



**NATIONAL ASSEMBLY PROGRAMME COMMITTEE**

Chairperson:  
Speaker of the National Assembly

Committee Secretary:  
A Mbanga x 3218

**DRAFT MINUTES OF PROCEEDINGS**

Thursday, 11 May 2023 [M46]

Present:

N N Mapisa-Nqakula (Speaker)

S L Tsenoli (Deputy Speaker)

Gwarube, S (Chief Whip of the Opposition)	Ntombela, M L D (House Chairperson)
Koornhof, Dr G W (Parliamentary Counsellor to the President)	Shaik Emam, A M
Lesoma, R M M (Programming Whip)	Singh, N
Lotriet, Dr A	Wessels, W W
Mulder, Dr C P	

Staff in attendance:

Secretary to the National Assembly Mr M Xaso, Ms N Giba (Committees) and Dr T Mbatha (Constitutional and Legal Services Office).

**1. Opening**

The Speaker opened the meeting at 08:32 and welcomed members and the staff present. She expressed concern about the poor attendance, and reminded the meeting that the Committee had decided to meet physically, henceforth. She noted that the Chief Whips' Forum (CWF) had met physically the previous week. It was therefore important that both the Programme Committee and CWF led by example in terms of physical meetings, to demonstrate that Parliament was operating normally.

The Programming Whip attributed the poor attendance to a misunderstanding on the part of members who might have expected a hybrid meeting, noting that the decision of the Chief Whips' Forum to meet virtually during mini-plenaries could have been a contributory factor to the confusion. Mr Singh cited challenges with transport from the parliamentary villages as a possible factor for some members' non-attendance. The Chief Whip of the Opposition was however of the view that there was no confusion about the meeting being physical. She agreed with a view expressed by the Speaker earlier that the meeting should not be hybrid. If there was a demand for members of the Executive to attend parliamentary meetings physically, members of Parliament should also hold themselves to the same standard and lead by example. Dr Mulder agreed, adding that there was no reason for the Programme Committee not to meet physically as the rest of the country was beyond the Covid-19 pandemic. It was therefore necessary for the Presiding Officers and whips, as a collective, to set an example in this regard. Mr Shaik Emam suggested that, depending on the agenda,

consideration be given to not having meetings physically every week as that had cost implications, especially if there was nothing new on the agenda. Furthermore, Parliament should also consider utilising the available technological tools for virtual or hybrid meetings, and not disregard the progress the institution had made in line with the Fourth Industrial Revolution.

The Speaker replied that the matter had everything to do with the fact that there was a need for members to be back in Parliament. A principle decision was taken that the leadership of Parliament should be back, and that members participating in House debates also should be physically present. It was AGREED that all the meetings of the Programme Committee would be physical during sessions, with the exception of Thursday 15 June where the programme provided for virtual mini-plenaries to be held, and on similar occasions. In addition, the matter of transport for members should be attended to.

## **2. Apologies**

Apologies were tendered on behalf of House Chairpersons Mr C T Frolick and Ms M G Boroto, Chief Whip of the Majority Party Ms P C P Majodina, Deputy Chief Whip of the Majority Party Ms D E Diakude, Parliamentary Counsellor to the Deputy President Mr A H M Papo and Messrs S N Swart, N L S Kwankwa and B N Herron.

## **3. Consideration of draft agenda**

The draft agenda was adopted, as proposed.

## **4. Consideration of minutes of 4 May 2023**

On the proposal of Mr Shaik Emam, the minutes of 4 May were adopted.

## **5. Matters arising**

Mr Xaso provided feedback on the following matters:

### *Appointment of members to the Joint Standing Committee on Intelligence*

Out of two nominations, one member was confirmed and the other one was in the process of being confirmed.

### *Report on consideration of aspects of the State Capture Commission*

It was reported that House Chairperson Mr Frolick had met with chairpersons of committees in the previous week, in order to further clarify what was expected of committees. There would be quarterly reports from chairpersons. Some committees had already been briefed on the scope of their work. Matters emanating from the Commission falling within the mandate of the Rules Committee had since been dealt with, but there were still outstanding aspects for consideration by the Joint Rules Committee.

### *Scheduling of debates on topics from external bodies and international engagements*

The debates would be scheduled during June as discussions with the International Relations unit were continuing. The transformation of the Commonwealth Parliamentary Association and the Brazil Russia India China South Africa (BRICS) summit (including BRICS Parliamentary Forum) were under consideration as possible subjects for debate.

### *Scheduling of a snap debate from Mr Herron*

The matter was receiving attention and the Programming Whip would advise accordingly.

Mr Xaso also indicated that the *ad hoc* committee to nominate a person for appointment as Public Protector would be established on 25 May 2023. Parties were still consulting on the draft proposal for a membership of 11 members, as well as an alternative proposal with an additional 14 non-voting members of the Assembly.

With regards to quarterly reports by committees attending to the aspects of the State Capture Commission, the Chief Whip of the Opposition asked how the Joint Committee on Ethics and Members Interests would process the matters flowing from the commission as it operated differently compared to other committees. Mr Xaso replied that the cases of some members had already been dealt with, citing the recent sanction imposed on Mr Mosebenzi Zwane. He indicated that a report on the matter would be provided in due course. The Speaker pointed out that Mr Zwane was absent when he was meant to apologise to the Assembly. However, the deduction of five days' salary in terms of the recommendations of the committee was being implemented. Mr Zwane would still be required to enter an apology in the House.

As far as other aspects of the State Capture Commission were concerned, Mr Xaso advised that the issue of exercising oversight on Vote 1: The Presidency was before the Rules Committee which had since referred the matter to the Subcommittee on Review of Rules. There was a determination that a study tour be undertaken to the United Kingdom (UK). The details of the study tour would be announced in due course. The outcome of the study tour was expected to lay a firm foundation for the Seventh Parliament.

## **6. Report from Committee Section**

Ms Giba presented a report on legislation before committees and indicated that the following Bills would be finalised:

- The Portfolio Committee on Justice and Correctional Services would be having a briefing on the Judicial Matters Amendment Bill on 17 May.
- The Public Administration Management Amendment Bill and South African Post Office Bill SOC Limited Amendment Bill had been introduced.

On statutory appointments, the Committee for Section 194 Enquiry intended to finalise its report on 26 June, subject to approval.

The Speaker expressed concern that legislation recently introduced would be expected to be passed before the end of the parliamentary term, even though there was priority legislation currently in the system. She indicated that these were some of the issues that she wanted to raise with the Leader of Government Business (LOGB). It had become the norm for Parliament to request an extension from the Constitutional Court on a matter that might have been granted a deadline of two years. She cited examples of the Marriage Act 25 of 1961 and Divorce Act 70 of 1979 that had been in the pipeline for two years but an amendment Bill was only introduced in March 2023, although the deadline was set for June 2023, similarly with the Correctional Services Act, 1998 (Act No. 111 of 1998). Furthermore, there was a request for

the Public Administration Management Amendment Bill to be fast-tracked. Mr Singh also indicated that it was not clear whether an extension would be required on the Maintenance of Surviving Spouses Act, 1990 (Act No. 27 of 1990) and Intestate Succession Act, 1987 (Act No. 81 of 1987), even though a read-in provision would come into effect if the defect was not corrected by the deadline. He also suggested that there should be legislation in place which should look at legalising all types of marriages, including Hindu marriages.

The Deputy Speaker indicated that the concerns raised by the Speaker had been in existence for a while and a report had always been provided by Legal Services. It had been agreed that the delays should be examined in order to assess what should actually be done. The reasons were only provided once questions were raised. A proactive mechanism should be determined to avoid delays in this regard. Such mechanism should be put across to the LOGB in order for him to communicate to Cabinet. The read-in mechanism was a measure taken by the judiciary, to avoid a lacuna in law. On the other hand, the implication of that was that the law would be based on that read-in mechanism and parties would, for the time being, not be prejudiced by that law, which had not yet been corrected. In so doing, the judiciary was trying to avoid the continuation of the injustice.

The Chief Whip of the Opposition appealed to the Speaker to be firm when engaging with the LOGB as, ultimately, when Parliament was unable to finalise legislation before it, it was an indictment on Members of Parliament as lawmakers. It was unfair and unjust that there was a tendency for legislation to be 'dumped' towards the end and there would be an incredible rush for it to be finalised. The Executive should properly plan and prioritise its business, there should be some form of deadlines for introduction of legislation, taking into account also the role of the National Council of Provinces. Mr Shaik Emam also expressed concern about the criteria applied when introducing legislation, citing that there was for instance not even one organisation that was in support of the Recognition of Muslim Marriages Bill. More importantly, the Minister for Justice and Correctional Services had indicated that the proposed amendments were making provision for protection of customary and religious marriages. He agreed with the sentiments expressed by Mr Singh about the need for an inclusive bill.

The Programming Whip explained that chairpersons of committees had been encouraged to prioritise legislation before their committees, especially those with Constitutional Court deadlines. The Portfolio Committee on Justice and Correctional Services had so far processed about 13 Bills, while others had not even managed to finalise legislation from the previous years. The office of the House Chairperson for Committees should remind chairpersons to prioritise legislation. If there were delays with introduction of legislation by the Executive, committees of Parliament had the constitutional power to initiate legislation.

Regarding the extended deadline for the Section 194 Enquiry, the Speaker expressed serious concerns. She explained that there had been delays due to difficulties in funding the legal costs associated with the work of that committee. As the office of the Public Protector had indicated its inability to continue with the funding, Parliament had been engaging with the relevant Ministers in order to assist in the matter and, as a result, an amount of R4 million was secured for the purpose. It was not Parliament's responsibility to fund the Public Protector's legal costs. However, discontinuing the enquiry could lead to fruitless and wasteful expenditure. She pointed out that the Commission on Gender Equality (CGE) would possibly also be the subject of a Section 194 Enquiry in respect of one of its commissioners. Therefore, the matter of costs needed to be clarified in advance. A determination should be made about the future of the current Section 194 Enquiry. The Speaker appealed that the Enquiry be finalised in May as there would no longer be funding available for the legal costs, failing which the process could collapse.

Dr Mulder said that there seemed to be a strategy in place for the committee to meet indefinitely. In future if Parliament were to pay for legal costs, such fees should be reasonable as they did not imply that the most expensive service available should be utilised. In the current matter, the Public Protector should rather be advised to approach the Legal Aid Board. A deadline should be set for the committee to finalise its work but the idea of allowing the process to collapse or the incumbent to walk away was not an option. Dr Lotriet concurred that the process could not be abandoned as R27 million had already been spent, and Parliament could not allow for wasteful expenditure. The extension had been meant for the Public Protector to obtain funding during that week, but the proceedings were scheduled to continue on Monday 8 May 2023. Dr Koornhof pointed out that according to the report by the Committee Section the Committee would be reporting on 22 June, a week after the adjournment of the National Assembly on 15 June, should it be allowed to meet beyond May.

The Deputy Speaker said that the principles that were up for adjudication by that committee were crucial issues that could not be allowed to disappear. Therefore, there should be an insistence that the process be completed, notwithstanding the unreasonable costs involved. Mr Singh added that the matter would be a seminal decision for Parliament and its importance could not be overemphasised. This current process was setting a precedent for future-related matters, it should not be abandoned and if necessary, there could be consideration for a special sitting during recess in order to consider the committee's report. Legal Services could assist with a declaratory order by the Constitutional Court with regard to the matter of funding. Mr Shaik Emam argued that it was not Parliament's responsibility to pay for the legal costs and, should the institution continue to do so, that would set a precedent and it seemed the courts were running Parliament considering the types of judgments that were being issued.

The Speaker informed the meeting that the matter under discussion was now back in court although she could not understand why it had to be in court as money had now been made available to complete the process. Dr Mulder said that separation of powers was a fundamental basic principle of our Constitution, the legislative arm should do what it can do and, if anyone was not unhappy, they were free to approach the courts afterwards. Parliament could not be held ransom.

## **7. Report by Bills Office**

Dr Mbatha presented a summary on the status of legislation and indicated that her report was in line with Committee Section's report. Three Bills on the 2023 Cabinet Legislative Programme had been introduced and the Electricity Regulation Amendment Bill, which was on that list, had been certified by Cabinet. She also reported that Constitution Eighteenth Amendment Bill and Division of Revenue Bill had been sent to the President for assent.

## **8. Consideration of draft Parliamentary programme**

The Programming Whip presented the Parliamentary Programme for the Second Term and highlighted the following:

The proposed statement by the Minister in The Presidency for Electricity, on the Energy Action Plan activities scheduled for that afternoon had been postponed until further notice. A notice to that effect had been sent to political parties.

Mini-plenaries on Budget Votes were scheduled to continue on 16 – 30 May in a hybrid manner.

Consideration of Recommendation of candidate for appointment by the President to serve as a commissioner for Public Service Commission was scheduled for 6 June.

The Programming Whip indicated that the debate on 'failure of the government to extradite persons implicated in corruption, as demonstrated by the recent case in the United Arab Emirates (UAE) and the consequences thereof' as a matter of national public importance, would be scheduled on a suitable date.

Mr Xaso informed the meeting that there was a proposal from the CWF that the times for mini-plenaries should be changed in order to adjourn earlier than the current time. The view was that two sessions should rather be scheduled to start at 10:00; to be followed by another one at 12:15, with a lunch break between 14:15 and 15:00. Implications of the proposed change for the Executive should be considered. The Speaker pointed out that previously Parliament adjourned around midnight and while that was not a pleasant experience, members were nonetheless compelled to do so.

The Deputy Speaker said that the proposal was, for several reasons, making sense based on a number of things that members could do subsequent House sittings, such as attending to administration and going home early. The Chief Whip of the Opposition said that she could not understand the rationale for finishing earlier than 18:30 as long as members were able to attend the sessions. If there were constraints with venues, mini-plenaries should be prioritised. For her, at the very least, there should be more members in the parliamentary precinct to attend fully physical as much as possible. Dr Mulder said that, ideally two Budget Votes should be scheduled in a day to have a sufficient debate, instead of six. Mr Singh suggested that the last sittings could start a bit earlier than 16:30 in order to arrive on time at home, or perhaps consider starting earlier at 09:00 due to load shedding.

Dr Koornhof was concerned about the impact of the proposal on committees scheduled to meet on Tuesday, Wednesday and Friday. With regards to a start time of 09:00, Mr Xaso replied that due to challenges relating to traffic congestion when transporting members from the different villages, it was decided that 10:00 as a start time should be maintained. House Chairperson Mr Ntombela said that some of the concerns raised were attributable to the discomfort of arriving late at home, and the fact that it was also dark due to load shedding. Dr Lotriet proposed that the times should not be changed as they had already been communicated and members planned accordingly. If the times were to be changed, that would create confusion. Mr Shaik Emam said that the meeting should not be inconsiderate as millions of other people did not have the luxury of means to transport them to work and back. Furthermore, load shedding would always be a factor irrespective of start and adjournment time. The Programming Whip said that she was surprised about the change of heart from members as the matter was considered at the level of the CWF. Broadly there was no change to the essence of the parliamentary programme but that, regardless of the change in the lunch break, there were fewer members attending mini-plenaries so much so that there was a view that the attendance should be based on clusters. She appealed that the times be accepted as proposed and be assessed if that would work.

After deliberations, the Speaker determined that the original times be maintained and if there were further difficulties, they could be discussed at the CWF. As a principle, members should not find it easy to change decisions. It was AGREED that times for mini-plenaries would remain unchanged.

Mr Singh asked for the reasons for the postponement of the statement by the Minister in The Presidency for Electricity. The Speaker explained that a verbal request for the statement had been made on Friday, 5 May 2023 and the letter was received on Wednesday, 10 May 2023 when the matter was referred to the CWF for consideration. Upon a recommendation by the CWF, communication was sent to the Office of the Minister advising that the statement was scheduled for Thursday, 11 May 2023 immediately after questions for oral reply to the President. Subsequently the Minister

sent a letter withdrawing his request as the President could address some of the matters during his response to questions. At the Speaker's request, the Minister's letter was read to the meeting. The Programming Whip indicated that ordinarily, it was not a practice to schedule any other business after questions to the President. The ministerial statement was scheduled on the basis that it was an urgent matter of interest.

## **9. Announcements**

Mr Xaso reminded the meeting that in future meetings of the Committee would be physical.

## **10. Closure**

The meeting adjourned at 10:24.