**UNREVISED HANSARD**

**MINI PLENARY - NATIONAL ASSEMBLY (VIRTUAL) TUESDAY, 27 SEPTEMBER 2022**

***PROCEEDINGS OF VIRTUAL MINI-PLENARY NATIONAL ASSEMBLY***

Members of the mini-plenary session met on the virtual platform 11:00.

The Acting Chairperson Mr Q R Dyantyi took the Chair and requested members to observe a moment of silence for prayer or meditation.

The Acting Chairperson announced that the virtual mini-plenary sitting constituted a meeting of the National Assembly.

**ESTABLISHMENT OF AN AD HOC COMMITTEE TO INVESTIGATE MATTERS SURROUNDING PHALA PHALA GAME FARM THEFT**

(Subject for Discussion)

The CHIEF WHIP OF THE OPPOSITION: Chairperson, in 2014 this House established an ad hoc committee that will investigate the allegations of abuse of state resources, in the upgrading

of the former President Jacob Zuma’s private residence in Nkandla. In doing so, the committee was able to summon various government Ministers and state institutions, to answer to the very serious findings of the then Public Protector’s report into the matter.

In 2015, the ANC used its numbers in that ad hoc committee, to adopt a report that had completely whitewashed and downplayed the abuse of public money. This was subsequently the subject of a Constitutional Court judgment which found that, Parliament had failed to uphold its constitutional obligation of holding the executive to account, as it is envisioned in both section 42 and 55 of the Constitution.

In 2021, the then Speaker of the National Assembly Baleka Mbethe, admitted to the Zondo Commission of Inquiry that Parliament had failed to use its oversight mechanisms, to hold government to account for state capture and the looting of billions of rand. She admitted that things went wrong, and that these were mistakes that should never ... [Inaudible.] Ms Thandi Modise admitted that Parliament woke up when things were really bad, and offered an apology on behalf of the people of South Africa.

Eight years later, after the Nkandla matter seized this Parliament, another Speaker of the National Assembly, Nosiviwe Mapisa-Nqakula is faced with the very same question of principle. Allegations have been levelled against the sitting President, serious allegations of large monies in foreign currency stored in his home, kidnapping, torture, and abuse of state resources to conduct covert operation.

The very same choice is now before this House. Do we simply turn a blind eye to these allegations because of party politics? Do we shield President Ramaphosa and those Cabinet Ministers implicated in this alleged crim, because of shallow political allegiances? Do we neglect the oath of office we all took to be faithful to the Republic and uphold the Constitution in the service of the people of South Africa? Or, do we do what is right?

It is clear to us that the ANC never learnt any lessons from the nine wasted years they like to punt, as though this is not the very same people who are sitting on these benches who made those choices. To even bring this matter to the floor of Parliament has been a fight. We have seen every attempt to block Members of Parliament from doing their jobs from shutting down accountability.

*IsiXhosa*:

Imihla le, abantu be-ANC baxhapha amagwebu bethethelela izinto ezingathethelelekiyo. Anonelanga kukukhohlisa abantu beli?

Kunini siyonyelisa iPalamente singawenzi umsebenzi esiwuthunyiweyo? Akonelanga kusini na ngoku?

*English*:

Is it not time to show South Africans that we are capable of putting political differences aside, and truly show up for them? Should we not be the people who break the cycle of hollowing out Parliament, and stand tall on services of the public? And so my challenge to you today is a simple one, the Constitution we swore to uphold expects us to interrogate the abuse of state resources. It cannot be under a constitutional democracy, that we have a sitting President accused of breaking the law with the aid of state institutions, left without answering the key questions we should be asking.

While the section 89 inquiry is in the process of being established, and it will be interrogating whether or not impeachment proceedings should be instituted against the President, it does not mean we should not be investigating other state institutions that are implicated in the saga.

State Security has a case to answer for, SA Police Service, SAPS has a case to answer for. The Presidential Protection Unit has a case to answer for. The Department of International Relations and Cooperation has a case to answer for. Various Ministers in the Security cluster have a case to answer for.

The various institutions such as SA Revenue Service, Sars, such as the Reserve Bank need to enlighten the public about what they know and what was disclosed to them, and none of these questions will be answered in a section 89 inquiry.

These matters can only be responded to through an ad hoc committee that would have the powers, to summon all these institutions and interrogate these institutions in an open and transparent manner, that could determine on the guilt or the innocence of the President, Ministers or government officials. All that is asked of you today, is to allow Parliament to do its work. Chairperson my video has been switched off.

The CHAIRPERSON (Mr Q R Dyantyi): Yes, go ahead.

The CHIEF WHIP OF THE OPPOSITION: All that is asked of you today, is to allow Parliament to do its work of determining the facts and testing the serious allegations before us. All that is asked of you today, is to not repeat the mistakes of

the Fifth Parliament, of shielding the Executive to account for political expediency. All that is asked of you today members, is to side with the Constitution and the people we are meant to serve.

This is not some mudslinging political fight. It is truly about the equity of the of the institution. When history is written about the Sixth Parliament, let it be one where this House found its voice and put party interests aside in order to fulfil our legislative duty. Let it be one of service to the people. Let it be one where there was a clear choice of country of a party, of people over politics. Thank you.

The CHAIRPERSON (Mr Q R Dyantyi): Thank you hon Gwarube, your video was switched off because you were breaking up. So, we were trying to help you with your network.

Ms R M M LESOMA: Hon House Chair, may I be allowed to switch off my video as well, please.

The CHAIRPERSON (Mr Q R Dyantyi): Only once we have seen you.

Ms R M M LESOMA: Okay.

The CHAIRPERSON (Mr Q R Dyantyi): That’s how it works.

Ms R M M LESOMA: Thank you very much, House Chair, if I may then. Thank you.

The CHAIRPERSON (Mr Q R Dyantyi): Switch it off.

Ms R M M LESOMA: Enkosi. [Thank you.]

The CHAIRPERSON (Mr Q R Dyantyi): I am listening to Lesoma.

Ms R M M LESOMA: Thank you very much, hon Chair and hon members, a very good morning and fellow South Africans. Today, we are being asking a motion for debate brought by the DA consider the establishment of the parliamentary ad hoc committee to investigate a theft and matters related thereto.

The DA and its coalition partners would essentially like us to zoom the work undertaken by agencies of the state, a specialised and skilled in investigating matters of theft and any subsequent bridges of law. It is their task to enforce the law through due processes. Not only that in this case, the DA- led coalition would like “us” to investigate someone who is a victim of a crime not at his primary residence but at his

business premises. It gets even more peculiar. They would like us to investigate a matter which by enlarge concerns a juristic person.

Phala Phala Wildlife is a separate legal entity. Sitting here House Chair and hon members, as we speak none of us know the legal entity which was actually involved in the transaction which resulted in the theft. We all assume it is Phala Phala because it happened at the headquarters of Phala Phala but we actually do not know unless the DA knows more than what we know. In the event where it attests any liability of any kind of is addressed like any entity liable before appropriate authority.

To show that DA-led coalition has no regard for the Rule of law none of them posed to us how on earth do we lay criminal charges has been laid against the state president on a matter which concerns a separate legal. What is rational and legal connection of section 89. Should it be Parliament which investigate whether Phala Phala violated the law. Obviously where I am sited I guess not. Nevertheless, we have agreed to a section 89 of the Constitution impeachment process submitted on 18 July by the ATM. No doubt sponsored by the DA-led coalition has been agreed by the Speaker and in terms of Rule

129 has initiated the establishment of an independent panel to conduct preliminary enquiry on the impeachment motion.

Hon House Chair, we have all agreed to this process and submitted our preferences on those who would have to serve on the independent panel and who must within 30 days of its appointment conduct and finalise a preliminary assessment relating to the motion proposing a section 194 enquiry to determine whether there is *prima facie* evidence that the President committed misconduct. A panel referral does not constitute a parliamentary impeachment process but an assessment of the supplied evidence by legal and constitutional expects to determine if in terms of the Constitution if evidence is adequate warrant a further process which if so would be section 194 enquiry. We all agreed, hon House Chair, in Parliament that this is the best process to establish the facts and evidence not by hearsay.

In addition to Parliament processes the Hawks, SA Reserve Bank and the Office of the Public Protector are carrying out investigations on the same matter. Despite this DA-led coalition is not satisfied that we have four institutions investigating the matter. One an ad hoc committee on top peace the corporate veil of a juristic person.

Our courts have been very reluctant to peace the corrupt veil in civil cases. It would be extra ordinary for a corporate veil to get peace for purposes of an investigation. It’s even questionable if this would be lawful. This yet proved that the DA-led coalition has no sense of what our laws entail instead. They are fix with drama and sensation in an attempt to appear to be relevant.

We know that what the DA and its coalition parties will edge or argue in this House and beyond. They will present themselves as paragons of transparency and claim that the ANC does not want to hold the President accountable. That is very far from the truth. But they will fail to these things which is between the legal personality of an entity in which the President is major shareholder in and the President himself as an individual. Per otto of convenience, they will pledge us into a constitutional crisis and induce Parliament to act well out of its scope.

In the matter of Glenister v the President of South Africa the Constitutional Court, hon members, held by Judge Langa, the highest court in the land reminds us that under our constitutional democracy the Constitution is supreme law. It is binding on all branches of government and no less on

Parliament. When a society legislative authority Parliament must act in accordance worth and with then the limits of the Constitution and the supremacy of the Constitution requires that the obligation impose by it must be fulfilled.

Hon members, this ingenious like the DA say that the request for an ad hoc committee is not about the President as that is covers in section 89 impeachment process and his involvement in the theft rather the ad hoc committee will focus on departments and other state entities presumably involve in the Phala Phala salga base. If this is the case, let us have an ad hoc committee which will focus on Mzwandile Manyi’s former company Afro Worldview and how it meticulously purchased ANN7 and fight for liquidation in less than a year. Let us once more establish an ad hoc committee which will focus on Steenhof and Markus Jooste for his conduct where it is alleged that people have been defrauded to the tune of about

R100 billion. We cannot do that. Why? Because these are allegations. We are not a body allegations are tested. However, let me walk through, hon members, how previously the ad hoc committees were established. Whenever we have been called upon to established an ad hoc committee the ANC has taken a decision based on the facts and evidence in matters

which primarily concerned state-owned enterprises or government departments.

Here the Leader of the Opposition Party wants us to establish an ad hoc committee based on allegations of a private entity. Nevertheless, our stand point is that due processes and respect thereof is a principle when seeking to establish the facts. So, institutions of the state are involved in this matter covering all three arms of the state and we need to receive the information first and all just before acting.

In particular, the parliamentary processes, hon House Chair, hon members, once the panel is finalised within the 30 days of its appointment finalise a preliminary assessment relating to the motion proposing section 194 enquiry to determine whether there is a prima facie evidence to show that the President has or has not committed misconduct. If as the DA alleged there are departments or entities who can be proving to have been complacent in covering up the theft, then we have portfolio committees who can make a determination in this regard as part of their oversight responsibilities.

In addition, questions to the executive committee can be placed and this is an allegation they have to take note of if

it has been made formally to the committees. It is only the DA who believe that the ad hoc committee is not about the President. It is about creating another mechanism working through rumours and the wedge drivers Oliver Tambo that warns us in one of the good days when he was still alive.

In the context of this, hon Chair, of an agreed process in the National Assembly we do not need an ad hoc committee and the ANC will not support such a motion. We will not be part of the DA coalition attempt to plunge us into a constitutional crisis. I thank you, hon Chair.

The LEADER OF THE OPPOSITION: Thank you very much, Chairperson. Hon members, we have all been here before and almost everybody on this particular call sat in the National Assembly as we contemplated how to hold a sitting President to account. The sitting President, who at the time was facing multiple serious allegations of abuse of power and the abuse of public funds, and who looked for all the world to be guilty of those allegations; a sitting President who knew he could call on the majority of you to abandon your sworn oaths in order to shield him from the law and from those of us who still respected our oaths of office; a sitting President who knew that Parliament’s presiding officers would remember who

deployed them here and what that deployment then demanded of them; and a sitting President who viewed this House, its members and its oversight duties with complete contempt.

Almost all of you were members of this House when that circus played out, and the majority of you were only too happy to play along, deploying your votes again and again in service of Jacob Zuma, his homestead and his handlers. Former Speakers of this House had no qualms about abandoning their constitutional duty in serving only the interests of their compromised President. It was all so tacky and so transparent. Everybody knew what was going on, the public, the press and the international community. Everyone knew that a crooked President was using you all for his own protection, like a

two-bit mob boss, and you were all only too happy to let him do it.

Of course, then came the so-called new dawn and along with that the thuma mina promenade walks and the gushing hagiographies in the media. We got a string of solemn promises, vowing never again. In the wake of the Zondo Report**,** there was apparently much soul searching and earnest contemplation of all that went wrong in this House and how it was allowed to reach that point. And yet, here we are again.

A sitting President, who looks for all money to be guilty of a string of offences, but he knows he can count on his caucus and presiding officers to shut down questions, to bat away accountability and to deny any possibility of oversight through an ad hoc committee. Do you not see this? Can you not see history repeating itself before your eyes?

The new Speaker of the House is no different to the old Speakers. She’s failing Parliament in the exact same way that her predecessors failed Parliament. There is simply no truth to her assertion, or the assertions of hon Lesoma, that an ad hoc committee of Parliament is superfluous since some of its tasks are within the purview of other entities such as law enforcement. These two processes are not mutually exclusive.

In 2016, the DA called for the establishment of an ad hoc committee into state capture, only for it to be shot down by the ANC for the exact same spurious reasons that it was supposedly up to law enforcement and Chapter 9 institutions to investigate rather than Parliament. It’s the same arguments we have just heard. This was of course all debunked as complete nonsense. Even President Ramaphosa himself conceded in his Zondo testimony that, “if you look at it with hindsight, I would say the two would not be mutually exclusive and if

anything, both checks could easily have been followed.” This was then echoed by Justice Zondo, when he wrote in his report that:

Leaving it exclusively to other agencies to investigate and, if necessary, to take action regarding these allegations was not in the commission’s view, consistent with Parliament’s constitutional responsibilities.

It’s not one or the other. the President must co-operate with both law enforcement and Parliament. Neither is there any legitimacy to the argument that we’ve just heard that the section 89 inquiry into the President will perform the same function as an ad hoc committee. That impeachment process only looks at the President’s role in the Phala Phala story but the rot has spread much further. Aside from the dirty dollars in the couch, we need answers from, amongst others the State Security Agency, the Finance Portfolio Committee, the Presidential Protection Unit, the Reserve Bank and the Department of International Relations and Co-operation. None of those answers will come from a section 89 inquiry. The only body with the power to summon all these people and institutions to testify is an ad hoc committee of this Parliament.

However, rather than take my word for it, I will leave you with one last thought from President Ramaphosa’s testimony before the Zondo Commission, where he fully accepted the following proposition:

Where there is information in the public domain which, if true, would implicate a President in conduct which is allegedly unconstitutional, illegal or improper, the National Assembly is obliged to do what it can, firstly, to establish whether there is any merit in the allegations, and secondly, if it finds that there is, to take appropriate action.

Those were not my words. That’s the position of the President himself. Now, given all of these things, the scathing rebuke by Justice Zondo, this solemn promises by members and presiding officers of the House to do better and the unambiguous testimony of the President himself, how can anybody still justify blocking the establishment of an ad hoc committee into Phala Phala? For the sake of our country, for the integrity of our House and for the people of South Africa, let’s for once do the right thing.

Ms O M C MAOTWE: Thank you very much, Chair. The EFF supports the draft resolution to establish an ad hoc committee to conduct a ...

The CHAIRPERSON (Mr Q R Dyantyi): Hon Maotwe, just before you proceed. Please ... I would’ve read at the beginning that where members are recognised they must unmute and connect their videos. I would like you to do that.

Ms O M C MAOTWE: My network is bad, Chair. It’s going to disconnect me.

The CHAIRPERSON (Mr Q R Dyantyi): Yes, let’s see first and then you must be granted that permission.

Ms O M C MAOTWE: No, it will. Chair, I’m telling you that I’m in a rural area. The network is ... [Inaudible.]

The CHAIRPERSON (Mr Q R Dyantyi): Thank you, hon ...

Ms O M C MAOTWE: Yes, can I continue?

The CHAIRPERSON (Mr Q R Dyantyi): Just connect your video for a second.

Ms O M C MAOTWE: No, I can’t, Chair. I can’t connect the video.

The CHAIRPERSON (Mr Q R Dyantyi): Why? Why?

Ms O M C MAOTWE: I’m in an unstable network area, Chair. I can’t connect the video. It will disconnect ... [Interjections.]

Ms E N NTLANGWINI: On a point of order, Chair.

Mr M A TSEKI: She must connect, Chairperson. Everyone must connect their videos. Everyone must connect their videos, Chair. There’s no order there.

Ms E N NTLANGWINI: No, on a point of order, Chair. On a point of order.

The CHAIRPERSON (Mr Q R Dyantyi): Hon Tseki and hon Modise, I did not recognise or invite you to speak.

Ms E N NTLANGWINI: On a point of order, Chair.

The CHAIRPERSON (Mr Q R Dyantyi): I will recognise your point of order, hon Ntlangwini.

Ms E N NTLANGWINI: Chair, please don’t make your own rules as we go. The hon Maotwe said to you that her network is bad. We can even hear it when she speaks. So, if she switches on her video she’s going to get disconnected. I mean, everyone knows her voice by now. You would know that this is hon Maotwe. The IT would not have accepted her ...

Mr M A TSEKI: A video for a second, not for the whole time. Just for a second.

The CHAIRPERSON (Mr Q R Dyantyi): Hon Tseki? Hon Tseki?

Ms E N NTLANGWINI: Can I be protected? Can I be protected from these rebels? Can I be protected?

The CHAIRPERSON (Mr Q R Dyantyi): I’m protecting you, hon Ntlangwini. Please complete your point of order. Hon Tseki, you are going to refrain ...

Ms E N NTLANGWINI: Even from our side we can hear that you can’t hear her properly because her network is very bad. I

think IT wouldn’t even have accepted her onto this platform if she was not hon Maotwe. Please, can you allow hon Maotwe to speak? Stop making these unnecessary rules when it comes to the EFF. Please, I beg.

The CHAIRPERSON (Mr Q R Dyantyi): Thank you for that point of order, hon Ntlangwini. Let me just assist you and indicate immediately that your point of order is not sustained. We are in a position to see when a member’s network is unstable and bad. At the same time, this is a rule that applies to everybody. I would’ve invited hon Lesoma to show her video and then granted her ... to close and continue, and I’m doing the same with hon Maotwe. So, there is no inconsistency in this matter. Allow me to preside over this mini-plenary in line with the rules. I want to say to those members whom I have not recognised to speak, please do not do so. Don’t just jump into this. I would’ve indicated that you raise your hand or that you call your point of order. We are going to stick to that. I am now going to proceed and recognise hon Maotwe to take the platform and speak. Switch on your video and if the network is unstable, close it off and continue with your speech. Hon Maotwe?

Ms O M C MAOTWE: Thank you, Chair. The EFF supports the draft resolution to establish an ad hoc ...

The CHAIRPERSON (Mr Q R Dyantyi): Hon Maotwe? Hon Maotwe?

Ms O M C MAOTWE: ... [Inaudible.] ... to conduct ... [Inaudible.] ... into the Phala Phala game farm theft. We should be very worried that the gains we worked for in the ... [Inaudible.]

The CHAIRPERSON (Mr Q R Dyantyi): Hon Maotwe? Hon Maotwe, you are not going to proceed in the way you want to proceed. I have just indicated what you need to do.

Ms O M C MAOTWE: Chair, I’m not going to switch on my video. I’m saying that I am in an unstable environment. You want me to be disconnected and not be able to debate this motion? No, that’s not fair! I want to debate. You know who I am. I’ve been allowed here to speak by IT.

The CHAIRPERSON (Mr Q R Dyantyi): I’ll come back to you, hon Maotwe, so that you can reposition yourself. I’ll proceed to the next speaker. I’ll come back to you.

Ms O M C MAOTWE: Chair, I can’t drive 120 kilometres ... [Inaudible.] ... to switch on my network. What nonsense is this?

THE MINISTER OF SMALL BUSINESS DEVELOPMENT: It’s not nonsense.

You refuse to adhere to the rules of the session. [Interjections.]

Ms N V MENTE: So the ANC people must ... come in and speak as they wish?

On a point of order, Chair.

The CHAIRPERSON (Mr Q R Dyantyi): Hon Mente, I recognise your point of order.

Ms N V MENTE: Chair, please don’t invent new rules of Parliament. We have been doing ... this virtual platform and once people make a plea at the beginning that they cannot switch on their videos but they will be connected and speak, it has been allowed throughout. There is no rule. There is no rule, none whatsoever. Even when we were preparing the rules for virtual sittings, there is no rule which says you are forced to put on a video, as long as IT can see your name and

can attest that it’s you. All of us know our voices. We have been allowing people to speak without videos. There’s no rule which says people must be forced to. Please, Chair.

The CHAIRPERSON (Mr Q R Dyantyi): Thank you, hon Mente. Your point of order is not sustained. Hon Mkhaliphi, I recognise you, followed by hon Singh.

Ms H O MKHALIPHI: Chair, I think you are doing this deliberately. Hon Maotwe told you that she can’t switch on her video. There is no rule that prevents her from doing that. Can you just allow her to continue with her speech? You can’t say that you are going to jump her and allow the next person to speak. As the EFF, it’s our slot to speak here. Also, there is no rule that stops her from speaking because of the video.

Please, Chair, don’t do this deliberately to the EFF. Can you allow her to continue with the speech please?

The CHAIRPERSON (Mr Q R Dyantyi): Thank you, hon Mkhaliphi. I’m going to recognise the last ... hon Singh and hon Lesoma, and then we will proceed.

Mr N SINGH: Thank you very much, hon Chairperson. On a point of order: I want to make an appeal to you. There is no written

rule that we in the Rules Committee have looked at, which requires a camera to be on. It is desirable for that to happen, but in this instance I would like you to consider referring this matter to the Subcommittee on Rules or to the Rules Committee. However, allow the hon member to proceed in this debate.

Ms R M M LESOMA: Thank you very much, hon Chair. You have made a ruling and all of us as hon members will know that when the presiding officer has made a ruling there is a route that we need to take ... not engage on the matter. That’s one. I thought hon Singh was going to say that, in addition to his point that it must be referred to the Rules Committee. Chair, I suggest that ... you have made a ruling and your ruling must be respected, and we proceed. You also didn’t stop hon Maotwe from speaking. You said that you will come back to her after she has sorted out ... and was able to show her face, and then switch it off and continue.

The CHAIRPERSON (Mr Q R Dyantyi): Thank you, hon Lesoma. I will recognise hon Maotwe. I indicated I will come back to her. I now recognise hon Ngcobo. Hon Ngcobo?

Mr S L NGCOBO: House Chairperson, South Africans have been left shocked, confounded, angry and confused by the Phalaphala

... [Interjection.]

Ms H O MKHALIPHI: House Chairperson, this is the EFF slot, not IFP yet. No allow EFF to speak here. It’s not your rules that we must surface out of nothing House Chairperson, please.

The CHAIRPERSON (Mr Q R Dyantyi): Hon Mkhaliphi ... [Interjection.]

Ms O M C MAOTWE: This is the EFF slot, you can’t do that, you can’t jump me and say I must ... so, I must drive 120km from

... [Inaudible.] ... Rustenburg to get network?

The CHAIRPERSON (Mr Q R Dyantyi): ... I did not recognised you, hon Mkhaliphi and hon Maotwe, I had a ... [Interjection.]

Ms O M C MAOTWE: Can I speak, it’s a slot of the EFF House Chair, they have chosen me to speak, and I speak. You are not going to skip me.

The CHAIRPERSON (Mr Q R Dyantyi): ... I am indicating that I am coming to you. I’m allowing hon Ngcobo to speak.

Ms H O MKHALIPHI: No, you can’t allow Ngcobo, you can’t allow Ngcobo, is EFF. Your schedule in front of you, it’s says EFF House Chairperson, please.

The CHAIRPERSON (Mr Q R Dyantyi): Hon Mkhaliphi, you are not going to repeat that again. I am indicating that to you now. I have been asking you to refrain from what you are doing. Hon Ngcobo please take the platform.

Ms O M C MAOTWE: House Chair, which rule is this, that we must switch on our videos? Just direct us to the rule, where, which rule?

The CHAIRPERSON (Mr Q R Dyantyi): Hon Maotwe... [Inaudible.]

... at the beginning of ... [Interjection.]

Mr V ZUNGULA: On a point of order House Chairperson:

The CHAIRPERSON (Mr Q R Dyantyi): ... yes hon Zungula, you are recognised.

Mr V ZUNGULA: House Chairperson, firstly my hand was up, so please recognise the hands as they go up unless you want us to interject when the speakers are on the floor. House

Chairperson, we must be led by the rules, we must not be led by your interpretation or your feelings or how you want to conduct this session.

There’s nothing in the rules firstly that says that the person must have their video on for them to speak in Parliament. You cannot produce a rule to substantiate what you want to say in this matter, then it means House Chair, you are actually misleading the House and you chairing this session in manner that is not conducive to the function of Parliament.

Secondly, House Chairperson this is a very important issue that I will propose that you allow hon Maotwe to proceed as the other speakers had already proceeded on this matter. Thank you.

The CHAIRPERSON (Mr Q R Dyantyi): Thank you, hon Zungula, just before I proceed, just to remind you what I would have said at the very beginning. I read to you upfront the rules and will the sentence:

When recognised to speak, please unmute your mic and connect your video.

I will take this matter up to the subcommittee ... [Interjection.]

Mr N F SHIVAMBU: House Chairperson, on a point of order:

The CHAIRPERSON (Mr Q R Dyantyi): ... I will ask hon Maotwe

... hon Maotwe, please take the platform, hon Maotwe.

Ms O M C MAOTWE: House Chair, the Deputy President wanted to speak, please recognise him before I speak. May I request that you recognise the Deputy President of the EFF?

An HON MEMBER: The Deputy President of Parliament.

The CHAIRPERSON (Mr Q R Dyantyi): Hon Maotwe I am recognising you to speak.

Mr N F SHIVAMBU: You can proceed as long as you are prevented from speaking, you can proceed.

Ms O M C MAOTWE: Okay, thank you very much Deputy President for your protection. The EFF supports the draft resolution to establish an adhoc committee to conduct an enquiry to Phalaphala farm game theft.

We should be very worried that the gains we worked hard for in the Fifth Parliament are being destroyed. When EFF arrived in Parliament, we have found people sleeping, eating sandwiches, playing games on their phones and having a good time while the corrupt and incompetent ruling party did its thing.

When the EFF arrived in Parliament House Chair, we found the Parliament that was taking instructions from Luthuli House without a voice or independence, failing to carry out its constitutional mandate to legislative, hold the executive accountable and play an oversight role in society.

When the EFF go to Parliament, we found that the foundlings of Chapter 9 constitutional institutions which were meant to make our democracy stronger were being undermined. A Parliament that was willing to ignore the findings and the remedial actions directed by the Public Protector.

But we fought and we succeeded as the EFF, we had to fight as the EFF all the way to the Constitutional Court. It was because of the EFF that Parliament was a true representative of our people and we will continue to fight against any reactionary narrow and misdirected partisan attitude.

If they think they are going sweep the Phalaphala saga under the carpet, we want them to listen carefully, we are going to deal with Ramadollars and we will deal with him thoroughly and decisively. It’s matter of time because we know Ramaphosa’ time is coming to an end very soon.

We need Parliament to do its work, represent our people and represent them without fear or favour. We need the adhoc committee to ask ourselves, after the R60 million that was hidden under the mattress was stolen, why was there no case of burglary and theft opened with the police station. We want to know when was Ramaphosa instructed the state officials in the police and state intelligence to torture a domestic worker, who was involved?

We want to know when senior officials of the South African Police Service, including the now national commissioner, who was rewarded for abusing the state resources. Which rule or law did they fallow? We want to know as the EFF, House Chairperson. What was the role of the Crime Intelligent Division of South African Police Services in the Phalaphala saga? We want to know and the people of South Africa want to know.

When senior police officers met with their Namibian counterparts in no man’s land, on what case number were they working on? What was the role of the Deputy Minister of the State Security? Who authorised the use of the police helicopter? We also want to know what did South African Reserve Bank fail to deal with R60 million in United State, US dollars that entered the country without necessary declaration?

There seems to be confusion House Chair, about the role of an adhoc committee and the Section 89 Committee that is going to impeach Mr Ramaphosa. We know that this confusion is meant to mislead our people. There is no confusion and the there is no duplication.

The adhoc committee is going to deal with various issues that cut across different government departments, including the failure of the Reserve Bank, the Financial Intelligent Centre and many other departments that got involved in cover up.

The Section 89 enquiry will deal with separate matters and we will get to that when time comes. Let’s allow the panel to do its work. We want the panel that is independent and does not have Mr Ramaphosa’ praise singers. The Speaker promised to

inform nation about ... [Inaudible.] ... final independent on Friday and we are still waiting. For now, let’s allow establishment of the ... [Inaudible.] ... to report back in an agreed to avoid further delays.

The work of the adhoc committee must start without any further delays. We want questions’ responses, 21 questions and the answers. I thank you House Chair, we support the motion to have the Section 89 Committee established. I thank you House Chair.

Mr S L NGCOBO: House Chairperson, South Africans have been left shocked, confounded, angry and confused by the Phalaphala incident. Many are asking themselves the elusive question, why. Why did the President of the country have such a large amount of money in cash in his possession? Why was the theft not reported? There are more unanswered questions surrounding the matter than answered House Chairperson.

The President who is in the heart of this controversy has yet to fully account to the citizens of South Africa. Transparency and accountability by the head of state, is of paramount importance. The President further swore in his oath of office

to obey, observe, uphold and maintain the Constitution and all the other laws of the Republic.

If South Africa’s first citizen deem himself unaccountable. What type of example does this set for South Africa this country, the continent and the world? The President’s actions thus far have not been aligned with the expectations of the office he holds. One such example was when the Public Protector, a constitutionally mandated Chapter 9 institution approached the President with the official questions around the Phalaphala issue having been tasked with investigating the matter. The President missed the deadline to respond. It took a threat of a subpoena to illicit the written responses from President.

More recently, the President refused to answer the parliamentary questions related the Phalaphala game farm theft. These actions are not in keeping with the ethical requirements of his office.

The President as the first citizen and head of the executive arm of government more than any other South African has the responsibility to lead by example, particularly in matters relating to upholding and respecting the rule of law. This is

not a man leading from the front, setting an example for his fellow South Africans.

Phalaphala has been shrouded in secrecy, with details emerging only as the story evolves. It’s parliament’s duty to hold the executive to account. Therefore, we as members of Parliament must be steadfast in performing our duties including the establishment of an adhoc committee to investigate this matter.

South Africans must be confident that they can place their trust in Parliament to hold the executive to account, particularly following the erosion of trust that occurred over, after the last decade, largely due to state capture.

If conducted correctly with no third party interference, this adhoc committee will serve to strengthen transparency and restore trust in Parliament. Honest and accountability on the part of the executive are essential elements for successful South Africa.

In conclusion, we reiterate and remind the President of his first state of the nation address, when he stated that: “South Africa is entering a new dawn”. We ask him to consider his

actions, to take people of South Africa into his confidence and ensure that this new dawn is one of transparency, accountability and Justice. Thank you House Chairperson.

The CHAIRPERSON (Mr Q R Dyantyi): Thank you, hon Ngcobo, before I proceed to the next speaker, I saw your hand of hon Radebe.

Mr B A RADEBE: House Chairperson, the member is off the platform, because I was going to raise a point of order that; what is it which we are discussing? We are discussing the merits of the case of land or the establishment of the adhoc committee, but the member is now off the platform. Thank you, House Chair, because the agenda was the issue of establishment of the adhoc committee.

Mr W W WESSELS: House Chair, in 2009, the South African Intelligence Agency concluded that the Gupta family poses a serious national threat. On 30 April 2010, the Mail & Guardian reported on allegations of the government’s irregular involvement in the Gupta newspaper, The New Age. On 2 March 2011, it was already highlighted the Guptas were being rewarded for their support of Zuma, politically and financially. On 7 March 2011, hon Gwede Mantasha dismissed

criticism of the Guptas as racial prejudice. In April 2013, the Gupta family used the Waterkloof Air Force Base to land charter planes.

During a debate in House on Waterkloof landing, on 22 May 2013, Mr Jeff Radebe said: “We have become used to opposition parties reaching a verdict, while lacking any of the facts.” He dismissed the allegations of abuse of power. This reminds me of the hon Lesoma during this debate. This reminds me of the current allegations that we are said to ignore.

This Parliament, the majority party, in particular, ignored allegations of state capture, failed to hold the executive to account and failed to prevent billions of taxpayers’ money being stolen and state-owned entities being destroyed. History never repeats itself, but man always does. That is a cliché, but the ANC, in this House, keeps it relevant.

Parliament’s oversight and accountability model states: “Accountability is the hallmark of modern democratic governance. Democracy remains cliché, if those in power cannot be held accountable.” The inquiry into state capture report clearly indicates how Parliament failed to fulfil its oversight role. And now, we are once again failing.

*Afrikaans*:

Die agb Lesoma wil hê dat ons weer ’n blinde oog moet draai, vir die ernstige bewerings wat gemaak word. Die ANC het van hierdie Parlement ’n rubberstempel gemaak. Die ANC laat toe dat die uitvoerende gesag die Parlement voorsê.

Wanneer daar ernstige aantuigings van magsmisbruik en die betrokkenheid van verskillende regeringsdepartemente by die ongeruimdhede van Phala Phala is, moet hierdie Parlement dit ondersoek, en moet die uitvoerende gesag aanspreeklik gehou word.

*English*:

Allegations of state capture were dismissed, as only being allegations. Once again, the hon Lesoma now wants to say that it is only allegations and that is why we should not establish and ad hoc committee and that is why we should not investigate and that is why this Parliament should not fulfil its role of oversight. You are repeating history. You are once again going to say sorry to the nation for not preventing and not acting when there were allegations made. Let us again learn from what happened as early as 2009, when the first allegations of Gupta state capture were made and it was ignored by the ANC. I thank you.

Rev K R J MESHOE: Hon House Chairperson, right from the outset, I wish to categorically state that the ACDP supports the recommendation for the establishment of an ad hoc committee on what has become known as the Phala Phala scandal or ... [Inaudible.] It must be remembered that the ACDP, represented by hon Steve Swart, was part of the multiparty ad hoc committee that investigated the Nkandla scandal.

Names, faces and places may have changed, but the fundamental principle remains. This fundamental principle is underscored by universal prescripts or tenets of law and upheld by the democracies and freedom-loving societies across the globe. The principle is, everyone is equal before the law. Our own Constitution, the Chapter Two Bill of Rights, section 9(1) states that, and I quote: ”Everyone is equal before the law and has the right to equal protection and benefits of the law.”

May I remind this House that the President is not outside of everyone and the entire nation is watching closely to how we, as Members of Parliament, hold the President to account.

The ACDP calls on every Member of Parliament to uphold their oath of and be reminded of their constitutional mandate found

in section 65(2)(a)(b) of Constitution, which state that, and I quote: “The National Assembly must provide for mechanisms

(a) to ensure that all executive organs of state in the national sphere of government are accountable to it, and (b) to maintain oversight of (b)(1) the exercise of national executive authority, including the implementation of legislation, and (b)(2) any organ of state.”

President Ramaphosa has a case to answer and he must answer to the NA. The ACDP was vocal, principled and critical of former President Jacob Zuma’s involvement in the Nkandla and state capture saga. It would be hypocritical of us, if we do otherwise with Mr Ramaphosa. The President must lead by example. He is not above the law. He must give answers to Members of Parliament and to the nation. How did that money, foreign currency end in and on his farm, without the police being informed? Thank you.

Ms T L MARAWU: House Chairperson, the section 89 Independent Panel, will indeed confirm the following irrefutable and uncontested violation. So, there will be two different terms of reference for the two committees. One under the section 89 Independent Panel, Mr Ramaphosa violated section 96(2)(a) of the Constitution, in that he undertook take work. He even

acknowledges his customers during the provincial conference of the ANC in Limpopo. On 18 June this year, he was on his Phala Phala farm auctioning ankoles.

Mr Ramaphosa violated section 96(2)(e) of the Constitution in that he exposed himself to a situation involving the risk of a conflict between his official responsibilities and private interests. He did this by issuing an unlawful instruction to bodyguard’s ....

Mr B A RADEBE: House Chairperson, on a point of order: The member continuously refers to the President of the Republic and this is not a substantive motion on the conduct of the President; it is a motion on the establishment of the ad hoc committee. There must be a separation between the two. So, she cannot claim as a matter of fact that the President has violated one, two, three, four, without a substantive motion. Thank you.

The CHAIRPERSON (Mr Q R Dyantyi): Hon Marawu, ...

Ms T L MARAWU: Chairperson, I am clear here. I have no confusion on what I am saying. I am trying to separate the two committees, the need for an ad hoc committee versus section 89

committees. So, I am not confused here. I am trying to explain that. Thank you.

Mr Ramaphosa violated section 96(2)(b) of the Constitution in that he exposed himself to a situation involving the risk of conflict between official responsibilities and private interests. He did by this issuing an unlawful instruction to his bodyguard, to investigate the burglary at his private property, Phala Phala farm, instead of instructing him to open a case with the police. There is still no case number, which is another violation.

What do we say, as the ATM? The ATM supports the establishment of the ad hoc committee, so that the cite visit to the Phala Phala farm can be undertaken and also to summon all the agencies that have been ceased with investigating, in particular, criminal activities, so that all the allegations, including money laundering, kidnapping, foreign exchange violating, torturing of women, illegal border crossing, abuse, etc, can finally be confirmed. We fully support the establishment of the committee. Thank you very much.

Mr B N HERRON: Thank you, House Chair. Chair, the fog of legitimate unanswered questions relating to the breach and

security on the President’s farm, and theft of piles of cash, has enormous destructive power. Brushing the questions aside, as it has been part of the politics of the day, thickens the fog instead of clearing it. We repeat our call on the President, to urgently take South Africans into his confidence, by providing coherent explanation into the vast sums of cash, kept at his farm, and why when the money was stolen, the theft was not reported to the normal police channels?

By offering a credible explanation, the President would defend his own integrity and that of the country, and materially, contribute to breaking the toxic cycle of allegations of criminality, in recognised by politicians and media. These are serious allegations and requires serious responses. By refusing to provide the answers, the President create space for political opportunism, at the time the country can least afford it. Chair, it is very difficult to take this motion seriously, given that the allegations are already the subject of unprecedented scrutiny.

The Hawks are conducting a criminal investigation on Independent Police on Investigative Directorate, IPID, is investigating allegations of unlawful police involvement in

covering up the crime. There’s a newly appointed Inspector- General of Intelligence involvement into the matter, which the Executive Members Ethics Act and some Code, probing whether there have been any contraventions of our extensions through our regulations. As we know, Parliament is already dealing with the motion that, the President has breached section 89 of the Constitution and should be impeached.

Yes, we would like these processes to hurry up, but what we don’t need is another highly politicised special committee, that is not conceived to serve the cause of justice, but rather, to enable a renewed feeding’s frenzy of opposition politicians, both inside and outside the Ruling Party. Mature politicians who respect and promote the rule of law, and are committed to due process, should approach matters of such significance as this is, with sobriety.

Frivolous motions designed to attract publicity, are not mature or helpful. What is at stake is, the party much consequence to be reduced to a political play thing.

Parliament must deal with evidence of wrongdoing if there is any, with those who are constitutionally mandated to conduct such investigations have done their work. That is our job.

Until then, it is our duty to monitor the ongoing processes, to ensure that they proceed without fear or favour.

The extent of the investigations are already underway, to differentiate the current allegations from the state capture and Inkandla cases, some of the members rely on, to motivate for another committee. Thank you.

Mr A M SHAIK EMAM: Thank you, Chairperson. Chairperson, allow me to raise my concern. Yes, indeed, what we are attempting to do, is to put the committee in place to look into what actually happened in the Phala Phala farm scandal, if that’s what we can actually call it. Yes, indeed, we do agree as the NFP that there are various processes currently in place by law enforcement agencies, but I think that the nation as a whole, is being a bit impatient and frustrated that this particular investigation is taking a long time, and more importantly, they are suspicious that, there must be some level of interference as a result of which, we are not getting enough information.

Now, Arthur Fraser, yes, indeed, he did raise some concerns about his credibility. But there is no doubt about what is raised in this case that, it did actually take place. There’s

no doubt about that. Also, there are lots of questions that remains unanswered, Chairperson, about the amount of foreign exchange that was there. How did it come into the country, who brought it, what did he buy, when did it go out, why are there some allegations about the Namibian President that has been in contact, and the use of intelligence funds to pay for security on the premises. So, there’s a whole lot of serious allegations that are being made.

Also, I think that this enquiry might give the President an opportunity to come clean and be able to put this matter to rest, once and for all. Unless, the law enforcement agencies provides some level of satisfaction to the masses in this country and internationally, I don’t think that there would have been a need for this enquiry. But I think that it would be in an interest of the President to the country as a whole, and to protect our image and reputation internationally.

Perhaps let’s have this enquiry, and let the President come and explain what exactly has happened, and perhaps set the records straight. I think that by doing so, it will help the country and the nation as a whole. The NFP will then support the point of putting together section 89 enquiry into this matter. Thank you very much.

The CHAIRPERSON (Mr Q R Dyantyi): Thank you, hon Shaik Emam, except that the matter is with the ad hoc committee today.

Thank you.

Mr W HORN: Thank you, Chair. The Constitution determines that the first and primary responsibility of the President as the Head of State and the executive is simply this: To uphold, defend and respect the Constitution as the supreme law of the Republic. It must therefore follow that, Parliament, in holding the President to account, must firstly monitor as robustly as it is necessary, whether the President upholds the Constitution and the law. But Parliament can also never escape from the duty that we have, to ask the difficult questions to all involved, with the type of mess we are discussing.

Hon Herron says, Members of Parliament are not sober enough to consider this properly. Chair, let me say this to him and all the other members who feel that they are not up to the task, they can step aside. Hon members, Chairperson, also consider this, the official oversight and accountability model of Parliament clearly states that, in the event of transversal issue, which we clearly adhere, an ad hoc committee is the most suitable oversight and accountability vehicle.

Not surprisingly, Chair, some argue that, setting up an ad hoc committee now, will be excessive and unnecessary, given the appointment of section 89 panel of experts. But apart from the limited scope and the sole focus on the President which this process has, this section 89 process is exactly the type of process that will be primarily dependent on finding some fact in law already made up by other institutions. The type of findings of which there is really nothing to speak of here.

Chair, the Leader of the Opposition has convincingly argued, specifically on the basis of the well-considered guidance given to Parliament in the Zondo report, that we may not, under any circumstances, even consider delaying our own investigation to await the outcome of other investigations. Of course, we have already seen and heard the President in this House, refusing to answer questions on this issue, clearly expecting of us, to do just that, to delay until it suits you.

Hon members, and specifically the Speaker and Presiding Officers of this House, let us remind you of constitutionally enshrined privilege that the Members of Parliament and of the executive enjoy, determining that they could never, never face criminal proceedings, arrest, imprisonment or damages, for anything that they say, produce or submit during the

proceedings of Parliament. A double-edged sword, which makes it clear that, there is simply no bases, on which the President should be allowed to not answer any questions posed to him in Parliament.

Chair, there are so many questions, questions like, what happened to the announcement in 2014, when the President assumed office as the Deputy President, that the business interest like the one the President has in Phala Phala, was to be placed in a so-called blind trust, managed by independent professional, and that it would not be given any instructions regarding the management of these interest? All, to best prevent the President against the allegations that he, through his businesses, may fail to uphold the law.

How it did then happened that, the President, seemingly, became or stayed involved in the day-to-day operations of Phala Phala? The fact is not only indicated by the scant information they have on the theft, but also for the fact that, Mr Ramaphosa used the presidency alleged website, in November 2020, to refute the allegations they made against Phala Phala by People for the Ethical Treatment of Animals, PETA, by trophy hunting, involvement, which now is the consequence that it could be probably be blamed for the

apparent breach of the Exchange control Regulations, which requires prior permission to receive payment in foreign currency.

Also, it requires foreign currency to be declared and to be sold to an accredited dealer within 30 days of receipt. Also, was the failure to adhere to exchange control, rules and the break-in and theft, reported to the relevant authorities. If so, when and what have I done since then? If not, why not? Did the President allow the protection unit to embark on an investigation and manhunt, aimed at apprehending the perpetrators, and if this was done without his knowledge, what did he do, when he learnt of these abuses? Were former members of staff at Phala Phala paid to secure their silence on the events?

If so, who took the decision to do so? Was the President aware and involved, and if not, what did he do when he became aware of this? Did the President discussed that this matter on this night of the event with his counterpart, at the time, with the request that the matter and any assistance given by Namibia be treated confidentially? Is 15 months really the standard time it takes the Department of Justice to determine a request for legal assistance does not meet the required standard, as was

the case when dealing with the case from Namibia on this matter?

The National Prosecuting Authority, NPA, and the Special Investigative Unit, SIU, guiding the belated investigation into this matter by the Hawks, if not, why not, given that everything known about this matter screams out that, it is the type of the case that must be carefully investigated and guided. Chair, we implore all members who are serious about their office to support this proposal, so that we can get answers to these questions. I thank you.

Mr S S SOMYO: Hon Chair and hon members, the ANC has received an electoral mandate to lead the people of South Africa. In responding to this mandate and a vote of confidence by the people, we seek to affirm the fact that the vote that has taken us through seeks to recognise our role and the mission we undertook for liberation and our utterance to justice. The adoption of the Constitution of the Republic of South Africa laid a foundation for a democratic South Africa in which government is based on the will of the people and every citizen s equally protected by law.

The President of the Republic of South Africa is the head of the state and is duty bound to uphold, defend and respect the Constitution as the supreme law of the republic. For this reason, the President, in his first public statement on the theft in Phala Phala farm said the following:

President Ramaphosa stands ready to co-operate with any law enforcement investigation of these matters.

The President and various members of the Executive have been co-operating with the all investigations while others are undertaking investigations from the police, the SA Reserve Bank and other competent agencies. Therefore, there is no cover up as the matter and reports will be tabled. These, hon members, are consistent with the ANC’s position on accountability and ensuring that when allegation are raised against any leader of the ANC, the due process by competent agencies of the state in the three arms of the state, based on the nature of the matter is central to testing the veracity of allegations raised.

At this level of the state, our Parliament, needs to keep to the dictates of due process and evidence that rely on media reports which are not necessarily affirm that position. The

principle of facts and evidence is the only credible way of responding to the Phala Phala matter. As this matter has been triggered by the case, the law enforcement agencies are investigating. The DA’s motion which the Speaker has already refused has no compelling grounds to warrant an Ad hoc committee. The parliamentary panel appointed by the Speaker will recommend on the NA based on the merits and demerits of the actual primary matter which is source of the motion and appropriate intervention by the NA will follow.

Matters surrounding the theft and the various allegations on the role of other government departments are matters that are part of the operations of the different department and are not of a strategic nature such that an Ad hoc committee has to be established to respond to the allegations made which require investigations by the law enforcement agencies. These hon members, are so because allegations are an innate part of execution of executive authority. Executive authority is politically contested but what becomes subjective and of substance is the evidence of allegations raised.

A comprehensive approach to scrutinising an executive authority and oversight is through the portfolio committees which have a primary specific department which is in line with

the Speaker’s decision on the DA’s request for an Ad hoc committee. The DA disregards the Speaker’s decision and seeks to review it through a debate. This debate is a blatant abuse of the rules of this House and hon members, this motion is nothing else than an attempt to project the President as avoiding accountability. Yet the matter relating to the theft is given by all competent agencies including this institution, our Parliament.

The attempts to claim that the Phala Phala matter it seeks to focus on has no bearing on the process of the independent panel and is not linked to the work of state institutions is the lowest level of comprehension of the interconnectedness of the matter. The DA and the EFF have asked questions on various executive institutes and accountability should continue at that level. The leader of the DA is on record saying that the DA will pursue all means to ensure accountability but what the Leader of the Opposition will not tell the people of South Africa is that the ANC has welcomed the establishment of the independent panel to test the obligations which the outcomes will premise the response of Parliament on the matter.

So, the fact that there is nothing happening in Parliament is a lie. The EFF through its member, asked the Minister of

Police a question on 31 August 2022 on the involvement of crime intelligence which the Minister responded and further affirmed that no resources of the crime intelligence were used as alleged in relation to theft at Phala Phala farm but the matter is currently under investigation.

The Minister of Justice and Correctional Services responded to questions from another member of the EFF which he responded to the question related to the matter and he stated:

The National Prosecuting Authority, NPA has not yet initiated criminal prosecutions against any persons allegedly involved in the theft committed at the Phala Phala game farm as the criminal investigations in respect of the allegations are still under way.

The ANC will ensure that we follow due process to ventilate the allegations but as the governing party we have a duty which the opposition does not have, the constitutional mandate of governing and ensuring stability through evidence-based decision making which is fundamental to responding to problems in a systematic manner and in the words of the President in his response to the questions by the DA on this matter:

Those who are dealing with these matters have said that it is important that we give them time and space with all the aspects of this matter. The ANC will play its oversight role on the matter and as we stated in our caucus statement on the game farm theft, this motion is a rushed attempt to pre-empt proper investigations and to try and achieve political power through the back door. We do not support this motion with the contempt it deserves.

*IsiXhosa*:

Nikhawulela iinkawu zisiya kusela. Lindani iinkqubo ziyeza.

*English*:

Thank you very much, hon Chair.

Mr S M JAFTA: Hon Chair, I think we must set the tone right from the onset and strongly argue that constituting Ad hoc committees in terms of Rule 253, specifically part 15 of the NA Rules is a matter that cannot be taken lightly. It requires an approach that is sober, mindful of the existing accountability to Rules at the disposal of Parliament precisely because the work of Parliament is important and proposals for Ad hoc committees can be invoked sensibly only

when Parliament has shut down the door on other similar processes designed to hold the Executive accountable.

The conclusion that the NA through the Speaker must undermine the role of Questions and Answer sessions, Oral and Written Reply, a Motion of No Confidence session or even the Impeachment process is wrong and was correctly rebuked by the Constitutional Court in the EFF case. Hon members, instead of debating matters of public importance or constituting committees to serve the public we have seen mounting cases of motions to establish Ad hoc committees.

This approach does not advance the best interests of ordinary South Africans. Good governance and public interest is not served by narrow and agenda driven motions which are not related to promoting the socioeconomic conditions of the people. It is our contention that:

For the enhancement of the effectiveness and efficiency of its constitutional obligation to hold the Executive accountable, Parliament has at its disposal a variety of accountability neglecting tools.

This is precisely because Parliament has the sole power to regulate its own affairs in terms of the Constitution. There is nothing that stands on its way to adopt any oversight mechanism it prefers. Indeed, the NA must be left to enjoy its constitutional guaranteed functional independence to determine its own procedures and processes. It will be unfair to undermine any oversight mechanism preferred by Parliament unless it can be shown that it is less effective in achieving accountability. I thank you.

Mr M NYHOTSO: Hon Chairperson, we support the establishment of the ...

The HOUSE CHAIRPERSON (Mr Q R Dyantyi): Hon Nyhotso, you are recognised.

Mr M NYHOTSO: The PAC supports the establishment of the Ad hoc committee hon Chair and thank you very much.

Mr V C XABA: Hon Chair, thank you very much for the two minutes adding to my allocated time. When we are dealing with a matter like this, we should be guided by the principles of law and facts. Our democratic system is premised on the Constitution, which is a supreme law of the land. Chapter Two

of the Constitution under the Bill of Rights, provides in section nine on equality that and I quote:

Everyone is equal before the law and has a right to equal protection and benefit of the law.

This principle of equality before the law and the protection and the benefit of the law equally applies to the President. So when we deal with this matter, it is important that we should allow the law to take its course and that we respect the constitutional right of the President.

As legislators, the lawmakers who took the oath or solemn oath or affirmation, amongst other things that and I quote:

We will obey respect and uphold the Constitution and all other law of the Republic.

It is us as Members of Parliament who must lead and encourage the nation to obey, respect and uphold the Constitution and other law of the republic. Therefore, this requires that at all material times, we should be consistent in upholding this oath or solemn affirmation. We cannot and must not be party to any view that seek to justify to subject the President to a

different treatment in law. As we said, this matter requires reference to law and facts as opposed to what wish to be the desired outcome.

The facts are that a burglary is confirmed to have happened at the President’s farm, and that a case of money laundering, defeating the ends of justice and kidnapping has been opened at the Rosebank Police Station. Again, the fact is that the South African Reserve Bank’s Financial Surveillance Department is probing allegations related to the matter of foreign exchange transactions related to the burglary at the President’s farm.

The fact is that when this matter of the allegations of break- in and theft at the President’s farm was brought before the law enforcement agencies, the President released a press statement on 02 June 2022, that says and I quote:

President Cyril Ramaphosa stands ready to co-operate with any law enforcement investigation of these matters.

This is a principled stance by the President and is consistent with the oath of office and affirmation he took as the President of the Republic that he will obey, observe, uphold

and maintain the Constitution and all other law of the Republic. The fact is that the Public Protector is investigating the theft that took place at the President’s game farm. And the spokesperson of the Public Protector is on record, having said that, and I quote:

The Constitution prohibits any interference with the functioning of the institution. The Public Protector of South Africa, therefore, view ... [Inaudible.] ... on the institution to publish the evidence in question while the investigation is underway as constituting the interference contemplated in the Constitution. And calls upon them to desist from such conduct.

Therefore, as lawmakers we are expected to ensure that the concern raised by the Public Protector about undue pressure and interference in the work of the Public Protector is condemned as it falls outside our Constitution and the law.

It is also a fact, Chair, that the Standing Committee on Intelligence has investigated certain allegations pertaining to the alleged involvement of the Deputy Minister responsible for state security, as well as the alleged abuse of state secret crime intelligence fund. These allegations were

dismissed as rumours. The Joint Standing Committee on Intelligence found that there was and I quote:

No independently verifiable information to support the allegations, the allegations.

As the ANC, we understand that Parliament from time to time will establish an ad hoc committee to deal with critical matters of oversight. However, this depends on the facts and is dealt with on a case by case basis. Parliament has a history of establishing ad hoc committees, and it will continue to establish ad hoc committees when circumstances allow. The case of the Ad Hoc Joint Committee on Flood Disasters, KwaZulu-Natal, Eastern Cape and Northwest provinces is a case in point.

The Fifth Parliament established ad hoc committees to deal with the challenges of South African Broadcasting, Corporation, SABC, Eskom etc, but not as the first port of call. Hon Chair, I repeat, not as the first port of call. Parliament then through its portfolio committees, and the two inquiries, as part of his oversight and evidence emerged and justified the establishment of an ad hoc committee with

specific terms of reference. In this case of the burglary at the President’s farm, Parliament does not have facts.

Consistent with the practice, the ANC takes a view that Parliament must allow the process to ventilate fully, so that facts are fully established by the agencies with the necessary capacity and the process that the Speaker has initiated following the impeachment motion by the ATM.

The Speaker, after consultation with the party leaders has established a panel of experts which will conduct a preliminary inquiry into whether in fact, there is prima facie evidence to sustain the motion that grounds exist to initiate the process towards the impeachment of the President. The panel will assess all evidence placed before it and submit to Parliament, its findings and recommendations. The DA is not telling the truth, sir.

The argument that section 89 process is limited in scope as alleged by hon John Steenhuisen on this matter, and that panel will not delve into many questions that the DA, the IFP and the EFF say remain unanswered is rejected. The process that the Speaker set out will ultimately result - I want to repeat that - will ultimately result in an ad hoc committee that will

look into all other issues. Let me say allegations, as have been bandied about in this sitting. It will have powers to subpoena anyone it deems holds information that will assist it to do justice to the matter. But only if the panel makes a determination that a prima facie evidence exists to suggest that there is a case to answer. The ad hoc committee will thereafter report its findings and recommendations to this House. It is a matter of sequencing the steps. The position the Speaker has taking stems from the constitutional judgment that held that and I quote:

Any process for removing the President from office must be preceded by a preliminary inquiry, during which the Assembly determines that listed grounds for impeachment exist. It went on to say that without the rules defining the entire process it is impossible to implement section

89. So that there is a clear procedure to be followed.

Parliament has now beefed up its rules pertaining to holding the President, members of the executive and all other entities of government accountable. The DA’s approach flies in the face of the rules of Parliament and it causes an unnecessary stampede. The question that says, do we turn a blind eye to the allegations involving the President and other agencies?

The answer is no. Do we neglect the oath of office? The answer is no.

We have proved in this debate that the DA is jumping the proverbial gun. We are proving in this debate that the DA is mad at being overtaken by the ATM, a party they consider insignificant and shooting above its weight. It is not true that the President has refused to answer the questions on Phala-Phala. The sitting where President was in Parliament to address this question was aborted by the EFF and the ATM. This week the President will be here in Parliament to answer the remaining questions. Our plea, hon Chair, is that let us allow the due process of law to take its course. The public must not forget - I want to mention that because all sorts of allegations have been bandied about. The public must not forget that he who accuses must prove and that the accused must be held to account in proper forums with due regard to the rules of natural justice. I submit and thank you, hon Chair.

The CHAIRPERSON (Mr Q R Dyantyi): Thank you, hon Xaba. Whatever time you have saved is not going to accrue to the next speaker who is hon Siviwe Gwarube. I now recognise, hon Gwarube.

The CHIEF WHIP OF THE OPPOSITION: No Chair, that’s rather unfair. I had already geared up for an extra five minutes from hon Xaba.

Chair, I would like to place on the record for the benefit of the people at home that, the ANC has never learned any lesson from the Nkandla scandal, state capture, or even the nine wasted years. The apologies that have been offered to South Africans by government ring hollow. Because had lessons been learned and true introspection taken place, the ANC would not be treating Parliament with disdain like it is today.

The governing party has done a poor job of defending the indefensible. They have sought to conflate the work of the section 89 inquiry and that of an ad hoc committee. They have pretzelled themselves, explaining how law enforcement agencies are investigating the matter, as to argue why Parliament must sit on its hands. In doing so, they have demonstrated to us that they simply have no appreciation of the Constitution and the doctrine of the separation of powers.

Law enforcement agencies should do their work. However, lawmakers in this House should also do their work. Perhaps more devastatingly, the ANC has shown its hand. This is a

party that would never be able to self-correct. They have gone so far down the hole of moral bankruptcy, they can no longer be trusted with governing South Africa.

There comes a time in any constitutional democracy where politics is placed aside in order to bring the dignity back to this institution. We do so because we respect those who elected us. The ANC and those who declined this opportunity have failed to rise to a critical occasion in our democracy, and history will judge them harshly as it should. Thank you.

The CHAIRPERSON (Mr Q R Dyantyi): Thank you, hon Gwarube. Hon members, let me remind you that the hybrid plenary of the National Assembly will still take place at 14:00. That concludes the debate and the business of this virtual mini plenary session. The mini plenary will now arise. I thank you.

The mini plenary session rose at 12:34.