**UNREVISED HANSARD**

**MINI PLENARY - NATIONAL ASSEMBLY (VIRTUAL)**

**THURSDAY, 16 MARCH 2023**

***PROCEEDINGS OF VIRTUAL MINIPLENARY NATIONAL ASSEMBLY***

The House met at 14:00.

The House Chairperson Mr M L D Ntombela took the Chair and requested members to observe a moment of silence for prayer or meditation.

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Hon members, before we proceed I would like to remind you that the Virtual Mini- Plenary is deemed to be in the precinct of Parliament and constitutes a meeting of National Assembly for debating purposes only.

In addition to the Rules of Virtual Sittings, the Rules of the National Assembly including the Rules of Debate apply. Members enjoy the same powers and privileges that apply in the sitting of the National Assembly.

Members should equally note that anything said in the Virtual Platform is deemed to have been said in the House and may be ruled upon. All members who have logged in shall be considered to be present and are requested to mute their microphones and only unmute when recognised to speak. This is because the mics are very sensitive and will pick up noise which might disturb the attention of other members. When recognised to speak, please unmute your microphone and where connectivity permits, connect your video.

Members may make use of the icons on the bar at the bottom of their screens which has an option which allows the member to raise his or her hand to raise points of order. It will assist in alerting the Chairperson to members requesting to speak.

When using the virtual system members are urged to refrain or desist from unnecessary points of order or interjections.

Lastly, I wish to remind you that you are meeting in a miniplenary session and therefore any decision will be taken in a full plenary session of the Assembly.

The first item on the Order Paper is a Subject for Discussion in the name of the hon X N Msimango on: Examining the Fiscal Framework of the Local Government sphere against its constitutional mandate, with proposals on debt owed by

municipalities and vice versa and other revenue-enhancing mechanisms for a financially sustainable local government. I will recognise the hon Msimango from the Virtual Platform.

# EXAMINING THE FISCAL FRAMEWORK OF THE LOCAL GOVERNMENT SPHERE AGAINST ITS CONSTITUTIONAL MANDATE, WITH PROPOSALS ON DEBT OWED BY MUNICIPALITIES AND VICE VERSA, AND OTHER REVENUE- ENHANCING MECHANISMS FOR A FINANCIALLY SUSTAINABLE LOCAL GOVERNMENT

(Subject for Discussion)

Mr X N MSIMANGO: Thank you very much, hon House Chair. Am I audible enough?

The HOUSE CHAIRPERSON (Mr M L D Ntombela): You are audible Mr Msimango. Please continue.

Mr X N MSIMANGO: Okay. Chair, with your permission, can I switch off my video because of my unstable network?

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Yes. Please.

Mr X N MSIMANGO: Thank you very much. Hon Chair, hon members, Members of the Executive, distinguished guests greetings, the ANC understands the importance of local government in delivering services to our people to create better lives. It through these reasons that the ANC believes in stable and functioning municipalities such as that they deliver on their mandates, as stipulated in the Constitution and the White Paper. Which is about to deliver the provision of services and services for communities and a local system of governance.

Any challenges facing local government needs to be resolved with speed as this hinders service delivery, which our communities desperately need. The ANC policy ... [Interjections.] ...

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Excuse me, hon Msimang?

*IsiZulu:*

Mr X N MSIMANGO: ... baba.

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Your line is not so good. You keep on disappearing.

Mr X N MSIMANGO: Can you hear me now?

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Oh maybe if you can try to move. Please let’s try it again.

Mr X N MSIMANGO: Okay. The ANC policy on local government and participatory democracy, “The People Shall Govern.” The committee needs to focus on community engagements with door- to-door campaigns, report backs and follow ups to all community engagements.

This needs to be done timeously to place the people in the centre of governance. This would develop a participatory culture on matters affecting residents’ duty, such as payment of rates and taxes. Councillors needs to always work with the people in the delivery process as envisaged by the White Paper on Local Government, 9 March 1998.

The ANC through District Development Mode, DDM, calls for a developmental local governance. This means an evidence-based approach to local development needs must be developed to ensure a clear intergovernmental plans to address the changing societal, economic and environmental realities and reduce the apartheid spatial inequalities. All DDMS must have a clear

social, economic and environmental strategy in which partnerships are clearly defined to retain and expand local economies. Whilst also redressing the apartheid special inequalities. All municipalities must ensure effective collaborations between civil society and organs of state in delivering on the whole value-chain of infrastructure projects while ensuring a prescribed maintenance and renewal schedules are implemented in time. This exposes how we can create a financial sustainable developmental, local government through accelerating local economic development. Which is central to the question of the framework in the context of the White Paper. Local economic development and the advancement of localization policies can boost economic development and economic empowerment through the establishment and growth of various economic industries, which are a region’s competitive advantage.

The White Paper assumptions on the viability on local government revenue based, we welcome this year’s 1% increase in revenue division to the local government sphere. Currently, the equitable share is standing at 9,7% from 8,7%. This is a shift to the right direction. Many municipalities still significantly underfunded budget, which is an issue the fiscal framework should address.

Government has to strengthen its ability to ensure the quality of expenditure to improve the condition of communities. The ANC resolutions in the last national conference spoke to an issue of amending the White Paper on Local Government, 9 March 1998**,** to capture better lessons learned and areas of improvement.

The ANC calls on the Co-operative Governance and Traditional Affairs Cogta, to expedite this process. This will go a long way to improve the financial sustainability, to implement the constitutional mandate of local government.

In almost 29 years of freedom and democracy, years in progress and development in several areas, the ANC-led government has expanded access to basic services such as water, electricity, and sanitation. In human settlement, which is formerly known as housing, the ANC has delivered 4 million free houses, remodelled and built new schools, expanded freeways, new settlements, which integrated communities in cities and towns, and introduced buses bus rapid transports in Metros. These are the democratic gains we should defend and build on the government.

In 2001, the ANC-led government adopted an indigent policy intended to improve to provide free basic services to poor households. Under this policy, municipalities are required to identify indigent households that would receive services such as water and electricity for free or unsustainable subsidised rates. This programme is also happening even now. However, many interventions can still be done. We call on municipalities to implement these interventions to help struggling communities so that no one is left behind.

The optimum utilization of the indigent grant will improve the living conditions of our poor people. Stats SA report that and I quote:

South Africa’s 257 municipalities registered 3,51 million indigent households in 2017. That’s about 1 in every 5 of the country’s 16,2 million households.

The requirement is that households register with the municipality to qualify for free basic services. Successful applicants are granted indigenous status. Municipalities should have awareness campaigns so that households are aware of the application process. There are constraints, and municipalities might be unable to service all indigenous

households that have successfully registered due to lack of funds or inadequate infrastructure. In 2017, 157 municipalities out of 257 ... [Interjections.] ... Can I continue Chair?

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Yes. please continue hon Msimango.

Mr X N MSIMANGO: In 2017, most municipalities 147 out of 257 classified an indigent household as a family earning a combined income of less than R3 200 per ... Eleven municipalities ... [Time expired.]

Ms E R J SPIES: Good afternoon, Chairperson. Am I audible?

The HOUSE CHAIRPERSON (Mr M L D Ntombela): You are audible. Very clear, hon member.

Ms E R J SPIES: Okay, thank you very much. The auditor-general in July 2020, said the following: There is a financial cul-de- sac that many of the local municipalities and districts have already reached across the whole country with a few and limited exceptions. As the closest sphere of government to the people municipalities are responsible for providing basic

services such as water, sanitation, electricity and waste management.

However, many municipalities are facing financial challenges which makes it difficult for them to fulfill their constitutional obligations. There are 66 municipalities across the country that are dysfunctional and they have exactly these challenges. One of the most pressing challenges facing the municipalities is the level of indebtedness. Many municipalities owe large sums of money to service providers such as Eskom, water boards and to their employees. At the same time, many municipalities are owed large sums of money by residents and businesses for services rendered. This situation is unsustainable and requires urgent attention.

The issue of debt owed by municipalities cannot be solved without looking at the consumer debt owed to municipalities. On one end there needs to be stricter credit control coupled with up to date indigent registers so that those who cannot pay are exempted and those who can pay, do. The local government billing system is a critical instrument for success and in turn relies on correct data, clean bills and positive revenue collection actions. A credible, fair and transparent mechanism is necessary to increase or improve collection from

debtors. Debt collection or recovery stands at the end of the revenue value chain.

On the other hand, municipalities are compelled by the National Energy Regulator of South Africa, Nersa, not to pass on higher costs of bulk electricity to customers but there are limits to the extent to which they can sustainably do that.

Municipalities must be allowed to buy power from residents and businesses with solar installations. Small scale embedded generation uptake provides potential benefits for municipalities via cheaper electricity and reduction of technical losses. Water and electricity is lost due to lack of maintenance and this results in unnecessary revenue loss.

It is of critical importance that the National Treasury and the Co-operative Governance and Traditional Affairs, Cogta, mandates local government and makes it obligatory that sufficient funds must be allocated towards the maintenance of existing infrastructure instead of always prioritising new infrastructure at the expense of maintenance of existing infrastructure. In addition to managing debt, municipalities need to explore other revenue-enhancing mechanisms to ensure their long term financial sustainability. One such a mechanism is the introduction of the ... [Inaudible.] ... revenue

generating projects such as the development of land for commercial purposes or the installation of renewable energy infrastructure.

These projects can provide a new source of income for municipalities and reduce their dependence on central government funding. Although not new, revenue enhancement through the effective management of municipal assets is key. Municipalities should explore innovative ways to utilise these assets for revenue generation such as the leasing of unused land for commercial purposes or the development of affordable housing projects. Many municipalities have too many assets that are poorly maintained and those that are surplus should be sold and the revenue put into maintaining those core assets that remain.

Finally, it is important that we strengthen the capacity of municipalities to manage their finances effectively. This includes; improving financial management systems, strengthening internal controls and investing in the training of municipal officials on financial management-based practices. With stronger financial management systems and more skilled officials, municipalities will be better equipped to manage their finances and ensure their long term financial

sustainability. There is not always a need to reinvent the wheel or come up with brand new strategies, what we need are competent officials with the capacity to think out of the box and the will to get things done.

The monitoring and evaluation of interventions at local government level is failing. It is time to make use of the different sphere of the society for such large scale assistance. To address the challenges facing municipalities and ensuring that they are able to meet their constitutional mandate to provide basic services to all South Africans, requires a concerted effort from all stakeholders including the national government, municipalities and the private sector. The fiscal framework of the local government sphere in South Africa needs urgent attention now. Thirty years later, the local government has failed to be at the forefront of service delivery for all South Africans.

In almost every sphere at every level or department of government we have consistently failed to turn our crises into opportunities mostly because of an overwhelming need for control and ... [Inaudible.] ... for corruption. For the ANC government innovation is always stifled by the insatiable drive to steal. First ... [Inaudible.] ... later approach to

any problem. The absolute disdain for collaboration with other parties, civil society and the capable private sector, as well as the overvaluation of their contribution to a partnership turns any quick solution into a drawn out process plan with no conclusion or implementation.

Well, we are at the verge of a total collapse of local government service delivery. If this government does not act with urgency, South Africans are ready to take their country back and give the mandate to govern to the DA. The DA has proven time and again that we can govern better and we govern for the people not to the few connected cadres. I thank you, Chair.

Ms H O MKHALIPHI: House Chairperson, on Monday the 20th of March 2023, the EFF led by the President and Commander in Chief, President Julius Malema will embark on a national shut down to demand electricity and Mr Cyril Ramaphosa resignation.

In early February this year when Electricity Supply Commission, Eskom, was presenting their annual report, at the Portfolio Committee on Public Enterprises, they said that municipalities owe them R40 billion. This amount was only

R9,4 billion in 2017. A total of 96 municipalities out of 278 municipalities in South Africa, are indebted to Eskom.

Mbombela Local Municipality owes Eskom more than R500 million, Umkhondo Municipality owes Eskom more than R300 million. We are told that the City of Tshwane owes Eskom more than a billion but they don’t agree. Enoch Mgijima Local Municipality

owes Eskom more than R700 million, *Kai*! *Garib* Local Municipality ... [Interjection.]

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Hon Mkhaliphi, excuse me.

Ms H O MKHALIPHI: Yes, House Chair, yes House Chairperson.

The HOUSE CHAIRPERSON (Mr M L D Ntombela): I am saying, you keep on cutting all the time, your line is totally not well.

Ms H O MKHALIPHI: I will keep on trying House Chair, I will move around.

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Maybe try moving from the spot where you are.

Ms H O MKHALIPHI: All right, thanks. J B Marks Local Municipality in the North West Province House Chair, more than R800 million is owed to Eskom. In Nala Local Municipality in Free State Province owes Eskom more R500 million and this has been the case for the past three years.

Modimolle Mookgophong Local Municipality owes Eskom more R700 million and because of this mess, Eskom is going around terrorising municipal workers, repossessing assets of municipalities and worse subjecting our people to electricity blackout that having nothing to do with supply and demand.

We call on the people of Mbombela, Umkhondo, Tshwane, Enoch

Mgijima, *Kai*! *Garib*, J B Marks, Nala and all other municipalities to join the national shut down on 20 March 2023 to demand electricity. It is now or never. If you are tired of electricity blackout you must join the street and let your voice be heard.

House Chair, the reality is that none of these municipalities would be able to settle their debts with Eskom. It does not matter how loud any of Eskom officials scream.

During this year ’Sona debate the EFF tried and it tried on numerous times to demonstrate that the current fiscal policy and the equitable share are not practically and are based on incorrect and misguided assumptions in the 1998 Local Government White Paper, but we were debating with people like the current Minister of the Department of Cooperative Governance and Traditional Affairs, CoGTA, hon Nkadimeng who failed to run Polokwane Municipality but walked away without a lesson from that experience. She was even a South African Local Government Association, SALGA President.

Another reality House Chair, is that if you continue to allocate just a mere 11% of the total revenue nationally, collected by S A Revenue Service, Sars, to local governments and allow the National Treasury to push as much money to national and provincial governments as possible, including through grants, would be sitting with this problem for a very long time.

The system does not need minor changes here and there. We need new assumptions and a new way of budgeting for local government, hon Msimango.

1. We need to make it compulsory for municipalities to earmark budget for indigent households to receive free electricity, free water and sanitation. This must flow from the division of revenue build directly into indigent households, it must not be optionally.
2. We need to agree that municipalities must receive a dedicated budget to build the internal capacity of engineers, town planners, artisans and general workers and stop outsourcing recurring functions.
3. We need to agree that municipalities must procure local goods and this must have a strategy that would stipulate local industrialisation.
4. We need to go to national and provincial budget and take money of services that are provided by municipalities and allocate it there.
5. Most importantly, we need to resolve that municipalities are not profit making businesses and therefore should not sell the basic services with the intention of recovering all the cost to provide for those services, because this is punishing the poorest of the poor who does have any employment.
6. The last point is that these were the old World Bank and International Monitory Fund, IMF ideas that have lost credibility and all over the world, it never worked it

would never work here in South Africa. It will never work here in Africa.

So therefore, we are calling for these changes as soon as possible. Until we agree on these basic, rational and logical steps forward House Chairperson, we will debate this again in 2026. Thank you very much, House Chair.

The DEPUTY MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL

AFFAIRS (Mr M P F Tau): Thank you very much, House Chair and good afternoon to the hon members. Let me welcome the opportunity to participate in this debate today, and start by saying that the design of our system of local government has not kept pace with the dynamic change that the municipalities face on a day-to-day basis. But more importantly, the fiscal framework has not followed and adapted to these changes.

In order to address the systematic and perennial challenges that are affecting our municipalities in both rural and urban areas, in present day South Africa, I want to take you back to just before the introduction of our democratic system of local government as specifically point to the assumptions that were made in the White Paper on local government.

The White Paper outlines four characteristics of the developmental local government; namely: exercising municipal powers and functions in a manner which maximises their impact on social development and economic growth, lain and integrated and co-ordinating role to ensure alignment between public, including all spheres of government and private sector investments within the municipal area, democratize in development, and lastly, building a social compact through providing the community leadership envision to empower marginalised and excluded groups within the community.

The White Paper also proposes the development of a new framework for municipal finance which would include local revenue instruments and policies, and suggested that while existing resources of municipal revenue should remain, some of regulation property taxation system, including extension to rural areas, be considered. An additional establishment levies be considered. The White Paper also encourages municipalities to develop clear tariff policies and credit control mechanisms to ensure the poor households access to basic services and that services are provided on a sustainable basis.

While government - to some extent - been able to implement the above, we have found that in more instances, the assumptions

laid out in the White Paper do not take into account the changing world. But more specifically, a changing in South Africa and a huge cost to government to eradicate the injustices that were left behind by decades and centuries of segregation and apartheid plan. The results of these off the mark assumptions has resulted in local government becoming increasing increasingly dependent on fiscal transfers from the national government.

Data governmental fiscal system in South Africa is designed to ensure that its funded with legal responsible form. A division of revenue amongst the three spheres of government considers the potential which each sphere is deemed to generate its own revenue. Looked from this perspective, a distribution of a national ... [Inaudible.] ... revenue, the bulk of which is derived from national taxes such as corporate tax, personal income tax, value added tax, etc., can be viewed as constituting a distributive tax system. National transfer accounts for relatively small portion of the local government fiscal framework with the majority of local government revenues being raised by municipalities themselves through their substantial revenue raising powers and responsibilities

The rural and poor municipalities receive proportionately most of their revenues from transfers while urban municipalities raised most of their own revenue. Direct transfers to local government over the medium term account for 10% national government non-interest expenditure. When indirect transfers are added to total spending on local government increases 10,6% of national non-interest expenditure. On the 2023

Medium-Term Expenditure Framework, MTEF period, R521,7 billion will be transferred directly to local government. A further R26,6 billion has been allocated to indirect grants.

A significant of conditional grants is to direct resources towards achieving specific national policy objectives. It must be acknowledged that with the challenges of load shedding, unemployment, and the rise of cost of living which contributes to households not fulfilling their financial obligations to municipalities, municipal finances and consequently, their financial viability are severely challenged. Going forward, there must be considerations for reviewing the appropriateness of the current subsidy to fund basic services, improving the costing of community services and allowing greater differentiation in favour of rural based municipalities in the local government equitable share model.

A general discourse around municipal boundary changes points out that the practice of regular and continuous redeterminations and merging of municipalities lead to substantial instability in municipal governance. This also includes administration and the provision of services. It has been argued that this instability detaches municipal entities from efficient municipal governance and service delivery, makes the attainment of capable governance and longer term planning difficult and also fuels political instability.

It has been noted that after mergers, fruitless, irregular and unauthorised expenditure as a percentage of total expenditure increased in most municipalities that have merged. Merely amalgamating municipalities without addressing such basic issues of capacity, training and skills in municipalities, will not have significant impact on the improvement of governance after merges. Lack of planning, ... [Inaudible.]

... management, costing and provisional sources for transitional processes during mergers and consolidation are very significant impact on the overall governance in our municipalities.

There are many instances where discontent with service delivery in a specific community or area is advanced as a

motivation for request of redeterminations. This phenomenon is based on the perception that a particular community or area will be better served if they could administratively form part of another municipal area. That is, the grass is greener on the other side, which has proven not to be the case.

Experiencing ... [Inaudible.] ... has demonstrated that incorporation and within more affluent jurisdiction, can lead to a better standard of living while the inclusion into poorer jurisdiction often leads to lower quality of services.

Recent amalgamations - with Enoch Mgijima included - revealed the transitional grants funding, given to municipalities during release processes are very little and do not cover the long term cost associated with the establishment of new municipalities. Beyond demarcations it must be noted that there are other factors that are impacting the financial viability and sustainability of municipalities.

Allow me as I conclude to reflect on the issue of electricity distribution method. The distribution of electricity has been, and is still a major source of all revenue for local government, as espoused in the 1998 White Paper on Local Government. The nature of challenges experienced by municipalities to pay debt related to poor revenue collection

which is concerning and which impacts on the reliability of municipalities, cash flow and liquidity challenges and therefore the payment plans with Eskom and Water Boards are not adhered to. Lack of enforcement of stringent credit control by municipalities, bloated organisational structures, and poor financial management is increasing the nature of the problem.

Furthermore, R337 billion of Eskom’s debt is already government guaranteed, reducing the fiscal risk and enhancing long term fiscal sustainability for Eskom. We therefore welcome the Minister of Finance’s announcement that this relief package will also be extended to local government, which particular conditions that will be attached, and we will be working very closely with Treasury in the resolution of these problems. We also need to review the advantages and disadvantages of the use of conventional versus prepaid meters of both consumers in municipalities, and municipalities to their creditors, such as Eskom and Water Boards, as well as enable municipalities to use the stipulation of electricity in Eskom supplied areas as an instrument to enforce applications of municipalities credit control services policies and debt collection policies.

Hon members, it is important to restate a matter that I stated in the House yesterday, which is the reality that with the advent of load shedding, with the advent of people moving away from the grid, this impacts significantly on the revenue streams of local government. We anticipate a continuous deterioration of revenue into municipality. So as we resolve one crisis, which is the electricity crisis, we could precipitate the crisis in local government. This then requires that all of us apply our minds collectively to the solutions that we present and to addressing the challenges that local government will be facing and the fiscal pressures that would be affecting on our local government system.

In this regard, we believe that a comprehensive review of the fiscal framework and the way in which local government is financed will be critical to the long term resolution of the service delivery challenges that affect our municipalities.

Whilst having noted the comments by the hon members, I think it is important to state that our local government system is designed such that municipalities are able to generate from these services such as water and electricity, [Inaudible.] ... profits so that you are able to cross subsidies other services. We will have to accept that roads, sanitation and

other services that do not generate revenue would require subsidisation from other services.

Our design does not limit this pressure to only go to the property rates account, but for the diversification of investment instruments in local government to enable these to generate revenue and invest in the services that are so required in our communities. Our recommendation therefore is that it is important that we review the fiscal framework, inclusive of the equitable share formula as this is long outstanding, despite 23 years of empirical evidence showing the opposite of the assumptions made in our White Paper.

To this end, the department is working closely with the key national departments, provinces and Salga, in fast tracking the implementation of the summit resolutions for local government finance to ensure that municipalities are placed in a better position to fulfil their executive obligations and adherence to their respective service delivery agreements. I thank you.

Ms S A BUTHELEZI: Hon Chairperson, chapter 7 section 152(1)(b) and (2) contends that the focus of local government is to ensure within its financial administrative capacity the

provision of services to communities in a sustainable manner. Furthermore, the Local Government Fiscal Framework indicates that property rates and service charges are the main sources of income for municipalities. However, considering that the ability of municipalities to fulfil their constitutional mandate is hampered by debt owed to them and by them, I think it is important that in our discussion of revenue-enhancing mechanisms, we focus on the root causes that underlie the debt accumulated by municipalities.

As for the Local Government Fiscal Framework, municipalities are entitled to an equitable share of nationally raised revenue to enable them to provide basic services and perform their allocated functions. This is an unconditional transfer that supplements the revenue that municipalities can raise themselves, which includes revenue raised through property rates and service charges. However, this transfer is not enough to cover the costs for service delivery, as municipalities lack an effective revenue collection mechanism, which in turn directly impacts on the ability of municipalities to enhance their revenue.

Municipalities were owed R305,8 billion by the end of December 2022, with households owing municipalities R217 billion**.** As I

have stated previously, the government’s inability to sufficiently address unchecked expenditure by its departments and entities has forced municipalities to shoulder the burden of accumulated debt which has escalated to the sum of

R23 billion. Therefore, I remain questioning why municipalities should have to enter into payment terms with government departments over monies that should’ve been budgeted to spend on its operations.

A further concerning issue is that even after R3,4 billion for the debt owed by all 257 municipalities in the country has so far been written off, which unfairly shifts the burden to the taxpayer, the government has continued with its unspoken standard operating procedure in terms of nonpayment to municipalities. It is of crucial importance that we realise that the nonpayment of government departments has caused an escalation of unnecessary expenditure for municipalities. The revenue collection mechanism in municipalities should extend beyond enforcing service blocks on households that fail to make payments for services delivered, as they should also include repercussions faced by government departments. Before we can even start considering revenue-enhancing mechanisms, we need to prioritise how municipalities will collect these revenues. I thank you, Chairperson.

Mr I M GROENEWALD: Hon House Chair, I want to quote from a book titled, *Wealth for All*. It reads, “When money realises that it is in good hands, it wants to stay and multiply in those hands.”

The constitutional mandate of local government is interconnected with the details and operation of the Fiscal Framework, but it is common knowledge that expenditure is limited by available financial resources. A municipality won’t be able to invest in new infrastructure, fund infrastructure maintenance or support socioeconomic programmes without the money these require. However, although the tariffs charged for municipal services are an important source of municipal revenue, if the cost of services such as electricity or water becomes unaffordable to poor households, this will have the effect of reducing real income and deepening poverty by reducing household income available for other basic needs.

Service costs have already risen beyond an affordable level and poor households can no longer afford to purchase them, depriving them of access. As it is, the middle class can scarcely afford the rates and tariffs.

Talking to the Fiscal Framework, the White Paper of 1998 refers to projections that did not take into account current

collected data such as the assumption that local government could raise 73% of its own revenue. Furthermore, when the White Paper was adopted, South Africa had one of the cheapest bulk electricity prices globally. The plundering of Eskom led to a marked escalation of tariffs well in excess of inflation. The total outstanding debt of municipalities to Eskom is

R57 billion but the outstanding debt of government to municipalities stands at R23 billion. The total bailout to Eskom stands at R181,5 billion. Why doesn’t Treasury do a debt comparison from the bailout and the outstanding government debt to municipalities, taking the budget from provinces and departments that don’t pay for services, thus putting money back into the fiscus and helping local government by lowering their Eskom debt? This in turn will help local communities and general taxpayers in paying fewer bailouts and saving municipalities millions in outstanding incurred interest.

The biggest contributor in the failure of municipalities to comply with their constitutional mandate is the fact that criminal syndicates are in charge of the people’s money. The fact that taxpayers have to pay more for getting less is due to the main contributors of corruption, fraud and incompetence. Cases of corruption and fraud must be

prioritised in order to recover as much money as possible from the culprits.

*Afrikaans*:

In die geskiedenis van Afrika is dit lande wat misdaad en korrupsie ongeken laat seëvier wat die risiko loop dat ’n staatsgreep uitgeoefen word op die punt waar die burgery nie meer kan aanhou betaal vir korrupsie en bedrog, en dan geen dienslewering ontvang nie. Die staat sal sy fondasie vir dienslewering moet regruk met spoed, want die belastingbetaler is nie tevrede met krummels as hulle brood koop nie.

Munisipale tendertrepeneurs en korrupte politici steel nou die melk en die room, en los die leë kan agter vir projekte.

Daarom kom projekte nie klaar nie. Dienslewering kan nie gelewer word nie want die salarisrekening van munisipaliteite is selfs soms meer as sy totale inkomste. Dan moet die volgende vraag gevra word. Hoekom, in die tyd waar die privaat sektor mense weens die verwoestende ekonomie van COVID afgelê het, het die staat mense gaan aanstel en dan is daar nie eers genoeg voertuie om daardie mense toe te laat om hul werk te doen nie en ander amptenare is meeste van die tyd nie eens by die werk nie?

Die ANC het munisipaliteite in die afgrond bestuur tot ’n punt van geen omkeer nie. Suid-Afrika verdien ’n gesonde en goeie regering sonder die ANC. Dit sal min van ’n nuwe regering vat om beter as die ANC te doen, want erger as die ANC is ongesiens.

Kom ek sluit af. Hier is die VF Plus se waarskuwing. Passop! Belastingbetalers kan en wil nie meer planne hoor nie. Hulle wil aksie sien of hulle gaan self na aksie oorgaan.

Mr M G E HENDRICKS: Hon House Chair, our newly elected Deputy Minister, the hon Parks Tau, has challenged us to revise the fiscal framework. Yesterday I revised a new term in Parliament illicit financial flows, IFFs. This can be looking through the instilling and infringing enterprises tenfold. So, he knows that 50% of the municipal budget is lost through illicit financial flows and the reason is that they often depend the Special Investigating Unit, SIU, to investigate and to jail IFFs criminals let us use sharp words. The problem is that the fiscal framework encourages IFFs and the reason is quite simple, the SIU is only paid 30 days after the report for their work. How can they fund the investigations and there is already R2 billion owed to them by municipalities, by other institutions of government? So, that means will it cover the

50% of the municipal IFFs. There is no SIU to investigate and then recover the money.

I respectfully ask the Deputy Minister to reallocate the fiscal framework. It cannot be that the SIU must be crippled by not being properly funded, and they are not properly funded which is a fundamental violation of the Constitution. Thank you very much.

Mr B M HADEBE: House Chairperson, in the post-1994 South Africa, the central road for local government was envisaged in the new developmental state that would deliver promised better life for all. The blueprint for this new form of local government was laid out in the 1998 White Paper on Local Government. The envisaged changes to the structure and operations of local government under the new Constitution were both considerable and radical. An entirely new form of municipality was envisaged with radically different authorities and obligations.

South Africa has world-won municipalities. Local government will now deliver far more services and a wider range of services for the majority of South African residents who were excluded in the past. The District Development Model, DDM,

provides an ideal opportunity where national, provincial and local government can play a role to create conducive environments for developmental local governments. The President in the 2019 state of the nation address identified the pattern of operating in silos as a challenge which led to a lack of ... [Inaudible.] ... planning and implementation and made monitoring and oversight of government programme difficult. The consequence has been nonoptimal delivery of services and diminished impact on the triple challenges of poverty, inequality and unemployment.

President Ramaphosa further called for the rolling out of a new integrated district-based approach to address our service delivery challenges and localised procurement and job creation that promotes and support local businesses. That involves communities. The President is cognisant of the fact that such an approach will require that national departments have district level delivery capacity together with the provinces and should implement plans in line with priorities identified in the state of the nation address.

The DDM provides a space where innovation could drive local economic development. The DDM builds on White Paper on local government which seeks to ensure that local government is

capacitated and transformed to play a developmental role. The White Paper says that developmental local government is a local government committed to working with citizens, groups within communities to find sustainable ways to meet their social economical and material needs and improve the quality of their lives.

To this end, developmental local government is seen as having four interrelated characteristics which are, maximising social development and economic growth, integrating and co- ordinating, democratising development and leading and learning. For local government to advance this, the Constitution calls on national and provincial governments to support and strengthen the capacity of municipalities to manage their own affairs. Now, here are some of the solutions in terms of revenue enhancement collection.

Globally, it is recognised that local government as a sphere closest to the people needs to transform itself by maximising its resource of revenue. The collection of municipal services charged and municipal rates remains the main pillar and determine the viability of many municipalities. Without payment of services municipalities will not be able to deliver

services and fulfil the socioeconomic role expected from them as per the Constitution.

For municipalities to collect all outstanding municipal debt and enhance or maximise its revenue, it needs to focus on several elements. To mention but a few, one the indigent registration. The definition of an indigent household is a household not financially capable of paying for service delivery due to several factors. As a priority, the indigent register processor must be reopened with a clear framework on evaluation criteria to ensure that all residents without financial means to pay for services are registered. The indigent grant is currently underspent significantly.

Therefore, strengthening the indigent system capacity will support the poor while supporting local government. This process must be properly communicated administratively.

Municipalities must be able to manage the process of new applications effectively and efficiently. The second aspect is management improvement of the accuracy and efficiency of meter readings. Accurate billing and services is a critical element of municipal revenue management business model due to poor billing and revenue collections. Municipalities in rural areas without sufficient revenue base increasingly depends on

intergovernmental funding to balance their budget. This is an area where many complaints are registered daily. In several instances, residents rightfully refuse to pay their accounts due to unreliable readings and charges. Captured meter readings variant and exceptional reports must be verified before accounts are printed. Resolving the billing system is critical to ensure reliability of accounts charged to residents.

The third aspect is support to debt collection, credit control and customer care. The appointment and training of municipality debt collection staff cannot be overstated. The legal process and requirement needs to be focused on support through setting up a call centre for outbound communication and inbound communication where customers can register their problems and complaints is indispensable. Efficient services in respect of application and termination of services and ensuring that enquiries is timeously dealt with is critical.

In dealing with all queries as systematic disputes or queries handling system must be introduced in ensuring that all queries are dealt with in a good and professional manner. The increase in connectivity should also enable other forms of digital solution which can create ease of access to make payments and set reminders for residents.

Lastly, with regard to management of residents’ database, municipalities are facing a challenge of not making sure that billing system are accurate, bills are received on time and residents’ database profile is updated and is correct. Local municipalities need to update municipal residents’ information such as residential address, employment status, internet explorer, IE, profiling or grouping of debtors and identifying prescribed debtors irrecoverable for write-off. Local government municipalities should adopt innovative solutions to enhance the inefficiency of various aspects of improving revenue collection and related processes. This will enable residents to have municipal related information at their fingertips for handling of their services. The mobilisation of society to participate in local government is also critical.

Municipalities need to develop measures to convince residents to pay for their taxes and services rendered. Strong public awareness and proactive revenue collection department will help in revenue collection.

Municipalities should also endeavour to develop income generating initiatives by introducing programmes that aim to expand the revenue base of local municipalities through supporting revenue enhancement activities. This will ensure that transparent management of revenue function to ensure

customer awareness and support that will further ensure that businesses and residents pay for services. This will expand municipalities revenue base by eliminating weaknesses in the billing system and improving intergovernmental relationship management. Municipalities should mobilise and work with communities through enhanced participatory budgeting and civil participation because this will engage citizens and facilitate enhanced revenue collection. Taxpayers and businessowners must be convinced that ... [Time expired.] I thank you, House Chairperson.

Ms W R ALEXANDER**:** Chair, municipalities are accountable for all expenditures under the fiscal framework. With the economy stagnating, municipalities are facing a challenging fiscal environment which means they need to be more resourceful in generating income

The constitutional mandate for local governments calls upon them to ensure that municipalities embody the principles of democracy and accountability while guaranteeing sustainable service delivery to communities. Moreover, local government should play a vital role in fostering economic growth and societal development, creating a safe and healthy environment for all.

At the same time, it is imperative to encourage active community involvement in matters that impact local government, fostering a collaborative approach to governance. In South Africa, only 16% of our 257 municipalities have been given a clean audit by the Auditor-General for the 2021-22 financial year, highlighting a concerning regression in the overall standard of financial management within the country over the past five years. The importance of clean audits cannot be overstated; they serve as the cornerstone of the municipalities towards delivering much-needed services to communities and spending scarce public resources prudently which is seen to improve citizens'' lived experiences.

As the saying goes, the proof of the pudding is in the eating, and according to the Auditor-General, 73% of municipalities in the DA-run Western Cape received clean audits compared to 19% within the eight ANC-run provinces. That is not even a pass rate in South African basic education terms.

The shining star in Gauteng is the DA-run Midvaal received its eighth consecutive clean audit. The result of a clean audit is that public money is spent on the public, so things work, people feel confident to invest in the future, and jobs are created.

We saw just the other day, that when it came to job creation the DA-run Western Cape, created 167 000 new jobs this is in contrast to the rest of the country which only managed to create a mere 2 000 new jobs. The DA gets things done. There are a number of revenue growth suggestions for local government which include, improved revenue collection, public education, improved accountability, recruitment of qualified personnel, and a reduction in corruption just to name a few. I have just made a list of how to improve revenue but this can all be in vain if municipalities are trading recklessly and sadly many entities within municipalities are trading recklessly in terms of section 22 of the Companies Act. This act prohibits reckless trading and touches on the criminality of companies trading in such a manner, but year in and year out we see similar reports from the Auditor-General on the financial health of local government.

Gross dereliction of duties has finally caught up with some private companies that have not taken their fiduciary duties seriously. Likewise, municipal entities need to take their duties seriously or they too should face the prospect of being declared delinquent. We need to seriously reflect on the proposals for municipal revenue growth balanced alongside

equipping our local governments with capable directors, government officials, and politicians.

Since 2007, government debt has risen from R577 billion to R4 trillion. Due to volatile financial markets, which have pushed interest costs higher, the cost of repaying this debt will be almost R40 billion higher than expected in February 2022. Service delivery at the local level is currently being impacted by the cost of repaying debts, which detracts from the government's primary responsibility to provide essential

services to its citizens. Instead of accumulating further debt and increasing servicing costs, the focus should be on addressing the obligations and ensuring effective delivery to the public. Thank you, Chair.

Mr X N MSIMANGO: House Chair, I want to start by first acknowledging all the inputs that were made by the different parties to this discussion, but what is notable is the issue that is raised by the DA where they are only raising the shining part of their success. They're not telling us about the failed project which is Tshwane. They're not telling us about the failed project which is Johannesburg.

It is true that the ANC has managed to implement the resolutions which seek to make sure that our people are liberated, but also they're taken out of poverty. The reality is, the ANC will go back to its people and account for the things that we have managed to do, but be honest about the things that we could not be able to do and be able to list the reasons why we could not be able to do those things.

So, hon Mkhaliphi, speaks about the Minister that failed during her term when she was a mayor in Polokwane, I can tell you now that is not true but what is clear out of this discussion is that I don't know, or I don't understand how or where did the opposition parties get this nerve, in the midst of an important discussion like this, they decided to take ... [Interjections.] ... we must go ... [Interjections.] ...

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Hon Khawula! Hon Khawula! Please mute, hon Khawula.

*IsiZulu*:

Qhubeka, mhlonishwa uMsimango. Ungaqhubeka, mhlonishwa uMsimango. Baba uMsimango? [Ubuwelewele.]

*English*:

Mr X N MSIMANGO: Yes, yes, yes, am I audible?

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

*IsiZulu*:

... qhubeka baba.

*English*:

Mr X N MSIMANGO: Yeah, be that as it may, the centrality of local government in the local social and economic improvement of communities and provision of basic services is critical to improving the lives of the majority of the people in our country which during apartheid faced poverty, inequality, unemployment, and historic economic exclusion. Under apartheid, the majority of people who were not supplied by the local government with basic services. Parliament also has a role which is fundamental to play in the oversight of local government in terms of budgets, but also to ensure that local government has revenue streams through developing a culture of payment for services. It is imperative that there is a programme to ensure that the South African local government achieves financial viability for maximum execution of its constitutional development mandate to the majority of the people in the country who have over the past 30 years received

service delivery for the first time in their lives from the ANC government.

Now that they are going into governments in different parts of the country and these coalitions are not functional or optimally functional, this will have a negative impact on service delivery for the communities at the local level.

Parliament's role in terms of budget allocation as tabled by the ANC Minister of Finance for local government seeks to strengthen existing interventions and solutions. The Economic Reconstruction and Recovery Plan also deals with local infrastructure development and a majority of infrastructure projects are already underway in both urban and rural areas. This is critical as economic development is crucial for job creation and inclusive economic growth in the country.

The District Development Model, DDM, is a tool to strengthen co-ordination for the eradication of poverty, inequality and unemployment and ensure local economic development by connecting people to the market. It is critical to note that no other party has come up with an economic programme and model such as the District Development Model to ensure inclusive economic development at the local government level.

The quality of governance at the local government level is what the ANC is striving for and hopes to shortly achieve. This requires a complete mind shift set in councils and management of municipalities to focus on their core mandates of service delivery and to ensure that municipalities are run efficiently by managing their resources and planning effectively with the single goal of serving communities.

In this regard, the development of skills, capability and capacity is critical for the implementation of this programme. The opposition parties have been in office for more than a year since the local government elections took place, the opposition parties meanwhile would be found fighting over positions and they've neglected the core business which is to make sure that they deliver services to the people of South Africa. In this regard ... thank you very much, hon House Chair. [Time expired.]

# REGISTRATION OF MUSLIM MARRIAGES BILL

(First Reading debate)

# DIVORCE AMENDMENT BILL

(First Reading debate)

Mr M G E HENDRICKS: Hon House Chair, hon Members of Parliament, As-salamu alykum. I thank you for this opportunity for the first reading of the registration of Muslim Marriages Bill [B 30 - 2022] as introduced in the National Assembly and as proposed under section 76 of the Constitution. May it be recorded that the explanatory summary of the Bill and prior notice of the introduction was published in the government gazette No. 45275 of 8 October 2021 and that this Bill has a certificate of constitutional compliance.

I also want to acknowledge the hon Minister of Home Affairs, the hon Minister of Justice and Constitutional Development and Correctional Services and chair of the portfolio committee that must issue a certificate of desirability or not for our Bills to proceed is not on our agenda.

On 8 March, we commemorated the National Women’s Day and soon we will commemorate Human Rights Day and it is rather fortuitous that we find ourselves at this juncture discussing Bills which is so integral to the realisation of the rights of hundreds and thousands of women and children in South Africa today.

It seems the Constitutional Court failed Muslim wives and their children in a Sharia marriage by giving government two years to restore their dignity, which is a foundational constitutional requirement instead of stating quite strongly that the indignity must not continue a day longer than necessary. So, even this two year deadline will, I wish to respectfully state, not be met.

The Speaker, the Parliament legislative drafting team and Portfolio Committee on Home Affairs, Portfolio Committee on Justice and Constitutional Development have excelled themselves in enriching legislation, with the great support they gave me in order for these Private Member’s Bills to appear before you today, to appear before Parliament. This makes our Parliament a truly people’s Parliament.

Hon members, would be leaving a remarkable legacy as we all approach the 7th Parliament, giving support to these Private Member’s Bills and other Private Member’s Bills.

Al Jama-ah being the only Muslim party in Parliament has been assisted by different teams to bring before Parliament three Private Bills. The first one is an amendment to the Maintenance Act; this is to give indigent mothers and children

as complainants ‘commuting cash’ attend maintenance court hearings. This Bill had its first reading amongst political parties’ presentation to portfolio committee and had received a response from the Department of Justice that hurriedly rejected the amendment. The portfolio committee has put on hold this rejection, which should be viewed by all as an oppressive act. It is one that persist in harming and discriminating against all women as the defendants considering the fact that in most cases is the father who get cash for transport to defend themselves against paying maintenance for their children.

We are grateful on the eve of Ramadan for the opportunity to bring two more Private Member’s Bills for the first reading as you mentioned, hon House Chair, and a debate with political parties. The Muslim community looks forward to the support of hon members to restore the dignity of Muslim’s wife and their children. It cannot be that children in a Sharia marriage are still regarded illegitimate and publicly shamed.

The Constitutional Court has restored Muslim wives dignity by recognising a Sharia marriage and now it is up to hon members to do so as the Constitutional Court has given them work to do and to finalize this before June 2024.

The two Private Member’s Bills are on track to meet the deadline. No work has been done by government on the Divorce Act and a Cabinet has rejected the work done by government‘s legal team on a new Marriage Act in South Africa. It looks like it does not meet constitutional muster.

The Constitutional Court has unequivocally recognised the gross injustice suffered by Muslim wives and children on ... [Inaudible.] ... Sharia marriage. This recognition was echoed throughout all higher courts on the Western Cape High Court, to the Supreme Court of Appeal. This judicial consensus on the harms caused by our failing laws is evident in every single judgement on this issue from 2018 up to the Constitutional Court, a dozen or more cases. The latter unequivocally declared the state’s failure to come to the rescue of Muslim women and children and it proves that the state dismally failed to recognised and regulate important aspects of Muslim marriages.

It argued that the legal treatment which is qualitatively different when it is compares to civil and customary law marriages is wholly unconstitutional. The Legislature has given the state until June 2024 to remedy this; and if it fails, then the Courts have imposed automatic consequences.

The prevailing harm, humiliation and indignity cannot be denied. This is the same harm, humiliation and indignity that was suffered during the harshest days of apartheid, where even the wives and families of Muslim freedom and resistance fighters were not spared, like so many other Muslim families that were disenfranchised and that were deprived from their rights to property, security and dignity.

One prominent and tragic example is that of Hadj Galima Haron

– her husband was Imam Abdullah Haron who was bludgeoned and tortured to death with blows by a weapon that is equivalent to that of a ten-pound hammer. As you have heard at the recent November 2023 reopened inquest into the tragic death of the Imam. The Imam, during his lifetime, and his wife, made a home for their family; at the time when he was killed whilst in detention, he left behind a modest estate to ensure the financial security and provisioning for his wife and children. However, because the marriage was not recognised, and there was no valid South African marriage certificate, Hadji Galima and her young children were evicted from their family home and were, at one stage, left penniless from the estate. The entire family was left homeless and living in the streets and they had to seek shelter with Hadji Galima’s family and friends. This is the story of many more Muslim families today, the

primary reason being the lack of mechanisms to prove a “valid (Muslim) Marriage” in civil law terms.

We, as a Party, are happy that that the Minister of Home Affairs pro-actively responded that the humiliating entry of “never married” on the death certificates of Muslims in a Sharia marriage be changed to ‘married’; this is a welcome and indeed a bold move and a circular is being drafted as I speak. All that is needed now for a Sharia marriage certificate together with the ID to get a respectable death certificate is what is required.

Hon House Chair, when one day a one stated Marriage Bill becomes compliant this Marriage Bill can then be incorporated. I invite you to make history by giving life and agency to the Muslims of South Africa through this Bill, in a manner that elevates our Constitution and lays an important milestone for our constitutional democracy. Not a day longer can we allow these injustices to continue. Not a day longer should a Muslim woman and child worry about whether they’ll have a roof over their heads when facing divorce. Not a day longer should families go hungry because departments cannot decide on the issue of pension or deceased estate pay-outs when these rightful beneficiaries are grieving the loss of a spouse and a

marriage. Can we in good conscience allow this to continue, even for a day longer.

Hon House Chair, hon members, I thank you for this opportunity for the first reading of the Divorce Amendment Bill. The second one that the House Chair referred to as introduced in the National Assembly may it be recorded that explanatory summary of the Bill and Prior Notice was published in the government gazette 47526 on 18 November.

Regarding my amendments proposed through this Bill, this offers an easy effective and speedy way to protect the proprietary rights and financial security for Muslim women and children at divorce.

Presently, the divorce Act does not give Muslim wives in the Sharia Marriage access to the divorce court. That is a fundamental flouting of our Constitution. Every South African has the right to have access to every court, but just because you are married in a Sharia Marriage, Muslim wives cannot go to the Divorce Court to seek relief.

So, the Constitutional Court ask for only four amendments and the department legislative drafting team assisted me to make

those four little amendments, which means that the rights for other women in the Divorce Act will now apply to Muslim wives who are in a Muslim marriage. So, we feel that this is an important breakthrough. Earlier on I spoke about the registration of the Muslim Marriages Bill, which gives you the valid South African marriage certificate. So, if you have that valid South African marriage certificate then there should be no problems to get access to Divorce Court. But hundreds and thousands of Muslim don’t have that valid South African marriage certificate and that’s why the Divorce Act has to be amended. And the Constitutional Court has been very strict, it has said that if you don’t meet the two-year deadline South Africa would not have a Divorce Act, this will create chaos, hon Chair.

So, we are calling on the hon members to carefully consider supporting the amendments to the Divorce Act. Its only four amendments and also to consider the mechanisms and the causes that we introduce just to give Muslim wives or those married in a Sharia Marriage, a valid South African marriage certificate.

We are not introducing Sharia Marriage law in our Bills. That is the domain of our Ulama of religious leaders. They must

sort that out, they must not make their problems Parliament problems. This is purely an administrative intervention. We want a valid South African marriage certificate because the Constitutional Court has been very clear. The Constitutional Court has said that a Sharia Marriage is a valid marriage in terms of South African Law and the consequences of a Sharia Marriage is obviously in terms of the Sharia.

So, we have gone to the assistance of government by giving the definition of what is a Sharia and also what is the Muslim marriage. Thank you very much, hon House Chair.

*Declarations of vote:*

Ms A RAMOLOBENG: House Chair, the ANC acknowledges the Registration of Muslim Marriages and Divorce Amendment Bills as proposed by Al Jama-ah. We acknowledge the Constitutional Court judgement in the case of Women’s Legal Centre Trust v the President of the Republic of South Africa and others wherein it declared the Marriage Act of 1961 and the Divorce Act of 1979 to be inconsistent with some sections of the Constitution of the Republic of South Africa in so far as they fail to recognise marriages solemnised in accordance with *Sharia* law which have not been registered as civil marriages as valid marriages for all purposes in South Africa and to

regulate the consequences of such recognition. The court considered the issues of mechanism to safeguard the welfare of minor or dependent children born of Muslim marriages, the redistribution of assets and the forfeiture of the patrimonial benefits upon the dissolution of Muslim marriages. We appreciate the contents of both Bills and the need for a more equal and just society.

House Chair, we are aware that the Department of Home Affairs, led by Minister Motsoaledi, is in the process of developing a Marriage Bill, and this is at an advanced stage in the Cabinet process. The department noted that the legislation which currently regulates marriages in South Africa has been developed without an overarching policy that is based on constitutional values and the understanding of modern societal values. To create a harmonised system of marriages, the department indicated that it plans to bring the various pieces of legislation, including the Civil Unions Act, Marriage Act and the Recognition of Customary Marriages Act under a single new Act.

House Chair, once that is finalised the Marriage Bill which will encompass the various types of marriages and of different faith, including Muslim marriages amongst others, it will

align the marriage and marital property and divorce legislation to address marital property and intestate succession matters in the event of the marriage dissolution.

House Chair, as the ANC we will continue to champion for gender equality, the protection of women and children, and the empowerment of marginalised groups and society. I thank you, House Chair.

Mr A C ROOS: House Chair, the Registration of Muslim marriages and Divorce Amendment Bills before us seek to regulate the recognition, dissolution and consequences of Muslim marriages and provide mechanisms to safeguard the welfare of the wives and children born of Muslim marriages. Our Muslim communities are part of South Africa’s richly diverse society. From the DA’s values and principles I quote: “Though our people come from different origins, worship in different ways and have different cultures and customs, we are all unique individuals”

The DA celebrates diversity and recognises the right of each individual to be who they want to be and free from domination by others. Despite the fact that Islam calls for the protection of women and children, South Africa is also a land

with crippling levels of violence against women and mistreatment of women who are often left without protection.

The practice of having multiple wives came at a time when thousands of Muslim men died in wars. Instead of leaving large numbers of families widowed and orphans abandoned, Islam offered a practical solution. Now, the general understanding in the *Quran* is that fair dealing with women and orphans is the primary motivation in Islam for allowing multiple marriages albeit connected with a strict condition. Prior to the decision to marry a second wife, a man must first ensure that he will deal with his wives and any orphans with justice and take the decision with *Taqwa* or God consciousness.

Despite opposition from the government every step of the way, in the Women’s Legal Centre Trust v President of the Republic of South Africa, interim protection was finally provided by the court for women and children of Muslim marriages that were not treated with justice and were left destitute. This House is required by the Constitutional Court to amend existing legislation or pass new legislation by 28 June 2024 in order to ensure the recognition and regulation of the consequences of Muslim marriages. The Democratic Alliance is therefore willing to work with the proposal to put in a revision of this

Bill that hopefully all will be able to support. But proper public participation is key that hear from Ulama Council, women’s rights organisations and most importantly from the affected women and children. The former husband of one of the litigants was able to dissolve their marriage without due consideration for procedural fairness. The minor children were removed from her care, she was forced to leave her matrimonial home after her spouse died and live in a delta. As we consider these Bills we must remember that the very purpose of these marriages in the first place was to protect families, widows and abandoned orphans and ensure justice for them. I thank you.

Ms L F TITO: House Chairperson, the EFF is going to engage further on the two Bills at the Portfolio Committee on Home Affairs. However, the EFF is happy that the Bill is being revised after stalling because the EFF prides itself as the vanguard of the society. Every society must be allowed to exercise marriage not, in a way that is conventional and acceptable to a superior society such as the western culture, but according to their age, long cultural and religious beings.

Among the six rules of the general essentials of a Muslim, *nikah,* a binding agreement of freewill between the parties is the requirement and most important — not legal impediments.

Currently the legal framework in South Africa is definitely infringing on the acceptable cultural and religious norms of Muslim marriage backgrounds dating way back to the days of Prophet Muhammad.

The recognition of Muslim marriage norms could be similar to the acceptance of the indigenous customary marriage standards that are recognised for their roots in our cultural societies more than for western acceptable standards. Forcing the current Marriage Bill as it is to Muslim societies will be akin to forcing Christianity on all religious societies in South Africa as the most acceptable. More than infringing on the personal liberties of Muslim society standards and norms, the undermining of Muslim marriages recognition has numerous downstream negative consequences for women that enter into polygamous marriages and all of their offspring.

These are generally treated as outcasts and are normally excluded from all the post death rituals and entitlements. This generally affects women and children more than it does on men who did not recognise and accept polyandry in the same

culture and religion. In essence, it premises on male dominants to the detriment of women and their children. The sole fact that it has been red flagged by the apex court for review says a lot about the incompatibility of the Marriage Bill to the Muslim society. Justice should be served. As the EFF we support the idea of revising the two Bills registrations and we will engage further in the portfolio committee. I thank you, House Chairperson.

Prof C T MSIMANG: Hon Chairperson, the protection and rights afforded by our Constitution apply equally and fairly to all citizens of this country and prohibits any discrimination based on religion. The Constitution also confers freedom of religion, equal access to justice and the recognition of customary law.

However, the current legal framework may infringe upon the religious autonomy of Muslim couples by subjecting them to civil law instead of their religious law which may be inconsistent with their beliefs. In respect of divorce proceedings, there must be the protection of the rights of both spouses and their children in the event of irretrievable marital breakdown. Additionally, there must be a fair division of assets and access to accord regarding disputes resting in

the divorce proceedings, such a maintenance, custody and the equitable division of property.

The Recognition of Customary Marriages Act of 1998 sought to incorporate and recognise Muslim marriages in South African law. However, certain lacunae remain in terms of marriages entered into under sharia law. For example, the Act does not explicitly address the divorce process for Muslim marriages, leaving Muslim spouses arguably in legal limbo**.** Such does not create legal certainty and opens itself up to abuse with its victims and collateral damage, most often being vulnerable women and children.

Overall, the legal framework governing Muslim marriages in South Africa is a complex issue as one will note from all the debate and input on the matter. It undoubtedly requires careful consideration and balancing of various competing interests, which include religious autonomy, equality before the law and access to justice.

The IFP will continue to support equality for all before the law. I thank you, hon House Chair.

Mr M NYHONTSO: Hon Chair, we don’t have any declaration other than saying that we support the Bill as presented by Al Jama- ah.

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Thank you very much, hon Nyhontso. The EFF?

Ms H O MKHALIPHI: The EFF ... [Inaudible.]

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Yes, hon Mkhaliphi?

Ms H O MKHALIPHI: We have debated, Chair.

The HOUSE CHAIRPERSON (Mr M L D Ntombela): It’s written EFF in front of me, so I ...

Ms H O MKHALIPHI: Must we start with the debate again?

The HOUSE CHAIRPERSON (Mr M L D Ntombela): ... am calling it as such. It’s declarations.

Ms H O MKHALIPHI: So what must happen now?

The HOUSE CHAIRPERSON (Mr M L D Ntombela): It’s declarations and ... [Inaudible.]

Ms H O MKHALIPHI: We have done that.

Mr B HADEBE: You have the right to remain silent, Mkhaliphi.

*IsiZulu:*

Nk H O MKHALIPHI: Hhayi awume wena!

*English:*

You’re not an EFF ... [Inaudible.]

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Okay, hon Mkhaliphi. You have exhausted the opportunity. Actually, you have participated. Thank you very much. I will pass. The DA? Okay, the DA has done it as well.

*IsiZulu*:

Angithi ingoma emnandi ngiyabona iyaphindwa la ekhaya.

*English*:

Ms H O MKHALIPHI: This is confusing, Chair. Please ... [Inaudible.]

*IsiZulu:*

USEKELA NGQONGQOSHE WEZAMANZI KANYE NOKUTHUTHWA KWENDLE (Mnu M

D Mahlobo): Hhayi Mkhaliphi, ungadlali ngoMpangazitha.

*English*:

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Hon Mkhaliphi, we will attend to that. You don’t have to stress about that.

Ms H O MKHALIPHI: Huh-uh, we are members here. We can’t be subjected to mediocre ...

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Okay, hon Mkhaliphi. I have noted what you are saying, but I’m merely interpreting what is right in front of me.

Mr A V KHOZA: Hhayi, you are confused, Chairperson. Don’t subject us to your confusion, man.

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Which member is that?

Mr A H M PAPO: Member Vusumuzi.

Mr A V KHOZA: I can’t be here if I’m not a member. I’m here because I’m a member. If you don’t know me it’s not my problem. Don’t subject us to mediocrity here.

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Hon Khoza, I work according to the guidelines that are here in front of me and all parties are listed here. So, it is not within my right to deny an opportunity that is presented to any party, according to the guide that I have. In the event that your party has been repeated twice, that is a matter that you need to take further in your party. However, there is nothing mediocre about that. If there is a problem, it will be addressed accordingly. You don’t have to go to the length ... [Inaudible.]

Mr A V KHOZA: Talk to your Table. Talk to your Table Staff. Don’t subject us to that. Talk to your Table Staff.

Mr A H M PAPO: Order, presiding officer. We can’t ... [Inaudible.] ... situation, please.

*IsiZulu*:

Nk H O MKHALIPHI: Awukahle Papo!

*English*:

You are not a prefect. Wena, Papo! Who said you are a prefect? Why are you guiding us here? You are not a prefect, man. Just wait. We are members like you.

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Can IT take out hon Mkhaliphi and hon ... [Inaudible.] Can you do it, please?

Ms H O MKHALIPHI: Hhayi, I don’t care. We can’t be subjected to your mediocre ...

*IsiZulu*:

... ugugile wena madala ulandela igama lakho, uzogugela la.

*English*:

You are repeating parties that have spoken as well. Take me out. I don’t care.

Mr A V KHOZA: I don’t care.

Ms H O MKHALIPHI: Take me out!

*IsiZulu*: Gugile!

*English*:

Mr A H M PAPO: Chair, I wish to lodge a formal complaint against member Mkhaliphi for the unparliamentary words she has used against you.

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Thank you, hon Papo. Let’s continue, hon members. We are now left with the ANC. Is the ANC going to participate further? Thank you very much. I’ll pass. I now recognise the hon M G E Hendricks to close the declarations.

Mr M G E HENDRICKS: Thank you very much, hon House Chair. I would like to thank the PAC for fully supporting the Registration of Muslim Marriages Bill and the amendments. I welcome the commitment of the DA and EFF to work with us in the portfolio committee to get this Bill to progress further**.** I also hope that other political parties that did not participate will assist in the Portfolio Committee on Home Affairs if that opportunity comes.

The Minister of Home Affairs reported to the chairman of the committee and the portfolio committee that Al Jama-ah refused to cut a deal. The deal was that everything that was in our Bills will be incorporated in the new marriage Act, which will

most probably be sometime in the 7th Parliament. Like you heard, not a day longer than necessary must pass for the dignity of Muslim wives and their children to be restored.

I would like to refer you to clause 23 in our Registration of Muslim Marriages Bill**.** This is point 23. Clause 11 is very important. It provides for the limited duration of the application of the Act. Clause 11(1) provides for the abrogation of the Act, stating its limited duration as follows:

This Act will be automatically repealed upon the commencement of an Act of Parliament regulating the registration, recognition, solemnisation, proprietary consequences and dissolution, and consequences of dissolution of Muslim marriages.

So, we conclude this debate and we thank you and the Speaker for the opportunity. Hon Members of Parliament, we would like to conclude by stating the following. Noting that it will take quite some time for the Acts to be enacted and that there is an urgency to restore the dignity of Muslim wives and children, and seeing that the Minister of Home Affairs gave an undertaking that it will be incorporated into the new marriage

Act, the Bills presented by Al Jama-ah must be seen as an interim measure. Now, it’s not nice for Parliament to come up with interim measures but the harm done to the dignity of women and children overrides the issue of expediency.

Debate concluded.

The mini-plenary rose at 15:45.