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***PROCEEDINGS OF THE NATIONAL ASSEMBLY***

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The House met at 15:00.

The Speaker took the Chair and requested members to observe a

moment of silence for prayer or meditation.

The SPEAKER: I am sorry, the Deputy President. Hon Mkhaliphi,

on the virtual platform, you have your hand up.

Ms H O MKHALIPHI: Yes, Speaker. There is a very terrible noise

coming from there. I think the IT must check because we

couldn’t hear you.

The SPEAKER: Okay. Thank you very much. IT, will you please

check that? Hon Deputy President, you may take your seat

whilst we are checking. IT, you are given two minutes, check.

May we proceed. Hon Mkhaliphi, can you hear me now?

Ms H O MKHALIPHI: Yes, speaker we hear you but the noise is

still there. Maybe they can work on it.



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The SPEAKER: Noise?

Ms H O MKHALIPHI: Yes. There is a terrible feedback coming

from that ... Yes.

The SPEAKER: Hon members? IT, is everything okay at the back?

Can we proceed now. [Interjections.] Thank you. Hon Gungubela,

you had your hand up. [Interjections.] Okay. It seems, hon

members, we are okay now. We proceed. Hon Deputy President?

**QUESTIONS TO THE DEPUTY PRESIDENT**

Question 7:

The DEPUTY PRESIDENT OF THE REPUBLIC: Thank you, hon Speaker.

According to the President's response, Ministers and Deputy

Ministers have signed performance agreements.

The President appoints the Deputy President and Ministers and

delegate responsibilities to them, and has the power to remove

them, as stated in section 91(2) of the Constitution.

Hon Speaker, the performance agreements are meant to enable the

President and the respective Ministers and Deputy Ministers, to



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effectively evaluate the assigned responsibility and to identify

areas of concern.

The current system is not determined to provide for the signing

of performance agreement between the President and the Deputy

President, whom you know very well, is appointed to assist the

President in the execution of the functions of government in

accordance with section 91(5) of the Constitution.

However, the work of the Deputy President is evaluated against

the responsibility that have been delegated by the President

from time to time. Thank you very much, hon Speaker.

Ms S GWARUBE: Deputy President, performance agreements of the

Ministers are meant to gauge and assess their performance

within the portfolio to resume according to your response. But

in order for this to be effective continuous assessment must

be done so that nonperforming members of the executive can be

removed from their positions either assessment must be made

public for transparency but it does not seem to be the case

since it carry the commitment to have this done since 2019 was

near ...



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In addition to this the key function as you stated as the

Deputy President and the President you have to lead the

country in the interest of national unity in accordance with

the Constitution and the law.

So, based on the constitutional responsibilities that the two

of you have would you agree that the admission by the

President that millions of dollars in a private property was

stolen and not reported to the criminal justice system will

cast doubt on his ability to uphold the rule of law which is

his responsibility and yours which is central to your role and

his ability to manage the Cabinet.

The DEPUTY PRESIDENT OF THE REPUBLIC: Thank you, hon Speaker.

Well, it is correctly said that the performance agreements

that we signed between the President and the Ministers, Deputy

Ministers are meant to evaluate performance. And of course,

the outcome of that evaluation is communicated to the relevant

Minister and the relevant Deputy Minister.

So, the President does that from time to time. I have never

seen an incident where the President will do it public. It

will be between the President and the respective Minister

after that performance assessment.



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The question that you are raising now about the development of

the issues surround the farm robbery in the President’s place

are things that has been reported to the police and I take it

that we should allow the respective law enforcement agencies

to investigate without our interference. And finally, made

their investigation known. If they want to charge the

President, they will do so at a proper time. So, I think we

should allow that process to unfold. Thank you. [Applause.]

The SPEAKER: Thank you very much, Deputy President.

[Interjections.] Order! [Interjections.] Order!

[Interjections.] Order! Hon Gwarube? [Interjections.] If I may

raise this matter ... [Interjections.] ... No, no, no, would

you please listen. I may raise this matter - your follow up

question had absolutely nothing to do with the question you

initially raised with the Deputy President. I just wish to

draw your attention to that. The second supplementary question

will be asked by the hon F A Masiko through a virtual

platform. Yes.

Ms F A MASIKO: Thank you very much, Speaker. And thank very

much ...



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Mr D W MACPHERSON: What’s that referred to. If one cast the

eye to that procedure for 2004 page 196, 1,3: Its very clear

on what the scope of the questions can be asked to the

President and to the Deputy President. And it is matters that

the individual is responsible for or delegated to.

Now it’s very clear that, the hon Gwarube has raise or follow

up whilst a key part of what the President should or should

not be doing with respect to performance agreement. And that

if there is a question over his integrity or what has or has

not happened in relation to the incident in his farm it causes

doubt on his ability to do that job. So, the follow had

absolutely everything to do with the original question as is

in line with the guide to procedure. [Applause.]

The SPEAKER: Thank you. Hon Dlakude?

The DEPUTY CHIEF WHIP OF THE MAJORITY PARTY: Thank you very

much, hon Speaker. Hon Speaker, the Rules of the House are

clear. The follow up question must come out from the original

question. So, we cannot as this Members of Parliament sneak in

something that is not on the original question. So, the hon

member knows the Rules better. She is the Deputy Chief Whip of

the Opposition. So, we cannot be opportunistic about bringing



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other things that are not necessarily in that question. Thank

you very much. [Applause.]

The SPEAKER: Thank you very much, hon Dlakude. Hon member,

would you please take your seat? I did not recognised you.

[Interjections.] Take your seat. I have not recognised you.

Will you please now lower your hand as I address you? Rule

142(6) says a supplementary question must arise directly from

the original question and the reply given that to may not

constitute a new question. That is the Rule. [Applause.] And I

close that matter. Now, the hon Deputy President?

The DEPUTY PRESIDENT OF THE REPUBLIC: Well, hon Speaker, I am

waiting for the next follow up supplementary question.

Ms F A MASIKO: Thank you very much, hon Speaker. And thank

you, hon Deputy President for your response. Deputy President,

in line with the Constitution of the Republic, the President

has assigned the Deputy President delegated responsibilities

for 2019-24 term of government. This mainly include providing

political leadership as well as to ensure co-ordinate things.

How does the Deputy President ensure that the institution

which apart from its delegated responsibility implement their



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programme in according to their mandate? Thank you very much,

hon Speaker.

The DEPUTY PRESIDENT OF THE REPUBLIC: Thank you, hon Speaker.

I think the hon member would appreciate the fact that all the

institutions and the structures that we are co-ordinating they

have their own terms of reference in terms of what they must

perform. Ours as the Office of the Deputy President is just to

co-ordinate the activities so that we achieve the desired

goals speedily and ensure that there is effective service

delivery from time to time.

And after doing our work of co-ordinating the different

departments and institutions we report back to Cabinet about

our activities. Thank you very much.

Ms H O MKHALIPHI: Deputy President, while the Constitution

indicates that the functions of the Deputy President are

determined by the President. Section 90 of the Constitution

provides that should the President be unable to perform his

duties for any reason the Deputy President must be first in

line to assume the responsibilities assigned to the President

by the Constitution.



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Taking into account with the latest development of the

difficult criminal clouds hanging over the President now

relating to allegations of money laundering, will you be ready

to assume the responsibilities should he resigned as provided

for in the Constitution in relations to this criminal cloudy

hanging over the President in his head? Will you attempt to

convince him to stay in the office, which not in the country’s

interest? Thank you very much, Speaker.

The DEPUTY PRESIDENT OF THE REPUBLIC: Thank you, hon Speaker.

I don’t think we have reach that point. I don’t think we have

reached any point that seeks to say the President must step

down. All I know is that, a case has been opened and we have

allowed the different institutions of our country to

investigate and make a determination. And beyond that probably

a decision will be taken after a determination has been made

of which we can’t probably jump the gun and say this is going

to be the determination. Thank you. [Applause.]

Mr N SINGH: Thank you very much, hon Speaker. Hon Deputy

President, I was a bit confused by the question in the first

instance because the question asked whether you signed

performance agreement with the President? And the answer to

that is no.



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The DEPUTY PRESIDENT OF THE REPUBLIC: Yes.

Mr N SINGH: You did not sign performance agreement with the

Ministers and Deputy Ministers. But being second in charge,

Deputy President, I am sure you must be aware of the

methodology that used to set performance targets for Ministers

and Deputy Ministers. Are you aware and do you want the

President in setting these targets? And are you satisfied by

that most of them if not all of them are meeting the targets

that have been set for them in their respective departments?

Thank you.

The DEPUTY PRESIDENT OF THE REPUBLIC: Thank you, hon Speaker.

From where I am sitting I think I am satisfied because I

participate. I participate in all the processes. When the

President is sitting talking to individual Ministers I am also

present in that meeting. When the President is talking to

individual Deputy Ministers I also take part.

So, my duty is to support the President. So, I am quite aware

of all the processes that we have put in place to set this

performance agreement. Thank you very much. [Applause.]

Question 8:



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The DEPUTY PRESIDENT OF THE REPUBLIC: Thank you, hon Speaker.

The World Health Assembly agreed at the special session which

was held on 29 November to 01 December 2021, to start a

process of developing and negotiating a treaty on pandemic

prevention, preparedness and response. To this end, an

Intergovernmental Negotiating Body was set up to lead the

negotiations and drafting of the treaty, in consultation with

various stakeholders including Member States and civil society

organisations. Drawing on the lessons that were learnt from

responding to the coronavirus disease 2019, Covid-19,

pandemic, the proposed Global Pandemic Treaty will complement

the International Health Regulations. To this end, the

agreement will seek to outline the objectives and fundamental

principles necessary for effective collective actions to fight

against pandemic, address gaps in the current legal framework,

and clarify roles and responsibilities of states and

international organisations, among others.

It is envisaged that this global treaty will, among others,

enhance surveillance of pandemic risks and alerts, ensure

uninterrupted health supplies and services and effective

research and innovation for timely development of vaccines,

treatments and diagnostics, ensure better response mechanisms

and implementation as well as restore trust in the



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international health system. Currently, the Intergovernmental

Negotiating Body is conducting consultations with stakeholders

to produce a working draft of the treaty, which is due to be

considered at its meeting later this year. The 76th session of

the World Health Assembly in 2023 will receive a progress

report on the draft treaty, with the plan for the treaty to be

adopted in 2024.

For South Africa, it is crucial that the treaty is anchored on

human rights to ensure equitable access to various available

medical solutions in order to improve the health and well-

being of all our people, irregardless of their social standing

and their geographical location. When it comes to

international agreements, section 231(1) of the Constitution

is clear that the negotiation and signing of all international

agreements is the responsibility of the national executive.

Parliament will have a role in the ratification of the treaty

once concluded, as international agreements become law after

being approved by resolution in both the National Assembly and

the National Council of Provinces. Simply, this means that

international agreements become national law only upon

ratification by Parliament.



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Therefore, in this regard, it goes without saying that the

Minister of Health is enjoined by the Constitution to submit

the treaty to Parliament for consideration and approval. Thank

you, hon Speaker.

Rev K R J MESHOE: Thank you, Speaker and Deputy President.

Public participation in law-making and agreements to any laws

which are to be binding to citizens is a fundamental tenet of

constitutional democracy that should never be ignored. Any law

affecting a country and the right of citizens to self-

determination should be subjected to public scrutiny and

participation as well as parliamentary debates if

constitutional democracy is to be preserved. The ACDP is

grateful to the 47 African countries led by Botswana that

refused to sign amendments to the International Health

Regulations this past week at the World Health Assembly in

Geneva.

My question to you, Deputy President, is whether after public

participation where opinions of citizens would have been

solicited, you will ensure that a clear mandate is obtained

from the National Assembly and given to the Health Minister

and his officials not to sign the proposed amendments to the

International Health Regulations which, among others, would



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give additional powers to the World Health Organisation ...

[Interjections.]

The SPEAKER: Hon Meshoe, your question please to the Deputy

President. Question please.

Rev K R J MESHOE: Yaa, I’m reading the question now, Speaker.

I said my question to the Deputy President is whether after

public participation where opinions of citizens would have

been solicited, he will ensure that a clear mandate is

obtained from the National Assembly and given to the Health

Minister and his officials not to sign the proposed amendment

to the International Health Relations which, among others,

would give additional powers to the World Health Organisation

to unilaterally decide to impose decisions on nations of the

world thereby undermining their sovereignty. Thank you.

The DEPUTY PRESIDENT OF THE REPUBLIC: Thank you very much, hon

Speaker. I think I’ve answered the question, hon Meshoe, I

said that the Minister of Health is enjoined by the

Constitution after all the consultations and negotiations with

stakeholders to finally bring that report to Parliament for

consideration and approval. Therefore, Parliament will have an

opportunity to deliberate on the report on the proposed treaty



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and make amendments where necessary before it becomes law.

That’s what I said.

Mr D L MOELA: Thank you, hon Speaker. Greetings to the Deputy

President and all hon members. Thank you, Deputy President,

for your response especially on section 231 of the

Constitution of the Republic that provides the negotiating and

signing of all international agreements is the responsibility

of the national executive. You have well captured that.

However, further than that, Deputy President, could the Deputy

President outline the consideration that are usually made by

the members of the executive in general when discussing the

international treaties to ensure the advancement of our

national interests. Thank you, hon Speaker and the Deputy

President.

The DEPUTY PRESIDENT OF THE REPUBLIC: Thank you, hon Speaker.

Firstly, as we look at these international treaties as a

country we consider first our national interest. As we discuss

and make proposals we do that in the interests of the country

first. Secondly, we do this to deepen our integration into the

global community. You’ll understand from our past that South

Africa has been excluded in this international bodies, so it’s

important for our participation to deepen our role as a



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country and our participation. Thirdly, to ensure that we

protect the human rights of our people following the standards

that we set worldwide. Therefore, we need to set a standard as

a country that will assume the standard of the world. If we

want to be the best, we must compare ourselves with the best.

However, all in all we want to elevate the human rights of our

people noting our past from where we come from, where these

rights were trampled upon by the system that we had to

destroy. Therefore, moving forward we need to elevate these

rights and protect them. So, these are the interests that we

take into consideration as we discuss these treaties and take

part in this international bodies. Thank you very much.

Ms M O CLARKE: Thank you. Good afternoon, Deputy President.

Just in terms of my follow-up question to a certain degree you

have answered the clarity I was seeking. However, I would like

to highlight that clear timeframes are set in terms of the

draft treaty when it comes to Parliament. So, it doesn’t

become an open-ended matter. Therefore, once that draft

document is ready whether you would set clear timeframes for

it to ... [Inaudible.] ... to Parliament so that we don’t have

the same issue we had during Covid where there was no

transparency during Covid period and ... [Inaudible.] ...



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corruption was ... [Inaudible.] ... and Parliament had no

oversight during that period of time. Therefore, could you

give that guarantee, Deputy President, I’ll be very happy.

Thank you.

The DEPUTY PRESIDENT OF THE REPUBLIC: Thank you very much. The

timetable and the timeframes are set by the World Health

Assembly and they have determined exactly when do they want to

conclude this treaty. Therefore, Member States have been given

an opportunity to go and discuss in their states and in their

countries and consulting all stakeholders which I think in the

process you will also be consulted. You’ll have your own

input. However, before anything can happen to this treaty it’s

will be brought back to the House for your ratification and

for your final approval. Thank you very much.

Ms H O MKHALIPHI: Okay, Speaker I will take it as well. Deputy

President, as things stands there is not even a test of the

so-called global pandemic treaty. Therefore, the issue should

not even arise. What is a concern, however, is the vaccine

imperialism that has dominated the global response to the

corona pandemic which firstly, led to Western countries

holding the vaccine and secondly, to these countries of

delegitimising any vaccine development from outside? Why has



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this country not acquired vaccine produced in China and Russia

to fight the corona pandemic? Was this due to pressure applied

by Western Nations who want to monopolise the production and

sale of vaccine in the world? Thank you, Speaker.

The DEPUTY PRESIDENT OF THE REPUBLIC: Thank you very much, hon

Speaker. I think the World Health Organisation has realised

the amount of work that it’s needed to co-ordinate any

pandemic and any outbreak of any pandemic. Now, learning from

the Covid-19 experience, therefore, they’ve decided to put

down a proposal of developing this treaty so that in future we

are better place to manage any pandemic that might arise and

ensure that developing communities and developing countries

are also catered for not like what we’ve seen in this Covid-19

pandemic where developing countries were the last in the queue

in terms of getting their vaccines.

In future we want to avoid this situation so that we are

better prepared that they should be any equitable distribution

of these vaccines and ensure a comprehensive response that

will benefit even developing nations. I think that is the

essence of this treaty, is just to promote working together

and ensure that those that don’t have the resources are also

catered for. Thank you very much.



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Question 9:

The DEPUTY PRESIDENT OF THE REPUBLIC: The destruction to

infrastructure and loss of lives in the floods affected areas,

calls on us to ensure that as we rebuild, we do so better and

differently.

We acknowledge that the current spatial distribution patterns

and water management systems, were not designed to handle

severe natural disasters as experienced in the affected

provinces. This calls for a rigorous re-design of our spatial

arrangements and proper maintenance of our drainage systems to

prevent it from clogging up.

Already, prior to these unfortunate floods, government through

the Department of Water and Sanitation, has already started a

process to investigate potential impact of projected climate

change disasters that are caused by extreme rainfall and

tropical cyclones.

To this end, government has put in place interventions for

post-floods reconstruction of the infrastructure in affected

provinces. A war room by the Department of Water and

Sanitation has been established as part of short-term

interventions to assist vulnerable communities with water



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supply and sanitation systems. This will address current

challenges to communities in affected areas, while essential

services are being replaced and repaired.

This Water and Sanitation War Room will in the short-term

ensure the; provision of relief measures to vulnerable

communities through the hired water tankers for a period of 90

days that complement the supply of water to affected

municipalities while water services are restored and

infrastructure repaired; assistance to affected provinces to

implement immediate interventions in order to stabilise water

supply and sanitation systems; and avail engineering services

from the Department of Water and Sanitation as well as from

affected municipalities, to repair or replace essential water

and sanitation services infrastructure so that full water

supply is returned to normality.

The Department of Water and Sanitation has dispatched a team

of multi-disciplinary engineers and technical experts to

assess and cost flood damage.

The team will also prepare a report for the Department of

Water and Sanitation and the National Treasury, which will

include a full cost estimate of the damage caused by the



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floods so that adequate resources are allocated to the

rehabilitation projects.

The IMC, Inter-Ministerial Committee on Water and Sanitation

will continue to monitor these projects and ensure that

political oversight is in place to support coordinated efforts

to complete these projects.

In the medium to long-term, particularly for the purposes of

better preparedness in the vulnerable areas, the response will

be to invest in climate-proof infrastructure including climate

sensitive drainage systems.

Furthermore, the Municipal Infrastructure Support Agency's

technical support services to municipalities will ensure that

spatial allocation is reshaped, resulting in better access to

safer settlements, economic prospects, and long-term

infrastructure provision.

Most importantly, local government will need to communicate

information to populations living in flood-prone areas as well

as provide early warning systems and improved spatial design

that is sensitive to environmental conditions, in order to

build resilience. Thank you hon Speaker.



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Mr T V MASHELE: Hon Speaker, there are members in the

opposition benches who are not wearing masks. May you please

request them ask them to comply to the covid protocols.

The SPEAKER: Hon Radebe? Hon Radebe?

Mr B A RADEBE: Thank you hon Speaker. Hon Mashele is drawing t

to your attention that there are members of the opposition who

are not wearing their masks, I’m very pleased she’s wearing

the mask now.

Hon Shaik Emam was not wearing a mask and it is against the

Covid-19 regulations.

Hon Macpherson is not the shop steward of the opposition; he

cannot interject when the ... [Inaudible.] ...than you.

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

Speaker. Madam Speaker I rise on a point of order, point 97.

There is a time and place for a point of order. The hon member

stood up and actually called Mr Macpherson “tjatjarag” and

we’ve decided that, that is an unparliamentary word to use in

this House.



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But I did not stand up unnecessarily because we have our

Deputy President standing before us. So, let us show some

respect to the Deputy President and not act like children in

the House and respect one another. If you have a problem with

one of my members, please let me know and I will sort it out.

Our Deputy President deserves the respect to answer the

questions. Thank you very much.

The SPEAKER: Thank you hon Mazzone. Hon members, please do not

use the term “tjatjarag” again.

Mr M A TSEKI: Two wrongs do not make a right.

*Sesotho:*

Ke a leboha motsamaisi wa dipuisano.

*Tshivenḓa*:

Ndaa, Mufarisa Muphuresidennde.

*English:*

Early warning systems are important if we are about to

mitigate the unknown impact of climate change disaster and our

science and innovation entities such as the space when the



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centre of South African Weather Service and other institutions

have those capabilities.

Therefore, drawing from the recent floods, how will government

ensure that affected communities are settled at areas that

will not be flood prone and prohibit those who attempt to

build in flood prone areas?

How will government strengthen its responses, capabilities to

disaster early warning alerts as this has a major impact in

the ability of mitigating the impact?

*Sesotho:*

Ke a leboha Motlatsi wa Moporesidente.

*English:*

The DEPUTY PRESIDENT OF THE REPUBLIC: Thank you hon Speaker.

The hon member will realise that the provincial government and

the municipalities in the area were well prepared for the

second round of flooding, people were evacuated and placed in

areas of safety beforehand.

I think we need to strengthen those institutions and

communication so that we save our people. Going forward we are



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going to strengthen our early warning systems and we are able

to reach our people in the far flung areas where there is no

network communication.

We are going to try our best to ensure that we save our people

but as we relocate our people to safer places, we will do so

and ensure that we are not going to rebuild human settlements

in areas that are prone to disasters.

Cash will be taken by both the provincial government as well

as the metros and the municipalities so that this cannot

happen again.

Also, going forward as we build our roads and water

infrastructure, we should take into consideration that one day

there will be floods. We need to place infrastructure that is

better prepared to withstand the changing weather conditions.

Thank you very much.

Mr L J BASSON: Thank you Madam Speaker. Deputy President,

KwaZulu-Natal is still waiting for treasury to cough up

R1 billion for relief funds for the reconstruction of

infrastructure promised by President Cyril Ramaphosa two

months ago.



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Durban’s economy has taken a major blow and now the eThekwini

municipality must borrow R500 million to repair the city’s

infrastructure that was damaged by the recent floods. The

damaged infrastructure has led to the decline in revenue and

has the potential of undermining the confidence of current and

future investors and undermining the city’s growth prospect.

eThekwini needs the money to deliver services but government

is not coming to the party and now rate payers must pay for

government’s failure. Deputy President, why must they borrow

money and how are you going to assist the metro to repair the

infrastructure? Thank you Deputy President.

The DEPUTY PRESIDENT OF THE REPUBLIC: Thank you hon Deputy

Speaker, from what I know regarding progress that has been

made, a number of departments are already intervening in the

area. I’m aware of the Department of Public Works and

Infrastructure in terms of the bridges in the area, I’m aware

of the work that is done by the Department of Water and

Sanitation, I’m aware of the work that is done by the

Department of Transport just to name a few.

The provincial government is working together with the

National Treasury. The provincial government has been directed



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to reprioritise its budget. A number of areas like the

Department of Health has managed to reprioritise money to

repair some of the clinics, Departments of Public Works, Road

and Transport managed to reprioritise money.

So, that is progressing very well and the National Treasury is

working together with the province to identify grants that

were supposed to be meant for the province and those grants

are put aside to support the metros as well as the

municipalities.

That’s the progress that I am able to provide. Speaker, if

possible we can provide a clear account in terms of all the

projects that are undertaken on the ground.

Well, I’m aware that there are still communities that are

still housed in community halls and city halls. The Department

of Human Settlements along with the province are doing

everything possible to build houses for those communities and

in a very short space of time they will be resettled to their

new homes. Thank you very much.

Ms T BREEDT: Thank you Madam Speaker. The great amount of

government resources, money and focus will be spent on the



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flood stricken areas of the North West, Eastern Cape and KZN.

The disaster has been devastating and as such, as much as

possible needs to be done to assist.

It is however well known that this Inter-Ministerial Committee

on Water and Sanitation has not only been brought into being

by these most recent floods. Many commitments specifically

sewage related have been made to address and processes have

started in other municipalities regarding water and sanitation

crisis that are not in these affected flood areas.

Hon Deputy President, how will you ensure that these

commitments are not left forgotten and these communities left

exposed to human rights violations due to their need for water

and a healthy environment with sewage pollution? I thank you.

The DEPUTY PRESIDENT OF THE REPUBLIC: Thank you very much

Speaker. Cabinet is getting a progress report from time to

time on what is happening on the ground.

I want this House to appreciate the extend of the problem as

we are trying to repair, relocate people and are still working

on trying to find the missing people. All these are happening



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concurrently as we try to repair and bring some services to

the people, we are also trying to find the missing people.

It is very difficult but that is not an excuse not to move

faster. So, we want to promise the people of KZN that

government is going to do better and we are going to up our

pace in terms of resolving some of the issues that are

confronted by these communities especially building long

lasting houses for them.

We know that they are pulling hard in terms of housing their

families. These temporary places are not good for families and

I’m sure people will appreciate the fact that government is

trying everything in its power to ensure that we restore these

places to normality given the difficult financial situation

that we find ourselves in. Thank you very much.

Mr A M SHAIK EMAM: Thank you hon Speaker. Deputy President,

you say that the infrastructure was not developed for

disasters of this nature, but between 1980 and 2010, there

were 77 floods in KwaZulu-Natal.

Now, my question is, and I don’t believe money is the only

solution to the problems in KwaZulu-Natal. Eight years ago



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when I was a councillor there, the water loss was 17% and

today it’s sitting at 52%. That is how bad the infrastructure

is crumbling.

So, the question is, if you are going to rely on the same

skills, same expertise, same people that fail you all these

years to ensure that there was proper maintenance for the

infrastructure, how are we going to solve the problem now when

the infrastructure is beyond rehabilitation it means you have

to put new infrastructure particularly in water and

sanitation? Thank you.

The DEPUTY PRESIDENT OF THE REPUBLIC: Thank you very much hon

Speaker. In trying to assess the damage that was caused by the

floods, we set up a team of engineers to go and assess the

situation and what was wrong with the current infrastructure,

what was wrong with the current drainage system and I’m sure

they putting a report together to say this is what was wrong

and as you rebuild, you need to redesign better so that you

can accommodate flooding and some difficult weather conditions

that from time to time may come.

So, I’m confident that as we move forward, we will have

learned something from this disaster especially this one was



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worse and I think we should take some lessons and try and do

better.

As we build a road we must know that this area is prone to

flooding. As we build a bridge, we must know that this area is

prone to flooding. So, we need to redesign the way we layout

our infrastructure, our roads and our buildings.

I’m sure you would have appreciated the seriousness of the

situation where a foundation of church building moved. I don’t

think those who designed that building had anticipated this

problem.

As we go forward, I think we need to change our way of

building so that we move with the time. Climate change is here

and it’s real. Thank you very much.

Question 10:

The DEPUTY PRESIDENT OF THE REPUBLIC: Hon Speaker, we remain

committed to ensuring the dignity of every South African, and

we will continue to visit every part of the country, including

Tsitsikamma, to trigger the necessary development where

specific interventions at the level of the Presidency are

required.



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For instance, in April 2021, we visited the area and handed

over land to the community of Covie village, after a

successful land settlement claim. The land had been lost when

it was declared part of the Tsitsikamma National Park.

Fishing rights, food security, a lack of economic prospects,

and agricultural support are all issues that communities face.

Given the land’s characteristics, it should be used

successfully for commercial and agricultural purposes. The

Covie community’s food security and livelihood are mainly

reliant on coastal resources, and the area offers abundant

agricultural and ecotourism potential.

As part of our postsettlement assistance, we emphasised the

government’s focus on agricultural support initiatives, to

ensure the productive and sustainable use of the land, as well

as the provision of critical service delivery infrastructure,

such as roads, electricity, water and sanitation to support

economic mobility and improve the life of the community.

The national and provincial governments committed to

implementing cohesive intervention measures, to address some

of the difficulties faced by the Tsitsikamma communities, in



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accordance with our delegated responsibilities on land reform

and agriculture.

Specifically, we are exploiting the area’s economic potential,

by also focusing on nonagricultural businesses like tourism,

as well as promoting small business ventures to make the

Tsitsikamma villages thrive. However, we must agree that

limited resources continue to be a significant hindrance to

exploring such possibilities. Notwithstanding such hindrance,

the following progress has been made since the handover.

Firstly, the Community Property Association collaborated with

the National Department of Agriculture, Land Reform and Rural

Development and the Department of Agriculture in the province

to design the establishment of pastures totalling 50 hectares,

in order to reintroduce cattle farming to the area.

Secondly, the Department of Social Development has opened a

Community Nutrition and Development Centre, which provides

food and day care services to the community.

Thirdly, in collaboration with Sanparks, the Covie Communal

property association, CPA, has focused on reviving the

Honeybush tea project.



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Fourthly, the Covie CPA has formed a partnership with a

private developer and signed a memorandum of agreement, to

form a venture for the development of both the commonage and

allotments.

Lastly, R12,3 million was transferred to the Covie CPA in

consideration of compensation for land that could not be

transferred to the community because it belongs to SanParks.

A follow-up visit to the Tsitsikamma area will be beneficial

to assess the development and impact of our postsettlement

support. Our visit should focus on the additional support

needed to improve economic prospects for the people

surrounding the Tsitsikamma National Park, both in provinces

of the Eastern Cape and the Western Cape.

In order for our land reform and rural development program to

be successful, we must focus our support and interventions on

the integration of our country’s rural areas, which must be

complemented by agricultural and infrastructure development,

to ensure sustainable rural communities and livelihoods. Thank

you.



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Mr A M SHAIK EMAM: Hon Speaker, Deputy President, allow me to

thank you for the initiative you have already put in place.

However, many challenges still exist in that area, given the

fact that right up to Tsitsikamma, right up to just before

Covie, the levels of poverty are very high. There are high

levels of unemployment in that area, substance abuse and

things. There are still opportunities for growing of maize,

wheat, poultry farming, etc. I think what the community needs

is a push, they need some assistance from government to come

there to put these initiatives in place and drive these

processes forward. There is lots of land available and people

are willing to do that. So, will you consider then, at some

stage, where there is free space in your diary, to pay a visit

and engage with the community so they can have some further

development, given fact that wheat is a crisis in South Africa

with the war between Russia and Ukraine? Thank you.

The DEPUTY PRESIDENT OF THE REPUBLIC: Hon Speaker, the

Department of Agriculture nationally and in both provinces are

doing very well in trying to support the community that has

been given back their land. On the other side, in the Eastern

Cape, you would appreciate the fact that the provincial

government has supported that community to upgrade their dairy

farms and to ensure that they get some pastures. They were



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also supported to rebuild some of the infrastructure that was

not there, some of the roads that were not there. So, we want

to thank the Eastern Cape Provincial Government.

The Western Cape Government has supported the Covie community

and we are going to support and join the Western Cape

Provincial Government in the building of the allotments and

the commonages for tourism.

So, there are a lot of opportunities available, especially

economic activities that are related to the sea, tourism and

all the resources that are in the sea, such as fishing. These

people feed themselves from day to day from fishing. So, they

are going to be supported and I am sure they are going to be

given fishing licenses, so that they can fish for productive

use. They can open up their businesses.

That area that has been resettled, the community, is a very

prime area for tourism, agriculture. All we need is to

consistently support the communities to make use of that land

for their own benefit. Thank you very much.

Mr S S SOMYO: Hon Speaker, Deputy President, thank you for

giving us information on the ultimate benefits to the



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communities in that area. I have had a good experience on my

drive to the Eastern Cape, recently. I went into the area

meeting the community there. They are very excited to have a

benefit of that nature. The land itself is breath-taking, the

environment is well kept, ... [Inaudible.] ... in the sense of

how the government has undertaken to give it over, as it were,

to those communities there. And it is a very good gesture of

ensuring that through reservation, our communities could have

a taste of the natural environment. The question remains: How

will government, generally, led by yourself, keep the current

land use purpose to the minimum and somewhat give them

instruction on the plan development in as far as ... [Time

expired.] ... environment is concerned. Thank you.

The DEPUTY PRESIDENT OF THE REPUBLIC: Hon Speaker, we are

confident that going forward, the land is going to be utilised

in a very responsible manner, because of the relationship

between the people and Sanparks. Sanparks is helping the

community around to preserve certain areas, to preserve

certain trees for conservation.

Again, Sanparks is helping the communities around, to develop

projects that, in a way, can sustain the environment, like the

project that we have mentioned – the honeytea. The honeytea



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will be grown there under the supervision of Sanpark, so that

the environment is kept up to scratch and not destroyed.

Again, I am sure that the Department of Tourism would want to

come closer to ensure that, as we attract tourists in the

area, we do that without destroying the very essence of that

environment, the beauty of that environment.

Surely, the Department of Agriculture, national and the two

provinces will do their agricultural activities, keeping in

mind that that area is bordering some conservation areas that

must be kept for future generations. Thank you.

The SPEAKER: Before I proceed to invite the hon member who

will ask the next supplementary question, I wish to caution

hon members against making long statements. You make long

statements, you finish your time and then you have to go

overtime to ask your questions. Please, don’t put me in that

situation, hon members.

Ms H O MKHALIPHI: Hon Speaker, it is Ms Mkhalipi on behalf of

hon Ntlangweni. Deputy President, last week, there was land

tenure sumemit hosted, which addresses issue relating to

access to and tenure to land. Land is the single most



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important determinant of opportunities for rural people. In

2010, the Constitutional Court struck down the Communal Land

Rights Act, Clara, because it gives more powers to traditional

leaders in relation to land in the rural areas. Does your

government have plans to revive a Clara type of legislation?

If you do, what lessons have you learned from Clara in

relations to the rights of rural people to their own land and

how will this people be protected from traditional leaders who

sell off pieces of land to commercial enterprises? Thank you.

The DEPUTY PRESIDENT OF THE REPUBLIC: With the Communal Land

Tenure Summit that was held, we are, in the main, trying to

find a very peaceful and permanent way of dealing with land in

our communal areas. Of course, there is a voice from the

people living in those communities that they want to own this

land. There are traditional councils that also see it very

differently and feel the land must belong to the traditional

council. We have kings and queens that have a different view.

So, we have made proposals to the summit. Now, there are

varying options that are available to all of us and it was

quite clear at the end of the summit that we cannot have one

size fits all. Different communities might want a different



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policy option; other communities might be suitable for a

different policy option.

So, as we move forward, we are going to present the proposal

from that summit and present it to Cabinet for further

guidance, so that finally, we can develop the necessary

legislation that will seek to accommodate the tenure system in

our communal areas.

Going forward, we are going to recognise our traditional

leaders and their traditional systems. We are going to

recognise our traditional communities with their customs and

values.

So, we will find a middle ground and ensure that people

utilise this land productively for their economic activities,

so that they can better their lives. So, that discussion is

ongoing and we are approaching a point where we are going to

legislate these policy options. Thank you very much.

Mr W M THRING: Hon Speaker, hon Deputy President, there are

many Tsitsikammas dotted and spread throughout South Africa in

need of economic development, job creation and small business

development. Areas such as Marion Bridge, ... [Inaudible.] ...



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Tsilinyama, Dussenhok, ... [Inaudible.] ... are such areas.

The main road leading to these areas called Milky Way has been

completely destroyed by the floods recently and trucks and

other vehicles having to drive residential area of Marion

Heights, Marion Bridge, adding to the economic hardships of

the residents, as well as damaging the roads infrastructure.

The President of ACDP, Rev Dr Kennith Meshoe visited some of

these areas. Now, as the leader of government business, what

guarantees or assistance, if any, can you give to the

residents of these areas that I mentioned, that like

Tsitsikamma are also desperately in need of economic

development? Thank you.

The DEPUTY PRESIDENT OF THE REPUBLIC: Speaker, I think all the

Tsitsikammas who are scattered all over must go back to their

place. We have given them back the land that they must go and

utilise. So, wherever they are, they must go back. They have

the land now. They have something that they can work on.

However, on a serious note, we want to assure that community

that we would continuously support them until they have

reached a point where they are self-sustainable. We are going

to assist them with the infrastructure like the roads there,

water infrastructure, sanitation. We are going to assist then



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to till the land. We are going to assist them to keep

livestock and to do a number of projects that can define their

economic way of life.

So, support to that community is guaranteed and I think they

have now in the bank R12,3 million that we are paying them for

the land that we could not resituate, because it is within the

park. So, they have money in their hands. They can plan for

some of the projects. Of course, the two governments, the

Western Cape government and the Eastern Cape government have

committed to assist. The Department of Agriculture and Rural

Development is also taking part in assisting these communities

to make use of this land. Thank you very much.

Question 11:

The DEPUTY PRESIDENT OF THE REPUBLIC: Hon Speaker, as

government we are cognisant of the negative impact of load

shedding on the country’s economy and the inconvenience and

hardship it causes to the country. However, load shedding is a

last resort lever to protect the system from blackout, which

is a total loss of the electricity network.

Government has created a regulatory environment that is

conducive to opening up the market for alternative power



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generation. Within the framework of the 2019 integrated

resource plan, alternative energy generation measures are

being explored and implemented to augment electricity supply

and improve the stability of the grid. Furthermore, the

Minister of Mineral Resources and Energy has issued

determinations on the required new generation capacity in

concurrence with the National Energy Regulator of South

Africa. We must make the point that Eskom’s load shedding is

not as a result of limited market role for alternative power

generation, but mainly as a result of breakdowns encountered

from the old and aging power generation infrastructure.

An improvement in the reliability and predictability of the

coal fleet requires adequate financial resources and

generation capacity surplus on the system to execute the

required additional reliability maintenance. To achieve this,

Eskom is driving the generation turnaround programme. As coal-

fired units and stations are shut down, it is essential that

new generation capacity be added to the grid to ensure energy

security. Overall, the country has an immediate need for 4 000

megawatts to 6 000 megawatts additional generation capacity

with immediate effect.



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To this end, the following interventions have been

implemented. As part of our just energy transition strategy,

Eskom has proposed an extra 8] 000 megawatts of clean energy

projects to be added to the grid over the next two to five

years. This is a mix of greenfield renewables and gas projects

as well as coal power plant repurposing.

Government is also considering various changes which will

speed up the acquisition of independent power producers and to

reduce further red tape. An announcement in this regard will

be made once all the necessary tasks have been completed.

In addition, Eskom has presented a transmission development

plan to meet the country's capacity demands which calls for

the construction of 8 000 kilometres of line over the next 10

years. This project will necessitate substantial funding which

Eskom has proposed as part of the just energy transition

financing and regulatory support for land and servitude

acquisition.

Eskom has proposed a holistic approach to decarbonisation and

environmental compliance by accelerating the retirement of

ageing and unreliable coal plants as part of its commitment to

the country's just energy transition plan. This will be done



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in a manner that is both socially and environmentally

responsible.

Co-ordination across all tiers of government is critical in

achieving our just transition as it will ensure energy supply

stability and provide a much-needed reprieve from the

detrimental effects of load shedding in the future.

In accordance with our constitutional and international

commitments, we reiterate our commitment to establishing a

socially inclusive decarbonisation growth path that

prioritises environmental sustainability. Climate change is

here with us and it is an existential threat to all of us and

South Africa is committed to assisting in the reduction of

global emissions.

To this end, the President formed the Presidential Climate

Commission which will advise on the country's climate change

response and support a just transition to a low carbon climate

resilient economy and society.

The Presidential Climate Commission encourages debate among

social partners on these challenges identifying the type of

economy and society we want to attain and outlining



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comprehensive paths to get there. The Presidential Climate

Commission has created a framework for a just transition which

allows for discussion of practical concerns such as jobs,

local economies, skills, social support, and governance. The

framework is based on the country's current body of knowledge

as well as the National Development Plan's vision.

Our transition must maintain policy alignment across all

levels of government, including the current Climate Change

Bill which is before Parliament.

As a county, we must guarantee that we implement new

infrastructure, technologies and solutions that allow us to

meet ambient air quality standards while also safeguarding

community members from the negative impact of environmental

externalities. Thank you very much, hon Speaker.

Mr S T MANELI: Thank you, Speaker. Thank you, hon Deputy

President for the response. The interventions that are being

undertaken will go a long way in ensuring that there are no

electricity disruptions to the people and the economy. It is

also encouraging to hear about the interventions with regard

to just energy transition. My question is, what is the level

of interest from the independent power producers to take



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advantage of the opportunities provided by the government

through various bid windows to provide additional energy to

the grid? Thank you Deputy President and Speaker.

The DEPUTY PRESIDENT OF THE REPUBLIC: The independence power

producers are very excited and, of course, they are

participating. Today, they have almost connected 1 800

megawatts to the grid. Gradually, they are coming into the

party, but, of course not at a speed that we are expecting to

solve our current problems of load shedding. We can guarantee

that the future is going to be better with the independence

power producers - the renewable energies that are from time to

time connected to the grid.

All announcements that have been made by the Minister of

Mineral Resources and Energy allowed all bid windows to

contribute power to the grid. Finally, that is going to give

us more energy for the future. We are hoping that all those

independent power producers who have been given these projects

can speed up the development of these project and connect to

the grid. South Africans, as we speak, need more and more

energy. Thank you very much.



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Dr W J BOSHOFF: Thank you Speaker and hon Deputy President. I

would like to know if we should expect any time soon a

complete deregulated electricity market where the actual smart

network is able to calculate the actual availability of power

and the demand for electricity at a specific time and

calculate the price according to that? In fact, remove all

market failures out of a regulated market. I just want to add

to that that if we really take the whole question of climate

change seriously one should actually encourage renewables by

even subsidising it if one takes a long-term perspective. But

in South Africa coal is still in a sense protected by a

regulatory framework that limits the entrance of renewables

into the network. Thank you, hon Speaker.

The DEPUTY PRESIDENT OF THE REPUBLIC: Thank you, hon Speaker.

Well, I think as we stand here I think the market is gradually

opening up, firstly for renewables. All independent power

producers are now allowed to generate energy and connect it to

the grid. We have also allowed municipalities to generate

their own energy. Yes, I can say we are opening up this market

so that Eskom must not remain a monopoly. I am sure down the

line we are going to open for more and more players like we

have done with the private sector - businesses that can

generate up to 100 megawatts. Yes, we are constantly opening



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up the market, but in a very responsible manner. Thank you

very much.

Mr N L S KWANKWA: Thank you very much, Speaker. Deputy

President, you are aware of the severe impact of load shedding

in the South African economy which causes loss of outputs of

approximately R700 million per day according to the estimates.

It also contributes to the massive job losses in the country.

Now you will recall that the shareholder strategic intent

outlined government short to medium and long-term objectives

for Eskom. I want to ask, since this shareholders strategic

intent has been adopted a long time ago, whether government

does indeed hold Eskom to account to ensure that these

objectives outlined in the intent, firstly, are implemented?

Secondly, the destruction is not linked to an allegation that

some of these independent power producers have some political

connected individuals, meaning that they have vested interest

in the destruction of Eskom? Thank you, Chair.

The DEPUTY PRESIDENT OF THE REPUBLIC: Thank you very much.

Well, load shedding is a situation which I think is not

desirable for the economy. We understand the frustration that

our people are facing on a daily basis as we are going through

this load shedding. We have explained a number of times more



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or less the reasons. Of course South Africans don’t want to

hear the reasons, but they want to hear solutions. Maybe it is

important to once again reaffirm the reasons that account for

load shedding.

We have a new built infrastructure that has design effect like

your Medupi and Kusile which by now should be operating in

full steam capacity. But because of the design effects there

are some units in Medupi and Kusile that are still not

functional. That is reducing our capacity.

Again, we have the power plants that have gone beyond their

lifespan. We are pushing them very hard and the maintenance

bill has gone high. To maintain these power plants has become

more and more expensive for Eskom. Of course the unplanned

breakages in these plants disrupt the plans for Eskom to do

proper maintenance that is scheduled. That is why Eskom will

announce load shedding in the middle of the night because a

certain plant has broken down. This is not according to the

planned outages that is planned by Eskom. Be that as it may,

the plan that we have put forward in terms of our IRP 2019 is

that we have allowed the different energy alternatives to come

into play. In the main we have allowed renewables. That has



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been a long journey from bid window 1 and we are now at bid

window 5, 6, 7 and we continue.

But like I said this is not giving us the energy that we

require now. We are getting it in bits and pieces and load

shedding continues to be with us. But I want to assure South

Africans that the plan that we have now will give us reliable

energy in a space of nine months. We are going to pursue these

independent power producers to bring their energy into the

grid. We are going to allow Eskom to consider putting a coal-

powered plan. Of course we are aware of the carbon emissions

and maybe we are going to find some technicians who are going

to reduce the emissions. We are going to use what is available

- the abundant coal resources that we have. We are targeting

the 1 500 megawatts that we are going to use from coal. But we

are also targeting 3 000 from gas to power. I think this will

be in a position to give us some immediate relieve if we act

with the speed and urgency that it deserves.

Yes, it is not a solution if people want to hear that load

shedding is going to end tonight. It is not something which is

going to end load shedding tonight, but yes, down the line

there are prospects of ending load shedding. Thank you very

much.



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Mrs N W A MAZZONE: Deputy President, I am sure that you will

agree that there are more 3 000 megawatts into the grid is the

number one priority to the South Africans in terms of

electricity and energy. One of the challenges that various

independent power producers in the industry that we have heard

have identified is the local content requirements. In fact,

Eskom CEO Andre de Ruyter has agreed and noted that it was

leading to a shortfall in capacity as local solar panel

manufacturers cannot meet the demand. Deputy President, in

your capacity as the Leader of Government Business, will you

take steps to ensure that this requirement is removed and that

the independent power producers, IPPs, and Eskom are allowed

to purchase their equipments and from whatever supplier they

choose whether local or international, and that they meet the

requirements? And if you do not remove that why don’t you?

The DEPUTY PRESIDENT OF THE REPUBLIC: Thank you very much. My

role as Leader of Government Business confines my work only in

Parliament, and not in real government business. We have

Minister Patel who is responsible for co-ordinating the

business that government does with the private sector. This is

really a concern that has been noted that some of the

components that the independent power producers need to

assemble and the plans up are not readily available and it



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takes time to source them and therefore making it very

difficult in terms of the timeframe to deliver these projects.

Be that as it may, that is going to be work in progress, but

there is commitment in terms of those independent power

producers to do whatever possible in their powers to ensure

that they deliver these projects on time so that energy can be

connected to the grid.

We are not relying on them, but we are pushing ahead like I’m

saying that Eskom must also take a responsibility to enter the

renewable space. Eskom must be able to do solar energy; Eskom

must be able to do wind energy. This space is not restricted

to independent power producers only. Eskom can also play in

this space. Beyond that Eskom can play in the space of gas as

we continue with coal but ensure that there are technologies

that will limit the emissions of carbon from our coal

products. Gas as much as we want to really deal with the

frustrations in terms of the supply and demand of all these

components that are needed in the renewables it will demand on

the market processes which we hope business is well better

place to push for these components to be delivered on time

depending on the agreements with their suppliers.



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The situation is definitely going to improve and finally we

are going to deliver these plants, but not at the time when we

needed them most. Finally, these plants are going to be

delivered. Thank you very much.

Question 12:

The DEPUTY PRESIDENT OF THE REPUBLIC: House Chair, we have

since witnessed an incredible outpouring of solidarity and co-

operation from a diverse range of stakeholders, including

individuals, organizations, business and agencies in the

aftermath of the floods that resulted in massive loss of lives

and destruction of property and infrastructure, displacement

of families particularly in KwaZulu-Natal, KZN.

As the government, we want to commend and applaud these co-

operative efforts from all the Good Samaritans that have

donated in kind. Our government’s response to this

catastrophic calamity is three-pronged and summarized as

follows. Immediate humanitarian relief, ensuring that all the

affected people firstly are safe in that their basic needs are

met wherever they are. Secondly, stabilization and recovery,

which includes finding a shelter for these people who have

lost their homes and restoring service provision. And finally,



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the reconstruction and rehabilitation with a focus of building

back and building better.

The first phase of the three-pronged approach has mostly

focused on providing urgent humanitarian relief, ensuring that

all affected people are safe and that their basic needs are

satisfied. As much as we do that, providing urgent

humanitarian relief, we are also proceeding to find the

missing people. This has been hindered by the return of our

floods in eThekwini municipality and nearby areas over the

past two weeks. In this case, we want to applaud the Premier

of KwaZulu-Natal and the was a KwaZulu-Natal Provincial

Government for their efforts to expedite recovery and

reconstruction in the affected area.

Collaboration of all spheres of government and organs of state

continues to improve the situation on the ground, not at the

required pace of course. It is a difficult situation and we

want to appeal for appreciation of the complexity of what we

are confronted with.

With regards to phase two of our intervention, government is

making headway with stabilization and recovery actions,

including rehousing, those who have been displaced and



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restoring basic services. This is still an early stage. Like

I’ve said before, there are some families that are still

housed city halls and places that are not conducive for a

family to live in.

As previously mentioned, the Department of Water and

Sanitation has established water and sanitation war room to

assist the province in the affected areas particularly in

eThekwini Metropolitan Municipality in the restoration of

water services and addressing water and infrastructure related

challenges. To this end, to water supply restoration which has

progressed in many regions of eThekwini with the exception of

the Tongaat supply system which remains a major challenge, -

You might have seen communities very unhappy about that

system. This is due to the critical water infrastructure that

was badly destroyed. We are advised that the restoration of

the Tongaat Waterworks is expected to take three to six months

to complete.

In this regard, we appreciate the intervention being made by

the South African National Defence Force. As we are speaking,

they are on the ground, especially in providing water to

social facilities in the area. This has ensured that schools



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remain functional and our learners are not adversely affected

during this examination period.

Our word of appreciation also goes to nongovernment

organisations, NGOs, and private sector that has lent support

to the needy households, especially for the elderly.

Since all affected people should be taken care of without

losing a single day of their lives without basic necessities,

the criticism that the process has been slow is expected and

it’s well placed. However, the severity of the situation

necessitates time to fix all this. Even with all the

difficulties that we face in the area, we want to appraise

this House that affected municipalities and government

departments have been conducting technical assessment of the

damage and the costs and recommending some short, medium and

long-term measures to address the situation. Last month, the

national government received the co-ordinated response

intervention and requested funds for both essential and

emergency repairs as well as long-term solutions to restore

normality to the affected areas.

The National Treasury has issued a directive outlining public

management and budgeting systems that will be used in the



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event of the national disaster to guarantee that services to

the impacted communities are not disrupted. Affected

provincial departments and municipalities have already begun

to process the process of reprioritizing their budgets and

submitting requests to the National Disaster Management Centre

for the repurposing of funds in conditional grants, focusing

primarily on humanitarian relief and emergency repairs of

critical infrastructure such as water, waste management,

electricity, roads, and some engineering infrastructure as

well as social services such as healthcare facilities.

Hon Chairperson, we will continue to monitor and assist land

identification processes by the Department of Public Works and

Infrastructure so that we move with the housing initiatives by

the Department of Human Settlements to relocate all the

affected communities into safer areas. Thank you very much.

Mrs N W A MAZZONE: Deputy President, thank you for your

answer. And I must say you’re what you say sounds noble, and

it sounds very well intentioned. But you have to admit that

what we’ve seen in terms of corruption, during covid and

otherwise, we are going to have to keep an extra close eye on

what we do with relief measures in KwaZulu-Natal, KZN.



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There are a few things that I have noticed that had really

terrified me and my colleague, Dean McPherson who is the DA

chairperson in KZN. He got me some facts that most of the

rivers in KZN have probably marked red, which means that they

are in a critical condition and that their eco line levels are

extremely dangerous. Others are orange, which means the eco

line levels are high and few are given green, which means

they’re acceptable.

The one good thing that we have going is that there are 199

sites that have been identified as emergency shelters, and 65

of these centres have actually approved for permanent stay

structures.

We have the Task Team that is going to KZN to overlook relief

measures relations. Can we expect that this Task Team will be

given all tender details, cost details and details about water

safety, which in turn makes sure that we have human safety.

And that you will bring that information to Parliament for us

to scrutinise so that we can make sure that we never ever,

have a repeat of the corruption that we’ve seen in the past?

The DEPUTY PRESIDENT OF THE REPUBLIC: Hon House Chair,

certainly, we are going to bring information to Parliament. We



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will evaluate progress on the ground from time to time. I’m

sure you will also undertake your own oversight visits. But we

will endeavour to provide Parliament with the necessary

information.

We must assure this House that we are going to try everything

in our power to prevent corruption. But remember as we plan as

we work, there are those that are planning to steal somewhere.

So, we must be wiser and be faster and be better than them so

that we avoid these public resources to be stolen. We want to

assure that we are going to deal with corruption where we find

it? Whoever is going to steal government, money, public

resources, those people are going to be dealt with. As we are

sitting here ... Because one day we might come back and say we

told you that some people are going to steal money.

We are going to try our best to ensure that no money is

stolen. We are going to put our risk mitigation measures to

ensure that these funds are protected. But where they try to

steal, we are going to chase and arrest them. So, I’m giving

this assurance that we are going to work smarter and better to

ensure that public resources are safe this time. Thank you

very much.



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Ms A F MUTHAMBI: Deputy President, given that we are already

experiencing the predicted strong and frequent life

threatening weather events in the form of storms, landslides,

floods, droughts and heatwaves, what is the government doing

to capacitate those rural municipalities with no tax base,

particularly where there are high levels of poverty and

vulnerabilities to have access to smart early warning system,

build a more climate and disaster resilient society, efficient

and well-capacitated rapid response system? Thank you so much

House Chairperson.

The DEPUTY PRESIDENT OF THE REPUBLIC: House Chair, I think

the first and foremost thing that we must take into

consideration is how we build our human settlement. This is a

message that we have put across our traditional leaders who at

times continue to allocate pieces of land for people to build

and reside. Some of our municipalities under their

jurisdiction allow people to build and stay anywhere. I think

we must try and tighten that situation so that we move away

from disaster prone areas. And before we can create a

settlement, we should allow a thorough process of assessment

of the area, and allow all engineers to come and assess the

area, and give us a green light before we build a human

settlement.



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But once again, we must be able to communicate with our people

in those rural areas in terms of our warning systems. Like KZN

did in the recent second round of floods. I think they did

very well after getting the early warning system. They went

down to convey this message to our communities. And some

people were removed and resettled, because we were expecting

rain, and this rain only damaged the infrastructure but people

had already been relocated. So, that was a first step in the

right direction in terms of warning our people communicating

these messages to forewarn them before the disaster.

Of course, we can do better in terms of developing our warning

systems, strengthening our disaster centres, so that we can

communicate and circulate information timeously in order to

prevent loss of life and livelihoods. Thank you very much.

Ms S A BUTHELEZI: Chairperson, I wish to find out from the

Deputy President whether the national government will offer

any scheme by which people who had lost their life savings

through the destruction of their property can be prioritized

through subsidies and apply for loans, from government or any

other partner institution to rebuild their homes at favourable

rates? Thank you, Chairperson.



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The DEPUTY PRESIDENT OF THE REPUBLIC: Thank you very much. Well

this is a proposal and suggestion that may well be considered

by government. But as of now, we are looking at the displaced

people that must be resettled. And if you look at the economic

prospects of these people, these are people who can’t afford

to build their own houses. These people rely solely on the

support of government. But there are those who are earning and

gainfully employed, that might want some subsidies from

government. But the people that we are talking about here, I

think these are people that are in need, that have lost

everything that are unable to fend for themselves. They rely

solely on the government support for the houses, for the

belongings that they’ve lost in order to return back to normal

life. Thank you very much.

Ms H O MKHALIPHI: No, it’s me House Chair, Mkhaliphi. Deputy

President two weeks ago your Minister in the Presidency,

Mondli Gungubele reported that government was still collecting

data on the extent of the damage before intervening in helping

people affected by floods in KZN. To this day, they are still

people missing and thousands more are still housing

controlled. By when will you have a full picture as government

of what is going on in KZN? When will you ensure that everyone

who has had their homes destroyed have new homes built for



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them? Because as I’m listening to you, you are saying that one

of the things that you are doing is to identify land. Some of

those people who lost their homes have their own land, but

there is no co-ordinated programme even from the Office of the

Premier of KwaZulu-Natal because no one knows what needs to

happen to those people.

*IsiZulu:*

Bahleli nje abazi ...

*English:*

... what is going to happen to them. People are sick and tired

of long speeches about their plight because of floods in KZN.

Can you please tell us what needs to be done now as a way

forward in order for us go back as Members of Parliament and

tell people what will happen going forward from now? Thank you

very much House.

The DEPUTY PRESIDENT OF THE REPUBLIC: House Chair, to the hon

member, we really appreciate and understand the sensitivity of

this matter. But however, we said in our response that some of

the interventions that we’re doing are going to happen

concurrently. What does that mean? It means that we are still

going to continue to find the missing people.



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These communities, some families won’t find closure until such

time we find those that are missing. So, that will be an

ongoing effort on the side of government to help those

communities to find their loved ones. Secondly, we need to

respond by providing quick services like water. That’s why

there are water tankers so that you give people water as much

as you fix the infrastructure.

There are these people that have been moved to town halls,

city halls, that have been removed from their collapsed

structures. These communities and families cannot stay there

forever. In the process, we are rebuilding houses. A few

houses have been built and in terms of the suitable to

resettle this process, government has done enough and we have

moved very fast. Public Works has identified four pieces of

land in the area where we can relocate these people.

So, what I’m trying to say hon members is that everything is

going to go concurrently. As we search, we provide services

and rebuilt. It might happen that some elements of the

interventions might lag behind. But it’s not that we are doing

nothing as government. We said and we have made an undertaking

that we are going to report progress to Parliament in terms of

what we have achieved and what is lagging behind. But all of



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us must make it an effort to try and assist those people

there.

We must thank businesses, nongovernmental organisations, NGOs,

that have come into the space to support these families. They

have given them blankets as well as food. And as we speak,

these families are still alive and looked after, but of

course, we are worried about shelter and the services they

must receive. Thank you very much.

**CONSIDERATION OF REPORT OF STANDING COMMITTEE ON FINANCE ON**

**FINANCIAL SECTOR AND DEPOSIT INSURANCE LEVIES BILL**

The CHIEF WHIP OF THE MAJORITY: Thank you very much, hon House

Chair. House Chair, I move that the Report be adopted. Thank

you.

There was no debate.

Question put.

Motion agreed to.

Report accordingly adopted.



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**CONSIDERATION OF REPORT OF STANDING COMMITTEE ON FINANCE ON**

**FINANCIAL SECTOR AND DEPOSIT INSURANCE LEVIES (ADMINISTRATION)**

**AND DEPOSIT INSURANCE PREMIUMS BILL**

The CHIEF WHIP OF THE MAJORITY: Thank you very much, House

Chair. House Chair, I move that the Report be adopted by this

august House.

There was no debate.

Question put.

Motion agreed to (Democratic Alliance and Freedom Front Plus

dissenting).

Report accordingly adopted.

**FIRST READING DEBATE – FINANCIAL SECTOR AND DEPOSIT INSURANCE**

**LEVIES BILL**

**And**

**SECOND READING DEBATE – FINANCIAL SECTOR AND DEPOSIT INSURANCE**

**LEVIES (ADMINISTRATION) AND DEPOSIT INSURANCE PREMIUMS BILL**



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The MINISTER OF FINANCE: Thank you, hon House Chair. House

Chair, today we present to you the Financial Sector and

Deposit Insurance Levies Bill as amended by the Standing

Committee on Finance. House Chair, you will recall the impact

of the global financial crisis and the necessity to respond to

that challenge in the sense that systemic risk by the

financial sector was not only a challenge to themselves, this

was a challenge with fiscus in the economy in general.

For that reason, there has been a global response to

supervised banks more intrusively, intensively and

effectively. We have also as a country adopted an overarching

policy framework titled and I quote; “Safer financial sector

to serve SA better” to regulate the financial sector. In line

with that regulatory institutions were created to support that

objective. That led to the transition to what is called Twin-

Peaks system of financial sector regulation and has been

necessary in order to achieve more effective regulation. This

requires adequate funding and resourcing for the regulators as

a final step in the reforms designed by the government and

endorsed by this House when it passed the Financial Service

Representative, FSR, Act.



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Institutions will be need to be adequately resourced. Those

institutions among them is the Financial Sector Tribunal; the

Ombuds Council Deposit Insurance Corporation, the Pension

Funds adjudicator and Ombuds for financial service providers.

Government is cognisant of the current economic climate as

well as the adverse economic impact of the COVID-19 pandemic

and the financial strain that business and financial customers

are under at the moment. It is important, however, to view the

proposed levies through the lenses of several mitigating

factors that provide clarity as well as context when analysing

the figures. One such factor is that the Bill imposes a cost

less than most peer economies with comparable size

sophistication and regulated architecture.

Furthermore, the approach in the distribution of the total

collected levies is on proportionate basis as smaller

financial institutions pay less than their larger counterparts

would pay the bulk of the levies as they would require more

regulation given their systematic and complex nature. In

addition, government working with stakeholders is taking

serious steps to mitigate the cost of those temporal unable to

discharge their obligations. We then mentioned those cost -

mindful of time, hon Chairperson, I am galloping in order to

meet your time obligations, I had drafted a long speech.



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Hon House Chairperson, I conclude with crucial note on the

Financial Sector and Deposit Insurance Levies and Deposit

Insurance Premium Bill. This is a section 75 Bill, not a

section 77 Money Bill. However, it does have consequences from

a funding perspective. As I mentioned before, the SA Reserve

Bank is the designated financial stability and resolution

authority in terms of the Financial Service Representative,

FSR, Act. To equip it with the necessary tools to maintain

financial stability we have established a Deposit Insurance

Fund that will be administered and maintained by the

corporation, but entirely funded by the banking industry to an

estimated amount of about R548 million through premium

contributions.

The major beneficiary of the scheme are depositors who will be

protected in the event of the bank fallout. The policy

intervention will enable the protection of depositors up to

100 000 per individual and cover 90% of the depositors,

including the most vulnerable customers. Once again, we will

delay implementation to allow sufficient time for the industry

to make adequate preparations while the Reserve Bank will

absorb the corporation startup funding requirements at no cost

to the industry. I therefore, Madam Speaker, and other members

of the House, thank you for that. [Applause.]



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Ms P N ABRAHAM: House Chair, this is the Report of the

Standing Committee on Financial Sector and Deposit Insurance

Levies Bill, as well as Deposit Insurance Premiums Bill. House

Chair, Deputy President, Ministers, Deputy Ministers, hon

members of the National Assembly, members of the public, the

committee processed two Bills which are crucial to the running

of South Africa’s financial regulatory regime, which the

Standing Committee on Finance is reporting to the House today.

These are the Financial Sector and Deposit Insurance Levies

Bill, and the Deposit Insurance Premiums Bill as amended.

We shall refer to the former as the Levies Bill and the other

as the Levies Administration Bill or collectively, the Bills.

Both these Bills forms part of the Twin Peak financial

regulatory regime, which was initiated following the global

financial crisis of 2008. South Africa is part of the global

village and its citizens. Residents and businesses get

impacted upon by significant events taking place in other

parts of the world. The Twin Peaks model of financial

regulation is as a comprehensive system for regulating the

financial sector representing a radical shift away from

fragmented regulation and mitigating the risk of regulatory

arbitrate.



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The Financial Services Regulatory Authority, FSRA saw the

introduction of two main regulatory authorities which are the

Prudential Authority, PA within the South African Reserve Bank

and the Financial Sector Conduct Authority, FSCA which

incorporated the former financial services board. The PA is

responsible for safety and soundness of banks, insurers and

financial conglomerates or for systemically important

financial institution, SIFI. The FSCA is responsible for

protecting customers or financial firms, ensuring the

integrity and efficiency of financial markets and promoting

effective consumer education.

The PA and FSCA were both established on the 1 April 2018.

South African Reserve Bank, SARB under the FSRA is responsible

for the overall financial stability with a statutory inter

Financial Stability Oversight Council, FSOC chaired by the

Governor of SARB. This entails planning for the worst events

and ensuring that there a plans in place to manage systematic

failures in the financial system. This includes the

introduction of the deposits insurance scheme as a financial

safety net. The Levies Bill is the Money Bill that provides

for the imposition of levies on supervised entities in order

to fund operations and functioning of the Prudential

Authority, here above referred to as PA.



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The FSCA, the Financial Services Tribunal, Ombud Council which

are all established in terms of the FSRA. It will also fund

the office of the pension fund adjudicator and the office of

the Ombud for financial services providers. The Administration

Bill provides for the refinements to Chapter 16 of the

Financial Sector Regulation Act, which deals with fees and the

administration of levies to ensure that the chapter is

appropriately aligned with the Levies Bill and appropriately

provides for the administration of levies. It also provides

for the imposition of deposit insurance premium that will

finance the Deposit Insurance Fund. The premiums will be

imposed on the members of the corporation for the Deposit

Insurance which are licensed banks, mutual banks, corporative

banks and branches of foreign banks which conduct business in

South Africa.

In 2021, Parliament enacted the Financial Sectors Amendment

Bill which established the corporation for the Deposit

Insurance and the Deposit Insurance Fund. These for the first

time will ensure that the depositors are protected in the

event of bank failure. The Levies and Administration Bills are

at the final implementation stages of the country’s financial

sector regulatory reforms which introduced the so-called Twin

Peaks regulatory architecture. The objectives of the financial



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sector regulations are to ensure a stable inclusive and

transform financial sector that is a key driver of economic

growth and job creation. The financial sector plays an

important role of providing financial products and services to

citizens, thus supporting economic activity.

The efficient and effective regulation and supervision of

financial institutions and markets minimises the risk of

market failures. A strong system of financial sector

regulation ensures the protection of financial customers. In

order to achieve all of these, an appropriate funding model in

line with a Twin Peak system is therefore needed to provide

for cost of regulation and capacity enhancement. The Bills

seeks to ensure that there is adequate funding and resourcing

of regulations and supervisors.

The Levies Bills were introduced to the National Assembly by

the Minister of Finance on 21 January 2022. The committee was

briefed on the Bills by National Treasury on the

9 February 2022, and a call for public comment was issued by

Parliament thereafter, and only written submissions were made

to the committee. The Banking Association South Africa, BASA

Financial Intermediaries Association of South Africa, FIASA,

the Johannesburg Stock Exchange, JSE Masthead, Moonstone,



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OUTsurance, South African Insurance Association, and Wealth

Tap. The committee could have benefited more from oral

submission by stakeholders.

On 11 May 2022, officials of the National Treasury and

affected regulatory bodies responded to the written

submissions. As a result of the submissions, a number of

amendments were made to the original Bills. The National

Treasury also reported that before the Bills were tabled in

Parliament, it undertook extensive consultation with affected

stakeholders, including regulatory agencies and industry.

The submissions received from stakeholders focused on

technical and substantive issues. Some of these issues were

accepted by National Treasury leading to technical and

substantive amendments detailed in our report. Most of the

substantive policy comments on the Levies Bill focused on what

can be referred to as compliance costs, particularly the

quantum of levies, possible duplication of the levy and

special levy.

The special levy will only be for the first two years of the

levy. It touched only to enable the new regulators to cover

their setup costs. The levy falls away from year three going



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forward. The Levies Bills further make provision for granting

of exemptions from payment of all or part of the levy in the

circumstances set out in clause 11 of the Bill, in order to

accommodate entities facing financial hardships. Although

these are necessary costs, the committee is concerned that the

cost of regulation will be born disproportionately by the

customers, particularly the poor and low income earners. This

is why the committee ordered National Treasury to present to

it a socio-economic impact study on the Bills before

deliberating and adopting them.

The direct cost of regulation under the Twin Peak systems

after these Bills are enforced, will amount to R1,6 billion

per annum in the first year and R1,3 billion currently, are

the costs. The committee urges for thorough consultation

industry whenever these fees and levies are reviewed. The

committee further recommends an independent survey to be

conducted to examine the actual pass on costs of these fees

and levies to consumers after the special levy has fallen away

in the third year. The estimated impact of these costs on

consumers in the first year if passed on, will amount to less

than 50% per month.



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The National Treasury projected that the total levies will be

paid by insurers and banks, account for about 0,3% and 0,2% of

their total operating costs respectively. It further stated

that each institution has a percentage of the total profits

generated will pay 0,8 and 0,4 respectively. Finance is the

largest industry in South Africa at 24% of GDP followed by

personal services at 17%, trade at 14%, manufacturing at 13%,

mining government at 9%, transport at 7%. The cost of doing

nothing will be too dire but the benefits of regulation far

outweighs its cost when regulators and regulatory supervision

act in the public interest.

Lastly, as part of the overarching reforms, the committee

still awaits and urges the Minister to prioritise the tabling

of the conduct of Financial Institutions Bill, which will

among other things consolidate and strengthen market laws,

protect customers against weak and harmful market practices,

promote financial inclusion and financial sector

transformation. I move for the adoption of the report. Thank

you. [Applause.]

Mr J N DE VILLIERS: House Chairperson, 14 years ago, in 2008 I

was working as a shopping center manager in Stellenbosch. I

was 28 years old at the time and I will [Laughter.] ... it was



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a bit young and it was a bit rough, but I was called into the

boardroom by the owner of the mall and he told us – and it was

16 September 2008. He told us that, last night the world

changed. And he was referring to the fall of the American

bank, Lehman Brothers, and he was quite right because the

collapse of that bank, started the 2008 financial recession.

So, the full story behind the 2008 recession is complex and

intriguing, but the most important key take away from that

recession is that American financial institutions got

reckless, with cheap loans, exclusively called sub-prime home

loans to consumers. Which basically means by lending people

money who couldn’t afford to be lent money.

At that stage, normal people as well as banks and other

institutions got into deep trouble. Because, as inflation

rose, people were unable to pay back their loans and that

started the crash for the financial recession.

It is worth mentioning, that in this time South African

financial institutions were mostly not guilty of these

reckless lending standards, but none the less, it became very

apparent that regulation in the financial sector remains

important to safeguard people against the future potential



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economic recessions that could be brought on by reckless

financial institutions and their behaviour. And so South

African adopted as previous speaker referred to as well, the

Twin Peaks model, to ensure better financial market regulation

and fair and transparent financial markets.

And that House Chairperson, is why we are here today. To

create better financial regulation, it was first necessary to

create the regulating bodies responsible in South Africa. So,

these are, the Prudential Authority, the Financial Sector

Conduct Authority, the Corporation for Deposit Insurance, the

Financial Services Tribunal, the Ombuds Council, the Office of

the Pension Funds Adjudicator and the Office of the Ombud for

Financial Services Providers, FAIS Ombud.

So, this Bill before us today, seeks to raise the levies

issued to fund the operation of these different regulators.

The financial industry is being levied already, so this Bill

will not only raise these levies, but they will also include a

special levy.

House Chairperson, I think it is important at this stage to

note, that the DA does support the regulation of the financial

sector and we agree that it is in line with international best



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practice. Ultimately, it does protect South African consumers

and it can encourage healthy economic growth.

House Chair, there are however two principals at play here in

this Bill, which we cannot support. Firstly, as all consumers

know, we are already in a time of rising prices and

hyperinflation. These increased levies on financial

institutions, no matter what they say will just get worked

back into the pockets of normal South Africans and will be ...

classed into the financial services that we all use, banks,

insurers, pension funds.

So, although the financial services sector is being levied, in

practice the consumer is paying for that increase,

R1,6 billion of increases. These costs not only be hurt the

pocket of existing banking, insurance and financial services,

they directly go to the pockets of consumer.

House Chairperson, it’s a simple concept and principle. In a

time of rising interest rates and alarming inflation, in a

country riddled by poverty, inequality and unemployment, a

caring government does not raise cost and levies to consumers

when they can least afford it. A caring government does the

opposite; it looks toward measures that can help consumers



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survive. Measures such as slashing the exorbitant 33% taxes on

fuel levies and not increasing regulatory levies that get

passed on to consumers. And that is why the DA has called for

an urgent Parliament debate to slash fuel prices, which will

be heard in this House on the 15th of June. South Africans

simply cannot afford never ending rises in fuel, taxes and

levies.

But House Chair, there is a second principle at play in this

Bill which we cannot support, and that is the principle of

transparency. During the presentation of this Bill before the

Standing Committee of Finance, much time was spent on how

important regulation of the financial sector is and the

important role and function of these regulators and how it

will not hurt the consumer.

We received estimates on the financial impact of these costs

on banks, insurers, pension funds and other financial

institutions themselves, but take note, not on the actual

impact or feasibility of these costs on consumers, who will

ultimately pay for them. So, although we know how much money

will approximately be levied from consumers towards the

regulators, the one thing that the regulators failed to



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explain to the committee was exactly how this money will be

spent.

Not a single budget from these regulators was put before the

committee or any information that could put light on, what is

it that this will actually be used for operational expenses.

So, as Parliament, we have no idea how this increase in

revenue, via the raised levies, will be applied, because we

have seen the budgets for these entities. The DA cannot

support a Bill that raises levies from the pockets of normal

South Africans, to fund increased expenditure of regulators

that have not even tried to justify these increases with

transparent budgets.

So, House Chairperson, although the DA supports the regulation

of the finance sector, it’s the timing and the transparency of

this Bill that concerns us. What we cannot support, is that in

a time when government should care enough about South Africans

to try and curb the rising costs of living, the government is

instead passing Bills that raises the cost of living. This is

a symptom of a government that simply does not care. The DA

cannot and will not support this Bill. I thank you.



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Ms O M C MAOTWE: Thank you very much, House Chair. The

Financial Sector and Deposit Insurance Bill, and the Financial

Sector and Deposit Insurance Levies Administration and Deposit

Insurance Premiums Bill, are Bills intended to collect levies

from the financial sector to finance the operation of the

Prudential Authority, the Financial Sector Conduct Authority,

the Corporation for Deposit Insurance, and other state

entities responsible for overseeing the financial sector.

The two Bills, are products of the Financial Sector Regulation

Act passed by the National Assembly in 2017, the Bill known by

most in the financial sector as the Twin Peaks Bill. The EFF

rejected the Twin Peaks Bill because it failed to deal with

the issue of the National Credit Regulator, and we warned that

the legislation is ill-conceived and leaves out a key player

in financial services. In general, the overall financial

sector regulation framework leaves out a key sector of

financial services.

It is illogical and stupid that we have a National Credit

Regulator that is excluded from the financial sector

framework, but is at the center of the struggles for millions

of our people who are highly indebted. There was no interest

in protecting customers and dealing decisively with reckless



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lending. We have a loan shark in the form of Capitec that is

continuing with reckless landing, chasing high risk for quick

returns and an inflated share price.

We also raised the issue of Insolvency Act, to address the

process of sequestration and how people are declared

insolvent, to be investigated much more properly. Workers are

abused by court processes that favour those with money to be

sequestrated and sometimes declared insolvent without their

knowledge. But there is another problem that we, as the EFF

warned, that the Financial Sector Regulation Act is going to

fail to deal with, that’s financial crimes.

We know that people are stashing millions of dollars under

mattresses as part of money laundering schemes. What is the

point of regulating the financial sector, if the financial

sector is colluding with the people involved in illicit

financial flows and there is no law to deal with this

decisively? How can one person keep four to eight million US

dollars under a mattress and sofa, as the President did in his

Phala Phala Farm, while claiming to have safe and sound

financial stability?



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What is shocking is the fact that, the President is not even

ashamed to admit that he is keeping US dollar bills under his

mattress. The President is sleeping on top of millions of US

dollar under his mattress, yet, he cannot pay workers. We are

not going to tolerate a constitutional delinquent who hides

behind multiple personalities, while pretending to be Mr

Clean, protected by captured financial sector regulatory

bodies.

The bills before the House today have nothing to do with

workers, consumers of financial products, or saving money from

the fiscus. These are deals between regulatory agencies that

have been taken over and the financial sector, which is still

owned and run by the white capitalist establishment. Banks and

other financial sector role players are expected to pay levies

so that there is money to pay the salaries of workers in these

regulatory bodies. This compromises the independence of an

already compromised and captured regulatory framework.

The most appropriate manner of handling this, would have been

to charge them levies, to the fiscus and allow Parliament to

pass an appropriation on an annual basis to all financial

sector regulatory bodies. The EFF rejects the Levies Bills.



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The HOUSE CHAIRPERSON (Mr M L D Ntombela): Thank you, hon

member. I am tempted to make the request that, we should

refrain from lowering the gravity of our presentations by

using language that might create tensions, words such as

stupid and others, while the presentation is very good, and so

on. So, it’s just a humble plea.

*IsiZulu:*

Ngizocela umhlonishwa uNdabezitha u-E M Buthelezi.

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Hon Chief Whip of

the IFP?

Mr N SINGH: It seems that hon Buthelezi is having a problem

with his connection. May I proceed with his remarks.

The HOUSE CHAIRPERSON (Mr M L D Ntombela): You can.

Mr N SINGH: Hon Chairperson, at the outset I wish to thank the

Standing Committee on Finance for scrutinising the Financial

Sector and Deposit Insurance Levies Bill and the Financial

Sector and Deposit Insurance Levies Admin Bill, as tabled. We

also express our gratitude for the oral submissions made and



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clause-by-clause definitions, as outlined by role-players in

the financial sector.

Hon Chairperson, the main objectives of the financial sector

regulations are to ensure a stable, inclusive, and transformed

financial sector that is a key driver of economic growth and

job creation. The financial sector plays an important role of

providing financial products and services to citizens. We

fully support any legislation that will increase economic

activity while protecting consumers, depositors and all

players within the insurance and financial sectors.

However, it must be noted by this House, that while South

Africa is not short of any comprehensive financial sector

regulations and legislation, it is the people and key role-

players in the sector that seek to circumvent the legislation

for their own gain. We have many great pieces of legislation,

but not many great people who are entrusted to enforce the

laws and regulations as pertains to the financial sector. It

is imperative, therefore, that we clamp down on corruption and

cover any, and all loopholes that may exist within the system,

so as to prevent any forms of exploitation.



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The IFP further notes that these Bills are part of a suite of

measures aimed at financial sector reforms, which were

necessitated by the global financial sector reforms, following

the global financial crisis of 2008. Therefore, the IFP

supports the Reports by the Standing Committee on Finance and

the Bills, having considered the Insurance Levies Bill, with

its recommendations and findings as well as those pertaining

to the Financial Sector and Deposit Insurance Levies Admin

Bill. I thank you.

Mr S N SWART: Thank you, House Chair. House Chair the ACDP

would also to thank the members of the portfolio committee for

the incredible hard work on these two very complex pieces of

legislation. As we know, the financial sector is the key

driver of economic growth and job creation in the country, it

plays an important role of providing financial products and

services to the citizens, and that supports economic growth.

The efficient and effective regulation, supervision of

financial institution and markets, minimises the risks of

market failures, as we have seen in the 2008 global financial

crisis referred to by previous speakers.

The ACDP shares the view that, the strong system of financial

sector regulation will ensure the protection of financial



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customers, given, as the other speakers have indicated, that

finance is the largest industry in South Africa, 24% of Gross

Domestic Product, GDP. Now, the ACDP also notes that, during

the public hearing, the stakeholders were deeply concerned

about the compliant costs, and I think that, this is at the

heart of the problem, how to balance the benefit to the

consumers, with the increased compliant costs?

The stakeholders also indicated that the Bills would create

barriers for new players due to low penetration in the market

and limit competition, and again, these all lead to inflation

costs. So, we have listened very carefully to the debates of

the previous speakers, and the concerns, of course, as

indicated in the committee’s reports that, firstly, must be

obtained at socioeconomic impact studied on the Levies Bill.

They thought that it is necessary that, an independent survey

be conducted, to examine the actual prise and costs of the

levies to consumers, after risk more time after they have been

collected.

So, clearly, that figure was R300 million we have spoken

about, at present is R1,3 billion increasing to R1,6 billion,

the concern in the powers on cost shared by all members of the

committee and how will that be established, given the fact



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that they would have already gotten the increase in fuel

levies, we’ve got an increase in interest rates and we got an

increase in inflation. Also, I think, what tipped the balance

for the ACDP, was the fact of transparency.

As mentioned by previous speakers that, at this stage, we do

not know what the regulator actually requires, and how the

regulator will spend these funds? If we had a proper budget

from the regulator and to justify those expenditure, maybe we

would have been keen to support these Bills. But we want to

emphasise that we support the regulation and the supporting of

consumers. But until we know specifically, how these funds

will be spent by the regulator, we are, unfortunately, unable

to support these Bills. I thank you.

*IsiNdebele*:

Nom G J SKOSANA: Ngiyathokoza Sihlalo ohloniphekileko, maLunga

ohloniphekileko nesizwe sakwethu, lotjhani.

*English*:

The importance of the Financial Sector and Deposit Insurance

Levies Bills, whilst raising financials to operate regulatory

institutions in the financial sector has more to do with the



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ongoing correction of economic activities within the financial

sector.

We were not surprised when in 2008 following the worst forms

of insider trading, banks in the United States began to

collapse. Triggered by a conscious manipulation of the prime

lending rate in housing bond market, especially amongst the

working class. Black and lower income workers selling bonds

that the traders knew full well that the working class could

not afford.

This led to a global economic crisis last witnessed in 1929.

That resulted in millions of job losses globally. In South

Africa, approximately 1,4 million jobs being lost as a result.

That demonstrated once again that a poorly regulated financial

sector is a huge danger to any economy and the potential of a

poorly regulated financial sector can easily lead to massive

job losses, a negative impact upon growth and greater

instability in society.

The South African economy has been financialised like most

global economies. Most component parts of our economy are

integrated with a financial sector and the financial sector in



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turn has a dominating influence on the character and shape of

the economy.

*IsiNdebele*:

Sihlalo ohloniphekileko ...

*English*:

... the *modus operandi* of the financial sector, which has the

ability to extract high-levels of accumulation, shift money in

and out of the country rapidly and extract levies on the banks

and regulating the financial sector is critical on the state.

The state has to ensure that the financial sector adds value

to the economy and does not create extortions in the economy,

economic bubbles and other practices that are serving rank

seeking behaviour.

The year 2008 found South Africa relatively better insulated

than other countries. Thanks to the regulatory environment

that had been introduced by the National Treasury. However,

what it did like in many countries was to trigger greater

regulatory interventions in the financial sector to the credit

of the National Treasury.



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The Financial Sector Regulation Bill introduced in Parliament

in 2015 was enacted in 2017. It was followed by the enactment

of the Insurance Act of 2017, the Financial Sector Regulation

Act of 2017 headlined the regulatory reforms and introducing a

new model of financial regulations. This model of financial

regulation is a comprehensive system for regulating the

financial sector and dealing with practices where goods or

assets are bought from one market in another because the rate

of return derived is higher.

Parliament has been central to this process and the Committee

on Finance, over the years has played an important role in

shaping legislation.

*IsiNdebele*:

Malunga ahloniphekileko ...

*English*:

... what the financial sector regulator did was to introduce

two main regulatory authorities which are the Prudential

Authority within the SA Reserve Bank and the Financial Sector

Conduct Authority, FSCA.



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The Prudential Authority is responsible for the safety and

soundness of banks, insurers and financial conglomerates and

the Financial Sector Conduct Authority, is responsible for

protecting customers from financial firms trying to ensure

some levels of integrity within the system of accumulation as

well as efficiency of financial markets and promoting

effective consumer education.

Last year, we passed the Financial Sector Laws Amendment Bill

which established the Corporation for Deposit Insurance and

Deposit Insurance Fund.

Importantly, this for the first time, seek to ensure that

depositors are protected in the event of a bank failure. This

we have seen in recent times where the Prudential Authority of

the Reserve Bank has had to intervene.

*IsiNdebele*:

Sihlalo ohloniphekileko ...

*English*:

... in order to financially sustain this work an appropriate

funding model is needed to provide for the cost of regulation.

The Financial Sector and Deposit Insurance Levies Bills seek



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to ensure that there is adequate funding and resources of

regulators and supervisors.

The financial sector requires regulatory resources

proportional to its centrality as a result of the dependence

of the entire economy on the sector as well as its size in

relation to the economy.

Now the sixth regulatory authorities currently cost about

R1,6 billion to run. The National Treasury through these Bills

seek to raise further R2,90 million taking the actual costs to

R1,6 billion per annum.

Now, the ANC’s approach was firstly to state that the

responsibility to cover the extra R290 million must lie within

the financial sector itself. Since it is the very practices of

the financial sector that require oversight and regulations.

Secondly, we argued that the principle of cross subsidisation

must apply. This principle is applicable in other parts of our

economy and underpins the redistributive nature of any

democratic society.



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Thirdly, we wanted to know: What does this means for the

banks? You and I are we going to be called upon to carry a

disproportionate amount of the extra financial burden?

*IsiNdebele*:

MaLunga ahloniphekileko ...

*English*:

... we insisted that a socioeconomic impact assessment be

brought to the committee to determine where the responsibility

to finance the Bills lay.

That study showed that the cost to the banked will be less

than 50 cents per month.

I think hon members from the DA are listening.

The cost for the banked will be less than 50 cents per month.

So, we believed that for the banked, this is affordable.

Now, notwithstanding that, we recommended that an independent

survey be conducted to examine the actual pass on cost of the

levies to consumers after a reasonable period of time after



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they have been collected. Oversight over the regulatory

environment is also critical.

So, for the six major banks, they will need to pay about

R45 million per annum on a sliding scale for smaller banks

down to R53 000 per annum.

Same sliding scale for bigger insurance companies who on

average will pay about R15 million per annum, down to the

small entrance at about R50 000 per annum.

Hon House Chairperson, we welcome the fact that there are

exemptions for those parts of the financial sector who can

list afford it. That your corporative banks will only pay on a

sliding scale from R5 million per annum downwards. Your

village banks and other forms of banking are exempted.

So, it is on those bases that as the ANC we support both

Financial Sector and Deposit Insurance Levies Bills. We

understand why the DA will not support them. It is on the

basis that these levies are aimed at assisting institutions

like the Prudential Authority and the FSCA that are

institutions that service the poorest of the poor and the most

vulnerable. Those are not part of the constituency of the DA.



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So, if the aim of this Bill was to service big companies, the

DA was going to support it, but because it services

institutions that are in the main are servicing the poorest of

the poor obviously the DA will not support it.

Well I am disappointed with the EFF. For they always cry the

loudest when they speak about the need to transform the

financial sector and to regulate it. However, here they are

today rejecting these Bills. However, we know them, that is

how they are. They are always having some pie in the sky ideas

anywhere in the world.

[Interjections.]

Ms O M C MAOTWE: [Oa rasa man!] You are making noise man! Just

speak properly!

Mr G J SKOSANA: That is how they are.

Mr A H M PAPO: Shut up, you!

Ms O M C MAOTWE: Shut up! Shut up!



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Mr G J SKOSANA: As the ANC we support these Financial Sector

and Deposit Insurance Levies (Administrative and Deposit

Insurance Premiums Bill.

*IsiNdebele*:

Ngiyathokoza. [Iwahlo.]

Mr A H M PAPO: Hon House Chairperson, on a point of order.

The HOUSE CHAIRPERSON (Mr M L D Ntombela): What is the point

of order, hon member?

Mr A H M PAPO: My point of order is: Hon member, Maotwe just

called on the hon member Mahlangu to shut up! Is that

parliamentary.

Ms O M C MAOTWE: Hon House Chairperson, I was responding to

him. He said I must shut up first! You must listen you Papo.

Open your ears and listen!

Ms H O MKHALIPI: “Ja!” Do not be bias you Papo, do not be

bias! That is why taking old people to Parliament is a

problem! Do not be bias!



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He said before to treasure general, TG! And then you stood up

there and defending your own person! We are also going to

defend our people!

*IsiZulu*:

An HON FEMALE MEMBER: Futhi uma kunguwe wena Mkhalipi. Hay

cha!

Nkz H O MKHALIPI: Hayi thula kwawena!

*English*:

Shut up! We are not going to allow this bully here!

An HON FEMALE MEMBER: Hon Mkhalipi, you are out of order!

*IsiZulu*:

Nkz H O MKHALIPI: Hawu kahle wena Violet. Negama lezalukazi!

Ms O M C MAOTWE: Yesus!

*English*:

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Hon members, that

was totally uncalled for. Members have a right to raise points



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of orders and have a right to object to whatever, but slinging

like that, I do not think is acceptable.

Let us refrain from using words such as shut up and all that.

It is unparliamentary. And just shouting at the top of your

voices in a manner in which some members do is terribly wrong.

It is totally unacceptable.

*IsiZulu*:

Kahleni bakithi.

*English*:

I did not want to usher in the Minister of Finance like that.

The hon Minister.

*Setswana:*

Ms O M C MAOTWE: Kuba Papo. Mokube rea gokupa. Reyabereka.

*English*:

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Hon Maotwe, please.

Hon the Minister of Finance.

The MINISTER OF FINANCE: Hon House Chairperson, I want to say

three things. The first one in the management of public



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finances, there are trade-offs and policy choices. The

unfortunate part is that our colleagues on my left this side

are in a comfortable position because they do not have to make

these policy choices and trade-offs. Let me just use it as an

example – even if you have to choose between a levy to finance

these institutions, if it is not a levy, I will have to tax

somebody in order to finance that. There is no two ways about

it. Those are the policy choice I have to make.

If tomorrow we use a fuel levy, I have made my intentions that

if you ask me I love the fuel levy, I do not. If you ask me:

Do you have an intention to phase it out? Yes! However, can I

do it at the stroke of a pen? No! Why?

The fuel levy as we speak, generate about R89 billion per

annum. If I were to remove it immediately, I will have to find

a new tax to replace it or cut services and in most

circumstances those services that are going to be cut are

likely to affect the poor of the poorest.

These are policy choices you make when you are in government.

Unfortunately, our colleagues on the left do not have to make

those policy choices every day. Those policy choices have to



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be made every day. That is what then has to do with the

responsibility of governing, is to make those policy choices.

I also made my intention that as part of moving forward even

the Road Accident Fund has to be moved out of the fuel levy

and of the fuel price. However, that needs a process.

The second point I want to make as the relative aspect of it

but there is an oversight possibility that every registered

institution is going to do.

Lastly, I must thank the committee for the job well done.

Thank you.

Debate concluded.

**FINANCIAL SECTOR AND DEPOSIT INSURANCE LEVIES BILL**

(First Reading debate)

Democratic Alliance, Economic Freedom Fighters, Freedom Front

Plus and African Christian Democratic Party dissenting).



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**FINANCIAL SECTOR AND DEPOSIT INSURANCE LEVIES BILL**

**ADMINISTRATION AND DEPOSIT INSURANCE PREMIUMS BILL**

(Second Reading debate)

(Freedom Front Plus dissenting).

FIFTH ORDER

**FINANCIAL SECTOR AND DEPOSIT INSURANCE LEVIES BILL**

(Second Reading debate)

There was no debate.

Bill read a second time.

(Democratic Alliance, Economic Freedom Fighters, Freedom Front

Plus and African Christian Democratic Party dissenting).

**CONSIDERATION OF REPORT OF PORTFOLIO COMMITTEE ON JUSTICE AND**

**CORRECTIONAL SERVICES ON REMOVAL FROM OFFICE OF MS JF VAN**

**SCHALKWYK, CHIEF MAGISTRATE AT KEMPTON PARK, IN TERMS OF**

**SECTION 13(4) OF THE MAGISTRATES ACT, 1993**



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Mr G MAGWANISHE: Hon House Chairperson, hon Ministers, hon

Deputy Ministers and hon members, Ms Van Schalkwyk holds the

position of the Chief Magistrate at Kempton Park. She was

provisionally suspended from office in 2013 on charges of

misconduct pending the outcome of the investigation into here

fitness to hold office. Although the formal inquiry began in

2014, the process was delayed by several postponements and

changes to counsel.

In 2015, Ms Van Schalkwyk applied for an order concerning the

validity of regulations for judiciary process in the lower

courts and a code of conduct for magistrates but was

unsuccessful. Also, leave to appeal was refused. In 2018, the

Parliament confirmed the Minister’s determination as

recommended by the Magistrate Commission to withhold her

remuneration.

The inquiry was eventually held in September 2020 and Ms

Schalkwyk was found guilty. The commission requested her

removal from office on 27 July 2021. The Minister confirmed

the recommendation. The committee was briefed on the matter on

26 August 2021. At the meeting, the committee heard that Ms

Schalkwyk had applied to court to have the commission’s

decision to recommend her removal from office to be set aside.



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The committee requested the legal opinion and was advised that

there was no legal reason preventing Parliament from

proceeding with the matter.

On 31 May 2022, the committee was briefed by the commission

and also considered the contents of Ms Schalkwyk’s

correspondence. The committee is of the view that there is no

justifiable basis in law for it to postpone its deliberations.

Furthermore, Ms Schalkwyk holds a senior position within the

magistrate and the suspension prevents the position to be

filled on a permanent basis to the detriment of the

administration of justice.

The committee having considered the report from the Magistrate

Commission, the Minister’s suspension and the removal of Ms

Schalkwyk from office of magistrate, reports that it concurs

with the suspension and recommends that the NA resolves not to

restore Ms Schalkwyk to office. I so move. Thank you, Hoiuse

Chairperson.

*Declarations of Vote*:

Mr W HORN: House Chair, the administration of justice system

in our country is under severe pressure. It is under this type

of pressure that it is not good for health of either for the



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judiciary or health of our constitutional democracy. One

element of this pressure turns on the fact that the Department

of Justice and Constitutional Development is clearly not a

state operational declining and inefficiencies that typifies

the governance by the ANC.

Another element of this pressure is brought about by the way

in which the rule of law is undermined in or country and

criminality which is not investigated and prosecuted properly.

It also suggests importantly to this report to a failure to

act with integrity on the part of holders of the public office

and even an attitude to some of the public officers that the

law does not apply equally to everyone as determined by our

Constitution, from the President of the country right down to

the poorest and the marginalised.

While the manner in which we as the national legislatures

discharge our duties and functions in terms of the guidelines

of the Constitution is often criticised. Today is a good

opportunity to embrace our obligations to uphold the

Constitution and the rule of law. This report is a product of

a Portfolio Committee on Justice’s oversight followed by the

decisions reached by the Magistrate Commission and the

Minister in response to the allegations of impropriety and



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misconduct on the part of a senior magistrate of the Chief

Magistrate of Kempton Park.

In this regard, it must firstly be repeated that it remains a

concern that the disciplinary measures involving members of

the judiciary are often not finalised with anything that

resembles speed or rapidly. The failure to deal efficiently

with matters of discipline invariably undermines the trust and

confidence of the public in the judiciary as the institution.

The fact that charges faced by Ms Schalkwyk stands from an

event that took place prior to 2013 already can never be

deemed as good enough.

Well, any magistrate who stands to lose office, of course must

enjoy all the rights and privileges in her hand to a fair

process.

The reality of this is that ordinary people might view this as

proof that holders of public office are treated more carefully

than them when it comes to workplace misconduct. Having said

this, in the current magistrate it is quite clear that the

delaying finalisation of this matter was primarily caused by

the judge magistrate and not by the Magistrate Commission nor

the Minister. Our decision today must be informed by the firm



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view that in order for our Constitutional Democracy and our

country’s rule of law to withstand the pressure put under, we

have no choice but to demand the highest level of integrity,

honesty and probity from members of the judiciary.

In respect of the charges from which Ms Schalkwyk was found

guilty, were satisfied that the removal from office is

justified. No reasons could be found to restore Ms Schalkwyk

to office. The portfolio committee, as the Chair of the

committee did indicate that the delaying of the final decision

on this matter given that the Ms Schalkwyk is subjecting the

process and decision by the commission and the Minister to

Judiciary Review.

However, we agree that in the interest of justice,

specifically in the administration of justice to finalise this

decision as the administration of justice will never be

optimal in the situation where only an Acting Chief Magistrate

is in place for years on end. Given that Magistrate Schalkwyk

has been suspended from the office without the remuneration

some years ago, our finalisation of this matter, only

information available to us at this stage, cannot be

prejudicial to anyone. We support the report and the

recommendation not restore to office. Thank you.



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Ms Y N YAKO: Hon House Chairperson, it is now almost 10 years

since the initial complaints of the Magistrate Van Schalkwyk

reneged. It is sad indictment that it has taken its

institution’s task with holding the judiciary’s office such as

the magistrate this long to bring the matter to finality. The

integrity of the judiciary is placed under serious strain by

delays such as this matter. The country should find ways of

expediting complaints against the judiciary officers to enable

our courts, particularly lower courts to function without

having these dark clouds hovering over their heads.

We must also condemn the delaying tactics employed by Ms

Schalkwyk throughout this ordeal. Her conduct has tainted the

image of judiciary and is offensive to the code of conduct of

judiciary officers. Ms Schalkwyk was accused of many

despicable offences. We listened to the abuse of her power as

the Chief Magistrate and these included attending to her

personal business during working hours, borrowing money from

the subordinates, gambling during working hours and asking a

magistrate to drive her to a casino at 10 o’clock in the

morning. We must also understand that the nature of her

offences point to a psychological problem she might have with

gambling.



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Magistrates had to work under extremely difficult conditions

and the Department of Justice and Constitutional Department

and the Magistrate Commission must have a mental health

assistance readily available to magistrates. It must also not

be easy to dismiss people without having made available of all

kinds of main assistance to them. This is particularly when

the kind of their work may have easily contributed to their

conduct.

This however does not take away the responsibility for

magistrates to conduct themselves in a manner befitting of the

esteemed office they occupy in the justice system. So,

therefore, as the EFF we are in support of the committee’s

decision to approve the removal of this magistrate from the

office. Thank you.

Mr N SINGH: Thank you very much hon Chairperson, once again

somebody who was supposed to be on virtual is not there. Hon

Chair, it is critical that judicial officers, as custodians of

justice and the rule of law are held to the highest standard

of ethics. The public needs to have faith that our courts are

led by people with integrity, and with the competence that an

officer of the court will always conduct themselves in an

ethical manner.



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On consideration of the report, the IFP from the outset wishes

to raise its concern that, this matter has been prolonged for

many years due to various legal challenges raised by Ms Van

Schalkwyk. The Magistrates Commission apparently charged Ms

Van Schalkwyk with various counts of misconduct in May 2013

already, pending an investigation into her fitness to hold

office in terms of the Magistrates Act of 1993.

However, it is clear from the report that it is a submission

of the portfolio committee that due process had been followed

in the misconduct proceedings, and that both Ms Van Schalkwyk

and the commission have been given the opportunity to submit

evidence before a presiding officer in September 2020. It is

our understanding that the presiding officer found Ms Van

Schalkwyk guilty on 13 of the 22 remaining counts of

misconduct against her, and accordingly recommended that she

be removed from office in terms of section 13 of the

Magistrates Act of 1993. This was confirmed by the Minister.

However, the IFP understands that the portfolio committee has

in accordance with the legal opinion on the matter, determined

that there is no legal basis preventing the committee from

deliberating on the matter, despite the pending review

application of the commission’s decision. Therefore, the



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committee on 31 May 2022, determined the suspension or Ms Van

Schalkwyk prevented a critical senior position in the

magistrates from being filled. This is only to the detriment

of justice. The portfolio committee subsequently recommended

that National Assembly resolve not to restore Ms Van Schalkwyk

to office.

In conclusion, the IFP wishes to stress the importance of

acting swiftly on complaints of misconduct by judicial

officers, as the legitimacy of our courts rests on the

shoulders of these officers. The IFP accepts the report. Thank

you.

Mr F J MULDER: Hon House Chair, accountability is a

foundational value of our democracy, which is applicable to

all including the judiciary. Judicial independence serves as a

safeguard for the rights and privileges provided by a limited

Constitution, and prevents executive and legislative

encroachment above those rights. Judicial accountability is a

set of mechanisms aimed at making magistrates and courts,

personally or institutionally responsible for behaviours and

decisions contrary to the constitutional or legal standards.



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The FF Plus is in this instance in favour of the suspension

and removal of Ms J F Van Schalkwyk from the Office of the

Magistrate in terms of section 13 of the Magistrates Act of

1993. Thank you, Chair

Mr S N SWART: House Chair, the ACDP at the outset would like

to thank all members of the judiciary, who tirelessly dispense

justice on a day to day basis. They are under tremendous

pressure, given the high levels of crime and backlogs that

they are faced with in the courts. However, members of

judiciary must be held to the highest level of propriety of

integrity, given that they dispense justice and citizens

correctly look up to them for that justice.

It is highly regrettable that this matter dealing with a chief

magistrate has taken so long emanating from events from 2013-

14. The ACDP understands that this is no fault of the

commission or the Minister. Chairperson I served on the

Magistrates Commission for many years and I understand the

lame tactics which the commission as referred to in its report

as well. Everyone is entitled to litigate and go to court, and

this is what we have seen here.



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Chairperson, the ACDP has considered this report in the

Portfolio Committee on Justice. We support the report and

recommendation not to restore the Magistrate Van Schalkwyk to

office, given the fact that we’re dealing with a chief

magistrate here, and as someone else that had to perform this

task to the detriment of justice for the citizens. I thank

you.

Ms N H MASEKO-JELE: House Chair, members of the House, fellow

South Africans, the ANC supports report on the removal from

office of Ms J. F Van Schalkwyk. Strong perceptions of

corruption and misconduct undermine the reputation of the

magistracy. Numerous pieces of law emphasize that judicial

officers must always be above reproach. The overall

constitutional standard for the appointment of judicial

officers is that they must be fit and proper. This is in

addition to the requirement that they must be suitable and

qualified.

A fit and proper judicial officer must embody judicial

integrity. The standards of judicial integrity are articulated

in the norms and standards for the performance of judicial

functions. The Code of Judicial Conduct for Magistrates in

terms of section 16(1) of the Magistrates Act of 1993, the



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Code of Judicial Conduct adopted in terms of section 12 of the

Judicial Services Commission Act of 1994 and numerous other

standards at international level such as the Bangalore

Principles of Judicial Conduct.

*Inter alia*, these standards include that a judicial officer

must always and not only in the discharge of official duties,

act honourably and in a manner befitting the judicial offices.

There are clear standards on judicial officers. Officers need

to avoid conflict between their private interests and that of

their judicial office. There is also an obligation on judicial

officers to uphold the dignity, reputation and esteem of the

judiciary.

Ms Van Schalkwyk, a Chief Magistrate at Kempton Park,

Johannesburg was charged with 18 counts of misconduct. The

Magistrate Commission agreed to provisionally suspend, Ms Van

Schalkwyk pending an investigation into her fitness to hold

office, as contemplated in terms of section 13(3)(a) of

Magistrate Act 90 of 1993. The Minister provisionally

suspended her from office on 04 June 2013, and Parliament

confirmed Ms Van Schalkwyk’s provisional suspension from

office in November 2013.



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On 18 September 2013, the commission appointed a presiding

officer and person to lead the evidence at the hearing,

informing Ms Van Schalkwyk in writing. The misconduct inquiry

was postponed several times at the request of the defence, and

to allow the defence and opportunity to file an application at

the High Courts, challenging the validity of the regulations

for judicial officers and the Code of Conduct for Magistrates,

and for the state to oppose the application.

The misconduct inquiry against Ms Van Schalkwyk was kept in

abeyance pending the finalization of the application. The

application was ahead on 15 March 2017, and a judgment was

reserved. On 01 August 2017, the High Court delivered its

judgment and dismissed the application with costs. The

applicant filed a notice of application for leave to appeal on

29 August 2017.

Having had both parties on 08 November 2017, the High Court

dismissed the application with costs on 10 November 2017. The

commission was on the view that Ms Van Schalkwyk deliberately

delaying the disciplinary process against her, and determined

to withhold Ms Van Schalkwyk’s remuneration in terms of

section 13(4)(A) Act with immediate effect, pending the

conclusion of the disciplinary inquiry against her,



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Subsequently, having considered the Minister’s report on the

matter, Parliament resolves to confirm the determination to

withhold Ms Van Schalkwyk’s remuneration. Despite numerous

challenges encountered during the misconduct proceedings,

evidence was eventually led and both parties were given the

opportunity to submit their respective heads of argument on

the merits, and orally amplify them before the presiding

officer, on 17 and 18 September 2020.

Ms Van Schalkwyk elected not to testify at the inquiry. The

presiding officer postponed the inquiry to 01 and 02 October

2020 for judgment and imposing of a sanction. The presiding

officer delivered his judgment and found Ms Van Schalkwyk

guilty on 13 of 22 remaining counts of misconduct preferred

against her. In line with the *audi alteram partem* rule of

natural justice, both parties were given an opportunity to

present any aggravating or mitigating factors to him on the

imposing of appropriate sanction. The presiding officer

recommended that Ms Van Schalkwyk be removed from office as

contemplated in Section 13 of the Magistrate Act of 1993.

Having considered all the relevant documentation, the

commission reserved to recommend that Ms Van Schalkwyk be

removed from office on the grounds of misconduct. On 27 July



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2021, the Minister of Justice and Correctional Services

confirmed the removal from office. Ms Van Schalkwyk holds a

senior position within the magistracy, and the suspension

prevents the position from being filled on a permanent basis

to the detriment of the administration of justice. Justice

delayed is justice denied. The people of South Africa deserve

speedy delivery of justice. Therefore, the ANC supports the

report. I thank you, Chair

Question put: That the Report of the Committee be adopted and

the removal from office of Ms J F van Schalkwyk be confirmed.

Question agreed to.

Report adopted and removal from office of Ms J F van Schalkwyk

accordingly confirmed.

The House adjourned at 18:24.

