SWART: Hon House Chair, the ACDP rises to support this report. It is consistent with the other recommendations of the President. And whilst the Independent Commission came out with a certain recommendation, given the financial constraints facing the nation, we are supportive of the freeze that the President recommended and that applies to this institution as well.

We would however also remind the House about the Kader Asmal report that spoke to the unification of the different Chapter 9 institutions and that this is an issue that still also needs to be attended to by this House. That having been said, we support this report. I thank you.

Ms F A MASIKO: Hon House Chair, we are very present as the ANC. The ANC moves in support of the report. The Department of Women, Youth and Persons with Disabilities, through its entity, the Commission for Gender Equality, plays a significant role in continually advancing and promoting gender equality in our country through undertaking research, public education, policy development and effective monitoring and litigation.

The Commission for Gender Equality safeguards the rights of South African, particularly the most vulnerable whose human rights are violated, and upholds equality for all in our country.

Commissioners within the commission play a pivotal role in monitoring and evaluating government policies and private bodies to ensure that they promote gender equality.

The commission also evaluates existing legislation and practices to ensure that they are compliant with international standards relative to gender equality. This is assured through the assessing of women economic empowerment initiatives in South Africa where the commission monitors and evaluates the effectives of such initiatives and provides recommendations where required.

The ANC constitution articulates nonsexist policies that have deeply influenced the Constitution of the Republic of South

Africa. The entrenched Bill of Rights extends to all people the right to equality before the law, the right to human dignity, the right to life and the right to freedom and security of the person.

It is, however, disheartening to know that women walking free in the streets and children playing safely in open spaces seems to be a distant vision that is yet to be realised. Patriarchy remains a cancer eating the women of our society and takes the ugly form of gender-based violence and femicide. Every day we wake up to news of women slain and usually at the hands of their lovers.

The ANC is therefore adamant in realising a safer society for all and building safer communities in which even the most vulnerable feel safe and free to live, as indicated in the National Development Programme, the NDP. The ANC government, working together with civil society, has stepped up the fight against gender-based violence through the implementation of the National Strategic Plan to strengthen the fight to combat violence against women and children.

The ANC government is also determined to uproot patriarchy in society through transforming economic relations and changing the way of thinking about gender relations. That is why, through the Emergency Response Action Plan on Gender-Based Violence,

government has invested in fighting toxic beliefs and attitudes that lead to gender-based violence, such as addressing toxic masculinity in young boys that can contribute to patriarchy; improving the capacity of the SA Police Service with rape kits in order to better assist victims of sexual assault; and prioritising mental health through providing educational programmes and support to victims.

The commission ensures that its programmes are reachable for the masses of our people through their radio programmes, in partnership with several radio stations and various indigenous languages to ensure that the radio programmes reach the most remote areas.

The Commission for Gender Equality is an essential institution to examine that government, the private sector and civil society prioritise gender equality to fully realise an equal society and eliminate sexism and discrimination based on sex and gender. This is done through assessing government compliance with the Convention on the Elimination of All Forms of Discrimination Against Women, Cedaw, and monitoring government initiatives in combating gender-based violence and the violation of human rights, as in the case of forced sterilisation.

The commission scrutinises and monitors that victims of violence have access to justice through their advocacy and legal and outreach clinics in various provinces across the country and monitors gender mainstreaming by identifying gaps in government in all provinces.

We applaud the ANC-led government for enacting a framework to guide gender-responsive planning, budgeting, monitoring and evaluation, which is imperative in achieving the country’s constitutional vision of a nonsexist society. It is aimed at ensuring better outcomes for women and girls and more tangible gender impacts in South Africa.

The ANC supports the report and remains committed to achieving gender parity for women and vulnerable groups through the processing of the Women Empowerment and Gender Equality Bill which is close to finalisation, the national youth policy which aims to effect positive youth development affects in South Africa which is currently under discussion with comments and roots to Cabinet, and the disability Bill which is to be introduced.

Although most of the commissioner’s programmes and work were affected by lockdown and COVID-19, the commission managed to execute its constitutional mandate. However, there is still more

to be done with regard to reaching equitable gender parity in our society, empowering women and protecting those that are most vulnerable, such as persons with disabilities, children and members of the lesbian, gay, bisexual, transgender, queer or questioning, intersex and asexual or allies communities, the LGBTQIA+ communities.

The Commission for Gender Equality is best placed to evaluate the effectiveness of government initiatives to combat inequality that assists in eliminating sexism, patriarchal beliefs, norms and practices in our society.

Hon House Chair, allow me to conclude by referring to the inspirational words of the son of the African soil Thomas Sankara, who believed in gender equality through the protection and emancipation of women. It is he who said, “There is no true social revolution without the liberation of women. May my eyes never see and my feet never take me to a society where half the people are held in silence.” For these reasons, the ANC moves in support of the report. I thank you. [Applause.]

Report adopted and Draft Notice determining salaries and allowances of commissioners of Commission for Gender Equality accordingly approved (Economic Freedom Fighters dissenting).

# CONSIDERATION OF REPORT OF PORTFOLIO COMMITTEE ON INTERNATIONAL RELATIONS AND CO-OPERATION ON OVERSIGHT VISIT ON PILOT PROJECT FOR ACQUISITION OF OFFICE ACCOMMODATION FOR SOUTH AFRICAN PERMANENT MISSION TO UNITED NATIONS AND CONSULATE-GENERAL IN NEW YORK, UNITED STATES OF AMERICA

Ms T MAHAMBEHLALA: Chairperson, the portfolio committee had a concern that leases and rentals of properties abroad were increasingly becoming cost drivers for the department. The portfolio committee was of the view that the department should acquire properties for use by South Africa’s missions abroad as opposed to renting. Office accommodation in New York was identified as a pilot project for a private-public partnership acquisition model by the department. While in Pretoria for the orientation visit in August 2018, the portfolio committee found that the South African permanent mission to the UN in New York is rented on a monthly rental fee which is exorbitantly above the norm.

Furthermore, it was found that the Auditor-General of South Africa had a finding in 2017-18 that the department had embarked upon a procurement of offices for its permanent mission and consulate- general for which it had already incurred an irregular expenditure of R180 million. It was against this background that the committee

resolved to urgently undertake a fact-finding visit to assess the two situations. The Auditor-General found irregularities in the execution of the pilot project in New York. Some of the contracts were awarded to bidders based on evaluation or adjudication criteria that differed from those stipulated in the original invitation for the bidding. Alas, the company which was awarded the tender was found not to have participated in the bidding process. This led to the department incurring irregular expenditure to the amount of R118 million for a land parcel. The irregular expenditure was incurred in the design, construction, operation, maintenance and finance of the office and residential accommodation for the South African diplomatic missions in Manhattan, New York.

To add salt to the wood, the initial terms were for a building covering 40 000 square meters however the successful bidder was working on a 20 000 square meters instead. The committee conducted an inspection in loco of the New York pilot project area to establish if whether there is a vacant land parcel in which

R118 million had already been paid for the purpose of the building, a suitable and sustainable office and residential accommodation for the South African diplomatic mission in Manhattan, New York as planned.

On arrival on the site, there was no vacant land on the New York pilot project site – no land. But existing was an unsuitable dilapidated building and R1128 million has already been paid for design and other related matters to prepare the land. What we saw confirmed what the report of the Auditor-General had pointed out - discrepancies and inconsistencies in the procurement process on the New York pilot project.

It is six years since April 2014 when the lease expired and the current office accommodation for the two missions in the New York office has still not relocated to a suitable office space. The rentals are exorbitantly in that building. The building is not suitable for a diplomatic office accommodation. It is used as a hospital and poses a health hazard and it is even small in size. The delay to relocate is a bit disadvantage to the officials in the two missions in the New York department. It cannot be that the good image of this country will be met by the supply chain management challenges associated with the New York pilot project. This is not short of diplomatic embarrassment and it poses a reputational risk.

The committee had conducted the inspection. Two spaces were identified to which the mission will relocate. It was shocking to find that the two were not even comparable. The 605 was moved in

already. The 885 was a shame, a shell house, an abounded warehouse and a parking lot similar to those used in horror movies. It was even more disappointing that the department’s property adjudication committee actually chose the parking lot for the relocation of the two missions in New York. We demand consequence management with regard to all officers who were involved in misleading the department to choose a parking lot. In our view this is day light robbery of state funds for corruption purposes. We recommend that the process for searching for a suitable relocation place start afresh to compare suitable alternative office spaces. We demand investigation and consequence management should follow as soon as possible.

Lastly, we urge you to look into how Parliament could better serve by travelling agency. The flight tickets are much cheaper when bought online than through a travel agent. The challenges and discrepancies we found in New York tell us that we need to conduct oversight to other missions soon. The Parliament’s oversight model is not user-friendly to the unique mandate of this portfolio as the bulk of its work is beyond the borders of the Republic of South Africa. However, with a new normal we will be able to be creative and engage stakeholders to the best way we can. Hoping for the support from this institution! I ask the House to support the report. Thank you.

There was no debate.

The CHIEF WHIP OF THE MAJORITY PARTY: House Chair, I move:

That the Report be adopted.

*Declarations of vote*:

Mr M CHETTY: Hon House chair and fellow members, at the onset we must be clear, this department and the manner in which it dealt with the New York Pilot Project embarrasses, even been compared to the running of a *spaza shop*.

The absence of the Ambassador Jerry Mataila was a clear indication that there was something rotten in the State of New York. At the centre of this oversight was the irregular expenditure of a

R118 million for the New York Pilot Project as identified in the Auditor-General’s report of 2017-18.

It must be noted with serious concern that certain contracts awarded by this department deviates from the stipulated Supply Chain Management criteria to benefit those closely connected to certain key role players. It comes as no surprise that this very oversight was rejected, not once, not twice, but on three previous occasions due to the shenanigans that had taken place.

After our interaction this delegation can claim that the notorious New York Pilot Project and the R118 million in question is both fruitless and wasteful expenditure. The procurement under discussion was a rundown, dilapidated, abandoned building and not the vacant land as stipulated.

This department is run like a fiefdom for certain officials who even fail to engage with the State Legal Advisor’s department when engaging on the New York Pilot Project. The State Legal Advisor was only contacted on the eve of the deadline, requesting legal to sign off on a multi-million rand agreement. This bullying tactic seems to have been the norm, practice, as this department can best describe as having two bulls fighting in one kraal; both the Director-General and the Chief Financial Officer, CFO, you had continuous loggerheads on this.

The under handed shenanigans in this department was further evident when the delegation conducted an oversight of the two venues that the department had identified as alternatives.

Our suspicions of the sinister deals by the department was confirmed when upon viewing the two sites, the first, No. 885 Second Avenue, which can best be described as an empty shell or an abandoned warehouse; whilst the second, NO. 605 Third Avenue, was

fully partitioned, carpeted and ready for immediate occupation, food for purpose and already housed two other embassies.

This very depart in the infinite wisdom, chose to recommend the abandoned warehouse as its preferred option, much to the bewilderment of the delegation. One cannot be faulted for assuming that this was the reason for the ambassador going AWOL.

Fortunately, this delegation’s intervention has resulted in the process being halted, and for a more comprehensive assessment of the venues in question be conducted.

Chair, it must be further noted that it has been witnessed that embassies flout procurement procedures, which leads to fruitless and wasteful expenditure when booking accommodation for foreign delegates.

The failure by this department to successfully implement the New York Pilot Project has impacted negatively on the roll out of securing other venues in other regions; this resulting in the departing overspending on high rentals.

The actions or lack thereof, of ambassadors as well as many ambassadors, for example, the ambassador of Denmark, Netherlands

and Brazil, who have all embarrassed South Africa on the international arena, has vindicated the DA’s plea to government that the appointment of ambassadors should not be appointed solely by the President, and for him to select representatives to compensate for political crony patronage, but rather for Parliament to ensure that competency and excellence as a criteria that is used for the appointment of ambassadors.

The sooner the Foreign Service Bill comes into action the quicker it will help assist to address some of the issues that have impacted this department negatively.

We further demand that all those that have been found guilty to be charged and for those monies to be recovered from them personally.

We support the recommendations. I thank you. [Applause.]

Ms E N NTLANGWINI: Hon House Chair, we went to New York as this committee because we deemed it necessary to conduct oversight visit on what we thought were disturbing developments in relation to the acquisition of office accommodation for our mission in New York.

Despite the seriousness of this visit, the committee was shown nothing but disrespect by the Ambassador, Jerry Mataila, who decided not to even meet with the committee and tendered no apology of any kind.

It does not look like our mission in New York is in a state of complete, it does look that our mission is in a state of complete disorganization because we were not only disrespected by Mataila, but also had to wait for 10 hours before our accommodation was sorted.

As for the purpose of the trip we found that the department has paid R118 million for vacant land that does not exist. What is in this place were land that was allegedly bought similarly to an old rundown building which is not suitable for the purpose of the building, an office block for the mission there. This is an indication of deep-rooted characterised administration of a mission where the former director-general of the department, the Commissioner Mataila, has figurehead of maladministration.

The department, as with other departments run by the ANC, recycle discredited officials and place them into positions of power without ever holding them to account.

The project for the acquisition of the office space of the New York mission is a diplomatic embarrassment. It paints South Africa as a country that cannot simply get office accommodation for a mission as important as it is in New York.

[Inaudible.] a normal administration and all those in the department who enabled him to preside over this administration would have been fired already. But because the ANC tolerates corruption and tolerates incompetence, nothing will happen to these people who embarrass us like that. [Interjections.]

We do support the recommendation and hopefully do think that these people should be charged as soon as possible. Thank you very much, Chair.

Mr M HLENGWA: Hon House Chairperson and hon members, as if the corruption that is taking place in South Africa is not enough; its agents and proponents have decided to make it internationally now, take it abroad.

Hon members, our task is to act as an effective mechanism for oversight and accountability. As such our role has grown increasingly in [Inaudible.] findings of [Inaudible.] and

corruption, incompetence and negligence during the covid coronavirus pandemic.

In the report the committee undertook an unprecedented fact- finding oversight visit beyond the borders of South Africa. Equally, it is significant that such a goal was related to the findings of the Auditor-General, entertained within the first 100 day of its commencement of work in the Sixth Parliament. According to the report noncompliance with rules and legislative requirements led to an amount of R188 million being paid for what was [Inaudible.] the department unknowingly assumed to be vacant land to construct a sustainable office at presidential building.

The purchase and construction of this building form part of the department’s pilot public-private partnership project.

Failure on behalf of the department to comply with supply chain prescripts will for the unforeseen future result in more wasteful expenditure as the project has been put on hold.

The department seems and appears to have been overwhelmed and incapable of undertaking duties that it will be charged with once the Foreign Service Bill is adopted or implemented.

Accommodation norms and standards are not being adhered to, resulting in political appointees, humiliating the country with outlandish and wasteful requirements as we have heard and read over the past weekend.

The department has, in past, relied on its partnership with the Department of Public Works for project management in the construction of new diplomatic missions and conduct valuation of properties to inform acquisitions and disposal decisions. It leaves us to ask then: Why has the department not continued to rely on these partnerships to capitalise on the shared skills and expertise?

There are doubts on how corruption and negligence surrounding this project to be rooted out as the same individuals who are charged with overseeing this capital project remain in strategic positions and worst of all, abroad.

Accountability and consequence management is needed and corrective action must be effected as we continue to weather the storm of corruption that has ravaged our nation and now embarrassing us internationally.

The IFP supports this report. I thank you, Chair.

Dr C P MULDER: Hon chairperson, this report clearly indicates that the Department of International Relations and Co-operation did not escape the tentacles of corruption up to the highest level.

FF-Plus did not participate in the fact-finding mission to New York but I’ve studied the report and I’ve had reports back in the committee from our Chairperson and the other committee members that did attend. And it’s a very thorough report that deals with this whole issue and what happened.

I think we should be proud of ourselves as parliament, as an institution that brought this corruption and this problem to the House.

However, the officials in that department who are responsible for what happened here did not act on their own; there is an executive. This happened during the period of the previous Minister responsible for that department and I cannot understand that we do not see consequences in that regard as well. Executive should be held to account, not only the officials involved, there’s a Minister responsible for a department and for what’s happening in that department.

The FF-Plus will support the report. Thank you very much.

Mr S N SWART: Chairperson, the ACDP supports this report. We just want to commend the committee on this historical fact-finding mission, going overseas. And it is quite disgraceful when you read the report to hear what the Members of Parliament, MPs, found out when they arrived there, when they looked at the different buildings that have been allocated, and I saw the one for

R118 million which was supposed to be a vacant plot, a dilapidated building and then as was referred to by the other speakers, the preferred option was also a decrepit warehouse as opposed to a furnished office.

So, clearly there was a lot of shenanigans going on here and a lot of corruption. But it is very insightful that the members were united as Members of Parliament and were not dismayed when even the head of mission didn’t arrive, when the ambassador didn’t arrive, when the accommodation wasn’t there, they pursued the oversight function with vigour and that bids well for oversight going forward.

And of course the question that arises is, this oversight visit took place in December, the report was brought in March and the number of the recommendations was ... we have a member, Reverend Kenneth Meshoe, is on the committee, but one would like to know to what degree the recommendations have been complied with? And I

think that’s a further follow up for the committee; and in particular the one recommendation, 12,13 in view of the findings of the Auditor-General and of course, what the committee found, that the Minister should consider requesting the President to recall the permanent representative to protect the integrity of the country and the efforts towards economic diplomacy. We would support that. And of course we would also support, looking at other missions throughout the world where such procurement practices and corruption could also be taking place.

So, we do support this report and commend the committee. I thank you, Chairperson.

Mr W M MADISHA: House Chairperson, COPE supports the committee’s report and all recommendations put before the House. Thank you.

Mr X NQOLA: Hon House Chair, the House must note that it is the ANC component in the committee that is leading the action against the wrongdoing in the pilot project in New York. So, hon members must not find it too comforting to accuse the ANC of the things that it has no knowledge of. As the ANC component in the committee, we say that all wrongdoers in the pilot project must be brought to book.

In terms of section 217 of the Constitution of the Republic of South Africa, when an organ of state in the national, provincial and local sphere of government or any other institution identified in national legislation, contracts for goods or services, it must do so in accordance with a system that is fair, equitable, transparent, competitive and cost effective.

Section 38(1)(h) of the Public Finance Management Act prescribed that the accounting officer for a department must take effective and appropriate disciplinary steps against any official in the service of the department, trading entity or constitutional institution who makes or permits unauthorised expenditure, irregular expenditure or fruitless and wasteful [Inaudible] and irregular expenditure [[Interjections.] ...

Treasury Regulations 9.1.1 prescribes that the accounting officer of an institution must exercise all reasonable care to prevent and detect unauthorised irregular, fruitless and wasteful expenditure and must, for this purpose, implement effective, efficient and transparent processes of financial and risk management.

During the audit of the tender by DIRCO in October 2015-16 relating to the appointment of a development partner for the design, construction, operation, maintenance and finance of

suitable and sustainable office and residential accommodation for the South African Diplomatic Missions in Manhattan, New York City, the Auditor-General noted the following issues, amongst others:

The Tax clearance certificate submitted with the bid is not in the name of the company that was ultimately awarded the contract; the company that was awarded the bid is not the same company that submitted the bidding documents; the director who completed all the bidding documentation is not even a director of the company who the bid was awarded to; the evaluation criteria on functionality by DIRCO in the bid document only provided for the weight but not values. Despite this, values were used during evaluation process; the square metres for the residential accommodation for the terms of reference do not agree to the square metres indicated in the approval by the accounting officer for the appointment of a service provider; and the latest annual financial statements submitted by the winning bidder were not edited as required by the responsive criteria in the tender documents.

Hon Chairperson, it was for this reason that we undertook the first oversight visit to New York to see for ourselves so that the findings of the Auditor-General in 2017-2018 report are as indicated. There was no land nor office to relocate to by the two

Missions; only a parking lot which the chairperson of the committee made a mention of.

Furthermore, the relocations to the parking lot, we have said that they must be halted. It is important to highlight that the department has already taken steps - consequence management processes are in a row.

The case on this matter took place on 12 and 13 October 2020. The department was pleading that the contract be set aside because it was irregularly awarded in the first place and the money must be recouped. So, there is progress on this matter; the department is in the process of doing that.

The committee also recommended the recall of the permanent representative for not being available when the committee undertook oversight. We must also bear in mind that the recall process is within the prerogative of the President. We will support his decision with regard to our recommendation bearing in mind the dictates of our national interests.

As the ANC component in the committee we support the report and we reaffirm our stance as mandated by the ANC of being firm against

any form of corruption in whatever manner. Thank you very much, Chair. The ANC supports the report.

Motion agreed to.

Report accordingly adopted.

The House adjourned at 17:06.