**UNREVISED HANSARD**

**NATIONAL ASSEMBLY**

**TUESDAY, 6 JUNE 2023**

***PROCEEDINGS OF HYBRID NATIONAL ASSEMBLY***

The House met at 14:01.

House Chairperson Mr C T Frolick took the Chair and requested members to observe a moment of silence for prayer or meditation.

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon members, we have all learnt with shock of the passing of the hon Ms T M Joemat- Petterson on Monday 06 June 2023. We would like to express our heartfelt sympathy as we stand with the family in this difficult time. The House will schedule an appropriate motion to express its condolences in due course. I thus request you now to stand and observe a moment of silence in respect of the hon member. Thank you, you may be seated.

The CHIEF WHIP OF THE MAJORITY PARTY: House Chair and to all hon members of this august House, I hereby move that the following item that was on the Order Paper and which, in terms

of Rule 351, lapsed at the end of the last sitting day of the 2022 annual session, be revived for consideration by the National Assembly, that is:

(1) Report of Portfolio Committee on Mineral Resources and Energy, Portfolio Committee on Home Affairs and Portfolio Committee on Police on Joint oversight visit on illegal mining to five South African Provinces

Motion agreed to.

# CONSIDERATION OF RECOMMENDATION OF CANDIDATE FOR APPOINTMENT BY THE PRESIDENT TO SERVE AS COMMISSIONER FOR PUBLIC SERVICE COMMISSION

Ms T MGWEBA: House Chair and hon members, the National Assembly is obligated in terms of the Constitution of the Republic of South Africa and the Public Service Commission Act

46 of 1997, to recommend a candidate for the appointment by the President to serve as a commissioner for the National Public Service Commission.

House Chair, section 196 of the Constitution empowers the National Assembly through its committee to appoint 5

commissioners for the National Public Service Commission. Each commissioner should serve for a period of five years which is a renewable term. The committee received a request through the Speaker’s Office to expedite the filling of vacancy for the commissioner post in the National Public Service Commission.

On 9 December 2020, the committee placed an advert in various national newspapers calling on members of the public who are fit and proper persons to apply for the vacancy in the Public Service Commission.

The portfolio committee appointed among its members a subcommittee to run with the recruitment process and report back to the principal committee once the recruitment process are completed. The 69 applicants responded to the advert and most of the candidates who responded have requisite skills and experience to contest for the position. Candidates were shortlisted based on their previous background, knowledge and experience in various institutions. The principle of fit and proper means that a person must show integrity, reliability and honesty as these are the characteristics which could affect the relationship between such a person and the public.

House Chair, in the shortlisting the committee has ensured the inclusion of people with disabilities, women and youth form

part of the shortlisted candidates. The committee resolved to shortlist seven candidates for the interviews. However, one candidate withdrew from the process prior to the date of the interviews. All shortlisted candidates were subjected to security clearance by the Department of State Security Agency to guard the process in determining or ensuring fit and proper person get recommended for the appointment by the President.

The Report tabled in this august House, took into consideration the vetting report by the State Security Agency. The Portfolio Committee on the Public Service and Administration unanimously resolved to recommend that the House recommend candidate Mr Errol Vincent Magerman for the appointment by the President to serve as a commissioner for the National Public Service Commission. Hon Chair, I therefore, move for the adoption of this Report. I thank you.

There was no debate.

*Declarations of vote:*

Dr M M GONDWE: House Chairperson, the Constitution and the Public Service Commission Act are silent on the requirements for the senior position of national commissioner at the Public Service Commission. This gap or voids in the relevant

legislation has resulted in the criteria for the shortlisting of candidates for this position being largely left with the subcommittee tasked with recommending a candidate.

House Chairperson, in this instance, the criteria agreed upon by the subcommittee, included that the applicants should have an extensive knowledge and understanding of the public service and the Public Service Commission and further have the relevant or appropriate experience at a senior management level in either the public or private sector. Also agreed upon by the subcommittee was that an applicant should also possess the appropriate and relevant qualifications in relation to the core mandate of the Public Service Commission.

House Chairperson, if the truth were to be told, it would be that Mr Magerman was most certainly not the best performing candidate in the interviews. On the contrary he was one of the poorest or worst performing candidates in the interview.

Simply put, House Chair, Mr Magerman failed in his interview to demonstrate to the subcommittee that he has extensive knowledge and understanding of the public service and the Public Service Commission. What is also true, Chairperson, is that Mr Magerman does not have the appropriate or relevant

work experience as he has spent the better part of his adult working life in the employment of the ANC.

In actual fact, he cites the ANC as his employer more than seven times in his curriculum vitae. The third and final truth is that Mr Magerman does not possess the appropriate and relevant qualifications in relation to the core mandate of the Public Service Commission, PSC, given that his highest and probably only qualification is an advanced certificate in governance and public leadership from Wits, which qualification has little or no bearing on the core mandates of the Public Service Commission.

House Chairperson, there were definitely better performing candidates that met the agreed criteria and up Mr Magerman by far in their interviews. One of those candidates, House Chairperson, is a PhD holder with solid experience in the field of monitoring and evaluation, a field that I can guarantee you is both genuine and essential to the mandate of the Public Service Commission. The candidate in question also boasts extensive work experience in the public service and has previously worked at the Public Service Commission as the deputy director responsible for monitoring and evaluation.

Chair, whilst working at the Public Service Commission, this particular candidate contributed towards report writing, research and further develop monitoring and evaluation tools for the Public Service Commission. Another candidate who also stood out during the interviews, has read law at Wits and also previously worked for the Public Service Commission as the chief-director for labour relations and legal services. In addition to working for the Public Service Commission, this candidate has held senior positions at notable institutions such as the Office of the Chief Justice and the Office of the Public Protector.

Chairperson, allow me to emphasise as I did during my recent Budget Vote speech that the Public Service Commission is a knowledge-based institution and not a political institution. Moreover, the framework towards the professionalisation of the public service demands the Public Service Commission which is independent and impartial and its mandate and functions be staffed by competent, experienced and qualified persons who can actively contribute towards his existing knowledge base.

This then backs the question as to, what kind of knowledge and experience Mr Magerman will be bringing to the Public Service Commission if this Report is adopted today by this august House?

House Chairperson, the answer is that the only experience and knowledge that Mr Magerman has and that he will be bringing to the Public Service Commission is that of being an ANC cadre.

Mr Magerman is an ANC cadre through and through. An ANC cadre whom, I must add, has just a few days ago taken up a seat at the Gauteng Provincial Legislature as a Member of the Provincial Legislature, MPL. House Chairperson, let him remain at the Gauteng provincial legislature as an MPL. Chair, cadre deployment has already done so much damage to our Public Service and Administration and we simply cannot afford it to allow it to also compromise and taint the independence impartiality and dignity of what is our last hope for our Public Service Commission.

House Chairperson, I will be failing in my duty if I did not urgently call on the Minister of Public Service and Administration to ensure that when the Public Service Commission Bill is tabled in Parliament, it contains a provision on the minimum qualification skills and work experience of commissions as this will assist in ensuring that only qualified and deserving persons are recommended for the senior position within the commission that commands an annual salary of almost R1,6 million. If this is not done, the decisions on who to recommend as commissioner to the Public

Service Commission will continue to be left to an ANC dominated subcommittee whose mandate is one thing only, to deploy cadre seeking deployment to the Public Service Commission. I thank you.

Inkosi R CEBENKULU: Good afternoon, House Chairperson and the House. House Chairperson, one needs to contribute to the appointment. The IFP has consistently been of the view that people working within the public service must be representative of the people of our country with the relevant skills to support public service comments.

Our parliamentary leader, His Excellency Prince Buthelezi, the founder of the IFP has maintained that it is only servant leadership that will drive South Africa’s development of its government and public service. Servant leadership in government is not employment that merely fulfils the need for salary status and benefits, it requires individuals who have belief, foresight and commitment to always act in the interest of the state.

Hon House Chairperson, unfortunately South Africa has over the past few years witnessed first hand what can happen when certain sections and people within the public service break

down principles of trust and lose sight of commitment to the citizens of the country. The need for a commissioner in the public service is of utmost importance as the public service acts on behalf of the people of South Africa to maintain oversight of government programmes. The appointment of a Public Service Commissioner must ensure that service delivery across the board is not only maintained but improved in all sectors.

Public service delivery is part and parcel of ensuring that the people of this country are able to achieve and access their rights contained in chapter 2 Bill of Rights and the Constitution. The IFP is encouraged that the committee decided to seek out the legal interpretation of “a fit and proper person”, which compels their understanding when interviewing candidates that a person must show integrity, reliability and honesty. These are standards and norms by which government must interpret any act of an employee in order to increase the trust relationship between the public and the government.

It is important that our commitment to constitutional values is no longer seen as something that we aspire to be, but rather should be something that we start to actively breathe life into.

The appointment of a new Public Service Commissioner must see a mark change in the way government operates when it comes to holding employees accountable. [Inaudible.] [Time expired.] We don’t support the appointment. Thank you.

Mr W W WESSELS: House Chairperson, just another partisan appointment, a cadre appointment and once again the fit for purpose candidate is not being considered as the ANC and this government have not learned. This is totally unacceptable and the Freedom Front Plus rejects this appointment. I thank you.

Mr S N SWART: House Chair, the ACDP is also concerned about the appointment of the nominee Mr Magerman, and we believe it will compromise the impartiality and independence of the Public Service Commission. It also, in our view, flies in the face of government’s commitment to professionalise the public service and build a capable state.

Certain members of the committee hold the view that Mr Magerman does not hold the necessary qualifications, skills and work experience to occupy the senior position. This appears so as according to his CV his highest qualification is an advanced certificate in governance and public leadership.

It appears that outside of this qualification, he has no other

experience and has worked only as an ANC cadre in various ANC positions, including elections co-ordinator councillor and now ANC member of the Gauteng provincial legislature.

House Chairperson, the Zondo State Capture Report found that the ANC cadre deployment policy violates five different subsections of the Constitution, as well as contravening the Public Service Act, the very Act we are dealing with at the moment. This legislation says that no appointment, promotion or transfer may be made or affected or decided upon outside the prescriptions of the legislation, and that those prescripts are equality and other democratic values and principles enshrined in the Constitution. These values of equality are, in the treatment of candidates, transparency, accountability and fairness.

The report further found that there is no mention of membership of a political party, including the ANC or current ruling party, nor is there any mention or a recommendation made by the deployment committee of the ANC or any political party that is in the legislation.

The report found further that it envisages a public administration that maintains a high standard of professional

ethics that is efficient, economic, effective, impartial, fair, equitable and without bias, and that the governing party’s deployment policy was counter to all four values that guided political administrative interface.

Despite this indictment, the ANC continues in its deployment policy that has had such a detrimental impact on the country. The ACDP believes that there were far more deserving candidates and therefore will not support this report. I thank you.

Mr A M SHAIK-EMAM: House Chairperson, the NFP does not have a problem if an applicant belongs to any political party because it is expected that all applicants or employees will, at some stage, belong to some political parties, and that’s the norm across the board. What we have a problem with, however, is the fact that despite not having the necessary experience and qualification for this particular post and that, more importantly, during the interview process it was established that there were other applicants that had the necessary qualification, had more experience and were overlooked.

The NFP believes that in order to ensure that the Public Service Commission appoints those that are responsible and fit

for purpose, we need to take that into consideration. The NFP finds it very difficult to support this on the basis that we believe that those that were actually interviewed proved to be much better candidates in this case. The NFP will not support this. Thank you.

Mr S M JAFTA: House Chairperson, the Portfolio Committee on Public Service and Administration’s endorsement of the candidates of Errol Vincent Magerman as the preferred candidate for the Public Service Commission must be understood against the mandate of the commission. Other considerations to be considered are his experience and qualifications.

The commission is appraisal of statute and was established by the Constitution in terms of section 196. It is common cause that the foundational values of responsiveness, accountability and the rule of law under the current Constitution require us to install an efficient and people responsive state administration in all spheres of government.

All organs of state, inclusive of state departments across all spheres of government must comply with the public service prescripts. This is where the commission comes in. It must champion the values of respect, integrity, accountability and

responsiveness across the state administration. It is this mandate that Mr Magerman must carry out as a commissioner.

Having largely working for the African National Congress and various government agencies it behoves us to ask whether he is a fit and the proper person for the job. In other words, is he going to display an independent mind and advance the best interest of all South Africans, irrespective of their political affiliation. Can he instil confidence in public service through ethical behaviour, honest and integrity? Does he exhibit personal integrity and ethics in his professional conduct? These are difficult questions, but principle will guide us.

Mr Magerman as a candidate must never be undermined merely on the strength of his affiliation to the ANC. There is no doubt that his extensive work experience will likely enrich the work of the commission. Nothing tangible has been provided to us to vote against this candidate, and because we believe in fairness and the integrity of this process, we will support this candidate. We have sought to balance experience with sound public administration. I thank you.

Mr W M MADISHA: Hon Chair, having gone through the curriculum vitae, CV, experience and qualifications of the candidate, we support. Thank you very much.

Mr M NYHONTSO: Hon Chair, the PAC supports the nomination.

Mr M N PAULSEN: On a point of order, House Chair. I have been having problems of logging in due to network problems. Is there a chance that I could do the EFF’s declaration?

The HOUSE CHAIRPERSON (Mr C T Frolick): I will come back to you.

Mr M N PAULSEN: Chairperson, commander-in-chief and president of the EFF Julius Sello Malema, officials, commissars and the ground forces of the EFF, as the EFF we mark the 10th year milestone. We continue to build government and state capacity striving to appoint individuals to positions based on merit and capabilities rather than merely rewarding nonentities thereby reducing the potential for corruption.

Chairperson, the Public Service Commission, PSC, is a knowledge-based organisation that produces information contributing towards participatory and developmental Public

Service. It is for this reason that we have to remain impartial in appointing a capable, ethical and competent individuals to this crucial institution. In making our decision we took into consideration various factors including gender, individuals with disabilities and youth representation. Above all however, we have to choose the most suitable candidate for the position to ensure a functional Public Service Commission.

The EFF as an organisation is satisfied that the proposed candidate meets the necessary standards and capabilities. Therefore, we support the nomination presented today for the appointment to the position of the Public Service Commissioner.

During the Sixth Parliament our committee has appointed four commissioners. Amongst whom there is representation of youth, women and individuals with disabilities. We support this appointment because it was merit-based.

Chairperson this section process was one of the most challenging that we have undertaken. We had to choose one candidate from more than 100 men and women, many of whom had the required skills and capabilities. However only one

individual could fill this position. The subcommittee faced the task of selecting the most suitable candidate narrowing down the pool to seven candidates. After intense and thorough interviews only one candidate was appointed, Mr Errol Vincent Magerman.

As the EFF, we noted there’s a seemingly selfish and racially driven attempt by the DA during the process to impose their preferred candidate even after the subcommittee had agreed on the number of candidates to be shortlisted. We wish Mr Magerman well in his responsibilities. But we also wish to caution him that assuming this role does not provide a license to be corrupted by the government of the day. He should know that he is joining a team of hard worker that he is expected to add value and contribute positively to the work done by the commission he is joining. Thank you very much, Chairperson.

Ms M M NTULI: House Chairperson, I want to remind this House that whenever conducting the interviews, the scoring is not about an individual, but it is about the scoring of the panel. The bone of contention is with vetting. The matter ends there, and the rest is history.

Chairperson, Chapter 10 of the Constitution has embedded institutions which support our democracy that are critical an in providing independent perspectives and make recommendations to enhance the objects of the Constitution.

The Public Service plays a critical role in having a capable developmental state which can harness the nation’s resources for the realisation of the objectives of the Freedom Charter and our institutions to create an equitable and prosperous South Africa.

The Public Service Commission plays a crucial role to investigate, monitor, evaluate the organisation and administration and the personnel practices of the Public Service, to propose measures to ensure effective, efficient performance within the Public Service, to give directions aimed at ensuring that personal procedures relating to recruitment, transfers, promotions and dismissals comply with the constitutional values and principles, to report in respect of its activities and the performance of functions including any findings it may make and directions and advice it may give. These are some of the key functions of the Public Service Commission. Our duty to support and contribute on the resourcing of the Public Service Commission is central in

responding to Priority 1 of the Medium-Term Strategic Framework.

As the ANC we have participated in the process for the appointment of the commissioner as a function of the Parliament for consideration by the President. A critical principle which has shaped the process is ensuring that we appoint persons who are fit and proper, and persons who have a record of integrity, reliability and honesty. An ethical Public Service is an imperative in recognising the challenges affect ting the Public Service. Fighting fraud and corruption in government requires a Public Service which is protected through whistle-blower protection and instilling ethical practices and conduct in the Public Service.

Recommendations and directives from the Public Service Commission have enhanced the Public Service and highlighted key areas which require the intervention of government.

In accordance with the criteria for shortlisted candidates, the committee resolved to recommend Mr Errol Vincent Magerman to the National Assembly. Mr Magerman has the suitable experience of being a councillor, board member of a state entity, a member of the Gauteng legislature and currently part

of the Johannesburg Development Agency amongst others of his current responsibilities.

The recommended member went through the security vetting process to ascertain the eligibility. We are confident that the recommended member can add value in the work of the PSC. We are currently going through a far-reaching process of the professionalisation of the Public Service. We should transform the Public Service and deepen a single Public Service. A single Public Service is critical in leveraging the totality of Public Service capabilities, to work in an integrated manner and to enable a movement of public servants to provide support to various levels of government without hinderance.

Our Public Service is confronted with various challenges and is also undertaking transformative programmes such as the increase of e-government capacity. E-government will increase the efficiency of government in processing various services and we believe this will contribute to address red tape in the Public Service and administration.

The agility of the state is a critical area the Public Service Commission should contribute to enhancing. For a capable developmental state to thrive we need to ensure that all

public servants have the requisite skills and qualifications. Strengthening the recruitment processing and ensuring there is compliance with existing policies, is an aspect which determine whether the Public Service has public servants who are fit for purpose. We need to ensure that we standardise the criteria of Public Service adverts and standards to avoid the reduction of standards on posts with the same functions.

In the Public Service constitutionally prescribed values and principles are a critical aspect. The Public Service Commission should protect and ensure the Public Service upholds and where such is not complied with the Commission should be recommended by reaching interventions.

As the ANC we will continue support the work done by the institutions that have a critical role in strengthening and supporting our constitutional democracy. We are confident that the Commission is well constituted and to ensure that our Public Service brings about social transformation and socioeconomic impact to address poverty, unemployment and inequality. The AN supports this report. Thank you, Chairperson.

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon members, before I put the question, I recognise the hon House Whip.

Mr B A RADEBE: Hon House Chairperson, may I make a request that we delay taking decision of this question now until later in the afternoon before the rise.

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon members, we will get back to the question. The question will be put later in the sitting, and it is in line with the Rules.

The CHIEF WHIP OF THE OPPOSITION: Could you site the Rule in which we are not taking this decision because we want to take the decision now.

The HOUSE CHAIRPERSON (Mr C T Frolick): The decision will be taken during the sitting. That’s why I consulted the National Assembly Table now. They are going to give me the exact Rule. There is a precedence also and it is not the first time that it happens that we do not put the question immediately. It is the discretion of the presiding officer in terms of the question being put or not.

I refer you to Rule 99, and I quote:

When the debate on a question has been concluded in the House, the presiding officer may postpone the decision of the question.

I thus postpone the decision of the question until later this afternoon.

The CHIEF WHIP OF THE OPPOSITION: House Chair, my

understanding is that this vote can take place if there is 201 members in the House. I want to understand, how many members are there in the House?

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon member, I have not put the question. There is no need to check a quorum. No decision will be taken until later this afternoon.

Decision of question postponed in accordance with Rule 99.

# DEBATE ON COMMEMORATION OF 100 YEARS’ ANNIVERSARY ON ADMISSION OF WOMEN INTO LEGAL PROFESSION

(Subject for Discussion)

The DEPUTY MINISTER OF JUSTICE AND CORRECTIONAL SERVICES RESPONSIBLE FOR JUSTICE AND CONSTITUTIONAL DEVELOPMENT (Mr J H

Jeffery): House Chairperson, hon members, I would like to acknowledge the present of representatives of the SA women Lawyers Association in the gallery at the back. As we commemorate the centenary of women admission to the legal profession, we pay tribute to the many women who have pioneered and championed the way of other women attorneys and advocates.

We honour and pay tribute to those like Sonja Schlesin, Madeline Wookey, Irene Geffen, Constance Hall, Gladys Steyn, Cissie Gool, Desiree Finca, Victoria Mxenge, Lucy Mailula, Leonora van den Heever, Yvonne Mokgoro, Kate O Reagan and many others.

Women in the legal profession have faced a longer and ongoing struggle. The first woman who tried to be admitted as an attorney was Sonja Schlesin, who did her article with Mahatma Ghandi. In Schlesin v Incorporated Law Society in 1909, the Transvaal Supreme Court held that the word attorney mean men. Not only was Miss Slechsin’s application unsuccessful but she also had to pay the Law Society’s costs. One of the newspaper’s reported at the time that, and I quote: An

application was made before Mr Justice Brysto in the High Court Pretoria on Friday afternoon on behalf of a young lady name Sonja Schlesin. Mr Justice Brysto refused the application with costs and declined to depart from the universal practice which precluded the admission of ladies as attorneys. The article stated that the refusal was based on the premise that, and I quote: “The articling of women is entirely with our President in South Africa and was never contemplated by the law”.

Three years later in 1912, the Appeal Division also refused Madeline Wookey application to be admitted as an attorney. A full bench of the division relied on Roman Dutch Law and its inclusion from legal practice of persons who could be termed, I quote: “Unfit and improper” including the death, the blind, pagans, Jews, persons who denounce the Christianity and women.

Solomon J A in 1912 was compelled by protection of personal Information Act, POPIA, memorial practice centuries include that women could not be admitted to practice as attorneys. A leading Cape Judge of the time, Judge P B Davis seems to share the sentiment when he said, and I quote:

The law of nature destines and qualifies the female sex for the bearing and nurture of the children of our race, and for the custody of the homes of the world. All life-long callings of women inconsistent with this radical and certain duties of their sex, as is the profession of law, are departure from the order of nature; and when voluntary, treason against it.

In the 1918, South African in law journal of the then former Chief Justice of the Orange Free State Melius de Villiers wrote that, and I quote:

It’s absolutely undesirable that women should be allowed to

become practicing members of the legal profession.’ He

argued that women allowed to practice is a revolt against

nature and incompatible with the duty of motherhood.

Fortunately, five years later in 1923, a law that allowed

women to be legal practitioners was gazetted. The gazette stated that his royal highness the Governor-General has been

pleased to assent to the women legal practitioner Act 7 of 1923 which provided in section 1 that women will be entitled to practice and enrolled as advocates, attorneys, notaries, public or conveyances subject to the same terms and conditions as applied to men.

That is the law whose centenary we are celebrating. The historical architect I have given are the testimony to the conservatism of the legal profession and the judiciary in the early 20th Century. This is the law which in 1923 paved the way for Irene Geffen, Bertha Solomon and Gladys Steyn to be admitted as advocates. Three years later, Constance Mary Hall became the first woman to be admitted as an attorney in South Africa.

In 1962, Cissie Gool was admitted as an advocate at the Cape Bar and in 1967 Desiree Finca was admitted as the first African woman attorney in the country after completing her article of clerkship under Godfrey Pitje. Appearing before a magistrate in Vereeniging, Tikers struggled to be heard as the magistrate claimed he never had a black woman attorney.

It was only after he confirmed her status with another attorney that the magistrate apologised and continued with the proceedings. The first woman Judge Leonora van den Heever was appointed to the bench in 1969. And was at the dawn of democracy in 1994 still the only woman judge. Later in 1994 Jeanette Traverso became our country second female judge and Lucy Maelula, the first African woman judge. Later that year

Kate O’Regan and Yvonne Mokgoro were appointed to the Constitutional Court

Although women have been practising law for a 100 years, we still have a very long way to go before we can truly say that there is gender equality in the legal profession.

According to the Law Society of South Africa in 2022 there were 29 981 practising attorneys in South Africa, and of these, 12 740 are women. It will be appreciated, hon Mazzone, if you could keep quiet. It is difficult to concentrate. These means ...

The HOUSE CHAIRPERSON (Mr C T Frolick): Order, hon members. Hon Deputy Minister, order. Order! Hon members, let us give the speaker an opportunity.

The DEPUTY MINISTER OF JUSTICE AND CORRECTIONAL SERVICES RESPONSIBLE FOR JUSTICE AND CONSTITUTIONAL DEVELOPMENT (Mr J H

Jeffery): This means that there were only 42% of the profession of women, despite the fact that according to Statistics SA mid-term populations estimates 51,1% of our population are female. It’s encouraging though when one looks at the number of candidate attorneys more than half are women,

of a total of 6 445 candidate attorneys in our country 59% are women. When one looks at the advocacy according to the 2022 figures of the General Council of the Bar, GCB, there were

2 990 advocates at the various bars or advocate society falling within the GCB. Of this, 953 are women and this equate to 31%. Of these advocates, there are a total of 555, six are senior councils. Of this, only 61 are women. That’s 10,9% but is not purely a numbers game either. We need to look at where and at what level of an attorney’s firm the women practitioners find themselves.

My office had to look at two of so-called Big Five (law firms) in South Africa and count the number of women in positions such as partner, director, head or co-head or executive in these firms. At one firm there is approximately 118 senior legal practitioners of which 70 were men and 48 were women which is 40%. At the other firm there were 186 executive or directors of which 118 were men and 68 were women which is 36,5%.

Chairperson, the legal profession is clearly still a male dominated profession. And thus more should be done to make it not only attractive to women but more importantly to retain them. The issue of women lawyers exceeding the legal

profession has been the subject of many studies, research and articles. A 2019 report by the American Bar Association used empirical data to look at the reasons why so many experience women lawyers were leaving their firms. And the report concluded with concrete recommendations to law firms to help keep women lawyers including developing a strategy setting targets and establishing a timeline for what the firm want to achieve, taking steps to ensure there is a critical mass to female partners asserting the impact of firm policies and practices on female lawyers and providing resources to relieve pressures from family obligations that women more often face on their male colleagues.

Here in South Africa, I think these are some of the types of conversation that we should be having with and within the legal profession.

At the recent ceremonial sitting held in the Local Division of the High Court in Johannesburg to commemorate the centenary, Advocate Kgomotso Moroka SC spoke about how she completed her law studies and was required to do her articles of clerkship. She spoke about how law firm hired her except for one that gave her opportunity but first she has to take an IQ test. She

further spoke about when she joined the Durban Bar in 1989. She was the second black woman advocate of the bar.

More importantly, she pointed out it was a struggle in a sense that she has three children at the time and had to balance work and home life. Advocate Moroka added that there was a point she had to bring her five-year-old child with her to work. Personally, I think we should do more to allow more flexibility for women in working conditions for women practicing law. We must remove the glass ceiling. We very often measure legal experience and specific years but what about a woman who decides to take a year or two away from the legal profession. That break shouldn’t count against her when it comes to career advancement or her suitability for the bench. It’s also about the type of work and the briefs women are given and expose to. And that’s why from the side of the Department of Justice and the state attorneys, we have made a specific target that we give a certain percentage of our legal grieves to women legal practitioners.

We want to ensure that at least 40% of grieves be allocated to women with the target increasing year on year. We also want to ensure that from this financial year at least 30% of the value of grieves be allocated to women. The reason for an indicator

on value is to ensure that women are not given the cheaper less complicated grieves.

I am also appeasing to share with you that at the end of last year 52% of our magistrates were women. Many of these women magistrates will no doubt sooner will be on the bench on our High Courts.

I want to commend and highlight women attorneys like Ms Mabaeng Lenyai, who is recently appointed as a Judge to the Gauteng Division of the High Court. As an attorney Ms Lenyai was the first woman President of the Law Society of South Africa. And therefore, sits on the Bricks Legal Forum Council on the Council of International Bar Association. When women legal practitioners make themselves available to the bench it enriches and strengthen our courts and our entire justice system.

The SA Judiciary Education Institute therefore also has an aspirant woman judge programme. And I want to encourage everyone to identify and encourage women to apply. Our courts need them.

The Chief Justice his name in the programme in honour of the first woman Minister of Justice in South Africa, Brigitte Mabandla, she has done much to promote the advancement of women in the legal profession.

Hon members, from our history as a country we know that women play a pivotal role in the attainment of our freedom. They did the same in our legal profession.

I therefore, want to celebrate every woman lawyer in our country. Those who paved the way for others, the women law students who overcome the odds to follow their dreams, the women candidate attorneys and pupils who go out to become attorneys and advocates and later partners or senior council and our women magistrates and judges. We can once again proudly say ‘Malibongwe’ [Praise!]. I thank you.

Ms B M VAN MINNEN: Thank you very much, House Chair. As we stand here today talking about a hundred years of a woman-in- law, we have just seen the most perfect example of mansplaining for the man telling a woman to keep quiet. The first woman seeking to be admitted as an attorney in 1999 was indeed Sonia Schlesin, who did an article on Mahama Gandhi.

Although she worked very closely with him and was very

instrumental in the early development of his movement, she was turned away by the high court in Pretoria, as women would deem to be unsuitable for the practice of law, which I think is a narrative that we are still hearing today.

Presumably hoping for a more liberal justice in the Cape Supreme Court. Madeline Wookey in 1912 sought to compel the Incorporated Law Society to register her articles of clerkship as an attorney and a notary. She was right when Maslop JP, a forefather of mine, concluded that women were equally entitled to men to be enrolled as attorneys on given proof of the necessary qualifications. Unfortunately, she ran into a brick wall and she failed in front of the full bench. It was only in April 1923 that women were first admitted with Irene Geffen being admitted as an advocate in 1923, which was a full 10 years before white women were able to exercise their votes in the 1933 election, electing the first female Member of Parliament, MP, Leila Agnes Buissinné Reitz. We then saw Constance Mary Hall admitted as an attorney in 1926.

Only in 1962, was Sissy Goul, who was a particularly extraordinary woman, admitted as an advocate at the Cape Bar. She was also the first coloured woman to receive a master’s degree from the University of Cape Town. Served on the

University of Cape Town, UCT, Council and for several years was the only woman and the first woman of colour serving on the city council. Three years later, in 1967, Desiree Finca became the first black African female to be admitted as an attorney.

Women now make up at least half, if not the majority of law graduates, but comprise only 42% of attorneys and 30% of advocates. Indeed, even the statistics don’t tell the true story as there’s a huge disparity for the areas of law where you will find most women. Women tend to find their practices in the so-called softer areas of law. Although whether there are softer at all, is very debatable, family law and conveyancing while feels that is seen as more prestigious, such as criminal law, corporate and tax law remain very much the preserve of men.

In my family, my grandmother’s younger sister, born in 1906, qualified as a lawyer in the late 1920s. My cousin’s wife was Mavis Gumede a Zimbabwean, who was one of the first black barristers in England in the early 1970s. She later became a judge in Zimbabwe and then in Namibia. And when she retired, was the longest-serving justice of the high court.

But in my graduating class, very few women are still practicing. A quick call around yesterday would indicate that of my university graduation class probably only about five are still practicing. I spoke to one of them yesterday, one who serves in the field of constitutional law. You would think that she was very much somebody who had achieved in a difficult field. I apologize, House Chair, for quoting her directly when she simply said to me, but we all know that law is “kak” [shit.] That’s a huge problem. So where are the women? Why do we see the phenomenon of vanishing women legal professionals? It’s deeply ironic, but the law is personified by Lady Justice, whose statue stands outside the courts in many countries, and yet women’s representation in the legal profession is an ongoing issue at the most productive stage of their careers.

Women often decide or are forced to leave the industry for various reasons. Key to this, are long hours, unpredictable schedules, pay disparities, the drive towards maximizing billable hours, the hypercompetitive environments that erode collegiality, and hostility towards a reasonable life-work balance. There are many instances of burnout, stress, exhaustion, and levels of job satisfaction are generally low, in an environment that is rife with sexual discrimination, not

just crude sexual harassment, but ongoing and insidious sexism. This is particularly seen in the area of who gets briefed and who gets advanced in the profession. As we heard from the previous speaker, the majority of the people who are briefed with state work are men.

What is needed is a deep societal shift and a definitive drive to make a profession such as law, more open to diversity, but it’s present in society, not just the recognition of legislative equality, but drives towards substantive equality. A marked move away from gender stereotyping, to create the silk ceiling and a recognition of the value and ability that women bring to the law. And this can only happen in a society that is more open to equal opportunity freedom, genuine fairness, and diversity. A society where all people are valued for what they bring to the table. And the opportunities are created for people to take them up based on their merit and ability and not on some stereotypical category based on box- ticking characteristics. And only at that point can we argue that women are indeed welcome and can thrive... [Time Expired.]

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon members, I just want to caution members on the use of language at the podium.

A point of order was not taken. However, it does not justify the use of that word that was used at the podium. It’s unacceptable.

Ms Y N YAKO: Thank you so much, Chairperson. South Africa has a long history of women making significant contributions to the various struggles our country has faced. Women in South Africa have endured more hardship than any other segment of the population. In particular, black women have often been relegated to the background in the prioritization of human rights, frequently used for slogans and displays of progress, while continuing to grapple with the many struggles today.

Today, we commemorate a centenary since the admission of women into the legal profession. How much more remarkable this commemoration would have been had we seen a woman occupying the Chief Justice in South Africa as it should have been. The decision by our President to choose “Barry White” over a recommended appointment by Judge Maya by the Judicial Service Commission, JSC, signals an entrenched disregard for black women in the legal profession. That is true, and you know it. It suggests an absence of desire to portray black women in a positive light. It illustrates, a lack of commitment from the government to advance towards a restoration for black women.

Judge Maya represents an unblemished, incorruptible, dignified character, a person who is deeply knowledgeable and understands South African law. Having proven her worth as a legal aspect, it is both astounding and yet sadly unsurprising that this government has failed to recognize her due to her political interference.

Regrettably, women are still perceived but not truly heard regardless of the significant work that they have been promoting within the profession. Moreover, the continued persecution of Advocate Mkhwebane using state resources should induce a sense of discomfort in this Parliament.

Black female lawyers make up to 20% of the workforce in law indicating a significant underrepresentation they face in the sector. Even those who have managed to enter the profession are finding it difficult to thrive. Black female Bachelor of Laws, LLB, graduates are struggling to secure articles and even privileges. Some black lawyers are still not taking their maternity leave as we speak, because they understand that when you take maternity leave, you are seen as not being productive. You are seen as not contributing to the status quo. You are seen as being lazy. In fact, in 2023, we should not be facing such instances. That is because most black

female lawyers are absorbed into the private sector and the private sector views them as such.

So, we should look at ourselves as a government in South Africa and see how we see black lawyers and how we integrate them into our structures and make sure that we give them the capacity that they need to understand the work that they are doing and how valuable they are in this country. Most black attorneys in this country are sexually exploited by black senior advocates, black senior judges, and black senior magistrates. In this country in 2023, that is a fact. The state only seems to pay lip service to empowering black lawyers, which is an even bigger problem for women.

Chairperson, black lawyers are still grossly underrepresented, and the government rarely briefs black law firms, especially those run by black women. We frequently hear of cases of women being harassed in the legal profession as they try to gain a foothold. In a country with progressive laws and policies like the three recently passed laws against Gender-Based Violence and Femicide, GBVF, Bills one would assume that women in the legal industry would play an important role in overseeing these courts. However, this is not the case.

In a country grappling with severe social dysfunction, crime, and law directed against women. Should not the legal profession’s effort be to bring women to the forefront to fix these problems? Should not you be the ones who judge these cases? Should not you be the ones monitoring these cases?

Should not we be the ones who make sure that the perpetrators are held accountable?

However, it is encouraging to see how many Black women have qualified as lawyers, attorneys, judges, prosecutors, etc., and we want to assure them that their work will not go unnoticed. But in 2023, should we still be fighting for the rights that are inherently ours

Chairperson, we acknowledge trailblazers such as Desiree Finca, the first black attorney to be admitted. Their work has not been in vain. There are numerous challenges confronting black lawyers in our country, which must be prioritized to establish a capable and fair justice system in South Africa.

Women should not be viewed as proxies of political pawns in high-profile cases. It must be a fundamental principle to place women at the centre of our legal processes and have confidence in their capacity to maintain that centre.

As we mark the hundred-year milestone of women’s admission into the legal profession, it is imperative to celebrate this achievement and reflect on the issues that persist... [Interjections.] ...

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon Mashego, it has now become a habit that every time whenever we have a Virtual Hybrid sitting, you interrupt proceedings. Please switch off your microphone. And may I ask the ANC Whips to attend to this matter outside of the meeting, please. You may continue.

Ms Y N YAKO: ... Thank you, Chairperson. As we mark the hundred-year milestone of women’s admission into the legal profession, it is imperative to not only celebrate but also to reflect on the issues that persist. The underrepresentation of women in law, their struggle to regain recognition and respect the government’s apparent lack of commitment to their empowerment. These are not issues we can afford to ignore.

Today, we call for inclusivity and support an equal and equitable legal profession, one that truly reflects the ... [Inaudible.] ... of our nation. It is time to transition from mere words to concrete actions that enable the advancement of black women.

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

Ms Y N YAKO: Chair, I have 18 seconds.

The HOUSE CHAIRPERSON (Mr C T Frolick): No. hon member, your time has expired! Your time has expired.

Ms Y N YAKO: Thank you, Chairperson.

Ms Z MAJOZI: Hon House Chairperson, although side-lined and excluded since time immemorial, women have always found ways to contribute to the struggle for freedom in this country.

They have made immeasurable sacrifices, while being subjected to the dehumanising force of ridicule, side-lining, mocking and exclusion, which was all based on their gender.

It is due to this exclusion that, although laws were passed to allow women to stand before competent courts of law as advocates, attorneys and overall legal practitioners, women were denied this very same access, although possessing the same skills, intelligence, hard work, and all other qualities that make a successful legal practitioner.

Our focus today is on the development brought about by the Women Legal Practice Act 7 of 1923. It is through this ACT that we saw the first woman, Irene Geffen, admitted as an advocate the very same year. Three years later, Constance Mary Hall followed in her footsteps and got admitted as the first female attorney.

Sadly, due to heightened apartheid laws and regulations, black women were still not allowed admission as legal practitioners. At least not until 44 years after the passing of the Act. It was Desiree Finca, who paved the way by becoming the first black female South African lawyer in 1967, after her admission as an attorney.

With a population of more than 59 million people, statistics released in 2022 revealed that there were only 12 714 practicing women attorneys in this country, making up only 42% of the whole group of practicing attorneys. Of the 3 083 advocates in this country, only 28% were women, and out of these only 338 were African women.

Why are these figures so strictly low when more than 100 years have passed since women have been permitted to practice as legal practitioners? This is due to the fact that there are

barriers that are still deeply entrenched in our society that stand in the way of women thriving in the legal profession.

For example, women are still victims of gender bias, both personally and professionally.

Since 2016, there has been a 7% increase in fully women-owned firms and although this is a step in the right direction, we ought to acknowledge that barriers such as financial access or rather the lack thereof still exist and stand in the way of the attainment of admission in the legal profession for most women.

Even though, on paper, women are presented with the same legal opportunities, as their male counterparts, it is an open secret that women tend to receive smaller amounts, in terms of the volume and quality of legal briefs, which further perpetuates gender discrimination.

Although honest reflections such as these may dampen our mood and cast a shadow of doubt amongst us, it is perhaps very important to bring to light exceptional women such as Justice Mahube Betty Molemela, who was recently appointed as President of the Supreme Court of Appeal and Sinako Lindazwe, who, together with others, continue to dedicate their talents,

lives and resources to making sure the next generation of women lawyers, in general, and black women lawyers, in particular.

Although we celebrate 100 years of women in the legal profession today, we ought to be honest that there has been a slow rise in the number of women legal practitioners in the country. And we encourage the government to create an environment that cultivates the talents of many young women throughout the country, who wish to one day, positively contribute towards the growth of the profession in one way or the other. We must deal with the patriarchal system.

*IsiZulu:*

Ngiyabonga Sihlalo.

Ms H DENNER: Hon House Chair, we’ve come a long way, not only as women, but as a country and as a society. We’ve come from a place where it was once unclear if a woman can be included in the definition of a person, in order to be registered to do her articles and ultimately, be admitted as an attorney, to where we’re celebrating 100 years of women in the legal profession this year. We as women, who once were considered second-class citizens, some of us even having been considered

perpetual minors, are able to stand up and be counted in the courts of law, the boardrooms and the legislatures of this country.

We follow in the footsteps of women such as Irene Geffin, who was the first female advocate admitted in South Africa in 1923; Constance Mary Hall, the first female attorney admitted in 1926; and Desiree Finca, who was the first black female attorney to be admitted in this country in 1967.

These women broke down barriers and triumphed over seemingly insurmountable stumbling blocks to pave the way for us, our sisters, and our daughters in the legal profession.

*Afrikaans*:

Ons dank hulle, ons eer hulle en ons bou daagliks op hulle harde en moeilike werk voort. Maar, die stryd is egter nog lank nie gewonne nie.

*English*:

We’ve come from a place where women were nothing to where women make up nearly 50% of practicing attorneys in the country, where women sit on the bench and where a woman is even the President of the Supreme Court of Appeal.

Yes, there are fee and brief disparities; yes, discrimination, barriers and stumbling blocks, such as sexual harassment and the ever-present boys club establishment that hamper equal participation in the legal profession.

Women mainly being primary child care providers is a factor that must be accounted for. We have to contend with female stereotypes on a daily basis, such as the perception that women are more emotional and more sensitive than men and therefore, are not tough enough to do this kind of work and that we’re only there to take notes or pour tea and any woman in the legal profession, myself included, can confirm this.

But we have triumphed over worse, we are breaking down those stereotypes and barriers, come hell or high water on a daily basis. And let me tell you, some of the best legal practitioners I know are women. Women such as Justice Betty Molamela and even closer to home, our colleague, hon Breytenbach.

Sadly, history tends to repeat itself, because for every step we as a society take forward, the ANC now takes us two steps back. A 100 years ago, the judiciary did not only discriminate

against women, it also legitimised the racial political order of the day, much as the government is doing now.

We as a society has literally pulled ourselves up by our bootstraps to break the ties of gender and racial discrimination, to strive and work toward an equal society where one day, equal opportunities will lead to merit-based outcomes, yet the ANC insists on taking us back to a place where the colour of all South Africans’ skin, like a pencil test, will determine our success in the work place.

You’re taking us back to a place like 100 years ago, where discrimination is law, where people are not seen as people, but as number, a percentage, as nothing more than a quota.

The Women Legal Practitioners Act from 1923 succinctly states that: “Women shall be entitled to be admitted to practise and to be enrolled as advocates, attorneys, notaries public or conveyancers, subject to the same terms and conditions as apply to men, and any law in force regulating the admission or enrolment of persons as advocates, attorneys, notaries public or conveyancers shall henceforth be interpreted accordingly”.

If an act from 1923 can get equality right, why can’t the ANC government? I thank you.

Mr S N SWART: House Chair, the ACDP welcomes this debate commemorating 100 years of women being admitted into the legal profession. We, too, honour those brave women who pioneered admission, as pointed out by earlier speakers, resulting in the Women Legal Practitioners Act 7 of 1923.

Although the percentage of female legal practitioners has increased dramatically, compared to pre-1994 numbers, many, sadly, still do not have the same access to opportunities as their male counterparts.

It is disgraceful that female law professionals should be regarded, in any way, as less competent or not suited for certain types of law on account of their gender. In addition, women of colour often face additional discrimination by virtue of their race, alongside that of gender. This is wrong. It is regrettable that following many years of discrimination female advocates are not receiving sufficient briefs from attorneys.

In addition, female legal practitioners have stated that they face sexual harassment in the workplace. The Constitutional Court made it very clear that, and I quote:

Sexual harassment is the most heinous misconduct that plagues the workplace. Although prohibited under the labour laws of this country, it persists. Not only is it demeaning to the victim, but it undermines their dignity, integrity and self-worth, striking at the root of the person’s being.

The ACDP agrees and welcomes the Legal Practice Council’s Sexual Harassment Policy. We trust, however, that it is being properly implemented. Sadly, and understandably, complainants often want to remain anonymous which makes it difficult to investigate these matters. We call on all in the legal fraternity, and indeed in all sectors of society, to stand against sexual harassment in the workplace. It must not be tolerated.

There are many notable achievements of women in the judiciary, such as the appointments of Justice Molemela as President of the Supreme Court of Appeal, and Deputy Chief Justice Maya at the Constitutional Court.

Justice Maya has said that:

The presence of women in the judiciary, as elsewhere, profoundly impacts the imperatives of a diverse society. Their participation creates a public decision-making entity that is aware of and sensitive to the different positions, experiences and needs of many individuals representing varying socioeconomic backgrounds in our communities. The contribution women jurists make to the county’s jurisprudence is distinctive and unquestionably exceptional.

The ACDP agrees.

Thus, while we can thus commemorate 100 years of the admission of women into the legal profession, much still needs to be done to remove barriers that still exist in preventing women from fulfilling their full potential. I thank you.”

Mr B N HERRON: Hon House Chair, portraying justice as a female figure dates back to the depictions of Themis and Justitia in ancient pathology. Themis known for clear sightedness was a Greek goddess of justice and law. In Roman methodology, justice here was one of the four virtues along with prudence, fortitude and temperance. In ancient Egypt, the symbol of

justice was a woman too. Yet the systems of justice and much of humanity have developed over the intervening 7000 years has largely excluded women.

In a country like South Africa where structural patriarchy evolved over centuries to drive disrespect for women and gender-based violence. It does not help that our jurisprudence has to a very large degree been developed by men. As a lawyer I am grateful to all of the exceptional female lawyers who helped form the lawyer and the politician that I am today. I have been blessed and privileged and I am grateful that in my journey to becoming a lawyer I have been taught by and practised with the most inspiring women.

I would like to take this opportunity to acknowledge all those women. Dr Navi Pillay, a woman and a lawyer who had a massive impact in my life and a path that followed to where I get to stand here today. She was a lecturer at the University of Natal when I was studying there. Dr Pillay taught a course called race legislation, a deep dive into the repugnant, oppressive and criminal laws that propped up the apartheid regime and denied the people of their rights, their humanity, their dignity and their economic development.

While we are celebrating 100 years of women allowed to enter the legal practise, we would be remise in not drawing attention to the fact that in 1923 when the Act was promulgated black women were still excluded due to discriminatory apartheid policies. It would take another 44 years for the first black woman to enter the legal profession in 1967. Dr Pillay was one of those women. In 1967 Dr Pillay became the first black woman to open her own law firm in the then Natal province.

She said, she had no alternative. In fact, she said no law firm could employ her because they could not have white employees taking instructions from a coloured person. When we commemorate the progress we have made and have been made by the women and of course black women in the legal profession we had to recognise the historic barriers that they overcame and were part of the racial and gender disadvantages that created the racial and gender inequalities that exists today.

It is in this context that it is offensive when an uneducated privileged white men, some of them lead political parties weaponised rigid legislation like the Employment Equity Act as if the barriers of racism and patriarchy are no longer alive here today. Thank you.

Mr A M SHAIK EMAM: Hon House Chair, allow me to start off by sending our condolences to the family, friends and the ANC on the loss of the stalwart, a great woman, Chairperson of the Portfolio Committee on Police, someone that we had an opportunity of spending a few days with, two weeks ago in Kimberley and Pretoria. In fact, we awoke to some devastating news yesterday. May her soul rest in peace?

Chairperson, there is no doubt about it that we have made successful strides in dealing with discrimination that our women faced many years ago. Whilst our women faced discrimination because they were women, today they still constantly face discrimination because of the patriarchal society that we live in. I know many of us will come here and tell us how much they love, respect and acknowledge them. But let’s go to our homes and see if that is the case. Clearly it is not.

That is why I always say, in this case, you can be a judge, magistrate, a lawyer, prosecutor, mother or a father, that is a woman. You cannot find a man that can be a father, a mother, a lawyer, a magistrate and a judge. It is the reason why I say you can have anything in the world and if you do not have a

mother, you have nothing. But if you have nothing in the world and you have a mother you have everything.

I will give you one good example of some of these statistics that we are having. Of the R1 billion that was allocated to the legal profession, only R3001 million was paid to women. What is also common, particularly in government departments is that they tend to give more work to male-dominated legal firms than female legal firms. I think it is something that we must address.

The other problem that we seem to be experiencing and it is in the public domain – all the time Deputy Minister, I think you are coming across with this all the time, is sexual harassment or sex favours for jobs. This is not because the women are capable or have the capacity and have the integrity because we regard them as sex objects and they must pay for it. That must change. I think it must change.

Lastly, I want to say, we support the emancipated transformation of the judiciary and the entire system, promoting women and let me leave with the news of a little child who was mercilessly massacred in Palestine. Thank you very much.

Mr S M JAFTA: On the then April 1923, the first instalment of women advocacy and legal recognition to practise as advocates and attorneys was promulgated into law. The Woman Legal Practitioner Act of 1923 ushered in a new paradigm shift in human history. Its post emblem decreed:

Women shall be entitled to be admitted to practice and to be enrolled as advocates, attorneys, notaries public or conveyancers in any province of the Union, subject to the same terms and conditions as apply to men.

It was no surprise that in 1967, 44 years after the promulgation of the Act, the first black woman was admitted as an attorney. Forty four years is not a long time if one considers the far reaching implications of 1948 dissolution of the apartheid rule. The dual sins of racism and gender imbalance meant Desiree Finca could only be enrolled as an attorney only in 1967. Surprisingly, the quest for gender equality in the legal profession is still a thorny issue, 100 years after the installation of the Legal Practitioners Act.

While we celebrate the likes of Desiree Finca, Sisi Khampepe, Yvonne Mokgoro, Justice Bess Nkabinde and many others in the legal profession. Hon Chair, the Johannesburg Bar has only

nine women of colour and a retiring theme of lack of equitable briefing between woman and men advocates. Male advocates are still preferred over their counterparts in handling higher profile cases. It is often ignored that it is women who have produced such well-meaning jurisprudence in our country.

The following are the facts: a former head of state was sentenced to jail by a woman judge. The name is Sisi Khampepe. Members of the SA National Defence Force Union were told in a clear tone by a woman judge that they belong to essential services and could not engage in any industrial action. Judge Masipa recently co-authored a report with the Justice Ngcobo in which the current President was found to be on the wrong side of the law in the Phala Phala matter. It was Justice Mokgoro who found Nomcebo Jiba and Lawrence Mrwebi to be unfit to hold office in the National Prosecuting Authority. It was Advocate Thuli Madontsela who rail executive power and told a former president to pay back the money. [Time expired.]

Ms N H MASEKO-JELE: Hon Chairperson, members of the House, fellow South Africans, Chair, as we celebrate 100 years of women in legal profession, the ANC, before that, we wish to convey our heartfelt condolences to the family, friends and colleagues of our beloved hon Mamu’ Tina Monica Joemat-

Pettersson. Mamu’ Tina was a seasoned political and lawmaker who rose in the ranks of the ANC. She dedicated her life to the service of our country. from an early age, and her contribution, Chair, will be remembered by all of us, particularly women, in this country.

Even as we commemorate 100 years of women in legal profession, her valuable input in this debate is recorded. May her soul rest in eternal peace and may she rise in glory. Chairperson, the apartheid era fraught with patriarchal and racist ideology, left a mad society rife with gender and racial inequalities. It is well documented that at the commencement of the new constitutional democracy in 1994, the bench comprised of one 165 judges, of which 160 were white men, three black men, two white women and no black women.

Racial and gender discrimination were deliberately used to oppress women and keep them away from a profession previously reserved for men. As it has been alluded to, women were not considered to be persons enough to practice law. Legal means were used to advance patriarchy and oppression. The 1912 Appellate Division case, which barred women from practicing law, the Incorporated Law Society versus Wookey was followed

by some obnoxious outpouring in the SA Law Journal, quoting as US judgement, the article read, I open quote:

The law of nature destined and qualifies the female sex for the bearing and nature of the children of our race and for the custody of the world and their maintenance in love and honour and all lifelong calling of women inconsistent with these racial and sacred duties. Of their sex, as is the profession law of law. Are departures from the order of nature and were voluntary treason against it.

Chairperson, the level of prejudice meted against women have been unpalatable to say the least. This was carried out with the blessing of the colonial era, judiciary. As we know, injustice should never be embraced, but fault. Women were never going to stomach discrimination forever. With our democracy dispensation, strong institutions have been created and led by legal, trained women.

For example, Mamu’ Thoko Majokweni, a former magistrate and then a senior state advocate, was appointed as Deputy Director of Public Prosecutions in 1996 as the first African woman to be appointed in that position. She was then appointed by the President, as the first women Special Director of Public

Prosecutions in the Office of the National Director of Public Prosecutions. She was specifically tasked to set up and head a unit that would specialise in dealing with gender-based violence, sexual and other offenses known as the Sexual Offenses and Community Affairs, SOCA, unit, in short.

She and other women were at the forefront of setting up sexual offence’s courts. The institutionalisation of prosecutor led investigations in cases of gender-based violence, and violence against children, as well as the co-ordination of services for an efficient and responsive criminal justice system. The SOCA unit developed and introduced the Thuthuzela Care Centre, TCC, model, as an integrated multiple multi-disciplinary model which is victim-centred with the prosecutor guided investigations, is co-directed, and it involves stakeholder

co-operation.

To date, we have TTCs across the country, and through them, secondary trauma to victims of sexual offences has also been reduced significantly. Chairperson, a century has passed and yet, there are still barriers which hinder women’s progress in the legal profession. The slow pace of gender transformation of the judiciary cannot be examined and in turn, rectified in isolation. The research indicates that the number females

graduating and being admitted as attorneys, is slightly higher than that of males.

The deepening disparity starts to become increasingly visible when examining the gender disaggregated statistics of practicing attorneys or advocates. It can be concluded that there are no substantial barriers in university admissions, and qualifying as an attorney or advocate, but focus should, therefore, be at the legal practice level within the legal landscape. There are still underlying and widespread discriminatory perceptions of women’s competences as legal practitioners being as substantially weak than their male counterparts, which is a myth, Chair, that has to be dealt with contempt it deserves.

There is general perception from other practitioners that women lawyers are only good in certain areas of law and are not good in complex litigation matters. This general perception leads to women lawyers not getting their experience and exposure in lucrative areas of law, both from the private and the public sector. Further, this is compounded by the rigidity of the profession, where in excessive work hours are expected. Socially accepted gender roles within society equate

to social and family responsibility, falling largely upon falling largely upon women practitioners.

The legal landscape is very patriarchal in its formation and does not cater. For the different roles that women lawyers should fulfil at various stages in their lives, for example, motherhood is perceived as a career limiting women find themselves having to choose between mothers and being legally practitioners. The issues of sexual harassment in the workplace of junior women legal practitioners as indicated before by the hon members, and it indicates that the attorneys are not being dealt with openly and transparently.

There is also a fear of victimisation for those who report incidents of sexual harassment, such incidents discourage young women from remaining in the legal profession. Another challenge that has been picked up is that of mentorship of women lawyers, which is taken up by other women in the legal profession, as most male demonstrate a reluctance in mentoring young black women practitioners. Failing to consider women in academia or private sector into judicial appointments, limit the entry of women in the profession.

There is significant pool of potential women judges in academia, in private and public law, that can greatly help to increase numbers. Academics are well trained in contents of the law. It may be argued that some might let some practical experience, but this is easily rectified by seeking out women academics to serve as acting judges. The issue of briefing patterns, Chair, is also very important in terms of the numbers and quality of briefings. We celebrate the women of this country and wish to see more and more women entering the profession.

*IsiZulu*:

Malibongwe!

Mr M G E HENDRICKS: Hon House Chairperson, I join other hon members to express my sorrow and shock at the sudden death of Tina. Hours before her death in a place called New Horizons, we were handing out sanitary pads that she donated or arranged for us to get by courier to hand out to these girls.

And she was also very passionate about the water crisis and gave me some solutions for the City of Johannesburg. So, we like to express our condolences and thanks for this opportunity.

With regard to the 100th Commemoration and Admission of Women into the Legal Profession, hon House Chair, a lot of progress has been made in South Africa. And I refer to the appointment of Justice Mandisa Maya as the country’s first woman Deputy Chief Justice. I think we need to celebrate that.

However, women are still being discriminated against and unfortunately, the Department of Justice is in the forefront of discrimination. They still don’t give indigent women transport costs to come to maintenance course, but they give it to men.

And I’m very grateful that the chair of the portfolio committee has stepped in to try and get the Department of Justice to stop their discriminatory practices against women. In fact, I want to suggest that when it comes to maintenance court matters, men must be banned, and women must deal with it so we can fast track the rights of women as far as getting maintenance to put food on the table for the children that men need to fulfil.

I was very interested in the history that hon Aaron gave; and my own constituency, the Muslim community, after the Prophet, women played a very important role as legal practitioners and

acted as advocates to people who came for advice on the Sharia. And now we hope that, that will inspire Muslim women to play an active role when it comes to an alternative dispute, a resolution structure to deal with Muslim marriages and divorces, keeping it out of the courts.

Hon House Chair, women have played a central role in today’s development of law in South Africa. And we need to make sure that they get briefs. Women need briefs and attorneys must start the briefing of women advocates and mentoring them.

Thank you very much, hon House Chairperson.

Mr M BAGRAIM: House Chairperson, we celebrate 100 years women in law, and we are hearing a lot of words from the ANC. How about the state briefing women for a change? How about cadres who get caught with the hands in the tool briefing women for a change? It’s about time. It was Tacitus 2nd Century anno Domini, AD who said:

The more corrupt the state, the more numerous the laws. ‘Law is going to go away; we are facing a corrupt state right no’. Laws are essential to the running of every modern society and in order to uphold the laws and manage them it requires lawyers. If the laws could speak for

themselves, they would complain about lawyers in the first place.

That was Lord Halifax. We can be proud of our country in that we are far ahead of many other jurisdictions around the world. Our modern Constitution protects the rights of all people equally. Our legal profession has long since been the forerunner of this concept. We must be proud in that the legal profession has for many years sought to protect rights of individuals throughout the ages.

You would remember, the Nationalist Party were forced to try and load the bench in the apelet division in order to protect the apartheid laws. Today we can be proud that the legal profession stands outside politics and protects our law and our Constitution with vigour.

The fact that the legal profession stands outside politics and petty arguments is a shining light of our democracy. Our Constitution which is the supreme document of our society very carefully protects the rights of individuals which rights are properly and carefully handled by the legal profession.

Today it can be said that the legal profession is truly equal between men and women. However, it was George Bernard Shaw who said, “We learn from experience that men never learn anything from experience”.

We still got a problem. In the incorporated law society versus Wookey, which is an interesting case in 1912, the apelet division upheld an appeal brought by the Law Society against the decision by the Cape Provincial Division declaring that a woman was entitled to enter into articles of clerkship as an attorney’s clerk and to be enrolled as an attorney upon obtaining the required qualifications.

The apelet division held that the word “persons” in the Cape Charter of Justice included only male persons and that the respondent, Ms Wookey, was not entitled to be enrolled. Then the court referred with approval to a passage which stated:

Likewise, owing to the same natural peculiarity, it happens that, in as much as nearly the whole of womankind by reason of an inborn weakness is less suited for matters requiring knowledge and judgement than men, women are excluded from holding any office or dignity relating to the government of a people and its affairs.

We can hang our head in shame because of that history, however, today it can be said that women in the legal profession have taken their rightful place in many cases. Women hold senior controlling positions as partners of law firms and leading lights at the Bar. Our country has made great strides in ensuring that there is equal representation from women on the bench at all levels of our courts.

I was initially admitted to the Bar in July 1982 the date ... [Inaudible.] ... and thereafter to the Side Bar in 1986.

Throughout my career – and I’m still practicing today, women have been my senior partners and as a practicing attorney to this day I am proud to say ... [Interjection.]

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Hon Bagraim, hon members, we will keep on persuading you to be very careful of your gadgets. It’s disturbing a lot. Sorry about that hon Bagraim you can continue.

I appreciated it, we must understand that lawyers will always be with us, even Shakespeare will shake with that. It was Samuel Goldwyn who said:

A verbal contract isn’t worth the paper it’s printed on. There’s an old time joke told by lawyers that 99% of the lawyers give the other 1% a bad name.

The DA salutes our country’s women lawyers, judges, and legal administrators. And we congratulate those in the profession. Thank you.

Ms A RAMOLOBENG: Hon Chairperson, hon Chief Whip, members of this august House, compatriots, comrades, and friends, as we commemorate one hundred years of women in the legal profession, it is important that we take a moment and reflect on the journey we have traversed. The legal profession is one of the world’s oldest professions and yet it was only in 1923, through the Legal Practice Act, that women could join the profession.

As we know, prior to the Act, women were not considered to be persons who could be admitted to legal practice. The 1923 Act opened the door for women by pronouncing that:

Women shall be entitled to be admitted to practice and to be enrolled as advocates, attorneys, notaries public or

conveyancers in any province of the union, subject to the same terms and conditions that apply to men.

A ceremonial court sitting was held on 25 April 2023 and Gauteng Judge President, Dunstan Mlambo, overturned two judgments which were issued in 1909 and 1912, which barred women from entering the profession. Judge president Mlambo declared that the two women in those cases had been admitted to the legal fraternity.

Chairperson, our history is not short of women of who are of positive influence, women who have held up justice as an embodiment of hope for an empowered future. Our history is littered with examples of great women who have contributed to the kind of society we have today. While some may have passed, they have left an indelible mark in our hearts and minds.

Their strides have shaped the trajectory of our nation.

We say sincere condolences to the family of Comrade Tina Joemat-Pettersson. We wish to pay a special tribute to women of strength like Mama Victoria Nonyamezelo Mxenge. Having practised as a nurse, Mama Victoria obtained her law degree in 1981 from Unisa and joined her husband, Griffiths Mxenge’s law firm in Durban. She was subsequently admitted as a lawyer.

Tata Griffiths was brutally assassinated on 3 November 1981, and she had to keep the law practice going and began to play a more prominent role as a human rights lawyer and a political activist. She defended victims of the apartheid system and became a fierce opponent of state brutality and a beacon of light for the people of South Africa, including the youth, students, and members of other political formations. Victoria Mxenge and her husband paid the supreme price for defending the rights of oppressed South Africans to exist in conditions of freedom, justice, peace, and democracy.

We pay tribute to Mama Priscilla Jana, also a human rights activist and a personal attorney to former President Mandela. It is said that a one stage, she represented every single political prisoner on Robben Island. She served as a member of the South African Law Reform Commission, a member of the first democratic Parliament and was the deputy chairperson of the South African Human Rights Commission at the time of her passing.

We pay tribute to Justice Yvonne Mokgoro, the first black woman to serve on the Constitutional Court of South Africa. She contributed significantly to developing the country’s legal system. Justice Mokgoro was awarded the Order of Boabab

in Bronze for her excellent contribution in the field of law and administration of justice in a democratic South Africa.

Having spent a considerable period in academia, Justice Kate O’Regan was appointed to the serve as a judge in the newly formed Constitutional Court at the young age of 37. She served alongside with Justice Mokgoro as the only two women amongst

11 judges in the Constitutional Court in 1994.

Indeed, it has taken longer for black women to enter the profession. The struggles of women entering the legal profession have not been limited to race and class. They even transcend our borders. Women across the world have not been spared from gender discrimination. Moving further afield, even in the United States, entry into the profession by women was made difficult. We pay tribute to Judge Ruth Bader Ginsburg, the second woman and first Jewish woman to serve on the Supreme Court. She wrote the court’s opinion in the United States vs Virginia case, ruling that qualified women could not be denied admission to the Virginia Military Institute. She is often quoted for her famous words: “Women belong in all places where decisions are made. It shouldn’t be that women are the exception.”

Coming back home, we also wish to show our sincere appreciation to the former President of the Supreme Court of Appeal, SCA, and current Deputy Chief Justice Mandisa Maya. Her ascendency to the highest echelons of the judiciary is not only indicative of her illustrious judicial career but inspires hope and serves as a reminder to every woman that women are more than just capable, no matter where you come from. A notable example is her dissenting minority judgment in Minister of Safety and Security vs F in the SCA. The matter involved a claim for damages arising from the rape of a woman by an off-duty policeman. The majority of the court held that the Minister was not vicariously liable as the policeman was not on duty at the time of the rape. In her minority judgment, she focused on the constitutional role entrusted to the police and the responsibility of police officers to conduct themselves properly to foster the community’s trust in the institution. The Constitutional Court upheld Justice Maya’s judgment in F vs Minister of Safety and Security.

Chairperson, we express our sincere gratitude to Chief Justice Zondo for resuscitating the Aspirant Women Judges’ Programme which was started by the first woman Minister of Justice in a democratic South Africa, Mama Brigitte Mabandla, and aptly naming the programme after her. The Brigitte Mabandla Aspirant

Women Judges’ Programme aims to address the underrepresentation of women in the judiciary by creating a pool from which women judges can be appointed. Through this training programme for aspirant women Judges, women practitioners with potential to be appointed as women judges are identified, enrolled, and exposed to a specially designed judicial education programme to enhance their opportunity for appointment to the bench. We believe that this will yield many positive results and opportunities.

Hon members, nearly a 100 years ago, former Chief Justice of the Orange Free State, Melius De Villiers in the South African Law journal said: “It is most undesirable that women should be allowed to become practicing members of the legal profession.” His remark only reflected the perspectives held by many in the profession at that particular time. Another writer in 1917 called the objection to women in the legal profession “a wholesome one”, because:

The fact that women nurse and sew and wait at canteens is no indication of their capacity for the legal profession. If there is one calling in the world for which women are conspicuously unfitted it is the law ... women have no idea of relevance, or analogy, or evidence.

A century later, we are pleased that we have moved forward as a nation. Women of this country have proven that both men are wrong. Whilst much has been done to transform the profession and the industry, much still needs to be done. The lamentations of women cannot fall on deaf ears. We encourage more women to enter the profession and to be given space and the necessary support to sustain themselves in the career. Let justice be done though the heaven may fall. I thank you.

The HOUSE CHAIRPERSON (Ms M G Boroto): I will say ...

*IsiZulu*:

... malibongwe, kubo bonke omama abakulezi zomthetho. Sibafisela okuhle ...

*English*:

... more transformation for women in the legal fraternity.

# CONSIDERATION OF RECOMMENDATION OF CANDIDATE FOR APPOINTMENT BY THE PRESIDENT TO SERVE AS COMMISSIONER FOR PUBLIC SERVICE COMMISSION

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon members, we will now go back to the decision of the question on the first order.

Question put: That the House approves the nomination of Mr Errol Vincent Magerman as Commissioner for the Public Service Commission.

The HOUSE CHAIRPERSON (Ms M G Boroto): Are there any objections to the questions?

Division demanded.

The House divided.

House Chairperson Ms M G Boroto announced that, the Speaker had determined that, in accordance with the Rules, a manual voting procedure would be used and that the whips would conduct a headcount of members in the chamber and on the virtual platform for the purpose of ascertaining quorum and voting.

A quorum being present in terms of Rule 98(1), voting commenced.

AYES – 229: (ANC – 203; EFF – 21; Good – 2; AIC – 1; Cope – 1;

Al’ Jama-ah – 1).

NOES – 82: (DA – 61; IFP – 10; FF Plus – 8; ACDP – 1; NFP – 1;

UDM - 1).

Question agreed to.

Nomination accordingly agreed to in accordance with section 196(8)(a) of the Constitution.

# CONSIDERATION OF REQUEST FOR APPROVAL BY PARLIAMENT OF AGREEMENT AMENDING THE SADC PROTOCOL ON GENDER AND DEVELOPMENT IN TERMS OF SECTION 231(2) OF CONSTITUTION, 1996

Ms C N NDABA: House Chairperson, Hon Chief Whip, Hon Deputy Chief Whip, Hon members, good afternoon. According to Section 231(2) of the Constitution of the Republic of South Africa of 1996:

An international agreement binds the Republic only after it has been approved by the resolution in both the National Assembly and the National Council of Provinces.

South Africa signed the SADC Protocol on Gender and Development on 17 August 2008 and ratified it on 29 October 2012. The protocol entered into force on 22 February 2013. South Africa, therefore, has an obligation to comply with its commitments. The protocol was revised in 2016 so that its objectives are aligned with various global targets and emerging issues. To this end, some of these global targets are contained in the UN Sustainable Development Goals, SDGs, the African Union Agenda 2063 and the Beijing Declaration and Platform for Action.

The agreement amending the SADC Protocol on Gender and Development provides for the empowerment of women, the elimination of discrimination and the promotion of gender equality and equity through gender-responsive legislation, policies, programmes and projects. In terms of the SADC Regional Indicative Strategic Development Plan 2020-2030, it is expected that all SADC member states must approve, ratify and domesticate the SADC Protocol on Gender and Development.

The Department of Women, Youth and Persons with Disabilities and the Department of International Relations and Co-Operation briefed the Portfolio Committee on Women, Youth and Persons with Disabilities on the agreement amending the SADC Protocol

on Gender and Development on 30 November 2021 and again on 8 November 2022. Given the substantive changes and new additions to the said protocol, the committee was briefed accordingly and deliberated extensively on the changes, hence the follow- up meeting. After being briefed and deliberations, the committee adopted the report on 8 November 2022. I thank you, Hon House Chairperson.

*Declaration(s) of vote:*

Ms N I TARABELLA-MARCHESI: Chair, the Republic of South Africa, a member of the Southern African Development Community, SADC, is eager to adopt this ... [Inaudible.] ... declaration to promote the SADC Protocol and Gender and Development on the need to raise the age of marriage for girls to 18 in line with SADC’s goals.

South Africa is committed to promoting gender equality and equity. We believe that all people, regardless of their gender, have the right to live free from discrimination and violence. Child marriage is a violation of these rights. Child marriage is a widespread problem in the SADC region.

According to United Nations Children’s Fund, UNICEF, one in three girls in the SADC region is married before the age of

18. It is a major obstacle to the region's development. Girls who are married before the age of 18 are more likely to drop out of school, experience violence and become pregnant as teenagers.

They are more likely to live in poverty. Raising the age of marriage to 18 is an essential step to ending child marriage. It is an unambiguous message that child marriage is not acceptable. It also sends a strong signal to parents and communities and religious leaders that child marriage is harmful and should not be tolerated.

South Africa is committed to taking action to raise the age of marriage to 18. We have already enacted legislation that says the minimum age for marriage is 18 for girls. We also call on all SADC countries to take action to raise the age of marriage to 18. This is a critical step to ending child marriage and ensuring that all girls have an opportunity to reach their full potential. We, therefore, as the DA, support this move.

Thank you.

*IsiZulu*:

Nk M S KHAWULA: Ngibonge, Sihlalo, leli komidi esihlala kulona linenkinga. Asikwazi ukuleseka kulo Mthethosivivinywa walo,

ngiyabonga ukusho. Sinezinkinga eziningi zamacala avulwayo, kungaba awokudlwengulwa, awabantu abashonile, uthole ukuthi lawo macala ahlala isikhathi eside ezinkantolo elokho ehlehla. Kwabanye uthole ukuthi labo bantu ababenza izisulu babuyele emuva beyobabulala, ngenxa yabaseshi, ngenxa yezinkantolo ezingafuni ukwenza umsebenzi wazo.

Ngize lana eNtshonalanga Koloni, ningangishayi bafowethu, lana eNtshonalanga Koloni kunenkinga enkulu. Kunabantu abasebenza emapulazini lana e-Cape Winelands, kunezinkubela esazithola kuyilento ka-May 1, lana abantu khona abashayiwayo emapulazini umlungu ngoba mhlawumbe befuna imali yabo efanele. Ngakhoke uma labo belungu bevulelwa amacala, ababoshwa abalandelelwa, isasebenza lento yebala elimhlophe

Howick kusigceme-8, uGogo u-Molefe oneminyaka engu-86 ubudala oshayiwe umlungu u-Gerard ngoba engumlungu nje akaboshiwe, kunoma aboshwe icala liyahlehliswa okungangokuthi abaseshi ... angazi noma bayagwazelwa yini, bagcina sebenzenjani, sebeshiya bangayi enkantolo. Yebo, e-Limpopo e-Phalaborwa, esigcemeni u-

7 nezigceme u-9, amanzi awekho laphaya iminyaka eyishumi ompompi abanalutho. Omama bayadlwengulwa beyokha amanzi emasimini. Okwesibili ... [Ubuwelewele.] ...

*English*:

The HOUSE CHAIRPERSON (Ms M G Boroto): Order! Order, Hon members! Please, lower your noise.

Ms M S KHAWULA: We are not playing here!

The HOUSE CHAIRPERSON (Ms M G Boroto): Yes, Ma’am Khawula you are not playing. Please, members, let us give each other the respect that everyone deserves.

*IsiZulu*:

Nk M S KHAWULA: ... lolu size olubhekene nabantu bakithi abamnyama la eNingizimu Afrika. Lana sinenkinga yezinkantolo. La sinenkinga yamajaji. Umuntu uma eshonile siba nenkinga yokuthi icala lakhe liphelele emoyeni. Kukhona into engihlezi ngiyicula, le yezicubu zomzimba. Leya nto nawo uHulumeni unesandla ngoba kufanele ngabe lezi zinyanga ezingoqhip’khowe okuizona ezithembisa abantu ingcebo. Abantu bafa kangaka nje ngabo kuthathwa izicubu zomzimba.

Okunye okubuhlungu kakhulu yile yokuthi umangabe kushone umuntu omnyama la eNingizimu Afrika akukho la kuthiwa nangu useboshiwe, kuvele kuthiwe kusaphenywa kodwa akube ngowebala

... manje seboshiwe. Yizo lezi zinto esithi uma le minyango

ekhona ingakakwazi ukusebenza ngendlela, ngeke sikwazi ukusiphasisa lesi sicelo.

Ngiya kwaMhlabuyalingana manje, kwaMhlabuyalingana ngikhulumela abantu besifazane nezingane. Kunendawo laphaya eyisiqiwu, leya ndawo ngakhuluma ngayo la ngifika ngo-2015, ukuthi kuleya ndawo abantu bakhona uma kuzovotwa kuyaziwa, laphaya kunabantu abadlwengulwayo, kunezinkubela laphaya kodwa uma izingane zabo ziya ezikoleni ziwela ngapha, akekho oya laphaya eyobheka. [Akuzwakali.]

USIHLALO WENDLU (Nk M G Boroto): Ngiyabonga, Mam’ Khawula, ngikuphe imizuzwana eminingi. [Ubuwelewele.] Isikhathi sesidlulile mama.

Nk M S KHAWULA: ... uma kusetshenzwa nje, ngiyosixhasa lesi sicelo, uMthethosivivinywa lo. [Kwaphela isikhathi.]

Ms M D HLENGWA: Hon House Chair, at the moment, I am at the dilemma of the network, but I’ll try.

The HOUSE CHAIRPERSON (Ms M G Boroto): We can hear you very well, ma, proceed.

Ms M D HLENGWA: Hon House Chairperson, our country’s Constitution provides a framework for the promotion of gender equality and contains several provisions that advise this cause. Furthermore, the Bill of Rights guarantees equal treatment for all South Africans. The World Bank states that no society can develop sustainably without supporting opportunities, resources, and choices for men and women so that they have equal power to shape their own lives and contribute to their families, communities, and countries.

Article 4 of the Southern African Development Community, SADC, Protocol on Gender and Development has been amended to state that State Parties shall develop and strengthen specific laws, policies and programmes to achieve gender equality.

Our country has a shortage of legislation aimed at gender equality. However, over the years it has become quite evidence that our government lacks the will to effectively implement these pieces of legislation, unfortunately. It seems as though our government still considers women’s issue as soft issues.

Article 20 was amended to read that States Parties shall enact and enforce legislation prohibiting all forms of gender-based violence and shall develop strategies to prevent and eliminate all harmful society and cultural practices. In addition, States Parties should ensure that perpetrators of gender-based

violence are tried to a court to complete judicial. However, last week we heard that South African women continue to pay the bruise of violent attacks. In the first three months of the 2023, more than 10 000 women were raped, more than 1 000 attempted murders of women were reported, 969 women were killed, and over 15 000 women were assaulted.

In conclusion, considering this Statistics South Africa should greatly benefit from embracing the Amending the SADC Protocol on Gender and Development. Therefore, the IFP supports the report. Thank you. [Time expired.]

Ms T BREEDT: Hon House Chair, the revised SADC Protocol on Gender and Development provides for the empowerment of women, elimination of discrimination and the promotion of gender equality and equity through gender responsive legislation, policies and programmes ... [Interjections.]

*IsiZulu:*

USIHLALO WENDLU (Nk M G Boroto): Mam’uHlengwa usuqedile ukukhuluma ngathi ungavala.

*English:*

I’m sorry, hon Denner. Is it Breedt? Yes, hon Breedt, I’m sorry for that. I’m going to allow you to start, and this is a condition that even in the House, please lower your voices. I can hear what you are saying from where I’m sitting, and I don’t want that. Can you restart Ms Breedt, please? Thank you. Miss Breedt, please.

Ms T BREEDT: Yes, thank you, Madam House Chair. The revised SADC Protocol on Gender Development provides for the empowerment of women, elimination of discrimination and the promotion of gender equality and equity through gender responsive legislation, policies, programmes and projects. The protocol was revised in 2016 so that its objectives align to various global targets. Some of these targets are contained in, for example, the post 2015 United Nations, UN, Sustainable Development Goals to name but one. Sustainable Development Goals, SDGs, ... [Inaudible.] ... for example, deals with the promotion of gender equality and empowerment of all women and girls, and sets nine targets that need to be made by the global community by 2030. These include ending all forms of discrimination against women and girls, elimination of all forms of violence against women and girls in the public and private spheres, including trafficking and sexual exploitation, and ensuring the full and effective

participation of women and equal opportunities for leadership at all levels of decision-making in political, economic and public life.

In addition, the revised protocol captures emerging issues such as climate change and child marriages. What is, however, necessary to understand is that one cannot legislate women into equality. It starts out by ensuring that girl children are given equal opportunities and do not miss school because of menstruation, for example. The only way in which women will truly rise up and be equal is by ensuring their equal opportunities. I thank you.

Mr S N SWART: House Chair, the ACDP supports this report given the high levels of human trafficking and other issues affecting women in the subcontinent, and we welcome the fact that the age for marriage has been lifted to 18 in terms of our own legislation. I think the only concern relates to the time it takes for Parliament to consider such international agreements. If one considers that section 55 sets out that the National Assembly must hold the national executive to account by exercising oversight and then section 231 indicates that such international agreements are only taking effect once they are approved by the National Assembly and the NCOP. Then this

raises the question as to what happens once the executive signs these agreements until Parliament ratifies them.

I think this is an issue which we as Parliament need to look at very careful in exercising our oversight. However, as having supported this report, I do wish to allude again to the related issue, and that is treaties that are presently being negotiated, where Parliament has no oversight, and that is the World Health Organisation’s pandemic treaties. We need to be aware of what is happening in these regards, as in our view that have a direct impact on the competencies of sovereign nation which could be handed over to the World Health Organisation and which require parliamentary oversight. Given that the World Health Organisation does not have a democratic mandate and that it could have more power than national governments in such key areas as national health, where words such as may in the past, now to be replaced by must which are obligatory.

Therefore, we trust that going forward that Parliament will be able to exercise its ratification and oversight over such international treaties far quicker. Then, given the impact of such international treaties, and just to repeat, the ACDP will support this report. I thank you.

Ms G P MAREKWA: House Chair, hon Chief Whip, hon Deputy Chief Whip, Members of Parliament, and fellow South Africans, the ANC fully supports the approval by Parliament regarding the agreement amending the Southern African Development Community, SADC, Protocol on Gender and Development, as contained in the portfolio committee report, and recommends that the House, in terms of Section 231 of the Constitution of the Republic of South Africa, Act 108 of 1996, approve the said agreement.

The protocol aims to empower women, eliminate discrimination, achieve gender equality and equity through the enactment and execution of the appropriate legislation policies, programmes, and projects by participating member states. The area of conflict which hinders a timely adoption of the amendment are on article 8 of the SADC protocol focusing on child marriage, which was amended to provide for upright prohibition of underage marriages. The new text reads as follows: No person under the age of 18 shall marry.

The portfolio committee referred the matter for further consultation by the Department of International Relations and Cooperation, the Department of Women, Youth and Persons with Disabilities and the Office of the Chief State Law Adviser, to

find a way in ensuring Parliament approves the protocol as legal considerations to be taken by the various departments.

In finalising the matter, including requesting the President’s guidance, the portfolio committee has considered the fact that South Africa is already party to various international obligations, and which are related to SADC amendment of the protocol related to marriage. As such, the African Charter on the rights of and welfare of the child which expressly prohibits such marriages and became binding on South Africa upon ratification on the 21 January 2000, will be found on article 21.

The Maputo Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa that provides in article 60, that the minimum age of marriage for women shall be 18 and was ratified by South Africa on

17 December 2004. The United Nations Convention on the Elimination of All Forms of Discrimination against Women, to which South Africa became party on the 15 January 1996, oblige the state parties in article 2(A) to include the principle of equality of men and women in their Constitutions and legislation. In article 16(A) specifically, obliges state

parties to ensure the same rights to men and women to enter into marriages.

Therefore, the SADC Protocol on Gender and Development, can be adopted. But we need to expedite the review of marriage policies and legislation to align with the protocol. The Department of Home Affairs has developed a White Paper on marriages in South Africa to lay a foundation for national policy aiming at enacting laws that are grounded on the principle of equality and address non-discriminatory marriages. The White Paper was approved by Cabinet in

March 2022, and we await the legislative amendment as Parliament.

This is an important protocol we are passing, which will introduce legislation which only permits marriages for person over the age of 18. This will protect vulnerable children who have been forced to leave school and advancing their own development due to marriage below the age of 18. The African Union Agenda 2063 envisions a more inclusive society on the continent where all citizens actively participate in decision making processes without being excluded based on factors such as gender, political affiliation, religion, ethnicity,

locality, or age. The ANC supports the report. House Chair, I thank you.

Question Put

Agreement Amending the SADC Protocol on Gender and Development approved (Freedom Front Plus dissenting).

[Interjections.]

*Afrikaans*:

Die HUISVOORSITTER (Me M G Boroto): Wag! Julle almal moet asseblief luister waaroor ons praat. Gaan aan.

# CONSIDERATION OF REQUEST FOR APPROVAL BY PARLIAMENT OF AMENDMENT TO ARTICLE 20(1) OF THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN IN TERMS OF SECTION 231(2) OF CONSTITUTION, 1996

(Consideration of Report of Portfolio Committee on Women, Youth and Persons with Disabilities)

*English*:

Ms C N NDABA: Mam Khawula, it’s not a budget. We are presenting a Southern African Development Community, SADC, Protocol. Hon Hlengwa, we are presenting a SADC protocol. You presented a Cedaw ... So, the report that you presented ... you must come and present it now.

Hon House Chair, the Convention on the Elimination of All Forms of Discrimination Against Women, Cedaw, is an international legal instrument that requires countries to eliminate discrimination against women and girls in all areas and promotes women and girls’ equal rights.

It was adopted in 1979 by the UN General Assembly and entered into force on 3 September 1981. Subsequently, a committee of Cedaw was established that monitors the implementation of the convention by member states. South Africa signed the convention in 1993 and on 15 December 1995 our Parliament ratified the convention without any reservations. In

March 2005, the optional protocol to Cedaw was also ratified without reservations.

The Committee on the Elimination of Discrimination Against Women is a body of independent experts that monitors the implementation of the convention ... in all forms of

discrimination against women. The Cedaw convention has been ratified by 165 countries, making it almost universal. This illustrates the importance of women and development globally by member states. Hence, the committee has a very important role to play and requires sufficient time to do its work in order to give effect to its mandate.

The proposed amendment article 20(1) seeks to introduce a procedure that allows for a more flexible time allocation for the meetings of the committee that monitors the convention.

Article 20(1) of Cedaw provides that the committee shall normally meet for a period of not more than two weeks annually in order to consider reports submitted in accordance with article 18 of the convention.

Due to the increased workload of the committee because of more states parties ratifying the convention, the General Assembly adopted a resolution to amend article 20 in 1995 to increase the duration of the committee’s meetings. The proposed amendment replaces the words, “not more than two weeks annually” with:

The committee shall normally meet annually in order to consider the reports submitted in accordance with article

18 of the present convention.

The duration of the meetings of the committee shall be determined by a meeting of the states parties to the present convention, subject to the approval of the General Assembly.

The amendment of article 20(1) of Cedaw was referred to the Portfolio Committee on Women, Youth and Persons with Disabilities in October 2022. The request for approval of the proposed amendment is in terms of section 231(2) of the Constitution of the Republic of South Africa, 108 of 1996.

Subsequently, the Department of Women, Youth and Persons with Disabilities and the Department of International Relations and Co-operation briefed the Portfolio Committee on Women, Youth and Persons with Disabilities on amending article 20(1) of Cedaw on 8 November 2022. After being briefed and after deliberations, the committee adopted the report. I thank you, House Chair.

*Declarations of vote*:

Ms N K SHARIF: House Chairperson, greetings to the hon Chief Whip and Deputy Chief Whip of the Official Opposition and the incoming government of 2024. Hon members ... [Interjections.] Hello, Chief Whip.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon Sharif, those gestures are unparliamentary. I’m just protecting you.

Proceed.

Ms N K SHARIF: Thank you for the protection, House Chair. The status of women in the country, the region and globally continues to make strides but remains limited when looking at the reality that so many women continue to face every single day. It is common knowledge that the fight for gender equality is not only a fight that women must take up but one that requires a whole of society approach.

The Cedaw was adopted in 1979 by the UN and is often referred to as the international bill of rights for women**.** Being a signatory to various international treaties like Cedaw means that South Africa has the responsibility to participate and facilitate implementation in the country, and contribute to these bodies in the interest of women. States parties commit to ensuring that they take various measures to end all forms

of discrimination against women and take steps to ensure that there is a national agenda of action to end discrimination against women.

As our chairperson mentioned, the Cedaw committee is a body of experts on women’s rights and is responsible for the monitoring and implementation of the convention, as well as the consideration of reports from states parties as well as communication from individuals or organisations that submit claims of violations of the convention, and provides the basis for the realisation of equality between men and women.

In terms of the amendment, it is on the amount of time that the Cedaw committee will be meeting annually to do their work. The work done by the Cedaw committee is important work and with the increased workload, only having two weeks to meet annually proves to be constraining and limits the amount that they are able to get through. The implication of this amendment is that instead of being limited to only two weeks a year, it will now be determined by states parties, subject to the approval of the General Assembly. Therefore, the proposed amendment would allow for a more flexible time allocation for the meetings of the committee.

A concern around this is that in the portfolio committee, the director-general of the Department of Women, Youth and Persons with Disabilities argued that the acceptance of this amendment would depend on how many other member states had signed the amendment. South Africa needs to be decisive and lead from the front. The work we do every day in South Africa to realise equality must be increased and it must be prioritised. In order to realise a society where equality is common practice, we must do more to ensure that women are safe, women have access to job opportunities, education, health care services, and essentially trust in government and its entities. We should not only rely on international treaties to fight against discrimination. We must work on fighting against discrimination within our borders every single day.

The DA agrees with the report by the portfolio committee. I thank you.

Ms M D HLENGWA: House Chairperson apologies for opening the microphone last time.

The HOUSE CHAIRPERSON (Ms M G Boroto): No problem, proceed ma.

Ms M D HLENGWA: Hon Chairperson our country’s Constitution provides a framework for the promotion of gender equality and contains several provisions that absence this cause.

Furthermore, the Bill of Rights guarantees equal treatment for all South Africans. The World Bank states that no society can develop sustainable ... [coughing.]

*IsiZulu*:

USIHLALO WENDLU (Nk M G Boroto): Mabakuphe amanzi Mama. Sisimisile isikhathi sakho. Awuphuze amanzi.

Nk M D HLENGWA: Nginomkhuhlane!

USIHLALO WENDLU (Nk M G Boroto): Yebo.

*English*:

Ms M D HLENGWA: Article 4 of the Southern African Development Community, SADC Protocol on Gender and Development has been amended to state that, state parties shall develop and strengthen specific laws, policies and programmes to achieve gender equality. Our country has no shortage of legislation. Our government unfortunately lacks the will to effectively implement these pieces of legislation. It seems as though out government still considers women’s issues as soft issues.

Article 20 was amended to read that state parties shall enact and enforce legislation prohibiting all forms of gender-based violence and shall develop strategies to prevent and eliminate any harmful society and cultural practices.

In addition, state parties should ensure that perpetrators of gender-based violence are tried by a court of competent jurisdiction. However last week, we heard that South African women continue to bear a ... [Inaudible] ... of violent attacks. In the first three months of 2023 more than 10 000 women were raped, more than 1 000 attempted murders of women reported 969 women were killed and over 15 000 women were assaulted.

In conclusion Chairperson, considering these statistics South Africa should greatly benefit from embracing the amendments of SADC Protocol on Gender and Development. Therefore, the IFP accepts the report. Thank you.

Ms T BREEDT: House Chair, the Convention on the Elimination of All Forms of Discrimination Against Women is an international legal instrument that requires countries to eliminate discrimination against women and girls in all areas and promote women and girl’s equal rights. True equality and not

just the window dressing of equality is very important. For society to truly move forward and ensure that girl children have equal opportunities, we need conventions such as this.

The ... [Inaudible]... on injustices being faced in a world that is becoming more violent and gender-based violence and femicide, GBVF is rife. This article currently limits the duration of the meetings of the committee to two weeks annually, despite the increase in the workload of the committee due to amongst others, the increasing number of states ratifying the convention.

The proposed amendment seeks to introduce a procedure that allows for a more flexible time allocation for the meetings of the committee. More flexible time allocation for meetings will ensure the committee can allocate more time to important matters and do their due diligence. The FF Plus will support this report.

The HOUSE CHAIRPERSON (Ms M G Boroto): Thank you. ACDP.

Mr S N SWART: House Chair, the ACDP supports the report and won’t be making a declaration. Thank you.

The HOUSE CHAIRPERSON (Ms M G Boroto): Thank you. UDM, ATM, GOOD.

Mr B N HERRON: House Chair, we support the amendment. Thank you.

The HOUSE CHAIRPERSON (Ms M G Boroto): Thank you. NFP, AIC.

Mr S M JAFTA: Chairperson, we support the report without any declaration.

The HOUSE CHAIRPERSON (Ms M G Boroto): Thank you. COPE.

Mr W M MADISHA: Chair, COPE supports. Thank you.

The HOUSE CHAIRPERSON (Ms M G Boroto): Thank you. PAC, Al Jama-ah, the ANC.

Ms T S MASONDO: Hon Chairperson, the ANC fully supports the request for parliamentary approval regarding the Amendment to article 20 (1) of the Convention on the Elimination of All Forms of Discrimination Against Women, CEDAW, which is often referred to as the International Bill of Rights for women.

The emancipation of women remains a fundamental goal and core principle of a free and democratic South Africa. The ANC is committed to uniting all South African women, regardless of their diverse experiences based on race, thus ethnicity, religion, or demographics.

Given the historical oppression first by women, especially black women, the ANC's focus remains steadfast on working class and rural poor women. The recommendation is made in accordance with section 231 (2) of the Constitution of the Republic of South Africa Act 108 of 1996, that an international agreement binds the public only after it has been approved by a resolution in both the National Assembly and the National Council of Provinces.

The proposed amendment seeks to extend the duration of committee meetings responsible for processing member states, report meetings will no longer be limited to two weeks per annum but will be determined by the state parties subject to the approval by the General Assembly.

South Africa signed the Convention on the Elimination of All Forms of Discrimination Against Women in 1993 and ratified it in December 1995. The submission to Parliament aims to align

the previously ratified convention with the amendment to article 20 (1) of the convention. This effort will contribute to strengthening the policy and legal framework as well as the implementation of laws and policies that positively impact the lives of women and girls.

It provides an opportunity to integrate the gender equality agenda and concrete plans for accelerated action into national development plans and objectives. By November 2021, only 20 state parties had accepted the amendment to article 20 (1) whereas 126 state parties are required to accept the amendment to bring into force. This then places significance in the House adopting this report as this contributes to our intervention efforts of advancing gender equality and advancing an equitable wealth which promotes the rights of health and women.

Upon approval by Parliament, the Minister of International Relations and Cooperation will sign an instrument of acceptance on behalf of the state of the position to the United Nations by the Department of International Relations and Cooperation.

As a nation, we remain committed to the advancement of progressive ideals to protect women, particularly women, in war-torn countries who are the victims of conflicts in the world and in the continent. We remain committed to address the economic inequality between women and men and call for the suitable distribution for the political economy.

We call for the closing of the pay gap between men and women. As a nation, we have undertaken a forecast approach to combat gender-based violence and femicide through a national strategy plan to be implemented by all social partners.

The social economic transformation of women requires a transformation of culture, a transformation in ideologies, and transformation of thinking. Empowering women in South Africa involves addressing the legacy of apartheid and transforming society, particularly power relations between women, men, institutions, and laws.

This amendment is a positive step in enhancing the work of the body that addresses gender oppression, patriarchy, sexism, racism, ageism, and structural oppression. It aims to create an enabling environment that empowers women to take control of

their lives. Empowerment is viewed as active citizenship and equal participation of women and men in all aspects of life.

The ANC key policy documents firmly reject discrimination against women in all forms. Both Constitutions recognize women as equal citizens with equal rights and responsibilities. The ANC has played a leading role in women's struggles by advocating for non-sexist in society and institutionalizing gender equality and women's empowerment through policies, institutional arrangements, and intervention measures. We support this report as part of our commitment to internationalism, for the equal wealth. Thank you Chairperson.

Question put.

[Interjections.]

*Afrikaans*:

Die HUISVOORSITTER (Me M G Boroto): Nee, man, ons doen dit nie so nie.

*English*:

You must please listen to what you are agreeing to. Are there any objections to the approval of the Amendment to article

20 (1) of the Convention on the Elimination of All Forms of Discrimination Against Women, as it appears on the Order Paper?

*Sesotho*:

Hobaneng e se e sa utlwahale hantle jwale?

Agreed to.

*English*:

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon members, I’m going to request that you stand and wait for the Chair and the mace to leave the Chamber.

*Afrikaans*:

Dit bring ons by die einde van die besigheid van die dag en die Huis is verdaag.

The House adjourned at 16:59.