**UNREVISED HANSARD**

**NATIONAL ASSEMBLY**

**TUESDAY, 2 MAY 2023**

**PROCEEDINGS OF THE NATIONAL ASSEMBLY**

The House met at 14:00

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

# CONSIDERATION OF REPORT OF JOINT COMMITTEE ON ETHICS AND MEMBERS’ INTERESTS ON ALLEGED CONTRAVENTION OF CODE OF ETHICAL CONDUCT AND DISCLOSURE OF MEMBERS’ INTERESTS: HONOURABLE MOSEBENZI ZWANE, MP

The SPEAKER: I am informed the there is an agreement that there will be no declarations taken. I now recognise the hon Chief Whip of the Majority Party.

There was no debate.

The CHIEF WHIP OF THE MAJORITY PARTY: Thank you very much, hon Speaker. To hon members, I hereby move that the Report be adopted as it is presented. Thank you much.

The SPEAKER: The motion is that the Report be adopted.

Question put: Are there any objections?

The SPEAKER: None. No objections.

Report on Alleged contravention of Code of Ethical Conduct and Disclosure of Members’ Interests: Honourable Mosebenzi Zwane, MP accordingly adopted.

The SPEAKER: Hon members, the charge of bridging the Code of Ethical Conduct and Disclosure of Members’ Interests for Assembly and Permanent Council Members of which hon Zwane has been found guilty is a very serious one. The committee did not however recommend that reprimand be issued. There will be no reprimand. For the findings made by the committee, the Assembly has agreed on the following penalties:

That the member be fined the amount of five day’s salary for receiving benefits and hospitality that were not disclosed for the period 2015-16, that the member enters an apology in the House for the press statement that he issued that had to be contradicted by Cabinet and for appointing special advisors who were business associates of the Guptas, that the member be suspended from parliamentary debates for one parliamentary term for their involvement in the sale of Optimum Coal Mine to Tegeta.

Order, hon members! Order, man! Order! Now, hon members, I note that hon Zwane is not here this afternoon. However, I do want to inform the House that the penalties will be implemented and the House will be informed at the appropriate time. That concludes this item.

Order! Hon members, the next item on the Order Paper is the debate on the urgent matter of the National Public importance.

The CHIEF WHIP OF THE MAJORITY PARTY: Thank you very much, hon Speaker. On the previous ruling that you have made, I just want to confirm that hon Zwane is aware of today’s plenary. He

was duly informed by me to be present in the House today. So for records, I want to put that. Thank you, hon Speaker.

The SPEAKER: Thank you very much, hon Chief Whip. Hon members, let us take note of the comments made by the Chief Whip. That the hon members had been informed. Hhayi, what is happening?

First day, nje. Hon members, asseblief man. I note the hand of hon Singh.

Mr N SINGH: Thank you, hon Speaker, firstly, I want to appreciate the comments made by the Chief Whip of the African National Congress because we were going to rise on a point of order. It’s normal practice that when a member is reprimanded or such a sentence is being passed on any member of this House that member either physically in the House or virtually and we do not have any indication of that member being either virtually in the House.

So, I would like to recommend hon member that we look at our rules to see whether or not when a member is in the House that he be reminded of the that sentence. This is a very, very serious offence that the country should really take note off. Thank you, hon Speaker for giving us the sentence.

The SPEAKER: Thank you very much, hon Singh.

# DEBATE ON URGENT MATTER OF NATIONAL PUBLIC IMPORTANCE: THE ECONOMIC IMPACT OF THE FINANCIAL ACTION TASK FORCE GREY LISTING OF SOUTH AFRICA AND STEPS REQUIRED TO EXIT THE GREYLIST

Dr D T GEORGE: Speaker, on 24 February the Financial Action Task Force, FATF, added South Africa to its grey list of countries that are under increased monitoring to address strategic deficiencies in countering money laundering, terrorist financing and proliferation financing. Our grey listing was no surprise. In 2019, FATF red-flagged South Africa for high levels of corruption and noncompliance to regulations. Although National Treasury scrambled to improve laws and regulations, it was too late. There was no co- ordination between the financial and the security clusters. And currently, South Africa remains deficient on security.

By 2025, we must improve on investigations, increased prosecutions, identify, seize and confiscate proceeds of these crimes and implement targeted financial sanctions. Despite the market already factoring in the likely grey listing before it

was officially announced, thus dampening the immediate impact, the economist reported on 4 March that the listing makes it more expensive for South African banks and companies to do business abroad. The response from Treasury was that the impact will be minimal, and the Minister subsequently declared that we would exist the grey list by mid-2024. The Minister needs to explain exactly how this would be achieved. No matter how many laws are enacted, we will not exit the grey list when there is no political will to uphold the rule of law.

Over R1 billion per month is stolen from Eskom, yet the Minister agreed to hide irregular and fruitless and wasteful expenditure from auditors in the hope of obtaining a better audit outcome. That doesn’t make any sense, unless it is designed to cover up the involvement of senior ANC politicians in the theft at Eskom. Grey listing is correlated with the decline in market capitalisation, increased supplier costs, reduced firm profitability, reduced national income and expenditure and reduced access to capital.

If South Africa does not exit the grey list quickly, we can expect increasing reluctance from the international financial markets to do business with South Africa. With 12 million

South Africans unable to find work, we need to grow our economy. Kenya and Zambia have overtaken South Africa as more viable investment destinations because they are better governed. Grey listing is a reflection of our diminishing status in the world. The Financial Action Task Force is an intergovernmental organisation found on the initiative of the International Group of Seven, G7, Canada, France, Germany, Italy, Japan, United Kingdom and United States.

President Ramaphosa, who hides dollars in his furniture, was not invited to the G7 Summit in Japan next month despite previously been invited every year since he became President. South Africa is being frozen out because our government is making the wrong policy choices. On the same day that South Africa was grey listed, FATF suspended the membership of the Russian Federation. Although South Africa claims to be neutral in Russia’s war on Ukraine, it has demonstrated its active support for Russia by participating in war games with Russia and China, permitting Russian ships to dock at our ports and military bases, where, under the cover of darkness they supply Russia. Helping Russians evade international sanctions will not speed up our exit from the grey list.

The debate on the future of African Growth and Opportunity Act, Agoa, the Act that provides South Africa with duty-free access to the US market for over 1 800 products has begun.

This is up for renewal in 2025 and government has placed this in jeopardy. A congressional delegation postponed its planned visit to South Africa from August to November because they did not consider it to be proper for them to be in South Africa at the same time as Vladimir Putin, the Russian war criminal that the current South African government invited to the Brazil, Russia, India, China, and South Africa, Brics, summit. He should be arrested and not celebrated.

The DA’s position on Agoa, that we made crystal clear during our recent engagements in the US, is that despite government’s unacceptable behaviour, Agoa should be renewed and that we need to also look beyond Agoa at a permanent trade solution that will improve trade, grow South African business and unlock the poverty trap imposed by a failing government. Our view is that not renewing Agoa will be a form of sanctions and that it must always be clear who gets hurt the most when sanctions are imposed. It won’t be the corruption riddled government that will suffer, but rather the millions of South Africans who already face the reality of food insecurity and

starvation in the face of a government induced cost of living crisis that has wiped the food off the tables of millions of households.

Thirty years after our first democratic elections, South Africa is teetering on the brink of collapse. Incoherent economic policy that placed the corrupt and dysfunctional state at the centre of our economy, introduced unproductive rent seeking through a black economic empowerment model that only enriched the political elite, cadre deployment that hollowed out the public sector and state-owned enterprises that are fronts for theft of the people’s money.

We’ve also been clear that the ANC is not to be confused with South Africa. The ANC, distinct from South Africa, does not speak for the majority of South Africans in its support for Russia in its war and in its drift away from our values of democracy, freedom and the rule of law as enshrined in our Constitution. By choosing Russia and China, the ANC has chosen to side with authoritarian regimes, and is no longer a shining beacon of hope for the victory of human rights over oppression.

Government has failed domestically and is now failing internationally. The DA will disrupt that trajectory. The days of one-party dominant rule are over and we’re now heading towards a post-ANC multi-party coalition national government that will focus on facilitating a better life for everyone who lives in South Africa. Thank you, House Chairperson.

Ms M D MABILETSA: House Chair, Chief Whip and hon members, the ANC welcomes this debate of national importance at least it will provide the opportunity for the ANC to clarify what we have done historically, where the shortfalls are and what has been done to correct these shortfalls all within the required regulatory international standards. We welcome this debate because it also provides the opportunity to bank what the sponsor of this debate is trying to do, whether mislead the House into believing that we are about to suffer a serious decline in GDP between 1% and 3% as a result of being grey listed. My Comrade Mathafa will deal more with this.

Historically, it was the ANC in Parliament who has actually led the work of oversight on anti-money laundering, anti-money laundering laws and counter-terrorism financing.

The ANC drove the initiative with other parties then joining in, which we welcome. In 2015, the Standing Committee on Finance at the insistence of the ANC began a process of financial sector transformation. In this process, we began to realise that totality and misconductness of the financial sector – the largest sector in our economy to the dangers of financial corruption, money laundering and terrorism financing. This we discovered alongside the corrupt practices of illicit financial flows and illegal base erosion and profit shifting.

So, while these matters maybe distinctly different, they all prey upon the financial sector as a whole, a mechanism through which the financial sector criminality is generated and transmitted. The work of the Standing Committee on Finance at that stage brought in the Financial Intelligence Sector and the specialised unit at the SA Revenue Service, Sars, and National Treasury. It was at that stage that we engaged with the work of the Financial Action Task Force but because we were dealing with financial sector transformation, that remained the focus. We acknowledge at that time, from 2015 to 2017, that far more oversight needed to be done on anti-money

laundering, anti-money laundering laws and counterterrorism financing.

Sadly, the important recommendations from the Standing Committee on Finance which was captured in the legacy report of the Fifth Parliament has not made progress in the financial sector and the National Economic Development and Labour Council, Nedlac, where they were referred to. And this concern Parliament like all recommendations that are not followed through later there are consequences. Those consequences were to be dealt with in 2019 when the Financial Action Task Force, which uses peer reviews to assess compliance of internationally agreed standards by member countries conducted its review.

When the result came out in 2021, we had as a country done poorly, in particular, the law enforcement agencies. No country amongst the forty members of the Financial Action Task Force is fully compliant with all the forty task force recommendations and all 11 effective immediate outcomes. South Africa was deemed to have too many weaknesses in its legal framework and put under a one-year observation period in

October 2021 to October 2022, giving the country time to address the 67 recommended actions.

The year 2022 was the year of action to respond to the review, although if you listen to the sponsor of this debate, you may think that nothing has been done. Government and Parliament together have moved rapidly in a very short space of time.

Contrary to what the sponsor of this debate is claiming, government, Parliament and the Presidency have worked together to ensure that on 22 December 2022, General Laws (Anti-Money Laundering and Combating Terrorism Financing) Amendment Act was fragmented and commenced its work after being signed by the President.

The Act amended five pieces of legislation, including the Companies Act, the Financial Intelligence Centre Act, the Financial Sector Regulation Act, the Non-Profit Organisations Act and the Trust Property Control Act. On 23 December 2022, the Protection of Constitutional Democracy against Terrorist and Related Activities Amendment Act commenced after being signed by the President. This Act expands the definition of tourists’ activities, provides for crimes related to terrorist training, the joining of terrorist organisations and the

possession and distribution of publication with terrorism related content. In February 2023 South Africa made a high level political commitment to work with the Financial Action Task Force and the Southern Africa anti-money laundering group to strengthen the effectiveness of its anti-money laundering and countering the financials of terrorism regime.

Since the adoption of the mutual evaluation report in June 2021, South Africa has made significant progress on many of the recommended action to improve its system, including developing its own money laundering and countering the financing of terrorist policies to address higher risk and duly amending the legal framework for anti-terrorism financing. Contrary to how the sponsor of this debate is trying to mislead the National Assembly, the Financial Action Task Force, then placing South Africa on the grey list for increased monitoring which is the lesser punitive list to the other lists of high risk jurisdiction subject to a call for action which does not apply to South Africa.

The Financial Action Task Force in its statement on 23 February 2021 has this to say about South Africa, jurisdiction under increased monitoring are actively working with the FATF

to address strategic deficiency in the regimes to counter money laundering, terrorist financing and proliferation financing. When the FATF places the jurisdiction under increased monitoring, it means the country has committed to resolve swiftly the identified strategic deficiencies within agreed timeframes and is subjected to increased monitoring.

This is a very different picture to what the sponsor of this debate is trying to generate and distribute in this debate. In fact, the sponsor of the debate needs in step with the Financial Action Task Force on how we work together to address deficiencies in the interest of our country and all member states instead of trying to use this as an opportunity to draw attention to himself in a supercilious manner and his moonshot partying. What needs to be acknowledged is to deal comprehensively with the technical deficiencies which requires legislative amendments and development. A working group was established, comprising of 12 departments and state entities to comprehensively deal with what the task force had raised.

It is the work of that working group that has resulted in the General Laws Amendment Act. It is this work that the sponsor of this debate does not have the integrity to acknowledge. So, what did the Financial Action Task Force say in January 2023

in its assessment of its progress. It found that South Africa has made significant and positive progress in reducing the 67 recommended actions to eight strategic deficiencies where more progress is required. As a result, South Africa was grey listed while this are addressed. Even as the task force recognised the significant and positive progress made since 2019, we have two years to rectify the eight strategic deficiencies. These deficiencies are complex and the work of the 12 state departments and entities require Parliament support and oversight as they work to remedy the shortcomings, in particular, critically dealing with outbound mutual legal assistance request that helped facilitate money laundering, terrorism financing as a priority. Improving risk-based supervision and designated nonfinancial business and proficiencies is another priority and ensuring that competent authorities have timely access to accurate and up-to-date beneficial ownership information on legal persons arrangement is a priority.

In conclusion, far from the detached view of the sponsor of this debate, dedicated and focused work is being carried out to deal with legislative and capability gaps of defeating and ceasing. I thank you.

Mr A N SARUPEN: House Chair, on 3 April 2023, the *Sunday Times* published an article with the headline: “How millions in terror funding flowed through South Africa”. On 11 November 2022, *The Citizen* run a newspaper article with the headline: “Why South Africa provides a fertile ground for terrorism funders”. On 8 November 2022, the *Mail and Guardian* ran an article with the headline: “US sanctions four people linked to alleged Isis cell in Durban”. On the same newspaper in October 2021, a headline reads: “South Africa exposed to foreign terrorist financing risks,” report reveals.

Going over back to 6 August 2016, the Institute for Security Studies issued a brief with the headline: “South Africa and terrorism: the links are real”. I could on with tens of dozens of similar headlines to show the timeline here. What I am trying to illustrate is simple, the many years the government was warned in the public domain that there were issues with South Africa acting as a clearing house and financing source for terrorists financing.

As far back as 2016, the problem was flagged and the government was in denial about the very harsh and troubling facts. Financiers of global terrorism had identified

weaknesses in the South African financial systems and they were exploiting them for illicit purposes. In this 2016 brief, the Institute for Security Studies stated, and I quote:

Evidence suggests that South Africa has been used as a transit point for terrorists, and as a base for planning, training and financing terror operations. But perhaps the bigger problem is government communication in response to the allegations and mounting evidence. Rather than shedding light and inspiring confidence, the official line has fostered distrust and uncertainty.

Fast-forward to April 2023, just a few days ago, the US Treasury department identified 52 individuals and entities here in South Africa operating in vast money laundering, sanctions evasions and terrorist financing. In November last year, the US sanctioned all persons based in Durban for providing financial support to the Islamic State in Iraq and Syria.

It is an indictment on our own law enforcement systems, agencies and processes that these activities happening here in our own country had to be detected by a foreign power. It is

embarrassing that our country is being used as a base for such activities, and that this goes on for years without action from law enforcement.

We have seen in the recent past issues such as fake passports in the hands of Al-Qaeda members and boxes of South African passports found in raids in other countries. We also know that from a *Sunday Times* report on 23 April that R400 million may have flown from Isis to South Africa, and may have been used to fund terrorism in Uganda two years ago. And what we are seeing is a pattern, an incapable state overrun with corrupt elements exploited to support global terror activities, and the incapable state is in denial about the problem.

Despite sanctions against multiple individuals in South Africa for terrorist financing, there have been no arrests to these persons to date, no charges, just a commitment in words to do better.

In March 2022, South Africa’s own Financial Intelligence Centre, FIC, as well as the Financial Action Task Force, FATF, report in 2021, found that one of the key problems South Africa sits with is in our law enforcement because our

agencies lack the skills and resources to investigate money laundering and terrorist financing. They are unable to detect the cash proceeds of crime, they are unable to obtain accurate information, proactive identification and investigation of money laundering networks, and professional enablers. This is the toxic mess that the incapable state has created, and this has led to greylisting.

If law enforcement does not step up, no amount of legislative reform will alleviate this situation. However, on wonders if it suits the corrupt elements in our government to have poor laws enforcement on financial crimes less their own misdeeds comes to light. It is therefore clear that the only way to escape greylisting and terrorists financing, and get law enforcement working again, is to have a change of government in order to build a capable state. I thank you.

Mr M N PAULSEN: Greetings to the President and the commander- in-chief, president Julius Malema, the incoming president of South Africa, members of the central command team, Members of Parliament, fighters, and people of South Africa.

House Chairperson, we will deal with the decision of the Financial Action Task Force to grey list South Africa and practical steps of what must happen. But first, allow us to give context to who the Financial Action Task Force is, and why this background is important. The Financial Action Task Force was established in 1989, an informal grouping of former colonizers, the United Kingdom, the United States, Germany, France, Italy and Japan with the inclusion of Canada.

We must always remind each other that this grouping, known as the G7, through institutions and platforms such as the International Monetary Fund, IMF, the World Bank, the annual pilgrimage of the most sophisticated world financial criminals in Davos, and of course, the Financial Action Task Force.

These institutions and gatherings are not meant to address world poverty, inequality, or hunger. They are also equally not interested in true human freedom because it is the oppression and exploitation of the working class that supports the capital accumulation and social order where the richest 1% owns and controls two-thirds of all new wealth worth

US$42 trillion created since 2020, almost twice as much money as the bottom 99% of the world’s population.

More than 700 million people live in extreme poverty, meaning that they are likely to go to bed on an empty stomach without decent shelter and human dignity.

In this day and age, we still have millions of people living in modern slavery with forced labour and marriages.

We give this background because it is important to demonstrate that we do not say what we are going to say without full knowledge of the geo-political dynamics. These institutions are at times abused to deal with dissent from people who hold different ideological beliefs than the current capitalist order.

House Chairperson, the Financial Action Task Force was created as a global money laundering and terrorist financing watchdog. South Africa has been a member of the Financial Action Task Force since 2003. The evaluation, which led to greylisting, was conducted by the IMF. We know who we are dealing with here.

Let’s now turn our focus to this debate. The decision to grey list South Africa effectively means that the country has weak

measures to combat illicit financial flows and the financing of terrorist activities. The greylisting of South Africa should not come as a surprise to anyone, and we do not need the IMF and its bodies to tell us that we are harbouring financial criminals.

The EFF, since its formation in 2013, has highlighted the high rate of illicit financial flows. We were the first political party to make submissions to the Davis Tax Committee on practical measures to deal with aggressive tax avoidance, profit shifting, base erosion, and illicit financial flows. We were the first political party to call for the introduction of legislation to criminalize aggressive tax avoidance, to give the Sars more tools to fight illicit financial flows and aggressive tax avoidance.

We were the first political party to call for the establishment of a joint task force that would include the Sars, SAPS, FIC, the South African Reserve Bank, and any other law enforcement agency to co-ordinate the fight against illicit financial flows. But we are not shocked that there is no interest, believable, and practical solutions to deal with illicit financial flows and financing of terrorism.

The President of South Africa himself, Mr Cyril Ramaphosa, stands accused of money laundering and tax evasion, and a substantial motion was brought to Parliament. The fact that the ANC uses its majority to protect him and undermine the democratic workings of Parliament does not mean there is no prima facie evidence the man must respond to.

The President’s dealings through his dodgy dealings as a sole director of Ntaba Nyoni Estate, the company that owns Phala Phala, is an example of why South Africa was greylisted today.

We are not going to implement any of the recommendations successfully and stop illicit financial flows and financing of terrorist activities when there is prima facie evidence that even the sitting head of state is a possible culprit of these crimes. Only the EFF government will deal decisively with illicit financial flows after we take power in 2024. Thank you very much, House Chairperson.

Inkosi E M BUTHELEZI: Hon Chairperson, we would be lying if we said that we did not know what would happen to our country when it comes to the subject matter we are discussing today.

The HOUSE CHAIRPERSON (Mr C T Frolick): Order, hon members! Order!

Inkosi E M BUTHELEZI: We knew very well but we gave ourselves false hope that we might avoid being greylisted. Indeed, this matter we are debating today is urgent and of national importance. South Africans deserve to know what greylisting means, what led us into it and what we have to do to get ourselves out of it. I'm not going to talk about the technical details as the ANC has done, which confuses many people.

However, I will be very simple and practical.

This is a judgement against South Africa because the ANC-led government lacks the political will to achieve sufficient progress to address issues raised by the Financial Action Task Force, FATF. Simply put, the ANC-led government has failed to deal decisively with corruption because they themselves are corrupt. The ANC-led government has failed to combat money laundering, which they are deeply involved in. The ANC-led government has failed to implement measures to counter the financing of terrorism.

Therefore, this means that all the failures and lack of political will of the ANC will make it difficult for our country to attract both local and foreign investors. This means that it will be difficult to get financial assistance if the need arises. Even if we get the assistance, it will come at much higher rates because the ANC has put our country at a very high risk. Unfortunately, all of this will put pressure on our ailing economy and cause it to shrink. Worse, the people of South Africa will suffer more and this is the last thing we can afford as a country.

So, how do we get out of this predicament we find ourselves in as a result of the ANC-led government? We must do the following. We must remove the ANC from power. We must confront the enemy of people of goodwill, which is the ANC. We must take revenge on these unscrupulous leaders who serve nothing but their own interests. We must take revenge on the enemies of our country's progress — people who have shown us beyond doubt that they are not working for us but against us.

It does not matter how good and effective our laws are to address matters raised by FATF to deal with corruption, money laundering, crime and the financing of terrorism. The truth is

that as long as we have the ANC at the helm, all these measures are useless.

Recently, these same hypocrites opposed the legitimate parliamentary process aimed at dealing decisively with corruption and money theft in Eskom. Why? It’s because they were protecting their own comrades. Just recently, the same ANC used its majority to defeat yet another parliamentary process to hold the President to account on the Phala Phala matter. Therefore, this government led by the ANC shall never, not for a single day, fight corruption and fraud, because of course they are the ones that are deeply involved and are benefitting from such acts.

So, let us use our power as people of this country to vote them out of power. Let us not have mercy and compassion on them because they are no longer our leaders but the enemies of our democracy. Thank you very much, hon Chair.

*Afrikaans*:

Mnr W W WESSELS: Agb Voorsitter, gryslysstatus is veronderstel om ‘n regering te laat wakker skrik maar die agb Mabiletsa het vandag weereens bewys dat die ANC regering nog steeds nie

wakker geskrik het nie. Die ANC regering is herhaaldelik gewaarsku dat die gryslysstatus op ons afstorm en dat daar aksie nodig is. Tog het hulle nie geluister nie. Daar was twee gebiede waar verbetering nodig was om gryslysstatus te voorkom.

Eerstens is toepaslike wetswysigings. Wat het met die wetswysigings gebeur? Die agb Mabiletsa roem dat daar hard aan daardie wetswysigings gewerk is. Nee, agb Voorsitter, daar is tot op die laaste minuut gewag en die agb lid behoort te weet want sy is deel van die komitee waar ons gevra het, wat gaan hier aan? Dat daar ondeurdagte wysigings aan ons voorgehou is waar die departement en Tesourie nie werklik aan die implikasies daarvan gedink het nie. Dit het die proses vertraag en alle partye, selfs die ANC lede, was teleurgesteld in die wyse waarop Tesourie en die ander departemente dit hanteer het. Maar dan kom u hier en u verdedig weereens die uitvoerende gesag, en dit is die probleem.

U weet, gryslysstatus beteken dat daar nie meer vertroue in die regering is nie, en dit is die probleem. Dan wil die ANC sê daar is geen ekonomiese impak nie. Natuurlik is daar ‘n ekonomiese impak, want daar is nie vertroue nie. Nou dat daar

weereens persone aan terroriste aktiwiteite en geldwassery wat in Suid-Afrika is gekoppel word, beklemtoon die feit dat ons nie die regte meganismes het om dit te beperk nie.

Maar wat verwag ons? Wat kan ons meer verwag? Terwyl Tesourie hard werk en die Minister van Finansies hard werk om ons weer van die gryslys af te kry, gaan u President en hy skep totale verwarring en hy sê Suid-Afrika gaan uit die Internasionale Strafhof onttrek. Nou as u dit doen, dink bietjie mooi. Wat word ons as ons nie meer lid van die Internasionale Strafhof is nie? Dink bietjie. Dit is nie moeilik nie. Ons word dan ‘n veilige hawe vir internasionale misdadigers en vir terroriste. Natuurlik gaan enigiemand Suid-Afrika toe wil kom as ons nie meer lid van die Internasionale Strafhof is nie.

So wat u sê en waar u hard werk laat u totaal en al ongedaan maak deur ‘n President wat homself in elk geval skuldig maak om aan buitelandse valuta wat onder matrasse weggesteek word gekoppel te word. Hoe verwag u dat ons nie op die gryslys eindig nie?

Kom ek sê vir u dat die enigste manier hoe ons werklik van die gryslys kan afkom, beleggingsvertroue te kan herstel en

hierdie ekonomie te kan herstel, is om van die ANC regering ontslae te raak. Daar is nie twyfel daaromtrent nie. Maar, indien die agb Paulsen se lugkastele waar word en Mnr Malema word die president van hierdie staat, dan sê ek vir u gaan ons nie net op die gryslys wees nie, ons is sommer onmiddelik op die swartlys. Ek dank u.

*English*:

Mr S N SWART: House Chair, whilst South Africa’s greylisting has been described as an embarrassing fall from grace, it was not unexpected. The judgement of greylisting refers to a global policy against money laundering and against terrorism financing, and South Africa was clearly not measuring up to the standard.

The FATF that disposed and bestows the judgement is not some arbitrary body but an intergovernmental organisation and global financial crime watchdog of which South Africa is a member and willing participant, and it identified deficiencies in South Africa’s legal framework through compliance, and enhances the integrity of that country.

The creation of the Fusion Centre, which brings together bodies like the National Prosecuting Authority, NPA, Special Investigating Unit, SIU, the SA Revenue Service, Sars, the Hawks, Crime Intelligence, the State Security Agency and the Financial Intelligence Centre, FIC, is a step in the right direction and as is to be welcomed. However, as the FATF pointed out, far more needs to be done, and when one considers the recent revelations of funds that have gone to terrorist organisations, clearly this is the case.

The ACDP also calls for an increased political will to carry out the Zondo Commission’s recommendations. As we know, the commission revealed institutional looting, but alarmingly, precious few prosecutions so far have taken place of those politically well-connected people implicated in the theft of billions of rand, and in certain cases money laundering was involved as well.

The implications of greylisting range from higher interest rates and inflation, the weakening of the rand, which was already factored in, reduced inbound foreign investment, less offshore investment, and increased costs and delays due to greater compliance requirements for South African banks and

transactions. The *International Monetary Fund,* IMF, estimates that countries have, on average, experienced capital outflows equal to 7,6% of gross domestic product, GDP, after greylisting. This is clearly alarming and something South Africa cannot afford.

The FATF’s statement made it clear that South Africa was greylisted not so much because of a failure of legislation but a failure to adequately investigate and prosecute money laundering and terrorist financing.

The ACDP, in government, will not fail to ensure that investigations and prosecutions of those involved in money laundering and terrorism financing takes place in a far more effective manner – something that the majority party seems unable to do, resulting in this greylisting. I thank you.

Mr B N HERRON: I will start again. A few years ago, a well- known South African politician disingenuously suggested that the falling value of the Rand could be reversed by simply picking it up. The comment reflected the inability to understand the link between fiscal integrity and financial wellbeing in the development of the nation.

Now, we have been greylisted and we cannot simply reverse the just by changing the colour of the ink printer because it too relates to integrity. National Treasury says the most significant implication to a country that is greylisted is the reputational damage to the country as its effectiveness in combating of financial crimes like corruption, money laundering as well as terror financing is deemed to be below international standards.

The greylisting does not compel us to do anything. It is effectively a negative finding of our fiduciary character.

The Financial Action Task Force, TATF, encourages its members to take information presented in its risk analysis seriously. South Africa’s poor reputation for combating financial crimes crime like corruption and money laundering were at its peak during the FATFs assessments.

The outcome of the assessment was therefore not a shock to our markets and had little or no impact on our economic growth projections. Should government fail to work rapidly to implement the remedial measures to address eight areas of deficiencies by the end of 2024 as agreed, there could be real

and detrimental impacts on our economic prospects and our credit rating.

Getting off the greylist is therefore important. But the real urgent matter of national importance is the lethal combination of our low economic growth rate, the economy’s inability to generate jobs, degrading poverty, lack of financial support for the unemployed and our energy crisis, a poisonous cycle.

If our country does not prioritize addressing these overwhelming failures, then our greylisting will matter little because socio economic fractures will continue to weaken our nation and our reputation will become irredeemable.

We implore National Treasury to get us off the greylist by 2025. While it threats that needle, restoring South Africa as a desirable destination with legitimate cash flows is a much bigger picture. Job creation and comprehensive social security are critical parts of this picture of common purpose and social cohesion. Thank you.

Mr A M SHAIK EMAM: House Chairperson, you can see that elections are looming loud and clear in this House. The one

important question I have for opposition parties in this House is that, I would like you all to go back home tonight and ask yourselves this question, is there corruption or no corruption wherever we govern? If the answer is that there is no corruption, you are lying to yourselves.

I find that you are so obsessed with the ANC that your focus of attention is only on the ANC but yet those that you collude with in this House are also corrupt wherever they are. You are overlooking that and I cannot understand why.

In fact, if the ANC was not here I think Parliament would be very boring because right now all you want to do is attack but corruption does exist with all political parties wherever they govern.

Now, I want to say particularly to the ANC, I don’t think you must pay too much attention to this greylisting because after the greylisting, blacklisting will follow. And, let me tell you why you are going to get blacklisted, because of your relationship with the new kids on the block, the Russians, the Chinese and everybody else as far as the Brics is concerned, because you are creating this new kid on the block to take on

this monster of the West. We have many puppets in this House belonging to the West that come here and sing praises of the West. Why didn’t anyone raise it when the West did money laundering?

Let’s look at terrorism, I hear we are talking about terrorism. Who created Al Qaeda, who? The United States of America created and funded them. Who is funding all these terrorist organisations to cause mayhem and chaos all over the world? It is the West that is creating it. But, why are we not willing to take on the West? Why do we come here and make it look like Russia is the enemy meanwhile Russia is not the enemy? What Russia is now trying to create is a better society where the entire globe can live in peace, with stability and prosperity.

I can assure you that if you want the African continent to progress, then you need to ensure to have leadership of the highest calibre and not those that are puppets of the West. That is the problem you are sitting with. We are greylisted only because of your relationship with the Russians. Your stance is absolutely correct; we have to protect our people in this world from the monsters of the West. Thank you.

Mr O M MATHAFA: Thank you very much, House Chair. Firstly, let me start by assisting hon George on the debate that he sponsored so that he understands what grey-listing means. This is a process that the Financial Action Task Force practice of publicly identifying countries with strategic anti-money laundering and countering the financing and tourism deficiencies.

As South Africa, we’ve been grey-listed as we still need to correct only eight strategic deficiencies down from 67 recommended actions, for which we have been given the next two years to do so. As the Task Force says, more progress is required, which we have as a country agreed to work on. So it is not correct hon Sarupen and Nkosi Buthelezi that the government did nothing, sat back and hoped that we are not grey-listed. And that we have not done anything to respond to the recommended actions.

The DA submits a theme for this debate, calling it the economic impact of grey-listing, and goes on to saying grey- listing will have significant implications for South Africa’s economy ranging from less than 1% to 30% reduction in gross domestic product, GDP. It is only an economic novice who can

make such an economic uninformed statement. For a reduction of 1% to 3% in GDP, there needs to be a substantial impact on multiple sectors of the economy, not grey-listing, not our call for International Criminal Court, ICC, to be fair, not our call for peace and dialogue between the Federation of Russia and Ukraine.

House Chair, hon George is misleading the House when he says that everyone is condemning Russia. China, India and 10 other commonwealth countries abstained from condemning Russia. Four other nations actually begged Russia in its quest for defending themselves from North Atlantic Treaty Organization, NATO, and Ukraine.

Hon Herron, we agree with you when you say that most significant implication for South Africa is reputational damage to the country as its effectiveness in combating financial crimes like corruption and money laundering as well as terror financing are deemed to be below standards. In addition, a related implication arises from consequential action taken with regards to cross-border transactions, particularly possible action taken by foreign banks that provide corresponding banking services. It should be noted

that the Task Force does not require enhanced due diligence measures to be applied, but rather that all jurisdictions take account of this in its risk analysis.

As per hon Swart’s explanation, which we seen as the most correct one of all the speakers who were at the podium of the implications of grey-listing. The above also means that financial institutions are expected to undertake more enhanced monitoring for their own business reasons, or as may be required by their own laws.

Institutions in South Africa, that engage in cross border trade, and other activities may be subject to higher levels of customer due diligence by financial institutions outside of South Africa. In practice, this means being more thorough, processing and vetting clients and understanding the source of their funds. If we demonstrate, as we have been doing that South Africa has taken a strong and incredible step to prevent and get out of grey-listing, this cost of grey listing will be reduced.

In the case of South Africa none of the items in the action plan will have been given related directly to preventative

measures in respect of the financial sector, reflecting significant progress since the mutual evaluation in the application of risk-based approach in supervision of bank and insurers.

At the current rate, we are progressing in addressing outstanding strategic deficiencies. The impact of financial stability will be limited, as well as the cost of doing business within South Africa. Continuously improving the integrity of their financial system, not merely a Task Force exercise, but rather part of government’s objective for regulation on the financial sector. The National Treasury is particularly working to continue to strengthen and expand anti-money laundering and combating terror finance systems in the financial sector. To minimize passive risks relating to

the sector, including from new and emerging risks. The biggest economic risk of being grey-listed is related to the withdrawal of banking and payment services necessary for trade, remittances and other transfers and economic growth.

This is the real risk. Not the issue of Russia and Ukraine or any other issue that was put to the table.

We are on the path of working on the aid outstanding strategic deficiencies in line with meeting the deadline for the next mutual evaluation in 2024. The report of which will be referred to the Task Force October, 2025 plenary meeting. If one reads the press release of the DA and the sponsor for this debate, one cannot find a single practical proposal in the statement on what are they proposing that we should do.

The ANC-led government is already doing, for example, they say the following: We must restore confidence in our financial system, we must put pressure on government to work closely with financial institutions and the security cluster and government must commit to rebuild institutional capacity. All they are saying is what we are doing already. It really shows that there is a crisis in the DA party on the finance front.

There was a time that we used to go to get some content from them, and today it has generated to slogans and rhetoric. So what are we doing to get out of the grey-list and not just whine about it? Like we had the sponsor of this debate doing today. There are two critical actions that we have to demonstrate. Firstly, assessment of the letter of the law. The legal framework, which has already largely been completed, so

that their technical compliance can be demonstrated by the adequacy of our laws dealing with money laundering and combating of terrorism financing.

Secondly, and this is the more difficult part, relates to assessment of the spirit of the law, effectiveness.

Effectiveness measures refer to immediate outcomes, and requires demonstrating their success of implementation. The number of successful prosecutions, the number of precinct orders of funds, policy and operational documentation.

The 12 departmental and state entity working group have completed their work on legislative reform and announces in the effectiveness measures of the legislative reform, the General Laws Amendment Act, which amended five pieces of legislation as an omnibus, piece of legislation and the Protection of Constitutional Democracy against Terrorist and. Related Activities Act, have really demonstrated to the Financial Action Task Force our capability and willingness in dealing with the necessary legislative changes.

The legislative amendments in the two Bills, addresses 16 of the 20 technical compliance deficiencies and are the first

important and very significant remedial steps to bring grey- listing into an end, when considered by the task force plenary in 2025, in the month of October.

Cabinet has mandated the interdepartmental committee on anti- money laundering and encountering terror financing to address the identified deficiencies expeditiously. This includes overseeing the implementation of the national strategy on anti-money laundering and countering terror financing, and taking progress in addressing the identified deficiencies.

The law enforcement agencies, including the National Prosecution Authority, are implementing an integrated action plan, ensure a sustained increase in investigations and prosecutions of serious and complex money laundering cases. The action plan focuses on case involving professional money laundering networks and third party money laundering, as well as identifying, investigating, and prosecuting terror financing activities in line with South Africa’s risk profile.

The commitment from the Presidency through the Cabinet Committee on Justice, Crime, Prevention and Security is to enforce the implementation of the high level goals. Ensuring

that all relevant agencies and departments are addressing the deficiencies identified by the Financial Action Task Force.

On effectiveness in implementation, the second major part of responding to grey-listing, this work has already started and will require our oversight as Parliament across the five committees in the National Assembly. The actions that have commenced on effectiveness relates to, firstly, national risk assessment. Secondly, regulatory issues involving various supervisory requirements and beneficial ownership information. Thirdly, investigations, prosecutions and forfeitures relating to money laundering largely by the security cluster. Fourthly, terrorist financing investigations and prosecution, as well as targeted financial sanctions relating to terrorism financing and proliferation financing. This is the work that has started and the country through the co-ordinated work of the twelve institutions will need to demonstrate substantial progress in implementing recommended actions together with the action plans for each of the four identified area.

In terms of oversight, this means that the five committees of the National Assembly will need to assess whether the department and entities tasked in addressing this

effectiveness plans reflected in the outcomes. The following are the two critical indicators. One, to what extent is the outcome being achieved with example of specific factors and taking into account the level of technical compliance and contextual factors. Two, what can be done to improve effectiveness and where possible mega recommendations to improve the ability to achieve specific outcomes? One member is going to fumble because he is not listening, and these tasks are for Parliament.

Having said that, we want to thank the sponsor of the debate for giving the ANC, the opportunity of explaining how we are getting South Africa out of grey-listing, since he himself has not provided any practical solutions. We need to always use these occasions to address the essence of the problems that we face and not trivialize important matters by misleading the House because the DA needs to try and gain traction for the next year’s elections and look relevant. The ANC leaves and the ANC leads. I thank you, House Chair.

Ms W R ALEXANDER: Hon Members of Parliament, we are painfully aware that South Africa has been greylisted. While the short- term consequences may appear insignificant, failure to address

the issues by 2025 will result in severe repercussions. The longer we remain on this list the more challenging it becomes to access international finance markets. Our reputation, business opportunities and investment prospects are all at risk.

Increased scrutiny from financial institutions and regulators who make transacting with this country costlier and difficult. Hardened monitoring coupled with increased transactional costs due to managing funding source verification will result in delays in transactions. This burden on our business and our nation’s standing in the global market is not something we can afford to ignore. Moreover, Treasury departments particularly those who rely on global trade will be significantly impacted. Increase red tape and more stringent due diligence for offshore trading will lead to a decline in trade revenue.

As we face each challenge ... [Inaudible.] ... we must also be content with the possibility of regulators in the United States, US, European Union, EU, and the United Kingdom, UK restricting transactions with the South African banks. Being greylisted has far reaching implications for foreign investment. Many international financial institutions may

limit their dealings with us and hindering businesses for foreign investment for this nation. These restrictions add to our ever growing list of challenges that we face including low growth and our ongoing energy crisis. The urgency for South Africa to adapt to the climate change and secure finances from international partners is paramount.

At the Cop 26 the US, EU, UK, France and Germany pledged R8,5 billion of support towards our transition to our low

carbon economy. However, greylisting will burden international finance flow to and from South Africa with high compliance obligations and transactional costs. Attracting additional foreign investment and companies to support our environmental social and governance objectives will prove increasingly difficult, yet, this government has sought to fit to leverage the predicament as an opportunity to strengthen financial crime prevention as if this opportunity did not exist prior to us being greylisted.

I would like to remind this Parliament that our role and duties as elected public officials is that we are duty bound to represent the people of this country. We are their voice and we are accountable to the people of South Africa. As we

discuss greylisting and the criteria to be removed from this list, is it not ironic that the President himself has been accused of bribery, money-laundering and concealing a crime at his Phalaphala farm. These allegations would not intimidate an innocent person to set the record straight if that’s in fact what needs to be done.

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon member, your time has now expired. Hon Jafta.

Ms W R ALEXANDER: Thank you very much.

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon Jafta, are you on the platform?

The HOUSE CHAIRPERSON (Mr C T Frolick): Yes, please, proceed.

Mr S M JAFTA: The placing of South Africa on a list of countries under increased monitoring or greylisting has a particular historical context. In 2009, the Financial Action Task Force lamented our country’s lack of financial regulator mechanism to stem out money-laundering and financing of terrorism. Fourteen years later, there is no concrete

regulatory regime to quell illicit financial flows and money- laundering.

It does occur to us that we have not paid sufficient attention to these international crimes, for example, despite South Africa’s signing of the multilateral convention to implement the tax free ... [Inaudible.] ... related measures to prevent base erosion, money-laundering and profit-shifting, this Parliament only approved this convention later, late last year, six years after it was signed in 2017.

It is worth reminding ourselves of some of the grey areas the Financial Action Task Force flagged in its reporting on South Africa. They include amongst others; the lack of sustained increased control in outbound mutual legal assistance request that helps facilitate money-laundering, the lack of improved risk-based supervision of designated nonfinancial business and professions and inadequate and not updated tax free risk assessment to inform the implementation of comprehensive national counter financing of terrorism strategy. Hon Chair, if the international and enhanced regulatory controls are not put in place such as measures designed to investigate and prosecute serious and complex money-laundering and the full

range of tax free activities, we will continue to be in the same greylisting group alongside failed democracies such as the Democratic Republic of Congo, Syria and Nigeria.

While state capture eroded the capacity of the state to fight money-laundering and base erosion it did awaken us to some of the glaring financial misdemeanors which must constantly be monitored. We cannot afford as a destination for foreign direct investment and foreign portfolio inflows to ignore the Financial Action Task Force findings. We have to re-engineer our enforcement capacity and stem the tide against international crimes. I thank you.

The MINISTER OF FINANCE: Hon Chairperson and hon members, the debate about grey listing and its impact is an important debate for all South Africans who care about the country and its prospects. In this regard, I want to thank hon George for requesting this debate. It is also an issue that is very attractive to the opposition parties. It is easy to portray it as some kind of international criticism of South Africa. What I hoped for was that, having criticised us for our failures our colleagues from the opposition benches would probably offer us some solutions.

The HOUSE CHAIRPERSON (Mr C T Frolick): Order, hon members! Order! Order, hon Paulsen. You had your opportunity to debate. Order!

The MINISTER OF FINANCE: What is the solution we are being granted? Remove the ANC! That is the solution I have heard coming out forth. We need some contributions. When I take this platform I have always genuinely requested opposition parties as South Africans to debate with us even outside this room when it is necessary to offer some solutions to complex and challenging problems confronting our nation. I am grateful to hon Wessels because he draws a distinction between two things, grey listing and blacklisting, which are both done by the Financial Action Task Force, FATF. Unfortunately, South Africa was not blacklisted, but grey listed. That distinction is important.

What I want to do today is to reflect on grey listing and on government’s attitude to its underlying issues and I would leave for others to play politics with the issue. The first thing to say is that being grey listed is a serious matter. The FATF process is a vigorous one and we don’t think the decision to grey list South Africa was a frivolous one or that

it was taken for a frivolous reason. From our side if we do not subjectively take that decision we are not going to be operating in order to change it - it was not a frivolous one. The fact of the matter is that South Africa does have serious challenges of crime and corruption and that this generate a lot of proceeds of crime. If there are a lot of proceeds of crime our antimoney laundering regimes must be sufficiently strong.

Let me say that a lot is being said about the implications. What are the possible implications of grey listing? The first one is to see capital outflows. Have we seen capital outflows in this economy which we can attribute to grey listing? My answer is, no. For an example, in April this month we have heard positive inflows more than any period between 2017 and now. Those are facts. You can go to the central bank to get those figures. The second thing is, how do corresponding financial institutions relate to our institutions? We have not seen any negative reaction from the corresponding financial institutions to our institutions. What we have is largely the politicisation of the problem than a focus on the resolutions to the problem.

We need to fix this not because FATF tells us to do it or because it is embarrassing that we were grey listed, but because crime and corruption are a measure tract to our economy and prosperity. That is why we do it, and not because

... That is why in October last year the President responded with a comprehensive response to the recommendations of the Zondo commission committing to fix up our institutions so that they can deal better with crime and corruption. I am going to come back to this point as to what have we done in order to strengthen these institutions.

Even though we don’t think that grey listing has in itself caused any significant impact yet as I have indicated, but we have to recognise that the reasons we were grey listed do not have measure economic consequences. They do have economic consequences as I have indicated about crime and corruption. If we do not deal with crime and corruption more effectively, then we will struggle to solve our economic challenges. The importance of dealing with the reasons for grey listing is a most important point I want to make today. It is from this starting point that we are proceeding in responding to grey listing.

Part of the reasons FATF grey listed us is that they assert to statutory basis of our antimoney laundering regime. They identified a number of deficiencies that could be exploited by those wishing to hide ill-gotten gains from crime and corruption. In this regard members would all know that last year we led a process of passing a range of statutory amendments that address all these gaps. Thanks to you members for that. These changes are now enforced and we think that they will go some way to close the gaps through which dirty money end up in and circulate in the economy. They will also make it easier to identify the beneficiaries of transactions that involve proceeds of crime and corruption. Having legal tools available to identify and curb money laundering is not by itself enough, but we also need to put up our game with respect to enforcing the laws identifying wrong doers and prosecuting them successfully.

Hon members would know that our law enforcement agencies were deliberately weakened during the era of the state capture. We are making progress in addressing the weaknesses that exist, but this is not of a day. Even with leadership that are not tainted by the state corruption it takes time to build the skills and capacity. In this regard we tabled a Budget in

February. What did we say in that Budget aboutstrengthening these institutions? Let me go back to that point because it seems members have forgotten about it. The February Budget increased the budgets of the relevant agencies by R14 billion over the Medium-Term. This includes R1,3 billion to the National Prosecuting Authority to implement the findings of the Zondo commission, R265 million for the Financial Intelligence Centre to strengthen its capacity and nearly

R1 billion for the Hawks. That was to respond to what the President said when he addressed this House in October that we are going to strengthen these institutions. These resources are directed towards strengthening these institutions.

Teams in the criminal justice are also identifying priority cases, resource gaps and training needs so that more progress is made more quickly. I have already said we are doing these things not because we want to get off the grey list as soon as possible, but because we want to address the reasons we were grey listed in the first place. These reasons are a threat to the future and they should not be a subject of petty politics.

If we implement the action plan that we have agreed upon with FATF we can get off the grey list sometimes next year. But if

we do not then it will have a significant impact financially and economically. Part of the process is to have an interface with FATF every three months starting from next week where we are going to meet them in Mauritius. That’s where they want us. It is not us wanting to go there. [Interjections.]

The HOUSE CHAIRPERSON (Mr C T Frolick): Order, hon members! Order!

The MINISTER OF FINANCE: A point has been made that part of our other challenges is our nonaligned position. South Africa has, from the day of our democracy, adopted a nonaligned position. A nonaligned position is not the one that suggest that we are moving from the west as if we were in the west in the first place. We were in nobody’s land. We were in our own land. We are not subjecting ourselves to any specific ideological grouping or geopolitical grouping in the world. We have taken a nonaligned position. That is known. To assert to what some have said that we are moving from the west is misleading.

In as far as the allegations about the African Growth and Opportunity Act, Agoa, I want to assure this House that South

Africa has a strategic relationship with the USA as we do with any other nation. I must repeat this. We have a strategic relationship with the Unites State of America as we do with any other nations. My colleague, the Minister of Trade, Industry and Completion, has relationship with his counterpart in the Unites States. No hint in whatsoever has been made about us being chased out of Agoa. I do have a relationship with my counterpart from the United States of America. I met her as latest as two weeks ago in the World Bank meeting.

There is no hint in any. In fact, they were saying they are committed to Agoa. This mongering tactics I don’t think they are in the interest of South Africa. This debate, if it was conceived genuinely, should have focused on how do we as a nation and not as political parties, contribute to taking South Africa out of the grey listing. That’s what this debate is about. I suspect as we run up towards elections we are going to have more of these debates from the side of the opposition. My sense is that what you have done and said from this side was good to help us explain the work we are doing as the ANC and I thank you for that. Thank you, hon Chair.

Debate concluded

# CONSIDERATION OF REPORT OF PORTFOLIO COMMITTEE ON JUSTICE AND CORRECTIONAL SERVICES ON CONSTITUTION EIGHTEENTH AMENDMENT BILL

Mr G MAGWANISHE: House Chairperson, Deputy President, hon Ministers, Deputy Ministers and hon members. The committee having considered the Constitution 18th Amendment Bill, reports the Bill without amendments. The Bill proposes to amend Section 6 of the Constitution to include South African Sign Language as an official language, to promote the rights of persons who are deaf and hard of hearing. The Bill further promotes inclusive and substantive equality and prevent or eliminate unfair discrimination on the grounds of disability, as guaranteed by section 9 of the Constitution. The Bill was introduced and referred to the committee on 12 January 2023. The committee was briefed by the Department of Justice and Constitutional Development on the content of the Bill on 27 January 2023.

In response to the call for public comment, the committee received 58 written submissions from individuals and organizations. The majority of the submissions were in support of the Bill. The committee noted the views expressed by the

few that were opposed to the Bill, but submit that the recognition of South African Sign Language as a 12th official language is an important step forward, for the realisation of the rights of persons who are deaf and hard of hearing.

Although the South African Sign Language is not a universal language, the committee believes that South Africa is in the promotion and the development of South African Sign Language, and that the various dialects are also recognised.

In terms of section 74(4) of the Constitution, a Bill that amends the Constitution may not include any provisions other than the constitutional amendments and matters connected with the amendments. The committee notes that the use of South African Sign Language is mentioned in other legislations, such as the Use of Official Languages Act 12 of 2012, the SA Schools Act 84 of 1996, the Pan African South African Language Board Act 59 of 1995. The adoption of this Bill could impact on such legislation.

Relevant departments administering these and related legislations should take note of this constitutional amendment, recognising South Africa Sign Language as an official language and consider whether the adoption of the

Bill may require consequential amendment for the purposes of clarifying the status of South African Sign Language as expressed in the Constitution. I hereby present this report for your kind consideration and support. I’ve already greeted you Deputy President.

*Declarations of Vote*:

Adv G BREYTENBACH: Hon members, this Bill which we support wholeheartedly has a long and very slow ... [Inaudible] ... from its inception until today. In 1995, the University of the Free State began offering the very first sign language course, with the active involvement of our Deputy Chief Whip, Dr Annelie Lotriet who was attached to the university at the time. This matter first served before the Constitutional Review Committee of this Parliament in 2007. It took from then until 23 November 2017, until it was finally recommended by the Constitutional Review Committee. This is sadly an example of Parliament dragging its feet to the detriment of approximately 4 million deaf and hearing-impaired South Africans. And today, a further six years later, finally this very deserving piece of legislation is before the National Assembly.

Recognition as the 12th official language of South Africa will enable not only those 4 million South Africans to fully participate, but will finally bestow the proper recognition on South African Sign Language and place it on an equal footing with other languages. We offer warm congratulations to all those who drove this Bill, including the hon Bruno Druchen. I believe Mr Bruno Druchen is here today Dr Annelie Lotriet. We support this Bill.

Ms Y N YAKO: Chairperson the EFF welcomes this amendment Bill to the Constitution. This Bill affirms the rights of this Parliament to periodically assess the efficacy and the Constitution, in protecting rights and advocacy for the cause for which a free and democratic South Africa ought to stand for. This also shows that there is nothing wrong with amending the Constitution every now and then, because society evolves and our understanding of issues evolves too This Bill seeks to validate that the South African Sign Language is a language. A validation that should never have been an issue, because no one is born or willingly wants to be deaf.

We all know the statistics that we have 4 million people in South Africa who use sign language. The amendment of the

Constitution to recognise sign language as one of the official languages should not even have been a matter of debate. This House must affirm that it has powers to include those excluded by lack of foresight of those who drafted the Constitution.

This is the same attitude we adopted when we moved for the amendment of the property clause to permit land expropriation without compensation, yes. The drafters of the Constitution missed the importance of land as a means of decolonising our society, as they missed the importance of including sign language as one of the officially recognised languages. This exercise should take place in almost every aspect of our lives in this country.

The Constitution ought to be reviewed periodically to ascertain if it still fulfils the aspirations of the vast majority of our people, who remain excluded and marginalised. This Bill should have been passed during the first years of our democracy. It is a sad indictment of the governing body’s progressively pushing the inclusivity of sign language. The amendment of the Constitution in this regard must be followed by the introduction of sign language in our school curriculum. It is very important because we have many kids that we have

given birth to that are deaf and cannot communicate, cannot access schools, cannot have a means to communicate with us.

This this is important in order to make every member of society to be able to communicate with those who cannot hear. Sign language must not be used to further patronise deaf people. It must be a language for all to ensure that all deaf people feel a part and parcel of every daily conversation of this country too. Therefore, the EFF supports this Bill. Thank you

Prof C T MSIMANG: House Chair, the IFP has always been a strong and avid supporter of the inclusion of South African Sign Language as an official language, in promoting the rights of persons who are hearing-impaired. As far back as 2009, this matter was raised and advocated by former IFP Member of Parliament Dr Mario Oriani-Ambrosini. On several occasions before this House, Dr Ambrosini raised the critical issue of the importance of sign language, as a tool for communication and the greater inclusion of the hearing-impaired in our education systems, work places and society.

He would often lament that at the time, South Africa was still one of the very few countries in the world, that have not yet recognised sign language as an official language. Up until his untimely passing in 2014 would together with his legislative assistant Ms Sian Bennet, make repeated call for more significant efforts to promote the use of sign language passionately, advocate for the rights and access to public services of people with hearing-impaired disabilities.

The Bill before us today will significantly enhance and advance the cultural acceptance of South African Sign Language, ensure the full realisation of the rights of persons who are hearing-impaired to the equal protection and benefit of the law and of the human dignity, promote inclusivity, substantive equality as well as the prevention of unfair discrimination on the grounds of disability, as is guaranteed by section 9 of the Constitution. This Bill not only takes a crucial step towards promoting the inclusion and accessibility for the hearing-impaired community, but also aligns with the best international norms, standards and protection of human dignity and rights.

The United Nations Convention on the Rights of Persons with Disabilities ratified by South Africa in 2007, recognising the importance of sign language and facilitating the full participation of hearing-impaired individuals in society.

Recognising sign language as an official language, South Africa will be demonstrating its commitment to upholding the rights of its citizens with disabilities, and promoting such inclusivity which includes the promotion of the language and culture of the hearing-impaired community, as well as fostering greater social cohesion in society. The IFP is in full support of the report and the Bill. I thank you hon House Chair.

*Afrikaans*:

Mnr W W WESSELS: Agb Voorsitter, die 18de wysiging van die Grondwet is ’n geweldige massiewe stap in die regte rigting om die marginalisering van die dowe gemeenskap aan te spreek, en ons verwelkom dit. Die VF Plus ondersteun hierdie wysigingswetsontwerp en die wysiging van die Grondwet om dit in te sluit en ’n amptelike taal te maak.

Wat egter wel waar is, is dat net om ’n taal in die Grondwet as amptelik te erken nie noodwendig genoeg is nie. Ons sien

dat ons tans 11 amptelike tale het en nou 12 gaan hê maar prakties in die meeste gevalle is daar eintlik slegs een supertaal is en dit is Engels. Die res is net in die Grondwet erken as amptelik. As jy gaan kyk wie toegang in skole het om in hul eie tale skool te gaan dan word die meeste Suid- Afrikaners uitgesluit en is hulle nie in staat gestel om in hul taal skool te gaan nie. Dertig jaar van demokrasie en ons het nie vordering gemaak om meer toeganklikheid ten opsigte van skoolonderrig daar te stel nie. Dit is ’n skande en daarom moet dit ook nie net bly dat hierdie taal net in die Grondwet ingesluit word en dat daar nie werklik uitvoering en implementering daarvan geskied nie. Daar moet implementering wees.

Die agb lid is korrek. Is dit nie ’n skande dat ’n kind wie byvoorbeeld IsiXhosa of IsiZulu of Sepedi is, steeds net ’n keuse het om in Engels of Afrikaans skool te gaan nie en steeds nie van Graad 1 tot in matriek in hul taal te kan skool toe gaan nie. Dit is ’n skande. En dit is die punt. Maar dit is nou u wat in die regering is. Moet nie net na die verlede kyk nie; kyk na die hede.

Dan moet ons hierdie insluit. Die marginalisering van die dowe gemeenskap wat ons hierdeur aanspreek **...** moet ons deurvoer en nie net by leë beloftes en by insluiting in die Grondwet bly nie. Ons moet werklik implementering daaraan geskied. U weet, die amptelike taal wetgewing het meer as 12 jaar geneem om wet te word. Wat gaan nou gebeur?

*English*:

The Use of Official Languages Act was only written into legislation in 2012. Up until then it was just the Constitution, and yet up until now a lot of provinces still do not have an official language policy. How many years later?

More than 12 years later they don’t. Sign language should be acknowledged and the implementation should also occur. It shouldn’t only be a constitutional amendment. I thank you.

Mr S N SWART: House Chair, this is a significant day in Parliament as we approve the Constitution’s 18th amendment Bill which will result in sign language becoming an official language. This will promote the rights of persons who are deaf or hard of hearing.

I remember back in 2007 when the Constitutional Review Committee started to debate and to consider this issue, but we are pleased that today this is a day of celebration, not only for the estimated four million hearing-impaired people in the country but for each one of us who understands and appreciates the challenges facing deaf and hard of hearing people. We in the ACDP would like to honour all people who are hearing impaired and who have overcome their adversity, such as the hon Newhoudt*-Druchen* who is a sterling performer in the Justice Portfolio Committee. The committee has also been able to see exactly how hearing-impaired people are impacted.

Let us also remember that hearing-impaired people have lost their lives. Let us remember the fire in the North West School for the Deaf in August 2014. Three teenage girls died and

23 learners were injured in that tragic fire. The SA Human Rights Commission found that there was a systemic noncompliance with minimum building safety and fire standards for residential facilities in special schools, particularly in the North West province.

One trusts that the passage of this Bill will not only recognise sign language as an official language but also focus

attention on the plight of hearing-impaired people, and indeed of all disabled people in the country. The ACDP enthusiastically supports this Bill and we would like to express our love to those in the back with this sign language which says, I love you. I thank you.

Mr B N HERRON: House Chair, section 1 of our Constitution establishes South Africa as one sovereign democratic state founded on values that include human dignity, the achievement of equality and the advancement of human rights and freedoms. Section 9(3) of the Constitution prohibits discrimination against anyone on the grounds of disability. It is our constitutional duty to build a nation which is inclusive and nondiscriminatory.

For too long special needs, differently abled or disabled South Africans have been relegated to navigate a state that is unprepared and underdeveloped for them. Exclusion and an assault on their human dignity is the most common experience, as the infrastructure and services of the state, provinces and our towns and cities simply do not accommodate their needs.

This is not so much about resources; it is about consciousness.

When we enact the 18th amendment to the South African Constitution to recognise South African Sign Language as the 12th official South African language, we take one giant step for the rights of deaf South Africans, but we only take one small step for the human dignity and rights of all South Africans who are excluded or underserviced because of their disability.

We must take this step and we welcome the recognition of South African Sign Language as our 12th official language, but our state, our national, provincial and local governments must do more for all of those who are excluded because of their disability. We support the Bill. Thank you.

Mr A M SHAIK EMAM: House Chairperson, allow me to acknowledge the presence of the Deputy President. He seems to be well groomed.

The NFP notes the report of the Portfolio Committee on Justice and Correctional Services. Very importantly, I think this Bill has been long overdue and we must admit that of course, discrimination of any sort is not acceptable in the country.

Whilst we acknowledge and will support this Bill, we are

calling, particularly on local government ... You know, they say that talk is cheap. So, we can come here and admire this piece of legislation, we can introduce it and we can pass it but I think we need to go out there and implement it. Maybe perhaps this House should put measures and timeframes in place to ensure that all local governments particularly introduce sigh language in their municipalities in their local government.

However, at the same time I want to say that whilst we welcome this, and we believe that it is long overdue and it’s the right thing to do, let us also not forget the Khoi and San language. According to my understanding, the Khoi and San came to this country over 60 000 ... let me repeat, 60 000 years ago. So that is how old the language of the Khoi and San is.

Despite that, they have still not had any recognition in terms of their language. So, I think after having passed this, it is very important that we consider the Khoi and San language as the 13th official language, to accommodate the Khoi and San.

Of course for those of you who may not know, the Khoi and San is the first indigenous nation, the rightful heirs to the land in this country, the rightful heirs to the water in this country and the rightful heirs to the wealth in this country.

So, let us not forget that. If you want to talk about redistribution and things, let us not forget the Khoi and San. The NFP supports the Bill tabled here. Thank you very much.

Mr S M JAFTA: Chair, the AIC supports the Bill with no declaration. Thank you very much.

Mr M NYHONTSO: The PAC supports the Bill, Chair.

Ms W S NEWHOUDT-DRUCHEN: House Chairperson, hon members, I would like to welcome the Deputy President as well - recognise him. I would also like to welcome my visitors at the back and my special visitor from Gallaudet University. She is the incoming co-host of that university, which is my alma mater.

It is really wonderful that you could be here to witness this moment. All the deaf community of South Africa, this is, ke nako [now is the time] moment. The time has come – the time is now. This moment, the deaf community of South Africa, including myself, have been waiting for.

Human dignity, in its most basic form, is an attribute of humanity. Every human being has an inherent right to human dignity. Dignity, broadly speaking, and at a minimum,

encompasses the inalienable, inherent and intrinsic worth or values of each individual. The worth of a person has no price, admits no substitute and cannot be traded off for anything in the world.

The Constitution refers to the Bill of Rights as the cornerstone of democracy in South Africa, which enshrines the rights of all people in our country, and affirms the democratic values of human dignity, equality and freedom. Much has been achieved by the ANC government in terms of progressive realisation of human rights. However, persons with hearing disabilities, those who are deaf, hard of hearing and deaf-blind, continue to experience high levels of marginalisation and exclusion. ... [Inaudible.] ... social, psychological and physiological and structural challenges. The exclusion of deaf person challenges and limits their social participation and integration in society. Our government has a responsibility to ensure that deaf people are not deprived of their human rights on the basis of their disability.

South African Sign Language is the primary sign language for deaf persons in South Africa that constitute an important element of our country’s linguistic diversity and cultural

heritage. The Constitution Eighteenth Amendment Bill provides for the elevation of South African Sign Language from its current position that the government should promote and supports to elevate it to an official language recognised by the Constitution and the state. This is an important and progressive intervention for the millions of South Africans with hearing disabilities.

This amendment will base greater attention on the needs of persons with disabilities, particularly those who are deaf, hard of hearing and deaf-blind. Persons with disabilities face a wide variety of barriers, including access to education, health care, ... [Inaudible.] ... services, justice and also employment opportunities. As the motto says, nothing about us, without us. We want to achieve the full participation and equalisation of opportunities for, I and persons with disabilities.

The journey of making South African Sign Language an official language has been a long one. The first submission by the Deaf South Africa, DSA to the Constitutional Review Committee was made in 2007. The second submission was made in 2013, and the third in 2015. In 2016, deaf people and supporters marched in

all nine provinces and handed over a petition signed by 32 000 people to our national Parliament.

In 2018, the Department of Basic Education recognised SASL as a home language. Last year, 2022, was the fourth year that our matriculants could do their subjects SASL exams for grade 12. We would like to thank the Department of Education for that progressive move. Following deliberations and much consideration, the National Assembly and the NCOP, approved the recommendations by the Constitutional Review Committee to make SASL the 12th official language. The President in his 2020 state of the nation address, acknowledged the progress making SASL an official status. Today, the Constitution Eighteenth Amendment Bill is before this House.

Recognising SASL as an official language, will encourage government to allocate adequate resources to support its official status. It would encourage the state to invest in SASL interpreters, and begin to conscientize society in a more progressive direction. When considering the issue of access to justice, it has been reported that there are currently about

11 SASL interpreters employed by the Department of Justice and Constitutional Development. The promulgation of SASL has urged

the Department of Justice to embark on rescaling the current crop of court interpreters. They have put aside funds for SASL training as part of the 2023-24 programmes. This move is encouraged.

To echo the words of the then former Deputy Minister, Professor Hlengiwe Mkhize:

South African Sign Language is a right and not a privilege, and it is the first line of communication for deaf persons.

This Bill sends out an important message that South Africa is a caring nation and recognises and protects the right of those who are vulnerable in society. The ANC supports the Constitution Eighteenth Amendment Bill.

Hon Chair, I would like to thank the Justice Ministry and the staff of the Department of Justice and all the members who have always been here supporting this Bill, supporting the journey. Some have retired already. Thank you for the support in making SASL an official language. Thank you.

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

Motion agreed to.

Report accordingly adopted.

# CONSTITUTION EIGHTEENTH AMENDMENT BILL

(Second Reading)

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon members, as there is no list of speakers, are there any objections to the Bill being passed?

Hon members, this Bill may be passed by the assembly with a supporting vote of two-thirds of its members. A supporting vote of 267 votes in support of the Bill is, therefore, required. Although a division has not been demanded, members are required to record their support for the Bill. The bells will be rung for five minutes to alert the members.

[BELLS RUNG FOR 5 MIN]

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon members, voting procedure will be used for this recording of votes.

Firstly, in order to establish a quorum, I would request the Table to confirm that we have the requisite number of members physically present in the chamber and on the virtual platform to take a decision.

Party Whips will then be given the opportunity to confirm the number of their members present and indicate if they vote for or against the question. A member who wishes to abstain or vote against the party vote may do so by informing the Chairperson.

This Bill falls within the ambit of section 74(2) of the Constitution. A supporting vote of two-thirds of the members of the assembly is, therefore, needed. Do we have a quorum?

Hon members, we do have the number for the virtual platform, however, we are going to request the Whips to confirm the number of the members present in the House. Will the Whips assist the NA Table? I would have thought that the NA Table would have the capacity ... count the number of members in the

House, because it’s just a recording the vote, it’s not a division. And we are dealing with an amendment to the Constitution, it’s a very important matter.

I will, thus, ask the Whips to confirm the numbers of their members present on the virtual platform as well as in the House, so that we can make sure that we do have the requisite quorum.

Hon members, we do have the requisite quorum and we’ll now proceed, for the party Whips to confirm the votes of their members. The doors will remain closed and the virtual platform will remain locked during this period.

VOTING

BILL PASSED

# CONSIDERATION OF REPORT OF PORTFOLIO COMMITTEE ON JUSTICE AND CORRECTIONAL SERVICES ON CERTIFICATE OF EXEMPTION SUBMITTED TO NATIONAL ASSEMBLY FOR APPROVAL, IN TERMS OF SECTION 46(4)(A) OF REGULATION OF INTERCEPTION OF COMMUNICATIONS AND PROVISION

**OF COMMUNICATION-RELATED INFORMATION ACT, 2002 (ACT NO 70 OF 2002)**

Mr G MAGWANISHE: House Chairperson, his Excellency the Deputy President, hon Ministers and Deputy Ministers, hon members, on

15 March 2023 the Minister of Justice and Correctional Services submitted a Certificate of Exemption for approval by the National Assembly in terms of section 46(4)(a) of the Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002, known as RICA.

In terms of RICA no person may manufacture, assemble, possess, sell, purchase or advertise any listed equipment. The Act permits the Minister to exempt any law enforcement agency from the prohibited acts of possessing and manufacturing listed equipment, on application and in consultation with the Cabinet, members responsible for communications, defence, intelligence services and policing, for such period and on such conditions as the Minister determines.

The Act requires the Minister to be satisfied that an exemption is in the public interest or special circumstances exist which justify the exemption; and in the case of

manufacturing or assembling of listed equipment that the purpose for which it will be manufactured or assembled is reasonably necessary.

The Minister explains in a letter dated 10 March 2022 that the Minister of Police had applied in terms of the Act for the South African Police Service, Saps, to be exempted from the prohibited Act of possessing, purchasing, manufacturing and assembling of the listed equipment. The necessary consultation with the relevant Ministers has taken place, who indicated their support.

The certificate issues includes certain conditions to regulate the use and prevent the abuse of the listed equipment, and it will apply for a period of five years. The Minister of Police must also table a report in Parliament containing information on the number of authorisations issued for the use of the equipment, the categories of use of the listed equipment and the response to such use.

The committee acknowledges the critical role that the interception of communication plays in securing our state, but also that the covert interception of communication that RICA

permits is highly invasive of privacy. In this regard, the committee notes the Constitutional Court judgement in the 2021 amaBhungane case which found RICA to be unconstitutional but suspended the declaration of invalidity for three years in order that Parliament may rectify the constitutional defects.

The committee recommends that the National Assembly approve the certification of exemption submitted for approval in terms of section 46(4)(a) of RICA. Furthermore, the committee urges the Minister to prioritise tabling of legislation that overhauls RICA to address the identified constitutional defects and any other gaps that have arisen since the Act was passed. I so move.

*Declarations of vote*:

Mr J ENGELBRECHT: House Chair, the DA agrees that this technology is needed and critically in the fight against organised crime. We do, however, live in a constitutional democracy where amongst other things, citizens’ privacy is protected by the Bill of Rights.

The issue is not whether this is needed because it is. The issue is that the Minister of Police in 2019 accepted

purchased grabbers at the cost of R102 million illegally. We need to be mindful that to spend a R102 million of tax payers’ money is not a quick and easy process. So, when it was stated in the portfolio committee meeting that the purchase took place unbeknown to senior officials was disingenuous.

Those not familiar with what a grabber is, it is a device that can clone your phone, intercept your calls and SMSs, turn your phone into a transmitter to track your movements and eavesdrop on your conversations. If used legally, this is a very powerful tool in a fight against crime.

The South African Police Service, Saps, that is responsible to uphold the law broke the law themselves, and according to historic events, this is not the first time or an isolates occurrence of this particular nature. In September 2015 Right2Know submitted a Promotion of Access to Information Act, PAIA, request to Saps and the State Security Agency, SSA, to provide evidence that they were given permission by a judge to use these devices. All PAIA requests were denied. One can thus surmise that it was used illegally so.

As illegally obtained information cannot be used as evidence in a court of law, what was it used for, against who and why? Now again information that Saps purchased these equipment in 2019 in contravention ... [Inaudible.] ... what is going on in Saps? Why do they apply for a certificate of exemption only now? In an affidavit by Brigadier Tiyani Hlungwani, the Minister is directly implicated in this purchase.

Finally enough, the Brigadier was transferred out of crime intelligence after raising an alarm about these illegal activities. The Independent Police Investigative Directorate, Ipid, attempted to investigate this unsuccessfully. These allegations were substantiated in Deputy National Commissioner Francinah Vuma’s protected disclosure. And here we are. The ANC will probably use their majority not in the best interest of the country but to prevent or to cover for a comrade x ... [Inaudible.].

When you say we promise we never used these devices and that the procurement thereof will be investigated, no one but yourself must believe you. South Africa was founded on the supremacy of the Constitution and the rule of law. This means that the Constitution is the highest law of the land and no

other law may conflict with it, nor may the government do anything that violates it, and that includes Minister Cele.

No wonder crime in South Africa is out of control; when the people who are supposed to see to it that the law is not broken break it themselves. One thing I am sure of is that nothing will be done about this under the ANC-led government. However, after 2024 accountability as a principle will stand central which will see individuals being held to account. The DA supports this but obviously with a pinch of salt. Can someone please turn him around, it is busy running down his neck. Thank you.

Ms Y N YAKO: House Chairperson, it is no secret that our country is riddled with crime to levels we cannot begin to fathom, the latest being the infamous and dangerous escape of Thabo Bester from prison assisted by the state. This requires a state that is able to empower its law enforcement agencies to be able to detect communication that may render the security of the state and citizens vulnerable.

The committee report wants us to approve the certificate of exemption submitted for approval in terms of section 46(4)(a)

of the Regulation of Interception of Communication and Provision of Communication-related Information Act. This certificate will allow the South African Police Service, Saps, to purchase and use equipment that is prohibited in terms of the Act in order to investigate, combat and prevent serious crime. It was submitted that the intelligence service of the Saps already designs, builds and manufactures some categories of listed equipment.

The problem we have with this certificate to Saps by the Minister of Justice is that, as it is, Saps is saturated by officers who themselves are criminals. There is no clearly defined mechanism in the certificate for holding Saps to account and vetting those who will come to possess and use this equipment. We know for a fact that Saps is already using this equipment prohibited in the Act to track people such as they did when the key decision makers at Saps used this equipment to track those who robbed Mr Ramaphosa’s illicit dollars at Phala Phala farm. What would stop Saps from using this legal avenue to abuse its powers to not illicitly monitor citizens but to also use this to advance the political interests of those now in power.

Until Saps is fully professionalised and removed from the dirty stranglehold of equally dirty Ministers, until it is free from criminal elements who now control it, the institution that is Saps should not be granted this certificate to purchase and use this equipment. If we do permit them we will be granting the ... [Inaudible.] ... group people’ powers to intrude on the privacy of citizens and of opposition political parties. Therefore, the EFF rejects this report and pleads with this House to not grant the Saps these powers. I thank you.

Prof C T MSIMANG: The report before us seeks the approval of the National Assembly for a certificate of exemption, which would exempt certain public bodies from the requirement to obtain a warrant before intercepting communications.

Our duty and responsibility as legislators must always be guided by our apex law, the Constitution, whose prescripts and rights, as contained in the Chapter Bill of Rights, such as the right to privacy in this case, must be carefully weighed against the limitation of such rights and in particular the circumstances under which same can and should be limited, such

as in preventing and arresting criminal activity by our law enforcement agencies.

In this day and age of the internet of things and the speed at which electronic communication takes place, effective communication surveillance is a tool that cannot be denied but must, in all circumstances, be warranted and curtailed from any potential abuse by those who wield such powers and carefully balanced against the fundamental right to privacy as is enshrined in our Constitution.

Checks and balances and all necessary safeguards must be in place to prevent such abuses from occurring, and the interception of communications or communications surveillance must be strictly limited to the purposes for which they are authorised.

Subject to the above concerns, the IFP supports the motivation for exemption by the Minister of Police, agreeing that same is in the public interest and necessary for our Saps to investigate, combat and prevent serious criminal activities.

The IFP supports the report, and I thank you, House Chair.

Mr F J MULDER: House Chair, the FF Plus recognises the seriousness of this whole Shukran situation in South Africa, with the possible necessity to gain certain information.

*Afrikaans*:

Die VF Plus is van mening dat die Suid-Afrikaanse regering en ons wetstoepassingsagentskappe nog nie oor die nodige verantwoordelikheid beskik om sulke sensitiewe inligting te hanteer nie.

Ons het onlangs gehoor dat die agb Minister van Justisie en Korrektiewe Dienste vrae geantwoord wil hê oor hoe daar meer as 37 000 selfone in Suid-Afrikaanse tronke op beslag gelê is en hoe daar slegs 24 amptenare daarvoor aangekla is.

Dit lyk vir ons dat die stelsels van misdaadintelligensie en die intelstelsels van die kriminele wêreld veel beter toegerus is as die van die Suid-Afrikaanse regering en die VF Plus is van mening dat dit nie ’n goeie ding is dat die regering toegang kry tot inligting soos hierdie, as hulle self nie verantwoordelik daarmee kan omgaan nie. Daarom ondersteun die V F Plus nie die verslag nie. Dankie.

Mr S N SWART: House Chair, today, technology enables law enforcement agencies to not only electronically invade the intimate personal sphere of people’s lives, but also to maintain and cement its presence there, continuously gathering, retaining and where deemed necessary, using information to fight criminality that is becoming more and more sophisticated.

Now, the Regulation of Interception of Communications and Provision of Communication-Related Information Act, Rica, is the primary legislation regulating the interception of communications and it provides that such interception may only take place as long as it is in accordance with the provisions of the Act, and reportedly, the majority of Rica-related warrants are issued for investigations, involving drug dealing, drug trafficking, vehicle theft and car hijacks, armed robberies, corruption and fraud, assassinations, murder and terrorism.

Now, the matter before the House today concerns the issue of a certificate of exemption. Now, the Minister of Police motivates the exemption on the basis that crime intelligence

uses such listed equipment to investigate, combat and prevent such serious crimes.

The ACDP appreciates that such equipment is necessary. However, at the same time, we are also fully aware of abuses that have been set out in various reports, including the Zondo report. The United Nation Human Rights Committee indicated that the safeguards in Rica are insufficient to protect private rights of subjects. It said: “The committee is concerned about the relatively low threshold for conducting surveillance in the state party and the relatively weak safeguards, oversight and remedies against unlawful interference with the right to privacy contained in Rica.”

Now, one of the safeguards is applications must be made to the designated interception judge. It is interesting to hear what the designated interception Judge Nkabinde has to say about the inadequacies of Rica. In a 2021 report to Parliament, she stated that state authorities lied to get interceptions approved and this is a shocking reality.

She noted two cases in court processes where state agencies intercepted journalists’ communications and police officials

have fabricated and misrepresented information to the interception judge. We now know that Rica had been found by the Constitutional Court to be unconstitutional. So, one has to weigh up the matters of public interests with these abuses.

And the ACDP raised these concerns during the committee’s deliberations on possible abuses and what safeguards are to be taken. We appreciate that the report has indicated that safeguards need to be improved.

However, when one considers the increasing incidents and sophistication of criminal syndicates, then clearly, those police officials that are doing the correct job in fighting crime and the sophistication need to be supported. The ACDP will support this report. I thank you.

Mr A M SHAIK EMAM: Hon House Chairperson, the NFP will support this report tabled here today. Allow me first of all to raise the concern of, I think, the Constitutional Court, which found that Rica was unconstitutional.

Let us be honest, I think, the fact that the levels of crime, particularly, cybercrime, kidnapping, and crime for ransom are

on the increase in South Africa. The SAPS have been hampered by the lack of the necessary tools to be able to deal with this. I will give you one good example. When criminals kidnap somebody, they use a WhatsApp system and our current system does not allow you to identify exactly where the calls are coming from or to identify the location. This makes it very, very difficult for SAPS and those attemptiung to combat crime to effectively and timeously find the actual area where the particular victim is being held. So, to a very large extent, this intervention will assist SAPS in dealing with crime.

We know that cybercrime, in particular, is on the increase in South Africa. Having spoken to police officers recently, we found that they have had serious challenges with the lack of capacity at the level of cybercrime and that is why they believe a lot of training from the international force needs to be introduced in South Africa, to deal particularly with this aspect.

We must also be mindful of the fact that, if not used in the correct manner, this can be open to abuse. There is no doubt about it. I think some mechanisms need to be put in place to

ensure that police officers, particularly will not abuse this facility that is now going to be avail to them.

It is important to note that if you want police to fight crime, you must give them the necessary tools. This is one measure that you are putting in place that will go a long way to combat certain serious crimes that is on the increase in South Africa. The NFP supports this. Thank you.

Mr S M JAFTA: Hon Chairperson, the report of the Portfolio Committee on Justice and Correctional Services on the Certificate of Exemption debut to the NA for approval, in terms of section 46(4)(a) of the Regulations of Interception of the Communications and Provisions of Communications-Related Information recommend that we approve the Certificate of Exemption tabled by the Minister of Justice.

There is however a slew of serious constitutional reservations we hold on this report. It is perhaps convenient at this point to cite the relevant provisions of sections 46(6)(a) and what it envisages. Section 46(4)(a) empowers the Minister of Justice if he has exempted any law enforcement agency from the prohibited acts of possessing and purchasing any equipment

that is designed to intercept communications to table an exemption certificate before the Assembly for approval. Shockingly, the concurrency of the NCOP is not in the Act. If approved by the Assembly, it will exempt the Minister of Police from the prohibited acts of possessing and purchasing any listed equipment.

In simple terms, the Minister of Police will have a field day and can intercept any electronic communication, including intercepting direct communication.

This is a sensitive area, because it implicates a slew of rights, particularly the right to privacy. The Constitutional Court has already declared some parts of the aforesaid legislation unconstitutional. While combatting and detecting serious crimes is an important policing obligation, it must be done within the remits of the Constitution.

The report of the committee readily acknowledges this and it is clear that the Minister must prioritise the tabling of legislation to remedy the defects of rigour, as per the verdict of the Constitutional Court.

What the committee does not say is that this exemption certificate must at least be vetted, in our considered view, by a panel of three judges before it is tabled in the Assembly. We propose these routes, as the Minister could be guided on how to frame the certificate so that there is no overreach or abuse by the Minister of Police.

We therefore call for an accountability negating measure in this regard, because if left unchecked, this certificate could be used for other reasons without any form of accountability. Thank you.

Ms A RAMOLOBENG: House Chair, Deputy President, the Chief Whip, members of the House, the ANC rises in support of the report of the Portfolio committee on Justice and Correctional Services on the Certificate of Exception submitted to the National Assembly for approval, in terms of section 46(4)(a) of the Regulation of Interception of Communications and Provision of Communication Related Information Act, 2002, which is known as Rica.

The right to privacy is an important constitutional right which according to the Constitutional Court embraces the right

to be free from intrusion and interference by the state and others in one’s personal life.

The right to privacy is protected in terms of both our common law and in section 14 of the Constitution. The recognition and protection of the right to privacy has a fundamental human right in the Constitution provides an indicate of its impotency.

The constitutional right to privacy like its common law counterpart is not an absolute right but may be limited in terms of law of general application and has to be balanced with other rights entrenched in the Constitution.

In protecting a person personal information consideration should therefore also be given to competing interest such as the administering of national social programmes, maintaining law and order and protecting the rights, freedoms and interest to others. The lack of balancing these opposing interests is a delegate one.

The Regulation of Interception of Communications and Provision of Communication Related Information Act is the result of an

overhaul of the interception of Monitoring Prohibition Act. Its adoption was informed by considerable technological development in electronic communications, including cellular communications, satellite communications and computer communications.

House Chair, on 15 March 2023 the Minister of Justice and Correctional Services submitted a Certificate of Exemption for approval by the National Assembly in terms of section 46(4)(a) of Rica. In terms of section 45(1) of the Act no person may manufactures, assembles, possess, sell, purchase or advertise any listed equipment. Listed equipment is any equipment that is mainly designed to intercept communication that the Minister declares as listed equipment by notice in the gazette.

However, House Chair, section 45(2) of the Act provides for exemptions. The prohibition does not apply to any law enforcement agency; which manufactures, assembles, possess, sells, purchases or advertises listed equipment under the authority of the certificate of the section issued of that purpose by the Minister under section 46 of the Act.

In terms of section 46(1)(a) of the Act the Minister may exempt any law enforcement agency from the prohibited Acts of possessions and purchasing listed equipment on application and consultation with the Cabinet, members responsible for communications, defence, intelligence services and policing for such period and on such condition as the Minister determines.

The Minister of Justice and Correctional Services explained that the Minister of Police had applied for SAPS to be exempted from the prohibited Acts of possessing, purchasing, manufacturing and assembling of listed equipment referred to in section 45(1).

The Minister of Police motivated for an exception on the basis that SAPS had applied to be exempted on three occasions.

However, these applications were unsuccessful since the approval of some of the relevant Ministers could not be obtained. SAPS uses listed equipment to investigate, combat and prevent serious crimes. The intelligence division of SAPS designs, build and manufacture some categories of listed equipment. Extensive controls are in place to regulate the use of listed equipment. And the exemption is in the public

interest since the possession and use of listed equipment is necessary to investigate and combat and prevent serious criminal activities.

House Chair, we greatly value and appreciate the right to privacy. We also appreciate the critical role that the interception of communication plays in securing our state, maintaining public order and ensuring the safety of the Republic and its people. This is in line with our National Development Plan. House Chair, the ANC supports this report. I thank you.

The CHIEF WHIP OF THE MAJORITY: House Chair, I move for the adoption of the report. Thank you.

Motion agreed to (Economic Freedom Fighters dissenting).

Report accordingly adopted.

# CONSIDERATION OF REPORT OF PORTFOLIO COMMITTEE ON JUSTICE AND CORRECTIONAL SERVICES ON DRAFT REGULATIONS, FOR APPROVAL, IN TERMS OF SECTION 94(1) OF LEGAL PRACTICE ACT, 2014 (ACT NO 28 OF 2014)

**CONSIDERATION OF REPORT OF PORTFOLIO COMMITTEE ON JUSTICE AND CORRECTIONAL SERVICES ON DRAFT REGULATIONS, FOR APPROVAL, IN TERMS OF SECTION 94(3) OF LEGAL PRACTICE ACT, 2014 (ACT NO 28 OF 2014)**

Mr G MAGWANISHE: House Chairperson, and protocol observed, we would like to dedicate the passing of these Regulations today to the women in the legal profession of our motherland. On Tuesday 25 April 2023, ceremonial court sittings in celebrations of the hundred years of women in the legal profession in South Africa were held. After centuries of exclusionary marginalisation, it was only through the Women's Legal Practice Act of 1923 that women were allowed to enter the legal profession. Prior to the Act, women were not considered to be persons who could be admitted to legal practice. We celebrate great strides made towards the transformation and women’s representation in the profession. We now have women playing serious leadership roles not only in the profession but in the entire legal system of our country and the world. While much has been done, much more still needs to be done for an equal society. The Portfolio Committee on Justice and Correctional Services, having considered the

Regulations for approval in terms of Section 94(1) of the Legal Practice Act of 2014, reports as follows:

Section 91(1)(c) of the Act provides that the Minister must make regulations relating to, amongst others, a procedure for the election of legal practitioners to the Legal Practice Council as contemplated in section 7(1)(a) of the Act; Section

7 of the Act provides for the composition of the Council, and section 7(1)(a) provides for the Council consisting of 16 legal practitioners, elected in accordance with the procedure prescribed by the Minister; Regulation 2 of the Regulations provide for the election procedure referred in term of section 7(1)(a)of the Act but was drafted in a limited timeframe and was focused on the first election that was held in 2018. The process prescribed by Regulation 2 is currently only paper- based;

The proposed amendments are intended to ensure a smooth, continuous transition from an existing Council to another without overlap in administrative functions, confusion and duplication of elected members. Provision is also made for the option of electronic voting. The proposed amendments do not change the structure or policy of Regulation 2.

Section 94(1)(j) of the Act provides for regulations regarding the rendering of community service as contemplated in Section 29(1) of the Act. Section 29(1) of the Act provides that the Minister must, after consultation with the Legal Practice Council, prescribe the requirements for community service.

These requirements may include community service as a component of practical vocational training by candidate legal practitioners, or a minimum period of recurring community service by practising legal practitioners upon which continued enrolment as a legal practitioner is dependent,

No Regulations have been made as yet regarding community service; The proposed Regulations provide for the rendering of community service by candidate legal practitioners, who must undertake eight hours per annum of community service, and by legal practitioners, who must render 40 hours per annum of community service. The committee recommends that the National Assembly approve the draft Regulations submitted in terms of section 94 and terms of section 93 of the Legal Practice Act. I thank you.

*Declarations of vote:*

Mr W HORN: House Chair, we rise in support of these reports and the Regulations made by the Minister. The legal profession has its roots and is steeped in a tradition, firstly, of service. It is and is supposed to be a vocation in which legal practitioners, specifically in a constitutional democracy like ourselves, assist other role-players and stakeholders in the justice system to deliver justice. In that sense, the legal profession has always been earmarked by some in their ranks who have a view that they are to serve the community, first, and, therefore, pro bono services are nothing new in the South African legal tradition.

These regulations will now formalise an obligation on legal practitioners to render pro bono and community services. It's the product of a lengthy consultation process between the Minister and the council. While we appreciate that this first iteration of the obligation to perform community and pro bono services must err on the side of caution and not overburden, specifically legal practitioners who practice in smaller firms and rural areas, in setups characterised by smaller profit margins and lower fee structures. The reality is that the regulations are unfortunately vague to the point where if they are to be assessed in a few years’ time, in our view, will

invariably have very little impact, but it's a starting point, and our hope is that these regulations will enable candidate practitioners and practitioners to look with fresh eyes at community service and pro bono work in matters of broad public interest and benefit.

It remains a concern that the Act for some other reason has identified work for the SA Human Rights Commission as community service while work at other Chapter 9 institutions like the Public Protector, the Commission for Gender Equality and Chapter 10 institutions like the Independent Electoral Commission and the Auditor-General, along with work possibly of the Special Investigative Unit and the National Prosecuting Authority need to be approved by the Minister before it'll qualify.

The other set of regulations under discussion dealing with the composition and continuity at the Legal Practice Council is also supported. However, we need to express our concern that this set of regulations was seemingly settled on in 2021 already, and were then delayed for what is called technical reasons. Our hope is that these regulations and the completion of the governance framework for the Legal Practice Council

will enable the type of governance that will bolster and nurture public confidence in the council and the legal profession as a whole. Perceptions around bias and slow disciplinary processes when the council deals with its own must be addressed urgently in order to ensure that the profession as a whole is held in the type of regard that befits a key player in the justice and criminal justice system. Thank you.

Ms Y N YAKO: Chairperson, the first Regulation that we need to approve here relates to section 29 of the Legal Practice Act which requires the Minister to pass regulations in relation to the community service that candidate legal practitioners and legal practitioners need to render. The Minister has, therefore, made these regulations, which should require candidate legal practitioners to render eight hours of community service per year while requiring admitted legal practitioners to render 40 hours per year. We welcome these regulations as they will make the law more accessible. The ordinary citizens who would otherwise not afford to have legal services available to them.

The second Regulation the Minister makes relates to section 94 of the Act, which deals with election procedures of the Legal Practice Council. These regulations will make it easy to transition from one elected Legal Practice Council structure to another and provide no fundamental changes to the practice as currently implemented. The EFF is in support of this regulation too. We would, however, like to caution the Minister and the Legal Practice Council to tread carefully in enforcing these regulations on emerging black legal practitioners. The legal field is already stacked with interests that are inimical to the growth and development of black practitioners. Black lawyers are not given briefs that enable them to expand their practices and make a living from the law.

Perhaps the next legislative intervention needed should be to have a prescribed percentage of cases by the state to be handled by black lawyers. However, we do encourage black lawyers to offer their skills and services to black communities in particular, particularly in cases that relate to the drafting of wills and the administration of estates.

There are thousands of estates in the villages and townships that were never administered at all after the death of

parents, these led to complications later on when siblings and family members fight.

These areas and the cases of eviction of farm workers and farm dwellers by racist farmers need the urgent attention of progressive lawyers. So, therefore, Chairperson, we are in support of all these Regulations. Thank you.

Prof C T MSIMANG: A Functional Legal Practice Council and governing body ... [Inaudible.] ... the rights of all citizens in the country of access to justice are of paramount importance to our legal system which must operate in a just and fair manner. The Legal Practice Council, LPC, serves as the regulatory body for the legal profession in the country and is tasked with ensuring that all legal practitioners maintain the highest standards or professionalism and ethics. In first draft regulation, which is regulation two deals with transitional administrative arrangements in order to ensure a seamless transition from ... [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Professor, sorry, I didn’t want to intervene when you were assisted by Mr Hlengwa that time. Therefore, I thought that it is off now ...

[Interjections.] ... No, the time has been stopped don’t worry, Mr Hlengwa. Proceed, hon member.

Prof C T MSIMANG: The first draft regulation deals with transitional administrative in order to ensure a seamless transition from existing council to another without undue overlap or bureaucracy and other technical information and communications technology, ICT, improvements such as the option of electronic voting procedures. The second draft regulation deals with the rendering of community service to candidate legal practitioners in accordance with section 29(1) which provides that the Minister must after consultation with the Legal Practice Council prescribes the requirements for community service. Such requirements include community service as a component or practical vocational training by candidate legal practitioners or a minimum period of recurring community service by practicing legal practitioners upon which continued enrolment as a legal practitioner is dependant.

Through this draft the regulation probation will be made for the rendering of community service by candidate legal practitioners who must undertake eight hours per annum community service and by practising legal practitioners who

must render 40 hours per annum community service. Both regulations are necessary and will promote greater public confidence in the legal profession and our justice system. The legal profession under the control of Legal Practice Council must be effective and its enrolled professionals accessible and accountable. The IFP supports both reports. I thank you, House Chair.

Mr F J MULDER: Hon House Chair, the Freedom Front Plus rise to support both amendments on both regulations. Thank you, hon House Chair.

Mr S N SWART: House Chair, the ACDP supports these two reports. The first one relates to proposed amendments on the voting of the new council and to ensure a smooth continued transition from the existing council to the new council. The second relates to requirements for community service and other speakers have alluded to this need. However, there’s an insightful article written by Professor Cassim and a legal practitioner Mohamed about the need for law students to become involved in a legal aid clinics and street law programmes and there are several benefits also for law students to participate in such programmes. The students then understand

practicalities of everyday law, how to apply the law and they become aware of legal issues within South Africa.

Most importantly, those students are given exposure to the communities in which they work, operate, study and they gain first-hand experience of the needs of such communities, engage them with the communities and in particular disadvantaged communities and vulnerable members of society, inculcate those students the importance of value of using their newly-found legal knowledge and skills to give back to the communities.

Unless students work amongst their communities, they will not be able to fully understand and assistant. I also worked in street law programmes when I studied and I found it very beneficial. This exposure will play an important role in preparing law students for community service work to be undertaken by them when they are candidate legal practitioners, and, of course, legal practitioners as referred to in the regulations. Therefore, as there are no present regulations set in our community service for candidate legal practitioners and legal practitioners, the ACDP supports these regulations, but we’d also employ universities to apply similar principles for law students. I thank you.

Mr B N HERRON: House Chair, we support the report and the regulations. Thank you.

Mr S M JAFTA: We support the report and regulations, hon House Chairperson.

Mr M NYHONTSO: The PAC supports, House Chair.

Ms N H MASEKO-JELE: House Chair, members of the House, His Excellency the Deputy President in absentia, whilst the women lawyers in this fraternity appreciate and thank the African National Congress for enhancement of their contribution and participation in the legal fraternity, however, more still have to be done on matters and many issues including matters of briefing. The African National Congress rises in support of the report on the draft regulation made in terms of section 94(1) and (3) of Legal Practice Act, 2014. A few days ago on

27 April 2023, the country celebrated 29 years of freedom and democracy. The democratic dispensation brought about paradigm shift from the old apartheid order to a legal and constitutional order in the midst of the legal order that affords equal rights to all. The lived experience of ordinary South Africans is still of grave concern.

The triple challenges of poverty, unemployment and inequality continue to exist. Section 34 of the Constitution guarantees everyone the right to have any dispute that can be resolved by the application of law decided in the fair public hearing before a court or where appropriate another independent and impartial tribunal or forum. When we speak of justice and the access to it legal representation is a critical component. It is common course that many South Africans cannot afford to pay for their legal representation given the disparities in our society. The late former Chief Justice Arthur Chaskalson articulated his vision for community service to be introduced to all law graduates in order to improve access to justice.

Parliament passed the Legal Practice Act of 2014, among others, the Legal Practice Act aims to transform the legal system in South Africa and broaden access to justice for many South Africans. Section 29 of the Legal Practice Act provides for the rendering of community service by candidate legal practitioners and practice legal practitioners. Section 94(1)(j) of the Act provides for regulations regarding the rendering of community service as contemplated in section 29(1) of the Act.

Section 29(1) of the Act provides that the Minister must after consultation with the Legal Practice Council prescribes the requirements for community service. These requirements may include community service as a component of practical vocational training by candidate legal practitioners or a minimum period of recurring community service by practicing legal practitioners upon which continue enrolment as a legal practitioner is dependent. The proposed regulations provide for the rendering of community service by candidate legal practitioners who must undertake eight hours per annum community service and by practical legal practitioners who must render 40 hours per annum community service. Section 94(1)(c) of the Act provides that the Minister must make regulations relating to, among others, a procedure for the election of legal practitioners to the Legal Practice Council as contemplated in section 7(1)(a) of the Act.

We believe that compliance by all legal practitioners with a mandatory number of hours of community service will assist in addressing the unmet demand for free legal services for vulnerable and indigent persons. The implementation of a system of community service by legal practitioners will result in the increased provision of legal advice and representation

for the poor and the missing middle who cannot afford the fees charged by lawyers. The ANC supports. I thank you.

Motion agreed to.

Draft Regulations, for approval, in terms of section 94(1) of Legal Practice Act, 2014 (Act No 28 of 2014) accordingly approved.

Draft Regulations, for approval, in terms of section 94(3) of Legal Practice Act, 2014 (Act No 28 of 2014) accordingly approved.

# CONSIDERATION OF LEGISLATIVE PROPOSAL TO AMEND NATIONAL SMALL ENTERPRISE ACT, 1998

Ms V S SIWELA: Hon House Chair, esteemed members of the House, members of the portfolio committee. It gives me great pleasure to stand before you today to introduce the proposed amendments to the National Small Enterprise Act of 1996 in accordance with Rule 273 of the Rules of the National Assembly.

Hon members, the Constitution remains our guiding compass in this regard. It specifies the legislative procedures that each bill must follow in order to be approved by Parliament.

House Chairperson, after listening carefully to the concerns of the small enterprise sector, we are adamant that this is the journey this committee must pursue in an effort to better the lives of our people. Pursuant to the memorandum to the House that this committee unanimously endorsed, I come before you today not only in my capacity as the chairperson of the committee but on behalf of the many millions of small businesses around the country that are pleading for justice in the face of an increasingly antagonistic environment.

Notwithstanding the extraordinary contribution of this sector in many emerging economies, the failure rate of the small enterprise sector in South Africa is alarmingly high.

House Chairperson, today we embark on the next step in our collective effort of putting the small enterprise sector at the heart of this economy.

For the past five years, we have noted the Global Entrepreneurship Monitor Report in which House Chair, shows that South Africa has one of the lowest total entrepreneurial activity rate compared to her peers. This has to be resolved.

After the devastating economic catastrophe brought on by the COVID-19 pandemic, in the Small Enterprise Development Agency first quarterly report of 2021 indicated that:

The number of SMMEs in South Africa declined by 11 percent, from 2,61 million to 2,33 million in 2021 Q1.

This is a huge loss that will take years to recover from. Unlike other emerging economies which are exhibiting signs of recovery, the South African economy is struggling to recuperate from the shattering impacts of the pandemic.

The medium term projections made by the South African Reserve Bank recently, with the gross domestic product expected to grow by 0,7% in 2024, down from the initial forecasts of 1,4%, signals an economy that is under a lot of pressure.

In view of the current scenario, we are called House Chairperson, to step up our efforts to radically reform our country’s economy. The right conditions must be established.

The committee’s decision to call for the National Small Enterprise Act’s reform is by no means a magic bullet. However, the committee is now in a stronger position than it was when it first called for an amendment to the act because of the advantages of having engaged with the sector extensively since from the Fifth Parliament.

We are therefore pleased to see this hugely important process taking shape - planting a seed we can all be proud of. Small enterprises are grappling with plethora of issues that have nothing to do with their businesses. Increasing levels of frustration and impatience suggest that time is of the essence, failure to act will threaten democratic gains.

South Africa has to specifically pinpoint measures to quickly lower the alarmingly high youth unemployment rates and to provide young people with more opportunities. The sector remains the low-hanging fruit to tackle massive youth unemployment.

We must, for all intents and purposes, reenergise the small enterprise sector to lead economic revolution of this country. We need to build on this momentum as we approach the Seventh Parliament and continue the efforts made in previous ones to prioritise our objectives as stated in the National Development Plan, NDP.

House Chair, we are the lawmakers, the constitutional authority is vested in us, the Parliament. Where policy, regulatory or legislative gaps are discovered, we are required by the Constitution to take action. This Committee, in accordance with rule 55 (1) (b), is pleading with the National Assembly to mobilise its authority and give it permission to streamline the National Small Enterprise Act in order to be responsive to modern day issues.

For the purpose of this submission, I do not intend to reiterate the memorandum submitted to the House. However, I feel it is necessary that I touch on the key objectives of the bill. The main objective of the bill is to make sure that the Small, Medium and Micro Enterprise, SMME, sector operates in a favourable and pleasant environment. I thank you. [Time expired.]

*Declarations of vote*:

Mr H C C KRÜGER: House Chairperson, small, medium, and micro enterprises and cooperatives, form a vital component of the South African economy. From street hawkers to small factories, represent the lifeblood of our economic landscape. Small business entrepreneurs constitute the heart of the economic environment.

However, these businesses often face substantial challenges when dealing with government regulations and larger businesses. The playing field between small and big businesses is uneven, and small businesses struggle to operate on the same level as large corporations, which often exercise their financial muscle to bully small businesses.

The Department of Small Business Development has been painfully slow, in tabling new legislation providing the much needed support for Small, Medium and Micro Enterprises, SMMEs, to thrive and prosper. Their lack of urgency is unacceptable. Their continued inaction has severely hindered the growth and development of small businesses in South Africa.

One key component is ensuring that SMMEs are paid swiftly and on time by the government and big businesses.

The DA refuses to stand idly by, while the department consistently fails to deliver on its mandate, leaving small businesses to suffer the consequences.

The Portfolio Committee on Small Business Development, in response to the absence of legislation, had to perform the function of an ombud over the past nine years. We are flooded with complaints from small business owners who have nowhere else to turn, demonstrating the urgency for better legislative support.

The introduction of the committee Bill presents sustainable proposals and solutions to address the challenges of small businesses.

The amendment of the National Small Enterprise Act, aims to establish enterprise commission and tribunal. This will provide small business owners with relief from the constant elbowing they endure from red tape and greedy big businesses.

Small businesses suffer in silence, they either going underground or just fading away.

It is clear that the lack of legislation regulating the relationship between big business, small businesses and government red tape poses a challenge. Demanding the creation of an independent legislative body to help ...[Inaudible.] ... SMMEs suffering.

The proposed amendments aim to establish the small business commission and tribunal, which will offer benefits for SMMEs:

... [Interjection.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Stop the clock, stop the clock. No, this one no.

Mr H C C KRÜGER: ... thank you House Chairperson, firstly, they will provide a low-cost and accessible alternative to the traditional legal system for resolving disputes, particularly beneficial for SMMEs who cannot afford high legal fees or lengthy legal proceedings.

Second, they will level the playing field for SMMEs, promoting fair competition between larger and smaller businesses.

Finally, they will foster economic growth and job creation by helping to create a more supportive and conducive environment for SMMEs to thrive.

The DA supports the committee’s intervention to introduce an amendment to the National Small Enterprise Act and urges the Minister of Small Business Development to act decisively and swiftly. It’s time to work together, to ensure a brighter future for SMMEs across the South African economy, and this Bill serves as a critical step towards achieving this goal. We support this motion. Thank you, House Chairperson.

Ms B MATHULELWA: Through you, Chair, greetings to the commander-in-chief of the EFF, the commissars and the fighters. Chairperson, the report before the committee from the Portfolio Committee of Small Business Development seeks to amend the National Small Enterprise Act. We welcome the initiative by the committee members who introduced the legislation. It remains a concern that at Parliament we have failed on the fifth and the sixth term of ... [Inaudible.]

...to build sufficient capacity to support the Members of Parliament and the committees in introducing the legislation.

So, this is a positive development and we support the committee’s request. However, we are of the view that, while the amendment focuses on the establishment of the Small Enterprise Commission and the Small Enterprise Tribunal, many of the challenges that the *small, medium and micro- enterprises,* SMMEs, face, are a result of the collapsed state. There is no political will to strategically locate the SMMEs as drivers and the creators of employment and livelihoods, and menials who cannot find an employment, and are excluded from participating in the economy.

The SMMEs do not find expression in any of industrial localisation strategies. This is made worse by the fact that the country does not have an industrial localisation strategy. Many of the bodies and entities that are being created under Mr Cyril Ramaphosa are poorly designed, and they do not have a clear mandate. This has become a way to avoid making tough decisions. We will debate the matter in the committee after we have engaged in the public consultation process, though we do

not believe that the committee will resolve the limbo in which the SMMEs find themselves in.

The existing institution, including the institution such as the Competition Commission, the Black Economic Empowerment, BEE, Commission, and others, must address the challenges that are faced by the SMMEs, together with all the development finance institutions that are responsible for financing all the supporting SMMEs to resolve issues of delays in processing the applications, nonpayment of the SMMEs and poor communication by the government, broadly. I thank you, Chairperson.

Mr N SINGH: Through you, Chairperson, hon Inkosi Luthuli serves in this committee, but he is indisposed. The IFP’s position on this matter is as follows: The small, medium and micro-enterprises are the backbone and drivers of an inclusive

economic growth and development in South Africa. These

businesses plays a critical part in contributing to the economy, accounting to 34% of South Africa’s Gross Domestic Product, GDP.

This sector is often regarded as one of the solutions towards alleviating some economic challenges such as poverty and the high unemployment rate. However, for small, medium and micro- enterprises to reach their full potential and advance beyond

South Africa’s high start-up failure rates of about 70 to 80% for small businesses in the first five years, we need to

discuss and address the key challenges they face. One big challenge is the burden and some regulations the SMMEs are often subjected to.

The practice of extending wage agreements that is above the minimum wage in bargaining council, where small businesses have little to no representation, places them at disadvantage, as they cannot afford higher wages decided upon by their larger counterparts. Therefore, the creation of the Small Enterprise Commission would function, if we regularly engage and maintain relations with regulatory body and also to report the requirements of the SMMEs would afford them platform on bargaining council.

A further challenge that the SMMEs faces is the impact of the tender system, where they have to compete with big businesses on tenders. However, these businesses often have well

established networks which afford them better chances of being selected for tenders and contracts. Therefore, the creation of Small Enterprise Appeals Tribunal, with powers to include the operating amendments, issues sanctions against unscrupulous businesses, penalise unethical behaviour and investigate unfair terms of trade, will provide SMMEs with the platform to add grievances that otherwise would have been left unaddressed.

Hon Chairperson and colleagues, we must recognise that small and medium-size enterprises, SMEs, stimulates competition for the design of products, prices and efficiency. Without SMEs, large enterprises would hold a monopoly in almost all the activity areas, and this is something we must not allow to happen. We must also look at ways of providing easier access to finance for the SMMEs, for them to be able to thrive in our economic environment, and if some of them cannot be able to pay what they borrow, then so be it. We must be prepared to take our risk. However, I think that 90% of them will be able to pay what they have received. The IFP accepts the report.

Thank you.

Mr W W WESSELS: House Chair, the SMMEs are crucial to economic growth and the economic development in South Africa. Without the SMMEs, we will lose a lot of employment opportunities.

Chairperson, the regulatory environment in South Africa made it extremely difficult, for especially small businesses and entrepreneurs to actually create an employment. This suggested proposal on legislation and especially with the tribunal with regards to disputes, is extremely important, and the FF Plus supports this motion and the report. I thank you.

*Afrikaans*:

Die HUISVOORSITTER (Me M G Boroto): Die ACDP? U kan maar iets sê.

*English*:

Mr S N SWART: The ACDP supports. Thank you very much.

*Afrikaans*:

Die HUISVOORSITTER (Me M G Boroto): Baie dankie.

*English*:

Mr B N HERRON: House Chair, we are in support. Thank you.

Mr A M SHAIK EMAM: House Chairperson, in supporting this, as the NFP, we would like to raise some few points. First of all, I think that we all know that small enterprises or small businesses are paramount for the economic growth of a country, and they are the highest cause of job creation in the country. However, the things and conditions under which many of these small businesses have to operate, results in their failure.

Over and above that, we do know and understand that small businesses, particularly development, provides funding to them. However, I think that what is lacking, Chairperson, is the understanding amongst many small enterprises of business itself. There is a major difference between being a plumber and owning a plumbing business. What we often find out is this, that while funding is provided to small enterprises, what we do not provide for them is the financial management and human resource development.

If you do not provide them with these expertise and skills, you’ll find often that small businesses can be closed. Again, the other problem that we have, Chairperson, is the amount of red tape that exists for small businesses to access funding, I think. It is for them very difficult, and what the banks asks

for, is whether they did have that, and obviously, they didn’t use the banks in the first place. So, I think that in supporting this, we need to be mindful of that.

Very importantly, you know, in South Africa, the environment is not conducive for small businesses. Let me tell you why. The businesses of foreign nationals in South Africa are thriving because nine out of 10 of them are not paying any taxes. They and not accountable to the SA Revenue Service, Sars or anything. So, their competition is so still, so that no core businesses cannot survive. However, I think that we should do more regarding that. The NFP supports the report. Thank you very much.

Mr S M JAFTA: Hon Chairperson, the proposed National Small Enterprise Bill contains right core proposal because they advise the House. They range from the provisions dealing with disputes resolutions such as supply, contractor disputes and provisions dealing with development of code of practise by industries, as those dealing with the mediation of complaints made by or on behalf of the small, medium and micro-sized enterprises, SMMEs. There is separate proposal in the Bill for the establishment of the Small Enterprise Appeal Tribunal to

adjudicate and mediate on matters referred to it by any aggrieved party. All these legislative proposals are informed by the non-payment of service rendered, including the late payment.

Allegations of corporate bullying, abuse of dominance, price discrimination and unfair terms of trade, red tape and unfair competitive conduct by big firms have also informed these legislative proposals. It cannot be gainsaid that small business are at the centre of injecting massive employment opportunities of our people. To deny businesses their competitive urge and host advantage is to tinker with the very prospects of creating sustainable jobs.

Small, medium and micro-sized enterprises are the pulse of our creative spirit and an enabling environment must therefore exists to shield small businesses from unfair competitive practices. We propose that the Bill must have provisions on an independent agency to work towards the development of a thriving SMME market through fostering an intelligent risk based profiling system to monitor the abuse of dominance and late payments, amongst others. This agency must work in line with the Competition Commission. The agency will influence the

accreditation framework which separate compliant from noncompliant organs of state.

We are further of the view that this agency must be tasked with prioritizing engagement with relevant stakeholders, both domestic and regional. The aim of this agency must deal with constraints that impede SMMEs’ development and funding. We will offer these inputs hon Chair should we get invitation from the committee. We support the Bill, hon Chair.

Mr E T MYENI: Hon Chair and hon members, the Portfolio Committee on Small Business Development is presenting to the NA the report of the committee legislative proposals to amend the National Small Enterprise Act 102 of 1996. This amendment is critical to the smooth functioning and the development of the small business sector as part of the process of economic transformation. Government has invested considerable effort and financial resources in the development of small, medium and micro-sized enterprises.

These enterprises are located in local areas and make a significant contribution to micro economy through value added activities. More importantly, SMMEs make a significant

contribution to GDP, job creation and employment as almost 60% of those employed are in the SMMEs sector. Furthermore, the contribution SMMEs make to fiscal does not go unnoticed and it is significant contribution which is constantly improving. In turn, government supports the development of this sector integral to economic transformation and inclusive economic development.

Government investment in the sector through Small Enterprise Finance Agency, Sefa and other financial mechanism to ensure the survival and further development of the sector is important for the growth of the development of this sector. The development of small business within the framework of micro economic development localisation is integral to the implementation of the Economic Recovery and Reconstruction Plan. It is also critical that there is a further legislative reliable support for the small business sector. This is on the basis of this legislation through National Small Enterprise Amendment Bill 2023.

The Bill seeks to create the Small Enterprise Commission which seeks to advance the interest and development of the sector.

The commissions will process complaints which are received

regarding their dealing with other business and government agencies. This will also be important in relation to the barriers of entry and ensuring empowerment of small business sector to ensure inclusive economic growth development in micro economy.

The Small Business Commission must investigate complaints by small business and if needs be, refer the results of the investigations to the relevant bodies tasked with the resolutions of such complaints. This means co-ordinated approach between the Small Business Commission and other bodies of the resolution of critical issues which affect the sector.

The development of industrial parks and agro-processing zones means that in order for small business to thrive they will require provision of service asset to market and even the said small business can assist the development of the sector.

However, the basis upon which the legislative amendment arose in that the committee received a number of complaints from the SMMEs about the market conditions which negatively impact on the progress of SMMEs operating in the market.

Complaints, among others, include non-payment or late payment for services rendered and good supply, products delivered, contractual disputes as well as uncompetitive behaviour by big business aimed at driving small business out of operating in the market were the source of concerns. The non-payment or late payment of small business create severe working capital constraints for small business and hamper their development.

At times they result in insolvency.

For small businesses, contractual disputes through the legal process is time consuming and costly which small business cannot afford. Therefore, it is important that small businesses are assisted timeously in the resolution of their problems. The report is clear that the issue being raised has been previously raised in the Fifth Parliament but the legislation has not been developed due to the overlap between what the department was doing. However, the issue remains the same and therefore it is time that the legislation is developed to create Small Business Commission and Appeals Tribunal and the small business sector calls for development as part of the District Development Model, DDM and Economic Reconstruction and Recovery Plan.

It is projected that by 2030 the sector will create some

11 million jobs and therefore, it must be assisted to develop to that level of employment. It is imperative that the small business sector should be assisted through legislation amendment which allows for small business creation and the Appeals Tribunal which must be legally empowered to efficiently resolve problems which arise in the sector.

The people’s Parliament must take up the issue of the problem and provide solutions to the problem which different sector say. While the portfolio committee is not empowered to resolve the specific problems raised by the small business sector, it can certainly seek the support of the NA and the NCOP to support legislative change which allows for the resolution of these critical issues. The speed and efficient resolution of complaints by small businesses will allow for the development and growth of the sector.

The ANC supports the legislative proposals to amend the National Small Enterprise Act 102 of 1996 geared towards the creation of Small Business Commission. We hope that the NA considers the report, adopts it as well as support the portfolio committee in the development and passing of the

amendment to the National Small Enterprise Act. I thank you, House Chair.

*IsiXhosa*:

UMBHEXESHI OYINTLOKO WEQELA ELILAWULAYO: Sihlalo weNdlu,

ndiphakamisa ukuba le Ndlu yoWiso-mthetho yeSizwe yamkele le ngxelo. Enkosi.

*English*:

Question Put.

Agreed to.

# DEBATE ON FREEDOM DAY: CONSOLIDATING AND SAFEGUARDING DEMOCRATIC GAINS.

Ms J HERMANS: I greet the Chief Whip and the Deputy Chief Whip of the Majority Party leading this formidable force of the ANC in Parliament. Let me start by quoting the wise words of Nelson Mandela who wrote in his book *The Long Walk to Freedom* that, I quote:

“The truth is we are not yet free. We have merely achieved the freedom to be free. We have not taken the final step of our journey, but the first step on a longer even more difficult road or to be free is not really to cast of one’s chains but to live in a way that respects and enhances the freedom of others.”

Today we are celebrating the heroic struggles waged by gallant men and women who understood that freedom could not be given to them as a gift. They knew it had to be relentlessly fought for and achieved. Today we also pay tribute to our heroes who passed away during this month of April, such as the former President Oliver Tambo, Chris Hani and Solomon Mahlangu. Their lives and untold sacrifices remind us that our freedom was not free and it came at a great cost including life itself.

We also think of the South African people who suffered in various ways before and during the apartheid era. Many were brutally murdered, imprisoned and tortured. Millions of our people suffered immense poverty and deprivation through the system of institutionalised racism which rendered black people as trespassers in the land of their birth and not worthy of any rights.

Thousands were dehumanised in various ways, it was a painful and cruel system which was correctly described as a crime against humanity by the United Nations.

The victory of our people in 1994 through selfless struggles assisted by freedom loving people across the world, ended the century’s long national oppression which was coupled with repression. It set our nation on a path towards reconciliation, freedom, justice, peace, democracy, equality and indeed an entrenched strong culture of fundamental human rights and liberties.

The ANC has since its inception envisioned a society that is non-racial, non-sexist, united and prosperous. All policy implementations of the ANC led government introduced since 1994 are designed to achieve that vision of a better life for all, especially the poor and the working class.

*Afrikaans*:

Baie gemeenskappe en huishoudings was sonder elektrisiteit, water, paaie en klinieke waar hulle goeie gesondheidsdienste geniet het, en skole wat ’n hoë standaard handhaaf. Die demokratiese regering het sedert 1994 elke jaar hierdie

basiese dienste gelewer. Miljoene van ons mense geniet nou dus toegang tot hierdie dienste.

*English*:

More than nine million children attend no fees schools. About nine million children are also provided with free meals at school so that hunger does not impair their concentration in class. For some, this is the only decent meal of the day, given the circumstances at home and parents’ circumstances should not handicap a child’s future.

More than 18 million are benefiting from a range of social grants up from three million in 1994. Over eight million household electricity connections have been made since 1996. To put this in context, in the preceding centuries, excessive white minority regimes only electrified five million households.

In excess of 3,3 million houses have been built, benefiting more than 16 million people. The ANC led government is working hard to upgrade all informal settlements around the country.

We are no longer just building houses but building human settlements. We have much to celebrate.

It goes without saying that the working class and the poor have been great beneficiaries of our freedom and democracy. We therefore have the collective responsibility to defend our democratic gains as South Africa with the same vigour as when we fought for it. We must unite and not allow anything to threaten the freedom and democracy we have fought so hard for.

Notwithstanding all of these great socioeconomic redistribution advances, our economy has witnessed insufficient structural transformation particularly of the systemic features of our productive economy. As a consequence, we have crisis levels of poverty, unemployment and inequality which continue to be reproduced, mainly driven by high levels of concentrations in the economy, a financial banking sector that has not adequately reinvested in the productive sectors of the economy.

Stock spatial inequalities between urban and rural areas. It is for this reason that the ANC government prioritizes progressive transformer systems policies such as Broad-Based Black Economic Empowerment, B-BBEE, and preferential procurement which contributes in including black people in the main stream economy.

The annual status and our national status have trends of BBBEE Transformation Report 2021 reported that the percentage of black South Africans holding directorship decreased from 57% in 2020 to 51,6% in 2021 whereas the holding of black directorships in the Johannesburg Stock Exchange, JSE, listed entities has increased to 28%.

Our affirmative action policies have widened access for black people to pursue any field of work. These are but some of traits of our freedom. I thank you Chair.

Ms K L KHAKHAU: The ANC has blown any and every right to call itself a liberation movement. I dare say, there is nothing positively massive and liberating about your legacy. Freedom under the ANC’s leadership government means a lost dream, an illusion of success, a perpetual accumulation of wopsies and quite frankly a gangster’s disguised as liberation messiahs’ parade.

*Sesotho*:

Nnete ke hore, mahlahahlela a rona ha a wa ka 1994.

*English*:

Instead all that changed is the key holders of the shackles of our lives. Chair, there is no freedom in a land where children suffer and die of malnutrition and in pit toilets; where students have to perform their poverty and desperation every year for access to tertiary education; where seven out of ten people wake up every day to a distant dream of ever finding a job in order to put food on the table.

There is no freedom in being born in a rural town such as Jagersfontein and all the other eight towns of the Kopanong Local Municipality in the Free State where access to an uninterrupted supply to clean and drinkable water has been an everyday pipe dream for the last eight years, simply because no knows where the money budgeted for water supply and the provision of practically every other service went.

Chair, there is no freedom in a land where patients die in their homes waiting for unavailable ambulances and in hospital corridors praying for a bed allocation or a mere glance by a nurse, never mind a doctor.

There is no freedom in a land where being assaulted, raped and murdered with little to no protection for victims by the

police, the correctional service and our judicial system has become a norm.

Chair, there is no freedom in a land that cultivates the Thabo Besters of this world. There is no freedom in a land where corruption, crime, load shedding, the unbearable cost of living and our failing economy have become ordinary conversation appetizers.

The bottom line is that the ANC is not only abusive to all of us but its cadres and self-righteous appointees across Cabinet in all three spheres of government, it has broken its vows to serve and protect South Africa. It no longer even tries to hide its lack of respect for the 60 million residents of this country who have done nothing but ask for a caring, competent and decent government.

So, your call for the celebration of freedom month is not only a spit in the faces of residents of this country but a spit on the graves of all those who lost their lives fighting for our democracy. And so there is no freedom in South Africa, our land.

Ms E N NTLANGWINI: House Chair, greetings to the commander-in- chief and to all ground forces of the EFF. Let me say to you #EFF is turning 10 this year.

Chair, the theme of this debate is so removed from the reality of black people’s life lived experience since 1994. There is absolutely nothing we have talking about that the ruling elite has done for the millions of disposed, oppressed and exploited black people in this country. The ruling elite nearly replaced a white minority oppressive regime with a black majority oppresses regime.

When the ANC took over political power in 1994 unemployment rate in this country was 20% and today is over 40%. Forty percent of the working age are unemployed in this country. Since the black representatives of capital took over political power in 1994 they have had and continuously have no clue to historically responsible form of the liberation movement to chart a progressive political party for the majority of our people.

Over the past two decades of the country we have experienced an explosion of crime such as murder in this country resembles and are sometimes worsen than those of the war-torn countries.

For the past five years’ police crime statistics have consistently reported murder rate averaging 7 000 murders every single quarter. That means that 28 000 people are murdered in this country every single year and that the majority of those who commit those murders do it with impunity knowing that they will never be caught. Those in power have systematically destroyed the capacity of the police system to prevent to investigation these crimes.

In this country 50 000 women are raped and sexually assaulted every year and that number represent only the cases that are reported. There are thousands more rape cases go unreported and never see the light of day at a police station. What sort of freedom is this that need consolidation of safeguarding thereof? Is it a freedom of a tiny minority to continue benefiting from the resources of this country while the majority is still suffering?

Today, 28 years later and after attainment of political freedom the ruling elite has done nothing and the noticeable things to return the land to those whom it was stolen by the settler minority. The state has spent R44 billion on land restitution alone and yet they have nothing to show for it. The land is still in the hands of the settlers of racist minority while African people are as Sol Plaatjie has observed

100 years ago not merely slaves but perhaps in the land of their own bears.

We have witnessed the ANC brutally killing Andries Tatane for demanding water and sanitation from the government that he voted and was voted in by black people. We have witnessed the ANC killing 34 mining workers in Marikana in defence of white foreign capital when workers demanded a living wage. We have witnessed the ANC systematically targeting the leaders of the “Abahlali baseMjondolo” in KwaZulu-Natal assassinating them one by one. Thank you. You even know the names much better because it is your party that is assassinating them. We have seen the ANC destroying all state-owned companies in order to hand these to the white handlers.

We do not have electricity today, hon Hope, while you are hauling here your 22 votes today because the ANC looted Eskom and did not make any logical investment needed to ensure that there is enough energy to meet the growing economy and social demand in this country.

Today, the ANC continue to sell the country to the highest bidder through systematically destroying Eskom in favour on the unreliable and scientifically unstable renewable energy resources. What pact between the ANC and the racist National Party regime provided in 1994 was the continuation of colonial and apartheid forms of social and economic organisations nearly under the political leadership of blacks. It is for this reason that today the ANC stalwarts prime defenders of colonialism the DA as the word coalition for them when they lose next year’s elections.

The people of South Africa have a clear choice to make in 2024 either continue living under the ANC leadership apartheid government or chose a new path under the progressive EFF that will take over the Union Building. A luta continua.

Mr M HLENGWA: The confusion ... [Inaudible.] ... in this House hon Chairperson because is the very EFF that was here is voting with the very ANC in Ekurhuleni and the City of Johannesburg. Hon House Chairperson, before South Africa gained her freedom we saw not only oppression but also censorship from the apartheid regime ...

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

Mr M HLENGWA: ... to try to distort the picture the world saw of our country.

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

Mr M HLENGWA: This was the freedom hard fought and hard won in South Africa. It will therefore be a travesty if the government censorship like we saw yesterday when an SABC crew was pulled from covering an IFP event on the instruction of the highest to be once again become a norm. Any form of censorship is an attach on freedom of press, of expression and even one could go as far as saying political rights of citizens as such restrict their access to information neither to make decision on who to vote for.

Hon members, let us be honest with each other today. Our political freedom is an island in a sea of socioeconomic injustice with the previously disadvantaged to the present disadvantaged.

South Africans are free yet not free. Millions of our people lived day by day lives characterised by hardship much as they did before the dawn of democracy.

If we were to discuss the democratic gains of our country the Constitution Bill of Rights provides a veritable laundry list, equality, freedom and security of the person, freedom of assemble and the right to vote. For black South Africans living under apartheid regime realising these rights was what motivated them to rise up and fight for freedom. However, the freedom gains in South Africa became a constitutional democracy as enshrined in our Constitution Bill of Rights are not worth the paper they are written on if the government of the day is not fulfilling its commitment to realise these rights for its citizens. Today, a new regime oppresses our people and that is of extreme and crippling poverty. Both these political freedoms are but an island in a sea of socioeconomic injustice.

South Africa remains the most unequal society in the world. Almost 30 million South Africans are dependent on grants. Be it traditional grants of R350. This means that South Africa is a de-facto welfare state with half of our population entirely dependent on state welfare.

According to a study published in February 2023 by Wits over 20,6% of South Africans were social vulnerable and 20,4% were food insecure. That means that one in five people are at risk of hunger in South Africa. This is why programmes such as the National School Nutrition Scheme bungled by KwaZulu-Natal has been seen feeding our children with rotten food, which feeds almost 10 million children daily cannot become pieces on a political chess board.

The IFP has acted decisively on this matter when the ruling party deprive millions of our children of their right to access sufficient and healthy food in KwaZulu-Natal. Whether is poverty and hunger crime is never far behind. While the Constitution may afford our people freedom and security of the person they are not safe.

According to the latest crime stats 82 people are murdered each day and 135 rapes are committed each day. Crime is further exacerbated by the crippling unemployment, which currently stands at 32,7%. This means that one in three South Africans do not have work adding to the crime and unemployment equation never ending rolling blackouts. When the lights are out criminal flourish and businesses are forced to close.

The situation at Eskom is yet another legacy of the currently failing ruling party. The entity has been hollowed out by years of corruption and lack of maintenance.

Chairperson, in conclusion, it therefore seems presumptuous of us celebrating Freedom Day and Freedom Month and gathering here to discuss consolidating and safeguarding democratic gains when today millions of our fellow South Africans are ... [Inaudible.] ... over whether or not they will have a meal tonight. I thank you.

Mr W W WESSELS: Hon House Chairperson, the hon Hermans is correct. The ANC is a formidable force of destruction. They have destroyed everything they have touched. They have destroyed our economy, they have destroyed our safety and

security. They have destroyed our state-owned entities. They have ultimately destroyed our freedom. How can we be free, whilst we are imprisoned by poverty, fraud, corruption, poor health care, crime and unemployment?

The health of South Africa’s constitutional democracy can be measured in terms of the level of political participation of South Africans. Now, when one goes and look at conventional political participation, which is voting in elections, which is participating in political party activities, public participation of this Parliament, then South Africa’s democracy is in trouble.

Let us just look at the voting eligible population of South Africa. We declined from 86% of the voter eligible population going to vote in 1994 to only 49% in 2019. The ANC government governs currently with only 28% of the voter eligible population. Only 28%.

We should do introspection, because more than 70% of South Africans have no confidence in political parties, not only not in the governing party but in all political parties. Seventy

percent of South Africans have no confidence in this Parliament.

Our democracy is in trouble and then the hon Hermans should not say that we should protect the democratic gains that we have made. We are destroying the democratic gains that we have made, especially the ANC government by fraud, corruption and destroying the confidence of the ordinary South Africans. We should restore confidence in this Parliament. We should restore confidence in conventional political participation, which a lot of people fought very hard for. That is being destroyed by destroying confidence in the institutions of this government.

When people feel that they are not being represented in Parliament, because of a complete circus and chaos and I especially refer to that side, then we are in trouble. We are in trouble when people feel that they have lost this satisfaction. That is what the public opinion currently is. If you look at 2004, people were satisfied. Seventy percent of South Africans were satisfied with basic services delivered by government. Currently, only 41% of South Africans are satisfied.

That is a problem. It is delivered by government, hon Papo. It does not fall out of the sky. It is not delivered by government. That is the problem. People are living in dire circumstances. People are living without water supply. People are living with very poor sanitation and that is the problem. The problem is that schools are not providing education. That is why we have unemployment and that is why we don’t have the skilled work force. Government should be replaced with a responsible government.

*Afrikaans*:

Ons moet ontslae raak van ... [Tyd is verstreke.] Ek dank u.

Mr S N SWART: House Chair, Freedom Day commemorates the first postapartheid elections held on that day in 1994. It was what many journalists, even secular journalists referred to as the miracle of South Africa, which was followed by the inauguration of President Nelson Mandela who modelled racial reconciliation, forgiveness and nation-building.

South Africa became a beacon of hope for many nations and our leaders assisted other nations in the negotiating peace such as the Good Friday Northern Island Agreement in 1998.

Parliament sit in as the constitutional Assembly successfully negotiated a new Constitution, encapsulating a constitutional democracy for the country.

It is then correct that we pause and reflect on consolidating and safeguarding democratic gains in the country. The ACDP does this from a deeply held faith perspective, grateful for the God-given peaceful transition to democracy that was achieved, but mindful of the many challenges facing our nation.

We do this out of the knowledge that South Africa is a deeply religious country, which in itself, presents great hope for the future. Ebenezer, thus far has the Lord carried us.

In this regard, we are reminded what US President, John Adams, said in 1798: “Our Constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other. Morality and virtue must be the foundation of any country and are unnecessary for a society to be free. Sadly, from a place where South Africa held a high moral ground internationally, morality and virtue now seem lacking.

This, when one has regard to widespread criminality, including gender-based violence; looting and corruption of state resources; the proliferation of criminal syndicates, operating in almost every sphere of society – Eskom, Transnet, the construction sector, the mining sector and sadly, within law enforcement agencies themselves.

In addition to this, we see a multitude of state officials who are enriching themselves at the expense of service delivery to the most vulnerable of society.

The ACDP believes that what is needed is a recommitment to foundational values of honesty and integrity, of stewardship and servant leadership. What we need is self-control and self- governance.

Let us as nation recommit ourselves as was done in the run-up to the 1994 election and pray and repent, as Daniel did and work towards restoration of our nation.

Sixty years ago Martin Luther King delivered his memorable, I have a dream speech. He said and I quote:

Let us not wallow in the value of despair. So, even though we face the difficulties of today or tomorrow, I have a dream that rough places will be made plain, that the crocked places shall be made straight and the Glory of the Lord shall be revealed. All flesh shall see it together.

This is our hope. With this faith, we will be able to assure that the mountain of despair is a stone of hope.

He ended by saying: “Free at last, free at last. Thank God All Mighty, we are free at last.” I thank you.

Mr B N HERRON: Hon House Chair, South Africans have many good reasons to feel disappointed by developments over the past 29 years, but they don’t retract from the fact that our liberation from apartheid was very big deal, well-worthy of celebration. When all South African were given the opportunity to vote for the first time in April 1994, it marked the end of the anti-apartheid struggle and the beginning of a new struggle for human rights and justice. It was the tipping point and not the finishing line.

The freedoms we gained, for which courageous compatriots laid life and limb on the line, are not passive. They were

expressed in the Constitution and placed active obligations on the state, to heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights, improve the quality of life of all citizen, and free the potential of each person, build a united and democratic South Africa.

The extent to which we have fallen short of achieving these noble objectives is all around us. People rightfully ask what kind of freedom it is when we are immersed in crime and violence. What kind of freedom delivers an education system in which our children cannot read for meaning and schools at which children die in pit toilets? What kind of freedom does not translate into dignified health care for all? What kind of freedom denies people access to sufficient water and food?

What kind of freedom does not provide the level of social security necessary to cover the basic needs and dignity of all citizens, passing budgets giving the aged a desultory R2 000 a month pension, with nothing for the young and the unemployed?

What kind of freedom creates housing, social services and planning systems that render more and more people homeless that live for decades in backyards, informal settlements or on

the streets? Where should people living on the streets go when they are evicted from the streets, without being provided with transitional housing and social support?

When we finish here tonight, switch off the lights and go home to a warm meal and a hot shower, families across the nation will be gathered in the dark around empty tables, not due to load shedding, but due to the exclusion of poverty. As freely elected representatives south Africa gathered here, we must not sit comfortably. We have not earned the right to be comfortable, with so much yet to be done.

That is the challenge that confronts us, to reach across party political consideration and live up to the expectations of our people for a fairer and more inclusive society. It is a challenge that, if we honest, reflects our failures, regardless of the colour of our t-shirts to represent our people well. Thank you.

Mr V C XABA: Hon Chairperson, this year marks 30 years since the passing of a leader of our nation and longest serving President Oliver Reginald Tambo, who committed his life to the struggle for freedom of a nonracial, nonsexist, free, just and

democratic South Africa which belongs to all who live in it. We must not desecrate his contribution with hyperboles, hyperboles that have visited this debate. I can only summarise the debate of the DA and the FFPlus as follows: I hear nothing, I see nothing, I know nothing. Whenever we debate and celebrate Freedom Day, we need to always ask ourselves fundamental questions as a people and so should Parliament.

Our struggle for liberation from the oppressive system of colonialism and apartheid was premised on the creation of an equitable and just society. Colonialism and apartheid were reinforced by social institutions which sought to legitimise an unjust system through unjust laws. The 1994 breakthrough to constitutional democracy provides and protects the freedoms of all South Africans black and white. It gave birth to a system based on the rule of law and the Constitution which is premised on social justice through recognising the injustices of the past. Our constitutional democracy laid the foundation to end the domination of one race over another. The Freedom Day should remind all South Africans in our diversity of the commitment of all of us to build a nation which was interceded through a reconciliatory process for an epoch of social economic and political freedoms for all.

As a nation we should reflect on the road traversed in building institutions of democracy which promotes and protects our rights. Through transformation of our laws, our judicial system has lived to this constitutional imperative of justice and equality before the law. Our jurisprudence has brought about transformative interventions to improve the quality of life of all citizens. Our jurisprudence not only protect South Africans but it also protects the human rights of all humanity. Freedom is all about the realisation of a democratic government by the will of the people. Democracy is not an end on itself but a means in the creation of a better life for all.

The ANC has led the development of a legislative framework which empowers the people to be active participants in decision-making processes of their own government. This is a right enshrined in the Constitution and embedded in our governance system to restore power to the people.

Participation of the people in governance is a critical tenant which underpins our democratic systems. The economic and social political transformation of our society is not only dependent on the state as an institution but on the actions of

the people as a whole working together through the state as an instrument for the creation of a just and equitable society.

As a people we need to also recognise and uphold the principle of freedoms and responsibility. We all have the freedom of expression but in the exercise of that freedom we do not have to infringe on the freedom of others. The freedom of speech is not the freedom to discriminate against others, it is not the freedom to be a racist, it is not a freedom to be a sexist, it is not the freedom to be xenophobic and it is not the freedom to abuse others. We must exercise our freedoms within the spirit and intention of our Constitution of healing the divisions of the past to established a society based on democratic values, social justice and fundamental human rights.

Our democratic government has realised many gains and expansion of various social services in rural areas, in townships and urban areas. Our right to protest should be exercised with responsibility without the destruction of infrastructure which disrupt social services leading to losses of billions of rands which should be used to expedite development. As communities we should take ownership of our

public goods and defend these democratic gains as they serve to improve the quality of our lives. We, therefore, need to be able to discern and rid ourselves of the ... [Inaudible.] ... of oppression and those who today seek to propagate ideas which undermine African Unity and our freedoms.

We should discern who propagates against the transformative policies of black empowerment and affirmative action to address the injustices of the past. We should discern those who advance their narrow interest in the name of the people yet they retain a system of their economic dominance. The ANC and the people of South Africa have indeed traversed 29 years of freedom. As a nation we have been confronted by numerous challenges from the transition to the democratic dispensation which was largely characterised by violence yet we found peace. We have been confronted by diseases such as HIV and Aids which have subdued.

We have been confronted with economic crisis which have cushioned the nation and its economy. We have been confronted with a deadly coronavirus pandemic and we did conquer the virus. We are today confronted with an electricity crisis and we shall conquer and with time resolve the problem. The

challenges that confront our nation are insurmountable. They require our collective efforts. Through our progressive and transformative legislation and policies, we need to ensure that we address the high levels of unemployment and inequality to free the potential of all South Africans. Thank you very much, Chairperson.

Mr A M SHAIK EMAM: Yes, I think we must agree that we live in one of the most unequal societies. We must agree poverty has risen, we must agree that lots and lots of people are homeless today, we must agree that lots of people don’t have water.

However, the question is, where? Is this happening only in the ANC-run municipalities? What if I tell you that some of the police stations in KwaZulu-Natal in Nongoma had to be closed down because there’s no water? What if I tell you there are so many of these wards which have no houses for their people are still living in shacks?

There is no water. People have to walk miles and miles just to get water. So, what is the difference? These are some of the challenges that we tend to have. Go to KwaZulu-Natal into some of the roads and look at the condition of those roads, you can’t use an ordinary motor vehicle on those roads. So, what

freedom are our people in KwaZulu-Natal particularly are enjoying 29 years later? That is why – and I have said it before – maybe the DA and the ANC should work together. That was not a selfish statement it was a selfless statement because we believe that together you might be able to achieve more. That is why we said that.

However, instead of rather attacking and insulting each other, find solutions to the problem. Everybody is complaining about the condition under which our people live but nobody is giving solutions on how we can work together and sort the problem out. Nobody wants that. That is why I say, okay, that if the ANC does not attend to that, the Parliament will be dead because we will have nothing else to talk about. That is the problem we are sitting with currently. There is no doubt about it. Let me tell you, wherever people are governing there are challenges. There is no doubt about it.

I can take you, maybe the problem is that some of you do not go to these areas and you don’t see exactly in your own area what is happening. If you take note of what is happening and how people are suffering in their own area, you will not come and attack people but you will go and help them to make a

difference in their lives. What I am telling you is facts not fiction. It is what is happening. As far as corruption, it is rife. The none delivery of services, do you know why KwaZulu- Natal has only water tankers and no water delivery? It is because through water tankers you can steal but through the water delivery you can’t steal. That is why you have so much of water tankers in KwaZulu-Natal. Maybe the Minister of Co- operative Governance and Traditional Affairs must be able to tell us how much water tankers are used in KwaZulu-Natal. You will be shocked.

I think what is important to note, yes, is that we have made some strides and a lot of work needs to be done. Let me tell you where it comes. It comes from ensuring that you have ethical leadership that wants to make a difference in the lives of the people, not political parties who come here and grandstand but they are just as corrupt as everybody else.

Thank you.

Mr S NGCOBO: House Chairperson, a few days ago South Africans celebrated Freedom Day and commemorated the first post- apartheid elections, which were held on 27 April 1994.

This historic day came as a great beacon light of hope for millions of South Africans who wanted to see South Africa move forward. It came as a joyous daybreak to end the long night of racial tensions and injustices.

But sadly, the political freedom achieved in 1994 did not bring economic freedom. Twenty-nine years later, millions of South Africans are still suffering. Twenty-nine years later, millions of South Africans are still locked out of opportunity. Twenty-nine years later, millions of South Africans are unemployed. Twenty-nine years later, we still have learners in our schools falling into pit toilets because of the failures of an uncaring ANC government. Twenty-nine years later, South Africans do not feel safe because crime is rife.

That is why we need a new government next year. A government that will give us economic freedom. A government that will give us job creation at scale and a government that will protect us.

House Chairperson, in 2024 South Africans have an opportunity to bring the government we need, and it is time for young

South Africans like myself to rise up and say ‘enough is enough’.

To quote the DA Youth Federal leader, Nicolas Nyathi, “Young South Africans must no longer fold arms and watch a match we are supposed to be playing”.

2024 is young people’s 1994 and they must register in their numbers to vote. In 1994 our parents and grandparents voted for freedom, and in 2024 as young people will have an opportunity to vote for our survival and real freedom.

The time for voter apathy is over. Young South Africans must take ownership of their own future.

As Barack Obama reminded us, change will not come if we wait for some other person or some other time. We are the ones we have been waiting for and we are the change that we seek.

As young people we must make our own contribution in turning 2024 into another seminal moment in South Africa’s history by replacing the ANC with a DA-led Moonshoot Pact government.

The DA is the only party in South Africa with a proven track record of good, clean governance. The DA-led Western Cape and the City of Cape Town are doing everything in their power to give people economic freedom. They do this by making it easy for businesses to operate and create jobs and by making massive investments to end loadshedding and to ensure a sustainable water supply.

That is why in the last quarter of 2022 the Western Cape was able to create 98% of the new jobs, while the eight ANC-run provinces together contributed just 2%.

House Chairperson, I would like to end off by quoting a paragraph from the preamble to our Constitution to remind the ANC of what the government should be doing and a few members have quoted this paragraph as well:

Heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights. Lay the foundations for a democratic and peaceful South Africa in which government is based on the will of the people and every citizen is equally protected by law.

Improve the quality of life of all citizens and free the potential of each person.

This is what government should be doing. I thank you, House Chairperson.

Mr S M JAFTA: Hon Chair, 20 years ago ...

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Order, hon members! Hon members, kahleni bo! [Order!]

Mr S M JAFTA: May I continue, hon Chair?

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Hon member, kahleni bo! [Order!]

Hon member, on what point are you rising?

Ms Y N YAKO: On a point of order, Chair. The screen of the hon member who is about to come in now is hurting my eyes. I think he must just clean his screen, I can’t see. I really can’t see. He must really just clean ...

The HOUSE CHAIRPERSON (Mr M L D Ntombela): You will see him just now.

Hon members, thank you very much.

Hon Jafta, can you continue.

Mr S M JAFTA: Hon Chair, it’s the fruit of our freedom ... [Interjections.]

Ms Y N YAKO: We can’t see. We can’t see what he’s saying ...

Mr S M JAFTA: ... we are loadshedded, hon Chair. That is the fruit of our freedom ...

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Hon Jafta, okay, fine. You better switch off your gadget there ...

Mr S M JAFTA: That is the fruit of our freedom, we are loadshedded here ...

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Hon members, please, order! The member is on the platform. Can you give hon

Jafta a chance? He has switched off his video for you to listen, please do!

Mr S M JAFTA: Hon Chair, 20 years we summoned courage and marked a complete departure from the past. With the right to vote, many South Africans hoped for a better life. Bread and butter issues were foremost in their liberation.

Our people are entitled to decent wages, they are entitled to access primary healthcare facilities at no fee, to have access to clean water, electricity and shelter. Our people are entitled to live in safer communities, to be provided quality municipality services.

Hon Chair, while we have made tremendous gains, we have fallen behind in some areas. We know that 50% of young people are unemployed. Eighteen million South Africans rely on social grants, which means 42% of households depend on social grants. The Gini coefficient is still white. The rate of unemployment sits at 32%. The income per capita is the lowest in the Southern African Development Community, SADC, region. Violent crimes have not abated. The global initiative against transitional organised crime is instructive in this regard.

Young children are still subjected to pit latrines and feeding schemes in KwaZulu-Natal schools are a complete shame.

In the words of former Deputy Chief Justice, Dikgang Moseneke, the revolution has failed.

The state of our healthcare is in peril. There is also a tripping culture of construction mafias, which has devastating negative spin-offs on investment in infrastructure development. Our spending in education, health and policing is crowded out by corruption, maladministration and abusive of state resources.

Hon Chair, as we said previously, it is not yet *uhuru* [peace]. The shuttles that bind our people must be lifted and our people must use their democratic right to whit out poor service delivery. We have no cause to celebrate this year’s freedom day. I thank you.

Ms J S MANANISO: Hon Chair, hon Chief Whip, hon Members of Parliament, MPs, fellow South Africans.

The 27th of April in South Africa is a significant and symbolic day that as South Africans we are all taken back to reflect on where we come from as a nation and we know that we are defined as a rainbow nation.

It is a day where both black and white South Africans were freed from an oppressive system of the apartheid regime. A painful journey that many cannot easily forget; from childhood memories.

This year our theme is about consolidating and safeguarding the gains of democracy. Meaning we taking stock, taking measures on what is working or what needs to be fixed; that impedes to what we stand for, in terms of socioeconomic issues in advancing the development and the economy.

Hon Chair, as an MP, today I chose not complain. I want to indicate to all Members of Parliament as well as fellow South Africans that you need to check on the ANC’s statement that was released on Freedom Day. That the ANC ... [Sound glitch.]

... in taking note, indeed we have some backlog and some issues of service delivery; be it basic service delivery, access to health, education, safety, social security and

economic opportunities. Hence we are saying that we are consolidating our democratic gains and unite the organisation to ensure that with the people we safeguard the gains of democracy.

Hon members, in consolidating our democratic gains, the ANC has ensured that the state provides developmental support and a safety net to protect the wellbeing of all South Africans.

We have expanded access to early childhood development and made sure that we transform the education sector with free access to primary to secondary schooling for the development of children till their teenage years.

From the moment a child is conceived our healthcare system provides support for mothers from prenatal care and the health support provided from childhood to old age.

We are beginning to see the fruits of our prioritisation of education with schools in the rural and townships. Some of you

- I know these rurals – only know them when you do door to door, but some of us know what is happening at Brandvlei in Ithuteng.

Our democratic government, through the comprehensive social security system, provides a safety net through the provision of grants to support the poor from childhood to old age. Some of you see these grants as a machinery to the election, but to others it’s for survival.

We have recently expanded the safety net through the R350 social relief grant for those between the age of 18 and 65.

We are assessing the feasibility on basic income grant to ensure that no South African is denied the basic needs, to protect their dignity and livelihood, as stipulated on section

27 of the Constitution.

We have seen the use of technology in the rapid response for illnesses like TB, STIs, HIV/Aids and other diseases.

People living with disabilities through their lobbying and advocacy, now have technological devices offered by both government and the private sector. Referred to as mobile devices, we have ensured that the empowerment of people with disability is promoted to enable everyone to enjoy their freedom.

I though other members were going to allude in terms of what we have done today in ensuring that we free those who are deaf, but ...

*IsiXhosa*:

... haai, singamaxoki ...

*English*:

... we couldn’t even acknowledge that.

We have advanced equity. Our freedom has begun the journey breaking the cycle of poverty. Indeed, not all is perfect, however, as a country, access to institutions of higher learning is part of our priority agenda. And we have, today, free higher education for the poor and low ... [Inaudible.]

...

*Setswana*:

... kobo ya thuto ...

*English*:

... in our townships is now the order of the day. Those who come from the townships can attest that at least in each and every household we have graduates today.

Where there is corruption there should be consequence management as this undermines our democratic gains. What we are saying ...

*Setswana*:

... ke gore magodu a tshwanetse a emelele gore a tshwariwe.

*English*:

Hon Chair, when I drop an advert regarding the development or empowerment opportunities in my constituency, they always question us on the focus on those below the age of 35. They say this age retirement is a restriction for the unemployed above the age of 35. So, as we are here as Members of Parliament and as legislatures let us make sure we cover those who are above 35 because they are saying that we actually excluding them from economic opportunities.

As we consolidate, decisive action should be our drive in servicing our people because they deserve better.

I want to address who belongs to the liberation movement, that what defines you others is that you are thought to liberate yourselves. There is a song by one of the jazz legends, Jonas Gwangwa, I know some of you don’t him, on his album called Flower of the nation, he says that freedom for some is freedom for none. So, as the ANC we do believe freedom for some is freedom for none.

Hon members, as we are celebrating and commemorating Freedom Day, my *Afrika ibuye*, *Aforika e boe*, [Africa must return to its people] South Africa must rise and unite. Let’s work locally and grow globally. Economic freedom in our lifetime, not for the few but for all. Aluta continua [the struggle continues], mayibuye iAfrika [Africa must return to its people].

Chairperson, I want to address hon Khaukhau. Hon Khaukhau has an opportunity to tell the young people that he is here today because of this liberation movement.

I want to say to hon Ngcobo: shame on you. You are speaking about 2024, people are asking what is it that we are doing as

Parliament today to make sure that we free them? *Wena* you are speaking about 2024 but we are speaking about the now.

Hon Ntlangwini and hon member from the IFP, I thought that you were going to acknowledge before that, indeed we have made strides like hon Shaik has said that we have moved from this far, we are here and one, two, three needs to be done.

However, you didn’t give us anything to say that as Members of Parliament let us work together, hold each other by hand and ensure that we service our people and we just do that, just.

Mayibuye iAfrika [Africa must return to its people], it’s now not 2024, it’s 365 days not 2024, it’s everyday 24/7. Ke a leboga. [Thank you.]

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Hon members, just before bab’uNyhontso [Mr Nyhontso], I would like to make a request that ... we have a restaurant behind this chamber, that is where we get snacks and dishes. So, I would request members not to bring dishes and snacks into the House. Thank you very much.

You can go ahead, bab’uNyhontso [Mr Nyhontso].

Mr M NYHONTSO: Hon Chair, 27 April was a day on which the majority of the oppressed and disenfranchised African people exercised the right to vote. The excitement of long queues with first time voters patiently spending the day and casting their votes was remarkable and to some unforgettable. This voting process was done with international hype with high expectations by the African people that things will change for real.

The foundation on which the election day was made did not have guarantees to restore the human dignity of the oppressed and exploited nor did it had the transfer of land back to the indigenous people as its agenda. It only had a safety net for political athletics and tamed pseudo-revolutionaries. That is the only thing to talk about on 27 April to be remembered, not the Freedom Day. Definitely, not the national liberation. It is misleading to refer to the day as the Freedom Day. Yes, perhaps Freedom Day for the apartheid rulers, to wash off the greatest crime to humanity that they have committed. Maybe, this is freedom for colonial masters to keep the land and its resources that they stole without any consequences happening. Or, is it the so-called freedom to legitimise settler colonialism and the continued exploitation of the Azanian

masses? For us, in the PAC, it was and continues to be the fake freedom. On that day in 1994, genocide was happening in Rwanda. Flag independence was proven to be the dummy sold to African people. Divide and rule tactics used by imperialists were being put into effect. We were excited and failed to learn from the settlement of fake independence in Africa made in the 1960s.

Do it yourself arrangements made at the Convention for a Democratic South Africa, Codesa to put African people under the sphere of influence of the former colonies cannot celebrated as freedom. For the PAC, the right to call our own is the true meaning of freedom. We are our own liberators. The African people will only be free when they have the power to decide what their God’s given right, their land.

I*siXhosa*:

Siyayazi into esasiyilwela. Asiyiyo lena.

Mr M G E HENDRICKS: Hon House Chair, I remember when I put my ballot form in the ballot box. Since that moment, it has been a thrill minute as we advance in expressing freedom. So, yes, many of the milestones have not been reached but we have to

say that things have only get better. It is not only up to those in the liberation movement to advance freedom. It is the responsibility of any hon member in this House and every political party in this House to advance freedom.

There has been a call, hon House Chair, you will be shocked to hear this, to unfree Freedom day. Al Jama ah does not agree with this. There is enough freedom in this House to advance it and that is what we are looking for. Thank you, very much hon House Chair.

*Afrikaans*:

Mnr J J MCGLUWA: Agb Voorsitter, dit lyk vir my die regerende party het vergeet dat ek van Matlosana kom. Alabama is ’n klipgooi vanwaar die verwikkelinge plaasgevind het. Toe hulle hoor dat die President gaan kom, toe word die strate geteer, potholes [slaggate] word toegemaak, die gras word gesny, die mense het hot flushes [warm gloede] gekry, vir iemand wat honderde en miljoene dollars onder ’n matras het.

Agb Hermans praat van policies [beleide] en huise wat hulle bou. Waarom trek die mense Wes-Kaap toe? Die mense gaan waar daar ’n geleentheid is.

*English:*

In his speech, the hon President mentioned City of Matlosana Local Municipality seven times including *Makwetle* where the late Desmond Mpilo Tutu resided. Let the record reflect the true state of the freedom, thinking about the people of Matlosana Local Municipality where I come from. Matlosana Local Municipality’s bank account has been attached of

R124 billion. We spent up to 10 hours on load shedding.

*Afrikaans*:

Ons is al by stage [fase] 8.

*English:*

... stage 8. Matlosana Local Municipality spent weeks without water. The spilling out of sewerage has become a norm in this municipality. Infrastructure here is falling apart with no investment opportunities.

*Afrikaans*:

Agb Xaba sê hy hoor nie, hy sien nie, en hy is doof wanneer die DA praat. Ek wil vir vir hom sê ...

*English*:

Yes, the ANC is nearing its death. That is why predictions have said that you will be under 40%. I also want to quote an icon, the late Desmond Tutu when he said:

Mubarak had a large majority. Gaddafi had a large majority. Watch out. I am warning you. Watch out.

The indicators are there. Wake up and smell the moon shocking elections of the DA. Matlosana Local Municipality hospitals fall apart. Doctors and nurses are being robbed in daylight by brazen criminals whose rights and freedom mean nothing in Matlosana.

Hon Mananiso, you said we must talk about now and not talk about the future. We at least have the ability to think about the plan because we do have a vision. The patience of Matlosana is vulnerable and cannot protect themselves against criminals and ailing public health care. Nothing will replace the 21 000 murdered victims and also 40 000 rape victims a year in our country. No one will forget the victims of Laura Lollie Winans and Julianne “Julie” Williams. Who will forget the Marikana massacre?

As part of our commitment to our freedom, an international criminal court was established but as we commemorate the Freedom Day, our government is grappling with the political dilemma of choosing whether to welcome an ideological compatriot or arresting the same person perpetrating the brutal crime against women and children. We should reflect and bow our heads in shame. Instead, this government has established an InterMinisterial Committees one after the other at the expense of the public worth findings whether have been made or horrendous. We had our own *Putins* wandering around in the streets of South Africa and some of them are sitting here in Parliament, for who justice will never come, kissing and licking the pink red wine. Their freedom is the end of our freedom. I thank you.

The MINISTER OF SPORT, ARTS AND CULTURE: House Chairperson, Ministers, Deputy Ministers, leaders of political parties present, hon members ...

*IsiXhosa*:

... ndifuna ukukhawulezisa ndifike apha ekugqibeleni.

*English*:

This year marks our 29th annual celebration of Freedom Day. It is also the year we commemorate the 27th anniversary of our Constitution as the supreme law of the Republic. Our rights are protected under the constitutional democracy which promotes inclusivity, equality, nonracialism, nonsexism, national unity, social cohesion, justice and diversity.

In our celebration of the freedom month, we are reminded that our freedom was not free. Our roads to democracy required untold sacrifices, with innocent lives martyred in pursuit our freedom. Among those that come to mind are Solomon Kalushi Mahlangu, Griffiths and Nonyamezelo Mxenge, the Cradock Four, the Cosas 4, Chris Hani and many martyrs of our struggle. We will always be indebted to those who walked before us

Chairperson and hon members, there will always be a reason to celebrate our freedom as South Africans. For those who lived under apartheid, the defeat of an evil system called apartheid on his own is a reason to celebrate. Madam Speaker, in reality and in truth, the nation called South Africa as defined in the preamble of our Constitution did not exist before 1994. To some members, very few in this House, there exist a minority attempting to convince the nation that there is no

relationship between redress and nation-building. There is a denial that redress is a necessary condition for nation- building and reconciliation.

It was befitting therefore that, nation-building and social cohesion became a prominent ... [Inaudible] ... of the ANC-led government. With a growing number of socioeconomic worthy battles won and many challenges still confronting us, our position remains that of resilience and zealous effort to overcome our adversities. The ANC continues to hold the conviction that, as South Africans were have a reason to celebrate the freedoms we fought for despite facing numerous challenges. The triple challenge of unemployment, poverty and inequality, coupled with lack of service delivery however, still remains.

It is suggested by some pundits that; this may be the contributing factor to some of the social ills that continue to stammer our progress. These are challenges that we face and these are the challenges that we are plagued by. We are constantly finding long term and sustainable solutions to it, while implementing short term measures so as to ensure that the country remains active and productive.

At the heart of service delivery, is the capacity of local government to deliver. Our deepest concern is the current chaos and the dysfunctionality of local government coalition nationwide. The related levels of instability have undermined service delivery in a number of municipalities, as well as effective administrative management, resulting in reversal of gains and investments of the government has put into the municipalities. We have overcome obstacles ... [Inaudible] ... many of the promises we made. We are quite aware that there is still room for improvement. We will never tire until all our people achieve economic emancipation

*IsiXhosa*:

Sihlalo ohloniphekileyo, xa sijonga emva apho sisuka khona, mde umgama esiwuhambileyo kwaye indima icace gca okwemva webhokhwe.

*English*:

The first argument that those who say that life was better under the apartheid rule, what they really mean is that life was easier for them the oppressive minority. The infrastructure, the economy and service delivery they used to justify the arguments, were not meant to serve the larger

majority of South Africans. In fact, they depended on inequality, poverty injustices and cruelty to sustain themselves.

The second argument to support the notion that life was better under apartheid, is based on racial stereotypes and philosophy of racial supremacy. Before 1994, the majority of South Africans were excluded from decision-making, including deciding who should lead them. In truth, the previous regime surrendered because apartheid was unsustainable. They had looted and undermined their own system to a point of collapse.

*IsiXhosa*:

Amaqumrhu karhulumente afana neposofisi noTransnet ...

*English*:

... were a dumping ground for unskilled, uneducated and unprofessional Afrikaner labour. There is no cleverness, virtue, or lessons to be learnt from those willing to oppress their fellow man, not now, not ever.

*IsiXhosa*:

Abanye nangoku benza ingxolo bephazanyiswe kukuxhamla kule nkqubo kamasilingane eza ne-ANC. Bacinga ukuba eli phondo sikulo ngoku abafuna ululenza uzimele-geqe... [Uwele-wele.] Ayisokuze yenzeke loo nto sisaphila. Ngoko ke njengorhulumente okhokelwa yi-ANC, ayisisithelanga into yokuba ziye zakhona iimpazamo esizenzileyo endleleni, kodwa ke ...

*English*:

... Chairperson, this is confirmed by Mahatma Gandhi when he says, “Freedom is not worth having it if not...” [Interjections.]

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Order, order, hon members.

The MINISTER OF SPORT, ARTS AND CULTURE: I just want to make that quote again. “Freedom is not worth having if it does not include the freedom to make mistakes.”

*IsiXhosa*:

Nakubeni kunjalo Sihlalo weNdlu ohloniphekileyo, thina singamalungu ombutho wesizwe siyazibophelela sizinikela kananjalo ...

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Hon Minister, there is a point of order, will you please take your seat. Hon Dyantyi.

Mr Q R DYANTYI: Hon Chair I really rise on a point of order that we can’t hear the speaker on the podium. There are members on that side overpowering the speaker. I would want you to intervene and ask that the members keep quiet and the speaker to proceed in a quiet environment.

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Thank you very much.

Mr Q R DYANTYI: Chair, already while I’m still on the platform and they are still doing that, could you please attend to that.

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Thank you hon Dyantyi. Hon members, hon Makhawula, please let us allow the speaker to continue with his speech. Allow the Minister to continue.

The MINISTER OF SPORT, ARTS AND CULTURE: House Chair and hon members, for us to overcome these challenges and deliver on a better life for all, we must work together as a nation. Our history of division, injustice and suffering should inspire us to build a better and more united nation. A better future that we can live as a legacy of our generations to come. Just to respond to two members that I only require their response from members from the ... [Inaudible] ... called the DA, Khaukhau or Khakhau, Khaukhau and hon Ngcobo.

The HOUSE CHAIRPERSON (Mr M L D Ntombela): What is your point of order hon Minister? What is your point of order hon Khakhau?

Ms K L KHAKHAU: House Chairperson, my surname Khakhau. Just get that correction please.

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Thank you very much hon member.

The MINISTER OF SPORT, ARTS AND CULTURE: Hon Khaukhau, just to

...[Interjections] ... Khakhau ...

*IsiXhosa*:

...yithi ndikhe ndimthi rhawu-rhawu kancinci ke uRhawurhawu.

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

The MINISTER OF SPORT, ARTS AND CULTURE: Ndiyacela ...

*English*:

I have always had of a history of Nongqawuse. Tonight I have seen Nongqawuse. I have seen a history of ...

... uNongqawuse oncoma abantu ababecinezela abantu bakowabo

...

*English*:

... including hon Ngcobo ...

... obethetha egameni leDA. Ibuhlungu ke xa siyibona into eyenzeka kuni, kuba le mpahla nikuyo asiyiyo eyenu inabantu bayo. Kungekudala siza kunibona niphuma ngala mnyango. Xa niphuma ngala mnyango abanye benu bayantora bechaza ukuba bekunjani ngaphakathi. Makhe ndikuthi rhawu-rhawu nje.

*English*:

Very soon both of you will be kicked out of the DA. Deliberately ...

*IsiXhosa*:

... iDA isebenzise nina ngokwebala lenu ukuze namhlanje nigxeke urhulumente okhulule nina nabazali abanizalayo. Kodwa

...

*English*:

... today, I can assure you that ...

*IsiXhosa*:

... ndibabonile ooNongqawuse ...[Ngokungavakaliyo] ... abamele abacinezeli ngaphambili kuba ...

*English*:

... they have been recruited by the former oppressor to come and say there is no liberation. Yet, they know that one of the liberations and celebrations that we must make today is the defeat of apartheid. That is what must celebrate. Thank you very much.

Debate concluded.

The House adjourned at 19:03.