**UNREVISED HANSARD**

**NATIONAL ASSEMBLY**

**THURSDAY, 3 JUNE 2021**

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***PROCEEDINGS OF THE NATIONAL ASSEMBLY CHAMBER***

Members of the National Assembly session met on the virtual platform at 14:01.

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

# APPROPRIATION BILL

Resumption of debate on Vote 1 – The PRESIDENCY

The PRESIDENT OF THE REPUBLIC: Deputy Speaker of the National Assembly, Deputy President David Dabede Mabuza, Ministers and Deputy Ministers, and hon members, yesterday I omitted to wish Minister Didiza a happy birthday during a meeting of one of our Cabinet committees. I promised that I would give her a very delicious chocolate from Ghana. So, I am going to deliver a chocolate to you from Ghana, Minister. Happy birthday.

I would like to thank all those who participated in the debate and also thank you, Deputy Speaker, for giving me this opportunity to reply to yesterday’s debate. [Inaudible.]

... the engagement here was lively, robust as usual, and it was a demonstration that our democracy is vibrant and that our perspectives are as diverse as the South African people that we represent in this Parliament.

It is a matter of great significance and value that this Parliament provides space for conflicting views; views that should be aired, debated and also for competing interests to be mediated. We must never forget how far we have come from the conflict of our horrible past, from the silencing of dissent and from the burning of legitimate voices of the people of this country. I therefore welcome and appreciate yesterday’s debate not only for what it said but also for what that kind of debate represents in the life of our country.

Whilst there are areas of public life were we have made a decisive break on our apartheid past, we all know very well that this country’s divided and violent history continue to live on in the lives of millions of South Africans. We see it every day, we feel it every day, we touch it every day, and on an ongoing basis.

Several speakers spoke of the difficult and sometimes desperate conditions under which many of our people live. Over the last 27 years, we have made much to give effect to Madiba’s call that the responsibility of government is to redress the centuries of unspeakable privations by striving to eliminate poverty, illiteracy, homelessness, and diseases.

As we all know, there is so much more that we need to do both as government and our legislatures, national and provincial level, and as local government. It is true that a lot has been done and achieved. On the housing side, five million subsidized houses and housing opportunities have been provided for our country since 1994, but still, millions of our people live in informal settlements. That should concern us. It is true that the proportion of homes with access to water have increased from around 60% in 1994 to 88% to almost 90%, today, but still, many of our people do not have access to reliable supply of water or sanitation. That should concern us. It is true that the murder rate per capita in our country, in the last 25 years has nearly halved, but still communities in our country are ravaged by crime, gangsterism and violence. It is true that six million more people are employed now, more than

25 years ago, but it is also true, as a number of speakers said yesterday that in the first quarter of this year, the

unemployment rate in our country reached its highest level ever.

This reality demonstrates the enormous burden of our fractured past, of the depth of deprivation, disempowerment and deliberate neglect. It demonstrates how difficult it has been to break the cycle of poverty, but we are not only grappling with the undeniable effects of our past. We are also having to confront many of the challenges of the present. The most immediate of this, is the impact of COVID-19, which has cause massive damage to economies around the world, and which has set our own economic progress back by a number of years. It has made South Africans poorer, it has made hunger more widespread, and it has directly affected the health and wellbeing of hundreds of thousands of people in our country.

It has made the task of growing an inclusive economy and transforming our society more difficult, but it is equally important that we recognize our own weaknesses and shortcomings have hampered the task of building a new society and achieving a better life for all.

We must, as we have done, acknowledge that there have been failures of governance in several areas of government, in municipalities and departments both at provincial and national

level, in our state-owned enterprises and a number of other government entities.

As the NPC diagnostic report identified, development has been constrained by poor planning an inadequate co-ordination, and perhaps the most debilitating of factors has been corruption, nepotism, and patronage in many parts of the state as well as in the private sector. While we aware of the billions that were stolen from state-owned enterprises, there is no form of corruption no matter how seemingly insignificant that does not damage society. Corruption is not a victimless crime. It deprives the poor in our country of resources that are rightfully theirs. It starves the economy of investments in that those who would want to invest in our economy are kept away. It leads to a degradation of public infrastructure, services and tragically, it ultimately does cost lives.

This is the context in which the Budget Vote of The Presidency must be understood. It is these challenges that The Presidency is determined to address both those rooted deep in our past and those that manifests themselves today.

In the state of the nation address, in February, I compared our nation to the Fynbos of our beautiful province, the

Western Cape, which emerges from the most intense flames ever stronger than before, our country has suffered great devastation. As COVID-19 continues to spread within our communities and as it continues to take people’s lives, we cannot yet say that we have extinguished the flames of this pandemic, but we will. What we can say is that we are now seeing some of the green shoots of recovery. We are now seeing signs that the focus of this administration has placed on economic reform which began before the pandemic that it is steadily but surely paying off.

As a result of the devastation caused by COVID-19, we are starting from a low base. However, most economies and agencies have adjusted their growth projections for South Africa, including the International Monetary Fund, which has revised its projections upwards for our growth from 2,8% to 3,1% for this year. According to the SA Reserve Bank’s first financial stability review for this year that was released last week, our economy continues to rebound from last year’s recession albeit at different rates across sectors. By a number of indicators, economic activity is returning to pre-pandemic levels at an ... [Inaudible.] ... one such indicator is the performance of our currency. The rand is at its best level since 2019 and is currently outperforming the currencies of

our major trading partners. This is being aided by high commodity prices that we are getting for our commodities. Our favorite position as a commodity producer should attract capital inflows and boost the fortunes of domestic producers, traders as well as retailers.

Salaries are recovering to pre-pandemic levels. An index of take home salaries in the private sector shows that typical take home increased by 2,2% after inflation in its most recent reading in April, aided by low interest rates and some income growth. Household demand is picking up with a growth rate at household credit picking up to pre-pandemic level. These are interesting indicators.

A leading company that provides payments processing services for small businesses reports that the turnover captured by point of sale devices is increasing to levels last seen in March 2020. For the first time in 18 years, in 2020 we recorded an annual current account surplus. This was aided by a R270 billion trade surplus, last year; the fifth in a row and the highest on record. The trade surplus comes from commodity exports, particularly our platinum but also from significant agricultural exports. Last year, South Africa recorded its second highest agricultural export earnings on

record and is headed for a second bumper year. The manufacturing sector is recovering and expanding at a reasonably faster pace. Despite the impact of the pandemic on the sector globally, automotive component exports increase last year through a record R54 billion. These are indicators that some of us look at, that the Minister of Finance looks at continuously, the Governor of the Reserve Bank looks at, to tell us the changes and the moves that are taking place in our economy.

Exports of commercial vehicles, especially the so-called heavy commercials like tractors and trucks are also performing strongly. Mining and manufacturing are also sectors were jobs were created according to the latest Quarterly Labour Force Survey.

One of the sectors that has also proven most resilient and fast-growing is the financial services sector. According to the Reserve Bank’s Financial Stability Review, examples of the improved economic activity in this sector are recovering; asset prices that had gone down are recovering; the stabilizing of bank loaned default rates that financial institutions remain well capitalized. These are indicators we should look at as parliamentarians to see the extent to which

a recovery is beginning to happen; that after the fire, the fynbos begin to rise again.

This sector also improves on year-on-year basis with regards to job creation, managing to recover 215 000 jobs in the last quarter. Even preceding the pandemic, we have been positioning ourselves as a growing hub for the digital economy, including technology start-ups. The first *African Tech Ecosystems* of the future index that was published this year, ranked our country first on the continent for economic potential start-up status and business friendliness. That is something that if we don’t celebrate, we should be aware of. We have the second highest number of tech start-ups in Africa and also receive the highest number of foreign direct investment projects in software and information technology, IT, service.

South Africa is still ranked highly as an export destination for global business services. These are all the priority sectors we have defined in the Economic Reconstruction and Recovery Plan. It is for that reason that as we observe we see positive movement going forward. Of course, we ask that everyone who has perceptive eyes should be able to look at these indicators and see precisely what is happening in our country so that our negativity is in some way softened and

lessoned by seeing the positives because these are not myths, these are positives and these are things that are happening in our economy.

We need to acknowledge that a number of important sectors such as tourism are still not fully operational and that it will take time to recover. At the same time, there are also courses for optimism. What we have to ensure now is that these green shoots that are visible lead to a sustained acceleration in growth. We are keenly aware – as several members said yesterday – that the pace of structural reform needs to speed up, and it is this that The Presidency is focused on. The Presidency continues to drive the structural reform that are necessary to overcome bottlenecks, that are deterring investments and slowing up progress.

In the state of the nation address, we undertook to address, for instance, the issue of spectrum allocation. A legal case that is underway threatens to delay the progress that we have all anticipated. All social partners in that sector must now work together to ensure speedy and successful implementation of the identified economic stimulus measures. Government has noted and welcomes the extension of the temporary spectrum assignment by Independent Communications Authority of SA,

Icasa, for a further period. However, we would like to see the spectrum allocation finalized without delay. I appeal to all stakeholders to speedily resolve the litigation that is underway as soon as possible to enable the licensing process to be concluded for the benefit of all South Africans.

In the Sona, we said that the long-awaited digital migration would proceed and the switch off of analog transmission towers has begun in a number of provinces after a six-year delay.

Significant work is now underway to improve efficiency also at our ports. Transnet has put in place mechanisms to enable greater private sector participation in port management and to attract investment. Transnet freight rail is also working to allow private operators to access the rail network. We said the revised skills lists would be published, and we have done so, with work underway to ensure that the final list is comprehensive. We said we would work to resolve challenges in the water sector, and following a 12-year delay, we are in the process of establishing a water infrastructure agency. We are also steadily reducing the turnaround time for water use licenses applications, with the average now at 90 days from an average of over 300 days in the past.

We have resuscitated the renewable energy procurement programme which had been stalled previously. Bid Window 5 to procure 2 600 megawatts of wind and solar power has been opened with a further Bid Window of the same size to be opened later, this year.

In line with our commitment to electricity regulation reform, municipalities are now allowed to purchase their own power and discussions are underway to raise the licensing threshold for embedded generation projects. The legal separation of Eskom into separate entities for generation, transmission and distribution is on track to meet its deadline of December 2021.

Through the Bridges Programme, we a making a difference in the lives of rural communities who need bridges to enable them to travel to work, to access services and for young children to go to school.

Our quest to build a capable state is steadily gaining momentum as previously weakened state institutions are now performing more efficiently. The Sars has undergone a successful turnaround. Tax collection is exceeding budget estimates for the first time in five years.

The fight against corruption is also gathering momentum because of improve state capacity and more effective collaboration. Yesterday, the Special Investigating Unit, SIU, presented a report to Standing Committee on Public Accounts, Scopa, on its work around COVID-19 procurement. Many of these investigations have been concluded. The dockets have either been handed over to the National Prosecuting Authority, NPA, or are in the process of being handed over. There have been referrals for disciplinary processes for officials who have been involved in corruption. Through the special tribunal which we established, millions in stolen funds have been recouped and continue to be recouped. Through the work of other entities, like the Asset Forfeiture Unit, the NPA Investigative Directorate, the Hawks, Clean Audit Task Team.

There have been arrests, asset forfeitures and the freezing of bank accounts of those who were involved in malfeasance. This progress is the direct result of the decision of this administration to drive a collaborative and interagency approach that allows all law enforcement agencies to work together and to share information on an ongoing basis.

The issue of National Health Insurance, NHI, is also in process. At the backbone of the NHI, the Health Patient Registration System has been implemented and over 50 million

South Africans have been registered. Key aspects of the Presidential Health Compact are being implemented, including the placement interns and community service candidates. The moratorium for Health posts has been lifted and more than

28 000 statutory and critical were filled across all our provinces. Sustaining current levels of growth as well as meeting our aspirational targets, largely depends on the pace of the vaccine roll out.

As the Deputy President said yesterday, we are on track. We have secure sufficient vaccine doses for the entire adult population of our country and the roll out is gathering pace and proceeding. We are now at above 70 000 vaccinations per day and will soon hit 100 000 vaccinations per day. That will keep on adding more pace and momentum. We expect the Johnson & Johnson to be released soon, unlocking additional supply at a significant level. Our focus now is on making the right decisions and staying the course on reform, to restore our economy, attract new levels of investments, create jobs, boost wages, and increase opportunities for all South Africans at all levels. The principle is simple, when our economy thrives, we all thrive as South Africans. When our economy is better transformed and more transformative, inequality is narrowed.

Though the past year has been difficult, our economy has been resilient as well as being durable and this is as South Africans have also been durable people. Like the green shoots of nature, these developments are a promise, a sign of hope, and that sign of hope needs to keep us going. It is each and every one of us’ responsibility in this House and across the country to nurture this green shoots, to enable these green shoots to keep springing up, to give them water, sunshine and nourishment. Many of the things that are now underway in our country are of a positive nature

The other day, the Deputy President handed over land to our people here in the Western Cape. I had the opportunity in Limpopo to also hand over land to our people together with Minister Didiza, Minister De Lille, Minister Ntshavheni and Motsoaledi was there as well. It was a joyous occasion. It represented progress to those people on the ground. That how we need to see these green shoots.

It is those people in Tafelkop, in Limpopo, Ga-Sekhukhune who can see ...

*Setswana:*

... gore go nale tswelelopele. Re ntse re ya kwa pele. Ga re a ema lefelong le le lengwe. Ba ba emeng lefelong le le lengwe, ba eme fela ba ntse ba gowa ba sa fetse. Ke bona bao. Rona re tswelela pele. Batho ba Ga-Sekhukhune, ba bone ditiro tse dintle.

*English:*

... This is precisely what this administration is doing. Every day, Ministers are up and going to serve the interests of South Africans.

As this debate has shown, we will differ on how to achieve progress and how to sustain it. We must accept that we will differ on that. Some may offer sincere and constructive criticism which we accept readily. Some may only offer insults and nothing constructive that they put on the table. As this Presidency, we are determined and willing to join forces with all those in this House and those across society who want to see South Africa recover and grow.

*Tshivenḓa:*

Vhane vha khou ṱoḓa u shuma na riṋe, ndi vhone vhane ra ḓo shuma. Vhaḽa vhaṅwe vhane vha khou sokou ita phosho tshifhinga

tshoṱhe, ri ḓo vha bvisela thungo ra bvela phanḓa na mushumo une ra fanela u u ita.

*English:*

We share the sentiments of those who spoke about the need to continue to expand the frontiers of hope.

*IsiZulu*:

Bakhona labo abaye bathi uma bekhuluma bathi, siyalibona ithemba, siyabona ukuthi siyaphi. Labo-ke sizimisele ukuthi sisebenzisane, siqhubekele phambili nabo. Kulaba abanye sithi, imani eceleni ngoba nina nizibangela umsindo nje kwaphela.

Thina sifuna ukusebenza siye phambili.

*English:*

I was very heartened by the words of hon Buthelezi, when he said:

In these dire circumstances, we will be doomed if we abandon hope like the outstanding sage amongst us, when he looks to the horizon, he sees hope rising.

A man in his 90s, he has seen it all and he has heard it all. At this moment, he said we dare not abandon hope because he sees hope rising on the horizon. I thank him for that.

The challenges that we face are immense. By working together, by staying true to the path of renewal, we will surely reach our destination. All I would say to my fellow members on the other side; come along, board this train that is moving forward. We will reach our destination. Otherwise, you’ll be left behind. Thank you very much.

# CONSIDERATION OF REPORT OF PORTFOLIO COMMITTEE ON JUSTICE AND CORRECTIONAL SERVICES ON THE APPOINTMENT OF COMMISSIONERS TO SOUTH

**AFRICAN HUMAN RIGHTS COMMISSION**

Mr G MAGWANISHE: Thank you very much, Deputy Speaker, a Report of Portfolio Committee on Justice and Correctional Services on the Appointment of Commissioners to South African Human Rights Commission, dated 29 May 2021. Last year, the Chairperson of the South African Human Rights Commission wrote to the Speaker, alerting the House to a vacancy that would arise at the Commission when Adv Mohammed Ameermia’s term of office expired at the beginning of February 2021.

Most recently, the Chairperson of the Commission wrote to inform the House of the vacancy that had arisen at the Commission as a result of the Deputy Chairperson of the Commission, Ambassador, Priscilla Jana, having passed away, request the House to begin a process to fill the vacancy.

Section 193(4) of the Constitution provides that the President, on the recommendation of the National Assembly, must appoint the members of the South African Human Rights Commission.

The South African Human Rights Commission Act, of 2013, provides that the recommendation must also indicate whether the commissioner is to be appointed in a full-time or part- time capacity. The Act also provides that the commissioners will be appointed for the period of not more than seven years and will, at the expiry of such period, be eligible for reappointment. The committee advertised the position and received 59 nominations or applications, in all.

Shortlisting took place on 26 February 2021 and on 9 and 10 March 2021, the committee interviewed the candidates. The committee also considered the appointment of a Deputy

Chairperson of the Commission, in terms of section 7 of the Act.

After deliberating, the committee resolved to nominate Ms Philile Ntuli and Ms Fatima Chohan for appointment as full- time commissioners for a period of seven years.

We also recommend that Ms Fatima Chohan be appointed as a Deputy Chairperson of the Commission.

The committee would like to thank all those who made themselves available to be considered for the appointment. I thank you, Deputy Speaker.

There was no debate.

Question put: That Ms Fatima Chohan and Ms Philile Ntuli be appointed as full-time commissioners and that Ms Fatima Chohan be appointed as the Deputy Chairperson of the Commission.

*Declarations of vote*:

Adv G BREYTENBACH: Thank you, hon Deputy Speaker, hon members, the Portfolio Committee on Justice and Correctional Services has gone through the process of appointing two new

commissioners to the Human Rights Commission, this is as results of two vacancies arising in one, as result of term of office ending and another as the result of Commissioner Jana passing away. Both are full time positions, 24 were shortlisted and interviewed.

They were vetted by vetting services and come to the point in the deliberations were two people were push forward by the committee. This was put forward by the majority of the committee. The DA unfortunately is not in the position to support either candidates. We have reservations about Ms Ntuli for failure to declare some information and we don’t believe that Ms Chohan is the best person for the job. It is our view that there were people with better interviews, who were better qualified who would have brought more in a way of skills and competence to the Human Rights Commission.

The Human Rights Commission surely needs skills

...[Inaudible.] ... we believe that these two persons are not best suited for the position, we would have supported Ms Vedalankar for a position and we would have supported Mr Joubert but the persons that are now put forward, we found ourselves unable to support. We also then believe that Ms Chohan was best for a Deputy Chairperson. We hold the view

that somebody who has been there, for some time who has already performed these driving issues in the Human Rights Commission, would have brought some institutional knowledge, would have been more appropriate appointment and so for that reason we do not support the committee report. I thank you.

The DEPUTY SPEAKER: Thank you, before we invite the next declaration, just to say Mr President, it is in order if you take leave of the House, to go and do business on our behalf. Thank you for being here in our presence. EFF, please go ahead.

Ms Y N YAKO: Deputy Speaker, one of the most corrosive tendencies by the ruling party is the propensity to use institutions of the State, and even independent institutions supporting democracy, as extensions of their patronative network.

For the longest times, Fatima Cohan was a Deputy Minister of Home Affairs, and under her watch, a number of sinister things happened in that department. The issuing of family with fraudulent citizenship, their landing at a national key point for their wedding are just a few of the things that happened under her watch.

The South African Human Rights Commission is a very important Chapter 9 institution. The Constitution gives this institution powers to investigate and report on the observance of human rights, as well as to take steps to secure redress for human rights violations. It has not been able to fulfil this mandate thus far because it is used as a political pawn by the ruling party, and to pursue foolish and narrow political agendas.

Only last year, it released an ill-advised media statement that it had to take the EFF to the Equality Court for quoting the late President of Zimbabwe, Robert Mugabe, on the question of whether white people can be trusted or not.

This is evidence that the Human Rights Commission as is currently staffed, does not fully understand its role. This is as a result of appointing politically tainted individuals such as Fatima Cohan to institutions supporting democracy. She is a failed politician, and there is nothing the Human Rights Commission can benefit from her.

To even make her the Deputy Chairperson of the Commission is proof of just how outrageous the process is.

Philile Ntuli is a well-qualified person, who seems to be grounded on the struggles of women in particular. She may have worked for various politicians, but that does not take away the fact that she is fully qualified to be appointed as Commissioner. So we approve of Ntuli, but we reject Cohan.

Thank you.

*Declarations of Vote* cont:

Mr M N NXUMALO: Hon Deputy Speaker, as we consider the recommendations from the portfolio committee on the appointment of commissioners who reflect on the gender imbalances in the South African labour market, the IFP supports equal participation and the equal pay for our working population in the country. South Africa has made great strides in improving women representation in Parliament, from 27% to 46% between 1994 to 2019. Similar gains were recorded in the National Assembly where the proportion of women increased from 2,7% to 45% in the same period.

We still expect the representation of women to increase within the NCOP and the other structures. The representation of women in South African Parliament is considered one of the best across the globe. We applaud the efforts that have been made in improving these numbers over the years.

However, despite the progress that has been made in advancing the representativeness of women in Parliament, we have not achieved this in other sectors of work. Women remain under- represented in the top six position in the country. Our decision need to reflect our position in addressing this gap.

The IFP wishes to express its support in the appointment of the qualified women in key positions. We pursue this agenda in the interest of pursuing the equality, the equal doctrine enshrined in our Constitution and has reflected in our labour legislation. We also applaud the recommendations for gender balance in this commission. We further welcome the suggestion from the chairperson that highlighted the consideration to employ our youth.

The IFP accepts the nomination made in the appointment of the commissioners in the Human Rights Commission and we support the recommendations made by the members of the committee.

Thank you.

Dr F J MULDER: Hon Deputy Speaker, the FF Plus, does not support the appointment of Ms Fatima Chohan and Ms Philile Ntuli as full time SA Huma Rights Commissioners and neither do we support the appointment of Ms Fatima Chohan as the Deputy

Chairperson of the Human Rights Commission. Thank you, hon Deputy Speaker.

Mr S N SWART: Hon Deputy Speaker, the ACDP participated in the shortlisting process and the subsequent interviews. We were impressed with the standard of the various candidates. Many of whom are well known to me and I openly declared this at the time of the interviews.

When it came to the final determination of the interviews, to be nominated, it transpired that two candidates had not fully disclosed, in the one case a criminal offence and the second case, a civil debt.

While the parliamentary legal services indicated that in both cases the judgments did not legally prevented the candidates from being nominated as Human Rights Commissioners. They do raise issues of honesty and integrity.

Why were these issues disclosed by the candidates in their documents submitted to the committee? This would have avoided much embarrassment for them as it only came to light when the security screenings were done.

Now, it was interesting that in the previous Parliament, a nomination for a certain candidate was refused and Parliament withdrew its resolution in this regard to that person having a civil judgment against them. In that case it was a very a far most serious judgment relating to fraudulent misrepresentation and there was finding that that person was not a fit and proper person.

In the present case, the issue relating to Ms Ntuli, was that it was a more trivial and the committee did not find her not to be a fit and proper person. However, we from the ACDP’s perspective, our candidates were Rev Moss Nthla and Mr Lenu Be who had very good interviews and would have been eminent commissioners. Thus whilst we have nothing against Ms Fatima Chohan as the nominee and the deputy of the chair of the commission we have a preference to the other candidates we shortlisted, nominated and who had good interviews. The ACDP would regrettably not support this report. I thank you.

Mr L M NTSHAYISA: Hon Deputy Speaker, as the AIC we do support the appointment of these commissioners. We cannot afford to have vacancies that are not filled during this critical time. The Human Rights Commission is an important institution that needs our support. It is a commission that look after the

rights of our people and checks for the abuse of power. This commission is a very important institution especially when it includes women. We have to support the appointment of our women. As the AIC we do support the appointment of these two candidates. Thank you very much.

Mr W M MADISHA: Hon Deputy Speaker, Cope accepts and supports

the committee’s recommendations. Thank you very much.

Mr M NYHONTSO: Hon Deputy Speaker, PAC supports the appointment of these candidates. Thank you.

Mr M G E HENDRICKS: Hon Deputy Speaker, I am an alternative member on this portfolio committee. I watched the proceedings, the shortlisting and the interviews. I was very impressed with the calibre of all the candidates that applied. It was a very difficult decision. It is credit to the country that people are coming forward to play this important role.

It is a pity that the decision to support or not to support, seems to be based on the colour of the skin of the respondents. That is very sad.

Hon Deputy Speaker, as far as the two candidates are concerned, we are aware of the fact that they are like child soldiers. They fought for liberation from the very young age. Their families were involved and they served this country very well. It is taking that into account that Aljama-ah supports both candidates. We also support the fact that a woman is a deputy chair of the commission. These are candidates, young at heart that will go to the ground, that will walk in sewerage, in dirt and that will work where there is crime to ensure that human rights are respected in South Africa.

I think that this committee did a great job in their recommendations. They have made Parliament proud. We would like to thank the chair of the portfolio committee for his leadership. We are looking forward to human rights in South Africa be taken to the next level. Thank you very much, hon Deputy Speaker.

Ms B H MASEKO-JELE: Thank you, Deputy Speaker. Members of the House and fellow South Africans, ANC policy proposal for the final Constitution in 1993, the proposal was that the Constitution shall as far as possible empower the poor and vulnerable to enforce their rights and shall, inter alia, create a Human Rights Commission and a Public Protector to

perform this function. The Constitution define South Africa as a constitutional democracy and spells out how the state institution should function expressly to give effect to this constitutional democracy. These institutions include Chapter 9 institutions and, in particular, the South African Human Right Commission that we are about today.

Following the passing of the Commission Deputy Chairperson, Ms Priscilla Jana, and the expiration of contract of full-time commissioner, Mr Mohammed ... [Inaudible.] ... the positions were advertised and South Africans submitted the curriculum vitae, CVs, which were considered by the portfolio committee. Among some of these sectors, the ANC looked at where women presentation the few infusions of young blood and candidates’ education, skills and expertise. The ANC supports both names of Miss Fatima Chohan for the position of Deputy Chairperson of the SA Human Rights Commission and the name of Ms Philile Ntuli for the position of full-time commissioner.

Ms Fatima Chohan is legally qualified, is an admitted attorney and has served as legal advisor within the outside of government. She has served as a Member of Parliament as a backbencher in various committees including the Portfolio Committee on Provincial and Local Government and Chairperson

of various committees including the Portfolio Committee on Justice and Constitutional Development, Basic Education, Public Enterprises and the ad hoc committee on oversight and accountability. She has served on the Magistrate Commission, the Judicial Services Commission and the Deputy Minister of Home Affairs where she extensively dealt with issues of refugees and asylum-seekers. She has rendered 25 years in Public Service and actively fought for human rights since her days as a student.

Ms Philile Ntuli is a 38-year-old Doctor of Philosophy, PhD, student in Public Law at the University of Cape Town. From honours level her studies have paid a particular focus on gender issues. She has worked in government in the Department of Public Service and Administration and in the Presidency in the field of research, policy development and speech writing, among others. She participated in the drafting of the National Policy Framework on the national gender machinery and was director’s research and policy development in the Presidency Department of Women. She contributed research work in Parliament High-Level Panel on the assessment of key legislation and the acceleration of fundamental change. She was a member of the national research team that compiles South Africa second progress report on the implementation of the

Africa Peer Review Mechanism Programme of Action African Union.

The names of the candidates to fill the vacancies in the SA Human Rights Commission were sent to state security for a security clearance. The report reflected that Ms Ntuli had a judgement against the name. She provided to the committee with evidence for the fact that the debt had been paid in full. We welcomed that. Deputy Speaker, in consideration with the history of the South Africans, particularly women, we don’t have generational wealth at some point with all the economic challenges that the country is facing one will find herself in once in the same situation and that does not mean that Ms Ntuli is not a fit and proper person to serve as a commissioner. Therefore, with their skills and expertise we believe that Ms Chohan and Ms Ntuli will be at great value and contribute meaningfully to the SA Human Rights Commission. We wish them all the best in their new roles, and we also wish to thank everyone who applied. Women must be at the forefront.

The ANC supports the Report. I thank you.

Question put: That Ms Fatima Chohan and Ms Philile Ntuli be appointed as full-time commissioners and that Ms Fatima Chohan be appointed as the Deputy Chairperson of the Commission.

The CHIEF WHIP OF THE OPPOSITION: Deputy Speaker!

The DEPUTY SPEAKER: Order! What are you rising on, hon member, in the middle of a ruling?

The CHIEF WHIP OF THE OPPOSITION: I didn’t realise you’re

ruling, Sir.

The DEPUTY SPEAKER: I am, we are going through a voting process, so you can’t interfere with the Independent Electoral Commission, IEC, as it conducts its counting of the votes.

Ms N E NTLANGWINI: Deputy Speaker, you are not listening to us.

The DEPUTY SPEAKER. The bells will be rung for 10 minutes. The Rule that will apply here, hon members, is the Rules as adopted according to hybrid sessions. Therefore, that’s the approach. So, we will ask each of the Chief Whips to give us the indication. As we have said elsewhere, it will be indicated in writing by the officials of Parliament the names of the members as announced to us by the Chief Whips.

Therefore, that is the approach. We will give this 10 minutes space for you to ... one plus one. Just ring the bells.

Hon members, the Speaker has determined that, in accordance with the Rules, a manual voting procedure will be used for this division. Firstly, in order to establish a quorum, we will request the Table to confirm that we have the requisite number of members, physically present in the Chamber and on the virtual platform to take this division. The party Whips will then be given an opportunity to confirm the number of their members present and indicate if they vote for or against the question. A member who wishes to abstain or vote against the party vote may do so by informing the Chair.

Having confirmed that we have the requisite forum, we will now proceed. Can I get the Table confirm their confirmation we do have? Thank you very much.

Question put: That Ms Fatima Chohan and Ms Philile Ntuli be appointed as full-time commissioners and that Ms Fatima Chohan be appointed as the Deputy Chairperson of the Commission.

A quorum being present in terms of Rule 98(1), voting commenced.

Mr N F SHIVAMBU: [Inaudible.]

The DEPUTY SPEAKER: ... [Inaudible.] ... to address, the requirements and the question before the House is for both members. It’s not split at all.

Mr N F SHIVAMBU: In that regard, Deputy Speaker, we are voting against because there’s a wrong person who is being recommended there.

The DEPUTY SPEAKER: So, 32 EFF votes against.

The DEPUTY CHIEF WHIP OF THE MAJORITY PARTY: Hon Deputy

Speaker, my apologies, I forgot to give the total number of

members of the ANC, it’s 196. Thank you.

The DEPUTY SPEAKER: That’s fine. I nearly said that we can add one plus one. That’s fine. However, thank you for helping us.

An HON MEMBER: Deputy Speaker, with all due respect, I have noted that members of the AIC said that they are two in the House and we can only see one, so that there is no conflict of numbers can we verify if they are both here.

The DEPUTY SPEAKER: Members are there.

Mr M P GALO: Thank you, Deputy Speaker, let me clarify that. Hon Ntshayisa you will recall that he’s the one who spoke on behalf of the AIC. Now, he had to go to see the doctor.

Otherwise, he is part of the process.

The DEPUTY SPEAKER: He was in the House when we voted. Was he in the House when we voted?

Mr M P GALO: When we voted earlier on.

The DEPUTY SPEAKER: Yes.

Mr M P GALO: Yes, he was in the House.

The DEPUTY SPEAKER: Okay, we will look at that. We’ll report to the House, it’s okay.

Mr N F SHIVAMBU: On a point of order, Deputy Speaker, it’s basic procedure that if a member is not in the House and once the doors have been closed and the person is not physically in the House and is not in the virtual platform, that person cannot vote. It is as simple as that.

The DEPUTY SPEAKER: No, I did not remember offering for an invitation for assistance.

Mr N F SHIVAMBU: I said this because I know your challenge. I’m helping you because I know your challenge. I know your difficulties that is why I’m trying to help you that it is as simple as that.

The MINISTER OF SOCIAL DEVELOPMENT: That is an insult.

The DEPUTY SPEAKER: Hon members, please, let us conclude the business of the House. Let’s not be distracted by out of order conduct and misbehaviour which is what I call it. Let’s not distract the House. The House is in order. We are going to finish this work. There will be no problem, absolutely no problem.

Ayes – 211: (ANC – 196; IFP – 11; AIC – 1; Cope – 1; Al’ Jama- ah - 1; PAC - 1).

Noes – 107: (DA - 62; EFF - 32; FF Plus - 9; ACDP - 4).

Question agreed to.

Nomination accordingly agreed to in accordance with section 193(5)(b)(ii) of the Constitution.

# CONSIDERATION OF REPORT OF PORTFOLIO COMMITTEE ON JUSTICE AND CORRECTIONAL SERVICES ON CRIMINAL AND RELATED MATTERS AMENDMENT BILL

**CONSIDERATION OF REPORT OF PORTFOLIO COMMITTEE ON JUSTICE AND CORRECTIONAL SERVICES ON CRIMINAL LAW (SEXUAL OFFENCES AND RELATED MATTERS) AMENDMENT ACT AMENDMENT BILL**

**CONSIDERATION OF REPORT OF PORTFOLIO COMMITTEE ON JUSTICE AND CORRECTIONAL SERVICES ON DOMESTIC VIOLENCE AMENDMENT BILL**

There was no debate.

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

move that the reports be adopted. Thank you.

The DEPUTY SPEAKER: The motion is that the reports be adopted. Are there any objections? No objections agreed to.

The CHIEF WHIP OF THE OPPOSITION: House Chair, I believe that there was a request for declarations made.

The deputy speaker: I didn’t hear that.

Motion agreed to.

Report on Criminal and Related Matters Amendment Bill accordingly adopted.

Report on Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Bill accordingly adopted.

Report on Domestic Violence Amendment Bill accordingly adopted.

# CRIMINAL AND RELATED MATTERS AMENDMENT BILL

(Second Reading Debate)

# CRIMINAL LAW (SEXUAL OFFENCES AND RELATED MATTERS) AMENDMENT ACT AMENDMENT BILL

(Second Reading Debate)

# DOMESTIC VIOLENCE AMENDMENT BILL

(Second Reading Debate)

Mr N SINGH: Hon Deputy Speaker, I just wanted to get clarity if what the Secretary read is order number six and not six to eight, just order number six. Am I correct?

The DEPUTY SPEAKER: No, you are not correct. I read correctly that it’s six to eight together. The orders are read together, and this is where they were read together. Hon Magwanishe, please go ahead. Hon Singh will settle down.

Mr G MAGWANISHE: Deputy Speaker, Deputy President and hon members, today we meet as this House when two of our dedicated soldiers in the fight against gender-based violence and femicide are no more. Hon Hishaam Mohamed laid a good foundation for the passage for the three Bills that we will be passing today. Hon Jacqui Mofokeng spent all her remaining days of her life ensuring that these Bills are passed.

We are saddened by the departure of these gallant fighters, but we are also honoured that today in their honour, united as this House, we are inviting all South Africans to see the world through the eyes of an abused woman, through the eyes of

an abused child, through the eyes of an elderly and through the eyes of the vulnerable in our society.

The levels of gender-based violence and femicide in this country are amongst the highest in the world and are acknowledged as a second pandemic. On 18 September 2019, the President announced an emergency response plan to gender-based violence which includes strengthening the applicable legal framework. The Bills before us are Criminal and Related Matters Amendment Bill, Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Bill and the Domestic Violence Amendment Bill. All form part of the measures to strengthen the response to gender-based violence.

The need to tighten the Criminal Law (Sexual Offences and Related Matters) Amendment Act, in particular the provisions that relates to the National Register for Sex Offenders was identified. At the present, the Act requires the recording of particulars of convicted sex offenders against children and persons who are mentally disabled in the register and prohibit them from working with children or persons who are mentally disabled.

The current Bill proposes amongst others to expand the register scope to include the details of all sex offenders and not only offenders against children and persons who are mentally disabled, and to expand the list of persons who are protected to include other vulnerable persons, namely, certain young women, persons with physical, mental, intellectual disabilities and persons over 60 years of age who receive community-based care and support services. It increases the period for which a sex offender’s particulars must remain on the register and further regulate the reporting duty of persons who are aware that sexual offences have been committed against persons who are vulnerable.

We considered the making use of South African Police Services, SAPS ... [Inaudible.] ... criminal record system as an alternative to the register, but we are sure that the ... [Inaudible.] ... is able to take on the expanded function. We are still of the view that the register will require careful and regular monitoring going forward. The Bill also proposes to expand the crime of incest and introduce a new offense of sexual intimidation.

The Criminal and Related Matters Amendment Bill amend several Acts and it is intended to reduce a secondary victimisation of

vulnerable persons in court proceedings through the use of intermediaries and by providing for evidence to be given through audio-visual links in proceedings other than the criminal proceedings. The Bill also proposes to tighten bail and minimum sentencing provisions in the context of gender- based violence.

In the course of our deliberations we considered the constitutionality of limiting the right to bail in relation to gender-based violence cases, and we wanted to ensure that the Bill achieves a proper balance of rights. Specifically, in the context bail, the categories of protected rights that intersect are the freedom of security of persons and the right of the arrested person to be released from detention if the interest of justice permits subject to reasonable conditions.

We are of the view that granting or refusal of bail is a judicial function. We are also of the view that as long as the proposed amendments do not amount to an outright denial of bail, the restrictions on bail proposed by the Bill are constitutional. Although legal measures cannot be all encompassing solution to the domestic violence, the state is obliged to promote legislation, to give effective protection to victims of violence in a domestic relationship.

After extensive deliberations, we present the ... [Inaudible.]

... which seeks to amend and address practical challenges, gaps and anomalies that have emerged since the Act came into operation. The Amendment Bill also seeks to enhance the application of the Act to protect victims of gender-based violence and other vulnerable groups against domestic violence. Amongst others, the Bill proposes to broaden the conduct that is regarded as domestic violence, imposes obligation on ... [Inaudible.] ... and adult persons to report domestic violence against a child, a person with disability or an older person to a social worker or South African Police Services. Extend the powers of the SAPS and peace officers to arrest persons in connection with domestic violence. Further addresses harassment as a ground of domestic violence and to provide for measures to address further harassment. It also broadens the powers of the court where a protection order has been issued to make orders for the protection of victims of domestic violence. Provide for directive to regulate the function of the clerks of the court and other relevant persons when dealing with the incidents of domestic violence.

Let me take this opportunity to thank the drafting unit of the Department of JUSTICE for the sterling work under difficult conditions. Parliamentary legal advisors for their advices,

members of Civil Society for their input throughout the process, members of the media for their continued coverage in ensuring that this matter receives attention. Our committee support staff for their administrative and research support. The Minister and the Deputy Minister of Justice and Correctional Services for their support and guidance. We would like to thank the following departments for their inputs: The departments of Communications and Digital Technologies, Women, Police, Health, Social Development, Basic Education and Higher Education.

I want to take this opportunity to thank most sincerely colleagues in the Portfolio Committee of Justice and Correctional Services. You have made sure that during the country’s hour of need you can be counted upon as patriots. For that, I thank you. I will take this opportunity to thank the President of the Republic, President Ramaphosa, for leading from the front in this battle. Fellow South Africans, let us spread love and not violence. It is not too late. Let us take this opportunity to right the wrongs. Thank you very much.

Adv G BREYTENBACH: Thank you, Deputy Speaker and the hon members. South Africa has maintained its shameful spot as the

red capital in the world with 132 incidents per 100,000 people. According to the *Mail & Guardian*, it is estimated that 51% of South African women report experiencing gender-based violence at least once in their lives, while 76% of men admit to perpetrated violence against women. These numbers do not include sexual harassment or cases of femicide in the country. Lockdown provided a niche opportunity for perpetrators to torment their victims. Essentially, having a captive audience with victims having little or no access to support services for a variety of reasons. The government, gender-based violence and femicide alone recorded more than 120,000 victims in the first three weeks of lockdown.

By mid-April in Tshwane alone the call center was receiving between 500 and 1000 calls a day. Faced with this situation, something urgently needs to be done. This cannot continue, of course, the most important thing that must happen is that men would change their behavior. Children, especially boys, who grew up in an environment with violence, is the default setting for learning that, that is the way to set the arguments, that is the way women are treated and they stand a very good chance of resorting to that behaviors as they grow older. Girls on the other hand, learn that violence is ... [Inaudible.] ... They simply have to live with it. Of course,

this cannot be acceptable and will not be tolerated. The domestic violence Act Amendment Bill remain as the provisions of the Domestic Violence Act in order to address practical challenges, gaps and anomalies which have manifested themselves since the Act was put into operation in 1999. The amendment enhances the application of the Act in order to protect victims of gender-based violence and other vulnerable persons against domestic violence.

Some of the notable changes, improvements and insertions includes, a perpetrator who uses a third party actor to commit an act of domestic violence against the complainant is regarded as having committed such act personally; it imposes obligations on functionaries such as medical practitioners, healthcare personnel, social workers, officials in the employ of the public health establishment, educators and caregivers to report incidents of domestic violence and it impose obligations on adults to report incidents of domestic violence against a child, the person with a disability or an older person to a social worker to SA Police Service, failure to comply with the supporting obligation is criminalised, provided a police officer at the scene of an incident of domestic violence arrest; provides that a member of the police may enter private residences for the purposes of interrogating

and obtaining a statement from a person regarding an incident of domestic violence; provides an application for a protection order which may now also be lodged electronically.

A court may issue domestic violence, safety monitoring, notice align police to contact the complainant at regular intervals by electronic means and to inquire about the complainant's wellbeing; a visit to the jail scene and to communicate in private to the complainant in regular intervals; it imposes obligations on electronic communication service providers to provide assistance to a court for electronic communications are used to commit acts of domestic violence. These amendments will hopefully have the effect of enhancing the protection that complainants received that also aimed to make the task of this SA Police Service easier in dealing with such matters by forcing the police to provide protection where necessary, they should be successfully implemented, provide more comprehensive protection for victims of gender based violence, and streamline the prosecution process in order that these matters can be dealt with expeditiously.

Of course, much will depend on the police doing their job thoroughly, not delaying unnecessarily and on the forensic laboratories being able to produce results. These ...

[Inaudible.] ... are not a panacea for gender based violence. They will go a long way to improving ways of dealing with the consequences of it, but what we need to do is bring up men who respect themselves sufficiently to respect women. We need to bring up women who respect themselves sufficiently to not accept the story behavior from men.

Allow me to thank most sincerely everyone who worked on this legislation, the members of the Department of Justice, the committee and parliamentary support staff, parliamentary legal advisers. They worked incredibly long hours and the immense pressure to produce a piece of legislation of which they can be proud in participation of civil society contributed to making this legislation stronger. Finally, hon Deputy Speaker, allow me to remember the lives of hon Igshaan Mohammed and Jaqui Mofokeng. They both sadly passed away recently for the for the immense contribution they made to the formulation and finalisation of this legislation about which they were both so passionate. Their contributions and their presence are missed. I thank you.

Ms Y N YAKO: Thank you, Deputy Speaker. The scourge of violence against women, children, lesbians, gays, bisexuals, queer, transgendered and 86 people in this country is out of

control. These violent practices may have received media attention in recent times but have been perpetuated for generations and are deeply rooted in this country from the insidious colonial invasion, disposition and dehumanization of African people to the naked brutality of apartheid violence now to the shameless neo-apartheid reality of the post 1994 era. It is women who have had to endure the most heinous of offenses.

The vicious cycle of triple oppression based on race, class and gender has not been broken for black women in particular. As the consequence of pervasive patriarchy and sexism in our society, it is black women in the main who suffer most from gender-based violence. Up to now, interventions dealing with violence against women have been superficial halfhearted and based on the wrong understanding of the root causes of the vulnerability of women. The violent crimes against women, therefore, are rooted and linked to other social ills in this country.

The brutality of these crimes; the inhumane nature; the women and girl children are treated at home; in schools and at the workplace; the permanent fear of each and every woman in this country that each time they wake up they may have to face a

rapist and murderer at their door step and at each time they sleep, they are not guaranteed that there will be one who breaks into their home to rape them and to murder them, makes these crimes deserving of special attention. It is in this context that we welcome the suit of interventions proposed in all of these three gender-violence. We welcome the inclusion of the Criminal Laws Amendment Bill of the National Register of sex offenders and the prohibition of having these sex offenders working everywhere where they will be in contact with vulnerable people.

We argued in the committee that it is not clear if people who perpetrated sexual crimes are capable of ever being rehabilitated and, therefore, we are against the provision that allowed for the removal of their names from the offender’s register after some time. Our view is that offenders must stay in the register for life unless they exonerated by a court of law. We also argued that there must be additions to the list of sexual offences in the Act. These must include sexual coercion by partner ...

*IsiZulu*:

... Ukuthwalwa, ukungenwa ...

*English*:

... and stealthy refusal to pay sex workers for services rendered and sex for jobs. All these must have harsh punishments under the law.

Under Criminal and Related Matters Amendment Bill, we are very pleased by the very stringent conditions in relation to the granting of bail for those accused of sexual crimes. However, we are of the view that it still leaves loopholes that could be exploited by criminals, particularly those who are closed family members of the victims. We are also in support of the Domestic Violence Bill, particularly the expanded definitions of domestic relationships, domestic violence, which now include cohesive behavior and forced entry into places of residence and places of work without approval. All these legal provisions will, however, not assist the fight against gender- based violence if these are not complemented by working institutions and the political will to deal with these crimes.

We need the police to be properly trained and resourced so that when the cases are reported, action is taken swiftly. We need the National Prosecuting Authority, NPA, to come to the party too, because all too often cases that are referred to them for prostitution are either rejected on the basis of

insufficient evidence or are poorly prosecuted. It is for this reason that a tiny minority of sexual offenders end up getting convicted in our courts. So the EFF is in support of all the three Bills. Thank you, Deputy Speaker.

Mr M N NXUMALO: Deputy Speaker, we are meeting once again to deliberate on the three Bills: The Criminal and Related Matters Amendment Bill, the Criminal Law (Sexual Offences and Related Matters) Amendment Bill and the Domestic Violence Amendment Bill, to make changes that are overdue in our justice system.

Our country, as a signatory to various international treaties against domestic violence, has demonstrated a clear commitment in fighting this problem. However, we are gathered here today as an indication that our laws need to be amended to make meaningful changes in the fight against domestic violence, gender-based violence, GBV, and femicide.

South Africa has one of the highest rates of violence against women and children in the world. Our statistics are five times higher than the global average. This cannot be and is not acceptable, and is appalling. It is our hope that making these amendments will change the way we handle and perceive issues

of domestic violence in our country. Our society is in need of redress. We need to tackle the systemic nature of domestic violence and change the societal and institutional system wherein violence against women and children is embedded. We recognise that these institutions have transformed this challenge into a structural one.

The IFP accepts the expanded definition of domestic violence as proposed in the new Domestic Violence Amendment Bill. We also welcome the provision of a facility that enables the application of protection orders remotely, using an online system. However, we are wary of individuals who might be excluded due to their lack of access to the required technology.

We are also concerned with the new proposal in the Domestic Violence Amendment Bill that makes it mandatory for everyone to report domestic violence, as it might affect the networks often used by survivors for emotional support.

Despite this, we have faith in today’s deliberations to come up with broad consensus on this issue. We acknowledge that these amendments are not a cure to this epidemic but we

believe that it is a step in the right direction. We support. I thank you, Deputy Speaker.

Mr F J MULDER: House Chair, GBV is a reality in South Africa and yet the view ... that violence between intimate partners or spouses is a private matter that should be handled within the family’s sphere. This perception can be linked to the dismissiveness with which the general public and law enforcement agencies treat incidents of GBV. Police officers are often reluctant to intervene in these family matters and the judiciary is riddled with stereotypes and biases regarding victims of GBV, thereby exposing them to retraumatisation.

In most cases, victims either decide against reporting the crimes altogether or decline to press charges owing to pressure from family members and the low probability that perpetrators will be convicted for the crimes. As a result, survivors of GBV often have to jump over several hurdles in their pursuit for justice, whilst perpetrators of GBV walk away scot-free with only a slap on the wrist.

Since the outbreak of the COVID-19 pandemic, incidents of GBV have increased dramatically in South Africa as well as globally. During the first week of lockdown alone, the SA

Police Service received 2 300 calls pertaining to GBV. Although an upsurge in domestic violence cases was predictable as victims would be confined with their abusers, no significant measures were taken by the state to protect women during the pandemic.

The objective of the three amendment Bills before Parliament for consideration today is not only to protect women but to serve as a deterrent to would-be perpetrators and to prevent recurrences of GBV. Many incidents of violence against women are perpetrated by repeat offenders or accused persons awaiting trial who are out on bail.

Furthermore, the Bill aims to tighten, amongst others, granting bail to perpetrators of GBV and expand the range of offences of which minimum sentences are applicable.

Statistically, unfortunately only a small portion of ... [Inaudible.] ... offenders are likely to be convicted and added to the register.

Apart from the procedural amendments proposed in the Criminal and Related Matters Amendment Bill, some provisions of the Domestic Violence Act are also being tightened. For instance, the Domestic Violence Amendment Bill ... [Inaudible.] ...

extends the definition of domestic violence to include those in engagements, customary relations, romantic, intimate or sexual relationships regardless of the duration.

The most positive amendment to the Act is the provision that someone can be fined and even imprisoned if he or she has knowledge, reasonable belief or suspicion that an act of domestic violence has been committed against a child, person with disability or an older person, and the failure to report such to a social worker or police officer could even lead to the arrest of such a person.

The effectiveness of these provisions remain to be seen. The FF Plus supports the Criminal and Related Matters Amendment Bill, the Criminal Law (Sexual Offences and Related Matters) Amendment Bill and the Domestic Violence Amendment Bill. Thank you, Chair.

Mr S N SWART: House Chair, the ACDP shares the sentiments expressed regarding the late hon Hishaam Mohamed and the late hon Jacqueline Mofokeng who played a significant role in the drafting of these Bills. They are indeed sorely missed and we share the view that these Bills are attributed to them.

These Bills came largely as a result of the public’s outrage and protests that erupted in 2019 following a number of deaths, including that of students Uyinene, Jesse Hess and boxing champion Leighandre Jegels.

Women of South Africa have had enough of lukewarm actions that do not address one of their most fundamental rights, which is to live in safety, free from fear of being attacked, raped and murdered. That is how we saw demonstrations outside Parliament where women and many others, including many men, stood up and said, enough is enough! Hence, these Bills which the ACDP supports.

One of the biggest challenges facing the committee, and in fact facing Parliament, is to what degree good legislation can be implemented. So, as the chairperson indicated, during the course of deliberations on these Bills extensive consultations were held with various departments with the view to ... should we pass this legislation, are there sufficient resources to implement the wide-ranging legislation that was needed?

Now, in this regard, Social Development submitted to National Treasury that historically it has been underfunded, relative to the demands for its services. Now, we know that a lot of

these incidents of violence are perpetrated within the domestic environment and so it is crucial that a department like Social Development has the proper financing.

The department indicated that the underfunding has resulted in an increase in unwarranted social ills, in particular it referred to GBV and femicide, substance abuse, human trafficking, as well as the abuse and neglect of children.

It is very clear to us that many of the issues are social issues within the domestic environment, and so when one looks at the broadened definitions within the Domestic Violence Amendment Bill, they are very acceptable. Again, the point is, can they be implemented?

It also suggests that the broader solution lies in social interventions first, to try to prevent the falling back on criminal justice interventions. It is the view of the ACDP that healthy families make healthy communities. Hurt people hurt people.

The one issue relating to spiritual abuse, where we raised concerns and suggested an alternative definition, was accepted

by the committee and we are grateful for that. The ACDP will support these Bills. I thank you.

Mr S N AUGUST: Chairperson, writing new legislation is the easy part. The far greater challenge is implementation.

Gender-based violence is plagued with deep roots. Centuries that may led to violence, division, dispossession, erosion of dignity, contempt for authority and misogyny created by profoundly skewed and unequal society.

The introduction of these amendment Bills to improve our response to gender-based violence, GBVF, is not a golden bullet. It is a humble start. The proposed new laws will improve to legislative framework to manage the consequences of gender-based violence and femicide, with more sensitivity and assist the victims of violence to take steps and stop it from escalating. But these laws won’t directly impact the structures of our society that created and continuously recreates the crisis. Changing the structure of society is up to all of us.

Chair, eradicating this plague is going to require a whole of state response at all levels of government and across departments from police to social development and from public

works infrastructure to human settlements. We are mindful that it is fashionable in South Africa to hold government directly responsible for all our woes. The state does have enormous responsibilities but that doesn’t give the rest of society a free ride to sit back and wait for the land of milk and honey.

The country of freedom, fairness and justice that most of us want requires most of our attention. The country’s wealth is predominantly in the private hands. The private sector therefore, has a huge role to play supporting the state and its citizens emerge from the shaddle of division. The non- profit sector already responsible for so much good work must step up to the plate and incorporate gender education into organisation’s day to day activities.

Families and communities also have critical roles. The import of these amendments must reverberate through our homes and streets. Our children particularly our boys must be taught what lies ahead if they commit violence against women. Those who dare lay hands on our women are not aliens from Mars. They are fathers, brothers, cousins and children. The Gender-Based Violence Bill has Good support. Thank you.

Ms W S NEWHOUDT-DRUCHEN: Hon Chairperson, this month of June we commemorate Youth Month. We also note that it is Pride Month and tha it is Child Protection Week. While we are on Level 2 lockdown let us continue to take responsibility to stay safe, keep our masks on, sanitise and keep social distance.

Hon Chairperson, I would like to pay tribute to the late Jacky Mofokeng and the late Hishaam Mohamed. We continue to remember them for their contribution to the fight against any form of discrimination and violence against women and children.

The ANC January 8 Statement repeatedly states that it is the right of every South African woman, man and child to live in safety, secure from crime and violence. The ANC continues to be the forefront in the fight against gender-based violence and femicide, GBVF. The ANC January 8 Statement also states that GBVF is a national crisis and we need to mobilise all the energy and resources of society to end it.

During the COVOD-19, GBVF was considered and still is considered the second pandemic. However, it is a pandemic that doesn’t ask for the wearing of mask. It doesn’t require sanitisation or social distance. Like the COVID-19 protocols

which are important for our safety. But it asks that we strengthen our laws to protect our women and children who are vulnerable to abuse. And also that we have a change in behaviour and attitudes towards our fellow human beings.

In 2018, during the total shutdown marsh, thousands of women and men marched to the Parliament demanding for end to violence against women and children. In June 2018, Stats SA showed that the murder rate for women had increased. The number of women who experienced sexual offences had jumped from 31 665 in 2015-16 to 70 813 in 2016-17. A crisis in indeed.

In 2018, as a result of the women’s marsh against GBVF, the President called for a Presidential Summit against GBVF. The summit resulted in a declaration which resolved amongst others, to fast-track the reviews of existing laws and policies on GBVF and to ensure that all other relevant laws responds to GBVF, to implement the recommendations that have been identified from reviews and address the legislative gaps, revisit and fast-track all outstanding laws and Bills that relates to GBVF. Three Bills were brought before Parliament for amendments. They are the Criminal law, Sexual Offences and

Related Matters Amendment Bills, the Criminal and Related Matters and the Domestic Violence Amendment Bill.

The portfolio committee received briefings regarding these Bills in 2020. It sent the Bills out for public hearing and received submissions for comments and responses for comments to the Bills.

In the President’s address to the nation in September 2019, some of the few points that he mentioned were as follow: The need to overhaul and modernise that National Register for Sex Offenders, NRSO, provided for in the Sexual Offences Act, to ensure that it is effective in combating gender-based violent act. This national register of offenders will list all the men convicted of acts of violence against women and children.

The Criminal Law, Sexual Offences Act and Related Matters Act

32 of 2007, is one of the legislative measures identified to strengthen the response of GBVF and the legislation regulating the NRSO. This Bill aims to amend chapter 6 of the act to expand the scope NRSO, to include all particulars of sex offenders and not only sex offenders against children and persons who are mentally disabled. Extend the list of persons who are protected to include other vulnerable persons namely,

young women who are under the age of 25, persons with physical, mental, sensory and intellectual disabilities. And persons over the age of 60. For example, those who receive community base care and support services. To also increase the period for which sex offenders’ particulars must remain in the NRSO before they can be removed from the register. The names of a person with two or more convictions of sexual offences will not be removed from the register.

After much deliberation, the committee is of the view that the register should remain with the Department of Justice and Constitutional Development for now, with an expanded function and will require careful and regular monitoring going forward. The Bill also proposed to expand the ambit of the crime of incest and introduce a new offence of sexual intimidation.

This Bill will also introduce a reporting duty of persons who are aware that sexual offences have been committed against persons who are vulnerable. The person who fails to report will be guilty of an offence and liable upon conviction to a fine or imprisonment.

The Criminal and Related Matters Bill amend several acts such as the Magistrate Court Act of 1944, the Criminal Procedures Act of 1977, the Criminal Law Amendment Act, 1997 and the

Superior Courts Act of 2013. The Criminal and Related Matters Bill addresses the gender-based violence and offences committed against vulnerable persons. That provides additional procedures to reduce secondary victimisation of vulnerable persons in court proceedings where it makes it possible for the complainants to give evidence through an intermediary. And also to provide evidence through audio visual links. That will be a great help. The Bill also discusses the tightening of bail and the minimum sentencing provisions in the context of GBVF. The shortcomings of the bail were addressed to a degree by the Bill in an attempt to provide greater protection to the victims and to offer a more victim-centric approach.

The committee was advised that the grant or the refusal of bail is a judicial function. Notwithstanding the so called Police Bail under Section 59 and the Prosecutor’s Bail under Section 59 (A) of the Criminal Procedure Act 51 of 1977. The committee is of the view that as long as the proposed amendments do not amount to an outright denial of bail, the restrictions on bail proposed by the Bill are constitutional.

Hon Chairperson, I would like to end by repeating some of what the president had previously said and I quote:

We have heard the calls of the women of our country, for action and for justice. The collective anger, the pain, the fear that these killings have caused must strengthen our resolve to end all forms of violence and abuse perpetrated by men against women. Violence against women is not just a women’s problem. It is not a problem of what a women said or of what a woman did or of what she was wearing or where she was walking. Violence against is our including men. It is men who rape and kill women.

There is therefore an obligation on all of us including the men of this country to act to end such behaviour and such crimes. Let us all speak out. We must not look away. Let us as families make sure that we respect women to respect themselves to value life and human dignity. We must all face GBVF head-on.

Thank you to all those who were involved in drafting these Bills. I thank you.

Mr W M MADISHA: Hon Chair and members, thank you very much, domestic violence must never be accepted in all forms, whether it’s through sexual abuse, physical beatings or manual labour. As some amongst us may be aware, South Africa falls within the top 10 countries where at the most vulnerable are, with

intends of course, cost to suffer and even die as a sequel to the sufferings they go through.

It is a known fact that the majority of the people who on an hourly basis, gets subjected to those pains and deaths are women, girl children and even infants. It is an open secret that many known instances, those who go through that torture seldom speak out or even report to the police because of the fear that if they can speak out, they will either lose food or any benefit, however minor it maybe.

It further has been proven that many people who commit those wrongs the rich and powerful in the society. They run brothels, they import and export girl children. They are seldom arrested or if they do get arrested, they get out urgently because they pay those who are supposed to uphold the law.

Cope supports the Bills and hope that there shall be thorough implementation because as Parliament, we shall come up with this and say, here are the laws – here are the Acts, but when you go down there, there is no implementation. We hope that we shall succeed. We request that we must succeed. Thank you, Chair.

Mr M NYHONTSO: Hon Chairperson, the PAC supports the Bill. Thank you very much.

Mr M G E HENDRICKS: Thank you, hon House Chair, the governing party mandated one of its best to take leadership, to deliver these amendments. Advocate Hishaam Mohamed has left a proud legacy and these amendments are a cherry on top. Al Jama-ah is now in a position to establish an armed response unit to assist abused women, especially in the Muslim community, at its parliamentary offices constituencies. We ask the Minister of Police to give us support.

We are also looking at throwing our weight behind the tracing unit to find errant husbands. Businesses must come forward in the Muslim community and put their hands in their pockets to eradicate abuse of women. Ministers must help support Members of Parliament to serve its constituency. We hope judges will compliment this Bill, which now becomes an Act, by introducing a step-aside provision.

If a madrasa ... [Inaudible.] ... teacher is charged with sexual abusing or raping a madrasa learner, their religious body he is attached to or that the victim approaches, must ask him to step aside and stop teaching or start a new ...

[Inaudible.] ... school or madrasa, instead of the law to take its course. We have many cases such as this. Muslim women have visited our parliamentary constituency office to claim that their religious body that they are attached to, don’t have any legal master. The decision of these religious bodies or victim support groups must have legal masters.

Our judges must now rise to the occasion and station commanders must intervene to help protect our learners and women. We are very grateful to the portfolio committee for taking the next step in addressing gender-based violence. Thank you very much, hon House Chair.

The HOUSE CHAIRPERSON (Ms M G Boroto): I see the AIC hon Galo is now in the House. Do you want to participate before we call on the ANC? You are fine? Thank you.

Mr X NQOLA: House Chair, members of the executive, members of the House, fellow South Africans, good afternoon. Of all the evils for which man has made himself responsible, none is so degrading, so shocking or so brutal as his abuse of the better half of humanity; the female sex. These are the words of Mahatma Ghandi.

As we debate on the three Bills which are intended to address the second pandemic, gender-based violence, as the ANC we dedicate these three Bills to the memory of our dear comrades, Adv Hisham Mohamed and Jaqueline Mofokeng who served as the ANC Whips of Justice and Correctional Services. Both, Comrade Hishaam and Comrade Jacqui served the ANC and the entire nation with diligence and were committed to the fight against gender-based violence and to the upliftment of women in society. They contributed meaningfully to the development of these Bills in the portfolio committee.

Whether it was advocating for child maintenance through Operation Isondlo, providing legal services or standing in solidarity with survivors or victims of gender-based and their families during court trials, they were at the forefront.

They took up the struggle. They understood that gender-based violence does not affect that person only, but is a societal ill which affects everyone. May their souls rest in eternal peace.

Chairperson, the enactment of the Domestic Violence Act was meant to provide women with the highest form of protection from domestic violence, placing responsibility squarely on organs of state, particularly the SA Police Service, to ensure

that survivors of domestic violence are able to apply for protection orders.

With the rise in intimate femicide and many abused women being failed by the system, it was evident that the implementation of the Act was imbued with inefficiencies. To address these gaps and anomalies in the Act, the Domestic Violence Amendment Bill was enacted. Among others, the Bill aims to broaden the conduct that is regarded as domestic violence; impose obligations on persons to report domestic violence to appropriate functionaries; extend the powers of members of the SA Police Service and peace officers to arrest persons in connection with domestic violence; further regulate the obtaining of protection orders against domestic violence and the powers of the court with regard to the welfare of affected children; provide for domestic violence safety monitoring notice that may be issued by the court; and provide for the attendance of witnesses at domestic violence proceedings.

The Domestic Violence Amendment Bill will facilitate the obtaining of protection orders against acts of domestic violence electronically. In the age of technology and growing use of cellphones and the internet, this move will enable more women and people who are victims of domestic violence to

obtain protection orders without having to physically go to the police station day or night. It obliges the departments of Health and Social Development to provide certain services to victims of domestic violence and aligns the processes of the Domestic Violence Act and the Protection from Harassment Act.

The Bill extends the definition of domestic violence to include ...

*IsiXhosa*:

... oomama abadala abasemakhaya abathe bangamaxhoba okuhlukunyezwa ngamalungu eentsapho namakhaya abo. Ukwanika ngakumbi uxanduva kubemi boMzantsi Afrika, ukuze bakwazi ukuya kwiindawo ezifanelekileyo besiya kuchaza ukuhlukumezeka okwenzeka emakhaya.

*English*:

Hon House Chair, patriarchy remains deeply entrenched within the fabric of our society and continues to serve as a catalyst to breed and legitimise most violations and discrimination against women. It is therefore imperative that we challenge and dismantle patriarchal attitudes.

While there has been immense progress in the emancipation of women in South Africa through legislative and other means since the advent of democracy, women remain disproportionately represented among the country’s poorest. The gender gap continues to persist in economic, social and political spheres. Economic empowerment remains the most important contributing factor to achieving gender equality. Unleashing the entrepreneurial potential of women which drives growth through innovation, education, training and job creation continue to be some of the most effective ways to ensure lasting empowerment. The economic empowerment of women is a prerequisite for reducing poverty in our country and dismantling patriarchy.

The struggle for gender equality and fighting gender-based violence is not a struggle of women only. Men have an enormous task of fighting patriarchy and gender-based violence. From early childhood development level boys must be sensitised and taught to respect the rights of women and girls. It is our collective responsibility to change the social constructs of patriarchy

The war against gender-based violence is a societal ill and requires a comprehensive approach. The family and community

have an important role to play. Collaboration between the different government departments is essential. The Department of the SA Police Service has allocated over R1,2 billion on baseline activities related to fighting gender-based violence and femicide, GBVF, both proactive and reactive responses to these crimes and the resourcing of the Family Violence, Child Protection and Sexual Offences, FCS, units: R 1,142 billion on FCS units’ human and other resources that includes operational expenses; and R30 million on youth, children and vulnerable groups including awareness campaigns.

An additional amount of R100 million was allocated to provinces for prioritisation of gender-based violence response and the strengthening of FCS units. To capacitate the SA Police Service members to deal with GBVF, 1 763 members across all provinces were trained on GBVF-related courses during

2020-21 financial year.

The issue of DNA is critical for evidence in the court process. Mindful of the challenges in the forensic science laboratories, the Minister of Police announced that in addressing the issues of capacity, a total of 127 scientists have been promoted to critical posts within the forensic science laboratories, FSL, and that an additional 150 posts of

forensic analysts at warrant officer level have been advertised externally and the new incumbents will commence on duty by 1 July 2021. The Minister committed that the FCS units would be placed.

The Department of Social Development continues to play a central role towards the eradication GBVF. It has been announced that the Victim Support Service Bill will be gazetted during the financial year. Once public comments have been received, the Bill will be sent to Cabinet. The Bill seeks to, inter alia, provide a statutory framework for the promotion and upholding of the rights of victims of violent crime and to prevent secondary victimisation of people by providing protection, response, care and support and reintegration programmes and to provide a framework for integrated and multidisciplinary co-ordination of victim empowerment and support. Among the sister departments, Police, Justice and Correctional Services, Basic and Higher Education, Health and Social Development, are involved.

One of the key features of the Domestic Violence Amendment Bill is that it allows for electronic applications for protection orders and the establishment of the integrated electronic repository for domestic violence protection orders.

In March this year, the Minister of Justice and Correctional Services opened the Durban Point Magistrates Court where domestic violence survivors can apply online for a protection order. We look forward to the further roll-out of such services across the country.

It is important that we have we have victim support services in place when victims report sexual offences and when these matters get to court. Sexual offences courts offer support services such as court preparation services, psychological pre- and post-trial support services and the services of intermediaries.

It is important to note that while all these Bills are necessary, they are not a panacea to the scourge of gender- based violence. The eradication of patriarchy, the economic emancipation of women and collaboration among government departments and civil society are needed. We must all hold hands in fighting this scourge. We must commend the collaboration of various political parties in the portfolio committee in finalising these Bills. The patriotism shown is indeed commendable. The ANC supports the Bill. We thank you.

Mr W HORN: Chair, I agree with colleagues that the Bills under discussion are by and large good Bills, which will go somewhere towards strengthening the ability of the criminal justice system, to deal more effectively with gender-based and sexual violence. These Bills of course are the product of the Presidential Summit held towards the end of 2018, in response to a period in which violence increased and the death of a large number of victims of gender-based violence for the ... [Inaudible.] ... time had put a bright spotlight on this problem in our country.

It is perfectly understandable that we react in an emotional manner when we are confronted with the way gender-based violence has scourged this country, but when we make laws, it is always to be remembered that our first duty as law-makers is to uphold the Constitution of this country, to which we have sworn allegiance upon taking office.

The duty to find a balance between our human instinct to take and eye for an eye and our constitutional obligation to look out for the rights of victims, while not turning a blind eye to the plight of those who are only accused and not get found guilty of criminal offenses remains a duty we cannot ignore. In our view, the portfolio committee managed to walk this

tight road, while still producing draft laws that make court proceedings more victim-centric and enable our criminal justice system to deal more effectively with criminals.

All aspects identified in the draft Bills that could have brought into question the constitutionality of these Bills were carefully considered after legal opinions were obtained. The legal advice was accepted, even if we did find it not to be helpful to own agendas. This is of course how it should be.

*Afrikaans*:

Baie mense sou graag wou sien dat niemand wat beskuldig staan van geslags- of seksuele geweld ooit moet borgtog kry nie. Ons verstaan dit. En daarom bevat die konsepwet van vandag hier dien, sekere bepalings wat hopenlik sal help dat ’n beskuldigde wat nie borg behoort te kry in terme van ons land se wette nie, voortaan nie deur die krake sal glip en tog borg kry nie.

Op diedelfde basis kan ons nie heeltemal gehoor gee aan die aandrang uit sommige oorde dat die nasionale register van seksmisdadigers vir algemene kennis gepubliseer moet word nie. Wat ons wel kan doen is om die bepalings van die sekuele misdaadkonsepwet so te versterk dat, waar mense voortaan

aangestel word wat met weerbare individue en groepe sal kontak hê, in die loop van hulle werk, sulke aansoekers behoorlik gemeet en gekeur sal moet word aan die hand van die inligting wat beskikbaar in die register is. Dit sal dit al moeiliker maak vir seksmisdadigers, sekspeste en pedofiele, om werk te kry waar hulle maklik op moontlike slagoffers kan prooi.

Tydens die openbare verhore het heelwat deelnemers die opmerking gemaak dat ons as die Nasionale Parlement ook beter toesig moet hou oor die uitvoerende gesag - die Minister en die departement – oor hoe hierdie wette geimplementeer word.

Daarom, as ’n eerste stap om die implementering van hierdie wette te ondersteun is daar ’n maksimum van 12 maande ingesluit vir die ontwikkeling van enige regulasies wat nodig is, voor die implementering van die Wysigingswet op Seksuele Misdade.

Dit help nie ons maak hierdie wette en dan is die verskoning vir die feit dat dit nie geimplementeer word nie, vir jare daarna dat daar nog aan regulasies gewerk word. Daar is ook tereg gesê dat daar diegene is wat slagoffers van geslagsgeweld moet bystaan, nie behoorlik opgelei en behoorlik verbind is tot empatiese en simpatieke diens en ondersteuning

aan slagoffers nie. Dit sal veroorsaak dat, wat bekend staan as ’n sekondêre victimisasie aanhou om die effek te hê dat meer slagoffers aanhou om te kies om nie hierdie misdade aan te meld nie as die getal wat die dapper besluit neem om ons regstelsel te vertrou.

Dit is waar en daarom is dit almal van ons se werk om nie weg te kyk of om ons doof te hou wanneer diegene wat afgesit of afgeraai of in die steek gelaat word, strafregtelike klagtes teen verkragters, vroueslaners, kindermishandelaars en die wie ou mense mishandel wil indien nie. Wanneer hulle hulle probleme en frustrasies met ons deel kan ons as lede van hierdie Huis nie stilbly nie; ons moet optree.

*English*:

Furthermore, the possible impact these Bill could have is dependent on the ability of government to appropriate sufficient funds to properly implement this legislation that will be supplemented and improved by these Bills. And of course the law in itself, as others have pointed out, will not change attitudes and behaviour.

The deterring effect which harsher sanctions have on the behaviour and attitude is unfortunately very limited. What we

ultimately desperately need in this country is real and positive change in societal believes, norms and moral standards. We must all play our part, and in word and in deed, teach our children and young men that there is no truth in the outdated beliefs of what is acceptable and desirable behaviour towards the opposite sex, people with a different sexual orientation than ourselves and minor children.

Only if all of us play our part in this, will we be able to heal the moral fibre of this country.

THE DEPUTY MINISTER OF JUSTICE AND CORRECTIONAL SERVICES RESPONSIBLE FOR JUSTICE AND CONSTITUTIONAL DEVELOPMENT: House

Chairperson, hon members, it’s appropriate that we’re having this debate during Child Protection Week as this week brings an increased awareness of the impact of violence against children.

By passing these three Bills today we show our commitment to address the plight of women, children and other vulnerable persons, who are so often victims of violence.

And I think one of the things that’s been positive about this

debate is that everybody has been in support of these Bills,

there has been no playing to the gallery, there has been no politicking; there’s been general support for these Bills and the implementation of these Bills once passed.

President Ramaphosa has referred to gender-based violence and femicide, GBVF, as South Africa’s second pandemic. Gender- based violence is plaguing our country and traumatizing communities.

Following the total shutdown movement in 2018, the gender- based violence and femicide national strategic plan was produced to respond to the GBVF crisis following the historical presidential summit on this subject.

The President announced a five-point emergency plan which was to be implemented without delay. One of the points is enhancing the legal and policy framework in order to strengthen the response of the state to gender-based violence and femicide. And that is where these Bills come from.

However, as many speakers have said, the law can never, on its own, completely eradicate or prevent gender-based violence, but it can create an enabling legal framework to bring perpetrators to book and to ensure justice for victims.

We do have a problem – as we all know – of gender-based violence and femicide in South Africa and we need to be asking ourselves “why are men in South Africa ...” because it’s overwhelmingly then men “... abusing, assaulting, raping and killing women?” “Why have there been a spate of attacks on gay, lesbian and transgender people recently?” presumably also by men. What is it about the notions of male masculinity in our country that are causing men to do this?

And I think some of the members have spoken about this and initiatives. I want to, also, in particular, refer to an initiative I was invited to a couple of weeks ago by the Langa community ... by services in Langa in Cape Town, where they were launching a gender-based violence and femicide-free zone. They were appointing gender-based violence and femicide monitors in the community as well as ensuring there were safe houses for victims of gender-based violence to go to, should they need to.

I think many members have explained different provisions of the Bill, I don’t want to repeat that. Just maybe one aspect with the Sexual Offences and Related Matters Bill, offensive sexual intimidation. Somebody had raised the question not so long ago of a person who was in a taxi and the taxi conductor

threatened to rape them; well, now, when this becomes law that will be sexual intimidation.

The issue which hasn’t really been raised in this debate and it’s a good thing but it’s been debated out by the public is the issue of making the national register of sex offenders public and the committee has opted not to do that, and I do believe that is the correct thing.

It is not an issue of protecting the perpetrators of sexual offences, it’s due to other factors. For example, not all sex offenders’ names are in the public domain; if a man rapes his child or stepchild, his name is not released on the court registers, the case is recorded as ‘state v/s H’ or whatever the first initial of his name is. So, those people would be protected if the register becomes public, not to protect them but to protect the children who don’t want to be identified by their father’s name coming out.

The other aspect is that we have a problem of communities taking the law into their hands. If the child were, say, to disappear and people knew that there’s a sex offender living in the neighbourhood, the chances are fairly high that the

community may assume that this sex offender who served his sentence is behind the abduction of the child.

So, it’s not surprisingly that very few countries in the world do make their register of their sex offenders public. As far as I’m aware it’s only India and some extent the United States. So, that’s an important issue, it’s been debated quite a bit by talk show hosts; so, I thought I needed to speak to it. I think it’s important that nobody in this House has actually called for that.

As others have said, the Criminal and Related Matters Amendment Bill deals with general inadequacies and the law. We have had problems where a person who has a protection order against them will beat up his partner and the court won’t know that she got a protection order against him and there’s now police bail, prosecutorial bail for these cases have been done away with as well as the fact that the ... if the person has to disclose there’s a protection order and if they don’t, they can forfeit their bail at the later point.

One of the contentious issues in particularly the Domestic Violence Amendment Bill was the duty of people to report. And I just wanted to correct the hon Nxumalo. That is not the duty

to report every case, the duty is to report relates to when a child, a person with a disability or an older person, person over 60, has been abused. It’s not the committee, again, opted not to make a general requirement of reporting.

We’re positive that these Bills, once passed into law, will significantly strengthen the prevention and combating of gender-based violence and femicide in all its forms.

The laws of our country are only as good as the implementation thereof and as good as the people implementing them. We can have the best laws in the world, but their success ultimately depends on human beings implementing them.

In June last year, Altecia Kotjie was murdered with her seven- year-old daughter, Raynecia, in Belhar in Cape town, in the Western Cape. According to media reports, the time Ms Kotjie had approached the Bellville Magistrate’s Court, shortly before her death, to obtain a protection order but she was allegedly turned away by the court.

When I became aware of this I referred the matter to the Office of the Public Protector for a full investigation to establish whether Ms Kotjie had approached the court for

assistance and if so, why she was not assisted? And whether that there had been an act or mission by a person in the employ of government which resulted in unlawful or improper prejudice to Ms Kotjie and her daughter. The Public Protector’s finding in the matter was that the officials of the magistrate’s court were cleared of any wrongdoing.

But importantly, the Public Protector is now launching a nationwide investigation to look into the system when it comes to the protection of gender-based violence victims.

We welcome this investigation as any and every initiative or measure to upgrade protections to victims of gender-based violence and femicide is supported.

We must ensure that public servants who work at the coal face, courts, police stations, hospitals and shelters, always serve the public well and that the systems are continuously improved.

To conclude, I want to express my appreciation to members of the portfolio committee who worked tirelessly on these very important Bills. I think it has shown what should be known that lawmaking is not an easy exercise, you got to look at all

the consequences and you got to look very closely at whether there are unforeseen consequences that will come about. And that is what the portfolio committee did.

I also want to add my voice in remembering the hon Hishaam Mohamed and the hon Jacqueline Mofokeng, who were both the ANC Whips on the justice committee and very committed to the passing of these Bills before they passed away.

I also want to commend the legislative drafters at the Department of Justice and Constitutional Development who had to deliver these Bills under enormous pressure and deliver, they have.

These Bills contain the main interventions that will ensure that the law provides adequate protection to the survivors of gender-based violence. But legislation on its own is never enough. In addition, we need to do more to change societal attitudes, patriarchy and toxic masculinity. Gender-based violence affects all of us. Thank you.

Debate concluded.

Criminal and Related Matters Amendment Bill read a second time.

Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Bill read a second time.

Domestic Violence Amendment Bill read a second time.

Agreed to.

# CONSIDERATION OF THE PRESIDENT’S RESERVATIONS ON THE CONSTITUTIONALITY OF LIQUOR PRODUCTS AMENDMENT BILL AS SUBMITTED TO HIM AND REPORT OF PORTFOLIO COMMITTEE ON AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT THEREON

Mr Z M D MANDELA: Good afternoon, House Chair, hon members, members of the media, and ladies and gentlemen. Our Constitution makes provision for the recognition of the institution, role and status of traditional leadership in accordance with customary law and subject to the supremacy of the Constitution.

Section 212 of the Constitution stipulates that enabling legislation must make provision for the role of traditional

leaders as an institution at local level on matters affecting local communities. This is an indication that our Constitution envisages a clearly defined role by traditional leadership in the democratic dispensation.

I hereby, hon Chairperson, present and table before this House a report on the consideration of the President’s reservations on the constitutionality of the Liquor Products Amendment Bill. The Liquor Products Amendment Bill seeks, among other things, to provide for the control over the production and selling of certain alcoholic products by changing the alcohol content from the current 1% to a 0,5% volume, amend the composition of the Wine and Spirit Board, making it representative, and to control the import and export of certain alcoholic products.

The department had presented before the Portfolio Committee on Agriculture, Land Reform and Rural Development that the proliferation of different kinds of beers, especially traditional beers, posed a societal danger to consumption by underage children as the production and sale of some of these products remains unregulated.

This Bill, therefore, had and underwent all the legislative processes during the Fifth Parliament and was sent to the President for assent. The President, having applied his mind to the Bill, expressed his reservations and thus returned the Bill to Parliament in terms of section 79 of the Constitution to reconsider its constitutionality, given the fact that the Bill was classified as a section 75 Bill and the National House of Traditional Leaders was not considered.

The President’s reservations revolved around the constitutionality of the proposed amendments as far as they related to matters related to traditional customs under the custodianship of traditional leaders, as stipulated in section 18(1)(a) of the Traditional Leadership and Governance Framework Act, Act 41, of 2003, in that Bills, pertaining to customary law, or customs of traditional communities, must be referred to the National House of Traditional Leaders.

The President’s reservations are around clauses 1, 5, 7 and 8. It clause 1, it seeks to include new definitions on “authority” – beer, liquor products, or fermented beverages.

Amendments in the Bill in clause 5 propose the insertion of new sections 6A, 6B and 6C in the principal Act. The President, in terms of section 79(1), has referred the Liquor

Products Amendment Bill back to the National Assembly for reconsideration.

After receipt of the President’s reservations for consideration, the portfolio committee consulted and received submissions from the National House of Traditional Leaders and the department on the amending Bill; and, thereafter, there were responses to the submission from the National House of Traditional Leaders.

Hon House Chair, the committee is satisfied that the reservations raised by the President have been adequately addressed.

In conclusion, we have an obligation to protect vulnerable groups, especially children in rural areas, and to prevent their exposure to any product that could lead to mental impairment, inebriation and other forms of behaviour that heighten the risk of physical and sexual abuse. We must protect our children and limit their exposure to harmful substances. I therefore, hon House Chair, table this report for consideration and adoption by this august House. I thank you.

*IsiNdebele*:

USIHLALO WENDLU (Kkz M G Boroto): Sithokoze kumhlonitjhwa iKosi uMandela. Sibawe kuSekela Sosibebhi wehlangano ebusako bona senzani njenganje.

*Declarations of vote:*

Mr N P MASIPA: House Chairperson, this week Statistics SA told us that 32% South Africans are unemployed depressing as it is one is hardly surprised because ANC corruption combined with the draconian Covid-9 lockdown regulations have proved to be a lethal cocktail to long suffering citizens.

Farmers in the wine industry alone employed just under 300 000 workers. We know that the EFF and ANC of this House do not like farmers and want to expropriate their farms. But we also know that they love alcohol, the Johnnie Walker and the Moyenne ... [Inaudible.] ...

Ms H O MKHALIPHI: You are out of order.

Ms E N NTLANGWINI: This one is drunk.

Mr N P MASIPA: ... for employment by some members of this House who hate them. Incomes generated from the farm and along

value chain in alcohol industry helps pay salaries ... [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Order! Hon Masipa, wait for a while. Hon members on the platform please you are disturbing the proceedings. You can raise a point of order.

Don’t just say what you have just said. I tried to ignored you

the first time and you continued. Proceed, hon Masipa.

Mr N P MASIPA: Thank you, Chair. Farmers and farmworkers in the Bali wine and alcohol related industry are apprehensive about the possibility of the ANC government renewed hard lockdown which comes with liquidation and job losses. Whilst dealing with this report, a jointly commission report by SA Liquor Brand owners Association, Salba, Beer Association of South Africa and ban has released.

The report indicates that the illicit market in the last three years is estimated at R20,5 billion. The corrupt ANC just don’t care. What did the hon Minister Cele and his department do to police illicit alcohol sale that led to R111,3 billion losses in taxes revenue? What did his Police Department do to stop illegal brewed alcohol products that led to tax revenue?

What did his Police Department do to stop illegal brewed alcohol products that led to death, nothing?

During the 2017 deliberation of the Bill, the then Deputy Minister of Agriculture, hon Beki Cele, said they were not going to create the mentality of the big brother with the African custom. There should be no problem with people making Umqombothi to bring their bride home. If South Africans are to avoid a catastrophe economic implosion the consensus is to vote out the ANC as a first step towards placing the country on a prosperous part underpin by the Rule of law and strong institution.

The DA was therefore not shocked to see the President referred to the Liquor Products Amendment Bill back to the portfolio committee for reconsideration or when the ANC tried to promote themselves with the vaccination centre with prominent church leaders or when the ANC tried to self-promote themselves during the government handing of tittle deeds over to the black farmers in Tafelkop. And the ANC is lost, hon House Chair, and President Cyril Ramaphosa is unable to stop the rot. The DA agrees with the President that we as lawmakers must be able to do the right thing and listen and do the right thing in the portfolio committee.

Parliament should consider adopting step aside Rule for the ANC committee members who are failing this Parliament especially hon Cele. This Bill was not correctly tagged and rightly so had to be referred to the National House of Traditional Leaders before being passed by the National Assembly.

What ANC has proven good at is rushing to pass the Bill before every election. But let me tell you ANC illiterate are fed up with you. The Bill in its current form include the regulation of traditional African Beer. Therefore the President ... [Interjections.] ... said that the Bill affect the customary practices and must be referred to the National House of Traditional Leaders.

Again, the ANC majority failed to see all these things. The DA welcomes the feedback from the National House of Traditional Leaders and the legal services [Interjections.] ... and in fact the ANC inability to function in the committees. We support the report and we reject corrupt ANC slogan hear in news programmes. I thank you, Chair. [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Order! Order! [Interjections.] Please, hon members on the virtual platform I

know something maybe irritating, please let’s mind our language. [Interjections.] Thank you. Let’s proceed to the EFF. Anyone wishing to make a declaration. No one. IFP?

Ms E N NTLANGWINI: Sorry, House Chair. He has a problem with network.

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

Ms E N NTLANGWINI: Hon Matiase will come now. He is just struggling with network issues.

The HOUSE CHAIRPERSON (Ms M G Boroto): We will allow him before the ANC. There is no problem if he comes back. Just try to connect him.

Inkosi R CEBEKHULU: Hon Chairperson, allow me to sit in the dark of the load shedding. Hon members, the exercise of cultural rights is part of customary practices of 1996. The Constitution protect cultural practices so that the traditional communities can live in dignity without undue reference by the government. Any government policy or ... [Inaudible.] ...

The HOUSE CHAIRPERSON (Ms M G Boroto): Inkosi Cebekhulu? Inkosi Cebekhulu?

Inkosi R CEBEKHULU: ... [Inaudible.] ...

The HOUSE CHAIRPERSON (Ms M G Boroto: Hon Cebekhulu?

Ink R CEBEKHULU: ... [Inaudible.] ...

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon Cebekhulu, you are breaking.

*IsiZulu*:

Uyanqamuka asikuzwa, asikuzwa nakancane. Angazi noma ungathola indawo lapho idonsa kangconywana khona i-network**.**

*English:*

In the meantime, can you try again?

*IsiZulu*:

Siyaxolisa. Awuzwakali, uyanqamuka. Usasenathi Nkosi Cebekhulu? Makazame, sizobuyela kuye.

*English:*

We will retain your ...

Mr N SIGNH: Hon Chairperson, if you would allow perhaps I could assist from my side as the signal is clearer and deliver Inkosi comment on this one.

The HOUSE CHAIRPERSON (Ms M G Boroto): Lets allow him to come back. If he doesn’t you will. We proceed with other parties. He still has a minute there. He is left with one minute and 42 seconds. But we didn’t hear anything. We will give Inkosi Cebekhulu two minutes if he comes back or if you come back.

Mr F J MULDER: Hon Chairperson, the FF PLUS is in support of this report. Therefore, there is no declaration. Thank you.

Mr W M THRING: Hon House Chair, the position of the ACDP on the imbibing of alcohol is well known. Clearly, the biblical injunction of wine is a mocker and strong drinking is raging and whoever is deceive thereby is not wise.

Is just as applicable today as it was then. It was on this basis that the ACDP supported the restrictions on the sale of alcohol during the early lockdown period as a means of free hospital beds and staff

Our position of stands on this has been vindicated and many including medical personnel and frontline workers can attest to this. With that been said the ACDP is aware of the reservations of the President on the Liquor Products Amendment Bill pertaining to: firstly, the tagging of the Bill in terms of the joint Rule 163(3) and secondly, the effect of the Bill the regulation of traditional African beer and its effect on customary practices with regards to production distribution and consumption of traditional African beer particularly as the Bill was not referred to the National House of Traditional Leaders

The ACDP notes that the procedural defects in the Bill have been corrected and that the National House of Traditional Leaders has been consulted while the position of the ACDP on alcohol is known and unchanged, we recognise the importance of regulation in safeguarding human health and safety as well as the necessity of control and preventing the proliferation of the production for sale of illegal liquor products. The ACDP hands support the committee recommendation and also this report. I thank you, House Chair.

*Declarations of vote cont.*

Mr L M NSHAYISA: Thank you very much Madam Chair. We think the President was spot on in returning this Bill. He has got a great respect with regard to traditional leadership. We do appreciate that because it does recognise our traditional leadership. It doesn’t mean that men are being stopped from drinking. It’s just a way of regulating so much indulgence in liquor so they should not [Inaudible.]. We do support the adoption of the Bill. Thank you very much.

Mr W M MADISHA: Thank you hon Chairperson, COPE supports. Thank you.

Mr M NYHONTSO: Hon Chairperson, the PAC supports.

Mr M G E HENDRICKS: Thank you very much hon House Chair. The administration in Australia and in many other countries and research has been repeated over the years that increasing alcohol trading hours increases alcohol harm.

You were quite right that the position of the DA speaker could be irritating. Hon House Chair, it is the most irritating speech I have ever heard in the Sixth Parliament and it’s a disgrace to the Sixth Parliament that such a speech has been made.

The ACDP has given leadership with regard to what our position should be on this particular matter and I would like to congratulate and thank them.

The DA tried to make Cape Town the drunk capital of the world and now they want to make South Africa the drunk country of the world. This is unacceptable and it must be opposed.

We hope that the traditional leaders will take into account the research that increasing alcohol trading hours will increase alcohol harm and that they will give leadership to the country. Thank you very much hon House Chair.

Mr M K MONTWEDI: Thank you House Chair, I’m taking it on

behalf of hon Matiase.

The HOUSE CHAIRPERSON (Ms M G Boroto): Re a leboha ntate o ka tswela pele.

Mr M K MONTWEDI: Chairperson, when we debated this Bill for the first time here, we told you that it would be foolish and insulting to African culture if the Bill were to pass with the kind of reference it made to African traditional beer.

While we lauded the other objectives of the Bill in relation to regulating the production and sale of alcohol, we felt then as we still do now, that the drafters were over [Inaudible.] in the manner they characterised traditional African beer as among the alcoholic beverages that had to be regulated.

We told you then as we do now that umqombothi is not just an alcohol, it is a drink used by Africans to connect and communicate with their ancestors. It is an indelible aspect that of African culture, one that can’t just be wished away by the stroke of a pen.

We therefore, fully agree with the reservations of your President of the ANC, hon Mandela, that the Bill should not be passed in Parliament with glaring defects such as these.

The fact that it did not pass Parliament is evidence of just how much this House has retreated from the habit of thinking in favour of hurt mentality that is now so deeply embedded in the ruling party.

The report on the Portfolio Committee on Agriculture on how it has attempted to correct these defects fails to appreciate the argument we made and which the President of the Republic also

made. It fails to appreciate the changing nature of South African society and that today because of rapid urbanisation, there are many women in townships who bree umqobothi for sale at a very small scale. They still service your traditionally inclined man who still identifies umqombothi with their culture. It is therefore foolish to categorise this kind of production for sale as commercial production. No one produces umqombothi for commercial scale, it is produced for a specific need.

The portfolio committee has once again failed to appreciate the full extent of the precedence objection to the Bill and we feel that amendments made are not taking us anywhere.

Before I conclude House Chair, it’s important that I reflect on what my friend in the DA said. If the DA thinks that farmers are only white thieves who stole our land, our position is that the land must be shared by all and ensure that land ownership patens reflect the demographics of the Republic of South Africa.

If our quest to fight for the return of stolen land amounts to not loving farmers, then I do not know what love. Equally the electorate as much as correctly so Mr Masipa, they are fed up

with the ANC, they are equally fed up with the racist DA. We reject the report of the portfolio committee. Thank you very much House Chair.

The HOUSE CHAIRPERSON (Ms M G BOROTO): Order! Order!

*IsiZulu*:

Hheyi! Anike nize endlini uma nifuna ukukrwebhana mani. Hhayi! Yho! Baba uCebekhulu, uyatholakala?

Mnu N SINGH: Hhayi, Sihlalo ...

*English*:

... he is having problems. Ndabezitha is having problems, he has asked me to proceed.

The HOUSE CHAIRPERSON (Ms M G BOROTO): You may proceed.

Mr N SINGH: Thank you very much hon Chair. As Ndabezitha was saying, the IFP views the attempt to regulate traditional African beer as an invasion of customary rights.

*IsiZulu*:

Sifuna ukuwuphuza umqombothi, Sihlalo.

*English*:

In the absence of compelling evidence of health and safety concerns concerning the production, distribution and consumption of traditional African beer, the IFP sees no reason to interfere with traditional communities in this way. It goes without saying that, if there is excess energy to make legislation, that energy must be extended on real issues that need real legislation.

It is not within our legitimate powers to try and impose legal requirements on each and every aspect of traditional life.

Traditional communities are protected by the Constitution, and that should be respected. African traditional beer as others have said, is an integral part of customary life which we should not feel justified to interfere with.

The IFP agrees with the President’s reservations that the Liquor Products Amendment Bill affects customary practises on the production, distribution and consumption of African traditional beer, and that any attempt to regulate in this way affects these communities, whose inputs must be sought.

This committee is obliged to solicit and consider the inputs of traditional communities. In our law, this needs us to refer

the Bill to the National House of Traditional Leaders for input which has been done. What is left is the referral of the Bill to the National Council of Provinces. Subject to the referring errors identified in the Bill, the IFP supports the recommendations of the committee and this report as a whole.

Ngiyabonga Sihlalo (Thank you Chair).

The HOUSE CHAIRPERSON (Ms M G BOROTO): Thank you hon members. Are there any objections?

Mr N CAPA: ANC, ANC declaration Chair!

*IsiXhosa*:

Undilibala njani Sihlalo?

USIHLALO WENDLU (Nksz M G BOROTO): Ndiyaxolisa, ndiyaxolisa

...

*English*:

... House Whip. May I call on the ANC.

*IsiXhosa*:

Mnu N CAPA: Enkosi, ndiyakuxolela Sihlalo weNdlu.

*English*:

Hon Chair, hon Minister Thoko Didiza, hon Deputy Ministers, hon Skwatsha and hon Dlamini, hon members and hon members of the media ...

*IsiXhosa*:

... naso sonke isizwe sakowethu. Mandiqale ngokutsho ukuba siyi-ANC sonelisekile ngala makhwiniba uMongameli athe wawaphakamisa kulo Mthetho-sihlomelo oYilwayo kwaye siwathathele ingqalelo. Kananjalo njengoko ikomiti iye yawuthumela lo mthetho kwiNdlu yeeNkosi. Nalapho kwiNdlu yeeNkosi, iziphakamiso sithe sazithathela ingqalelo. Sibamba ngazo zozibini ke kuMongameli nakuyo iNdlu yeeNkosi.

Ezi ndawo sifikelela kuzo nje siqale safikelela kwinto ethi, kanene abantu bakuthi oko bathi bathathelwa umhlaba, kwatshintha iindlela zabo zokuphila, kangangokuba baphantse bathathelwa nobubona obu, le yeyona ngxaki eyabangela ukuba abantu bazabalaze befuna ukukhululeka. Ukulwela inkululeko yinto apha ehlangeneyo nabantu ukulwela ukubuyiswa kobuni nobume babo. Xa ndithetha ngokulwela inkululeko, ndithetha ngento i-ANC exhentsa entla kuyo Sihlalo.

KuMgaqo-siseko wayo i-ANC kwisolotya u2,5, xa ndicaphula kuyo ithi:

*English*:

Build a South African nation with a common patriotism and loyalty in which the cultural, linguistic and religious diversity of the people is recognised.

*IsiXhosa*:

Naku ke ngoku kusonakala Sihlalo. Oko kwathi kwafika izinto zaseNtshona, nditsho neendywala zakhona, utywala besintu baqala boyanyaniswa nobundlobongela, ubundlavini, ubundladiya ukungaphucuki nukubasemva. Kanti ...

*English*:

... here are the facts: The African beer has always been consumed on social activities. It was always an offering for the ancestors. It was always an offering of the African social fabric and used for dietary purposes. The African beer was brewed and consumed at ceremonies and occasions such as funerals, weddings, entertainment for friends and for religious and initiation occasions.

*IsiXhosa*:

Ezi zizinto ebezikhona kwaye zixhaswa bubukho botywala besintu.

*English*:

It is important therefore that, given the transformation nature of the South African Constitution, our interest as the ANC is to realise that, the importance of legislative and policy implementation towards the achievement of a better society for all South Africans. It is important to ensure that the development of legislation and policy impact on the rural livelihoods and practises of traditional communities, should help these communities to unleash the economic potential.

Therefore, as the ANC ...

*IsiXhosa*:

... sitsho ukuthi ...

*English*:

... we support the proposal in this Liquor Products Amendment Bill. We note that the proposal amendments are in relation to the commercial production and sale of African beer and will not affect the traditional home brewed beer for personal consumption and for cultural purposes. For this purpose, we as the ANC support this Bill. I thank you Chair.

Question put that, the report be adopted and the Bill with a technical correction being passed.

Motion agreed to (Al’ Jama-ah abstaining and Economic Freedom Fighters dissenting).

Report adopted and Bill, with a technical correction, accordingly passed.

Debate concluded.

The HOUSE CHAIRPERSON (Ms M G BOROTO): Hon members let’s remind each other that tomorrow we start earlier than usual at 10:00. That concludes the business of the day. The House is adjourned.

The House adjourned at 17:15