**UNREVISED HANSARD**

**NATIONAL ASSEMBLY**

# WEDNESDAY, 2 DECEMBER 2020

***PROCEEDINGS OF THE NATIONAL ASSEMBLY***

The House met at 10:00.

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

# SUSPENSION OF RULE 290 FOR THE PURPOSE OF CONDUCTING THE SECOND READING DEBATE ON ELECTORAL LAWS AMENDMENT BILL

(Draft Resolution)

The CHIEF WHIP OF THE MAJORITY PARTY: Hon Speaker, I move that the draft resolution printed in my name on the Order Paper that the House suspends Rule 290(2)(a), which provides *inter alia* that the debate on the Second Reading of the Bill may not commence before at least three Assembly working days have elapsed since the committee‘s report was tabled, for the purposes of conducting the Second Reading debate on the Electoral Laws Amendment Bill on 3 December 2020

Motion agreed to

# CONSIDERATION OF BUDGETARY REVIEW AND RECOMMENDATION REPORT OF PORTFOLIO COMMITTEE ON TRANSPORT

There was no debate.

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

*Declarations of vote*:

Mr T B MABHENA: Hon Chairperson, the Department of Transport’s budgetary needs and shortfalls compared to the department operational efficiency and performance is a spirited attempt to redefine misalignment. It is against this background that we are convinced that the priorities of this department are confused and misaligned.

The department is failing to play an effective oversight over the entities they oversee. A case in point is the Passenger Rail Agency of SA, Prasa, and its subsidiaries namely, Intersite and Autopax had not yet tabled their reports at the time they met with the portfolio committee.

Hon Chairperson, the Key Performance Indicators, KPIs, achievement rate for the department is very high, yet the service delivery on the ground is almost grounded to a halt in the rail public transport programmes. There are no trains in the tracks. In actual fact there are no tracks or cables.

To date this very department is continuously playing hide and seek over the e-tolls issue, but we are not surprised because the tweeterians are chasing likes and retweets instead of scraping e- tolls. The Chief Whip is just one-night mayor that refuses to go away.

Hon Chairperson, in closing, the DA suggested to commend the tweetist on the filling of all vacant posts of the boards of entities. However, the ANC in the portfolio committee rejected this noble suggestion. Again, we acknowledge the need to develop proposals to stop the bleeding of the Road Accident Fund, again the ANC rejected this idea.

Hon Chairperson, the findings of the Auditor-General on the department and its entities paints a picture of mismanagement and failing to account. It is our view that the department needs to get its act together and start and start serving the people of

South Africa. I thank you. [Ngiyathokoza.] Oh hail the King! [Bayede Ngwenyama!]

*IsiNdebele*:

USIHLALO WENDLU (Ksz M G Boroto): Sithokoze, Mbhuduma! EFF.

*English*:

Mr M M CHABANGU: Hon Chairperson the EFF rejects the Budgetary Review and Recommendation Report of Portfolio Committee on Transport. It is very difficult to support the budget where the Department of Transport had promised to restore proper co-operate government budget to be forced by the courts to appoint the Board of Passenger Rail Agency of SA, Prasa. It promised to create jobs for the unemployed, but it failed to do so. Identified salaries as one of the strategic priorities and yet after investing

R5,8 billion on the R573 Moloto Road project the road continues to lives.

Currently there are 100 cases of fraud and corruption that the Road Transport Management Centre is dealing with ...

[Interjections.]

... which are unresolved chosen by ... [Inaudible.]

COVID-19 has been used by Prasa subsidiaries for not proceeding with their report to the committee.

There is still a high usage of consultants by the department and its entities. If the EFF support this report that would be a gross violation of the EFF’s cardinal pillar number five where we are encouraging the state to build capacity and abolish the use of tenders and consultants.

Lastly, the lack of consequence management and the continuation of the violation of subsidy chain management processes has been identified by the Auditor-General as one of the major problem in the Transport Department and we will be going against the EFF’s seven cardinal pillars of billing and open accountable and corrupt free government if we agree with this report. We therefore reject this report, Madam. Thank you.

Mr K P SITHOLE: Hon Chairperson, I think that it is appropriate to provide some education to the ruling party on the purpose of budget review and recommendation overall. The purpose is for us as Parliament to engage and to assess the progress of each department in their work to provide clean governance. However, year after year we hear the same empty promises that the department will do better.

They will cut the irregular expenditure and consider the recommendations by the portfolio committee and to rectify all that is wrong. Yet every year it is the same story of irregular and wasteful expenditure ... [Inaudible.] ... material findings by the Auditor-General, AG.

The Budgetary Review and Recommendations Report, BRRR, of Portfolio Committee tabled here dealing with transport sector is not different from before. It has not laid the substantial progress attending to committees of 2019-20 recommendation. Last year the AG recommendations, the Minister seemingly left the same failing oversight and the mechanism is the same.

We cannot expect the same changes for good governance if we accept the lacklustre response we are being insulted with today. And how can we forget the ruling party’s next failing entity, Passenger Rail Agency of SA, Prasa, committee diagnosed it that if this entity does not rectify its funding model it will soon find liquidity concerns as well.

With these damning findings by the department it is evident that South Africans will not see any of the promises made by the ruling party in the near future for a more accessible and affordable safety rail system. The stubbornness to ensure clean governance

and working model for development can also be seen in the protracted stalemate regarding the issues of e-tolls.

Every year these issues are raised and every year we are promised changes on the way whilst negotiations are ongoing. [Time expired.]

Rev K R J MESHOE: Hon House Chairperson, the Department of Transport is indeed the breath and the heartbeat of South Africa’s economic growth and social development. Almost everybody needs transport on a daily basis. Businesses cannot operate successfully without a reliable transport to ferry goods from one point to the other. Sadly, broken infrastructure including potholes, bad roads stolen rail tracks and lack of reliable transport hinder economic growth.

A number of its entities are also in serious trouble. With high- level and other costs, the Road Accident Fund, RAF, is a risk to the fiscus and an underperformer despite the extra nine cents a litre we have been paying at the patrol stations since 1 April. The SA National Roads Agency, Sanral, is still hoping that Gauteng motorists will decide to pay e-tolls and save it from bankruptcy. The Passenger Rail Agency of SA, Prasa, is in Intensive Care Unit, ICU, on a ventilator.

Having received a disclaimer from the Auditor-General for the second year in a row. It is a disgrace and a sheer incompetence that only seven of metro rails 34 commuter lines are operating with reduced services. Because of governance negligence, incompetence and failure to protect its assets over R2 billion is needed to fix the damage that has been done by vandals to Gauteng train stations over the past three years.

Even the committee is concerned that measures put in place to detect all the irregular expenditure that must be prevented are not working.

The ACDP will therefore not be supporting this Budgetary Review and Recommendation Report, BRRR, of Portfolio Committee on Transport. Thank you.

Mr L M NTSHAYISA: Hon House Chairperson, as the AIC we hope that the vacant posts that exists in this department will be filled so that proper work will be done. Again, the issue of e-tolls will be attended to and a clear direction should be given.

The Passenger Rail Agency of SA, Prasa, issues should be attended by this department. For this purpose, service delivery will be given to the people.

We also hope that the financial assistance should also be given to the taxi industry, because this has long been overdue. Having those expectations in our mind then we support this report.

Mr M G E HENDRICKS: Hon House Chair, more must be done for the personal safety of commuters and also in the upcoming weeks it will help to reduce road accidents if alcohol is burnt and that must be considered in the next few days.

Hon House Chairperson, Al Jama-ah supports this report. Thank you.

The HOUSE CHAIRPERSON (Ms M G Boroto): Bab’u Sibisi, are you okay now to speak?

Mr C M SIBISI: I think so, Chairperson, can you hear me?

The HOUSE CHAIRPERSON (Ms M G Boroto): Yes, I can hear you clearly. Don’t switch on your video. Continue.

Mr C M SIBISI: Chairperson.

The HOUSE CHAIRPERSON (Ms M G Boroto): I can hear you clearly, continue. Don’t switch on your video. Proceed.

*IsiNdebele*:

Silinde wena Bab’uSibisi. Isikhathi ngesakho.

Mr C M SIBISI: The NFP noticed the following from the report of the committee: Unauthorised expenditure. Chair.

The HOUSE CHAIRPERSON (Ms M G Boroto): Yes, continue. We hear you very well.

*IsiNdebele*:

Sikuzwa kuhle Baba, ragela phambili. Begade uyiphethe, kanti uyone kuphi?

Mr A M SHAIK EMAM: Can I come in, Chair?

The HOUSE CHAIRPERSON (Ms M G Boroto): Yes, the Whip of NFP.

Mr A M SHAIK EMAM: Chairperson, I will go ahead with this. The NFP notes the report of the committee, the unauthorised expenditure for the last three financial years, 2013-14, 2015-16 and 20-17 ended up being R1,3 billion, irregular expenditure, R5,2 million was declared, added to that is the report of the Auditor-General for overall transport with challenges with effect of

implementation with control mechanism on the majority of the auditees.

This is an indication of the lack of financial discipline, the deliberate lack of comply with legislation, and lack of consequence management. The Passenger Rail Agency of SA, PRASA, have once again received a disclaim of opinion for the second year in a row, and while I’m at that, let me highlight the problem that even the Railway Police that have not been paid, electricity and other things, are quite often in the dark. Government check of 2019-20 for PRASA, with the removal of the board and administrator who was set aside by the High Court after hearing PRASA’s failing infrastructure together with the repeated incidents of accidents, theft, vandalism, delays and security, should contributed to board, rail community and the ability of the agency to effect the measures start.

The NFP would like that measures be put in place by the department to address the 320 000 driver’s licence backlog. This is hurting the car sale industry. The NFP will support the report tabled here, thank you.

*Tshivenda*:

Muf M M RAMADWA: Muhulisei Mudzulatshidulo wa Nnḓu, DziMinisiṱa na Mufarisa Minisiṱa, Tshimebi Tshihulwane tsha Ḽihoro Ḽivhusi, na Miraḓo ya Buthano ḽa Lushaka, rine sa dzangano ḽa ANC ri khou tikedza muvhigo wa mugaganyagwama na themendelo ya muhasho na zwipiḓa zwawo kha tshifhinga tshine tsha khou lavheleswa.

Komiti ya Ṱhodisiso ya zwa Vhuendi yo dzula ya saukanya muvhigo wa mugaganyagwama na themendelo zwa muhasho na zwipiḓa zwawo. Ri ralo ngauri komiti yo fhululedza zwipiḓa zwa muhasho zwi ngaho Cross- Border Road Transport Agency, kana CBRTA, Driving Licence Card Account, kana DLCA, South African Civil Aviation Authority, kana SACAA na zwinwe zwe zwa kona u swikelela tshiimo tsha nṱhesa tsho kunaho nga Muṱola Mbalelano ...

*English:*

... unqualified audit opinion report with no material findings.

*Tshivenda*:

Komiti yo vhona mvelaphanḓa nnzhi yo vhaho hone kha zwipikwa zwa maano zwa Muhasho wa zwa Vhuendi fhedzi ro kwamea nga maanḓa nga tshipikwa tsha maano tsha vhuṋa tsha vhuendi ha badani nge hu si vhe na tsheo yo dzhiwaho nga vha Gauteng Freeway Improvement Project, kana GFIP maelana na e-toll.

Komiti i khou ita khuwelelo kha Minisiṱa wa zwa Vhuendi u wana tsheo nga tshihaḓu kha fhungo ḽa e-toll. Ro dovha hafhu ra sedza maambiwa o livhanaho na Passenger Rail Agency of SA, or Prasa. Nga muṱolambalelano, Prasa a yo ngo ṋewa muhumbulo ṅwaha wa vhuvhili nahone i dzula i milomoni ya vhathu.

Komiti yo fhululedza Minisiṱa kha u nanga bodo. Ro ṱuṱuwedza Minisiṱa na bodo uri vha vhone uri hu na mvelaphanḓa kha Prasa hu si na u kundelwa ngauri vhuendi ha tshiporoni ndi hone hune vhathu vhahashu vha shumisa hone saizwi vhu sa ḓuri. Nahone ri ri kha

muhasho, u nembelela shamba a si u wa haḽo. Murumba kha u ṱambele zwanḓa. Aa! [Tshifhinga tsho fhela.] [U vhanda zwanḓa.]

Question put.

Report accordingly adopted.

# CONSIDERATION OF BUDGETARY REVIEW AND RECOMMENDATION REPORT OF PORTFOLIO COMMITTEE ON EMPLOYMENT AND LABOUR

There was no debate.

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

*Declarations of vote*:

Mr M BAGRAIM: Chair, on behalf of the DA, I am sad to report that the report emanating from the portfolio committee is a fuss. It could easily be said that, in any other country in the world, the Minister and the DG would resign. Every single entity within the department, except for the CCMA has failed the workers of South Africa. The compensation fund has been dysfunctional for over two decades. The UIF has shown the workforce how they treat people in their hour of need.

Nedlac does not speak on behalf of the unemployed. Productivity SA has produced one of the most unproductive workforces in the world. Unemployment has reached epidemic proportions. Our labour legislation and regulations have continuously acted as a handbrake to job creation.

The department should hang their head in shame and should apologise to both the workers of South Africa and to the other half who have been seeking work. The department spends good money on the exercises that lead the Auditor-General to declare failures.

The results produced cannot even pretend to be service delivery. The only institution that has produced world-class results has been the CCMA. They have managed, against all odds, to enforce labour legislation, keep labour peace and resolve disputes.

Our esteemed Minister and his trusted right-hand man, the Deputy Minister, DG, in their wisdom, continue to reduce the CCMA’s budget over this period and have plans to reduce the budget over the next two years. These reductions are in the process of destroying the only entity that actually works.

The Minister and the DG need to explain to the workforce of South Africa why the workers of South Africa are being used to fund SAA, Eskom and other parastatals. It is a crime and a shame that the government of South Africa today is doing everything in its power to attack the workers in South Africa. Labour does not work. Thank you.

Ms H O MKHALIPHI: Chair, I want to say that my member is having some difficulty to connect, but she will try. If she fails, I will take over.

The HOUSE CHAIRPERSON (Ms M G Boroto): Okay, no problem.

Ms C N MKHONTO: Chairperson, this department is one of the most relevant, together with its entities, given the unemployment crisis we face as a country. Under the watch of the ruling party, more than 10,3 million young people, mainly black, women and people living with disabilities, are willing and ready to work and even willing to relocate but cannot find work.

There is no plan to create jobs or protect jobs that exist. Instead, the economic stimulus package that was meant to create jobs, only exists in the imagination of the President and his Ministers.

What is regrettable is that the committee with the full knowledge that the previous budget review and recommendations did not materialise in job creation, brought before the House another report, not worth the paper, it is written on.

It is time we impose a moratorium on job cuts. Companies must be obligated to demonstrate compelling evidence before cutting jobs and this goes for state-owned enterprises. It is time we open criminal cases against companies that fraudulently accepted Temporary Employer-employee Relief Scheme funds. It is time that we open criminal cases agaist companies that fraudulently withheld UIF when workers could not buy food for their families.

However, the most important recommendation for the BRRR we should have made was to reject National Treasury’s ... [Inaudible.] ... policies that will cause more unemployment.

As long as the government is on the path of austerities, this department’s work will always be meaningless. Considering the above, the EFF rejects the Budgetary Review and Recommendation Report by the Portfolio Committee on Employment and Labour. I thank you.

*IsiZulu*:

Mnu X NGWEZI: Siyathokoza, mhlonishwa Sihlalo namalungu ePhalamende wonke, Sihlalo, umbiko ophambi kwethu usikhombisa ukuthi ekuqaleni nje kwalo nyaka izinga lokungaqasheki kwabantu belihleli ku-30% futhi ingaphezulu kwa-3 million imisebenzi elahlekile ukusuka lapho.

*English*:

In the previous years, the coming months would have created some seasonal or short-term employment in key sectors such as tourism and retail. However, projections amidst the Covid-19 pandemic indicates that this would not be the case this year.

The President recently launched the Economic Reconstruction and Recovery Plan, which places job creation at the centre. The Department of Employment and Labour has a number of entities reporting to it, including the Productivity SA and Support Employment Enterprises. Unfortunately, many everyday South Africans do not know of these entities or of the work they do. What they do know is that, when they go out to look for jobs, they come back home with nothing.

Without co-operation and buy-in from the private sector, the Economic Reconstruction and Recovery Plan will become yet another pipedream. The IFP believes that the business sector needs to rope in all employment creation plans through an incentive-based system. Businesses can be encouraged to create more employment by providing employers with taxation benefits for medical aid, pension, education and skills training.

Another key issue I wish re-emphasise is that we need to ensure that the majority of employment opportunities available are given to South Africans, since we serve South Africans. The Department of Employment and Labour needs to do more to hold employers accountable to the minimum standards of employment and to discourage them from opting for underemployment of foreign nationals.

Lastly, in order to truly be effective, the department of Employment and Labour needs to focus on decentralising the powers and efforts to the provinces.

*IsiZulu:*

Siwawuxhasa umbiko lo wekomidi.

Ms H DENNER: Hon House Chair, the unemployment rate in South Africa is the highest that we have ever seen, not due to Covid-19, because it was already on the rise before the pandemic. Our economy is under immense strain and the socioeconomic circumstances are dire. These are not the ideal circumstances in which the department has to fulfil its expanded mandate of both implementing and monitoring the implementation of labour legislation and enabling job creation.

*Afrikaans*:

Die departement en regering doen hulself natuurlik ook nie ’n guns deur arbeids- en ander wetgewing te implementer wat juis hierdie ideale kortwiek nie. Deur die privaatsektor keer op keer as die swartskaap vir julle mislukkings uit te kruit, werk lankal nie meer nie.

Daar is bepaalde tekortkominge in die Departement van Arbeid en Werkskepping en sy entiteite wat allereers aangespreek sal moet word. Ek noem kortliks drie voorbeelde.

Eerstens, die werkloosheidsversekeringsfonds is deur absolute louteringe en krediet moet gegee word waar dit toekom, maar die duisende beginstigters wat steeds vir betaling wag, telke vertragings en oponthouding met betalings, bedrog en korrupsie, vlek ongelukkig ’n prentjie wat veel anders moes gelyk het.

Die ongevallekommissaris se voortgesette probleme, veral ten opsigte van agterstallige uitbetalings en die konstante ... [Onhoorbaar.] ... struikelblokke is steeds nie aangespreek nie, en terugvoering in die verband is van min waarde vir die aan wie se lewens ’n verskil gemaak moes word, maar nie gemaak is nie.

Die arme CCMA wie reeds onder reuse druk met beperkte hulpbronne werk, moet nou met ’n verminderde begroting oor die weg kom. Swak bestuur aan die een kant en kortsigtige drakoniese wetgewing aan die anders kant veroorsaak dat werkloosheid bloot toeneem, wat weer ’n bepaalde uitwerking op die fiskus en die land se ekonomie het.

Die invloed van hierdie departement se funsionaliteit is soos ’n klippie in ’n dam wat ’n rimpeleffek op die ganse ekonomie en welstand van ons land het. Alvorens herhalende probleme en konstante tekortkominge nie eerlik en met ’n politieke wil om dit te doen, aangespreek word nie, sal hierdie departement nie in sy doel slaag nie. Ek dank u.

Mr W M THRING: Hon House Chair, the ACDP notes the mandate that this department has to regulate the labour market through policies and programmes developed in consultation with social partners that are aimed at improving economic efficiency and productivity and the creation of decent employment, amongst others.

So, while the Department of Employment and Labour is not solely responsible for the creation of decent employment, this department and others under the ruling party must accept responsibility for the dismal performance in the employment rate in South Africa.

According to Statistics SA, the latest employment numbers for the third quarter of 2020 show how the national lockdown has hammered jobs in South Africa. The unemployment rate increased to 43,1% on the expanded definition, compared to the second quarter of 2020. Of the 2,8 million people who left the country’s workforce during

lockdown, only 543 000 managed to get their jobs back, leaving 2,2 million unemployed.

The ACDP was amongst the first of political parties calling for an easing of restrictions on the economy during the lockdown, citing that more people may die as a result of the onerous restrictions that stem from the virus itself.

The ACDP welcomes the recommendations in the report, which have the intention of turning things around in the department, including dealing with the unqualified audit opinion with irregular expenditure of R1,36 million and fruitless and wasteful expenditure of R698 000.

Earlier this year, the Auditor-General released a damning report on the payment of Temporary Employer-Employee Relief Scheme, TERS, and social grants. It was found that the new system implemented for TERS incorrectly calculated the benefits for the first lockdown period between 27 March to 30 April, not taking into account the actual period of inactivity and the portion of salaries paid by employers, resulting in significant overpayments.

The Department of Employment and Labour must get its house in order. The ACDP will not accept this report.

*Declarations of vote continued*

Mr N L S KWANKWA: Thank you very much House Chair. South Africa faces a chronic – what is happening now, are you still there?

The HOUSE CHAIRPERSON (Ms M G Boroto): Yes, we can hear you clearly.

Mr N L S KWANKWA: Sorry, I thought I got disconnected. South Africa faces a chronic unemployment problem. As many of you are already aware that, in terms of the official definition of unemployment, the unemployment rate stands at about 30%. If one were to factor in the number of the discouraged work seekers, the unemployment rate as you would know stands instead at well above 50% in South Africa.

This a crisis that, when you have a department such as the Department of Employment and Labour – that department is tasked with a responsibility of creating an environment that is conducive for employment and job creation to occur. However, in the majority of instances our concern is that ...

*IsiXhosa*:

... kuqala masithi Mphathiswa ujonge into yokuba ...

*English*:

... the Unemployment Insurance Fund, UIF monies that people claimed recently ....

*IsiXhosa*:

... abanye abantu abakazifumani ...

*English*:

... and the department does not seem to be doing enough ...

*IsiXhosa*:

... ngezo zinto. Kwakhona, abasebenzi abatye iimali zooMaMcirha baseKhayelitsha, ooMaDlamini baseMdantsane nabanye baseSoweto,ukuze bangazifumani iimali, asikababoni bebekwa amatyala ngokusenthethweni kwaye bevalelwa kuba betye iimali zabasebenzi.

*English*:

The department is failing to address the important issue, the exploitation of foreign nationals by the private sector.

*IsiXhosa*:

Apho kuthelekiswa umntu omnyama kunye nomnye umntu omnyama, kukhutshwa umntu omnyama waseMzantsi Afrika, kufakwe omnye umntu omnyama ngokwemiqathango engaphantsi kuleyo ilindelekileyo kwi ...

*English*:

... Basic Conditions of Employment. it is something that the department is failing to address which creates a lot of anger and resentment among communities in South Africa. At times ...

*IsiXhosa*:

... yile ibangela ukuba kubekho ...

*English*:

... what we usually inappropriately call xenophobic violence.

*IsiXhosa*:

Sithi siyi-UDM ngezi zizathu nangenxa yokuba imali ityiwa ngeendlela, kungabikgo accountability kwaye kungabanjwa mntu kweli sebe, kuba I ...

*English*:

...waste-less, fruitless and irregular expenditure is R1,3 million according to the Auditor-General’s finding. No steps have been

taken against those who gained form irregular expenditure. That is the reason why we are not supporting the report. Thank you.

Mr A M SHAIK EMAM: Thank you House Chair. The NFP notes the Budgetary Review and Recommendation Report of Portfolio Committee on Employment and Labour tabled here and we will support the report.

Let me start off by highlighting some of the challenges. Of course, irregular, unlawful and fruitless expenditure continues to haunt this particular department. Let me also add the problem of unemployment which is sitting to the value of over 30% in the country, which is the matter that the department needs to pay attention to.

House Chair, over and above that, one of the things that we have identified is that, foreign businesses in South Africa are employing foreigners and paying them at the rate of R70 a day, despite the fact that, labour inspectors from the department frequently visit these outlets and do very little or nothing about it.

More importantly. These employees are registered with the Department of Employment and Labour, and also have been claiming

their Temporary Employee Relief Scheme, TERS benefit. They have been employed earning R70 a day, claiming the TERS because these employers refuse to register them, despite the fact that we are paying inspectors to go out there to ensure that there is higher level of compliance.

What the NFP is calling for is greater co-ordination between the Department of Employment and Labour, the SA Revenue Services, the local authorities, the local municipalities who issue licences to these businesses that are conducting their businesses in these respective municipalities.

The problem of foreign drivers in South Africa and the burning of trucks, must be attributed to the problem of labour because of the low salary scale that foreigners get paid, and that is why companies in South Africa prefer to want to employ foreigners in South Africa. So, it falls within the mandate of the Department of Employment and Labour to also deal with this problem of foreign drivers and foreign companies ... [Time Expired.] The NFP supports the report. Thank you.

Mr W M MADISHA: Thank you House Chair and members. There are laws at the moment in the country. The problem is that; these laws are not implemented. Coming out with any other thing over and above

what we already have, does not take us anywhere at all. What we have is a – for an example the Speaker at the moment as we are sitting here is in court. One of the former Ministers here was in court for a very long time, because the workers that get employed are poor people from outside of South Africa, who have run from their own countries to South Africa for safety etc. and they are just being exploited.

That is one of the major problems. Why does that happen? It is basically because there are laws here in South Africa to take care of the workers but, for these employees to be exploited for the employers here to get whatever they want. They do whatever they want. They take people from outside South Africa so that they cannot – “they”, I am referring to employers here – follow the laws.

The other thing is that, government always rises to claim victory and say, we now have risen by two percent, by three percent, we are improving and yet, that is not the case. The point that I am raising is, who does this analysis? Where do they go? If you go to Khayelitsha, and so on and in other areas, you go to Ga- Madishaditoro we are – hon Chair, ...

*Sepedi*:

... oya Dikgading, Botlokwa ...

*English*:

... have they ever seen these people? You go to the townships where comrade Hope comes from, have they ever seen these people coming to check whether those poor people work or not? This is therefore not scientific and therefore, they are met with a very serious problem. We do not support this ... [Time Expired.]

Mr M G E HENDRICKS: Hon House Chair, descent work full employment in South Africa, doubling our productivity rate and ensuring that mediation and reconciliation continues in the Commission for Conciliation, Mediation and Arbitration, CCMA to resolve labour disputes, are some of the challenges that we have. That is why we support this report, because the Minister of the Department of Employment and Labour has taken the department to a higher level, with the support of the chair of the portfolio committee and they can do something about all of that, during the term of the Sixth Parliament. We look forward to the leadership and Al-Jama-ah supports the report. Thank you very much hon House Chair

Mr M NONTSELE: House Cahir, President Ramaphosa in his address on

15 October during the Joint Sitting, reminded the nation of the economic crisis that we face, in particular the ravages that has

been caused by COVID-19 globally, and that countries in the north are in fact reimposing lockdown which means severe conditions for the economic outlook globally.

South Africa needs to implement decisive economic reconstruction and recovery measures, whilst at the same time containing the spread of the virus. This approach is informed by the state of the economy, particularly with regard to jobs. Chair, as already alluded to that the Third Quarterly Labour Force Survey of 2020 shows the country’s narrow definition of unemployment grew by 30,8% whilst the broader definition grew by 43,1 %. By any measure, this is a crisis.

The committee noted that, the lockdown and the closure of services resulted in the surplus in the department which amounted to

R229,7 million. There was consensus among the parties in the committee that, to save jobs and to ensure that the continuation of the CCMA is in fact prioritised.

*IsiXhosa*:

Sivumelene ukuba le nto yokuba kunqandwe abantu ukuba bazingenele kwiKhomishoni yoLamlo noSombululo (CCMA), nokuba babhataliswe, yingxaki enkulu. Loo nto izakubangela ukuba abasebenzi, ngakumbi abo bazimpula zikaLujaca bangakwazi ukuphinda bayisebenzise i-CCMA

Siyavumelana ukuba, loo nto iyakuthi yophule iinjongo zokumisa neendlela zokuba i-CCMA isebenze ngendlela ukuze ikwazi ukuncedisana nabantu abakwaziyo ukufikelela kuyo. Le yingxaki ekhoyo nasezinkundleni zethu, apho abantu abanemali ingabona bathi bakwazi ukumelwa ngawona magqwetha apheleleyo. Siyayixhasa le ngxelo. Enkosi.

Question put.

Motion agreed to (Democratic Alliance, African Christian Democratic Party, Freedom Front Plus, United Democratic Movement, Congress of the People and Economic Freedom Fighters dissenting).

Report accordingly adopted.

# CONSIDERATION OF BUDGETARY REVIEW AND RECOMMENDATION REPORT OF PORTFOLIO COMMITTEE ON AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT ON AGRICULTURE — VOTE 24

There was no debate.

*Sesotho:*

SEPHADI SE KA SEHLOOHONG SA MOKGA WA BONGATA: Ke a leboha

Modulasetulo. Modulasetulo ke sisisnya hore Ntlo e amohele tlaleho ena e tla bewa mona. Ke a leboha

*Declaration(s) of vote*:

Mr N P MASIPA: Benjamin Franklin once said, “If you fail to plan, you are planning to fail”. Section 5 of the Money Bills Amendment Procedure and Related Matters Act of 2009 sets out clear procedures to be followed prior to the introduction of the national Budget by the National Assembly through its committees for assessing the performance of each department.

During the budgetary review and recommendation report exercise, the department demonstrated their planned failures. The department informed this committee that they achieved 69% because of COVID. The country went into lockdown in March 2020, the end of year under review. For the third consecutive year, this department unashamedly reported a huge underexpenditure in the administration subprogramme of policy, planning, monitoring and evaluation. This subprogramme is meant to address challenges such as intergovernmental relations, poor planning and deficiencies in monitoring and evaluation.

This department failed dismally on biosecurity. They could not spend R27 million budgeted towards fighting crops and animal diseases because of poor planning and a lack of co-ordination. The country has since lost foot and mouth disease, FMD, free-zone status. This department failed to implement blended finance and agri-black economic empowerment, agri-BEE, and cannot even account for the money transferred to the Land Bank. The food security programme was a complete disaster. No commercialisation of black farmers’ success stories can be told.

This department lacked the co-ordination between itself and other departments, and gave a pathetic response towards the drought disaster. Planned budget allocations and disbursements end up not reaching farmers but instead end in corrupt ANC tenders while red berets conduct land invasions of arable land. The DA rejects the pathetic work of this department. I thank you, Chair.

Mr M K MONTWEDI: Thank you very much, House Chair. I hope I’m audible.

The HOUSE CHAIRPERSON (Ms M G Boroto): Yes, you are, baba Montwedi.

Mr M K MONTWEDI: Thank you, Chair. We reject the budgetary review and recommendation report of the Portfolio Committee on Agriculture, Land Reform and Rural Development.

Historically, in times of economic and social crisis, agriculture has always been the sector that fires up growth all over the world. This is so because agriculture is catalytic to almost every other economic activity. People need food before they can endeavour to ... [Inaudible.]

Instead of realising this potential here and ... [Inaudible.] ... an army of aspirant black farmers, we are basically killing the sector off. The Auditor-General, AG, found that this department could not even account for the number of ... [Inaudible.] ... ploughed as a result of their ... [Inaudible.] Furthermore, we as the EFF in the portfolio committee raised these issues before they could even be picked up by the AG.

With regard to the so-called COVID-19 Disaster Agricultural Support Fund, there were 673 approved applicants whose identity numbers were invalid. There were 861 applicants who did not meet the minimum criteria but were approved and of 847 of these, there was no evidence of farming activities. Instead, over

521 applicants ... real farmers who meet the minimum requirements

were not approved and are still struggling. They were rejected for this.

Even in times of crisis when the nation needs decisive and ... [Inaudible.] ... leadership, the ruling party still chooses to push our people down in order to loot and finance their flashy lifestyles with money meant for the people.

The less said about the return of the land back to the people the better. Plush farms are given to uMkhonto weSizwe, MK, comrades who cannot even grow weeds. This Comprehensive Agricultural Support Programme is littered with fraud and even the Special Investigating Unit, SIU, has been called to investigate. Minister mama Thoko Didiza, you and your department disappointed us. [Time expired.]

Mr X NGWEZI: Hon Chair, agriculture, land reform and rural development remains critical to the socioeconomic wellbeing of South Africa and its citizens. Due to past disparities, many of our rural areas remain underdeveloped and lacking in the provision of many basic services.

This newly integrated department is one of the departments that is at the coalface of rectifying these disparities. It is therefore

non-negotiable that this department fails or falls short in any manner in its delivery of its mandate, which includes economic growth and development, job creation, the sustainable use of natural resources, food security and rural development.

Farmers’ support remains critical and those newly established farming operations must receive the necessary government support and aid to ensure that they become self-sustaining, reliable entities, thus ensuring the National Development Plan’s vision of an inclusive ... [Inaudible.] ... economy.

Farming methods must incorporate sustainable practices, and here we state again that great precaution must be exercised in the use of certain genetically modified organisms, for maize crops in particular, as well as the use of aphicides and pesticides that may poison the soil as well as infiltrate our water systems, causing further damage and destruction. Glyphosate, as is used in Monsanto’s Roundup, should not be used until it has been proven safe for human and environmental health.

An additional serious concern remains the lack of urgency in the investigation of irregular, fruitless and wasteful expenditure which has been increasing over the years, often with no consequence management. This must be addressed going forward.

The IFP supports the budgetary review and recommendation report. The report was read on behalf of Inkosi Cebekhulu who is a member of this portfolio committee.

Ms T BREEDT: Thank you, Chairperson. Since the last budgetary review and recommendation report, we have seen many changes happen in this department. We have seen a department, that has been quite arrogant and quick to shift blame, come to the realisation that the continual smoke and mirrors they tried to hold up in front of us will not work.

I have to commend the department that at times they do admit their weaknesses and show attempts at problem-solving, but not enough to see real changes as yet. The Health and Safety Authority’s, HSA’s, findings and the department’s regression in terms of their audit outcomes is worrying. Most of the findings that led to the regression is due to the forestry function that has since been transferred.

The true test of this department however, comes with internal controls, supply chain management, SCM, processes, record keeping and consequence management; all findings during this past year’s audit that will truly be put to the test in the coming year. May they not disappoint and regress even further.

We welcome the fact that the agriculture and agro-processing master plan has at last found a home with the National Agricultural Marketing Council, NAMC. My sincere hope is that this will not just be another talk shop and a failed project by the department.

I believe credit should be given where it’s due but that criticism should also be given, to work and improved on. Record keeping — It was the finding of the AG ... and a task that the department continually fails at. I see double work being done and items, projects, beneficiaries, land, etc always being tallied again and again with no clear outcome. No proper record keeping of who was given what, when, how much; where is which land and in what state; who has applied for assistance and who has not, to name but a few examples. We cannot continue on this trajectory, as South Africans will never truly benefit and the agricultural sector will never truly prosper if this is how we do business.

Most notably of this, and probably my greatest worry and frustration with the department, is the way in which assistance, drought and COVID are dealt with. I hope to see improvement in this regard. There are many areas that require improvement. My true hope is to see genuine improvement in the future.

Mr S N SWART: House Chair, agriculture is undoubtedly a primary economic activity in rural areas and has the massive potential for job creation in the country. The ACDP would like to express its deep gratitude to all in the sector, the commercial and emerging farmers, who right through the value chain, have ensured food security in the nation, particularly during the COVID-19 hard lockdown.

We also raised the concerning issue of the devastating fires in the Free State and Northern Cape rural areas, and trusted government’s relief to all farmers in need. The ACDP is also not satisfied that enough has been done to protect farmers and farm workers. The rural safety programme is not working sufficiently and needs urgent attention. Now, as far as the committee’s report is concerned, the ACDP is concerned and shares the concerns that are raised by the committee that the unused funds should rather be prioritised, rather than being paid back to the fiscus.

It is inexplicable when there is such need amongst farmers, that those funds are repaid. Secondly, the filling of vacancies is a massive concern and the Director-General’s position must be filled, because we see regression in audit outcomes, and that is a great concern. So, in view of these concerns, the ACDP will regrettably not support this report. I thank you.

Mr A M SHAIK EMAM: chairperson, allow me to start off by commending farmers for the role that the played during the very difficult time of COVID-19, in ensuring that there was food security, and of course, ensuring that our people and the country do not go hungry. Yet, it was very difficult for them, but I think that they have done a fantastic job and we need to commend them for job well done. Having said that, the department must continue engaging with National Treasury on the reprioritisation of unused funds within the department, to address fateful disasters such as drought and diseases outbreaks that are related to agricultural activity.

Droughts in the country pose a significant threat to South African food security. In fact, our food security is set to be threatened as it is. Now, we have seen the ... [Inaudible] ... through trucks that are being burnt and a lot of them are carrying perishable goods to different parts of the country and are very important, also to our neighbouring states in SA Development Community, SADC, region who are dependent almost entirely on South Africa products. So, all this is having an effect.

A detailed report on the implementation of the COVID-19 Agricultural Disaster Support Fund, including a complete breakdown on the utilisation of funds that were allocated for different

purposes, must be released. It is imperative that all departments, including the Department of Agriculture submit detailed report of over funding. Listen, one of the areas where you can announce the farming sector and also create jobs in South Africa, but what we find is that, very often, small scale farmers are not necessarily getting the skills training on financial management and the necessary resources.

You know, hon House Chair, giving them a piece of land is not going to solve the problem. You need to, together with that, ensure that people are skilled for their financial management, ensure that they are able to embark with these issues. The NFP will support the report. [Time expired.]

Mr W M MADISHA: Chair, land and rural development are extremely important for the poor South African people. South African majority are of course, the downtrodden and the poor, who lives in those rural areas, need land for survival. Without land, they cannot develop nor survive, really. Perhaps, I need to refer you, as an example, to what the workers of South Africa did in 1998 when they came together and contributed about R89 million and said, let’s have land for the poor people of South Africa. Now, enough has not been done, and more has got to be done.

Now, I want to rise and blame government for not having done what it is supposed to do, and what it’s supposed to do is to say that, the land that belongs to government because government has more land that is there, but it has not been distributed. Let them do what they are supposed to do, distribute land, make sure that the people of South Africa gets that, so that the poor people of South Africa can be able to work on the land to produce food, thus, be able to survive.

The issue of the hearings that went on for, I don’t know how many years, it has got to come to an end and people must get land so that we can move forward. So, let’s come to an end with this thing, let’s make sure that it receives implementation. That’s why Cope would support this report, but say that we should make implementation as a matter of urgency. We support the report.

Thank you, Chair.

Mr M G E HENDRICKS: Hon House Chair, the department should employ more agriculturalists to assist small-scale farmers to ensure that their craft is successful, and to ensure that there is a market that will buy it, so that they can at least recover their costs.

The Minister need to look at the model that is used by the supermarkets to ensure that they get ready for the fruit.

They should make a front payment for all the costs when the crop is ready to be harvested. They can start paying a fixed price so that the farmers do not lose out. Many of our farmers, when it comes to selling their products, they can’t recover their costs. So, this is a very important matter to take care of. I know of a company like Nestle, they need fresh milk.

So, they assist the farmers even with all their needs. They buy with a guaranteed price, and the farmer makes 100% profit. So, why can’t we help our small-scale farmers in the same way? Al Jama’ah supports the report. Thank you very much, hon House Chair.

Ms M M E TLHAPE: Hon Chair, hon Tlhape here, I can take the declaration instead of hon Mandela.

The HOUSE CHAIRPERSON (Ms B G Boroto): Yes, that’s what we want. Thank you. Continue.

Ms M M E TLHAPE: Hon Chairperson, the ANC takes note of the importance of agricultural sector in helping grow our economy, and the potential for much job opportunities. We are cognisant of the fact that in 2019, the agricultural sector contracted by 6,9% year on year, and this was slightly due to drought and the outbreak of animal diseases like food and mouth. For this reason, we are

appreciative of the work done by the department. We acknowledge that agriculture is a ... [Inaudible] ... to any economic industrialisation and development, and recognising the importance of transformation for the agricultural sector towards growth and inclusivity.

We have further take note of the recommendation in the Budget Review and Recommendations Report, BRRR, especially related to Agri-Bee in France. In support of this Budget Review and Recommendations Report, BRRR, we acknowledge a unique to radically implement a black producer’s commercialisation programme and the increased funding for the blended financing model, as well as effective implementation of the mandate of the land and agriculture band of South Africa.

Lastly, we further acknowledge the effect that COVID-19 had on monitoring and evaluation of the work of the department for 2019-

20 and we are encouraged by the fact that the department is attending the ... [Inaudible] .... Agriculture has a pivotal role in growing our post COVID-19 and create economic opportunities for the many unemployed. As the ANC, we declare our support for the Budget Review and Recommendations Report on Vote 24. I thank you. Malibongwe!

The HOUSE CHAIRPERSON (Ms B G Boroto): Hon Mpushe, you do that again, you will be removed.

Question put

Motion agreed to (Democratic Alliance, African Christian Democratic Party and Economic Freedom Fighters dissenting).

Report accordingly adopted.

# CONSIDERATION OF REPORT OF PORTFOLIO COMMITTEE ON EMPLOYMENT AND LABOUR ON THIRD QUARTERLY REPORT REGARDING PERFORMANCE OF DEPARTMENT OF EMPLOYMENT AND LABOUR AND ENTITIES IN MEETING STRATEGIC OBJECTIVES FOR 2018-19

**CONSIDERATION OF REPORT OF PORTFOLIO COMMITTEE ON EMPLOYMENT AND LABOUR ON FIRST QUARTERLY REPORT REGARDING PERFORMANCE OF DEPARTMENT OF EMPLOYMENT AND LABOUR AND ENTITIES IN MEETING STRATEGIC OBJECTIVES FOR 2019-20**

**CONSIDERATION OF REPORT OF PORTFOLIO COMMITTEE ON EMPLOYMENT AND LABOUR ON SECOND QUARTERLY REPORT REGARDING PERFORMANCE OF DEPARTMENT OF EMPLOYMENT AND LABOUR AND ENTITIES IN MEETING STRATEGIC OBJECTIVES FOR 2019-20**

**CONSIDERATION OF REPORT OF PORTFOLIO COMMITTEE ON EMPLOYMENT AND LABOUR ON THIRD AND FOURTH QUARTERLY REPORTS REGARDING PERFORMANCE OF DEPARTMENT OF EMPLOYMENT AND LABOUR AND ENTITIES FOR 2019-20**

Dr N P NKABANE: Thank you, House Chairperson, the Portfolio Committee on Employment and Labour was briefed by the department and its entities on their quarterly performance reports 2018-19 as well as 2019-20.

The department and its entities also took the Portfolio Committee on Employment and Labour into its confidence in relation to the strategic objectives. We considered everything that was presented before us. We then developed a report with, amongst others, observations and recommendations. It is that report that we are bringing to this House for consideration today.

Allow me to briefly touch here and there on the report we are tabling in this House. The overall performance of the department increased from 72% in quarter four of 2018-19 to 83% in quarter one of 2019-20 financial year. The department’s performance on strategic objective six increased from 33% in quarter four of 2018-19 to 66% in quarter one of 2019-20 financial year. On

strategic objective eight, it increased from 75% in quarter four of 2018-19 to 100% in quarter one of 2019-20 financial year.

The improvements in performance of these two strategic objectives resulted to an increase in overall performance form 72% in quarter four of 2018-19 to 83% in quarter one of 2019-20 financial year.

There is no better time than the period we are in where the strategic objectives of the Department of Employment and Labour could be more pronounced or relevant because conditions that have been occasioned by COVID-19 are such that job market is under severe strain. So, if you start by talking about occupational health and safety, which is one of the strategic objectives of the Department of Employment and Labour and move to areas of vulnerable workers, the promotion of sound labour relations, the contribution in the employment creation and so on. What is clear is that the Department of Employment and Labour has its work cut out. That is why we are chuffed that in the first quarter of 2018-

19 there has not been an unauthorised expenditure. This is important because the effective and efficient use of the budget that has been cut to the bone is going to help us to cover more ground. And yes, the Department of Employment and Labour is equal to the task because due to the work that has been done in this quarters, they have been able, amongst others, to tells us that

the manufacturing sector was one of the sectors that had the highest number of incidents in occupational health and safety.

Hon members, the workers’ lives matter. Workers must not be thrown in dangerous situations with impunity. They must not be thrown out of work carelessly and insensitively without thinking. If there is any review that may have to be done in our labour laws, that must happen with a view of strengthening them as opposed to neutralising and relaxing them.

Those who are at work must be kept in their jobs whilst we are getting busy ensuring that the reconstruction and economic recovery plan gets implemented with one of the key objectives of absorbing many of the unemployed.

This government has made tremendous strides. However, as the ANC, we won’t be surprise by the approach that is going to be employed by the DA and others of playing for the gallery or grandstanding because that is all they are all about and that’s all they offer in this House.

Notwithstanding the challenges that were experienced in the department to fight the COVID-19 pandemic, we must acknowledge the fact that entities such as the Unemployment Insurance Fund, or

UIF, and Compensation Fund were able to rapidly scale up their capacity tenfold in a space of two weeks. They were also creative in the sense that they formed partnerships with employers and bargaining councils to speed up the process of payment to workers who needed income support. Unfortunately, some officials, business people, employers and private persons who had corrupt intent exploited this situation and sought to siphon public funds.

As the ANC, we have praised the department and law enforcement agencies for the swift and decisive action against the suspects. As we pay our respect to the late Auditor-General, there can be no greater tribute to him than the Department of Employment and Labour as well as its entities to strive for clean audits and to clean up what the Auditor-General called an already compromised control environment.

As the ANC, we remain a caring and responsible government. We also determined to fight and defeat the scourge of corruption. I thank you, House Chairperson. [Applause.]

There was no debate.

The CHIEF WHIP OF THE MAJORITY PARTY moved: That the Reports be adopted.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon Whips and Chief Whips of parties, I think it is clear which member is always disturbing the proceedings of the House. Please, take note of your member. If you need training for those members, tell us. It is the same people all the time that are doing this and it is really disturbing. I am not going to mention names. You are all watching. Please, take care of your members. They can be trained on the usage of these gadgets during virtual meetings.

*Declarations of vote*:

Dr M J CARDO: House Chairperson, we have before us another set of reports from the Department of Employment and Labour and its entities covering the third quarter of 2018-19 and all four quarters of 2019-20.

Every quarter, the Portfolio Committee on Employment and Labour indulges in grotesque ritual of irrelevance. We need to monitor the department’s progress against a bunch of unambitious often meaningless performance indicators and targets. We then proceed to make a series of anodyne observations and toothless recommendations that often completely ignored by the Minister.

Well, here are a few observations for you: Unemployment in South Africa is at an all-time high. Thanks to the ANC government’s

policy adherence and incompetence; 30,8% of South Africans don’t have jobs on the strict definition of unemployment. That goes up to 43,1% when you include discouraged job seekers; the unemployment rate for those aged 15 and 24 stands at an alarming 61,3%.

We have on our hands not a sudden outbreak of unemployment but a deep persistent epidemic of joblessness.

This government and this department are hopelessly ill-equipped to deal with it. They have no vaccine. They can’t even diagnose our ills correctly. They refuse to administer even the simplest remedies to alleviate the worst symptoms.

There should only be performance indicator for this department and that is the unemployment rate. When the unemployment rate is going up, we know the department’s performance is going down. The bottom line is that the Department of Employment and Labour is not working for the unemployed and nor the Unemployment Insurance Fund, Nedlac and Productivity SA.

Just about the only functioning entity in the department’s orbit is the Commission for Conciliation, Mediation and Arbitration, or CCMA. But as we know from the Budgetary, Review and Recommendation

Reports, or BRRR, the government seemed determined to hobble that entity too with swinging budget cuts that will hit the most vulnerable the hardest.

The Department of Employment was rebranded over 18 months ago to include employment in its name but the department’s structures and programmes still haven’t been reconfigured the expanded mandate on job creation. The department doesn’t work for the workers and it doesn’t work for the workless. Instead of creating a fertile environment for job creation, the government and this department lob grenade after grenade at employers, employees and the unemployed.

President Ramaphosa failed to put job creation and labour market deregulation at the heart of his post-COVID-19 economic recovery plan.

We face a tough set of circumstances. An economy shrinking by roughly 8%, a revenue shortfall of over R300 billion and an incapable state borrowing R200 billion a day. Unfortunately, the economic recovery plan blindly and destructively pins its hopes on the incapable state to get us out of the mess that it created and exacerbated in the first place. The plan fails to recognise that only the private sector can create jobs at scale and rapidly

absorb predominantly unskilled workers into the economy. That in turn relies on freeing up the private sector from the deadhead of state overregulation.

Here are a few recommendations: Let’s take on the vested interests in big business and unions; let’s initiate a programme of labour market deregulation; let’s exempt small and newly established firms from extended collective bargaining agreements; let’s make it easier to hire workers and tackle youth unemployment with a real youth wage subsidy; let’s enforce the need for secret ballots on planned industrial action across all sectors of the economy; and let’s empower individual economic sectors to set their own minimum wages and offer tax exemptions to small businesses to help them absorb the cost of minimum wages.

If we do all that, maybe then, we will see the department’s performance go up and the unemployment rate come down. Thank you, House Chair. [Applause.]

*Declarations of vote (cont)*:

Ms H O MKHALIPHI: Chairperson, the EFF rejects the adoption of all quarterly performance reports the Department of Employment and Labour and its entities tabled before the House from the Portfolio Committee on Labour and Employment.

We are elected as public representatives to oversee the executive and hold them accountable and we are expected to do this in the most effective way.

Oversight reports were intended to achieve oversight; nothing else. However, these reports offer little to nothing and when we make recommendations to the committee the party is prioritised over our constitutional responsibility to hold the executive accountable.

The Department of employment and Labour and its entities have failed horribly to execute their mandate, and we know this because everyday hundreds of people walk into EFF labour desk offices with matters that the Department of Employment and Labour, Unemployment Insurance Fund, UIF, and the compensation fund are responsible for.

There are no labour inspectors to go to farms like ZZ2, Reshebile security company, Cell C, Roma Pharmacy, Clover in Ekurhuleni and these companies continue to mistreat workers. Whites are continuing with racism, unfair dismissal of workers, without any assistance and majority of the workers are black and are women in particular. SUN International is busy retrenching black workers while white senior managers who earn millions, do very little and

they are not retrenched, instead, workers are outsourced to Tsebo labour broker, this includes the maintenance section of the hotel. As a result, black majorities are faced with retrenchments on daily basis at SUN International in Sun City.

As the EFF we are not going to wait for the department to get [Inaudible.] many times, that it is incompetent and is led by the clueless Minister and senior officials blinded by their arrogance and laziness.

We call all workers to contact EFF labour desk if they experience racism, dismissed unfairly and did not receive that SA Revenue Service, Sars, money.

The EFF remains the only party that puts the interest of workers that the ruling party has allowed companies to exploit as if we are still in the apartheid era.

On 14 December we are going to take the protest at the doorstep of SUN International in Sun City if the Chief Executive Officer, ceo, of SUN International failed to stop the unfair retrenchment that is taking place there in Sun City. Thank you very much, Chairperson.

Mr X NGWEZI: Chair, the Covid-19 pandemic has led to record high unemployment rates and the South Africans, more than ever, need assistance and guidance from the department and its entities.

The department should play a crucial role in economic recovery and the creation of jobs. However, the department’s ability to do this is questionable as it has been shrouded in allegations of corruption and maladministration emanating from the UFI Covid-19 relief scheme.

Although the investigations are underway, the lack of protocols, human capacity and systemic inefficiencies coupled with absence of leadership, leave much to be desired.

However, hon members, the department’s entities have, in successive quarters, incurred irregular, wasteful and fruitless expenditure.

The UIF in the second quarter of 2019-20 recorded fruitless and wasteful expenditure of R79,8 million; get that? This situation is completely unacceptable and shocking to say the least. As a country we cannot afford this kind of recklessness.

Inkatha is highly alarmed by this situation and we strongly endorse the committee’s recommendation that the issues raised by the Auditor-General, AG, must be addressed urgently and now. The IFP will closely monitor this situation.

*IsiZulu*:

Ngeke siyekelele nje.

*English*:

In successive reports entities have reported shortages in human resources and in adequate organizational structures as one of the challenges that resulted in some of its performance agreements not being achieved. But, hon members, we cannot ignore this situation.

The department needs to focus on installing leadership structures that will promote ethical and professional behaviour.

In safeguarding the interests of workers ...

*IsiZulu*:

... iNkatha yeNkululeko ...

*English*:

... supports the committee’s recommendation that the department should not deploy its limited resources to focus on sectors that reported high level of noncompliance to legislation.

Colleagues, the committee’s reports on the third quarterly report of the department and its entities’ performance specifically note that employers are still employing foreign nationals for jobs that do not require critical or scarce skills. And this issue, colleagues, causes extreme tension in our country and the IFP strongly endorses the committee’s recommendation that the department should co-operate with the Department of Home Affairs to address the issue of employment of foreign nationals for jobs that do not require scarce skills; which should be performed by South Africans.

*IsiZulu*:

USIHLALO WENDLU (Nk M G Boroto): Sithokoze, mhlonishwa.

*English*:

Hon members, the tragic reality

*IsiZulu*:

USIHLALO WENDLU (Nk M G Boroto): Mhlonishwa!

Mnu X NGWEZI: ... siwawuxhasa, Sihlalo, nangalezi zinto esiziphakamisayo.

USIHLALO WENDLU (Nk M G Boroto): Sithokoze, mhlonishwa.

Mnu X NGWEZI: Siyawemukela umbiko. Siyathokoza.

Ms H DENNER: House Chair, I’m very worried about the [Inaudible.] perception that exists within the Portfolio Committee on Employment and Labour that the ANC members advocate for the so- called workers and the opposition parties like the FF Plus only work for, advocate for and represents employers. This view held by the ANC members of the committee and repeatedly alluded to by the chairperson is truly perplexing.

For it is easy maths to work out that without employers there would be no employees, without someone to work for there would be no workers and it follows that these two parties, employers and employees, do not stand as the stand as the ANC sees it, on two opposite sides, being in conflict with each other. The one cannot exist without the other and it shows poor leadership by the ruling party to publicly state that they do not represent both parties.

It is our responsibility as an oversight body to ensure that all role players in the labour market are considered and represented through evaluation of the department’s performance.

Therefore, it is extremely worrying that committee reports hardly reflect contributions made by opposition parties because they are seen to be on the side of the employer while these contributions are to the betterment of the department’s performance and service delivery to all South Africans.

There are many issues that are blatantly ignored because it is the so-called position of the certain constituency and this, hon Chair, is not unacceptable.

We have never seen an unemployment rate as terrible as the one we have today. The department’s expanded mandate of employment creation only exists on paper. We have a very big and real problem. We cannot afford to alienate and demonise those very role players who can indeed contribute to job creation in our country; who in fact are the only contributors to job creation ion our country.

The FF Plus cannot, in good conscience, support these reports because they are not a true reflection of proper oversight and do not hold the department to account. I thank you.

Mr W M THRING: Hon House Chair, in considering the five reports for the department of Employment and Labour and its entities the ACDP noted that the overall performance of the Commission for Conciliation, Mediation and Arbitration, CCMA, went down from 78% in quarter three of 2017-18 to 63% in quarter three of 2018-19.

Additionally, the CCMA had spent 93% of its budget by the end of quarter three; which is far above the recommended 75%.

What the ACDP has done is to follow the money and it is clear that all is not well in this department. In quarter three of 2018-19 the department incurred fruitless and wasteful expenditure of R425 812. A total of R670 380 of irregular expenditure was detected and reported during the period. This is an increase of R414 640 recorded in the second quarter of 2918-19.

In the fourth quarter of 2018-19 the department incurred fruitless and wasteful expenditure amounting to R2,9 million; this is an increase of R2,5 million because in quarter three of the year under review a total of R1,5 million of irregular expenditure was detected and reported during this period; it is an increase of

R832 573 from the R670 380 reported in the third quarter of 2018-19.

The department incurred irregular expenditure amounting to R22 000 and fruitless and wasteful expenditure amounting to over R360 000 in quarter one of 2019-20.

The department reported three cases of irregular expenditure amounting to R53 319 in the second quarter of 2019-20; an increase of some R22 000.

A total of 53 cases of fruitless and wasteful expenditure were reported amounting to over R602 000 in this particular quarter.

In quarter three and quarter four 2019-20 irregular expenditure amount to over R460 000 with fruitless and wasteful expenditure totalling some R251 000 due to damages incurred to vehicles and as a result of accidents and no shows ... pardon me, Chair ... and no shows that were booked for accommodations.

In quarter four fraud potentially amount into R2,5 million was discovered as a result of payment and fraudulent invoices of the Employee Health & Wellness, EHW, services that were not delivered.

A total of 372 misconduct cases were opened during the quarters under review.

Clearly, House Chairperson, for the quarters under review this department is riddled with fruitless, wasteful, [Time expired.] irregular expenditure and fraud amounting to millions of rand.

Additionally, the numerous cases of misconduct reflect the systemic and structural weaknesses in the department.

The ACDP does not support this report. Thank you.

The HOUSE CHAIRPERSON (Mr C T Frolick): I would request the Whips to kindly inform their members that they only have two minutes to make these declarations; they mustn’t prepare three and four minutes because they won’t be able to finish their input.

Mr S N SWART: Chair, on point of order. I understand that it’s three minutes for these declarations in total; three minutes.

The HOUSE CHAIRPERSON (Mr C T Frolick): But anyway you must weigh above the time.

Mr S N SWART: I understand, Chair. thank you.

Mr A M SHAIK EMAM: Thank you very much, House Chair. The National Freedom Party supports the reports tabled here today. Allow me to start off by making some suggestions, particularly in respect of farm workers. The National Freedom Party wants to submit that in terms of beneficiation for labourers on farm to quite often when they turn to retire they end up without any housing and things. We are calling on the department to work together with the local municipalities that when these people are actually employed, together with the farm owners, farm owners need to contribute on a monthly basis to the municipality. Therefore, when these people retire with that contribution and the municipality providing service sites, it will be a win-win situation so that our farm workers will eventually at least have their own homes instead of being evicted from these farms.

The other problem that we can to find in the labour sector to a very large extent appears to be the lack of commitment amongst labourers today and employees today as the result of the protection that they turn to be getting by the Commission for Conciliation, Mediation and Arbitration, CCMA, and the cost of doing business, and I think the department needs to engage with unions and things because we are not competitive in terms of market to even enter the export market, because of the high cost

of doing business and the stringent labour conditions that we sit with.

The National Freedom Party welcomes the recommendations as tabled in these reports. However, what we want to stress is that those recommendations are as good as implementation to implement them and, of course, you will then be able to move in the right direction. As the National Freedom Party supports the reports of the Department of Labour tabled here today. Thank you.

Mr W M MADISHA: Thank you, Chair. The department and its entities claim that they have improved. My response is no, because if there was any improvement at all then the unemployment rate would not be where it is now, because you fail as government to create jobs.

You have turned South Africa into a welfare state which will not go on and succeed altogether in a few years to come. You say that the state-owned entities are doing well, my answer is no.

Yesterday, for example, we were talking about the SA Broadcasting Corporation, SABC, and the kind of problems where it has been able to accumulate where SABC is at the moment. It is failing, but it is not SABC only. We hear in the country talking about 700 state- owned entities which are not doing anything, which are not taking our country forward and which are doing the same things as other entities are actually doing.

Now, what we need to do is to cut them down and close the majority of those particular entities so that we can be able to move forward as a country and save the money that goes to the majority of them so that jobs can be created. I must call on the former general secretary of the mine workers in South Africa, the present President of South Africa, Ntate Ramaphosa, and the former member of the central committee of the trade union federation in South Africa, who is today the Minister of Labour, to say that they must do that which they fought for and not side-line other trade unions, small unions which are side-lined when they, for example, go to the National Economic Development and Labour Council, Nedlac, CCMA, Public Service Co-ordinating Bargaining Council, PSCBC, and others. Those other unions are side-lined. Why, because it is said that they are small, and yet, Nelson Mandela did not do that.

I remember when there was one trade union federation when it was still alive with four million members, but then when Mandela, his soul rest in peace. When he convened the trade unions he even took one small one which had only 350 000 members called the National Council of Trade Unions, Nactu. He took them to that particular meeting and we were able to go on. And now, this one which belongs to Ntate Ramaphosa and others is actually just taken a nest so that it can be a revived. That is wrong and there must be

improvement. Let all the people go and attend because they too have ideas and they can be able... [Inaudible.] ... to take the country forward. [Time expired.] [Laughter.]

The HOUSE CHAIRPESON (Mr C T Frolick): Thank you. Al Jama-ah! Please don’t intimidate the former president of the SA Democratic Teachers Union, Sadtu. [Laughter.]

Mr M G E HENDRICKS: Hon House Chair, since the demise of apartheid and our new dispensation, big business is 10 times better off than that they were during the days of apartheid. Our President after President has created enabling environment for big businesses to strive to have export opportunities incentives and this we expected them to create jobs and instead of doing that they held- back on creating jobs. You can’t say that unemployment rate increases but the Department of Labour is failing in their responsibilities. Unemployment rate increases because big businesses are not employing and they have lot and lot of cash. It was very encouraging to hear from the chairperson of the portfolio committee that there has been incremental improvement in the objectives ... [Inaudible.] ... even the improvement of a 100%.

Al Jama-ah supports the reports and we feel that the country must stand behind the portfolio committee and the Department of Labour,

and that big businesses need to re-examined their conscious and start creating jobs. In fact, we would like to recommend that the Cabinet consider a policy of a fully employment in South Africa and then force them to come to the table. Thank you very much, hon House Chair.

Mr S W MDABE: Hon House Chairperson, hon Ministers and Deputy Ministers and hon members, as we discuss the oversight report of the Portfolio Committee on Employment and Labour, we must never lose sight of the fact that we are members of the Assembly to represent the people under the Constitution. The working class of our country yesterday celebrated the milestone 35th anniversary of the birth of the giant trade union federation, Congress of South African Trade Unions, Cosatu. We recall that Cosatu was launched in December 1985, after four years of unity talks between unions opposed apartheid and committed to nonracial, nonsexist and democratic South Africa.

Incidentally, the information of those who were not yet political conscious and those who were not yet born, a certain young 33-year old general secretary of the largest union in history of South Africa, the National Union of Mine Workers played a central role in the unity talks and ultimately the successful launch of Cosatu. For those who don’t know the history of the South African working

class the 33-year old was President Matamela Cyril Ramaphosa. I’m bringing up this chapter of history to remind the members of this House and the South African people that the working class is indispensable to our programme of building a national democratic society.

However, at this moment, millions of working families are in pain. The economic fallout from the coronavirus pandemic and the inevitable lockdowns imposed by government all over the world to control infections has been born overwhelmingly by the working class and the poor. Many workers who create the wealth of our country, workers in African continent and the world remain in precarious employment conditions with minimal protections of jobs security. Millions have lost their jobs while the chief executive officers, CEOs, and fund managers on the stock exchange of the world have amassed billions of dollars.

In spite of all the challenges we have in our country, the gains made by South African workers in terms of progressively by legislations such as the Labour Relations Act, are the envy of trade unions in other countries even the wealthiest country in the world, the United States of America, there is no paid maternity leave, no universal health coverage and no right to strike. The gains of the working class have been achieved because the majority of the workers have entrusted the ANC with political power.

However, experience has taught us that the protection in our labour legislations are not enough. Some employers have been able to find loopholes to exploit workers, neglect their safety in the workplace and not paying them their dues. This reality is what has prompted the ANC to support key recommendations in these reports. These recommendations that seek to strengthen the capacity of the branches and entities of the department of Employment and Labour that ensure the fair and just treatment of workers must be implemented. These recommendations include: the need for the appropriate to resourcing of the CCMA to deal with its extended mandate arising from amendments to labour legislation, similarly the resourcing and restructuring of Nedlac is essential so that it can effectively and efficiently execute its mandate, particularly in the light of social compact that are urgently needed to resolve the developmental challenges and economic recovery efforts from the devastation visited on our country by the coronavirus disease 2019, Covid-19.

The long standing recommendation of the committee that calls for the support by government departments to the supported employment enterprises by giving them preferential procurement status must be addressed. The recommendations pertaining to the department itself are crucial for the performance of our parliamentary oversight

function. For instance, they have called on all the entities reporting to the department to use a uniform format of reporting financial and nonfinancial performance, understanding that the resources of the department are scarce, but the challenge is an enormous. We have recommended that the department should consider deploying its resources to sectors that have reported high levels of noncompliance with legislation. In order to fulfil its new mandate as the department responsible for employment, the committee has called on the department to also monitor and report on employment creation by other departments.

Hon House Chairperson, I would like to conclude with the words from a song *Children’s Bread* by Jimmy Cliff, the legendary musician from Jamaica, this is inspired by the shameful acts of some employers who did not contribute to the Unemployment Insurance Fund, UIF, while they were deducting money from workers and those who claim from the special Covid Relief Tax Fund, but did not pay it over to their workers. These are kind of people the DA and the Freedom Front Plus regard as their constituency. About such people, Jimmy Cliff said:

They took the children’s bread And give it to the dogs

Took the children’s bread

And give it to the dogs

They took the children’s bread And give it to the dogs

Makin’ so many people’s lives so hard.

I thank you, House Chairperson. [Applause.]

Motion agreed to (Democratic Alliance, African Christian Democratic Party, Freedom Front Plus and Economic Freedom Fighters dissenting).

Report on Third quarterly report regarding performance of Department of Employment and Labour and entities in meeting strategic objectives for 2018-19 accordingly adopted.

Report on First quarterly report regarding performance of Department of Employment and Labour and entities in meeting strategic objectives for 2019-20 accordingly adopted.

Report on Second quarterly report regarding performance of Department of Employment and Labour and entities in meeting strategic objectives for 2019-20 accordingly adopted.

Report on Third and fourth quarterly reports regarding performance of Department of Employment and Labour and entities for 2019-20 accordingly adopted.

The CHIEF WHIP OF THE MAJORITY PARTY: Hon House chair, may I raise a point of order. Hon House I am rising on Rule 92(2) on what transpired yesterday during the last order. I think it was just a human error where the Chair did not recognise the ANC to make a declaration. I regard that as a human error and I wish that, it be noted by the House. Thank you.

The HOUSE CHAIRPERSON (Mr C T Frolick): Thank you hon Chief Whip, it was definitely an oversight from my side. I apologise for that. We have also asked the NA table to look at the guide that they give us so that they do not separate the ANC from the other parties. Once again my apologies. The Secretary will read the Eight Order.

# CONSIDERATION OF REPORT OF STANDING COMMITTEE ON AUDITOR-GENERAL ON INTEGRATED ANNUAL REPORT OF AUDITOR-GENERAL FOR FINANCIAL YEAR 2019/20

Mr S S SOMYO: House Chair, hon members, it is indeed a subject of fact that we meet today to consider this report when the curtain

has closed in the life and times of the late Auditor-General, Kimi Makwethu. That closure is a closure of work, done with earnest excellence as the son of the soil who has presented his life, blood and spirit in all commitments.

We today, stand to present his work, tied up not necessarily with his own goals, stands to stall the time. The committee has considered that report knowing very well that we are indeed faced with challenging times. That office committed to work and its own commitment has managed to make savings which are so significant in its own work, of about R190 million which we think that generation of such savings is not only based on the lack of operation, but it was based on the commitment to ensure that each and every rand and cent counts.

That is why we seek to recommend the House, that in their consideration of such, we should seek to allow Auditor-General of South Africa, AGSA to keep such funds and ensure that they build their reserves and serve the country even better. It is our opinion as the committee that, as we look at how the country has been ravaged scourge of corruption and at the time when we might ensure that the increase of the requests for special audits might mount.

Therefore, if that is the case, a consideration should be given on our country’s slow economic growth prospect and its financial impact thereof. Therefore, we seek to urge the House to look into a fact that the heightened special audits who are going to serve the day, should be supported by necessary funds which ought to be committed through this time.

The Auditor-General should consider extending these current collection strategies to state-owned entities, SOEs, because SOEs are emerging having to join local governments through indebtedness, their failure to pay what they owe at the Auditor- General.

In that case, we seek to advise the Auditor-General’s Office to ensure that the ring-fencing of such commitments, should allow it space to identify those affected and ensure that they chase them so that they can pay the outstanding debts.

The committee recommends that AGSA should submit mitigation plans on how it plans to connect the persistent nonachievement of performance targets to ensure high quality of our audits. Targets to achieve 80-90% adherence to quality standards of audit engagements.

Something that we have noted, it has been caused by the fact that some of the auditees submit financials only to comply, after that they would withdraw such financials and delay the actual finalisation of such audits and impact on the quality type that is needed by the country in terms of the outcomes of the audit.

The committee welcomes the efforts made by AGSA to expand its audit portfolio especially with the large complex SOEs, as it is the case with Eskom and Passenger Rail Agency of South Africa, Prasa, which was a discussion later this morning. The Auditor- General’s Office is starting slowly but surely to interact with those private auditors who have charged with that work, for a takeover of such SOE audits which is a tall order from our own side. The Auditor-General ... [Time Expired] Thank you very much.

*IsiXhosa*:

The CHIEF WHIP OF THE MAJORITY PARTY: Enkosi kakhulu Sihlalo weNdlu. Ndiphakamisa ukuba le Ndlu yamkele le ngxelo ithiwe thaca apha, emalunga nala Ofisi yoMhloli-zincwadi-Jikelele. Enkosi.

*Declarations of vote*:

Dr L A SCHREIBER: Thank you, House Chair, in a recent performance briefing to our committee, the Auditor-General’s Office once again reported billions of rands of unfair and uncompetitive procurement

processes. That’s a fancy way to talk about billions of rands of corruption.

The new Public Audit Amendment Act or as some calls it “Kimi’s law”, gives the Auditor-General the ability to hold government officials personally and financially liable for this type of corruption.

The DA once again calls upon the new Auditor-General Ms Maluleke to honour the legacy of the late Auditor-General Mr Kimi Makwetu and use “Kimi’s law” so that we may see those who steal and stole taxpayer’s money are held accountable. The DA supports the adoption of this report. Thank you, House Chair. [Applause.]

Ms N V MENTE: House Chairperson, the EFF supports the report and want to congratulate the Auditor-General’s Office for leading by example; fighting against all odds despite the difficult climate and high levels of corruption of the ruling party that is corrupt to the core. The Auditor-General SA has remained steadfast, reliable and credible in their work and this is reflected in their integrated annual report.

It is disturbing that despite the excellent work the Auditor- General SA, there seems to be attempts to sabotage the Office and

the National Treasury and the Minister Tito Mboweni are at the forefront of this sabotage to the Auditor-General SA.

We passed the Public Audit Amendment Bill, which was later signed into an Act with an understanding that additional responsibilities will come with additional funding of R50 million from National Treasury but because of austerity policies ... [Interjections.]

Mr B A RADEBE: On a point of order.

Ms N V MENTE: ... the R50 million has not materialised having all state-owned enterprises, or SOEs, audited by the Auditor-General SA adds to their ... [Interjections.]

The HOUSE CHAIRPERSON (Mr C T Frolick): I want to take a point of order. What is your point of order, hon Radebe?

Mr B A RADEBE: Thank you, House Chairperson, I am rising on Rule

84 and 85. Rule 84 refers to the use of unparliamentary language whereas Rule 85 refers to the use of a substantive motion. The speaker on the platform has just said that the Minister of Finance has sabotaged the Auditor-General’s Office. I think that that matter must be substantiated. Thank you, House Chair.

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon member, I will look in the Hansard and come with a considered ruling. Hon Mente, you may continue.

Ms N V MENTE: ... can I start on where I was in the paragraph before I was rudely disrupted?

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon member, just continue with your speech. Where you want to start is entirely up to you.

Ms N V MENTE: ... responsibility as well, meaning more resources would be required. As a result, the Auditor-General SA is underfunded. We want the Auditor-General SA to conduct live audits and quick turnaround times as we witnessed during the audits of COVID-19 procurements that revealed widespread corruption of the ANC.

The Auditor-General SA must build internal capacity and not depend on external audit firms to perform its core functions. We must condemn all officials in government departments, municipalities and state-owned entities. We have now started to push back and resist audits. We cannot have a no-go audit zone. Everyone must be audited equally and the Auditor-General SA must perform its functions without fear or favour.

The Auditor-General SA must open criminal cases for officials who resist audits. The Auditor-General SA must fast track the process to take over audits of large and complex SOEs because we know that corrupt auditing firms such as KPMG cannot be trusted and should not be trusted with auditing of any companies, let alone state resources.

We want to encourage the newly appointed Auditor-General Tsakani Maluleke to tackle the key performance targets with renewed focus and dedication to build a solid institution that will be better than when she was appointed.

The Auditor-General SA must be willing to tackle difficult audits. We all want to know if people who sponsored the President in his CR17 campaign are beneficiaries of state contracts now that he is a President. There are audits we want to encourage the Auditor- General SA to explore as we all know by now that kickbacks have become the order of the day in order for corrupt officials and leaders of the ANC to be beneficiaries of the state.

Yesterday, House Chairperson, we were talking about a report of the Standing Committee on Public Accounts, or Scopa, of the SA Broadcasting Corporation, or SABC. Those were the findings of the Auditor-General. The Auditor-General will not do anything if this

particular Parliament is not assisting them at implementing its own recommendations. Thank you very much.

Mr N SINGH: Thank you very much, House Chairperson, the importance of the role played by the Office of the Auditor-General SA in championing transparency and accountability in all spheres of government cannot be overstated.

The Auditor-General is a Chapter 9 institution with a constitutional mandate to advance financial accountability in the public sector. However, the Office does not escape from being audited and subject from stringent control itself. It is for that reason that external auditors are appointed to express an opinion on the financial statements of the Auditor-General SA. Even the internal audit functions are outsourced to external parties.

The Auditor-General SA certainly raised the bar during the COVID-

19 audits conducted and here once again, we must pay tribute to our former outstanding Auditor-General, the late Mr Kimi Makwetu, who provided quintessential leadership in the office.

An area of enormous concern found in the Auditor-General SA’s audits in government departments and state-owned entities is a prevalence of unauthorised spending. Unauthorised spending

amounted to an exorbitant R1,37 billion. Of particular concern is overspending and fruitless and wasteful expenditure because of poor decision-making, maladministration and blatant neglect and inefficiencies.

The IFP condemns unauthorised spending in government institutions and asserts that it is simply unacceptable. It is an issue that is occurring and needs to be addressed immediately.

Another area of concern is outstanding debts by auditees to the amount of R931 million, which is an increase of R171 million from the previous year. Although strategies to recover outstanding debts are in place, what is worrying is a sudden increase of outstanding debts from some SOEs and their agencies. Urgent corrective measures need to implemented in this regard.

Through cost containment measures, we welcome the fact that the office was able to generate a surplus of R190 million and we trust that this money will be used wisely.

We also as a committee looked at the special fund which was created years ago of R5 million, which the department would have to tell us why it is still required.

A further concern of the IFP is resistance and pushback from some auditees who have physical threatened extra staff when they come to conduct audits. A case in point is an instance that occurred in Ethekwini Municipality about two years ago. We need to do everything to protect the lives and properties of officials of the Auditor-General SA.

Finally, as we attempt to lift our country from the ravages of corruption and incompetence that characterises this government, it is important that the Auditor-General SA consider utilising its surplus existing funds and the allocation from National Treasury when it comes to tackling the internal control gaps identified, strengthen its ICT capacity and embark on special audits. The IFP supports this report. Thank you, House Chairperson.

*Declarations of vote (cont)*:

Mr S N SWART: House Chair, the ACDP, like other parties, shared in pain tribute to the late Auditor-General, AG, Mr Kimi Makwetu.

Many referred to his incredible hard work over years to stabilise the Auditor-General’s office and one of his lasting legacies is the amendment to the Public Audit Act, PAA, which enables the AG’s office and law enforcement agencies to hold accounting officers personally liable for losses incurred at state departments, municipalities and state-owned companies, SOCs.

This is a very positive step in addressing malfeasants and corruption in these various sectors. However, the commitments made by National Treasury during the consultation phase prior to the passing of the Public Audit Act regarding the funding of those additional powers did not materialise. It was agreed that

R50 million will be allocated for this purpose and this is yet to be paid. And the AG has now had to use its own resources to finance this very important amendment; and this is totally unacceptable.

We also see that the Auditor-General is doing very important work in real time auditing; and had that not taken place during the Covid-19 corruption, I’m sure a lot of that would only have been discovered next year. This adds to the financial constraints of the Auditor-General.

In addition as other members have pointed out, the AG is owed an amount of R931 million, which is up from previous years,

R744 million by client auditees. This is also unacceptable, and clearly if client audits departments are not paying, that impacts negatively upon the Auditor-General.

Lastly, the ACDP would also like to highlight the push back, the threats and intimidation against the Auditor-General. Each one of

us in this Parliament must condemn that in the strongest possible terms, and the result of push backs and delays is of course that this thing delays and ends up with Budget Review and Recommendations, BRR, processes not been finalised and Parliament not able to do its own work.

However, that having been said, the ACDP will support this report. I thank you, House Chair.

Mr A M SHAIK EMAM: House chairperson, first of all the NFP would like to pay tribute to the late Kimi Makwetu for the job well done; in fact he set the trend for the office of the Auditor- General. But at the same time we want to congratulate and welcome ms Tsakani Maluleke, the new Auditor-General of South Africa.

The AGSA has generated actual revenue of R3,7 billion for the 2019-20 financial year. This represents a 12,5% year on year

growth when it is compared to the revenue generated in the 2018-19 financial year.

It is worth noting from this that AGSA has achieved a surplus of R190 million compared to R71 million and R67 million in the previous two financial years.

The surplus achieved during 2019-20 financial year by AGSA can be ascribed to cost containment measure.

For the 2019-20 financial year the debt owed to AGSA has overall increased. At the end of 20 March 2020 AGSA was owed an amount of R931 million, which is more than the amount owed in 2018-19.

In conjunction with the Standing Committee on Auditor-General in 2014 AGSA introduced some enhancement collections strategy which included re[Inaudible.] of outstanding debts.

During the amendment of the Public Audit Act it was agreed that the additional powers given to the Auditor-General will return an amount of R15 million which should be allocated through the fiscus. This has not happened and AGSA has to use the [Inaudible.] implementation of the amended PAA. This has negatively impacted in the [Inaudible.]

The NFP is pleased with the performance of AGSA. It is one of the best performing institutions in our country and we would like to implore on government [Inaudible.] to protect AGSA auditors who get victimised by public auditees. The Auditor-General informed the committee that his audit staff was being put under unnecessary threat to their lives and that the matter needed to be given

attention. This must be condemned and that the law enforcement authorities must act as a matter of urgency in the matter.

The NFP supports the report of Auditor-General tabled here. Thank you.

Mr W M MADISHA: Chair and members, Cope supports the proposal that there must be special audits on all state-owned enterprises, SOEs, the local governments, but then we want to say that even the provincial levels and government here, at national, must be looked at.

Because, yes, it is true that those who are corrupt become more sophisticated so that what they have stolen or what they steal may not be found.

The corrupt, we want to say, are both politicians and the bureaucrats. I mean, if you listen to what is happening at the Zondo Commission you are able then to understand what is happening.

But we must indicate that we want to thank the late AG for the good work that he has done and hope that the one lady AG that is going to be taking over does the best as well. Otherwise if she

doesn’t, more plastic bags will be filled up and will be in trouble. Thank you.

Mr M G E HENDRICKS: Hon Chair, the Sixth parliament now has two silver bullets: what I can call a double wally, a real time auditing and holding those responsible for corruption in their personal capacities.

So the Sixth Parliament may at the end of its term not be blamed like the other five parliaments for letting unauthorised expenditure and corruption slip through the cracks. And that’s why the Sixth Parliament must find the way to ensure that there is money [Inaudible.] for this double wally and these two silver bullets.

This also ... now that we have a female Auditor-General, with her energy and oversight the Sixth Parliament has an opportunity to be one of the first parliaments in South Africa that made sure that corruption is reduced and also unauthorised expenditure.

AL JAMA’AH supports the report. Thank you very much, hon Chair.

*Sepedi*:

Mr J B MAMABOLO: Mna J B MAMABOLO: Modulasetulo, ke thoma pele ka go laetša gore re bile le mahloko motseng wa rena wa Seshego bekeng ya go feta ka laboraro. Dipula di ile tša na tša senyetša badudi mafastere, diasbestose gammogo le dikoloi. Rere dipelo tša rena di na le lena badudi ba Seshego.

Re leboga Mmasepala wa Polokwane le wa Karolo ya Capricon gammogo le mmušo wa Limpopo ka ge ba ile ba kgona go kitimela Seshego ba thuša badudi gore ba bušetše diasbestose tša bona sekeng ka masenke. Re leboga mmušo wa Limpopo ka fase ga Ntate Chupu Mathabatha.

Re leboga gape le gore ekonomi e tla boela sekeng ra kgona go bona meletlo ya go swana le bo Polokwane Social Derby, Sunset Social Market ya makarapa, Stokvel gammogo le The Darque Experience tšeo di hlatlošago ekonomi ya rena ya Seshego.

Modulasetulo, ke rata go laetša gore re le ba ANC re tloga re thekga pego ye ya Molekodipharephare wa Dipuku yo a ithobaletšego. Re kwa bohloko gobane e be e swanetše go ba pego ya gagwe ya mafelelo yeo a e beago pele ga komiti ya rena kgweding ya Oktobere. Bjalo re re a moya wa gagwe o robale ka khutšo. O be a laeditše ka gare ga pego pele a hlokofala gore mapheko ebile a mantši mengwageng ye šupa. Molekodipharephare wa Dipuku o be a eya

go Bommasepa a tšhošetšwa gomme ba palelwa ke go dira mošomo wa bona. Ba be ba eya dikgorong tša mmušo ba tšhošetšwa, ba palelwa ke go dira mošomo wa bona. Re kgopela gape gore ka moka ga lena bao ba lekolwago, le patele ditirelo tšeo le tsebago gore le di humane ka gobane ge le sa patele Agsa e tlo palelwa ke go dira mošomo wa yona.

Modulasetulo, sa mafelelo ke rata go laetša gore re amogela Mme Tsakani Maluleke. O thomile mošomo wa gagwe maabane ka di1 tša Disemere. O tlo fetša mengwaga ye šupa a le gona mo a šoma. Ke mosadi wa mathomo gape wa motho yo moso yo a tsoramago maemo a. Re le mokgatlo wo mogolo wa Modimo le badimo wa ANC re re re a leboga. Re thekga pego ye.

Ke a leboga, Modulasetulo.

*English*:

Question put.

Agreed to.

# CONSIDERATION OF REPORT OF PORTFOLIO COMMITTEE ON CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS ON DETERMINATION OF REMUNERATION OF PUBLIC OFFICE BEARERS OF COMMISSION FOR THE

**PROMOTION AND PROTECTION OF THE RIGHTS OF CULTURAL, RELIGIOUS AND LINGUISTIC COMMUNITIES**

Mr G G MPUMZA: Thank you, House Chair. House Chair and hon members, the Portfolio Committee on Co-operative Governance and Traditional Affairs, having considered the draft notice of the determination of the remuneration of independent constitutional institutions, referred to it on 8 April 2020, reports as follows.

The Speaker of the National Assembly referred the draft notice from the President of the Republic of South Africa, dated

26 March 2020, to the committee for consideration of the report.

The latter notified the National Assembly of the President’s determination of the salaries and allowances of members of independent constitutional institutions in terms of the Determination of Remuneration of Office Bearers of Independent Constitutional Institutions Laws Amendment Act, 2014.

Section 14(1) of the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities Act 19 of 2002, provides that the chairperson, deputy chairperson and other members of the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities, CRL, are entitled to annual allowances, and such

allowances or benefits, as determined by the President from time to time by notice in the *Gazette*, approved by the National Assembly.

The Independent Commission for the Remuneration of Public Office Bearers recommended to the President a 3% annual salary increment for all office bearers of independent constitutional institutions earning above R1,5 million and a 4% salary or allowance increment for office bearers earning below R1,5 million, with effect from 1 April 2019.

Taking into consideration the economic considerations in the country as experienced, as well as the current fiscal constraints, the President proposed alternative recommendations as follows.

A salary freeze for office bearers earning R1,5 million and above; a 2,8% salary adjustment for office bearers earning between

R1 million and R1,5 million; and a 4,5% salary adjustment for office bearers earning below R1 million.

Having considered the above, the Portfolio Committee on Co- operative Governance and Traditional Affairs supports and approves the intended determination by the President of the Republic in relation to the public office bearers of the CRL Commission.

There was no debate.

*Declaration(s) of vote*:

Mr M H HOOSEN: Hon Chairperson, thank you very much. In April this year, the Portfolio Committee on Co-operative Governance ... [Inaudible.] ... President on the remuneration of independent constitutional institutions, which are generally referred to as Chapter 9 institutions. The notice contained the President’s determination in respect of the salaries and allowances of senior office bearers in the CRL Commission.

In essence, the President’s determination proposed a salary freeze for office bearers earning R1,5 million per annum and a reduced increase for those earning below that R1,5 million benchmark.

As a matter of principle, and given the very difficult economic circumstances that our country finds itself in, the DA is generally supportive of that proposal to freeze salaries of senior office bearers earning over R1,5 million per annum.

However, at the same time what we also want to recognise is the invaluable contribution made by many of the Chapter 9 institutions in our country, and in particular, the role played by the CRL

Commission to achieve their mandate of building social cohesion in our country.

While I have this opportunity, let me also reiterate our deep concern for the very poor funding level of the CRL Commission. They receive R48 million per annum, which is massively insufficient for them to achieve their mandate, especially when one considers the very deep-seated divisions that exist in our country between different language groups, different cultural and religious groups ... especially racial communities as well.

Having said that, in respect of the salaries of senior office bearers in the CRL Commission, we would’ve preferred that the salaries of the Ministers instead be slashed and that those savings be redirected to senior office bearers in Chapter 9 institutions, whose work to serve our country is immeasurable.

Whilst we welcome the initiative of the President to freeze the salaries of senior office bearers at Chapter 9 institutions, largely because of the current economic climate probably brought to us by the ANC government, at the same time we call on the President to do the same with his own Cabinet — to freeze the salaries of his own Ministers. We have far too many Ministers who are useless and do very little for the huge salaries that they

earn. The cost of their bodyguards alone is far greater than the entire budget of the CRL Commission, for example. That money could be much better spent on building unity and social cohesion in our country, rather than protecting some of our useless Ministers.

The same principle of freezing salaries of senior officials should also be extended to some fat cats who languish in state-owned entities, SOEs, at the expense of the taxpayer, yet they run those institutions into the ground and nothing happens to them. We are in this state because the ANC has run our country into the ground and there isn’t enough money now to pay salaries.

It is very unfortunate that Chapter 9 institutions, that generally do a brilliant job, are the ones that have to be punished, yet many government departments, government officials and senior office bearers who fail to perform, bear no consequences for their actions. In fact, many of them continue to receive salary increases and performance bonuses, regardless of their terrible performance.

Yesterday we heard in this House how the SA Broadcasting Corporation, SABC, has been falling apart because of high salaries and poor financial management. There are many more senior office

bearers in some of these SOEs whose salaries should also be frozen.

While we support the proposals in this report, we want to call on the President to also conduct a review of the very high salaries that many senior office bearers earn in our country, as well as the huge performance bonuses that they receive, even when those institutions don’t perform and are run into the ground. Those who live off the public purse must be held accountable for the huge salaries that they receive and when they don’t perform according to our expectations they must feel it where it hurts the most; in their pockets.

*Declaration(s) of votes*:

Ms H O MKHALIPHI: 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 increases for a while. As we speak now, the SA Broadcasting Corporation, SABC, is planning to retrench hundreds of workers, purportedly due to the dire financial situation they find themselves in. If this is a genuine attempt to reprioritise government’s spending, then it should be extended to political appointments too. However, we know that it is not genuine and we

... [Inaudible.] ... public servants for bad management decisions taken by politicians.

This determination on the remuneration and benefits payable to commissioners of the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities, CRL Commission, is proof that what is good for the goose is not necessarily good for the gander in the eyes of our leaders. We are one of the most unequal societies in the whole world. This inequality is sharpened by an 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 improved ... than those earning a lot ... already need to make the necessary compromises.

We do welcome the salary freeze for those commissioners earning above 1,5 million and the 2,8% increase for those earning just over a million rand. The 4,5% increase for those earning below a million rand a year should basically be the standard practice across the Public Service, not only in the commission. Those earning less must be remunerated accordingly because most of the

wage bill in the Public Service is as a result of the top-heavy management we have in this country.

The same should be done at the SABC, Eskom and other state entities that give executive management exorbitant salaries. There must actually be a deliberate attempt to cut down on the salaries of executives in order to keep people at work and remunerated accordingly. The EFF welcomes these changes and we support the report. Thank you, Chair.

Mr N SINGH: Hon Chairperson, as with all the bodies established in terms of Chapter 9 of our Constitution, the CRL Commission is tasked with strengthening constitutional democracy. In a multicultural country where our people practise a multiplicity of faiths and speak multiple languages, the importance of the commission’s mandate, to among others promote and develop peace, friendship, humanity, tolerance and national unity among cultural, religious and linguistic communities on the basis of equality, nondiscrimination and free association, cannot be overstated. The commission is further called on to be impartial and to execute its duties without fear, favour or prejudice.

Having said that, in order to fulfil this essential role, we as the IFP believe it is necessary that office bearers are

sufficiently remunerated. However, we do recognise the added financial pressures created as a result of the COVID-19 pandemic and the need for budget cuts. We therefore welcome, as per the portfolio committee’s report, the President’s alternative recommendation regarding the annual salary increment for all office bearers.

At a time when many South Africans were forced to take salary cuts, or indeed, have completely lost their income, we believe the President’s recommendation, to freeze salaries above 1,5 million and to adjust the salary increments of those earning below

1,5 million, to be prudent and necessary. The IFP accepts this report. Thank you.

Mr S N SWART: The ACDP rises in support of this report and, as has been said by the speakers, the President opted not to follow the recommendation of the Independent Commission for the Remuneration of Public Office Bearers of constitutional independent bodies, and instead proposed a salary freeze for those earning 1,5 million and above. This is understandable and it is consistent with what this House has basically decided in similar recommendations relating largely to other Chapter 9 institutions.

The ACDP would also like to commend the CRL Commission for its statements made during the hard lockdown, when it called on all leaders of religious and cultural societies to support poorer communities during the hard lockdown with monetary support, spiritual support and psychological support. The Chairperson said that the lockdown had come at a great cost — and we all know that

— for the economy with the disruption of economic activities and this resulted in high levels of unemployment, poverty, homelessness and psychological and spiritual deficiencies. We welcome that statement.

However, we would’ve also appreciated it if there had been greater steps to enable pastors, imams and Jewish leaders to get permits for essential services. Many of them struggled and it was then up to members from the ACDP and others, who approached the Department of Trade, Industry and Competition to get those permits for essential services. However, in general we support this report. I thank you.

Mr A M SHAIK EMAM: Thank you very much, House Chair. The NFP notes the report of the Portfolio Committee on Co-operative Governance and Traditional Affairs, and indeed we support the report and recommendation as tabled here.

The Independent Commission for the Remuneration of Public Office Bearers recommended to the President a 3% annual salary increment for all office bearers of independent constitutional institutions earning above 1,5 million and a 4% salary allowance increment for office bearers earning less than 1,5 million, with effect from

1 April 2019.

Taking into consideration the economic challenges that the country is experiencing, as well as the current fiscal constraints, the President proposed an alternative recommendation as follows. A salary freeze ... 0% for office bearers earning 1,5 million and above; a 2,8% salary adjustment for office bearers earning between

1 million and 1,5 million; and a 4,5% salary adjustment for office bearers earning below 1 million.

In light of the fiscal constraints the country is currently facing, the NFP supports the decision of the President with the proposed alternative recommendation.

One other aspect I want to refer to is the delay in the traditional leaders amongst the Khoi and San ... which has been passed and signed, in actually being remunerated. I hope that this department will try to accelerate that process of ensuring that we do justice to the Khoi and San traditional leaders in the country.

The Public Service wage bill is overburdened and unsustainable, and needs to be significantly reduced to ensure that service delivery is not compromised. The NFP supports the report tabled here.

The HOUSE CHAIRPERSON (Mr C T Frolick): Before we proceed, may I request information communications technology, ICT, to remove the notice that appears on the screens so that we can see the speakers. The next speaker will come from the AIC. Cope?

Mr W M MADISHA: Chairperson, Cope supports the report. Yes, let there be an increment freeze when it comes to those who get 1,5 million and above. We have lowly placed workers who are literally paid nothing, whilst they are the people who are

actually doing all the work, be it here and outside the borders of this Parliament, and so on.

I want to agree with the EFF that, for example Cabinet is too big and costly. I have raised this before. Yes, you talk about the bodyguards, you talk about many Ministers and you talk about Deputy Ministers. I think I have said this four times over the past 10 years. We checked the amount of money that they get paid. I said that it goes beyond R4 billion every year. The bodyguards

... Some get 12 bodyguards, and they change when they come to Cape Town and when they go to Tshwane, and so on.

These are major, major problems that we are faced with and I want to believe that all the members from the ANC and all the other parties will agree with me that ... For example, look at what is happening in the USA; what is happening in China where they have more than 1,3 million people but with fewer than 18 Ministers. I want to repeat; here you have a rally of Ministers and more than

70 Deputy Ministers. This is a major problem. Therefore, let’s agree ... cut what they and those other office bearers are being given, and make sure that we move forward.

I know that some members here from the ANC will say no, no, no, no, but in actual fact when we move out they say yes, you are correct. However, here they say no, no, no, no, no. [Interjections.] They also want to eat. Let the ordinary people be the ones who get something, otherwise we are not getting anywhere. Thank you, Chair.

*Declarations of vote:*

Mr M G E HENDRICKS: Hon Chair, I’m just very worried that, by reducing the increase, they’ll be slow to carry out some of the mandates. President Mandela has urged them to look at celebrating

religious holidays where that all South Africans celebrate religious holidays of all the major religions. We have made representations to them that, if possible, without increasing the

12 paid public holidays but nothing has happened.

Also, every kind of marriage is recognised in the country but not religious marriages. It is 25 years now and those of us who are in the Hadith, some people the Jewish faith, the Hindu faith and even the Christian faith, if they go and have a religious marriage, then the women are considered – as the media has reported – as whores and the children are considered to be bastards. That is unacceptable in our democratic dispensation and I lay the blame squarely on the CRL Commission for not lobbying to make sure it happens. However, Al Jama-ah supports the report.

Ms D R DIREKO: Chairperson, before I can start, I just want to indicate that we note the concerns that have been raised by hon Hoosen. However, he should not forget that the challenges that we are facing today are as a result of the apartheid era whereby our people were marginalised. We also have a skewed apartheid spatial planning which results in the current economic challenges that we are facing today. Our Ministers may be useless to him because he chose not to see the development that we have in our country and we can’t expect more from him because he is a member of the

opposition. His role is to oppose everything. Even the positive things to him will always be bad. Chair, as the ANC, we note the report that has been presented to us and we fully support the alternative recommendations by the President.

South African economy suffered a significant contraction during April to June when the country operated under a widespread lockdown restriction in response to the Covid-19 pandemic. The Covid-19 pandemic further pushes the country’s ailing economy into a red zone. Statistics SA attributed the decline in the GDP to the impact of Covid-19 restrictions which were imposed from late March to June and this may lead to a major setback in our strategy to eradicate poverty, deal with unemployment and inequality, and may also take the country many years to recover.

Most of South African resources have been focused on the Covid-19 pandemic. Subsequently, the country has quickly adopted the temporary monetary policy measures. On 24 June 2020 the Minister of Finance, Mr Tito Mboweni, tabled a supplementary Budget economic recovery. In response to Covid-19, government provided the economic support package of R500 billion to deal with the challenges brought by the pandemic. This was viewed as one of the largest economic response packages in a developing country as it

is widely understood the impact of Covid-19 may still be with us for some time.

Out of consideration of the above-stated issues, the ANC supports the proposed alternative recommendations by President Cyril Ramaphosa. The proposed alternative recommendation by the President is the salary freeze for the office-bearers earning R1,5 million and above; 2,8% salary adjustment for office-bearers earning between R1 million and R1,5 million; and 4,5% salary adjustment for office-bearers earning below R1 million.

Public office-bearers do crucial work for our country often during this trying time. The ANC, as the governing party, is a firm believer in the critical role of the state in developing our country. Working with the public sector unions the government has, over the past 15 years, sought to improve a lot. Our government committed significant resources of compensating them every year.

The government has tried to increase the numbers of office-bearers in recognition of their demanding workload.

Chair, having stated all the above, the ANC acknowledges that the CRL Commission plays a critical role in protecting and promoting the rights of cultural, religious and linguistic communities. The ANC supports the good work the CRL Commission has been doing while

pursuing its mandate. The commission is valued particularly on ensuring different cultures are respected and equal citizenship for all is guaranteed. It is worth noting that the CRL Commission, in 2019 and 2020, identified critical areas such as the awareness campaign for the promotion of protection of the religious rights of communities. This will assist religious communities and members not to be victims of abusive trends within the sector.

The ANC also desires that the CRL Commission could have more resources to open branches in all nine provinces; and it should in future be considered for budget increases because of their workload. The commission has a huge role to play in strengthening social cohesion and nation-building. We need a society that is cohesive to avoid inequality, exclusions and disparities based on gender, class, nationality, age, disability and any other distinction which causes division and distress; and must also ensure conflicts are reduced and eliminated in a planned and sustained manner.

Our democracy as the country has been built under difficult circumstances where a society with diverse origins, history, languages, cultures and religions came together with a unified constitutional and legal dispensation; a national public education system and integrated national economy; shared symbols and values

as equal to work towards eradicating the division and injustices of the past; and to foster unity and promote country with a conscious sense of being proudly South African, committed to the country and open to the continent and the world.

Currently, the country is operating under very serious financial pressure. We had budget cuts from all the different government departments and we also appreciate the fact that, out of all these challenges our country is facing, the President of the Republic of SA, President Ramaphosa was able to make provision for salary increments for the office bearers. I thank you, Chair.

Question put: That the Report be adopted.

Agreed to.

Report adopted and Determination of remuneration of public office- bearers of the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities accordingly approved.

# CONSIDERATION OF APPOINTMENT OF DIRECTOR OF PARLIAMENTARY BUDGET OFFICE IN TERMS OF MONEY BILLS AMENDMENT PROCEDURE AND RELATED MATTERS ACT, 2009 (ACT NO 9 OF 2009) AND OF JOINT REPORT OF

**STANDING COMMITTEE ON FINANCE AND STANDING COMMITTEE ON APPROPRIATIONS THEREON**

Mr S N BUTHELEZI: Hon House Chairperson, hon members, it is an honor for me to present a report on the appointment of director, Parliamentary Budget Office, or PBO. This was done according to section 15 of the Money Bills Amendment Procedure and Related Matters Act, 2009.

After a thorough, transparent and democratic process, the Standing Committee on Appropriations and Standing Committee on Finance are happy to recommend Dr Dumisani J Jantjies as the new Director of Parliamentary Budget Office as per the report which is being tabled. The PBO is tasked with providing independent, objective and professional advice and analysis to Parliament on matters related to the budget and other Money Bills.

Working with human resources and legal departments in Parliament, nine candidates were shortlisted for interviews, and their CVs were made public. People were asked to comment, especially if they knew anything that made the candidates ineligible for appointment. Most of the comments were motivating or demotivating for candidates. There were a few which said certain candidates were not eligible for the position of the director for one reason or

the other. There are those who said none of the candidates had requisite experience and others claiming that there were investigations against individual candidates.

Working with management in Parliament, academic qualifications were verified. Also, the candidates were vetted by the State Security. There was a loud and persistent claim that the three the PBO deputy directors, including Dr D Jantjies, were not fit for the job because of a forensic report. This was checked with the Acting Secretary to Parliament. Again, hon members, that was found to have no merit. I am happy to report to this House that all candidates that were interviewed were found to be fit and proper for the responsibility at hand.

Finally, six of the nine shortlisted candidates were interviewed. Three had decided to withdraw from the process. The interviews were held on the 29th of September 2020, in Johannesburg because of its centrality. Again, to ensure transparency of the process, the interviews were broadcast live. The candidates were kept in holding rooms without TVs or any communications gadgets. This was done to ensure that none of the candidates had an unfair advantage by knowing the questions upfront.

Hon members, all the six interviewed candidates were of high calibre. They had requisite experience and relevant qualifications. This responsibility involves a lot of research. Five out of six interviewed candidates held PhDs in the relevant fields. We take this opportunity to thank these candidates for the preparedness and professionalism they showed throughout the process, and the understanding of the responsibility of the director, Parliamentary Budget Office, which at all times must act with utmost independence. We also thank all those candidates who participated in the process even if they did not make it to the shortlist. Unfortunately, one of the candidates passed on, Prof.

Daniel Plaatjies; may his soul rest in peace.

The minimum academic qualification needed was a Master’s degree in Public Finance, Economics or related qualification. Dr Jantjies has more than 15 years of experience. He has conducted extensive research, fiscal and budget analysis, and also advising government at all levels. He, thus understands what the challenges at local, provincial and local governments are. He has a Master’s degree from the University of the Western Cape, MPhil, and another one from the University of Oxford, MSc. He obtained his Doctor of Philosophy, or PhD, from the University of Birmingham. The title of his thesis is *Use of Principal-Agent Economic Model to analyse accountability in Public Finance.*

As you can see, hon members, even his thesis is relevant for the responsibility that he is being recommended for.

For the last five years he has been a deputy director of the PBO. Since 2018, after the director left, Dr Jantjies has been alternating with two other deputy directors as heads of that institution. Throughout the years, they have supported the work of Parliament, especially Finance and Appropriations Committees, with dedication, diligence and utmost professionalism.

The Joint Committees of Finance and Appropriations recommend Dr Dumisani Jantjies as the new Director of Parliamentary Budget Office.

I want to thank the subcommittee which I chaired, the parliamentary support staff, who were at all times meticulous with their preparations. Also, the Standing and Select Committees on Finance, and the Standing and Select Committees on Appropriations for ensuring that an open and transparent process was conducted, and most importantly, the best candidate emerged. Thank you. [Applause.]

*Declarations of vote*:

Mr G G HILL-LEWIS: House Chairperson, let us start with the goal in mind, what is the vision for the Parliamentary Budget Office? The PBO should be an institution of outstanding international respect that earns a place among the great and independent budget offices of the world’s legislatures. The PBO should add to the prestige and global standing of this Parliament, and serve as an example to democracies around the world and in Africa of how to exercise proper independent budget oversight and accountability.

It should produce original economic research of its own and budget analysis of its own and of the very highest quality. It should be a centre of excellence, academic rigour and unquestionable independence and integrity.

House Chairperson, I want a PBO that is a powerhouse of economic analysis in its own right. That is the only lens through which I approached this appointment process. But if we are honest, our PBO has not yet attained this vision, and in truth, has fallen far short of it. Our PBO delivers analysis that is rather pedestrian, and often relies on the Treasury’s own analysis or research, which defeats the point.

All too often the PBO engages in policy disagreements with the National Treasury, which is not its mandate and it does not

produce the kind of analytical insight required to empower this Parliament to hold the Treasury accountable for the budget process, which is its mandate.

The problem is not resources. The salaries in the PBO are extremely generous, too generous even, and are way above similar positions in the private sector or in academia. That is why I earnestly believe that we should not make this appointment today. Rather, I believe that if we all have the best interests of the PBO at heart, that we should readvertise the vacancy and spend more time recruiting the kind of candidate who will devote themselves to building this young institution into the powerhouse it should be. That is not to say that there was anything improper or unfair in the interview process, there was not. The interview process was very fairly and transparently carried out.

But of all the candidates who applied, there was really only one standout candidate, and that was the late Professor Plaatjes, who this House paid tribute to last week, and who sadly passed away just days after his interview for this position.

This position has been vacant for a year, and there has been an acting director who has been keeping things ticking over during his time. So, there is no immediate rush to fill this vacancy now.

Let me end with a practical suggestion. The Speaker should write to every economics and finance professor who holds either an A or B rating from the National Research Foundation and ask them to consider applying. Those who have experience in building successful economics and finance departments in their respective universities or with management experience as deans, should be immediately shortlisted. That way, we have a better chance of recruiting the kind of talent who will build this institution into the powerhouse it should be.

In the absence of the withdrawal of this item today, we must respectfully object. Thank you very much.

Ms O M C MAOTWE: Thank you very much, House Chair, in terms of section 8 of the Money Bills Amendment Procedure and Related Matters Act, 2009, the process to adopt Fiscal Framework and Revenue Proposals allow for the Standing Committee on Finance and the Select Committee on Finance to submit a report on the Fiscal Framework and Revenue Proposals.

The wisdom of the Money Bills is to ensure that Parliament does not rubberstamp the Finance Minister’s proposals without due consideration. The Act gives Parliament powers to amend the Fiscal Framework and Revenue Proposals.

To ensure that Parliament amendments contain an appropriate balance between revenue expenditure and borrowings and ensure that debt levels and debt interest costs are reasonable and all other requirements are met, Parliament must establish a Parliamentary Budget Office. A Parliamentary Budget Office is meant to support Parliament to implement the Money Bills including amending Fiscal Framework and Revenue Proposals. The Act gives Parliamentary Budget Office the responsibility to undertake research and analysis for the committees. However, the unfortunate reality is that in the 10 years that the Parliamentary Budget Office has been in existence, it has been a complete disaster. It failed to add any meaningful value to the process of budgeting. Instead, the Minister of Finance and the Treasury continue to dominate and dictate terms of passing the budget.

Despite legislation that allows Parliament to amend Fiscal Framework and Revenue Proposals, Parliament has never amended Fiscal Framework or Revenue Proposals. While this has largely been the result of the ruling party, it has no sense of alternative macroeconomic policies.

The incompetence and complete disarray of Parliamentary Budget Office has certainly made things worse. In the Fifth Parliament, the Parliamentary Budget Office behaved as though they were some

researchers of the ruling party study groups and personal secretaries of the former chairperson of the Standing Committee of Finance, who is now demoted to the NCOP.

The whole office together with the director and the current staff failed to adhere to key principles of institutional and political independence instead of helping committees and Members of Parliament to give a credible and transparent alternative proposals to heterodox economic Fiscal Frameworks. They failed to give us alternatives to austerity matters, to give us concrete and clear funding for free Basic Education and have not offered any alternative to public servants’ salary freeze. They conducted themselves as if they were an extension of the National Treasury office within Parliament.

South Africa’s public finance are in shambles. The Office did nothing to enhance Parliament’s credible oversight. What’s more shocking is that we are now expected to appoint their director without a thorough assessment of their office; a process that was rushed. Any of the people who worked in that office in the last 10 years must be associated with its incompetence, failure to be independent from politics and inability to give credible advice.

By considering the proposed justice, the National Assembly is doing itself a serious injustice. The EFF does not support the committee report. I thank you, Chair.

*Declarations of votes*: (Continued.)

Mr N SINGH: Hon Chairperson, firstly, I want to agree with what the hon Lewis and the EFF member have said in terms of the efficiency and the operation of the office of the Parliamentary Budget Office, PBO. However, I don’t that we should blame or hold an individual responsible for what has been a governance issue.

I was part of a committee that looked at the money Bills related Bill from inception; I was also part of a study group tour to African and Western countries where we looked at how the office of the PBO should function. Yes, the hon members are quite correct the office of the PBO has not provided the kind of function that we as Members of Parliament should have expected when you compare with the kind of function they perform in the other countries.

Its performance has been limited to serving certain committees only and yet it should be a responsibility to serve even individual members of Parliament in empowering to be able to analyse budgets and for us to even propose amendment to budgets. I think in my career in Parliament and many of our colleagues seated

here and on virtual platform, I do not think we have amended any budget that has been tabled by the executive and yet it is our responsibility as Parliament as a separate authority to look and to analyse and scrutinise these executive produced budgets and amend where necessary. We have the legal powers to do that.

Having said that, we believe that the subcommittee did its work fairly and all the candidates were open to public scrutiny. It is a pity that the late Daniel Plaatjies passed on because I understand that he was an outstanding candidate. However, what we need to do is to ensure that their leadership in that office. I think one of the problems has been that for some time now there has not been leadership to guide the office. We hope and support the appointment of Dr Jantjies. I have worker with him and I know that he will offer the kind of leadership that is required of this office and to listen very carefully and take note of what all of us as Members of Parliament have said in this debate with regard to the functioning of the office.

We would support the office and support the appointment of Dr Jantjies. We wish him well and we trust that he would bring a new flavour to the PBO office and execute its mandate effectively.

Thank you very much, Chairperson.

Mr S N SWART: House Chair, the ACDP fully appreciates and understands the crucial role that the Parliamentary Budget Office plays and should play in providing independent objective and professional analysis to Parliament on budget and on other monetary Bills.

I was part of the oversees study tour to look into budget officers internationally and we were very impressed particularly with the Kinion model and we hope that it will be emulated in South Africa but 10 years later we still major concerns, major challenges with the PBOs office. In the Portfolio Committee on Justice and Correctional Services, the ACDP recommended amendments to the Justice and Correctional Services Budget Vote, but we were not able in the time limited to push that through in terms of the powers and the Money Bills Amendment Procedure and Related Matters Act. So there are challenges in the execution of our powers as Parliament in terms of that Act.

I have studied the process here. It has been open and transparent and I do not want to infer anything negatively about the person that has been nominated, but we do see that Prof Daniel Plaatjies who passed away very tragically would have stood out head and shoulders above. Possibly it would be wise to hold this over to a consideration of this issue given the challenges that has been

faced. However, I appreciate that it was an open and transparent process, but given the challenges in the PBO’s office up to now and the fact that it is very limited and as other members have spoken. Regrettable the ACDP cannot support this nomination at this stage. Thank you.

Mr A M SHAIK EMAM: House Chairperson, the NFP notes the reports and welcomes the manner in which the Chairperson of the standing committee on appropriation, hon Buthelezi had articulated his side of how the processes that we have followed and the fact that he gets substance particularly to the credibility of all the candidates that were shortlisted which is very important. Having gone through the resume of Dr Jantjies, over and above the fact that we have had the opportunity of engaging with him in the Standing Committee on Appreciations over a period of time, the NFP is quite satisfied also taking into consideration that there are a limited number of people that had originally applied for the post and I do not agree that we need to go out and start operation of looking for people to come out, we have done the necessary process. It was advertised and people have applied. I think we knew.

I think what is very important is here is this that we need to understand that the Parliamentary Budget Office, PBO, is in place.

It is a requirement in terms of the Money Bills Amendment Procedure Related Matters Act. If there is something we are unhappy about the way the PBO does its work and business, then indeed it is something we need to interrogate. Like I heard we have been away to travel and come back and we found the way other countries operate and maybe we need we need to engage PBO and make do things differently for us.

I think if you take the resume, if you look at the skills, the extensive skill in fact you look at what Dr Jantjies holds at this point in time, the different qualifications that he has and the manner in which he has conducted himself of that period of time and even appearing before that standing committee, we believe that he has the proven ability to provide advisory services at various strategic level in both professional and economic environments. He has further demonstrated the strategic ability to participate and lead a strategic portfolio at various international level. He is one of the guys that if you engage him on any matter he is quite willing and articulate himself so well.

So we believe under the circumstances that, yes indeed PBO must have this position filled and that he is the right candidate. The NFP will support the appointment of Dr Dumisani Joseph Jantjies to the PBO.

Mr W M MADISHA: No statement from Cope, Sir. Thank you.

Ms N GANTSHO: House Chairperson, I wish to preface my speech by indicating that it is unfortunate that the death of the hon doctor is being used in the House because you know it for a fact that hon Hill-Lewis for the DA chose a white middle-aged male. Today he is talking about global and international and yet we all heard how his choice was not even national in terms of experience.

The Money Bills Amendment Procedure and Related Matters Act 9 of 2009, provides for the establishment of the Parliamentary Budget Office. Section 15(1) of the Act reads as follows and I quote:

There is hereby established a Parliamentary Budget Office headed by a Director, the main objective of which is to provide independent, objective and professional advice and analysis to Parliament on matters related to the budget and other money Bills.

Its core function is to support implementation of money bills provide reviews, research and analysis of documentation tabled in Parliament by the executive. Provide advice, analysis on proposed amendments to fiscal framework, Division of Revenue Act and policy proposals with budgetary implications. Keep abreast of policy

debates and development in key revenue and expenditure areas. Monitor report and advise on potential unfunded mandates arising out of the legislative policy or budgetary proposals.

It is indeed pleasing for the ANC to confirm somebody who is already performing the task and the hon members have been empowered in their oversight work by the capable directors who have been alternating in the absence of a permanent employee. The ANC wishes to commend all three, who acted in the position and offered outstanding performance, Dr Mohamed and Dr Orlando. It was not easy making the decision as all displayed outstanding performances at different times.

Difficult as it may be, the ANC believes that no matter how difficult leadership is equivalent to decision-making. Part of leadership of society is the ability to take those difficult decisions.

The transformation agenda is for the ANC not just fundamental, but critical, hence the work done by the subcommittee was supported by the relevant committees in Houses, the NA and the NCOP. As the Chairperson has outlined the public also got an opportunity to participate in the process and the decision taken has been enriched by the inputs of the interested stakeholders. It is not

just a learning curve for the committee, but also an empowerment tool for the incoming director.

We believe as the ANC that the future of any country is safely invested in its youth. Having said that, the youth is encouraged to empower themselves with the requisite skills in order to make meaningful contribution to nation-building. The name of Dr Dumisani J Jantjies as Parliamentary Budget Office, PBO, Director is supported by the ANC. I thank you. [Applause.]

Dr D J Jantjies appointed as Director of the Parliamentary Budget Office with effect from 1 December 2020, and the Reports of the Standing Committee on Finance and the Standing Committee on Appropriations adopted (Democratic Alliance, African Christian Democratic Party, Freedom Front Plus and Economic Freedom Fighters dissenting).

# DECISION OF QUESTION ON REPORT OF PORTFOLIO COMMITTEE ON HIGHER EDUCATION, SCIENCE AND TECHNOLOGY ON 2019-20 FIRST QUARTER FINANCIAL AND SERVICE DELIVERY PERFORMANCE REPORT OF DEPARTMENT OF HIGHER EDUCATION AND TRAINING

There was no debate.

Question put: That the Report be adopted.

Report accordingly adopted.

BUSINESS SUSPENDED AT 13:10 AND RESUMED AT 15:00.

# AUDITING PROFESSION AMENDMENT BILL

(Consideration of Report)

There was no debate.

The DEPUTY SPEAKER: Before I call on the Chief Whip, hon members from the virtual platform please take note of your microphones. Switch them off. Thank you very much. [Sound of a radio.] Whoever you are please, please, mute your mic that’s out of order. We really don’t want to listen to your radio. We will join you in the evening, and not now. [Laughter.]

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

That the Report be adopted.

Motion agreed to.

Report accordingly adopted.

# AUDITING PROFESSION AMENDMENT BILL

(Second Reading debate)

*Xitsonga*:

Mr J M MASWANGANYI: Xandla xa Xipikara, Vaholobye, swirho swa Huvo yo Endla Milawu, ndzi lava ku andlala xiviko xa Komiti ya swa Timali mayelana na Auditing Profession Amendment Bill, Bill 2 of 2020.

Eng*lish*:

The Auditing Profession Amendment Bill seeks to amend the Auditing Profession Act of 2005 to address challenges and limitations that the Independent Regulatory Board for Auditors, Irba, faces in discharging its regulatory and oversight responsibilities. This is in light of a number of auditing scandals in the auditing and accounting professions in the recent years. Recent accounting scandals and irregularities have tarnished the auditing profession. Some auditing firms prioritise profit over ethics.

Accountability and reform of the industry is important.

However, let me indicate that we commend auditors who continue to conduct their business ethically and professionally. The amendments proposed in the Bill were contained in the Financial Matters Amendment Bill, which is already an Act, that is, Financial Matters Amendment Act, Act 18 of 2019 when it was introduced in Parliament. During processing of the Financial Matters Amendment Bill, the Standing Committee on Finance during the Fifth Parliament decided on 7 March 2019 not to proceed with the amendments of the Auditing Profession Act since it was not possible to process amendments in view of very limited time available before the Fifth Parliament’s term end. The amendments proposed in this Bill are the same with those contained in the Financial Matters Amendment Bill and were subjected to public comments as part of the Financial Matters Amendment Bill.

After receiving initial briefings from the National Treasury and Irba on 26 August 2020, the committee called for public comments and received submissions from various stakeholders. On 14 October 2020, the committee held public hearings from the organisations and individuals mentioned above. On Friday, 13 November, the National Treasury responded formally to the submissions clarifying further questions and comments from members and stakeholders.

The Bill proposes amendments to the Auditing Profession Act, Act

26 of 2005 in order to strengthen governance of Irba and its investigations and disciplinary processes; provide for power to enter and search premises and to subpoena persons with information required for investigation or disciplinary process; provide for power to issue warrants for purposes of entering and searching of premises; provides for processes following investigations; provides for duty to disclose information; provides for sanctions in the admission of guilty process and following a disciplinary hearing; provide for criminal offences relating to investigation and disciplinary process; and provide for the protection of personal information.

On measures to strengthen governance, clause 2 of the Amendment Bill requires Irba to determine a policy framework subject to Minister’s approval within which it will perform its functions. Clause 3 is aimed at strengthening Irba’s independence and address issues of conflict of interest of board members by excluding registered and candidate auditors from appointment as board members. It also proposes a prohibition on board members from sharing directly or indirectly in profits of registered or candidate auditors and on receiving any payment. Clause 4 proposes an extension of a further period of three months for board members while Irba fills vacancies in order to avoid a situation where the

board does not quorate and therefore affecting the performance of its functions. Clause 5 deals with the minimum number of board meetings that must be held in a year. Clause 6 of the Bill proposes that the board comprises person of high integrity and makes provisions to regulate their conduct.

To alleviate the burden of the disciplinary committee as a result of high number of disciplinary cases of auditors, the Bill proposes a provision that will allow Irba to appoint more members of the disciplinary committee and constitute panels from these members in order to deal adequately with disciplinary cases. It also deals with issues of regulating the conduct of disciplinary committee members. It also proposes the establishment of an enforcement committee with powers to deal with certain categories of disciplinary matters of improper conduct. Clause 8 seeks to make [Inaudible.] the requirements for the registration of auditors or candidates by prohibiting anyone who has been convicted of offences regardless of the penalty from becoming an auditor or a candidate.

The key issues raised in the public hearing concern board matters, the disciplinary committee and panels, referral of nonaudit matters to professional bodies, search and seizure powers, sanctions and the determination of maximum fine, reconsideration

of disciplinary decisions and protection and disclosure information.

On the composition of the board it was suggested during the public hearings that registered auditors should be included in the board. However, Irba and the National Treasury pointed out that this could affect the independence of the board and affect Irba’s membership with international regulatory bodies. It was instead proposed that formally registered auditors and legally qualified persons’ numbers be increase on the board from one to two.

While the amendment Bill has proposed the reduction of the minimum number of board meetings from four to two per annum, it was agreed after deliberations that the number of minimum meetings be kept at the minimum of four meetings per annum.

On disciplinary committee and panels an issue was raised during the public hearings that they must be chaired by a retired judge. However, it was highlighted during deliberations that there must be some flexibility for the disciplinary committee and panels to also be chaired by a senior counsel or a senior legal practitioner with no less than 10 years experience to ensure functionality of the committees and panels.

On search and seizure concerns were raised by stakeholders on the constitutionality of the clause. The National Treasury and Irba assured the committee that the provisions on search and seizure were constitutionally sound. Some refinements and protections were however included in the Bill to ensure that search and seizure is conducted by qualified persons who are authorised to conduct search and seizure and on the use of information obtained during the search and seizure operations.

Other key proposals which were not part of the amendment Bill were suggested by stakeholders. These proposals included expanding the scope of the Auditing Profession Act to also include regulation of accountants instead of only auditors. Another proposal was on the legislation of the mandatory auditing firm rotation rules. The committee recommends a comprehensive review of the legislation of the accounting and auditing professions in order to accommodate this and other relevant issues.

This Bill will go a long way in making sure that the financial statements signed off by auditors are reliable. Let me also indicate in conclusion that we need to reform and transform the auditing profession to end the dominance by big firms. I move for the adoption of the report, Deputy Speaker. “Inkomu” [Thank you.]

Dr D T GEORGE: Thank you, Deputy Speaker. The most basic function of an auditor is to look and see how honest a company’s financial records are, by determining the level of accuracy and clarity that a company has accounted for. This is a vital component to the well-being of our financial sector that relies on the accuracy of information on which financial decisions are taken. It is, therefore, essential that the public can rely on the integrity of their auditors to provide unbiased and honest assessments. The collapse of the Enron Corporation in the United States, US, in

2001 had its origins in a transition in its accounting method, and subsequent creative accounting practices that its auditors should have identified and acted on.

The global financial crisis of 2008, that almost collapsed our financial system was partly facilitated by auditors who signed off trillion-dollar balance sheets, sanctioned increased dividends in bank shares that collapsed months later, and established rules that inflated bubbles and amplified losses. In the aftermath of that crisis, important questions arose about auditor’s conflict of interest and the cosy self-regulatory structures that failed to serve as investor’s first line of defence in assessing the viability of the world’s biggest and most important companies.

Even closer to home, the recent collapse at Steinhoff brought into question why external auditors had signed off on financial

statements that were clearly not an accurate reflection of their actual financial position. The big four auditing firms, Deloitte, Ernst & Young, Klynveld Peat Marwick Goerdeler, KPMG, and PricewaterhouseCoopers were named in evidence suggesting that they played a systematic role in economic crimes and state capture.

Evidence suggested that these firms had prioritised profit over professional duties and the law.

KPMG apologised for its report on the so-called rogue unit at the SA Revenue Service, Sars, that was used with the Sikhakhane Report to purge Sars a few years ago to make way for Tom Moyane to capture the institution and facilitate politically connected cronies to raid it and steal as much as they could from the most vulnerable. KPMG also signed off on the Venda Building Society, VBS, Bank annual financial statements, while it was being looted. The list goes on and responsibility doesn’t only lie with the auditors, but also with the regulators who didn’t do their jobs and corrupt individuals exploiting every opportunity that they can get.

The Independent Regulatory Board of Auditors, Irba, is a public protection statutory body established to protect the financial interests of the public by ensuring registered auditors and their firms deliver services of the highest quality to enhance the

accuracy and credibility of financial performance reporting. Although Irba has achieved some success in the 15 years since its establishment, such as action against VBS Bank and Steinhoff auditors, it has not delivered on its mandate. The proposed Bill requires Irba to determine a policy framework and excludes registered and candidate auditors from appointment as board members. Although the risk exists that this provision could weaken technical expertise on the board, it would likely promote its independence and mitigate conflicts of interest. We agree that more members are required for disciplinary committees to ensure that the high number of disciplinary cases against members can be addressed quickly and decisively.

By improving admission standards to the profession and protecting auditors from their removal to prevent them from reporting audit irregularities, the Bill strengthens the public protection that Irba is meant to offer. Concerns regarding the constitutionality of search and seizure provisions by Irba in the course of its investigations were raised during the public hearings and have been adequately addressed with appropriate checks and balances, including the right to appeal against decisions of the disciplinary committee and the right to approach courts for review of decisions taken.

This legislation relates to registered auditors and does not regulate accountants. We support the view that future legislation should consider how that profession should be better regulated. We also support the proposal that the Mandatory Auditing Firm Rotation rules as prescribes by Irba for public interest entities in South Africa should be included in future legislation. This would require that relationships between auditors and those that they are required to audit don’t become too cosy and detrimental to investors who need to rely on accurate financial information.

There is really no point to the legislation if the culture of corruption endemic in our society is not addressed. Auditors cannot check everything and are only one line of defence. When auditors do highlight hundreds of millions in fruitless and wasteful expenditure in the public accounts, year after year, government does nothing because it wants to protect its cronies who feast while everyone else suffers. There must be serious consequences for perpetrators of financial irregularities in the public and private sectors. Only then will we see meaningful improvements. The DA supports the Bill. Thank you.

Ms O M C MAOTWE: Thank you very much, Deputy Speaker. The Auditing Profession Amendment Bill before the House is the Bill that seeks to strengthen the governance of the Independent Regulatory Board

for Auditors and oversight over auditors to address some issues of corruption and conflict of interests. The Bill also seeks, among others, to provide for investigation and disciplinary processes, access to information processes to be followed and sanctions that are applicable when auditors are found guilty. Let us be clear on what we are dealing with here to fully understand that some of the issues the Bill seeks to address need the justice system to start pursuing criminals in the private sector.

While we have come to associate auditing and corruption with the KPMG, the reality is that majority of auditing firms are involved in corruption and covering of corruption. Deloitte & Touché, PricewaterhouseCoopers, PWC, Bain, McKinsey & Company, Ernst & Young, Grant Thornton and all others are involved in corruption. All these companies are at the centre of corruption because we trust their word or they tell us that they’re financial representative and true state of affairs not individual auditors, but auditing firms. Deloitte was staying with auditors for more than 20 years and not even a single partner of the company is arrested, despite costing shareholders billions in loss of shareholding. Today Deloitte continues to operate. The same Deloitte is the one auditing Tongaat Hulett where they have the corruption and all they did was to replace auditors with others who will continue to hide the corruption.

Auditing firms don’t want to co-operate with investigations into proper conduct by their registered auditors. Their auditors are involved in improper conduct because they work for corrupt auditing companies. Auditing firms themselves are involved in improper conduct and corruption. They even advertise on their website that they assist companies to engage in aggressive tax avoidance and illicit financial flows. We cannot deal with auditors as individual and expect to resolve the problem of accountability, good governance and corruption and we need a comprehensive overhaul of the auditing profession and not just deal with individuals.

The Bill seeks to strengthen its relationship with accredited professional bodies as if they are different from auditing firms. The very same people who sat in this accreditation bodies leadership structures are the same individuals. Irba must refer matters to the police and the Hawks for investigation not the SA Institute of Chartered Accountants, Saica. Saica like all auditing companies is a law to itself governing by factional politics and will always prioritise profit. They have not covered themselves in glory and we should not expect them to do that in the near future. The less said about the Institute of Internal Auditors South Africa the better. The institution is useless and adds no value.

As long as there are priorities to protect high subscribing

internal auditors, they wouldn’t to let the improper conduct go unpunished and we have seen this happen.

Deputy Speaker, the truth of the matter is that there is no appetite to deal with corruption, and particularly corruption in the private sector by white-owned and controlled companies. The appointment of the current Irba chief executive officer, CEO, Jenitha John, is true that things are going to continue. She was in charge of Tongaat Hulett Audit Committee for nine years when corruption was rampant. We are now expected to fold our arms and welcome the Auditing Profession Amendment Bill and expect to see change.

If we are going to see any change, Deputy Speaker, in the auditing profession, we need harsh measures. Companies whose auditors are found guilty of improper conduct must suffer the same consequences. Companies whose auditors are found guilty of improper conduct must not be allowed to operate any longer.

Companies that must charade as consultant under the brand of auditing companies be forced to separate these businesses and operate as independent companies.

Lastly, Deputy Speaker, it is wishful thinking that people who have questionable characters and presided over widespread

corruption will bring necessary change in Irba. Therefore, for the Finance Minister, Tito Mboweni, to think that it is okay to have Jenitha John, the CEO of Irba is the clear sign that there is nothing independent about Irba as things stand. While the Bill has good intentions to give Irba necessarily biting teeth to deal with rogue auditors, Irba itself is compromised as it is the whole auditing profession and there seems to be a reversal of transformation which itself undermines the fight against transformation corruption, accountability and good governance. I thank you, Deputy Speaker.

*IsiZulu*:

Mnu M HLENGWA: Hhawu! Sengizotshelwa uwena ukuthi ngikhulume kanjani? Waze wamuhle bo. [Ubuwelewele.]

*English*:

Hon Speaker, we are all aware of the numerous significant audit scandals that have taken place in South Africa over the years. These incidents have had the effect of both threatening certain areas of our democracy, and diminishing our credibility of such a respectable and important profession.

Therefore, the amendments that we are considering today must be carefully and intentionally analysed. The Auditing Profession Act

Amendment Bill intends to amend the Auditing Profession Act to address the challenges and limitations experienced by the Independent Regulatory Board for Auditors, Irba, in executing its regulatory and oversight mandate. If passed, as deliberated, they would serve to strengthen the governance of Irba, its investigations and disciplinary processes.

The amendments would extend the powers to the Irba, to enter and search premises, subpoena relevant people related to investigations and to provide for criminal offenses relating to investigation and disciplinary processes amongst others.

The amendments are extensive but serve the critical purpose of ... [Inaudible.] ... what is clearly a vulnerable and easy manipulated profession. The Bill seeks to create a full-proven mechanism that would demand accountability, transparency and consequences at all levels and for all levels of misconduct, for example the provision for a prohibition on the removal of registered auditors before they can finish the process of reporting irregularities to Irba is fundamentally ensuring the exposure of unscrupulous individuals.

It also serves to encourage professionals to participate in the maintenance of integrity and ethics in the industry.

Further the Bill seeks to introduce stricter, the requirements for the registration of candidates by prohibiting anyone who has been convicted of certain offenses regardless of the penalty from becoming an auditor or candidate. These are much-needed safeguards in a very volatile and difficult environment, with a history which in itself is quite problematic.

The IFP appreciates the conditions under which we are operating, as legislators. However, we wish to caution against exposing this House to legal scrutiny when it comes to the public participation process. There were not many submissions received and therefore, it is difficult to ascertain whether the process would have been more robust, were it not been for the pandemic.

We welcome the received submissions from the areas of the public sector, the auditing profession as well as civil society. The IFP extends it gratitude to the representatives of National Treasury for the clarity offered during the deliberations. Having said that, the IFP supports the Bill. I thank you.

*IsiZulu*:

Ngiyathemba ukuthi ngikhulume kahle ngakujabulisa ngoba phela uhlale ufuna ukujatshuliswa.

*Afrikaans*:

Mnr W W WESSELS: Agb Adjunkspeaker, die skandale wat die ouditprofessie die afgelope paar jaar beleef het, was betreurendswaardig. Sonder ’n geloofwaardige ouditprofessie, is die geveg teen wanbestuur en korrupsie verlore. Dit is waarom regulering so belangrik is en waarom dit so belangrik is dat reguleerders die nodige tande en hulpbronne het.

Hierdie wetgewing poog om meer tande aan Irba te gee en dit is goed, maar dan moet ons ook hulpbronne daarstel en meer hulpbronne het, sodat Irba sy werk kan doen, sodat hy ordentlik kan reguleer, en sodat hy ondersoeke kan doen waar nodig.

*English*:

We need accurate, credible, ethical auditors with integrity, otherwise we will not win the fight against corruption. When we do regulation of this profession, we also need the necessary checks and balances of the regulators. We believe that this Bill do seek to provide the necessary checks and balances and on the other hand, do provide the necessary amendments to give the regulator more power to ensure accuracy, accountability and credibility of our auditors.

*Afrikaans*:

Daar moet onafhanklikheid van ouditeure wees en daarom stel ons ook voor dat daar rotasie bygebring word wanneer ons oor ouditeure praat, of dit in die privaatsektor of in die openbare sektor is.

Dit is betreurendswaardig en onaanvaarbaar dat daar sekere verhoudings daargestel word en ontstaan wat die geloofwaardigheid van ouditeure en ouditfirmas, veral die groot ouditfirmas, totaal en al komprimenteer. Daar moet stappe wees om dit teen te gaan.

*English*:

With everything being said, and everything in this legislation that is good and necessary to prevent what happened in the past, we do need consequences and real disciplinary action against auditors who do transgress.

It cannot be that these investigations do take place, but that there are no actual consequences for transgressions. That is in the public and private sector and in all the levels that contributes to these contraventions, to these inaccuracies, to these scandals and to what happened in our recent past.

To protect this country fiscally and financially is what needs to be prioritised, to really ensure that these legislative amendments are enacted and there are true consequences and that is why I reiterate that there is a need for more resources at Irba to

actually conduct this regulation and investigations in a proper way.

*Afrikaans*:

Sonder gevolge en sonder hierdie sal ons nie die geveg wen nie. Ons ondersteun hierdie Wetgewing en ons ondersteun ’n ouditprofessie waar daar werklike geloofwaardigheid is, waar daar deursigtigheid is en ons bedank ook ouditeurs wat hul werk doen, veral in die openbare sektor, onder moeilike omstandighede. Ek dank u.

Mr S N SWART: Deputy Speaker, the Auditing Amendment Bill seeks to amend the Act to address challenges and limitation that the Independent Regulatory Board for Auditors, Irba, faces in discharging its regulatory and oversight responsibilities. This clearly the ACDP supports.

We saw damning evidence in the Zondo Commission of widespread state capture and corruption and this has highlighted not only the role of government officials and state-owned companies, SOC board members, but also the involvement of the private sector, with many professionals, including accountants and auditors who have aided and had bettered the rampant corruption. This, as we know, have

crippled many of the SOCs, national and provincial departments and municipalities.

The slew of accounting scandals and company failures have caused the auditing profession to suffer a major loss of public trust and confidence and clearly, urgent steps needed to be taken to address that and that is part of this Bill. While not every business failure is an audit failure, clearly, the governance of the regulatory body, Irba, and its investigative disciplinary processes needed to be improved.

We have studied the Bill and we support the provisions such as more members being appointed to deal with disciplinary cases. Regarding the search and seizure aspect, which was controversial but we believe, as the ACDP, that it is justifiable as longs as those search and seizures are conducted by qualified persons and the information obtained is used for the correct purposes.

Now, South Africa is supposed to be the leader on the continent in terms of the strength and independence of our accounting standards and it once held the global position as number one in this regard, it has slipped down significantly. The question then is: Given that, why do we have the endemic corruptions and professionals.

That can be laid at the door of the auditing and accounting professions and clearly one needs to improve this.

As recently stated succinctly by Ms Nonatamsanqwa Ashong, the MD of a leading accounting firm, admits responsibility and she says that unless we correct the culture of selective consequence management, the auditor’s intention to restore trust and confidence in the profession is doomed to fail.

We cannot afford to fail at raising the bar of ethical standards in the profession. If auditors fail, the society fail. The ACDP agrees with the sentiment and supports the Bill. I thank you.

The DEPUTY SPEAKER: Thank you, hon member. On my list I don’t see UDM, ATM...

Mr N L S KWANKWA: Ikhona, [it is present] Deputy Speaker, UDM...

The DEPUTY SPEAKER: ...go ahead, go ahead, if ukhona [if you are present] kweyami ilisti [on my list] [Inaudible.] ...but it’s alright, go ahead tata [sir]. Silinde wena [we are waiting for you] hon Kwankwa.

Mr N L S KWANKWA: ... ooh, ok, I don’t know what happened, Deputy Speaker, my apologies. Can you hear me now?

The DEPUTY SPEAKER: Yes, we can hear you.

Mr N L S KWANKWA: Thank you, sir. The UDM supports the Bill. We are of the view that this is an important amendment to address the challenges and limitations that the Independent Regulatory Board for Auditors have been experiencing in performing their duties.

As you remember, the big four auditing firms, mainly Deloitte and Touche, Klynveld Peat Marwick Goerdeler, KPMG, PricewaterCoopers and others played a systemic role in economic crimes and state capture when they prioritise money over integrity by reporting untruthful auditing information. Therefore, this Bill will strengthen auditor’s abilities to execute their job well and prevent such incident.

In addition, with these amendments the auditors will be able to perform their tasks and responsibility efficiently and smoothly as possible and as they will able to provide for power to issue warrants for purposes of entering and searching premises, provide processes, following investigations and provide for duty to disclose information.

These in our view are very critical and important as government institutions they require that the high level of professional and audit to account for public fund. We must note that strengthening our people will not only enhance protection of the financial interest of the South African public, but will also play a big role in protecting financial interest of international investors in South Africa through effective regulation of auditing standards.

We also cannot run way from the fact that South Africa is faced with the huge challenge of corruption. The kleptocratic kind of leadership that this country has, requires a professional auditing board that will be able to monitor and track down issues related to financial misconduct. We support the Bill.

Mr A M SHAIK EMAM: Thank you very much, Deputy Speaker. I sit hear amazed at how politicians articulate themselves with finesse when it comes to the issue of auditing and accountability [Inaudible.] others. You know as a member of a Joint Standing Committee on Financial Management of the Parliament, I called for an independent auditor to conduct the audit of all parliamentary books and let me reiterate; not a single political party support it. Let me repeat, not a single political party support it.

Independent auditors, auditing the books of political parties with

constituency funds. Here we are able to talk of auditing others, but that is what politics and politicians are all about.

Some of the proposed amendments strengthen the governance of the independent regulatory board for auditors, provide for power to enter and search premises and subpoena person with information, required for investigation of disciplining processes, provide for permit to issue warrant for purposes of entering and searching of premises, measures to strengthen governance.

Now, let me tell you, the one thing I will remember our former Auditor General, Kimi Makwetu for and he admitted that despite all the mechanisms and the measures we had in place. Those who know how to manipulate the books and the systems will continue to do that. Let me tell you, manipulation is rising in all structures whichever political party is governing wherever they are governing in South Africa. You will find that with our advanced strengthened auditing system in South Africa.

Now, one of them think I have a concern about, is the powers in terms of search and seizure, I am not satisfied that... maybe it’s a good thing but whether that is going to be conflict, you know, with the law – giving these powers to auditor general, auditing in public ... I am not sure, it’s something that we need to look at.

The NFP believes that clauses that ought to support regulatory and independent institution to execute the mandate effectively, including that relating to criminal activity ought to be supported. This country is bleeding of corruption and any measures that strengthen legislation or act on corruption related activities must be supported and for that reason, the NFP fully support this. Thank you.

Mr M G P LEKOTA: Thank you, Deputy Speaker, Cope takes the position that we must support this Bill. Firstly, because it will strengthen the improvement of government performance and make sure that we manage public resources better than we have up until now.

Secondly, these amendments will encourage professionals entrance to this profession to perform with determination, alive to the fact that we are determined to improve ourselves into improving the performance of government. Cope supports this Bill. Thank you.

The DEPUTY SPEAKER: Thank you, hon member. Al Jama-ah, hon Hendricks, he’s ostensibly not there. Hon Abraham, hon members, before hon Abraham takes her place on the podium. I have just written a note to say that I am going to require her to comply with the ruling I made in her absence. The ruling was about the remarks she made to the hon Mulder of *racist tendencies* to cite

the phrase she used. We did say in our ruling that, that was inappropriate reference to any member and that it had been ruled before as inappropriate, but also that because when I asked her to confirm it, she didn’t. I said I will refer to the Speaker to decide what she does about that, but I have asked her here to withdraw those remarks as they are clearly unparliamentary and inappropriate. Hon member, please go ahead and do so.

The DEPUTY SPEAKER: Hon members, before hon Abraham takes her place on the podium, I have just written a note and say that I am going to require her to comply with a ruling I made in her absence. The ruling was about the remarks she made to hon Mulder - racist tendencies, to site a phrase she used. We said in our ruling that that was inappropriate reference to any member and it has been ruled before as inappropriate. When I asked her to confirm it she didn’t, and I said I will refer it to the Speaker to decide what to do about that. I have asked her here to withdraw those remarks as they are clearly unparliamentary and inappropriate. Hon member, please, go ahead and do so.

Ms P N ABRAHAM: Hon Deputy Speaker, I withdraw and I apologise unconditionally. [Applause.]

The DEPUTY SPEAKER: Thank you, hon member. Thank you very much, hon member and go ahead.

Ms P N ABRAHAM: Hon Deputy Speaker, once again the committee prides itself of a process that has been very transparent, very open and there was relevant public participation. I wish to commend the Ministry as well as the Department of the National Treasury for conceding to areas when they were advised by the relevant stakeholders as well as the Independent Regulatory Board for Auditors, Irba, for also coming into the show and co-operate as such.

Today, I am reminded of the prophetic words of the late president of the ANC, Comrade O R Tambo, when he spoke in 1997 in Angola and said, and I quote:

Comrades, you might think that it is very difficult to wage a liberation struggle. Wait until you are in power. I might be dead by then. At that stage, you will realise that it is actually more difficult to keep the power than to wage a liberation war. People will be expecting a lot of services from you. You will have to satisfy the various demands of the masses of our people. In the process, be prepared to learn from other people’s revolutions.

Learn from the enemy also. The enemy is not necessarily doing

everything wrongly. You may take his right tactics and use them to your advantage. At the same time avoid repeating the enemy’s mistakes.

We are living in challenging times where the scourge of corruption and general criminality in the private and public sectors threatens the stability our democratic government institutions.

In times like this those of us with consciousness need to push back and strengthen the institutions. One of these institutions that need strengthening is the audit profession. The audit profession has evolved over decades from routine checklist to a vital part of any serious company and public entity governance process. Factors such as the volume of transactions, information technology, the Fourth Industrial Revolution and the constant increase in the complexity and number of laws, regulations, standards governing entities and their auditors have all impacted drastically on the evolving role of the registered auditing profession.

Corporate collapse, business failures and fraudulent financial reporting scandals have led to a very turbulent time resulting in a credibility crisis for the auditing profession as a whole.

As the historical records shows there have been a number of cases where companies and their respective auditors’ dubious accounting practices have been exposed. These scandals were the direct result of fraudulent financial reporting resulting in significant loses for creditors and serious hardships for investors. Many of these business failures have also been seen as audit failures and the auditing profession now stands accused of not performing its watchdog function effectively and with objectivity.

In South Africa there have also been reports raising the complexity of the auditing profession in state capture and the billions lost to the state each year in wasteful expenditure. These are some of the matters that gave rise to the Auditing Profession Amendment Bill. We must accept that in this world there will always be people who are motivated by self-interests and therefore have no qualms about stealing public resources. However, the information that has emerged from the Auditor-General that tells us that the state loses approximately 10% of its budget every year to corruption and wasteful expenditure is a national shame. Corruption and wasteful expenditure have had a devastating impact on the state and our economy.

The opposition parties are fond of blaming the ANC of all the challenges in society. However, the reality is that the corrupt

elements in the public sector work in tandem with their partners in crime in the private sector. Audit professionals when they do their jobs with integrity provide the evidence upon which institutions in government and Parliament should act to narrow the opportunities of malfeasance. We must take actions as Parliament to ensure that adverse auditing findings in departments and entities that have been recurring over the years are addressed.

The challenges facing the auditing profession are complex. However, the Bill seeks to restore of the profession by amongst other things enabling the removal of registered auditors and expanding the Independent Regulatory Board for Auditors’, Irba, investigative and searching capacity.

While they are welcomed sanctions might be insufficient to back these new powers of Irba though hence the proposal for the creation of the enforcement committee. As the ANC we have welcome the fact that there is a broad support for the Bill. This became evident during the public participation forums.

However, there were significant disagreements. For example, there are disagreements on whether the times for search and seizure should be mandatory or should be legally enforced. There are views that the board chairperson should not be an auditor. However, the

ANC is not convinced that it will be workable that someone with no background in the audit profession should be appointed to chair a body that specifically regulates auditors. We believe that the position of technical skills is essential for effective regulation of the auditing profession. We agree that the appointment to the Irba should be open and transparent. However, we believe that the proposal of limiting the number of registered auditors at Irba is reasonable in order to secure independence. The lack of independence and conflict of interest are key issues in audit regulations across the world. Having people making regulatory decisions about current and former colleagues will always be problematic.

Way forward. The discussion in the committee has been very fruitful and constructive. There is broad agreement on matters of substance, but as I’ve said before there are matters in which there is room for further engagement and deliberations. This includes the position of chair of the disciplinary committee. The view of the ANC is that we need to focus primarily on ensuring that the chair is a fit and proper person with a requisite skills and capabilities. We believe that what works must not be changed. In memory of the late Auditor-General, Mr Thembekile Kimi Makwetu, let us work together to ensure that this piece of legislation is processed so that it enhances the creditability of the audit

profession in South Africa and places our auditing professionals once again amongst the best in the world. [Time expired.]

The MINISTER OF FINANCE: Hon Deputy Speaker, hon members of the Parliament of the Republic of South Africa and fellow South Africans. Let me start off by thanking the committee that processed this Bill, in particular, to thank hon Maswanganyi for the sterling work that he has done, as always. I want to congratulate him with a little Xitsonga saying, which says;

*Xitsonga:*

*I swa mani leswi, swa wena leswi, leswi ke*,

*I swa mani leswi, swa wena leswi, leswi ke,*

*swa wena leswi.*

Ha khensa, tatana.

*English*:

Thank you to all the hon members for your support. This could have not been a better ending of this year to receive such overwhelming support across the aisle of the House, this is highly appreciated.

Since we have a lot of other work to do let me go straight to the issues about the Bill. At the core, the centre, of the Bill is the need for us to restore the ethical, moral and integrity levels of the accounting and auditing profession. Why is this the case? We have gone through, in the recent past, a number of problems within the profession and these problems have called into account whether, as South Africa, we are still keeping the high standards of the profession for which we are known.

This has place some of our top accounting and auditing firms in a bad light and called into question whether, indeed, we have credible men and women in the profession who, at the end of the day, have to give us the assurance that the books of the companies they audit, of the government departments that they audit, of the municipalities that they audit are, indeed, in order.

Once doubt is cast on the accounting and the auditing profession then you know that we are in serious trouble. It is in this regard that we’ll sought to bring before this august gathering ... this

august House the amendments to the Auditing Profession Act through the Auditing Profession Amendment Bill.

I would like to thank the House and the committee for processing this Bill.

But let me say something. Based on my experience in the private sector, I was Chairman of the board of directors of a number of companies. Within the company financial management system you have the chief financial officer’s office, which has a number of functions, then you have the internal audit function, which is headed by an internal auditor who’ll look at the books of the company, then you have the external auditors, who perform the role of external auditing and then the board of directors has its own audit committee. Now, all these functions can perform well for as long as the executive does not hide information from the internal auditor or the external auditors.

So, in the first place we need credible, reliable, ethical executive management, particularly the chief financial officer, in order for the company’s books to give us sufficient assurance that things are done properly.

Therefore, the recent history of our profession, the accounting and auditing profession, calls for these particular amendments. And I think the committee has done very well by looking at the different sections of the Bill. The disciplinary committee is a very important component of the reforms that we are bringing her. But also the function and role of the Independent Regulatory Body of Auditors, IRBA, is very, very important in this regard.

So, we have to charge on, bring South Africa back to the level it was before the recent malfeasants in the profession and ensure that we are back on track for the sake of our country, our companies and our institutions.

Having said all of that I want to repeat, once again, that this is a good way to end the year, to get the support from across the aisle, is something that I will celebrate tonight.

Hon Deputy Speaker, I thank you for this opportunity. Thank you very much.

AN HON MEMBER: Don’t forget to cook pilchard as you celebrate.

Debate concluded.

Question put.

Agreed to.

Bill read a second time.

# CONSIDERATION OF CYBERCRIMES BILL [B 6D – 2017] (INTRODUCED AS CYBERCRIMES AND CYBERSECURITY BILL [B 6 – 2017]) AND OF REPORT OF PORTFOLIO COMMITTEE ON JUSTICE AND CORRECTIONAL SERVICES ON AMENDMENTS PROPOSED BY NATIONAL COUNCIL OF PROVINCES

Mr G MAGWANISHE: Thank you very much, Deputy Speaker and thank you to hon members. I rise to support the report of the Portfolio Committee on Justice and Correctional Services on the Cybercrimes Bill dated 3rd November 2020. Most countries have or are building their capacity to address the surge cybercrime, security breaches and attacks on critical information infrastructure, that are increasingly prevalent.

As part of this, most countries have [Inaudible.] ...which criminalises conduct considered to be cybercrime. At present South Africa has no comprehensive and uniform laws in terms of which cybercrime is prosecuted and no coherent and organised approach to deal with cybercrimes.

In the Fifth Parliament, on 27 November 2018, the National Assembly approved the Cybercrimes Bill and referred it to NCOP for concurrence. The NCOP however, was unable to deal with the Bill before the Fifth Parliament rose ahead of the general election, held on 08 May 2019. As a results the Bill lapsed on 07 May 2019. On 17 October 2019, the NCOP revived the Cybercrimes Bill and also resolved that proceedings from the Bill should resume at the stage where they left off at the end of the Fifth Parliament.

On the 1st of July 2020, the NCOP passed the Bill, subject to the amendments proposed by it and returned it to the National Assembly. The committee considered and accepted the NCOP’s recommendations for the amendment of the Bill. These recommendations were mainly concerned with altering the tone of the Bill to reflect the mind binary language as required by the considerations of gender neutrality, equality, dignity and identity.

The structuring clause 16, to specifically reflect the impact of consideration of gender neutrality, equality, dignity and identity. Incriminalising the disclosure of data messages of internet images. Amending clause 1,2,3,11,13,20, 21,22, 24,32,

33,39, 40,41,42,44 and 59. Following comments received during public hearings, held by select committee as well as further

engagements with the Department of Justice, the South African Police Services and the National Prosecuting Authority, NPA.

Various consequential amendments, and additional style and technical amendment throughout the text were done to improve readability and the interpretation of the Bill. It is worthwhile to note that the Bill once enacted will be the first mind binary Bill in South Africa.

The Bill also serves to ensure that South Africa will have a comprehensive legislative framework to address cybercrimes which is of utmost important.

The Bill will further contribute towards the protection of women and children in the cyberspace arena and criminalise the actions of those seeking to exploit them.

The Portfolio Committee on Justice and Correctional Services, having considered the amendment proposed by NCOP to the Cybercrimes Bill, reports that it agrees to the proposed amendments and asks the National Assembly to support the amendment. I move that the report be adopted. Thank you, Deputy Speaker.

The DEPUTY SPEAKER: Thank you, hon Magwanishe [Applause.]. Chief Whip, hon Magwanishe says; he rises to support the Bill. In other words, he woke up this morning, he still supported the work of his collective that led the Bill in the committee. What do you say Chief Whip?

The CHIEF WHIP OF THE MAJORITY PARTY: thank you very much, Deputy Speaker, I move that this House adopt this report. Thank you very much.

The DEPUTY SPEAKER: Hon members, as there is no list of speakers...no I have said it... yes...there are people in political parties deployed to make declarations. In the DA, who is it? It’s your chance.

*Declarations of Vote:*

Adv G BREYTENBACH: Good afternoon hon Speaker, it’s Glynnis Breytenbach, thank you.

The DEPUTY SPEAKER: Thanks, hon member.

Adv G BREYTENBACH: Thank you, hon Deputy Speaker, hon members, the world has moved on since Cabinet approved the National Cybersecurity Policy Framework in 2012. This is the same year the

first version of this Bill was tabled in this House. Eight years have since passed and I can’t hear it at this point. In this eight years we have seen the 2012 version of this Bill being withdrawn and reintroduced in 2015. A version that which should never have been introduced in the first place.

The Cybercrimes and Cybersecurity Bill of 2015 was a clear display of the ANC’s lost for power. Placing all the power to control cybersecurity in this country firmly in the hands of the [Inaudible.] and seriously question what the partner [Inaudible.] dealing with the state security.

Thanks to pressure from the public and those also from DA, this half of a Bill is eventually withdrawn. What we are left with is the Cybercrimes Bill of 2017. A piece of Legislation that is on hold, therefore, through and long overdue.

The world and technology has moved on since 2012 and thankfully this draft Legislation has too. The DA in address its portfolio committee on the Fifth Parliament, suggested significant amendments but [Inaudible.] – as always in that committee as it was then constituted voted out by ANC majority regardless of the necessity for amendments and this let to our opposition of the build in. Only after it went to the NCOP and significant

amendments in line with our original suggestions were made, are we now able to support it.

Cybercrimes cost this country equally billion of rands each year and we are ranked amongst the top three most targeted nations. It is therefore unthinkable as to why this government has taken so long to reach this point. For the Bill itself [Inaudible.] This is not going to the ANC but to the excellent drafters who listened to the public submissions and sort to deliver the best possible version of a very complicated and technical piece of Legislation.

Very few bills reached the point of perfection that overall this is a [Inaudible.] document. It is in practice where such good law would be found lacking not because of the Legislation in place but because of the government [Inaudible.] inability to enforce the [Inaudible.] to bring justice to it. Firstly, with that concern is the inability for the South African Police to - at station level at least, investigate the crime, whether [Inaudible.]in the Bill. The SAPS does not have a skill or capacity, to train its officers and identify and investigate basic crimes.

This is where cybercrime becomes very technical in their nature, not to mention that South Africa has very little to no crime intelligent capacity. Secondly, the ANC’s lack of appetite to

properly fund anything to do with cybercrime or cripple the bill, just because the crime cannot be seen does not mean that it does not exist.

We understand that the ANC is in the business of so and so governance focusing, what the voters want to hear. Now, if ever the ANC is serious about economy as are we, it needs to start to taking cybercrimes seriously.

This Bill can help to create a vehicle on such crimes but only if the state organs involved properly funded and capacitated to do their jobs.

Finally, there’s an issue on extraterritorial jurisdiction which is granted to across through this Legislation, this is very welcomed, however the problem with this is that we operate in a global space and countries are reluctant to grant jurisdictions to all the sovereign states, especially when it comes to crimes such this, that can target entities to various countries or all at the same time. It is therefore of paramount importance that international agreements of setting out jurisdiction in place [Inaudible.].

Currently, there exist one such a multilateral instrument that focuses on [Inaudible.] cybercrimes for sufficient signatories who rectify this and that’s the Budapest Convention. We do however have the[Inaudible.] that can cover these crimes but none has effectively or specifically... Let the ANC government continues to state that it refuses to rectify this treaty, it was one of the first to sign because it is a European Union instrument.

Deputy Speaker, [Inaudible.] by 65 countries around the world. [Inaudible.] if it’s globally enforcing instrument and we are left out in the cold while cybercrimes are crippling our economy. The ANC does not need to honest say that it opposes the [Inaudible.] enforcement of Cyber Legislation ratification of international instrument that will give teeth to such Legislation because its puppet master Brazil, Russia, India, China, South Africa, BRICKS, [Inaudible.] Russia and China are opposed to this.

We now, finally have proper Legislation dealing with cybercrimes but what is needed are the resources to train and capacitate on a national level and cooperate on level stage to give these Legislation teeth. Only then can we truly say that we have effective Cyber Law in place. I thank you.

Ms Y N YAKO: Deputy Speaker, when the Bill was first tabled in the

National Assembly, we objected to it. We did it despite acknowledging that, it is necessary for the country to develop a legislative mechanism to deal with perforation of cybercrimes in this country. The members introduced to the Bill by the NCOP offer no fundamental changes to the Bill. The ambivalence we had towards the Bill still stands. Amongst the concerns we raised, we raised the following:

1. Potential dangers to the freedom of expression and rights to privacy granted to citizens in the Constitution.
2. The direct powers the Cabinet Ministers responsible for state security, police, defence as well as telecommunications and postal services to make a suit of regulations relating to detecting and controlling cybercrimes.

These provisions have a real potential of handing on a silver platter, citizen’s rights to privacy and give these Ministers legislative powers to detect private citizens’ communications. We submit, this will be abused by the ANC for the reprehensible aids. While the constitutional rights to privacy and freedom of expression are not unlimited rights and are not meant to undermine the nation’s commitment to fighting criminal activity, we argued that a balance ought to be reached between guaranteeing these rights and not legislating undue limitations to these rights.

It is for these reasons that these kinds of crimes and information to be monitored and taken as a criminal activity must be a

...[Inaudible.]

The DEPUTY SPEAKER: Hon members, let us allow the member to – your diagnosis is of all of you in the House is very interesting. I do not understand these things. Are you reconnecting member? Please do so quickly. She still has two minutes twenty seconds. I am going to proceed; we will give her time to finish her remarks in those two minutes. It will be recalculated properly, IFP.

Ms Z MAJOZI: I will take it from this side Deputy Speaker. With the greatest portion of the world’s population now online for the first time ever, the arrival of the internet of things, the advent of the 5G wireless communication network and the fact that, the planet has been fast into the Fourth Industrial Revolution due to the global outbreak of COVID-19, we should now more than ever be enacting legislation and regulation to ensure that, as information and communications technology, ICT becomes the very important fabric of our daily work and lives, that we do all in our power to mitigate the ever widening range of cyberthreats.

In 2018, South Africa ranked 56th in the International Telecommunications Union Global Cyber Security Index. Regionally

though, South Africa is placed as one of the leaders in the Cyber Security Defence ranking in fourth position preceded by Mauritius, Rwanda and Kenya.

Deputy Speaker, of critical importance is the need of a coordinated approach to deal with cyber-attacks and cyberwarfare, and thankfully from the institution design view point, South Africa has adopted an interagency approach to cyber security. The reality is that, governments no longer own and control their country’s critical national infrastructures. Critical infrastructure is now trans boarder and may even under foreign control in some cases.

Cybercrime remains the most reported and prolific economic crimes in South Africa, with an economic impact running into billions of rand. It is therefore of importance that; this area of law receives immediate attention, for as technology and skills advance in this area, so will crime.

Interventions to address cybercrime will in addition require a capacitated and coordinated approach, not only by government, but in partnership with the private sector academia, government and civil society as well. We must continue to ensure that our critical information infrastructure has the necessary resilience

in the face of current and emerging challenges. The IFP supports the report. Thank you.

Ms Y N YAKO: Deputy Speaker, may I come back?

The DEPUTY SPEAKER: Yes, please. Just remember to start in the middle or wherever you want to start. You have two minutes and twenty seconds.

Ms Y N YAKO: I will start in the middle. These sections raised concerns since the powers to implement provisions of the Bill is spread across departments. The part of the Bill is practicable and justifiable. The cost of compliance and expertise on government to practically establish, monitor and evaluate as well as administrate the various provisions of this Bill within the effective implementation of cybercrimes control.

The efficiency of this piece of legislation will depend on a number of government institutions working together, and that is almost impossible fit at the moment because there is no coordination of any kind in government functions to date. The EFF is of the view that, we do need a legislative framework for the purposes of this Bill is intended for, to combat cybercrimes. We are not convinced that the Bill in its current form will serve the

purpose it is intended, rather it will open flood gates for massive state surveillance for individual communication.

Therefore, we reject this Bill. Thank you very much Deputy Speaker.

Mr S N SWART: Deputy Speaker, the ACDP supports this Bill. We have seen cybercrime increasing dramatically, particularly during the COVID-19 lockdown. With more and more businesses, from online banking to e-commerce being conducted online, data breaches are growing in intensity and in frequency. Businesses have had to make a shift from employees working in an office to working from home, governments the same thing.

In the rush to continue with business and government operations, even Parliament, we see that there have been breaches taking place. We witnessed that here Deputy Speaker. We saw that breach that took place with barman, that took place with that programme in one of our committee meeting. This is part of cyber security breaches. We know that charges were laid in that regard and are being investigated but, it was highly, highly regrettable.

It is in times of up heaver or change when cyber criminals capitalise on confusion and uncertainty and companies, governments are all targets even Parliaments as we saw ourselves. Deputy

Speaker, the ACDP would urge that that this Bill is signed into law a quickly as possible, that it is implemented effectively and that sufficient funds are given to it.

The ACDP would also like to warn customers to be wary of online scams. Our public needs to warned at this stage particularly whilst shopping online. Be fully aware that if an offer seems to be too good to be true, it normally is. One piece of a basic advice is to always use a unique password when shopping online, so that if that password is exposed, it won’t compromise your other accounts, email, banking or anything other related. Be careful when phishing links, do not give sensitive information in response to any email requests and remember, a word of advice from the ACDP, in God we trust, everyone else we check out. Thank you so much Deputy Speaker.

Mr C M SIBISI: Deputy Speaker, the NFP supports the Bill because the Bill will effectively criminalise these types of cybercrime. It will criminalise malicious communication which being the distribution of data messages. It will criminalise unlawful access which includes unlawful and intentional access to data. Unlawful interception of data which includes the acquisition, viewing, capturing or copying of data. Unlawful acts in respect of software and hardware tools being unlawful and intentional use or

possession of the software. Unlawful interference with data which is about interference with data or a computer program, cyber fraud which being fraud committed by means of data or a computer program, cyber forgery being the creation of false data or false computer.

Businesses who may fall victim to a cybercrime or who for an example have employees who commit a cybercrime are required to offer co-operation and assist law-enforcement officials in any investigations they may conduct with the firm said. We as the NFP support the amendments proposed in the Cybercrime Bill. South Africa’s laws have been mild on cyber matters for many years while many countries have tightened cyber related laws when the surge of cyber usage grew exponentially.

According to the latest Accenture report, the attack surface has grown tremendously and threat actors have targeted South African entities on all fronts in the past year. Furthermore, South Africa has experienced a cross industry spike in cyber-attacks in 2019, making it a country with the third highest number of cybercrime victims worldwide. Accenture research found that approximately R2,2 billion a year is lost to cyber-attacks, which is, Card Not Present fraud on South African issued credit cards remained the leading contributor to gross fraud losses in the country,

accounting for 79,5% of all losses. As the NFP, we can only hope that through these amendments, cybercrime will be treated like any other physical criminal act and starts seeing a decline in cybercrime. I thank you.

Mr M G P LEKOTA: Chairperson, Cope supports this bill.

Mr L M NTSHAYISA: Hon Chairperson.

The DEPUTY SPEAKER: Okay, you are back. Go ahead.

Mr L M NTSHAYISA: Yes, I always come before Cope. [Laughter.]

The DEPUTY SPEAKER: I did call you. You didn’t respond.

Mr L M NTSHAYISA: Is it, but you have to attend to NFP. Thank you very much, Deputy Chairperson.

The DEPUTY SPEAKER: You mean Deputy Speaker.

Mr L M NTSHAYISA: Deputy Speaker, sorry. We say in English good wine needs no bush. I was once robbed through the same cybercrime. Without much ado, we support this bill because we are going to be assisted as a community. Thank you very much.

The DEPUTY SPEAKER: The Chief Whip of the DA is very curious about what you said earlier on. You will share that later not now.

Ms N H MASEKO-JELE: Thank you, Deputy Speaker, members of the Assembly, the ANC rises in support of the Cybercrime Bill B6-2017 and the report of the Portfolio Committee Justice and Correctional Services on the Amendment proposed by the NCOP. The surge of cybercrime, security bridges and cyber-attacks in our country have been and remain a cause of great concern. While South Africa has various laws which are used to address cyber offences. They do not comprehensively and uniformly criminalise conduct that is regarded internationally as cybercrime. This has rendered us vulnerable to cybercrime and attacks. Such vulnerability presents financial risks and challenges to the economy.

In 2015 already the World Economic Forum estimated losses of R5,8 billion to the South African economy from cybercrimes. Chairperson, the EFF is still looking at the original Bill. We have moved on, Chairperson.

In 2015 the Department of Justice and Correctional and Constitutional Development initiated the process to establish decisive policy in the form of cybercrimes and Cyber Security Bill. Responding to the country’s lack of legislations in this

area, the end product of the study culminated with the draft bill called the Cybercrimes and Cyber Security Bill, which will assist in addressing the problem of cybercrime. Subsequently, to discussion, changes were made to the bill, including the removal of some of the security obligations. The security part originally named Cybercrime and Cyber Security Bill was removed. That one is for EFF. They must listen and also read.

To the DA, they must also listen to this one. The ANC 54th National Conference resolved that I quote:

There is a need to strengthen capabilities for Cyber Security to enhance protection on critical databases. Systems and critical infrastructural resources, including protecting society against fake news, cybercrime, cyber-attacks and hacking.

We have been long on this one. There is no politicking about that. After deliberations in November 2018, the Bill was adopted by the National Assembly and transferred to the NCOP for concurrence. The NCOP committee agreed on a proposed amendment, which includes altering the tone of the bill to reflect nonbinary languange as required by consideration of gender neutrality, equality, dignity and identity, and the restructuring of clause 16 to specifically

reflect the impact of the considerations in criminalising the disclosure of data messages of intimate images.

The bill provides for interim protection orders. Further, regulates jurisdiction in respect of cybercrimes. It also regulates the powers to investigate cybercrimes. Lastly, it regulates aspects relating to mutual assistance in respect of the investigation of cybercrime. The bill was passed in the NCOP and referred to the portfolio committee, which has accepted the proposed amendments. With the growing use and reliance on technology cybercrime and threats are also on the rise. This bill is important for safeguarding the country and its people.

*IsiZulu:*

Siyaqhuba thina Sihlalo.

*English:*

The ANC supports the bill. Thank you very much.

*IsiZulu:*

USEKELA SOMLOMO: Ubuzoqhuba kahle uma ngabe ubungibize kahle nami kodwa ngizokuyeka ngoba manje anizwa.

*English*:

Hon Swart, Islam says trust in Allah, but tie your camel at night.

There was no debate.

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

That the Bill, as amended, be passed.

Declarations of vote made on behalf of the Democratic Alliance, Economic Freedom Fighters, Inkatha Freedom Party, African Christian Democratic Party, National Freedom Party, Congress of the People, African Independent Congress and African National Congress.

Question put: That the Bill, as amended, be passed.

Question agreed to (Economic Freedom Fighters dissenting).

Bill, as amended, accordingly passed.

Agreed to.

# CONSIDERATION OF RECOMMENDATION OF CANDIDATE FOR APPOINTMENT TO THE PUBLIC SERVICE COMMISSION

(Draft Resolution)

Mr T H JAMES: Deputy Speaker, Parliament is obligated in terms of the Constitution of the Republic of South Africa and the Public Service Commission Act, Act 46 of 1997 to recommend a candidate for appointment by the President to serve as a commissioner for the national Public Service Commission. [Interjections.]

The DEPUTY SPEAKER: Hon Members, please switch off your mics.

Go ahead, hon member.

Mr T H JAMES: Section 196 of the Constitution empowers Parliament through its committee to appoint five commissioners for the national Public Service Commission. Each commissioner should serve for a period of five years, which is renewable. The committee receives a request through the Speakers Office to expedite the filling of a vacancy for the commissioner’s post in the national Public Service Commission.

On 22 September 2020, the committee placed an advert in various national newspapers calling on members of the public who are fit and proper persons to apply for the vacancy in the Public Service

Commission. The portfolio committee appointed amongst its members a subcommittee to run the recruitment process and report to the main committee once the recruitment processes were complete. A total of 151 applicants responded to the advert. Most of the candidates who responded have requisite skills and the experience to contest for the position. Candidates were shortlisted based on their previous background, knowledge and experience in various institutions. The committee further noted policy loopholes on the requirement to give expression to section 196(10) of the Constitution in terms of ensuring that an advert is designed in a way to attract relevant applicants for the commissioner’s post.

There is a need to standardise the requirements for the commissioner’s post across the legislative sector.

Hon Deputy Speaker, the Portfolio Committee on Public Service and Administration resolved to recommend that the House approves the recommended candidate Dr Somadoda Fikeni for the appointment by the President to serve as a commissioner for the national Public Service Commission. The committee is therefore confident that the candidate recommended has a clear understanding of the mandate of the Public Service Commission and is therefore fit and proper for appointment.

Lastly, in addressing the weaknesses in the recruitment processes for the public service commissioners, we will in 2021 be embarking on a workshop to unpack the interpretation of the term “fit and proper persons” with the knowledge of or experience in the administration and management of public service with relevant committees in the legislatures and the leadership of the Public Service Commission and academics in order to develop mechanisms to ensure capable and ethical persons are appointed in the Public Service Commission. In doing so, we will strengthen the Public Service Commission and ensure the institution from top leaderships are knowledgeable, competent and experienced since the commission is a knowledge-based organisation and conducts a myriad of researches concerning the public service.

Hon Deputy Speaker, I therefore recommend the House to adopt this report.

Thank you, Deputy Speaker. [Applause.]

*Declarations of vote:*

Mr K J MILEHAM: Hon Deputy Speaker, one year ago this House debated the ANC’s proposal to recommend the disgraced and corrupt cadre Zanele Hlatswayo for appointment to our country’s most esteemed public service watchdog - the Public Service Commission.

The DA fought tooth and nail to defend the people of South Africa from this outrageous scheme, and we won. On two occasions the ANC failed to garner the requisite 200 votes they needed to complete their capture of the Public Service Commission, which would have allowed cadres and looters an even further hand as they robbed our country blind. But as we stand here today a year later, it is clear that the ANC has learnt absolutely nothing from that bruising defeat. In fact, they have now cooked up an even more perverted scheme to undermine the Public Service Commission.

It goes like this: First they refuse to fill the vacancy that we debated in this House last year. That’s right. One of the five positions recommended by the National Assembly has now been vacant for one and a half years. The DA has written multiple times to the Speaker, warning that the failure to fill this vacancy is making it impossible for the Public Service Commission to do its job. I’m very happy to hear that the Speaker does sometimes respond to correspondence, and we look forward to a response here. We asked for the vote to be scheduled so that this House could make itself heard on whether we should not instead appoint the DA’s preferred and excellent candidate, the former Deputy Public Protector.

Madame Speaker, this is a direct plea to you: Are you really willing of sabotage the Public Service Commission just to avoid

voting the DA’s preferred candidate? Please do the democratic thing. Let us vote!

Sadly, however, the damage caused by this Parliament to the Public Service Commission doesn’t end there. Fast forward a year to today and the ANC wants us to now fill a second vacancy that has occurred on the Public Service Commission following an utterly shambolic process. One of the candidates shortlisted by the committee is facing serious disciplinary charges. When we raised it, we were shouted down. One candidate was mistakenly shortlisted because the officials got confused about the number on the CV. One candidate was interviewed despite working in the beverage industry and not knowing what the letters “P”, “C” and “S” stand for. So, it is no surprise that the preferred candidate turned out to be a “TV talking head” who is manifestly biased and unsuited. Given their new found infatuation with wannabe TV stars like Somadoda Fikeni, it looks like the ANC may soon appoint the cast of Muvhango to the Public Service Commission.

The candidate before us today does not have any qualification in human resources, corporate management or law. He has never been a public servant. This is like appointing a chief justice who has no legal experience. But I will tell you what he does have. A long record of favourable public comments about the ANC and the EFF. He

has praised the EFF leader for his immense impact on politics. And even when the whole world can see how spectacularly President Cyril Ramaphosa is failing to fix our country, Fikeni recently heaped praise on the ANC leader for his supposed strength.

This is what today is all about. The ANC and the EFF have conspired to appoint someone who will promote them in public while protecting them during Public Service Commission investigations.

If they actually cared about the Public Service Commission, these parties would have asked how a biased political talking head could possibly be a fit and proper person who is independent and impartial enough to serve on the Public Service Commission.

Perhaps there should have been a workshop on this before you made this appointment. They would have asked what happens to the constitutionally mandated independence of the Public Service Commission when one of these wannabe celebrities keeps appearing on TV and radio shows to attack the official opposition while praising looters and fascists. How can he possibly bring an independent mind to investigations that would negatively affect his darlings, hon Malema and hon Ramaphosa.

Hon Deputy Speaker, the ANC and the ... [Interjections.]

Ms N E NTLANGWINI: Deputy Speaker!

The DEPUTY SPEAKER: Yes, hon member.

Ms N E NTLANGWINI: Can I please ask the member a question?

The DEPUTY SPEAKER: Would you take a question ... [Interjections.]

Mr K J MILEHAM: Absolutely not, Deputy Speaker.

The DEPUTY SPEAKER: No, he won’t take a question, hon member. [Interjections.]

No, no, hon members. Don’t talk when you are not told not to talk.

Mr K J MILEHAM: I don’t speak to fascists, thank you. If I wanted to speak to fascists, I would visit the Holocaust Museum.

Hon Deputy Speaker, the ANC and these stooges ... [Interjections.]

The DEPUTY SPEAKER: Hon member!

Mr K J MILEHAM: Yes!

The DEPUTY SPEAKER: No, withdraw that man. You can’t speak ... You see you are ... [Interjections.]

Mr K J MILEHAM: What have I said? The Nazis is not fascist?

The DEPUTY SPEAKER: Hon member, I suggest that you withdraw that remark.

Mr K J MILEHAM: What? That Nazi is not fascist.

The DEPUTY SPEAKER: Hon member, I request that you withdraw that remark. If you don’t, just move away from where you are seated. You can’t proceed.

Mr K J MILEHAM: Hon Deputy Speaker, what exactly ... Which component ... [Interjections.]

The DEPUTY SPEAKER: Hon member, the last comment you made about fascists.

Mr K J MILEHAM: If I would like to speak to fascists I would visit the Holocaust Museum. Is that what you are objecting to?

The DEPUTY SPEAKER: Hon member, there’s a member who wanted to ask you a question. When you are saying what you are saying you are directly referring to her. There’s no question about it. So you must withdraw that.

Mr K J MILEHAM: Hon Deputy Speaker, perhaps the EFF should visit the Holocaust Museum to learn where their ideology lives.

The DEPUTY SPEAKER: Hon member, if you contest my ruling, it’s better if you write to the Speaker. Otherwise ... [Interjections.]

Mr K J MILEHAM: I withdraw. Thank you very much.

The DEPUTY SPEAKER: That’s better.

Mr K J MILEHAM: The ANC and their stooges are responsible for the hot mess that the Public Service Commission finds itself in. Just like we did a year ago, we reject this candidate because we are the only party that is fighting to protect the Public Service Commission so that it can serve the people rather than politicians.

Thank you.

Ms R N KOMANE: Thank you, Deputy Speaker. As the EFF, we would like to put it on record that we had wished and hoped that the candidate to serve as a commissioner in the Public Service Commission, PSC, should’ve been a black and capable woman, in our efforts to support females appointed in key positions.

Furthermore, we congratulate all females who took part in the interviews.

We acknowledge the importance of the position in question, and after thorough and thoughtful consideration, we were ... [Inaudible.] ... by the way Mr Somadoda Fikeni presented himself at the interview, and we wish him well. He must know that the position he is entrusted with is not a political office and therefore we as the EFF will monitor him and hold him to account. We hope he will deal with the rot and corruption that is enrooted in this commission, without fear or favour. We have noted the commitment and proposals he made during his interview and we vow to take him to task on that.

As the EFF, we have noted the utterances by the other racists who also earmarked their own person and later accused us of conniving. That is why, of the 19 shortlisted candidates, they only shortlisted one person whom they wanted to impose on the subcommittee. How is it possible that out of the approximate

151 candidates you only shortlist one, and furthermore, want to impose that person on the subcommittee? Shame on you! We urge them to remember that our people do not have the experience they are making a noise about because of the apartheid regime that was led by them.

Lastly, we want to put it on record that this interview was one of the most difficult ones and there were more ... [Inaudible.] ... people, but unfortunately, we had to choose one amongst the best, and Dr Somadoda Fikeni was that one.

Mr N SINGH: Thank you very much, Deputy Speaker. You know, it is very convenient for us as Members of Parliament to know that we are protected in what we say in the Houses of Parliament. However, I think we must carefully consider what we say, even though we may have that protection.

You know, thank God, I’ve been around on earth for 66 years and for the better part of 20 or 25 years I have heard the name Dr Somadoda Fikeni ... Prof Somadoda Fikeni, over and over again. I have heard what he’s being saying, and I’ve read his comments and his analysis of the political situation in South Africa. I just want to remind hon members that I live on planet earth and this is why I know these things, and I’m surprised that such derogatory statements can be made by an individual ... who is held in such high respect by the majority of South Africans.

Although we did not participate in the process of interviews, it is for that reason that the IFP will wholeheartedly support the appointment of Prof Somadoda Fikeni to the PSC. [Applause.]

However, having said that, the IFP holds the view that the Public Service should be impartial, nonpolitical, transparent, accountable, efficient and an ... [Inaudible.] ... change and transformation. Members of the Public Service need to be driven by a service ethic that endeavours to assist the public, with care, empathy and courtesy.

In appointing a commissioner, the IFP sought to ensure that the individual would showcase integrity, reliability and honesty, and we believe that the work done by the subcommittee in making this recommendation is the right ... that they have done.

The IFP is of the opinion that the PSC needs to consider qualifications criteria in the appointment of any individual to the Public Service. This would ensure equal opportunity access to all posts. We cannot continue to allow political expediency of kind to determine appointments.

I am told that the recommended candidate, Dr Fikeni, proposed impressive solutions and initiatives during the interview. His proposal that the commission work with higher education institutions and the private sector to improve the Public Service is welcomed.

The IFP proposes that, once appointed, Prof Fikeni should encourage the commission to establish minimum conditions of employment, and determine salary and remuneration structures in the Public Service. This should be accompanied by an examination of staff evaluation and promotion criteria, orientation programmes and training for all civil servants. The commission ... We support the recommendation. [Time expired.]

Mr W M THRING: Thank you, Deputy Speaker. As the ACDP, we note that a letter dated 7 July 2020 was received from the President of South Africa, requesting the National Assembly to initiate the process to fill the upcoming vacancy in the PSC in terms of the Public Service Commission Act of 1997.

The Speaker referred the matter to the Portfolio Committee on Public Service and Administration, and a subcommittee was chosen with the agreed-on criteria to be considered for the purpose of shortlisting candidates. The principle of fit and proper person who demonstrates: a strong work ethic and integrity; extensive knowledge and skill of government systems; understanding of and/or experience ... previous experience in the PSC; appropriate and extensive experience in senior management level in either the public or private sector; understanding of the National Development Plan and the mandate of the PSC ...

The ACDP notes the interview process undertaken over a two-day period of shortlisted candidates, arriving at the recommendation of Dr Somadoda Fikeni**.** We have been informed of Dr Fikeni’s career in the Public Service sector, and his academic background and qualifications in public policy and public administration.

A possible red flag for the ACDP is the admission by Dr Fikeni in his curriculum vitae, CV, that he regularly wrote speeches for public officials and senior government officials.

Dr Fikeni is, however, one of South Africa’s most recognised figures among political and social commentators, and he is engaged widely by local, national, continental and global media, including the British Broadcasting Corporation, BBC, Al Jazeera, Turkish global TV and various German, American and Australian media. So, the ACDP will support the recommendation for Dr Fikeni to serve as a commissioner for the national PSC. [Applause.]

Mr N L S KWANKWA: Thank you, Deputy Speaker. The UDM supports the recommendation for the appointment ... [Applause.] ... of Dr Somadoda Fikeni as commissioner for the PSC. We have no doubt in our minds, having worked with Prof Fikeni for a long time in a number of programmes ...

The DEPUTY SPEAKER: Hon Kwankwa? Hon Kwankwa, just a moment.

Mr N L S KWANKWA: Yes, Sir?

The DEPUTY SPEAKER: Hon members, please give the hon member of the UDM the space to talk. It’s only for two and a half minutes.

*IsiZulu:*

Mnu N L S KWANKWA: Ayangxola lamasela!

*English:*

The DEPUTY SPEAKER: Hon member, you are saying your favourite expression in the House. I’m going to take you on, on that reference. It is in the light of what hon Singh said earlier on. This matter must be taken to the Rules Committee to be discussed

... that reference to members in the House, including reference potentially to people who are going to be reporting to the House. How we speak about them in public in a manner that everybody hears, must be a considered perspective. So, I will refer it to the Rules Committee to look at and to give us guidance so that together we talk about these matters, and so on.

Mr N L S KWANKWA: What are you referring to, Deputy Speaker?

*IsiZulu:*

USEKELA SOMLOMO: Ngicela ukuthi, baba u-Kwankwa, uyiyeke lendaba yokubiza abantu ulokho uthi bangamasela. Ayilungile.

*English*:

I strongly object to it, and frankly, I don’t like it. I don’t understand why you think you must say that daily. So, it’s wrong that you do that. I suggest ...

Mr N L S KWANKWA: I didn’t call anyone. I didn’t call any specific member of the House ...

The DEPUTY SPEAKER: Hon member, it’s incorrect.

Mr N L S KWANKWA: What’s incorrect?

The DEPUTY SPEAKER: I told you that I’m taking it to the Rules Committee so that we must talk about it and so that you become satisfied that what we are raising has merit; in that the repeated, deliberate reference to members in the House, even in the manner you are suggesting, is not a violation of your freedom of speech but it is an objection against eroding the public image of every member of the House, irrespective of your intention.

Let’s just get that, so that we ... [Interjections.]

Mr N L S KWANKWA: Hey man, that’s your opinion, Deputy Speaker ... [Inaudible.]

The DEPUTY SPEAKER: Yes, this is why I’m expressing it. It is my view, I know, and this is why I’m asking the Rules Committee to

...

Mr N L S KWANKWA: At what point then am I given an opportunity to respond to your view?

The DEPUTY SPEAKER: Hon member? Hon member?

*IsiZulu:*

Ngicela ume ngiqede ukukhuluma ngoba ngizokuyekela ukhulume nawe.

*English:*

Don’t do what you are doing whilst I’m addressing the House. You keep on remarking as I’m speaking. It’s out of order! In the first place you are breaking the rules, and you know that. So hon member, proceed.

Mr N L S KWANKWA: But no-one rose on a point of order, hon Speaker. I don’t understand why we ... [Inaudible.]

The DEPUTY SPEAKER: Hon member, I requested a moment ...

Mr N L S KWANKWA: To do what?

The DEPUTY SPEAKER: ... so that the time is given to speak. You will get an opportunity to talk about that in the Rules Committee. Right now, speak on the subject that’s before the House. Your minutes are there provided for you. Proceed, hon member.

Mr N L S KWANKWA: Okay. I’ll deal with the matter when you refer it to the Rules Committee, Deputy Speaker. I’ll be ready for it, don’t worry.

The UDM supports the nomination of Prof Somadoda Fikeni to serve as commissioner for the PSC. We see this as an important step towards ensuring the independence and guaranteeing the independence of the PSC as an institution established in terms of Chapter 10 of the Constitution of the Republic of 1996. We are of the view that Prof Somadoda Fikeni is a fit and proper person to occupy this position. Not only is he well experienced, but we have also worked with Prof Fikeni on a number of projects on the African continent, firstly, in my capacity as the deputy and the Chief Whip of the UDM; and secondly, in my capacity as the chair of the African Parliamentarians Association for Human Rights. He

has an extensive network and has done a lot of impressive work on the African continent. He is a Pan-Africanist of note.

We do not doubt that in the instances where a cross pollination of ideas is required between South Africa, in his capacity as commissioner for the PSC and learning from other parts of the continent where there are service commissions of a similar nature, he would encounter no challenges in so far as getting ideas that will improve the work that he is doing or going to do in the commission. For these reasons, we would like to support his nomination. [Applause.]

*Declarations of vote:*

Mr C H M SIBISI: Deputy Speaker, the portfolio committee resolved to recommend Prof Somadoda Fikeni to the NA in terms of section

196 of the Constitution, for the appointment by the President to serve as a Commissioner of the Public Service Commission, PSC. While I was listening to what has been said by the previous speakers one is tempted to list Somadoda Fikeni’s profile.

Somadoda Fikeni was a consultant at the Human Research Council; Director of the Eastern Cape Development Corporation and Chairman of the Council of Walter Sisulu University. From 2004 to 2008 he was Chief Operating Officer of the National Heritage Council, a

position he took after he resigned from the Walter Sisulu University Council as the chairman. Somadoda Fikeni is an academic, community development activist and political analyst. Prof Fikeni is now focused on research. He has a PhD from Michigan, MA from Queens in Canada and BA hons from the University of Transkei. He recently presented a Paper on the Unintended Consequences of Africa’s wave of Multiparty Democracy. So, the NFP supports the recommendation of Somadoda Fikeni to the position of PSC. Thank you. [Applause.]

The DEPUTY SPEAKER: Hon members, lower your voices. Hon Cachalia, hold your horses. Who are you, hon Cachalia? Are you serious? Oh no, don’t do that to me again, sir. Please, with the greatest of respect. Oh! Oh! Cope, are you there?

Mr M G P LEKOTA: Deputy Speaker, for all the very well-known and celebrated achievements of Dr Somadoda Fikeni, the Cope supports his recommendation. [Applause.]

Ms R M M LESOMA: Fellow South Africans, you know what? It hurts when somebody hates you with passion, doesn’t care and lie but has hatred that is deep rooted. I wonder what informs that. My heart hurts and I feel like crying as a black child. [Interjections.]

Deputy Speaker and fellow South Africans, Dr Schreiber never diagnosed Dr Somadoda Fikeni and he dare says that he has a mental health disorder. His speech says that. Secondly ... [Interjections.]

The CHIEF WHIP OF THE OPPOSITION: I rise on a point of order, Deputy Speaker.

The DEPUTY SPEAKER: What’s your point of order, hon member?

Mr G G HILL-LEWIS: She must listen.

The DEPUTY SPEAKER: Hon member Hill-Lewis, listen to your member speaking. That’s a good one you are making. You must listen to your Chief Whip speaking.

The CHIEF WHIP OF THE OPPOSITION: Hey, listen to me now everyone. Thank you. [Interjections.] Deputy Speaker, no, no! You must also listen.

The DEPUTY SPEAKER: Order, hon member, please! Hon members, I appeal to you to calm down. You seem to refuse to calm down. Please do so. Let’s get the House running smoothly. Go ahead, hon member.

The CHIEF WHIP OF THE OPPOSITION: Deputy Speaker, I am a bit worried about what’s in the water in Parliament today because there is no way nor how did a member of the DA say anything about the candidate having a mental disorder. It is absolute nonsense! It is disparaging to imply that my member had said that. I demand, Deputy Speaker, that the member at the podium withdraw that statement. She must withdraw before she carries on and I would ask you to not even wait to refer to the Hansard because ... [Interjections.]

Mrs E N NTLANGWINI: Go and demand in Orania, not here. Go and demand in Orania.

The CHIEF WHIP OF THE OPPOSITION: Natasha, why don’t you keep your mouth shut?

The DEPUTY SPEAKER: Hon members, you can’t be speaking when another member is speaking.

Mrs E N NTLANGWINI: I will not! Not for you.

The DEPUTY SPEAKER: Hon Ntlangwini, please don’t do that! Switch off your mic!

The CHIEF WHIP OF THE OPPOSITION: Tash, mute it!

The DEPUTY SPEAKER: You are violating the rules, now. Hon member, have you finished?

The CHIEF WHIP OF THE OPPOSITION: No, I’m not. Tashi toddles interrupted me but it’s done now. Deputy Speaker, the fact of the matter is that no member may stand up and mislead the House. So, the hon member at the podium, is now misleading the House with regard to what was said by a member of the DA and that is not alright. It is not according to the Rules of Parliament. We’ve had a big debate already now about what you can and cannot say; and what impugns the motives of the members in the House. I have kept quiet. I’ve listened to your Rulings and I have obeyed them. I have told my members to listen and obey your Rulings too because that is right. That is what we do. But there is no way that a member can stand up and claim that another member had made a statement not 10 minutes before she stood there, and expect us not to call a point of order. That is wrong. Deputy Speaker, I have never used this word before but that is a plain and blatant lie, and liars must be called out. [Applause.]

The DEPUTY SPEAKER: But hon Mazzone, you know that as a Chief Whip you can’t say that of a member. Should you say that?

The CHIEF WHIP OF THE OPPOSITION: Deputy Speaker, it is of such a serious nature. That’s why I say to you I’ve never said lie.

The DEPUTY SPEAKER: Hon member, but ...

The CHIEF WHIP OF THE OPPOSITION: But what the member has just said now ... [Interjections.]

Ms R M M LESOMA: Point of order!

The DEPUTY SPEAKER: No, no! Hon members, can you please be orderly, just for a change!

Ms R M M LESOMA: Point of order!

The DEPUTY SPEAKER: No, no, no! Wait a minute, I’m ruling here. Hon Mazzone, you know it is inappropriate for you to say a member lies. You know that! And you are saying because it is so serious, you want to do it. How can that be appropriate? How can you say to me, you are going to violate the Rule because the issue is so serious to you? That’s the first point, hon member. You can’t say that. You must withdraw that. Secondly, you can’t also say I shouldn’t listen to the Hansard. How can I not listen to the Hansard - audio at least - so that I hear whether what the member

is saying, as you are saying, is fabricating the story? I heard her. I heard, hon Mazzone, yes. So, I must ... No, no, no, hon member, please! You must stop it. I’m trying to sort things out here. Hon member, we will rule on that matter. Hon member, you proceed. Hon Mazzone, I will check Hansard so that we do that. But you can’t say she lied. You must withdraw that.

The CHIEF WHIP OF THE OPPOSITION: Deputy Speaker, because I respect you and I respect the Rules of the House, I unreservedly withdraw the word ‘lie’ and I replace it with the word ‘misled’.

The DEPUTY SPEAKER: No, you can’t. You do it unconditionally, hon Mazzone, otherwise ... [Interjections.]

The CHIEF WHIP OF THE OPPOSITION: I withdraw unconditionally.

The DEPUTY SPEAKER: Thank you very much! Thank you very much!

Ms R M M LESOMA: hon Deputy Speaker, narcissistic personality means that ...

The DEPUTY SPEAKER: Hon ... [Interjections.]

The CHIEF WHIP OF THE OPPOSITION: Hon Deputy Speaker, this is exactly what the problem is in the House today. I withdraw and I withdraw unconditionally.

The DEPUTY SPEAKER: Yes.

The CHIEF WHIP OF THE OPPOSITION: And the member stands up. She is sitting there and smooching at me. She’s welcome to do it. It’s fine having a little stand off ...

The DEPUTY SPEAKER: Hon member, stick to the issue.

The CHIEF WHIP OF THE OPPOSITION: But then she stands up and immediately insults me and my party, and you are now going to wait for the Hansard. But she won’t withdraw. So, that’s not alright.

She said I have a mental illness and so, she must also withdraw. Otherwise, this back and forth is never going to stop.

The DEPUTY SPEAKER: She said you have a mental illness? Hon member, did you say that?

Ms T I LEGWASE: Deputy Speaker, on a point of order. Recognise me, please!

The DEPUTY SPEAKER: No, no, no! Let me finish here. I will recognise you. Hon member, did you say that?

Ms R M M LESOMA: Hon Deputy Speaker, I was trying to assist you

...

The DEPUTY SPEAKER: No, no, no! Hon member, just answer the question. Did you say it or not?

Ms R M M LESOMA: I just read it, hon Deputy Speaker.

The DEPUTY SPEAKER: Hon member, I don’t understand your answer to my question. Did you say it or not?

Ms R M M LESOMA: Hon Deputy Speaker, I’m not too sure whether I must listen to you or listen to my left. Please assist me.

The DEPUTY SPEAKER: Hon member, did you say it or not?

Ms R M M LESOMA: Yes, I read it.

The DEPUTY SPEAKER: Hon member, withdraw it!

Ms R M M LESOMA: I withdraw. Thank you.

The DEPUTY SPEAKER: Thank you very much. Hon members, can you allow ... Wait, wait! Before you proceed, hon member you wanted to raise a point of order.

Ms T I LEGWASE: Thank you so much, Deputy Speaker. I wanted to raise it on that matter. The hon member at the podium must be protected. Firstly, she is at the podium debating on the issue of the appointment. She was repeating what the other member would have said as a point of debate and you said that she must continue. Now, the abuse from that other hon member of the Chief Whip of the DA is uncalled for. Secondly, the last point I want to raise a point of order on is that ... No, no, no! You see ...

The DEPUTY SPEAKER: Hon members, please!

AN HON MEMBER: Don’t do that! Don’t do that!

The DEPUTY SPEAKER: Hon members, please!

Ms T I LEGWASE: The last point I want to raise, Deputy Speaker, is that our members must be protected. There is freedom of speech in the House and we cannot be abused by that member. She must know that.

The DEPUTY SPEAKER: Hon members, let’s proceed. Go ahead, hon member.

Ms R M M LESOMA: Hon Deputy Speaker, fellow South Africans, the Chief Whip of the Majority party and hon members, may I just start with housekeeping issues. The hon member of DA who stood here spoke as if he has never been part of the process or the committee. He has never been in the process and the roadmap we agreed upon on how to navigate to get the best qualified candidate for the Public Service Commission. But also, even the choice of word he used showed a very deep-rooted anger and hatred for some individual sectors of the community.

Secondly, the ANC moves in support of the 25 November 2020 Report of the Portfolio Committee on Public Service and Administration. The portfolio committee resolved and recommends Prof Somadoda Fikeni as the recommended candidate for appointment to serve as the Commissioner of the Public Service Commission. We would like to register ...

The DEPUTY SPEAKER: Hon Mbuyane, please switch off your mic. You are really disrupting the proceedings of the House.

Ms R M M LESOMA: We would like to register our humble appreciation to all Africans who raised their hand of interest to serve our country through the Public Service Commission. After due processes, of course, one should be identified and recommended based on the performance. Based on the candidates’ knowledge and understanding of the Public Service Commission, Prof Fikeni has demonstrated in the live interview, a great understanding of powers and functions of the Public Service Commission. He critically articulated his objectives and suggestions on the direction that the public service should take.

Furthermore, he expressed instances in which the Public Service Commission should exercise its mandate without fear, favour and prejudice, and speak truth to power. The candidate possesses, as hon Sibisi from the NFP also alluded to - just to add some points

– great knowledge of the public service study of the trends and best practices internationally in order to ensure that the public service embraces technology for the purposes of rendering services efficiently, effectively and economically. The candidate is well- experienced having served in numerous boards, councils and task teams.

This recommendation confirms that the ANC is committed to appointing capable, competent and well-experienced candidates to

Chapter 9 and 10 institutions of the Constitution to safeguard our democracy. As the ANC we firmly believe that Prof Fikeni’s political analysis background does not compromise him since he has objectivity in critiquing all political parties across the board depending on a particular topic at a given time. The committee has no doubt, fellow South Africans, that it has recommended a candidate of stature, integrity, morals and ethics for the appointment to the national Public Service Commission.

The ANC is optimistic and hopeful that the candidate will execute his duties as commissioner exceptionally well and be able to carry out the mandate of the Public Service Commission with other commissioners among them, the promotion of values and principles of the public service administration to fight corruption and strengthen or reinforce accountability in the public service. The Public Service Commission as the Chapter 10 institution is an independent institution charged with the constitutional responsibility to assist legislative oversight mechanism. To pay special attention to unethical conduct such as corruption, wastage, bribery, nepotism, and fraud, though not limited to. It is its role to champion norms and standards on monitoring recruitment processes and strengthen them. This cannot be overemphasised. The ANC supports the report that the House recommends to His Excellency, the President of the Republic of SA,

to appoint Prof Somadoda Fikeni as the Public Service Commissioner. #Growing South Africa together for ethical public service. Amandla! [Power to the people.] [Applause.]

AN HON MEMBER: Malibongwe! [Praise to the women.]

Question put: That the House approves the nomination of Dr Somadoda Fikeni as commissioner for the Public Service Commission.

Division demanded.

The House divided.

The Deputy Speaker announced that, the Speaker had determined that, in accordance with the Rules, a manual voting procedure would be used and that the whips would conduct a headcount of members in the chamber and on the virtual platform for the purpose of ascertaining quorum and voting.

A quorum being present in terms of Rule 98(1), voting commenced.

AYES – 241: (ANC – 191; EFF – 31; IFP – 12; ACDP - 2; UDM – 1;

NFP – 2; AIC – 1; Cope - 1).

NOES – 12: (DA – 12).

Question agreed to.

Nomination accordingly agreed to in accordance with section 196(8)(a) of the Constitution.

# CONSIDERATION OF REPORT OF PORTFOLIO COMMITTEE ON HUMAN SETTLEMENTS, WATER AND SANITATION ON COMMISSION FOR GENDER EQUALITY INVESTIGATIVE REPORT ON STATE OF SHELTERS IN SOUTH AFRICA 2018/2019

The DEPUTY SPEAKER: I now recognise the hon Semenya, the chairperson of the committee, on the virtual platform.

There was no debate.

Ms M R SEMENYA: Thank you, hon Speaker ...

The DEPUTY SPEAKER: Deputy.

Ms M R SEMENYA: ... members of this august House, I am here to present the report of the Portfolio Committee on Human Settlements, Water and Sanitation on behalf of the Commission for

Gender Equality Investigative Report on the State of Shelters in South Africa.

It is a known fact that the unacceptably high level of gender- based violence and femicide in South Africa has become a growing pandemic of concern for our nation and it is a betrayal of our constitutional obligation which so many fought for and gave their lives for.

The Gender-Based Violence and Femicide National Strategic Plan report on violence against women in South Africa highlighted the uneven geographical unavailability and distribution of inter- sectoral responses to gender-based violence and the uneven quality and range of services provided to women and girls living in informal settlements and rural areas. It further went on to state that the value of shelters is demonstrated in a 2018 study that found that in addition to providing women with emergency accommodation, shelters met women’s basic needs and provided physical and psychological safety, giving much-needed care and support for women and their children.

With the COVID-19 pandemic that has hit the country and the possibility of a second wave if people do not take precautionary measures, shelters have become a state haven for women and

children and a means of protecting them against the twin pandemic of COVID-19 and gender-based violence.

The Commission for Gender Equality embarked on an investigation on the state of shelters in South Africa. The commission observed that there were deep-rooted systematic challenges that needed to be addressed at the highest level of institutions that were expected to offer services to survivors of violence. The investigative report of 2018/2019 recommended calling a public investigative hearing within the 2019-20 financial year with the head of the nine provincial departments of social development, the Director-General of the Department of Social Development and the Director-General of the Department of Human Settlements, Water and Sanitation. They were required to fully account before the commission and respond to questions about how shelters were allocated resources and any other aspects regarding the functioning and the co-ordinating of shelters, including the need for transitional housing.

The Portfolio Committee on Human Settlements, Water and Sanitation received and interrogated the report on 31 July 2020. In their report, the commission observed critical areas that needed direct intervention from the Department of Human Settlements, Water and Sanitation. The report of the commission was welcomed by the

committee. It’s work as a Chapter 9 institution was commended, despite the challenge of having to execute their mandate with a limited budget. Critical to this recommendation was the need for shelters to be defined because gender-based violence survivors might be provided with permanent housing while they need temporary or transitional housing.

There is also a need for close policy collaboration between institutional gender offices, the Commission for Gender Equality, municipalities, the Department of Social Development and the Department of Human Settlements, Water and Sanitation.

Ensuring the security of victims of gender-based violence remains a priority. In conclusion, we request that the House adopt this report. As the ANC is a caring organisation and as the country and the world observes the 16 Days of Activism for No Violence Against Women and Children campaign, it’s important not to overlook the importance growing shelters play ...

The DEPUTY SPEAKER: You have overestimated the time you have, hon Semenya.

Ms M R SEMENYA: ... in assisting victims and safety during the time ... [Inaudible.]

The DEPUTY SPEAKER: No, no, no. Hon Semenya! [Interjections.]

Ms M R SEMENYA: [Inaudible.] We call on the department ...

The DEPUTY SPEAKER: Hon member ... No! Hon member, no; don’t proceed. You’ve exceeded your time. This is no good. I’m not giving anybody any additional seconds. It’s not allowed anymore with me. [Interjections.] [Laughter.]

Chief Whip? Hon Chief Whip, the member has introduced the report. What do you say we do as the House?

The CHIEF WHIP OF THE MAJORITY PARTY: Not any more.

The DEPUTY SPEAKER: Yes.

The CHIEF WHIP OF THE MAJORITY PARTY: Thank you very much, hon ... [Inaudible.]

The DEPUTY SPEAKER: Go ahead, hon member. Go ahead, Chief Whip. Don’t listen to other people. I warned you. Don’t listen to other people, please! When you follow the Chair, you don’t make mistakes.

The CHIEF WHIP OF THE MAJORITY PARTY: Thank you very much, Deputy Speaker. Deputy Speaker, I move that the report be adopted, but intimidated ... [Inaudible.] ... Ntombela.

The DEPUTY SPEAKER: I’m here to protect you.

The CHIEF WHIP OF THE MAJORITY PARTY: I move for adoption, Deputy Speaker.

*Declarations of vote:*

Ms E L POWELL: Deputy Speaker, it is fitting that we consider this report during the sixteen days of activism period. South Africa is known to have one of the highest gender-based violence rates in the world.

Hundreds of women suffer violence at the hands of their intimate partners every day. The statistics paint a grim picture.

Conservative estimates of the economic cost of gender-based violence are between R28 billion and R42 billion annually.

South Africa’s national leadership have also been heavily criticised for their failure to stem the ever-increasing tide of gender-based violence in South Africa. These failures are despite the fact that South Africa is a signatory to the United Nations

Convention on the Elimination of All Forms of Discrimination Against Women.

It is a basic fact that survivors of gender-based violence need temporary or transitional housing if they are to escape the grip of their violent partners. Section 26 of our Constitution further enshrines the right to adequate housing. This is especially important for vulnerable groups, such as victims of gender-based violence who will remain trapped in the cycle of abuse where the state fails to provide them with assistance.

In light of this, the Department of Human Settlements, Water and Sanitation has a constitutional obligation to provide emergency shelter and transitional housing to vulnerable groups. Yet, sadly, more than 26 years into our democracy, the ANC-led government has failed to provide adequate assistance to victims, hence the investigation into the state of shelters initiated by the Commission for Gender Equality in 2018, which resulted in the report before the House today.

The Commission for Gender Equality’s findings were concerning. The CGE found that the Department of Human Settlements, Water and Sanitation had failed to proactively conceptualise its role in

terms of providing shelter for victims of abuse and had thus discriminated against them.

The Department of Human Settlements, Water and Sanitation has, to date, also failed to finalise its special housing needs policy.

Shelters such as the Leratong Place of Safety Crisis Centre, Grace Shelter and Home of Hope stated that while they had received funds from government, the tranches were often paid late which then caused serious cash-flow challenges.

At the Badplaas shelter, survivors were housed in old shipping containers with extreme temperatures experienced in the winter and summer months. At the Tumahole Victim Support Centre there were no shower or bath facilities and survivors were required to wash in basins.

Several shelters also stated that survivors had nowhere to go after leaving the shelters owing to the failure of the Department of Human Settlements, Water and Sanitation to provide transitional housing. This lack of transitional housing has meant that many women leaving a shelter often end up returning to the abusive environment from which they came.

As a result of this investigation, the CGE called for a public investigative hearing wherein the Director-General of the Department of Human Settlements, Water and Sanitation, amongst others, would be called to account. The commission also recommended that the Department of Human Settlements, Water and Sanitation urgently develop a comprehensive policy and plan to finally deal with transitional housing for domestic violence survivors by June this year. The CGE further recommended that the department allocate a dedicated budget and plan to move victims out of shelters.

Unfortunately, the department was only finalising the comments from their engagements on the proposed resolutions in August this year, which then still needed to be taken to the Ministers and Members of Executive Councils Meeting, Minmec, along with implementation guidelines. To delay matters further, the report before the House recommends that the department’s policy and plan are only presented to the committee after June 2021 along with implementation guidelines, but no official deadline is actually stipulated in the report.

Victims and survivors of gender-based violence simply can’t wait any longer. The department needs to work quickly and effectively on finalising its policy and plan so that victims of gender-based

violence can be provided with the support that they require from the state.

While we welcome the work of the CGE, we must remember that justice delayed is justice denied, and survivors of gender-based violence deserve speedy action by government and its institutions. The DA will monitor progress closely. [Applause.]

*Declarations of vote:* (Cont...)

Mrs M R MOHLALA: Chairperson, we have been talking about the scourge of gender-based violence for a while now and it looks like talking is all we are good at. The EFF has for the past six years argued in this House that one of the interventions needed to help victims of gender-based violence is for the state to ensure that there are well equipped shelters for abused women and children in this country. We argued this not because we want to uproot women and children from their family homes, but because we acknowledge that sometimes the more severe form of abuse is that perpetrated by people we live with. For most women who experience intimate partner violence they are suffering is made worse by the fact that they have nowhere else to run to and no where else to live. So they are stay put in places where they get repeatedly abused.

The findings of the Commission for Gender Equality on the state of shelters in South Africa vindicate this long-held view of the EFF. The report identified the benefits of shelters to the state in that the structures reduce the impact of gender-based violence and femicide on the survivors of economic and social perspective.

Moreover, the report acknowledged that shelters afford survivors mechanism to escape the cycle of abuse and to avoid self- destructive harm.

Through skills development survivors have greater access to possible job opportunities, increasing financial independence from the abuser. A sanctuary offered by shelters further extends the protection of the rights of minor children who are offered therapy to minimise the impact of abuse in the household. That said, the Department of Human Settlement and indeed the portfolio committee has been hiding behind the definition of tents instead of working to provide solutions abused women in this country. This department together with Social Development should be providing leadership in the provision of shelters for victims of gender-based violence.

These shelters must be properly resourced with all manner of support required by victims of gender-based violence, GBV. We support the recommendations of the Commission for Gender Equality report and ask the department to stop the fettling around and start working. Thank you.

Mr X NGWEZI: Chairperson, hon Mahlobo and hon members, the South Africa Constitution embodies the values that provide the foundation for the four and are inspired by the creation of a free and democratic South Africa. Enshrined in the Freedom Charter are values of democracy, human rights and equality. Yet despite the rights violence against women and children has reached the highest rates in the world.

In view of the recurring events of gender-based violence in South Africa, government has a formidable responsibility to ensure that women receive the full enjoyment of their human rights.

It is both shameful and unacceptable that despite the constitutional guarantees of the rights that women should enjoy to life, equality, dignity, safety and security, gender-based violence and gender inequality persist in this country. The recurring of the degradation of women’s bodies, dignity and psychological wellbeing caused by gender-based violence is perhaps the country’s biggest atrocity.

Shelters for victims of gender-based violence are of great importance as they provide victims of the gender-based violence, GBV, with safety and security and alternative accommodation.

The Deportment of Human Settlement was given a mandate of constructing a special housing need programme that would attend to shelters for victims of gender-based violence. However the department has failed to finalise special needs housing policy and subsequently failed to deliver on this mandate. This is of great concern because the state has the responsibility to provide sheltering services to victims of abuse and gender0-based violence as stipulated in the Domestic Violence Act of 1998. Failing to deliver on this Act has grievous consequences and further perpetuates the narrative that South Africa does jot prioritise women’s rights and wellbeing. It is disheartening that women’s life experiences abuse and violence is further exacerbated by the neglect of government institutions and departments which have the duty to ensure women’s safety.

We as the IFP we call on government to act swiftly as the issue of shelters is literally a matter of life and death. South Africa has many institutions and departments with overlapping objectives on women’s equality and protection. However, it behoves these institutions and departments to prioritise and effectively implement their mandate. The Department of Social Development, for instance, also has a mandate to ensure that women have alternative accommodation when they flee abusive domestic environment. But when it comes to women’s shelters the department has been accused

of inconsistence and chronic underfunding as well as insufficient support... [Time expired.]

Mr S N SWART: House Chair, the ACDP supports this report and shares the deep concerns that are highlighted both by the commission’s report and this report in a state of shelters for abused women and children particularly at this time where there is such focus on gender-based violence. However, this report was brought out in 2019 and must be considered this year, and maybe it needs to be updated given the impact of COVID-19 and the financial constraints that have been caused as a result of the hard lockdown and the economic implications and the cut on budgets. What is highlighted in this report and what was said by the commission was a budgetary constraints. I would like to just quote from the chairman of the commission and said:

We were worried about the fact that all the centres were complaining about budget allocation. If ever they are given a budget, they were paid late.

We know that finances of the state are in a far worse situation today and therefore it would appear that the budget constraints would be more severe.

We in the Justice portfolio committee are dealing with a gender- based violence, GBV, Bills at this stage. One of the reasons why they’ve been financed is because of our requirement that every department should come and give allocation and give an account of whether they are ready to implement the amendments that are being proposed. One of them was Social Development and the need also from this perspective of Human Settlement - the need for shelters.

There is a concern that whilst we might pass this very, very improved legislation there would be insufficient funds to provide for the shelters. This is a deep concern from the perspective of the ACDP and it needs to be addressed. We need to ensure that sufficient funds are given to provide shelters for women and children that are abused. Thank you, House Chair.

Mr N L S KWANKWA: House Chair, we support the report. The effects of gender-based violence do not only impact individuals, but has a far reaching ripple effects to the economy with the cost on the country’s economy estimated to range between R25 billion to

R50 billion per annum. This cost includes health, housing, shelter justice and other service cost, lost earnings, lost revenues and lost taxes.

In South Africa in the beginning of the year we saw significance increase of gender-based violence cases. Dissolute women and girls who flee from their homes went out seeking safety in shelters but house women and children who were left displaced after fleeing from violence where they live.

While we support the initiatives of providing shelters to women who are affected by gender-based violence, we are of the view that such an initiative should take into account the psychological, emotional and all other manner of support that are required by victims of gender-based violence in these shelters. The shelters for the GBV-based victims should also be fully capacitated and sensitise to handle with care the victims when they receive refuge.

We are also of the view that support should be extended to women with disabilities who are extremely vulnerable and who are according to the United Nations Fund Study face even a harsher level of violence as women.

It is imperative to accelerate the implementation and funding of models in order to protect women and children from perpetrators. Programmes to integrate and empower victims of GBV should be decentralised to ensure that when they get out of them they are

empowered and they don’t feel disempowered by being part of such programmes. We support the report. Thank you very much, Chair.

*Declarations of vote*: (Continued.)

Mr A M SHAIK EMAM: Hon House Chairperson, the NFP supports the Report of the Portfolio Committee on Human Settlements, Water and Sanitation on Commission for Gender Equality Investigative Report on State of Shelters in South Africa. Hon House Chair, what I hear is all the emphasis on shelters and the provisions at shelters, rather than addressing the root causes as to why there is the need of shelters.

Surely at some stage we should be going to the root causes of so many women and children wanting shelters to be provided by the state. Now the committee undertook an investigative work into the state of shelters in 2019. We learnt from the commission the report contained here that some of the issues were very concerning that lack of proper infrastructure and security at shelters. Among these were the issues of corruption and the improper use of the funding money and that is the other issue we need to look at.

The amount of NGOs and None Profit Organisations, NPOs that are springing up with funding provided locally and internationally. There is no proper control mechanism to ensure that these shelters

are conducive to proper living for these women that have come from abusive relationships. The outcomes of the commission investigating made it evidently clear that there are deep rooted systematic challenges. We need inadequate attention of government departments and not just the Department of Human Settlement, Water and Sanitation, but other departments in collaboration to be able to find and just solve the issue of gender-based violence particularly in South Africa.

Now, it is natively the highest level of intervention. The NFP is of the opinion to effect long-term solution and change the systematic challenges that people face. In coming to these shelters, we need to start looking at those problems and how we can create a better society of men and women, so that less women are abused, less women are victimised, less women have to look for shelter.

Surely shelters are not the ultimate solution and it is a temporary solution for these women that go through the abuse. However, certainly it is not a long-term solution. They still need to live with dignity and integrity. The NFP would like to call the Department of Human Settlements, Water and Sanitation to expedite the process of addressing the issues as identified by this commission and deal with the necessary problem. The NFP will

support the report tabled here. Thank you very much, House Chairperson.

Mr L M NTSHAYISA: Hon House Chairperson, as the AIC we are deeply concerned about the plight of women and children in our country. Women should be given priority in terms of service delivery and shelter in particular. We cannot have a situation where some girls rather women and girls are bitten up, killed and given no shelter.

We appreciate the fact that even in rural areas women and girls are allocated sites to build their own houses, unlike before where only that would be given only to young men. Patriarchy should completely come to an end.

We thank the Commission for Gender Equality for the work they have done in this regard. Women should not only be on the receiving side. They should not bare the brand. So they should be given what they want. Let us stop violence against women and girls. Give women what they want. As the AIC we support this report. Thank you. [Applause.]

Mr M G P LEKOTA: Hon House Chair, we support this report. We think it is a bit belated. The suffering in our society is too much to contemplate. Thank you, Sir.

Mr M G E HENDRICKS: Hon House Chair, Al Jama-ah supports the report. We hope that the ruling party has listened ... [Inaudible.] ... comments of the representatives of different political parties and will respond to some of the ideas. I certainly would like to hear whether the minimum standards are in place because if it is in place, then it is a good start. There are many NGOs prepared to assist.

One of the hon members raised that the standards may not be up to scratch, but if the minimum standards are in place and the

R2 billion that is available in most government departments can be used to help fund then we are in a good wicked while we wait for the Department of Human Settlement, Water and Sanitation to carry out their mandate. Al Jama-ah supports the report.

Ms G K TSEKE: Hon House Chair, the ANC rises in support of the Report of Portfolio Committee on Human Settlements, Water and Sanitation on Commission for Gender Equity Investigative Report on State of Shelters in South Africa. Section 26 of the Constitution enshrines the right to adequate housing. This is important in the context of shelters as many women are displayed and need alternative accommodation for safety reasons often in the form of shelters.

In this respect the right to adequate housing places an obligation on the state to take reasonable legislative and other measures within its available resources to ensure the progressive realisation of this right.

Hon House Chair, whilst we know the various challenges that have been brought to attention through the report conducted by the Commission on Gender Equality the issue as crucial as that of gender-based violence needs no politics, but rather a collective societal response including the political parties in this House.

Women who have been victims of gender-based violence, GBV, should never be subjected to secondary trauma when seeking assistance in these shelters.

Hon House Chair, as the ANC we welcome the submission by the Department of Human Settlements, Water and Sanitation in that it has the latest information on a national policy development concerning a special housing needs a programme that would be complementary to the national housing code.

Accordingly, these programmes aims to cater for the construction of shelters for people with special housing needs. In terms of funding we noted that the Department of Human Settlement, Water

and Sanitation has confirmed that it is not receiving financial assistance from government to provide for shelters rather relies on donations and private sector. Although the partnership by the private sector is commendable and should not be halted, the lack of government funding for such a crucial programme on our fight against gender-based violence is of a concern.

We commend the work of the Commission for Gender Equality in highlighting the plight of women and children across some of our shelters and implore the department to take active measures through collaboration with various stakeholders and ensure they speedily implement the recommendations brought forward by the Commission for Gender Equality and the Portfolio Committee on Human Settlement, Water and Sanitation.

Hon House Chair, the ANC calls on the department to clarify its roles because it is important that shelters are not viewed as permanent solution for housing needs. This would entail, but not limited to looking into the Social Housing Regulatory Authority in terms of its Social Housing Policy to undertake this process.

On the Special Needs Housing Policy, the ANC calls on its speedy finalisation as this will allow for the department to take the policy for approval at the Ministers and the members of the

executive which is Minmec and the National Treasury. It would allow for funding to be allocated to either provinces or municipalities through either the Urban Settlement Development Grant, USDG, or the Human Settlement Development Grant, HSDG, for the provision of shelters.

Hon House Chair, the shelters provide critical services for those who require high-level of trauma. They provide a safe place to stay, psychosocial support, access to medical and paralegal services, skills development initiatives and services to the children.

As a country grappling with the twin pandemic of COVID-19 and gender-based violence, what becomes critical is the need to strengthen institutional intervention such as shelters for victims of GBV and ensure that the department acts with haste to implement recommendations brought forward in this report and to consistently update the committee on the progress thereof. The ANC supports this report as tabled by the chairperson of the Portfolio Committee on Human Settlements, Water and Sanitation. I thank you. [Applause.]

Motion agreed to.

Report accordingly adopted.

# CONSIDERATION OF REPORT OF PORTFOLIO COMMITTEE ON MINERAL RESOURCES AND ENERGY ON OVERSIGHT VISIT TO MPUMALANGA, LIMPOPO AND GAUTENG PROVINCES

Mr M J WOLMARANS: Thank you, hon House Chair, hon members, the Portfolio Committee on Mineral Resources and Energy resolved 19 February 2020 to engage in an oversight of visit of the Optimum, Koornfontein and Lily Mines in Mpumalanga. The committee also decided to visit Northam Platinum Limited in Limpopo and the rational for the oversight was that; Optimum Coal Mine and the Lilly Mine are under Business Rescue for some time.

Post the briefing of the Business Rescue Practitioner, the committee decided to engage oversight visit to view progress at those mines.

A letter was also written by Mr Mguzulu, Branch Secretary of the National Union of Mineworkers, NUM in Optimum mine where he alleges that Optimum and Koornfontein mines were placed under Business Rescue Practitioners, BRPs, since 2018 February and because the mines did not have access banking facilities.

Therefore, workers were living in abject poverty, as they have not received income any since 2018 February.

The visit to Northam Platinum was based on a letter from Mr Tiro to the Speaker of the National Assembly that raised a concern that the mine was functioning in the area for the past 30 years, and has not make any economic contribution to the community development in that area.

The committee also sort to get an update from the Chief Executive Officer of the Vantage Goldfields and some attorneys representing families of the workers. In terms of the letters the Speaker of the National Assembly requested that her office be kept abreast of the developments. The oversight visit occurred on 9-11 October 2020. The oversight visit to Lily Mine was necessitated as

three workers were also tragically trapped a sinkhole since February 2016.

The committee, firstly visited the families of the trapped miners to reassure them of government support for the solution to this matter. We have observed that minimal progress has been made since

29 March 2019 when the committee was first visiting the area.

The report makes concrete recommendations of these matters and resolution thereof: Parliament will need to revenue the Business Rescue Clause Companies Act, as it allows for no government intervention until the completion of the business rescue process. The Companies Act in a form of Business Rescue takes precedence over the *Mineral and Petroleum Resources Development Act,* MPRDA. This has hampered the recovery and the functioning of the mines which negatively affect the workers. The lack of functioning of such mines over a long period of time has a negative economic impact.

In relation to the Northam Mine, the committee recommended that the department facilitate a meeting for the resolution of issues between the mines and the community.

In Gauteng the visit to illegal mines was crucial. The committee noted the positive work of the department to ensure that illegal mining is stopped as this was dangerous and life threatening, also has a negative economic consequence.

The rehabilitation programme through the department is one area open up some new land use opportunity like recreation and office park facilities to name but a few within the affected municipal area.

It was pleasing for the committee that the Koornfontein Mines under new owners and the mine will soon resume operations and former employees will be paid out their packages as per the business rescue plan. The report recommended that BMRE report to the committee on progress made in business rescue process.

The department to ensure that the workers of the Optimum mine are given first preference when their mine is reopened. The department must continue to provide full legal and administrative support to the process of reopening mines currently under business rescue.

This will positively contribute to the economic reconstruction of the country, as well as job creation and retention.

The ANC supports the report on the Portfolio Committee of the Oversight visit to Mpumalanga Limpopo and Gauteng Provinces and therefore request that the House also approve the report and take forward the positive recommendations contained herein. I thank you, House Chairperson.

The CHIEF WHIP OF THE MAJORITY PARTY: Thank you very House Chair. I move that this report be adopted by the House. Thank you.

*Declarations of vote*:

Mrs C PHILLIPS: House Chair, the DA moves to accept the committee report on the oversight visit conducted by the Portfolio Committee on Mineral Resources and Energy. Will would to draw House’s attention to the following concerns: The tragic event that took place at the Lily Mine, where three people lost their lives is being used by some members of this House, and a few has been politicians for political point scoring, this is unconscionable, continued called action is also making retrieval of remains and even more longer and painful process. All of these while the families of the deceased are unable to bury their loved ones and finally to try start to heal.

During the ongoing battles in publicity, the ex-employees are suffering without main income. The suffering of these workers and their families must concern us as much as the grief of the families of those who died. It is therefore vastly important for the mine to open as soon as possible.

The proposed solution of expropriation with compensation, will not only be lengthy solution but will also result in a taxpayers bearing a burden of between one and two million rand to reopen the mine by sinking the shafts necessary to try and retrieve the remains and then proceed with the mining. That will however leave

the state with the mine producing ore that have no metical plant where gold can be extracted.

The costs of that, of either buying a plant, building a plant or paying a third party to extract a gold or casted must also be considered.

In the case of Lily Mine, the involvement of the Business Rescue Practitioners seems to have been of very little benefit to anyone besides the Business Rescue Practitioners themselves. Unlikely the Optimum Coal Mine, which we visited later that day, where the Business Rescue Practitioners seems to have work out a deal which will not only see the mine reopening but has resulted in an innovative mini coal pits being mined in a short term. These mining pits create employment for some of the retrenched workers, income for the company and have also resulted in the excellent rehabilitation of the mine areas.

It is however concerning that Eskom, a company who is both a creditor and a debtor cut the power to the mine. In the absence of lighting and security rampant vandalism and theft of company property took place in addition the pumps were unable to operate without electricity resulting a polluting of environment by acid mine water.

The visiting the Northam Platinum Mine reveal that although the companies meets its social obligations in Limpopo Province and the North West where it operates mines and also in its standing areas engagement in communication with local communities needs serious attention.

The most eye opening visits were those to the areas for East Rand where illegal mining takes place in full view of the general public and law enforcement. The areas that have been successfully sealed and rehabilitated by the DMRE are a credit to innovation and dedication. It was however astounding to find that law enforcement was issuing illegal miners with compliance notices.

The scourge of illegal mining will cost lives, job and deprives the government of solely needed income tax.

Illegal mining needs concerted interdepartmental collaborative effort. Legislation needs to be active to give rise to a specialised law enforcement unit and specialist prosecutors who together with law enforcement personnel are rotated regularly to prevent corruption.

On our visit we were informed that majority of the people arrested for illegal mining are illegal immigrants. Illegal immigrants are often disparate to earn an income and are therefore easily

targeted by crime kingpins to become illegal miners. Although lucrative are those illegally trade mine products, it is a dangerous and inhumane way of eating up in the main for the actual workers.

We must have the political will and ethical leadership that is needed to maintain a border that will secure the livelihood of South African citizens and legal immigrants.

Lastly and mostly importantly we need enabling Legislation that can return our money in the street of world leaders in mining that we have the natural resources today. Minister Mantashe show some backbone and get rid of all the Legislation that is fighting our investors away. Get rid of the red tape in the Integrated Energy Plan, IEP, sector and get rid of corrupt and incompetent staff in your department. Allow industries to create the legal jobs we need to cut off the supply exploited labourers that the crime bosses used to mine illegally. Create an environment where people and companies want to invest in South Africa. In the process of creating jobs that will restore dignity to our people, to support their families and income to our national budget. Thank you very much.

Ms P MADOKWE: Thank you very much Chairperson, we participated in this oversight visit to see for ourselves the state of destruction to human life and to the environment brought about by this mining companies with little interventions from the state. We have always known that the logic of capital puts profit far ahead of human life and human dignity. In what world would a mine that through its own negligence led to the dead of three mine workers who are still buried in the belly of the mine to this day be allowed to continue before justice and closure is brought to the families of the bereaved?

Some might say this call is cheap politicking especially those that have no regards for black lives. However, we still insist that what happened and continues to happen at Lily Mine in Mpumalanga, defies all laws of justice. Are we really saying that the families of the three workers buried deep in the mine, must accept that they will never get closure because it will be expensive to receive their loved ones’ bodies?

Such ...[Inaudible.] from the state and mining companies not being held accountable for gambling with people’s lives has set a precedence. Had the state been any harsher, the life of a 13-year- old Kelebogile Moeng of Kroondal in North West Province who died tragically on 25 October this year, after falling into a mine

waste site would have been spared. We need to seriously to review our morals as a nation. We cannot go on like this.

The situation in other mines is not that different either, accept that people are not physically buried in these mines, but their sweat, souls and lives have long been appropriated by these mining companies. The state must expropriate and nationalise these mines and enter into a pack with the workers to continue using these mines for public benefit. We cannot continue being at the mercy of private companies who use our mineral for self-enrichment but always run to the government whenever they encounter problem.

Thank you very much Chairperson.

Mr M HLENGWA: Thank you, hon Chair ...

*IsiZulu*:

... Kukhona lomuntu olokho ethi njalo uma ngifika la athi angikhuluma kahle. Kusho ukuthi ikhona nje into ekhona, Sotswebhu Omkhulu, kufanele uyibheke ... angazi, ngiyazikhongela ngiyazicelela nje angisho lutho. [Ubuwelewele.]

*English*:

House Chairperson, I read this declaration on behalf our colleague hon Nxumalo, who is unable to be here today. Positive stakeholder

engagement is undisputedly an important factor for the sustainable and growth of the mining sector. The future of the local community is near mining operation, depends greatly on the success and sustainability of these mining projects.

Therefore, the committee’s oversight visits to these mining operations provide the unique opportunity to ensure that the voices of communities are heard. The IFP considers the portfolio committee’s report on oversight visit on several mining operations in Mpumalanga, Limpopo and Gauteng Provinces and supports the recommendations made, therein.

The IFP in specific terms supports the recommendations that the Department of Mineral Resources and Energy should facilitate an engagement between the community of Thabazimbi and the North West Mine Executive and provide feedback to the committee. It was clear from the oversight that the local community felt excluded from engagements with the company and that there has been little interaction.

The IFP will monitor feedback from the department on these engagements at the Northam mine. The IFP also strongly supports the recommendations by the portfolio committee that the department

should carefully monitor the implementation of social labour plan to be submitted by mining companies.

It is concerning that it was recorded that no progress has been made regarding the social labour plan projects at Optimum Mine since the department’s last presentation to Parliament in June 2020. This social labour plan speaks directly to the need to bridge the unequal relationship between mining companies, the workers and the communities that are disparately relying on these operations for their livelihoods.

The Lily Mine tragedy remains as a blot on their lived daily ripped of lived realities of the mine workers and their families and we have to move with greater speed, to bring this matter to a logically conclusion for families and the mining sector in general. Having said House Chair, the IFP supports this report. I thank you.

Dr W J BOSHOFF: Thank you, Mr House Chair. Mining is, indeed, one of the main sector in South African economy. However, in regarding this report quite a few concepts jump to the or grants that was

... [Inaudible.] ... the one is that mining tends not to only exploit the fiscus, but also the communities of the people that are around it. It is peculiar that after more than 120 years of

mining history in South Africa the idea that mines should put back at least as much as socially as is extracted physically has not quite taken a route that is, indeed, a pity. Another thing which grabs a mine is that business rescue which is a relatively new concept in South Africa where the idea of saving a business and therefore also jobs and also economic prospects for investors tends to be abused to exactly you could say that they were opposite it, and tends to be a way of not paying creditors, not doing just to workers and in general just to postpone the inevitable.

The only thing which grabs the mine is how stringent one could be in a regulatory way with mining companies, but as soon as illegal mining gets into the play then all regards for humanity kind of melts away. I know that it is not possible to regulate illegal miners ... [Inaudible.] ... as mining companies in the mainstream but it is very interesting how these illegal mining activities go on in front of people’s eyes and seemingly nothing is done about it, maybe it’s just people waiting to get hold of the mineral ... [Inaudible.] ... than mining in the normal way. However, the Freedom Front Plus accepts this report. Thank you, Mr House Chair.

Mr S N SWART: Thank you, House Chair. House Chair, the ACDP supports the report and the recommendations and the visits to

these various mines. Now, in particular the Optimum Coal Mine and Koornfontein Coal Mine featured prominently in the Parliament of the Fifth Parliament’s oversight inquiry into Eskom, and it is sad that it is taken so long for the business rescue process to be finalised given that Gupta related companies have held up this process through unnecessary litigation. However, at least the portfolio committee visiting got a good report from the business rescue practitioners that processes seem to be finalised, but the question arises yet again the amount of money that has been spent by Gupta related entities on that litigation, and the workers that have lost income through this process whilst the Gupta family themselves are sitting overseas waiting to be extradited to South Africa to stand trial.

Chairperson, we also from the ACDP’s perspective our thoughts and prayers are with the families of the deceased people at the Lily Mines, particularly at this time when we are coming to Christmas and we are thinking of our families and it is very, very significant that there is a tent where the families are sitting since the people lost their lives tragically in this mine and so our thoughts and prayers are with them at this time.

Lastly, House Chairperson, the illegal mining issue is a matter of grave concern and it cannot be unresolved, particularly when it

relates to illegal immigrants who are at the beck and call and have nothing else to maintain themselves and then forced to engage in illegal mining activities. Surely, there must be law enforcement activities to prevent this because of the great danger to such miners as they are incurring in these illegal mining activities. However, thank you, Chairperson, the ACDP will support this report. I thank you.

Mr A M SHAIK EMAM: Thank you very much, House Chairperson. Allow me to start off by expressing our grave disappointment, hon House Chairperson. You know years later with the Lily Mine disaster, these bodies have not been retrieved, changing measure in the state of these families who cannot have closure and more importantly the decomposed state of these bodies. Therefore, we believe that a lot more needs to be done to retrieve these bodies, so at least these people will be able to get some sort of closure and start living normal lives.

The oversight visit was necessitated as a result of the plight of many of these mine workers that were affected, particularly by the business recue. We believe that the department must do more to ensure that mine workers and families have adequate protection when entering into agreements including beneficiation. The negotiations on behalf of the communities need the community

leaders that are elected and must be the true representatives ... [Inaudible.] ... You know there is another danger and recently we passed the Bill where chiefs and traditional leaders will have a lot more rights in terms of negotiations for mining rights and things, and there is a great danger there based on what has been happening. You know of so much collusion in the country and corruption.

I think government needs to put some measures to ensure that the representatives will represent these communities in negotiating these mining rights and things at all times act and the best interests of these communities. Hon members, the other problems these mine workers faced is the risk of poor health as a result of the kind of work they are doing. We know that mines are some of the areas where there is highest level of tuberculosis. However, what is very important in terms of these investigation that was done is that all these mines have put their own financial interests first at the expense of the people and the mine workers and their families in those areas. While the National Freedom Party supports this we believe that also ... [Interjections.]

Mr M G P LEKOTA: Comrade House Chair, let me say that we welcome the fact that this visit took place a record of this suffering that is happening in our country at this time is there. However,

the future must never forget this report for something must be done to see that we can console and heal the wounds of those communities that have suffered so much. At the present time we can only place it on record so that others may not forget after we are gone. Thank you.

Mr M G E HENDRICKS: Hon House Chair, every political party in this House has expressed its concern for the families whose loved ones have not yet been found or buried, and for their lack of closure.

I think it is very important for the House Chairs to consider sending a message to the tent that was set up to house those waiting for their loved ones to be rescued, to tell them exactly how the political parties in the Sixth Parliament feel about their plight. I think that must be carefully considered.

I must commend the FF Plus on their position that, after 120 years, the mining houses have not made a cut to implement their responsibilities as part of their licence to assist the surrounding community with socioeconomic ... [Inaudible.] ... and improvement. That is an indictment on the mining houses, especially coming from the FF Plus, that they also feel that not enough was done.

It is very important ... [Inaudible.] ... of granting licences should be more vigorously enforced.

Lastly, I would like to thank the members of the portfolio committee for visiting the mine, for writing the report and for contributing to this debate. [Inaudible.] Thank you.

Ms V T MALINGA: Hon House Chair, the Chief Whip of the Majority Party, Members of the National Assembly and fellow South Africans, the ANC supports the report of the Portfolio Committee on Mineral Resources and Energy on its oversight visit to the provinces of Mpumalanga, Limpopo and Gauteng.

These visits were necessitated by the fact that two of the mines were placed under the management of business rescue practitioners

– these are Lily mine and Optimum mine. It was also brought about by the subsequent correspondence to the Speaker by the community of Thabazimbi and workers at Optimum mine.

Critical to the oversight was the visit by the portfolio committee to the families of the three miners trapped in Lily mine since 2016. The lengthy period of business rescue ptactice did little to expedite the retrieval of trapped miners. The committee assured the families that government will make sure that they find a

solution to the problem and that it will make firm recommendations which are now contained in the report.

However, the committee has made important recommendations on this matter which must be deliberated and implemented by government.

These include closing the legislative gap between the Mineral and Petroleum Resources Development Act and the Companies Act.

The state should consider declaring the mine a disaster area within the confines of the law in order to unlock resources that will assist in efforts to retrieve the three mine workers.

The state must consider seeking legal opinion on expropriating the mine with reasonable compensation and this should further be done in accordance with the principle of public interest.

Prolonged business rescue practice processes of mines in financial distress that are unable to operate fully negatively impacts on the mining sector and on job creation to the detriment of the economy.

The Optimum Mine board, Tegeta Holdings, that was placed under business rescue ... that happened three years ago. The major creditors agreed after a lengthy legal battle to put the mine

under business rescue. The mine is currently operating marginally. With the implementation of the business rescue practice it anticipates to commence production at full capacity.

The department must enforce the Social Labour Plan, SLP, of the mines which is a condition in our country. Northern Platinum Mine has been found wanting in terms of implementing the SLP.

The Department of Mineral Resources and Energy must continue to provide full legal and administrative support to the process of reopening mines currently under business rescue plans.

The visit to Gauteng indicated the mammoth problem with illegal mining in the country. The committee was, however, pleased with the progress made by the department to stop illegal mining – which endangers lives and negatively impacts on the economy.

The ANC supports the report of the portfolio committee on Mineral Resources and Energy on the oversight visit to Gauteng, Limpopo and Mpumalanga, and requests that the House adopts it. Thank you. [Applause.]

Motion agreed to.

Report accordingly adopted.

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Hon members, I would like to take this opportunity to congratulate you. It takes disciplined Members of Parliament to conclude such a long sitting day.

The House adjourned at 18:30.