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PROCEEDINGS OF THE NATIONAL ASSEMBLY

The House met at 10:01.

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

ESTABLISHMENT OF AD HOC COMMITTEE ON POLITICAL PARTY FUNDING

(Draft Resolution)

The CHIEF WHIP OF THE MAJORITY PARTY: Deputy Speaker, I move the draft resolution printed in my name on the Order Paper, as follows:

That the House –

- (1) notes that effective functioning of political parties is fundamental to the promotion of

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constitutional democracy in South Africa and particularly the ability of such organisations to represent the public;

(2) further notes that political parties require adequate funding in order to perform their functions and enhance democracy and that the manner and transparency of such funding are paramount in the context of building public confidence in the political system;

(3) acknowledges that public funding for political parties represented in national and provincial legislatures is provided, inter alia, through the Public Funding of Represented Political Parties Act, Act 103 of 1997;

(4) establishes an ad hoc committee in terms of National Assembly Rule 253(1)(a) to—

(a) enquire into and make recommendations on funding of political parties represented in national and provincial legislatures in South

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Africa with a view to introducing amending legislation if necessary and, in so doing, consider –

- (i) the model of public and private funding for political parties; and
 - (ii) the need for, and possible means of, regulating private funding in all its forms as well as investment entities owned by political parties;
- (b) consist of 11 members, as follows: ANC 6, DA 2, EFF 1 and other parties 2;
- (c) exercise those powers in Rule 167 that may assist it in carrying out its task; and
- (d) report to the National Assembly by no later than 30 November 2017.

Motion agreed to.

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BORDER MANAGEMENT AUTHORITY BILL

(Decision of Question on Second Reading)

The DEPUTY SPEAKER: Hon members, I wish to remind you that on Thursday, 11 May 2017, the decision of the question of the Second Reading of this Bill was postponed. Are there any objections to the Border Management Authority Bill being read a second time?

There was no debate.

Question put: That the Bill be read a second time.

Division demanded.

The House divided.

Mr N F SHIVAMBU: Deputy Speaker, the five minutes are over.

Can we please vote? We need time to do other things. The day is too long. Please. Can we please vote?

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The DEPUTY SPEAKER: Thank you. The voting session is now closed.

Mr N SINGH: Deputy Speaker, the instrument of hon Hlengwa is not working this morning. [Laughter.] [Interjections.]

[TAKE IN FROM MINUTES}

As the result of the division showed that there was not a majority of the members of the National Assembly present for a vote to be taken on a Bill as required by Rule 96(a), decision of question postponed.

EXTENSION OF SECURITY OF TENURE AMENDMENT BILL

(Consideration of Report)

There was no debate.

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

Motion agreed to.

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Report accordingly adopted.

Mr N F SHIVAMBU: The EFF wants to make a declaration as well.

The DEPUTY SPEAKER: No. We are done hon member. We have gone to the next Order.

Mr N F SHIVAMBU: Oh. We are going to debate this. Then it's fine. We will join the debate.

EXTENSION OF SECURITY OF TENURE AMENDMENT BILL

(Second Reading debate)

The MINISTER OF RURAL DEVELOPMENT AND LAND REFORM: Deputy Speaker, this Bill is meant to strengthen the situation around farm dwellers, farm workers and farm occupiers. The critical factor is that we have a situation currently where evictions are just taking place willy-nilly, in other words, people who evict farm workers and dwellers do not always fully consult with the people. They do not consult with municipalities. This results in people being on the streets or roadsides. This Bill is meant to correct that.

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It establishes two institutions, namely; the Land Rights Management Committees at the local level and Land Rights Management Board. The board will advise the Minister, particularly working very closely with the Legal Aid Board and other legal institutions to ensure that there is full representation for people who are evicted on the land.

Land Rights Management Committees has already had consultations with local municipalities, mayors and municipal managers to discuss their role and have agreed that they will fully participate in this process and be political champions. This is an aspect which will be put in the regulations of this Bill once it becomes law.

We want to make sure that before people are evicted that there should be accommodation in municipalities, unless there is consultation, a dynamic relationship between municipalities and farming communities in their municipalities. That relationship should be dynamic and institutionalised and that there should be consequences for not adhering to the institutionalised relationship between these farm communities and municipalities. There would be consequences for that.

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The real issue is dealing with the national grievance - the land question. These are pieces of legislation which are assisting us to control the situation on the farms. In actual fact, the real thing is that at some point we have to deal with the land question in a fundamental way.

We have a Bill that is going to come to the House. It's going to be part of what will help here. The Regulations of Land Holdings Bill, will establish a commission which will ensure that we work together across institutions being the Land Rights Management Board, the municipalities at the local Land Rights Management Committees to ensure that we protect the interests of workers on the farms, we protect the interests of their dependence on the farms so that there is no easy way through which farmers owners can simply take charge of the situation on their own while farm workers, dwellers and occupiers just get served notices of eviction from sheriffs without them being heard.

We want to ensure that this matter is addressed fundamentally and therefore this Bill is a step towards that situation. It is not a perfect thing for now but we think it will go a long way through institutions to be put in place that will be

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representative of workers, farm workers, civil society and municipalities - municipalities taking responsibility as political champions. Once we put in place this institutional arrangement into regulations of this Bill, the situation of the farm workers, farm dwellers and occupiers will be strengthened. The arbitrary nature in which they are treated by their employers will come to an end. Thank you very much.

[Applause.]

Ms P C NGWENYA-MABILA: Hon Deputy Speaker, section 25(6) of the Constitution provides that a person or a community whose tenure of land is legally insecure as a result of the past discriminatory laws is entitled to an extent provided by the act of Parliament either through tenure which is legally secured or comparative redress. Therefore the Extension of Security of Tenure Amendment Bill is strengthening the issue of the tenure security which is one of the components of South Africa's land reform.

The objective of the Bill is to: Amend the principal Act which is the Extension of Security of Tenure Amendment of 1997 as to amend and insert certain definitions, the definition of the dependant has been strengthened; substitute the provision of

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tenure subsidy with tenure grants to acquire alternative accommodation; further regulate the right of occupiers to maintain their dwellings, erect tombstones or to put marks on the graves of their loved ones for identification purposes; evictions not to take place during unfavourable weather conditions; further regulate evictions by acquiring mediation and settlement first as a mechanism for alternative dispute resolutions prior litigation; provide for the establishment of the land rights management board which will advise the Minister on tenure issues; provide for the establishment of the land rights management committees which will identify, monitor, settle land rights disputes, the land right committee will be composed of all interested local stakeholders.

Hon Deputy Speaker, section 59 of the Constitution requires that Parliament has to ensure public involvement in all legislative and other processes of the Assembly and its committees. After the committee was briefed by the department on the amendment Bill, the committee published notices calling for public comments on the Bill. The committee engaged various stakeholders who also made oral and written submissions. Furthermore, the committee identified hotspots of evictions being guided by the land rights management facility report.

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Public hearings were organised and conducted in nine provinces starting from 12 March to November 2016.

Public hearings attracted more than 4 000 participants most of whom were farm dwellers, farm-workers and few farm owners. All the public hearings went well except in Newcastle in KZN where farm dwellers did not want farm owners and the township people to be part of the hearings. Section 26(3) of the Constitution indicates that no one may be evicted from their home or have their home demolished without an order of the court. But this is still happening. According to Nkunzi Development Association social survey suggest that close to a million farm dwellers were evicted between 1994 and 2004, which is shocking.

Hon Deputy Speaker, what the committee gathered is that the rights of farm dwellers and workers are violated. When people are unable to work while they spend most of their time in the farm ...

IsiZulu:

... uma amandla abantu angasekho abantu abasemafamini uma begula abanikazi bamafamu bayabaxosha.

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English:

Their dignity is undermined and they are not allowed to extend and maintain their houses. Some parents share a room with children, for instance in Alzu in Middleburg in Mpumalanga and Howick in KZN, those are a few examples that I mentioned. Other farm dwellers are packed in containers like sardines as we have seen other people put in cages like animals. The rights of family life is not there as they are not allowed to stay with their children who are 18 years or above who still depend on their parents for survival.

If an 18-year-old child stays with their family, a rent of R100 to R120 must be paid to the farm owner and this is rife in the Western Cape. As a result children are deprived of their family or parental love and care.

Luka from Ward 4 in Patsima in Thabazimbi said:

Our household had land; we had a land to farm to support the family. When the farm was sold, the new owner reduced the size of the land and cut water supply. When confronted he claimed that he was not aware that there were people

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living on Luka's side except that there was a storage facility. Graves were demolished and trees were planted.

Their right to basic services is being violated as they are not allowed to build toilets. When there is a dispute between the farm owner and the dweller, the owner will cut services such as water and electricity while on the other side they are busy saying that the ANC does not deliver services to the people. On the other side they are cutting services which are intended to assist farm dwellers.

Lack of compliance to labour laws: most of farm workers are unregistered, there is no leave; there is no unemployment insurance fund; there is no payment of overtime. Lack of compliance to the Extension of Security of Tenure Amendment: People are being evicted at anytime anyhow without following proper procedures. Women and children are abused and when the husband dies they are evicted within 12 months and this is not per the Extension of Security of Tenure Amendment.

Hon Deputy Speaker, failure of some of SAPS officials to assist farm dwellers who are evicted illegally and are being assaulted ...

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IsiZulu:

... kodwa uma ngabe amaphoyisa wethu abizwa abelungu basemapulazini ukuthi bayoxosha abantu bakithi emapulazini, lawo maphoyisa aya emapulazini agijima kodwa uma ngabe abantu abasebenza emapulazini futhi bahlala khona baya eziteshini zamaphoyisa ukuyovula amacala, amaphoyisa ethu awabonakali. Siyawacela-ke ukuthi uma ngabe abantu basemapulazini bahlukunyezwa, amaphoyisa mawagijime ...

English:

... with the same speed ...

IsiZulu:

... abagijima ngaso uma ngabe bebizwa ngumlungu wepulazi.

Abanye abalimi bakithi abaxashiselwe umhlaba ngohlelo lwe-Plas abanikwe umthetho wokuthi baphilисane njani nabantu ababathola bahlala kulelo pulazi ngoba nabo laba balimi abafana nathi bahlukumeza abahlali kulama pulazi abasuke bafakwe nguhulumeni ukuthi basebenze kuwo.

Siyikomidi sizoxoxisana namanye amakomidi ukuthi silekelelane sibone ukuthi sibasiza kanjani abantu abahlala emafamu.

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Sizolandela izinqumo esizithethe ukuthi ziyafekeza na.

Kunabameli abaxashwe nguhulumeni futhi babhadalwa nguhulumeni ukuthi balekelele abantu basemapulazini. Nabo siyabacela ukuthi abazimisele babalekelele ngesikhathi esifanele.

Kunezikhalo ngaphandle ezithi abakwazi ukubalekelela ngendlela efanele. Amacala ashiywa emoyeni, abanye abameli bethu bayanyamalala, icala lingakafiki ekugcineni. Siyabacela ukuthi bazimisele balekelelane nathi ukusombulula izinkinga ezikhungethe abantu abahlala emapulazini.

English:

Hon Deputy Speaker, what is what farm dwellers are experiencing on daily basis. Let us work together with various departments, Human Rights Commission and other stakeholders to liberate farm workers from the bondage of farm owners for them to be able to enjoy their rights. Our icon, Oliver Reginald Tambo once said:

The fight for freedom must go on until it is won, until our country is free and happy and peaceful as part of the community of man. We cannot rest.

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I therefore request that the House adopts this report on the Extension of Security of Tenure Amendment Bill. I thank you.
[Applause.]

Mr T C R WALTERS: Hon Chair, the DA wants to state right up front that we support this Bill. We do not support this Bill without reservations and we also do not support this Bill without reasonable expectations of our own.

The debate around land tenure and the respective rights of our citizens in rural communities has been controversial. It has been controversial for a number of reasons. Firstly, the rural environment is one of vulnerability for its inhabitants - farmers, farm workers and farm dwellers. It is characterised by vulnerability in terms of personal safety, with farmers and farm workers being easy targets of brutal crime. This vulnerability is complicated by our history, with deeply felt divisions that are alive and sometimes kept alive for political gain. I sincerely hope we don't just see that.

The rural environment represents a working environment that is more complicated than simply having a labour contract between employer and employee. In this regard, the labour relationship

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does not necessarily correlate with rights of tenure and residency. Transfer of ownership often goes hand in hand with the transfer of the residual rights often inherited from generation to generation, of people living on the land being transferred.

What complicates our rural landscape is that such transferred rights are often not recorded or properly circumscribed, which creates a very difficult situation for any government to manage, as labour contracts change or land ownership shifts. This situation will persist even in an environment where the ownership within our agricultural sector diversifies.

Redistribution of land in itself will not change tenure security unless an institutional setting exists, which addresses the above-mentioned complicated environment. When the DA looks at what such an institutional setting should be, we use a certain value set to assess where we stand.

Firstly, we looked at this legislation using the value of freedom as a set of goggles to assess whether we should support it. Freedom means that you enhance the space each individual has to pursue their own dreams and ambitions. This

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should be done in such a way that our bustling and diverse society, with a large amount of historical pain and conflict, achieve such freedom in tandem with one another rather than drag one another down in the process. It is here where one can use the image of a bucketful of crabs, where crabs can drag one another down in trying to get out of the bucket, or alternatively, help one another to escape.

In this regard, the legislation provides the opportunity for the state, commercial farmers and farm dwellers to enhance humane service delivery through tenure grants, manage the potentially debilitating effects of homelessness and provides an interface for these problems to be sustainably addressed. It can, if implemented properly, be the teamwork the bucketful of crabs needs to raise one another up rather than drag one another down.

However, to achieve this, the legislation will need to be implemented single-mindedly sticking to this spirit, and we will remain vigilant in this regard because government's track record with this leaves a lot to be desired. We can turn a page to a new chapter and the DA will support that. However,

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we will not stand by idly if you want to remain in the same chapter.

Secondly, we look at whether legislation enhances the notion of fairness. Fairness to us means that due processes are created to balance the complicated set of rights that are being referred to, when complicated and emotive situations arise. Such balancing of rights is fundamental to the success of a constitutional democracy that is continuously striving to make constitutional rights a reality for all its citizens.

In this regard, we welcome the clauses in this Bill, which provide legal clarity in terms of tenure rights and processes to be followed. We also see the value in the creation of institutions which have the potential to ensure that rural communities find their own negotiated settlements for sensitive and complicated situations, all whilst preserving recourse to the courts for all parties.

However, the DA is not blind to the fact that legislation in itself, advancing a stable rural setting, can be bedeviled by poor implementation, political abuse and under-resourcing. In supporting this Bill, we will not relax our vigilance after it

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is passed to ensure that the fairness it can achieve is indeed its intention.

Thirdly, we look at this legislation in terms of the opportunities it gives our citizens. Opportunities to us mean that each citizen, or if you like or come from a more communal setting, each community should have as many chances to succeed in life as possible. It means that we should have a society where the conditions of your birth do not determine how you end your lifetime on earth; that we all have the chance to leave the world a better place than we found it.

Again, this legislation, by no means enough on its own, helps us to come closer to that goal. Apart from the clauses mentioned already, it creates the chance for diverse perspectives to contribute to that end, if read together with the prescripts of the National Development Plan, NDP.

This legislation can, if implemented correctly, dovetail with the notion of localised solutions to land reform and rural development, and can empower local communities to find one another in improving lives for all stakeholders. In other

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words, it can assist in creating secure, investment-friendly and cohesive communities where we all co-operate.

To achieve that, we need leadership. We need leadership that can resist the temptation to inflame or pursue short-term gain. We need leadership that treats legislation like this as an opportunity to create foundational debates in communities that will benefit all.

We need good faith and the DA offers good faith to the ANC-led government, if it will only take it. It is not an act of naivety because we know the headwinds of politics and have seen numerous leadership failures in this House. It is an act of hope in the future of our country tempered by the knowledge that, if our hope is crushed and leadership fails, the DA will be waiting in the wings to fix it.

The DA supports this Bill. [Applause.]

Mr N PAULSEN: Deputy Speaker, may I start by telling you that the EFF rejects the Extension of Security of Tenure Amendment Bill. We have a longstanding criticism of Esta Bill generally, and we are of the view that the proposed amendments do not go

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far enough to address the tenure security challenges faced by farm workers and farm dwellers.

Our overarching critique of this Bill is that, instead of providing farm workers and farm dwellers with secure tenure as envisaged in section 25(6) of the Constitution, it rather provides current landowners with a legal method with which to evict farm workers and farm dwellers. Our firm view, as the EFF, is that we should outlaw farm evictions altogether, whether done within the prescripts of the law, or in any other way.

Farm workers and dwellers are the most vulnerable group in our society. They live in enclosed fiefdoms controlled by crazy and cruel white supremacists who have bestowed upon themselves the right to control lives of millions of South Africans whose land was stolen from them by the current landowners. The purpose of the Bill is, amongst other things, to regulate the eviction of what it calls 'occupiers' and it defines occupiers as a person residing on land which belongs to another, with or without permission.

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This flagrant misrepresentation of the struggle that farm workers and dwellers have been engaging with over the past century is regrettable, and indicative of the ANC's lack of depth in terms of understanding just what kind of animal we are dealing with here, when we speak about the need for radical redress and the need to put farm workers at the helm of such redress.

Last year, the International Labour Organisation reported that there were just under 600 000 households with a population of just over 2 million people who lived on farms in this country. It further reported that between 1994 and 2015, about 2 million people were evicted from farms. But, most importantly for the purposes of this Bill, white land thieves have been creative enough over the past few years. They have ensured that they employ mostly seasonal workers to whom they are not obliged to provide accommodation.

The state's main vehicle for providing assistance for farm worker housing is the Farm Worker Housing Assistance Programme, FWHAP. Yet, that programme only provides subsidies for on-farm housing for permanent workers if producers agree

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to provide increased security of tenure to permanent farm workers.

Therefore, we welcome the introduction in this Bill of the replacement of subsidies with grants, even though this is to make better an inherently problematic Act. We also welcome the proposed establishment of the land management board to oversee the work of land management committees in resolving land disputes.

However, all of these presume that there exists an equal relationship between the so-called landowners and workers as well as farm dwellers. There is no appreciation of the fact that most evictions happen arbitrarily, and that more often, farm workers and dwellers have no recourse to the law because it is inaccessible to them. All their activities on farms are controlled and vetted by the so-called owners.

As a matter of principle, we urge the ANC to make farm evictions illegal across the board. We therefore reject this Amendment Bill. Thank you very much.

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Mr R N CEBEKHULU: Deputy Speaker, the plight of millions of people living on privately-owned land is exacerbated by the fact that they in insecure arrangements on land that does not belong to them. If evicted, they are destitute and most suffer terrible hardships.

In terms of Extension of Security Tenure Act, ESTA, if a citizen has lived on land belonging to someone else, and with the owner's permission, and on or after 4 February 1997, then such person would have a secure legal right to live on such land. These rights could not be rescinded without consent or good cause being shown.

Section 25(6) of our Constitution enjoins us as Parliament to enact legislation that provides legally secure tenure or comparable redress to persons that fall within this category and that is what ESTA and this ESTA Amendment Bill before us seek to accomplish.

Are our people are aware of their rights and remedies under ESTA? What are we doing to make our citizenry aware of such rights and recourse to the courts? In terms of prosecutions

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for transgressions of ESTA, are our courts effectively prosecuting transgressors?

The question is, does the ESTA Amendment Bill go far enough in providing adequate protection and closing the loopholes in the principal Act?

Following extensive stakeholder consultation and receiving submissions from a variety of sources; the IFP is confident that this Amendment Bill is a step in the right direction towards security of tenure; and we accordingly, support the Bill. I thank you.

The DEPUTY SPEAKER: Hon Shelembe, before you come. As hon Cebekhulu goes back to his seat, we would like him to pass our congratulations to his member, hon Sithole, for running the Comrades Marathon successfully. I'm being generous and I also wish to congratulate all of you members, here and in the gallery, who ran the gruelling run in front of your own televisions and from elsewhere, congratulate yourselves.
[Laughter.]

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The CHIEF WHIP OF THE OPPOSITION: Deputy Speaker, if I may in terms of Rule 85, say that we would like to associate ourselves with this and say this is the only time we all shout for the comrades. [Laughter.]

Mr M L SHELEMBE: Chairperson, despite existing legislation on evictions, land rights protection and land access programs, a significant proportion of our people, including occupiers of property, still face insecure tenure and other forms of land rights violations including evictions from their own homes.

This insecurity of tenure is particularly prevalent in the agricultural sector and the existing Extension of Security of Tenure Act. In its current form, it has a number of limitations that the NFP welcomes the amendment to the Extension of Security of Tenure Bill tabled here today. With the exception of a few of the amendments dealing with semantic adjustments, the bulk of amendments contained in this report attempts to clarify the nature and powers of the Land Rights Management Board.

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We believe that the envisaged outcome of these amendments will ensure that the composition, nature, functions and powers of the board are aligned to other advisory boards functioning within state departments. In particular, we welcome the proposed amendment that realigns the relationship between the board and the Rights Management Committees. These committees will be at the coal phase of identifying land tenure and uncertainty and will have a very important role to play in giving effect to the provisions of these amendments contained in the Bill.

Finally, the NFP believes that the amendments proposed in this report will assist the Department of Rural Development and Land Reform to consolidate its mandate with regard to security of tenure for occupiers of property and remove possible uncertainty as to the role that the board have to play in this regard.

In conclusion, the NFP supports the amendments proposed in the report tabled here today. I thank you.

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Mr M L W FILTANE: The constitutional imperative directs section 25(1) of the Constitution: "no one may be deprived of property."

The Bill only deals with the cosmetics of the problem; it does not seek to oppose evictions of the poor farm dwellers as such. These are people who know no other homes, some have been there for three or more generations; so, once more, the Zuma administration fails to protect the farm dwellers even through the principle of the prescription acquisition, which entitles a person to permanent possession of land which they have occupied for 30 years or more without contestation.

Farm dwellers are not just being evicted, but are even tortured, even though they are there legally. So, the Bill seeks to ameliorate their condition by legalising the eviction process.

This government, through the Bill, is merely encouraging evictions by prescribing that they must be done in a legal manner.

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Municipalities to compound the problem: municipalities have no ready land for the resettlement of the evictees, government should, rather assist in cutting up land off the farms for the permanent settlement of these farm dwellers.

It remains uncertain as to whether the Department of Human Settlements will be able to assist the evictees with adequate housing.

Equally, the Department of Agriculture, Fisheries and Forestry is not ready to assist the evictees for them to continue with their farming activities although this is actually their source of living. So, you move people from the farms, you take them to the townships, there's hardly any land; the Acts of 1913 has been parked in the Presidency which does not implement anything so municipalities are hump sung, they're unable to plan even for the settlement of these people and yet they have to be evicted from the farms.

IsiXhosa:

Nithi mabayephi aba bantu basebenza ezifama?

English:

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However, with our hand forced by this government, we do support the Bill only because it's going to ameliorate the already very poor conditions under which farm dwellers live at the moment. It's only forced support of the Bill.

The real thing should be, Chair, we should be having a Bill opposing evictions of people but I know we discussed this principle in the committee and I'll still stand by what I said that "if we feel that half a loaf is better than no bread then we will support it" on the understanding that later, as we were promised in the committee, a Bill that seeks to deal with the fundamental problem will be brought to the House. Thank you.

Mr A D V ALBERTS: Deputy Speaker, we believe in the dignity of all people. This government loves laws and regulations that, on the face of it, seem justifiable but will have the exact opposite effect than intended. Likewise, this Bill will lead to unfortunate, unintended consequences.

Let us start with the big picture first. Land reform in South Africa has been an unmitigated disaster, driven by ill-

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informed processes, corruption and open hostility towards farm owners and dereliction of claimants.

Very few title deeds have actually been passed on to claimants. Claimants also do not receive the assistance they need to farm. Most importantly, most claimants decided to accept money instead of land.

While the Extension of the Security of Tenure Act, Esta, deals with the ideal of protecting people living on rural land, it is part and parcel of the ANC government's obsession to fix problems with unsuitable means, namely legislation only. Part of the problem of this legislative process is that the memorandum to the Bill acknowledges that no regulatory impact assessment, Ria, has been performed on the costs associated with the grant relocating process.

How can a Bill be passed without a Ria process that deserves scrutiny by this Parliament? The Bill therefore has to be sent back to the committee.

Afrikaans:

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Een van die ernstige gebreke van die Wetsontwerp is om reg aan enige persoon te gee om sy familie op enige grond te begrawe. Indien dit toegelaat word, maak dit die grondeienaars oop vir moontlike toekomstige grondeise. En verder, gegewe die regverdige vrese wat boere het vir plaasaanvalle en -moorde, kan hulle eenvoudig nie bekostig om vreemde grafte en mense vir begrafnisse en rituele op hulle plase toe te laat nie. Niemand in die ANC het juis daaraan gedink nie.

'n Verdere onbedoelde gevolg is dat boere eenvoudig al hoe minder mense op hulle grond sal toelaat en boerdery sal meganiseer. Uiteindelik is die stryd dan nie meer een tussen boere, werkers en inwoners nie, maar tussen werkers, masjiene en robotte.

Gegewe die onsekerheid wat boere tans oor die eienaarsskap van hulle grond het, weens ANC-uitsprake van onteiening sonder vergoeding, kan mens ook verstaan dat hulle nie die wetgewing sal vertrou nie.

English:

There is however a solution, which is the creation of agrivillages by government, in partnership with farmers. These

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villages will be able to allow for the pooling of resources to build houses, schools, hospitals and shops and further employment opportunities near the farms where they live.

The farm workers will then live near to the farms where they work and they will also be able to create new employment opportunities within the villages. Their children will have access to education that will ensure that they can one day become successful landowners themselves.

So, let us be more creative in finding viable solutions, instead of just handing out grants that will not resolve the problem on a permanent basis. We think that this will be a more just solution, going forward. Thank you.

Mr W M MADISHA: Deputy Speaker, section 25(6) of the Constitution provides that a person or community, whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices, is entitled to the extent provided by an Act of Parliament, either to tenure, which is legally secured or to comparable redress. The Extension of the Security or Tenure Act, Esta, is the Act of Parliament that gives effect to this right.

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The Congress of the People welcomes the initiative to amend Esta, as set out in the this Amendment Bill, as members of our society, including occupiers of land still face insecure tenure and other forms of land right violations, including evictions from their homes.

There is however a view, which Cope supports that proffers that part of the problem in land reform is general, and in the protection of the rights and security of tenure of farm dwellers, in particular, may be that of a failure in the administration of the land reforms systems, rather than the legislation itself.

This includes, according to the Institution for Poverty, Land and Agrarian Studies of the University of the Western Cape, - and we agree - poor articulation of policy and legislative regime to protect farm workers and dwellers, poor implementation of a existing policies and legislation by organs of state, weak enforcement of legislation by law enforcement agencies, the judicial system not being worker-friendly in handling eviction cases, labour unions not organising effectively on farms, a noncomplementary relationship between NGOs and state organs in addressing the

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problems of farm workers, and poor and nonexistent monitoring, co-ordination and communication amongst the state organs within and across the three spheres of government and other interested parties on matters negatively affecting the rights of farm workers.

However, we wish to support this Bill. Thank you.

Mr L M NTSHAYISA: Hon Deputy Speaker, I am sure you forgot to announce that I was also assisting with the logistics of the Comrades Marathon. [Laughter.]

The DEPUTY SPEAKER: I will remember next year.

Mr L M NTSHAYISA: The current Extension of Security of Tenure Act of 1997 is fraught with a litany of limitations. Conceived in 1997, this legislation has not lived to its underlying purpose. Despite its existence, illegal evictions in commercial farms have escalated and in many cases, disputes of security of tenure have been badly managed. The introduced Extension of Security of Tenure Bill, in our view, is a direct response to the perpetual subjugation of land occupiers and their immediate families.

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Land is as critical as the people who tilt it. This Bill will clarify, among others, the abstract meaning of home dwellers, which is currently problematic for immediate family dwellers; the meaning of residence, which has often been used improperly to evict home dwellers who reside elsewhere because of employment-related issues, but are nevertheless occupiers of commercial farms; the obligation to provide alternative accommodation to evicted home dwellers; and the role of the proposed Land Rights Management Committee.

These are the issues that will eventually afford poor South Africans the security of tenure on the land on which they reside. It is our considered view that these amendments will also protect women living in communal land.

Urban and rural justice entails the very extension of tenure of security to farm occupiers. We cannot afford to strip our people of their inherent right to human dignity by ignoring the fundamental question of secured land occupation, including ownership. The AIC commends the Portfolio Committee on Rural Development and Land Reform for the manner in which it carried out its legislative obligations. We appeal to farm owners and

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traditional leaders to take cognisance of these amendments, once they have been ratified into law by the President.

In closing I want to footnote Frantz Fanon, who has this to say about the land and I quote: "For a colonised people the most essential value, because it is the most concrete, is first and foremost the land: the land which will bring them bread and, above all, dignity." Fanon's ability to demonstrate the extent to which the land is viewed in the African communities is profound. He challenges us to protect the poor from illegal evictions and to advance the rights of farm occupiers at all costs. We have taken leaf from his teachings and we implore all the stakeholders in this arena to take stock of the changes that this Bill aims to bring about. The AIC supports this Bill. I thank you.

IsiXhosa:

Mnu P J MNGUNI: Hayi, siza kunixelela namhlanje ngoba ingathi ithetha into enye nje apha.

English:

Hon Deputy Speaker, hon Ministers, Deputy Ministers, members of the House, it is our privilege to participate in this

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debate which is all about the conditions of our people on the farms, with specific reference to evictions - better part you need your earpieces, I may advice ...

IsiXhosa:

... kuba ndizakuthethela ukuba abantu bakuthi abasebugxwayibeni basezifama bakwazi ukuva ukuba umbutho weSizwe apha ePalamente uneziphakamiso namnyathelo awathathayo ukuqinisekisa ukuba imeko yabo iyaqwalaselwa kwaye iyaphuculwa.

Ikomiti yePalamente yezemihlaba nophuhliso lwamaphandle ithe emva kokuba ifumene esi siphakamiso sihlomelo somthetho kuMphathiswa yabhinqa omfutshane kwisithuba seenyanga ezilithoba yahambela amaphondo onke, alithoba, ngenjongo yokuva izimvo zabantu. Ngenene abantu baphuma bazalisa iholo yema ngeembambo bezokucacisa ubunzima bomthwalo abajongene nawo.

English:

I see you have not put on your earpieces. Two hundred and eight million people staying on the farms are living in utter

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squalor. We have had to listen to that and it was so sad. I will go to who is responsible for that.

IsiXhosa:

Siwuvile umngeni wabantu abazizigidi ezibini ezinamakhulu asibhozo abahlala ebugxwayibeni ezifam. Umba wokugxothwa kwabo kwiindawo zabo zokuhlala ukusukela oko kwathi kwabakho lo rhulumente wethu ngumba esiwunika ingqwalasela. Ewe, wawukho ngaphambili, ndiza kutsho ekugqibeleni xa ndinexesha.

English:

We continue to witness arbitrary evictions.

IsiXhosa:

Abantu bakowethu basuka bagxothwe nje ezifama ngakumbi xa ubhasi nobhasikazi bavuke bengavani ngaloo mini, baphele bebangamaxhoba akugxothwe okweempukane. Nanjengoko ebesele etshilo usihlalo, amapolisa aye asetyenziswa kakhulu ukuncedisana nezi ntshukumo zenziwa ngamagxagxa zokugxotha abantu bethu ezifama. Sibeka umnwe kwinto yokuba amapolisa-ngowam lo mnwe ndiwutshoyo Mkhuleko- makangasetyenziswa

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ekugxotheni abantu bakowethu phaya ezifama ngendlela ezingekho semthethweni.

Ms E N LOUW: Order, Chair.

The DEPUTY SPEAKER: What are you rising on?

Ms H O HLOPHE: Is it not witchcraft when the ANC member at the podium and the ANC as the ruling party but they are crawling foul and the police.

The DEPUTY SPEAKER: Hon member, you are out of order; that is not a point of order. Please, go ahead hon member Mnguni.

Mnu P J MNGUNI: Amapolisa makangasetyenziswa - utsho urhulumente esezintanjeni we-ANC - ukugxotha abantu ngendlela engekho semthethweni.

English:

We want to request and to insist on the police not to be used to evict our people unlawfully on the farms.

IsiXhosa:

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Inkqubo yokugxothwa kwabantu phaya ezifama ayamkelekanga konke konke, yiyo loo nto esi sihlomelo siye sanezinye seziphakamiso endiza kugqitha kuzo nje bunkawurha. Okokuqala, amagxagxa eefama ayisebenzile inkcazelo yosapho, bacinga ukuba usapho kwantu luyafana nosapho lwabo.

English:

... the nuclear and the western notion of family.

IsiZulu:

Nks M S KHAWULA: Nathi singamagxagxa amnyama. [Kwahlekwa.]

Mnu P J Mnguni: Umbutho wesizwe ugxininisile kwesi sihlandlo ukuba usapho ngabantu abafana noomakhulu, ootatamkhulu izizalwane eziphantsi kwalo mntu ungumsebenzi efama kwakunye nabantwana abaphansti kwesi sandla.

English:

... be it foster children or be it just a family children within the context of the African family.

IsiXhosa:

Yinto yokuqala leyo esicela ukuba abantu bethu ezifama bayazi kulo Mtheho siza nawo. Sive neendaba ezibuhlungu zokuba

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amagxagxa ezifama ayakwazi ukulima nje phezu kwamangcwaba abantu bakowethu. Aba bantu basezifama ...

English

... the 2, 8million people we talking about ...

IsiXhosa:

abakwazi ukuba namatye ...

English:

... across the country one will not find a single tombstone on the farm graves.

IsiXhosa:

Loo nto ithetha ukuba izizukulwana zethu eziphaya ezifama azikwazi ukuthi emva kwethuba ziye kuvela kumadlaka ooyisemkhulu abangasekhoyo. Inkohlakalo yamafama uyibona ngokuthi asuke alime apha phezu kwamadlaka. Loo nto yenza ukuba ingcwaba lomntu ongasekhoyo libe lilahlekile naphakade

IsiZulu:

Nk M S KHAWULA: Uxolo, uxolo, ngiyabonga. Uyazi iyangiphoxa le nto eshiwo nguMnguni lapha. Laphaya eMbhoni bona uqobo i-ANC

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iphendule amangcwaba abantu yafaka izindlu. Amagxagxa yibona uqobo i-ANC. [Ubuwelewele.]

The DEPUTY SPEAKER: Hon Members, that is not a point of order, I will switch off the mike. Proceed hon member.

Mr P J MNGUNI: I am just worried about my time.

IsiXhosa:

Ndicela izikhalazo ezenziwa yi-ANC kumangcwaba abantu uzizise apha kum. Ukuba akakho umntu onokufaka kuye isikhalazo ndicela usizise apha kum ukuze siyisombulule loo ngxaki kuba ndim kuphela uMnguni apha.

Siye sadibana noSodolophu waseHarwich noyinzalelane yasefama. Usithathile wayakusingenisa kwindlu yakowabo apho sifike indlu yeebloksi ime esingeni. Saxelelwa ukuba nantsi i-odolo eyafikayo xa kwakuqala ukwakhiwa ikhitshi. Umfama wabe esala esithi abangekhe baqhubeke bakhe apho.

English:

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When it comes to infrastructure, the farmers have been very ruthless; they have never allowed our people to make even own improvements on their dwellings and their apartments. With these amendments we are saying it should be possible for the farmer himself or herself, more often it is himself; you can research that. For the white farmer himself more often is a white farmer; again you can research that.

It should be possible for the white farmer to make improvements and permanent solid structures for our people's dwellings. However, if that is not possible, that last thing that will be possible is for the person to be interdicted from making improvements; the case in point is the mayor's home in Harwich on the farms.

IsiXhosa:

Siphinde safumanisa ukuba sikhona isikhalo esibhekiswe kurhulumente ngamagqwetha azimeleyo ebenze isivumelwano norhulumente. Siyabulela kakhulu Mphathiswa ukufumanisa ukuba urhulumente uye wawatshintsha laa magqwetha. Abantu basezifama bathi, uyakuze ulindele igqwetha elizokuthethela xa nizakugxothwa, uya kuthi usithi naliya igqwetha lihamba

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nomfama emva koko liyajika baphele abantu besiya kuzimela ngokwabo ezinkundleni.

Mphathiswa ohloniphekile, uTata uNkwinti, siyabulela ngokuba uyitshintshile laa nkampani yamagaqwetha wafaka enye kwaye wayazisa ekomitini sayiyala ukuba kungaze kubekho abantu abayozimele ngenkqayi ezinkundleni, nangona urhulumente enohlahlo-lwabiwo-mali elumalungu nezi-R20000 000 yokuthethela abantu abagxothwayo kwindawo zabo zokuhlala.

Lo Mthetho siHlomelo oyilwayo uyabopha phaya naphaya - ndinodane bantakwethu nina be-EFF kuba nisuka kuthi. Nini nodwa abasele bema kweli qonga ngomlomo kaTata uPaulson nathi niyawukhaba lo Mthetho siHlomelo oyilwayo. Xa nizibiza nithi nizikomisazi; xa uwukhaba lo Mthetho siHlomelo oyilwayo uthi: abantu ezifama mabaqhubeke nokuphathwa kakubi kusetyenziswe olu sapho lwaseNtshona.

English:

That is what you are saying.

IsiXhosa:

Xa usthi ukhaba lo Mthetho Sihlomelo oyilwayo ...

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English:

... you are saying ...

English:

... zonke ezi nzame zokuphula aniziboneli ntweni koko amafama mawaqhube alime phezu kwamangcwaba. La mafama amelwe ubukhulu becala ngabamelwane benu aba nimane nisebenzisana nabo.

Sihlala phantsi ngovuyo nochulumanco, Sekela Somlomo-kaloku niye nimane nitshantsha umntu esathetha - lokuba magela amaninzi abona ingathi eli nyathelo eliphakanyiswe nguMphathiswa nekomiti yenza imvakaliso zezimvo zoluntu ...

Ms E N LOUW: Deputy Speaker, I rise on a point of order: Rule 91 because I think the member is misleading the House.

Therefore, I would ask hon Nazier to explain to him and reread his speech because did not know what was said. We want to explain to him.

The DEPUTY SPEAKER: Hon Nazier will explain to you. Take your seat, hon member. [Interjections.]

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Ms E N LOUW: No, but he will need to explain to the House. Don't be arrogant I can be arrogant like and I can be rude like you. So don't be arrogant. [Interjections.]

Deputy SPEAKER: Hon member, take your seat; it is not your time to debate. Hon member, you are out of order, just behave yourself please. Order! Go ahead hgon Mnguni.

IsiXhosa:

Mnu P J MNGUNI: Sihlala phantsi ngochulumanco onke amaqela alapha ngaphandle kwelinye nje iqela kuba manye axhasa ukuba esi hlomelo masiphumelele. Abantu bayasibuza singurhulumente we-ANC ukuba sakuqalisa nini na. Siyacinga ukuba ngale nkxaso engaka esele ibonakalisiwe kuzobalula ke ngoku ukuba lo Mthetho siHlomelo oyilwayo uhlabele mngama de ube nguMthetho. I-ANC iyasixhasa kakhulu esi sihlomela. Mazenethole,

The MINISTER OF RURAL DEVELOPMENT AND LAND REFORM: Hon Deputy Speaker, hon members, we appreciate your support. Localised solutions inherent in the Bill, hon Walters, thank you very much and I think you got it perfectly right. Hon Cebekhulu, it is a step in the right direction and I thank you Sir. When it comes to consolidation of mandate, you are correct hon

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Shelembe. It is really what we are trying to do here and we will improve as we move along and thank you very much.

The grudging support from hon Filtane – hon Filtane, with due respect, is not honourable and he knows that. The agri-village is what we think will ultimately result out of this relationship we are trying to create. It is what hon Alberts is saying here and that's really what we think will happen. Hon Madisha, thanks very much. This is a challenge that he is raising. We used to work very closely with Non Governmental Organisations, NGOs, but that relationship is no longer as strong as it should be and that's why even with the Association for Rural Advancement, Afra, story, we were in court.

With regard to the protection of women and children, it is a good idea hon Ntshayisa and thank you very much on that. Let's just think very careful here. We must correct the wrongs with the understanding that the racial divide in our country is a passing phase; it is not a permanent thing anymore. In solving the current problems, we must seek solutions that are inclusive, just and equitable. We have established Chief Directorate on the Land Tenure Act and Extension of Security

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of Tenure Act 62 of 1997, Esta, to ensure that we protect these workers.

The National Party has been a very good teacher. The students are becoming better than the teacher. The EFF is full of hate and you learned that from the National Party. Don't overdo it.
[Interjections]

IsiXhosa:

Musani ukufuna ukudlula kwi-National Party ngentiyo yobuhlanga. Enkosi.

Debate concluded.

Bill read a second time (Freedom Front Plus and Economic Freedom Fighters dissenting).

**CONSIDERATION OF REPORT OF PORTFOLIO COMMITTEE ON JUSTICE AND
CORRECTIONAL SERVICES - COURTS OF LAW AMENDMENT BILL**

There was no debate.

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

Motion agreed to.

Report accordingly adopted.

COURTS OF LAW AMENDMENT BILL

(Second Reading debate)

Ms M C C PILANE-MAJAKE: Hon Chairperson, members of the executive, members of the House and members of the public, the Portfolio Committee on Justice and Correctional Services, having considered the Courts of Law Amendment Bill, referred to it and classified by the Joint Tagging Mechanism as a section 75 Bill, reports the Bill with amendments, as follows.

The Bill was advertised for public comment in various newspapers and in all official languages. Public hearings on the Bill took place in Parliament on 31 August 2016.

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The Bill seeks to amend the Magistrates' Courts Act of 1944 to address abuses in the civil debt recovery system; to protect the public from unscrupulous debt-collection practices by the insertion of definitions to regulate the rescission of judgments where the judgment debt has been paid; to further regulate the jurisdiction by consent of parties; to regulate factors a court must take into consideration to make a just and equitable order; to further regulate payment of debt in instalments, or otherwise; to further regulate consent to judgments and orders for the payment of judgment debts in instalments; to further regulate the issuing of emoluments attachment orders; to further regulate debt-collection proceedings; to regulate the suspension of execution of a debt; and to provide for offences and penalties relating to judgments.

The Bill further seeks to amend the Superior Courts Act of 2013 by the insertion of a new section 23(a). This provides for the rescission of a judgment with the consent of a judgment creditor and where the judgment debt has been settled.

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Following the Constitutional Court judgment in the *University of Stellenbosch Legal Aid Clinic and Others v Minister of Justice and Correctional Services and Others* case, the committee sought the NA's permission to insert a new section 55 in the Magistrates' Courts Act. This amendment would provide presiding officers with guidance regarding the factors that should, at a minimum, be taken into account to make a just and equitable order. The NA considered and agreed to the committee's request on 15 March 2017.

Regarding the inheritance of poverty ...

Setswana:

... ke rona batho ba bantsho. Puso e tshwanetse e netefatse gore dikoloto tse batho ba rona ba nang le tsona di se ke tsa dirisiwa gore batho ba rona ba dule ba le mo lehumeng; kgotsa ba tseelwe dithoto tsa bone jaaka dintlo, dikoloi jalojalo ka mabaka ao e leng gore ga a utlwagale sentle.

Batho ba rona ba tshela ka dikoloto ka ntata ya boswa jwa tlhaolele. O fitlhele ba tswelela pele go nna mo lehumeng ka ntata ya go palelwa ke go duela dikoloto tseo.

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Puso e utlwile dingongorego le dilelo tsa lona Maaforika borwa; le dintlo tsa lona tse di dulang di tseilwe ka dinako tsotlhe, ke ka lebaka leo go nang le Molaotlhomo o o tshwanang le ono, o o lekang gore o baakanye mo go senyegileng. Ka jalo ...

English:

... the report to be considered. Thank you.

The CHIEF WHIP OF THE OPPOSITION: We had indicated earlier that we would like to make a declaration of vote on this particular matter.

The HOUSE CHAIRPERSON (Ms M G Boroto): Very well, the DA has permission to make a declaration of vote. [Applause.]

Before you continue, hon member, I would just like to welcome the Grade 6 learners from Nederburg Primary School, in Paarl, who are in the gallery during this Youth Month. Welcome to Parliament. [Applause.] This is Youth Month and we have just concluded Children's Week. I hope you are well. Thank you very much.

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Declarations of vote:

Mrs G BREYTENBACH: Madam House Chair, hon members and guests, I would like to acknowledge my own guest in the gallery today, Mrs Wendy Appelbaum.

The Bill seeks to amend the Magistrates' Courts Act and the Superior Courts Act, largely to address abuses in the civil debt recovery system and to provide for the rescission of judgments - where the judgment debt has been settled - with the consent of the creditor. The Bill gives effect to the Constitutional Court judgment colloquially known as the Stellenbosch case.

This case emanated from the action taken by the owner of the De Morgenzon Wine Estate, Wendy Appelbaum - who is here today - after discovering that up to 80% of her employees' salaries were being automatically deducted to pay debts to credit providers. Having discovered the plight of her workers, Appelbaum sprang into action and approached the University of Stellenbosch Legal Aid Clinic. Putting her financial muscle and not inconsiderable personal energy and time behind the project, they initiated a class action suit that was initially

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heard in the Western Cape High Court by Judge Siraj Desai in what he describes as the most important case in his career.

The Stellenbosch case is about much more than legislative amendments, however. It is also about the role of the National Credit Regulator to protect the poor and indebted South Africans against exploitation. The Constitutional Court confirmed that the National Credit Regulator must take whatever steps they deem necessary to alert debtors as to their rights.

The high court took particular notice of the poor and indebted South Africans not before the court and specifically instructed the National Credit Regulator to act within its mandate and ensure that the credit providers and their lawyers would not act against the 150 000 emoluments attachment orders, EAOs, forming the subject matter of the case. To quote Judge Desai:

That, however, is not the end of this matter. ... In the light of how the debt collecting agents secured the consents, the forum shopping involved and the fact that all the EAOs in this matter were unlawfully obtained in

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the wrong jurisdiction, it is safe to assume that thousands, if not, tens of thousands of ... ordinary working people in debt are having significant portions of their salaries or wages deducted based on unlawfully obtained EAOs.

He said, further:

... I cannot in good conscience ignore their plight. I trust that the ... respondents ... will not pursue EAOs obtained against the debtors in the wrong jurisdiction. That may, in fact, be illegal. The [National Credit Regulator], the Human Rights Commission and the Law Society must endeavour to ensure that appropriate measures are in place to monitor the situation.

Despite repeated requests and offers of generous assistance, the National Credit Regulator has not only done nothing about these 150 apparently vulnerable people, it has also done very little, in general. To this end, a complaint was filed with the Public Protector one year ago. Despite the legislative amendments before this House today, the poor remain as vulnerable as ever, as the Public Protector has failed to

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investigate, while the National Credit Regulator is not fulfilling its mandate.

In the words of Appelbaum, "This brings to a close one of the most despicable, appalling abuses of the poor, those who can least afford it. This [judgment] is an amazing victory, and going forward, it will certainly protect the poor from this type of abuse."

The DA supports this Bill. It gives effect to rulings of the court that make South Africa a better place and demonstrates tangibly that the law is there to protect the interests of each South African citizen, regardless of their circumstances. It will go a long way to ending corrupt practices in the micro lending industry; it will effectively end the endless system of kickbacks for favours done as regards the implementing of garnishee orders; and will ensure that when such an order is made, the debtor can, in fact, afford the payment.

The ANC, hon Pilane-Majake, will stand here today and say that this is their victory; that this is their handiwork. It's not. It is not. It is, effectively, the work of one woman who

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cared, and she is sitting in the gallery. I thank you.

[Applause.]

Mr N S MATIASE: House Chair, the Courts of Law Amendment Bill before the House seeks to address the "alleged", as claimed by the Bill, but not the actual lived experiences of the majority of black people, that the emoluments attachment order system is unfair and biased towards those who are in control of the legal firms and legal businesses that act against people who are unable to pay.

While the Bill deals with administrative elements of the debt-collection system, this is biased towards the continued system of oppression and exclusion of black people in ownership and participation of the economy. For this, we call on Parliament to pass legislation to regulate all legal businesses in South Africa to have a minimum of 50% of black ownership. In addition, the content of such ownership must include workers and communities, and must always be gender balanced.

Parliament must pass legislation to set aside businesses for so-called black South Africans. For example, if you issue 100 insurance licences, 60 of them must be given to local, black companies.

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For genuine financial sector transformation, the state must nationalise all banks by taking a minimum of 60% of ownership. [Interjections.] We must also have wholly-owned state banks and co-operative banks. Black-owned asset management firms must manage a minimum of 50% of all assets in the country. There must be a review of the Insolvency Act to make the process of sequestration a comprehensive review, a well-considered exercise before an individual is sequestered.

We continue to advise that blacks should stay in houses owned by banks and spend their working life paying overpriced bonds and they must not be repossessed. This is why we must change the legislation to ensure that anyone who has paid for a house for more than 10 years must not have his house repossessed. If they fall into financial difficulties, they must be given time to recover, and if their property is eventually repossessed, they must get some of the insurance money they have paid towards the property back. Unless we implement these legislative reforms and leave the creative destruction of the capitalist crisis in the hands of the courts, this will only leave the poor and black people with prejudicial court judgments and over-indebtedness.

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The Bill, in its current form, serves no good purpose other than providing a glass ceiling to keep Africans in financial bondage. Although it serves as some small relief for those who are already in a current financial and economic stranglehold, we welcome the modest measures proposed by the Bill. However, we call again for government to take radical and drastic measures to relieve black people from their financial and economic bondage. Thank you, House Chair.

Prof C T MSIMANG: House Chair, the Bill seeks to amend the Magistrates' Court Act of 1944 with the aim of addressing abuses in the civil debt recovery system, as well as to provide for the rescission of judgment where the judgment debt has been settled.

The Bill also amends the Superior Courts Act of 2013 by providing for rescission of judgment with the consent of the judgment creditors where the judgment debt has been settled.

These amendments are based on the Constitutional Court judgment in *University of Stellenbosch Legal Aid Clinic and Others v Minister of Justice and Correctional Services*. The issue in this case was the fate of low wage earners who are

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subjected to exploitative lending practices and debt collection procedures. To remedy this situation, the application before the court sought to have certain parts of section 65(2) of the Magistrates' Court Act of 1944 declared unconstitutional as they failed to provide for judicial oversight over the issue of emoluments attachment orders against a judgment debtor.

Thus the application sought an order declaring an emolument attachment order invalid on the basis that it was not permitted by legislation, even in cases where the debtor has given his consent in writing.

The IFP welcomes this amendment because we are fully aware of how loan sharks exploit the weakest and poorest members of our society. I thank you.

Mr S C MNCWABE: Chairperson and hon members, members of the executive, the NFP welcomes the report of the Portfolio Committee of Justice and Correctional Services.

As previous hon members have said, the proposed amendments mooted in this report flow from the Constitutional Court's

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judgment in the Stellenbosch case, which requires Parliament to amend legislation to address abuses in the civil debt recovery system

This necessary redress is effected by providing for judicial oversight in the issuing of emolument attachment orders, so that no emolument or garnishee order may be issued unless a court has issued such an order.

This is a very important order as it transforms civil law remedy from an act of administration to a justiciable act. An emolument order would now only be valid and effective once a court is satisfied that awarding such an order will be just and equitable and that the amount awarded is appropriate.

Most important is that the court will not have to give preferential consideration to any consent a judgment debtor might have signed or the judgment debtor's compliance with the requirements where an instalment order has already been made.

The abuse of emolument orders in the past has had a very negative impact on countless people who found themselves sinking deeper and deeper into debt, with emolument orders

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being processed almost automatically without any regard for the effect of those orders.

We believe that it will be expedient to amend the current legislation in line with the order of the Constitutional Court in a way that would assure legal certainty.

Another very aspect addressed in the Bill is the amendment of the Superior Courts Act. Very often, debtors have paid off their judgment debt, yet have great difficulty in having the judgment rescinded. This difficulty has a negative effect on the ability of such a debtor to obtain credit and acts as a punitive instrument which keeps on punishing a debtor long after the debt has been paid.

We believe that the amendment to the Superior Courts Act, through inserting a new section 23(a) which provides for the rescission of judgment with the consent of the judgment creditor, will speed up the process of debtor rehabilitation and remove the punitive element which is currently the de facto prevalent in the judicial processes.

The NFP supports this report. Thank you.

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Mr S N SWART: Chairperson, the ACDP will support this Bill. We particularly want to commend Ms Appelbaum and, of course, the University of Stellenbosch Legal Aid Clinic for fighting this case.

Afrikaans:

Ek is trots om 'n Matie te wees! [I am proud to be a Matie!]

English:

It is very good to see a university taking on this matter and fighting for the poorest of the poor.

As previous speakers have indicated, this matter relates to the need for judicial oversight when emoluments attachment orders – that is, attachments of salaries – are issued against a judgment debtor. In the past, there was no judicial oversight, but this is now been inserted following this court action and will prevent abuses from taking place.

What is interesting is that Judge Desai, in a very progressive judgement and what was referred to by a previous speaker as one of the most important judgments in his life, read into legislation, and the Constitutional Court also subsequently on

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13 September last year further read in the legislation to improve and ensure that judicial oversight takes place.

Now, reading in of itself is controversial and some people might accuse the court of overreaching, but in this case it is very necessary because of the abuses that were taking place.

However, the one caveat to this, from the ACDP's perspective, is that, at the time of the reading in of this judgment and legislation, Parliament was dealing with an amending Bill. So the question arises, to what degree was the court aware that Parliament was already dealing with the Amendment Bill following Judge Desai's very far-reaching judgment.

So, it's a bit of a balance because, while we support the reading in and the intervention by the court to stop the abuses, at the same time Parliament was dealing with the Amendment Bill.

We subsequently then improved the Bill further by inserting certain factors that the court has to take into consideration when granting such garnishee orders. That was a further improvement.

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So the issue arises, why? And where is the lapse taking place when a court gives a judgment and Parliament starts looking at Amendment Bills to deal with the constitutional invalidity of legislation that has been referred to court? The ACDP has raised this in the past with the Chief Justice when we had engagements with the Justice Portfolio Committee. It is an issue because clearly there is a delay. Look, we are only dealing with this Bill now, some nine months after the Constitutional Court gave its judgment. That clearly gives an indication of why the courts will tend to read in and provide urgent relief.

So, with those few words, the ACDP will support this Bill.

Thank you.

Mr W M MADISHA: Chairperson, Cope supports the Bill because we are looking at it as addressing the abuses that our citizenry face in the emoluments attachment orders system, and alleviating the plight of debtors who find themselves at the receiving end of a debt collecting system and certain common law principles that keep debtors in a state of indebtedness from which it is difficult to escape.

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Cope welcomes the amendment that seeks to make the application for the rescission of judgment where the debt has been paid less cumbersome and less expensive. We also welcome the intended cap of 25% of a judgment debtor's salary that may be committed to an emoluments attachment order.

Cope notes that the amendments may increase the workload of magistrates and that the training of magistrates and magistrate courts personnel will be critical and of critical importance.

We do this basically because we know that South Africans are extremely poor at the moment and therefore we say that we need to support this. Thank you.

Mr M S A MAILA: House Chairperson, hon members, members of the executive and guests in the gallery, the Courts of Law Amendment Bill seeks to amend various sections of the Magistrates' Court Act so as to address the alleged abuses in the recovery of civil debts by way of the emoluments attachment orders system. It further seeks to amend those sections of the Magistrates' Court Act which deal with the rescission or abandonment of court judgments to accommodate

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the Department of Trade and Industry's project of removal of adverse consumer credit information. The amendments are aimed at protecting debtors who often find themselves in financial difficulties as a result of debt incurrence.

Because of abuses in the system, the cycle of over-indebtedness is perpetuated, leaving debtors in very vulnerable positions.

The Bill further amends the Superior Courts Act by inserting section 23(a) so as to provide for the rescission of judgments with the consent of the judgment creditor and for the rescission of judgments where the judgment debt has been paid.

The ANC stands for economic transformation, and rests on its intention to build an equitable society where decent work is created for all. The ANC understands that the triple challenges of poverty, unemployment and inequality are at the heart of South Africa's socioeconomic challenges. The ANC believes that the most effective weapon to overcome poverty is the creation of employment. Adverse credit information serves as an impediment to that effect. That is why we support the removal of adverse credit information. The ANC continues to

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advocate for economic emancipation for all underpinned by the Freedom Charter's economic goals.

This Bill speaks to economic transformation. It protects the debtor who often becomes a victim of predatory lending practices as reflected in the Stellenbosch case. It also serves to protect the motive forces for the national democratic revolution.

Hon Majake was correct to say that this was a victory for the ANC and for the African people in general. No one who has never been in debt and who has never been poor can come to this platform and claim victory on behalf of the African majority. Thank you. [Applause.]

Bill read a second time.

**CONSIDERATION OF INTERIM REPORT OF PORTFOLIO COMMITTEE ON
PUBLIC WORKS ON EXPROPRIATION BILL**

There was no debate.

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

Declarations of vote:

Ms A M DREYER: Madam House Chairperson, on behalf of the DA I would just like to state that this Bill passed through both Houses of Parliament last year in the face of considerable objection and opposition by the DA, was however passed by both Houses. What we did subsequently, we wrote a letter to the President appealing to him not to sign the Bill into law and he assented to our request. In fact we know that he wrote a letter to the Speaker of the National Assembly as well as the Chairperson of the NCOP, asking them for comments on the exact process that followed during the public participation process especially in the NCOP. Because he was not satisfied with their explanation, he has sent the Bill back to the National Assembly and it should now be properly considered and done according to the exact specifications of the law. We will follow that further process to make sure that it is all correct and follows in due course.

Ms E N LOUW: Hon House Chairperson, the EFF believes that this Bill cannot address the economic *dispossession* of the black

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majority by the white minority and the Trojan horse which Zuma and the Guptas will use to dispense patronage and ensure the continued project of state capture - which is why Mr Zuma sent the Bill to the National House of Traditional Leaders for consultation. [Interjections.] Within the framework ... [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon Louw, please take your seat. Hon member, why are rising?

Ms Z S DLAMINI-DUBAZANA: Can I kindly request the hon member to ...

The HOUSE CHAIRPERSON (Ms M G Boroto): On which Rule are you rising, hon member? [Interjections.]

Ms Z S DLAMINI-DUBAZANA: On Rule 92. He has called the President, "Zuma". All what I am requesting for is respect - that it is either she calls him Mr, the President or the honourable.

The HOUSE CHAIRPERSON (Ms M G Boroto): Thank you very much, that is not a point of order. Hon member, can we please do as

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we know – that of respecting one another in the House. Thank you.

Ms E N LOUW: Mr Zuma. In the framework ...

Ms H O HLOPHE: House Chair, order. Welcome back, House Chair. But which Rule is it? You asked that member to quote the Rule and she didn't. [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): She did.
[Interjections.]

Ms H O HLOPHE: Which Rule? It is not in Rule 92.
[Interjections.] Rule 92 is a point of order; she is talking about other things. [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): She didn't say ...
[Interjections.] ... maybe I didn't hear her well. Thank you very much for that. I will listen carefully. Thank you.

Ms E N LOUW: In the framework of the current Constitution, it is impossible to effect any land reform that makes a meaningful and material difference of the lives of the black

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majority. Section 25 of the Constitution makes any attempts to redistribute land and grow the economy impossible. So, until the Constitution is amended in section 25 along with others is changed and removed, it will continue to prevent the majority of black South Africans from seeing any material and economic benefit from land reform.

As the EFF we have constantly offered the ANC our 6% in Parliament which would give the necessary two-thirds majority required to change the Constitution but the ANC has continuously rejected this offer despite its talks about radical economic transformation. It is the cause of any expropriation which properly distribute land and the economy for the benefit of society as a whole that would directly come into conflict with the interest of capital, particularly white capital but also black capital while what the ANC, more particularly the President, want to do with this Bill is democratisation of land ownership and transfer of land from one monopoly to another with no material change for the black majority. That is why when the President wrote a letter complaining to the committee that not enough public consultation was done regarding the Bill, the only recommendation he made was that the Bill be referred to the

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National House of Traditional Leaders. While we do not principally disagree with this, it cannot be the only form of consultation. If you want to know what expropriation of land is, go to those who would most benefit from it - like the people of Town 2 in Khayelitsha who have been occupying land to live on for weeks despite the harassment and the intimidation they face from the police and the recent killing of one of their leaders - apparently by a councillor - and they will show what expropriation of land really is. The EFF rejects this Bill with the contempt it deserves.

Mr N SINGH: Hon House Chairperson and colleagues, I don't think we are speaking about the contents of the Bill here this morning. Instead, we are speaking about the fact that the Bill has been referred to the National House of Traditional Leaders because that has been something that when the Bill was sent to the Office of the President for his assent, he referred it back to Parliament. I can recall hon Buthelezi, the leader of the IFP, has received the letter from a nongovernmental organisation indicating the pitfalls to this Bill if it can be enacted in its present form and its impact on communities living on communal land. Those that live on communal land could be rendered completely landless if the National House of

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Traditional Leaders does not have a say in this Bill because although they live on communal land, it is some form of security of tenure.

We welcome the fact that the Bill has been referred back to both Houses where they will consider the comments of the National House of Traditional Leaders in addition to any other comments that may emerge at that time. We support the fact that the Bill has been sent. I make these remarks also on behalf of my college, the hon K P Sithole whom the Deputy Speaker mentioned earlier on that he successfully completed his 6th Comrades Marathon, this time in a matter of nine hours. Viva IFP viva! Viva to the fact that this Bill has been sent back to Parliament.

Mr M L W FILTANE: Hon House Chairperson, the Constitution prescribes that there should be appropriate consultation in order for a proposed piece of legislation to be a product of the citizens of this country. This step may not be circumvented under any circumstances. The ANC ...

IsiXhosa:

... mayihlukane nokwenza izinto ngokuthatha ...

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English:

... shortcuts. Institutions that are representative of the people are particularly relevant in the process of making laws and consulting with the people. The old saying goes, "*Vox populi vox Dei*", which means the voice of the people is the voice of God. Failure to consult traditional leaders is tantamount to discriminating - not only against them but all the villagers under their tutelage. Section 9, subsection 3 of the Constitution prohibits unfair discrimination by the state, it reads, "The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds ..."

Accordingly, the UDM supports this report that the Bill must be referred to the traditional leaders. Our position has been declared and it will still be repeated when we deal with the actual contents of the Bill. I thank you.

Mr F ADAMS: Hon House Chair, I think we should applaud the hon President, His Excellency Jacob Zuma, for referring this Bill to the national House of Traditional Leaders. The DA wants to claim easy victories which they have not even worked for. The President has referred this Bill to the National House of Traditional Leaders and he stated a couple of reasons why he did that. The DA and the EFF do not support the President for

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sending the Bill to the National House of Traditional Leaders - I think that the reason for the DA is that in the Western Cape it does not recognise traditional leaders. It has clear now that the split between hon Zille and hon Maimane is coming into effect because of this - at one stage why don't you respect traditional leaders? We want to say thank you to those parties that have done the right thing in supporting and respecting the traditional leaders in the country - the hon Prince Buthelezi and the IFP for respecting traditional leaders. Once again I say that we must applaud the President for the wisdom that he has in referring this Bill back to the National House of Traditional Leaders because they are a constitutional part of South Africa. The DA must wake up and stop thinking that South Africa is not part of the Western Cape where the Western Cape is considered to be an island. Hon Dreyer stood here and said that after several letters that they have sent ... Hon Ollis, this has nothing to do with the Guptas; it is about the wisdom of President Jacob Zuma!

[Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon member, please address the Chair.

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Mr F ADAMS: Can you recognise that. You don't want to recognise the hon President Jacob Zuma and his wisdom. I am telling you to see why you fight amongst yourselves; it is because of this island that you have created in the Western Cape where you don't respect any black person.

[Interjections.] Look at the people in Khayelitsha and all that, while land is lying there and you don't want to give it to them. [Interjections.] The ANC reports... [Interjections.]

Mr I M OLLIS: Hon House Chairperson, I called for a point of order. [Interjections.] She stood first. Can I ...

[Interjections.]

Ms E N LOUW: I called for a point of order but it's fine; we now know that Zuma don't have wisdom.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon member, that's not a point of order.

Ms E N LOUW: The hon member is confusing the House ...

[Interjections.] Which wisdom does Zuma have?

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The HOUSE CHAIRPERSON (Ms M G Boroto): Thank you, please sit down. Hon Ollis, what's your point of order?

Mr I M OLLIS: Hon House Chairperson, the ANC speaker there has just misled the House. The leader of the DA is a black man ... [Interjections.] ... who respect all black South Africans.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon member, that's not a point of order; it's a point of debate. Thank you very much. Hon members, the motion are that the report be adopted. Are there any objections? [Interjections.] Thank you, the objection of the EFF is noted.

The CHIEF WHIP OF THE MAJORITY: House Chair, with great respect to your recognition of the objection ... but what are they objecting to; so that all of us are on the same page.

The HOUSE CHAIRPERSON (Ms M G Boroto): My question was about the adoption of the report, hon Chief Whip. So, they are responding to that. That was my question.

Ms H O HLOPHE: House Chair, can we just get a clarification to that question?

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The HOUSE CHAIRPERSON (Ms M G Boroto): Hon member, I have already answered.

Ms H O HLOPHE: We have been to the podium and we spoke. The Chief Whip must listen; he must not sleep in the House. He must listen when we speak.[Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon members, this Bill will be ... it's a report not a Bill, I am sorry. The report has been agreed to and the objection from the EFF has been noted. Thank you very much.

Mr N F SHIVAMBU: House Chairperson, you just said the Bill has been agreed to.

The HOUSE CHAIRPERSON (Ms M G Boroto): Not the Bill; I corrected what I said. Don't you listen? I said sorry.

Mr N F SHIVAMBU: You must not make silly mistakes, please.

The HOUSE CHAIRPERSON (Ms M G Boroto): Thank you. I said sorry. You know, if there is anything that we are used to is to rectify ourselves if we are wrong.

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Report accordingly adopted.

JUDICIAL MATTERS AMENDMENT BILL

(Consideration of Report of Portfolio Committee on Justice and
Correctional Services)

There was no debate.

The CHIEF WHIP OF THE MAJORITY PARTY: Thank you House Chair. I move that the Report be adopted by this House.

Question put.

Motion agreed to.

Report accordingly adopted.

JUDICIAL MATTERS AMENDMENT BILL

(Second Reading debate)

There was no debate.

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Ms M C C PILANE-MAJAKE: Hon Chairperson of the House, members of the House, members of the executive ... [Interjections.] ... members of the public ...

The HOUSE CHAIRPERSON (Ms M G Boroto): What have I missed? Hon Majake, please wait. What am I missing? What is it? [Interjections.] Thank you very much for that ... [Inaudible.]

Mr M L W FILTANE: Point of order Chair.

The HOUSE CHAIRPERSON (Ms M G Boroto): Thank you. Hon Filtane, on what rule are you standing?

Mr M L W FILTANE: On Rule 85. It is just to remind hon Majake to raise a point of order. [Laughter.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon ... Anyway, it's still early to wake us up. I think we are all awake. Thank you very much. Continue hon Majake.

Ms M C C PILANE-MAJAKE: Thank you Chairperson of the House.

The Portfolio Committee on Justice and Correctional Services, having considered the Judicial Matters Amendment Bill referred

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to it and classified by the Joint Tagging Mechanism as a section 75 Bill, reports the Bill, with amendments, as follows.

The Bill seeks to amend a number of Acts, most of which are administered by the Department of Justice and Correctional Services, to address practical and technical issues that have arisen.

The Bill was advertised for public comment in various newspapers and in all official languages. The committee received three written submissions and held public hearings on the Bill in Parliament on 4 May 2017.

In order to address challenges of interpretation and implementation, the Bill proposes in clause 38 to remove the word "exclusively" found in section 55 (a) (1) of the Criminal Law Sexual Offences and Related Matters Amendment Act of 2007 which empowers the Minister to designate any division of the High Court or magistrate court, at which a sexual offences court must be established.

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However, the committee is of the view that there is a need to ensure that sexual offences matters get the priority attention they deserve. Therefore, in clause 35 the Bill proposes to insert a definition of a sexual offences court in section 1 of the Criminal Law Sexual Offences and Related Matters Amendment Act of 2007, which provides for the court roll of a sexual offences court to deal exclusively with criminal proceedings relating to sexual offences.

In a nutshell, the Bill is about the designation of courts for adjudication of sexual offences. This comes out of the frustration experienced in the adjudication of sexual offences by the courts, almost reversing the gains made in the imposition of harsher sentences for such offences. The report is to be considered.

Declarations of Vote:

Mr W HORN: Thank you Madam House Chair. We make this declaration in support of this amendment Bill which deals with some 23 amendments to various pieces of legislation because we are satisfied that, bar two of the proposed amendments, all other amendments are made with the aim to strengthen the

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administration of justice while not adversely affecting the rights and freedoms of our people.

In this regard, allow me to specifically acknowledge the manner in which the Deputy Minister and his ANC colleagues in the portfolio committee ultimately accepted the pleas of Rape Crisis Cape Town Trust, the Women's Legal Centre and the opposition members in the committee to redraft the specific section in this Bill, referred to by the hon Pilane-Majake, to ensure that, going forward, dedicated or exclusive sexual offences courts will be maintained and rolled out by the department rather than a hybrid system in which courts deal with other cases along with sexual offences.

In our submission, this willingness to redraft is testimony to our ability as a collective to tackle the endemic abuse of women and children in our society. This bipartisan manner in which this sticky issue was resolved is ultimately a motivation for our support of this Bill, despite the following proposed amendments with which we have serious issues.

This Bill seeks to amend the Institution of Legal Proceedings Against Certain Organs of State Act of 2002 and the provisions

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of the State Liability Act to effect that, once promulgated, civil legal action against any organ of state or government department will only be valid if and when the summons has been served on the head of the department, for example the director-general sitting in Tshwane, and not as has been the case up to now on any office of the state attorney. This is of concern to us.

Firstly, this new arrangement will for obvious reasons diminish rather than enhance practical access to justice as litigants will henceforth find it more difficult and more expensive to ensure services of notices and summons on departments and other organs of state.

Taking into consideration the admission by the Deputy Minister that this proposed amendment is solely aimed at circumventing the inability of some state attorney offices to, in a timely manner, either alert departments of claims against them or enter a notice of intention to defend on behalf of departments in order to avoid default judgments being given against government, it must become clear that this government is trying to address its own failures in governance through legislation rather than improvement in administration.

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This Bill says to South Africans that we as government cannot fix the state attorney offices, so rather than government suffering as a result of this you as ordinary South Africans will have to suffer a bit more.

Read this along with all the other cumbersome duties placed on individuals who want to exercise their rights against an all-powerful government – duties like giving government notice of your intention to institute legal proceedings before you may issue a summons, and shortened prescription periods applicable to the state, all already aimed at protecting government against individuals.

Then it must follow that this provision is not merely aimed at regulating state liability but rather at limiting state liability beyond a point that is fair and justifiable. This specific provision will be one of those which will have to fall when a new people-centred government takes power in 2019. [Applause.]

Mr N S MATIASE: Thank you House Chair. There's no Zuma who can be applauded in this House because rape and sexual violation

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in this country cannot be placed anywhere else except at the doorstep of the ANC. You have created a culture ...

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon Matiase, will you take your seat please? Why are you rising hon member?

Ms Z S DLAMINI-DUBAZANA: On the same Rule 82. We are really, really requesting respect. It's either they call the President a Mr ... Please.

The HOUSE CHAIRPERSON (Mr C T Frolick): Thank you hon member. Hon Matiase, Rule 82 applies. Please refer to other members, including the President, in respectful terms.

Mr N S MATIASE: You have created a culture where the rights of women and the girl-child are not respected. The Judicial Matters Amendment Bill before this House seeks to amend various Acts of Parliament to address practical and technical matters to ensure delivery of justice.

While the EFF does not object to the Bill before the House, the Bill does however bring to the fore a contested and extremely crucial matter of sexual offences courts. In 1995,

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the Human Rights Watch, HRW, reported on sexual and domestic violence, indicating that South African women living in one of the most violent countries in the world are extremely likely to be victims of violence.

In 1999, the SA Medical Research Council study found that a woman died every six hours at the hands of her husband or boyfriend.

In 2001, the HRW, reporting on sexual violence in South Africa, especially in schools, reported that on a daily basis in schools across the nation, South African girls of every race encounter sexual violence and harassment. Now this is a daily lived experience of all women, black and poor in particular.

Fast forward 15 years later. The fate of women has not changed and the ANC government has failed to protect our women and children. Our police have failed to protect our women and children. The justice system has failed to protect our women and children.

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Our police are not equipped enough to deal with reported cases of sexual offences. When women go to report these cases, the police do not take them seriously. When cases do finally get registered they are not given the priority they deserve and the dockets are placed at the bottom. No investigators are assigned to cases. If they do get assigned, this happens long after cases have been reported.

That's not the end of it. When cases go to the National Prosecuting Authority, NPA, and in front of the courts, women get subjected to further dehumanisation. Instead of prosecuting perpetrators, women's sexuality gets prosecuted because of the ANC, the hon Minister and his Deputy Minister.

When it comes to sexual offences courts ... that Bill intends to resource ... the objective is less resources and less costly. The argument in this case is put against a need to establish such a court.

However, the same government has more resources and a more costly Cabinet with endless and unnecessary Ministers. The same government has more resources and more costly projects on the Gupta family and cronies for villas, holidays and spa

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treatments in Dubai. The same government has more resources and more costly nuclear projects because Mr Zuma and the Gupta family have already accepted bribes from the Russians.

The full implementation of sexual offences courts and its facilities, services and requirements cannot be understood from a narrow neoliberal policy approach. We stand here as the EFF to propose that Parliament must allocate ... [Inaudible.] ... adjustment budget to fund sufficient ...

Ms Z S DLAMINI-DUBAZANA: House Chair?

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon Matiase, will you take your seat please?

Ms Z S DLAMINI-DUBAZANA: I rise on Rule 85. The hon member knows very well that if he brings such allegations to the House he needs to have a substantive motion.

The HOUSE CHAIRPERSON (Mr C T Frolick): What specifically are you referring to hon member?

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Ms Z S DLAMINI-DUBAZANA: The bribery ... the President ... the bribery. That's what he said. [Interjections.] Yes.

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon member, I will have to look at Hansard and I will come back to the House.

Mr N S MATIASE: We further propose that townships and remote rural areas be prioritised, and that by 2018 sexual offences courts should have been established in those places. There must be sexual offences courts all over the country. The Department of Justice and Correctional Services must do the right thing, and the right thing is to ensure that sexual offences courts are created.

PROF C T MSIMANG: Thank you hon House Chair. The Bill seeks to amend a number of Acts with the aim of addressing practical and technical issues of interpretation and implementation. Pertinent to the present report, the focus is on clause 38 where the word "exclusively" in section 55 (a)(1) of the Criminal Law Sexual Offences and Related Matters Amendment Act leads to untenable consequences.

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The said section empowers the Minister to designate a magistrate court or division of a High Court a sexual offences court which would deal exclusively with sexual offences matters. Such exclusive courts could become white elephants since it is possible that they go for weeks or even months without a sexual criminal case to try. This would amount to a waste of resources.

There is also a valid argument that in the perpetration of a sexual offence the accused may also have committed other offences which do not constitute a sexual offence. Consequently, it might be desirable that all the committed offences are tried in one case.

In conclusion, the IFP accordingly supports the amendment which removes the term "exclusively" in the said section 55 (a) (1).

Mr S C MNCWABE: Thank you hon House Chairperson. The Judicial Matters Amendment Bill addresses a variety of technical and practical legal matters which falls within the administrative jurisdiction of the Department of Justice.

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We believe that these amendments will improve access to equal justice for all in South Africa. The NFP also notes the additional amendments contained in the report and we are in agreement with the proposal to omit the word "exclusively" in section 55 (a) (1) and replace it with an inserted definition of a sexual offences court in the criminal law. We accept that the proposed additional amendment will assist in providing clarity and remove any potential for ambiguity.

Our statistics on sexual violence in South Africa is outrageously shocking. Sexual offences as defined in the Act vary and include rape, compelled rape, sexual assault, incest, statutory rape and sexual grooming of children, amongst others.

In 2015-16, an alarming 51 895 sexual offences were recorded. This translates to an average of 145 incidents of sexual violence per day. Of these offences, 42 596 were cases of rape, an average of 117 per day. The sad part is that these statistics, high as they may be, are based on reported cases only. The reality is far worse than what we see reflected in the statistics because many more cases go by unreported.

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Given the extraordinary high prevalence of sexual offences in our country, it is of utmost importance that specialist sexual offences courts are prioritised in our judicial service. These courts need to be victim-centric to ensure that secondary victimisation, which is often caused by systematic and infrastructural conditions, is reduced and ultimately eliminated.

The NFP also believes that such specialist sexual offences courts will improve the turnaround time in the finalisation of cases and improve the conviction rate and sentencing of these crimes which are fast becoming our collective national shame. Ultimately, as lawyers will argue, justice must not only be done but must also be seen to be done. In conclusion, the NFP supports this report.

Mr S N SWART: Thank you Chairperson. The ACDP will support the Judicial Matters Amendment Bill and we'll focus on the sexual offences courts. Its 10 years since we passed the comprehensive Criminal Law Sexual Offences and Related Matters Amendment Act, yet we see that the country is facing a flood of the most horrific murders and rapes of vulnerable women and children. It is very clear that we need to treat the victims

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of rape with all due care and compassion. There has been great success with the thuthuzela care centres which are based at hospitals and are trained to deal with rape survivors. They work very closely with the designated sexual offences courts.

It is crucial that surviving victims of rape and other sexual offences need to have their matters heard in those specially designated courts where you have skilled prosecutors, magistrates and social workers who are able to assist those victims and ensure that they don't go through secondary trauma of giving evidence in such cases.

We also see that the conviction rate of the designated courts is also much higher than when the matters are on the ordinary roll. That is why we in the ACDP initially opposed the Bill when the word "exclusively" was removed from section 55 (a) and we joined the views of the nongovernmental organisations, NGOs, that came and said that the word "exclusively" must remain. However, we are pleased that the Deputy Minister then engaged with the NGOs and reached a compromised position where the definition of sexual offences courts in section 1 is inserted to provide for the court roll of sexual offences

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courts to deal exclusively with criminal proceedings relating to sexual offences.

We were a bit concerned that magistrates tended to ... some of them said that it's traumatic for them to deal with such matters on an ongoing basis. Whilst we appreciate that, one asks the questions what about the victims and what about the prosecutors who have to deal with these matters on an ongoing basis?

What we do believe is that this compromised position will enable not only magistrates to move around but also the fact that other matters such as rape, murder and other matters can be heard in the same sexual offences courts. So from the ACDP side, we will support this Bill.

Adv B T BONGO: Thank you Chairperson. Hon Ministers and Deputies, members and fellow South Africans, it took the ANC government ... the ANC 83 years since its formation in 1912 to win against the apartheid government, and it took the ANC government 23 years to be in power. Out of the 23 years, we have recorded a number of successes, amongst others the Bill that we bring before Parliament today which amends about

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22 pieces of legislation which were introduced by the apartheid-era government.

The apartheid-era government introduced a lot of Bills, and as the ANC government we are prepared to challenge all of those Bills and ensure that when we reach 83 years which is equal to the years of fighting, we would have done away with and would have created a truly nonracial, nonsexist, democratic, prosperous and united South Africa.

This Bill before us amends a number of legislation, among others the Magistrates' Courts Act 44 of 1944, the State Liability Act of 1957, the Administration of Estates Act of 1965, the Criminal Procedure Act of 1977 – particularly this one, to regulate the right of the institution of proceedings in the court; to regulate the availability of witnesses in criminal proceedings; and to further regulate the competency of compatibility of the witness in giving evidence.

It also deals with the Small Claims Courts Act of 1984 which deals with the various aspects of small claims courts. It also deals with one important aspect which was raised before – the Sheriffs Act of 1986 – to regulate the sheriffs ... to

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regulate the funds that they get after they have taken monies from the people.

The Bill further amends the National Prosecuting Authority Act of 1988 to establish ... As you all know, the ANC government has created new High Courts in various divisions to ensure that the NPA is available in those various districts. The ANC supports this Bill.

Finally, the issue around sexual offences in the Bill that has been raised by members is a matter that is conscious and is of concern to the majority of South Africans. In the Bill we have introduced ... to remove section 55 (a) (1) and to insert a clause in section 38 which says that, with regard to the issue of rape, we need to remove the clause "exclusively", to give all courts the power to ensure that they listen to sexual offences issues because the Bill as it stands gives exclusive jurisdiction. When they appear in court the majority of lawyers will raise the issue of exclusivity as a defence for their clients. So the ANC government has supported this and we strongly and firmly believe that removing the word "exclusively" in this particular Bill will ensure that the issues of rape and the abuse of women, which is a serious cry

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of our nation, will be catered for in every court and in every jurisdiction of court everywhere in South Africa. The ANC supports.

Question put.

Bill read a second time.

BUSINESS SUSPENDED AT 12:22 AND RESUMED AT 14:01.

**CONSIDERATION OF RECOMMENDATIONS TO FILL VACANCIES IN
COMMISSION FOR GENDER EQUALITY**

Ms N C NDABA: Hon House Chairperson, hon members and South Africans, the ad hoc committee on the filling of vacancies in Commission for Gender Equality was established as per the resolution of the House noted in the Announcements Tablings and Committee Reports, ATC, of 27 October 2016.

The committee having met requested an extension on its initial deadline. The approval was granted by the National Assembly House on 23 February 2017. These extensions enabled the committee to accommodate civil society by allowing more time

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on commentary on curriculum vitae, CVs, and for the committee to undertake a comprehensive process for screening and verification of qualifications.

The advertisements were placed on 08 January 2017 on various media platforms namely, print and electronic with a closing date for 23 January 2017. The committee received a total of 82 applications of which 21 candidates were shortlisted.

Subsequently, one candidate on the shortlist withdrew and thus the committee interviewed a total of 20 candidates on 13 and 14 March 2017. The interviews were broadcasted live.

The committee in its deliberations on candidates took into consideration the requirements as outlined in the advertisement: the candidate's CV, the outcome of the screening and verification of qualifications, the questionnaire completed by the candidates and the interview itself.

The committee having taken into consideration the constitutional imperatives and the Commission for Gender Equality Act agreed that motivation, technical knowledge, strategic leadership, team work, innovation and governance,

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were key aspects that the committee will take into consideration in the selection of a person to be recommended as the commissioner.

Having considered the request by the National Assembly for the committee to identify suitable candidates for the following vacancies in the Commission for Gender Equality the ad hoc committee in the filling of vacancies in the commission for gender equality [Interjections.] recommends the following candidates in the order as per the committee preference: Ms Tamara Euginia Mathebula, Ms Nthabiseng Moleko, Mr Sediko Daniel Rakolote, Ms Nthabiseng Sepanya Mogale, Ms Sethembiso Promise Mthembu and Dr Praveena Sukhraj-Ely.

The committee further recommends Ms Mathebula as a part-time commissioner, Ms Moleko as a full-time commissioner, Mr Rakolote as a full-time commissioner and Ms Mogale as a part-time commissioner respectively. [Interjections.]

IsiZulu:

Uyangijwayela wena.

English:

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In order to have a comprehensive approach, and this should include issues related to people with disabilities, the committee recommends that the National Assembly considers the possibility of investigating and establishing a standardised... [Interjections.]

Ms E N LOUW: House Chairperson, on a point of order.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon member, please take your seat. Hon Louw, on what Rule are you standing?

Ms E N LOUW: Hon House Chair, I would like to check if it is parliamentary to say to another member, "uyangijwayela"? Is jwayela parliamentary?

The HOUSE CHAIRPERSON (Ms M G Boroto): Who said that?

Ms E N LOUW: She said "uyangijwayela". Is it parliamentary?

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon member, please let us not use that language - it is not accepted. Thank you.
Continue.

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Ms C N NDABA: The National Assembly considers the possibility of investigating and establishing ... [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon member, wait. I am sorry, your time has been paused. Can we please allow the member on the podium to give the report? We are making a lot of noise. Thank you. Continue hon member.

Ms N C NDABA: The National Assembly considers the possibility of investigating and establishing a standardised procedure or mechanism to guide committees on the National Assembly when dealing with the matter of appointments to statutory bodies or organs of state.

Parliament should develop a standardised template to deal with these processes in future. The committee also notes that Parliament has yet to develop comprehensive guidelines for committees that are similarly tasked. The committee considered the method of the previous ad hoc committee mandated to nominate suitable candidates persons for appointment as commissioners, for example, Public Protector and South African Human Rights Commission.

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The committee found that there was a lack of uniformity. At present, the Commission for Gender Equality's Chairperson and the Deputy Chairperson's term of office has come to an end and as such, the leadership at the commission is directly affected. In addition to the two other commissioner vacancies at the Commission for Gender Equality is imperative that these positions be filled to ensure the continuity of service of such an important institution supporting democracy.

We therefore request that the House adopt this report. I thank you. [Applause.]

There was no debate

Declaration(s) of Vote:

IsiXhosa:

Ms T STANDER: Sihlalo, manene namanenekazi, siyabulela ...

English:

The HOUSE CHAIRPERSON (Ms M G Boroto): Order! Hon members, please.

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Ms T STANDER: ... hon Nncube-Ndaba for chairing the ad hoc committee. Under your stewardship we managed to complete an important task that was long overdue. Thank you to the committee support staff, Kashiefa Adams and Crystal Levendale for the exemplary work you put into supporting and guiding the committee.

Afrikaans:

Dankie aan elke kandidaat wat beskikbaar was. [Thank you to all the candidates that availed themselves.]

English:

The true beautiful diversity of South Africa was represented in full in all its forms including HIV status and differently-abled persons.

In a time where we lack leadership, it is encouraging to know individuals are leading in their areas.

Setswana:

Ke leboga ...

English:

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... civil society groups like DeafSA for participating in the process. We have seen civil society becoming more active and more vocal against corruption and our country is stronger for it.

The DA supports the recommendation report with reservations. We learned that a more consistent method is needed when nominating candidates for vacancies in Chapter 9 Institutions. Advertising confusion, clarity on screening information and the quality thereof, an objective scoring metrics and further opportunity for consensus deliberation are all areas that need strengthening.

This process also expose that particularly black South Africans have unjust criminal records indicted against them by an unjust apartheid government. We encourage South Africans to approach the South African Police Services to check and challenge any incorrect information.

Of the nominations, the DA recommends Ms Nthabiseng Moleko to Mr Zuma as our candidate of first choice. This formidable woman is currently writing her PhD in Development Finance and lectures part time at the University of Stellenbosch. She is

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young, demonstrates immense competence, shows passionate commitments and was clear on possible solutions to gender equality. Ms Nthabiseng is also one of only two candidates who enjoy unanimous support amongst the committee.

The DA, however, must record its objection to the recommendation of Mr Sediko Rakolote. Political affiliation can never be a basis for objection but based on the vitriol in historic social media posts, support of the controversial character, Brian Molefe and his hostile responses in his interview, we did not recommend him in committee.

Poverty is sexist. The quest for gender equality agents - young black rural girls are least likely to escape the cycle of poverty and lead a life they dream to create. This can only change when our mothers and sisters have the freedom, fairness and the opportunity to reach their full potential. Imagine our mothers and sisters are free from violence; free from traditional practices like ukuthwala, virginity testing and female genital mutilation; free from patriarchal attitudes that oppress, stigmatise, stereotype and discriminate.

[Interjections.]

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Setswana:

Ga ke batle go bua le wena ...

Isixhosa:

... ndithetha noomama baseMzantsi Afrika. Thulani!

[Uwelewele.]

English:

Imagine our mothers and sisters enjoy fair and equal pay for work of equal value, fair access to own title to land even under traditional leadership, fair inclusion at the top decision making tables to influence those decisions. Imagine our mothers and sisters have the opportunity to complete a quality education that prepares her for the future she wants to create; the opportunity to live in dignity with food, clean water and sanitation and adequate shelter; the opportunity to access grants and healthcare that actually improves their lives.

We trust that the Commission for Gender Equality will amplify its efforts to evaluate the current status of women and make recommendations to legislatures regarding any laws and

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proposed legislation affecting women. Thank you for the very important work you do.

It is not that women are more important than men, but the DA knows that when our women rise out of poverty, they will take their families, their communities and indeed this country with them.

Isixhosa:

Inkululeko kukulungisa amathuba.

English:

This is the hope the DA will offer in a post ANC-led government South Africa come 2019. [Time expired.] [Applause.]

Ms H O HLOPHE: House Chairperson, welcome back, first of all, please allow us as EFF to welcome the judgement by Empangeni Court, which found a man who raped and impregnated his own daughter at age 11. [Interjections.] Please because the ANC does not protect our women here. So, we want to welcome the court judgement of Empangeni, because this man does not belong here. He belongs to the jail. [Applause.] Chair, please allow us to say about the appointments of Gender Commissioners. In

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recent weeks, the violence against the women in our country has been shocking the country with countless horror stories of abuse of women of all ages who suffer at the hands of men.

It is in the light of this, many undocumented cases of women abuse that an effective Commission for Gender Equality, CGE, is needed. A Commission which has capable people who are able to turn this Commission into a tool that will be used to effectively address gender inequality and the violence that comes as a result of it. Chairperson, we do not want another ANC Women's League who can only react to issues relating to gender inequality and violence, and use violence against women as photo opportunities for political gain. We want a proactive Commission that will take an initiative and begin the hard and difficult task of dealing with the gender inequality and violence. The people that are needed for this commission are people like Sthembiso Promise Mthembu, a committed, a season gender, and an HIV/Aids activist. People like her have a grounded understanding of the work need to be done in order to address systematic gender inequality and violence which is destroying our society. The commission, after the approval of the candidates will consist of ten members instead of 12 required members.

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Chairperson, we recommend that the full complement of the Commissioners be appointed, if we are serious about the gender issues in this country. This would mean that all six of the shortlisted candidates make it to the commission, because the Commission appointees are not appointed on merit, but are political appointees and only four of the six candidates will end up being appointed. It is political interference, Chair, in this Commission that we limit this commission's leadership and vision as well as its ability to carry out the task it has been mandated to do. It already has by the refusal to approve the full complement of commissioners required. As the EFF, Chair, we therefore reject the recommendations. Given that, only four of the six shortlisted candidates will be approved despite the Board needing six in order to begin with the difficult task of tackling gender inequality and violence. I thank you. [Applause.]

IsiZulu:

Mnu M HLENGWA: Ngiyathokoza ukucosha ithuba Mhlonishwa Sihlalo, siphinde sikwamukele.

English:

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Just before I start, I want to advise members about another announcement that the Nguthu Council has been constituted ... [applause.] ... and the Mayor, the Deputy Mayor, Speaker and Exco, all of them. [Applause.] Thank you very much for bringing it on a golden tray.

IsiZulu:

Niyaqhuba. [Ihlombe.]

English:

Yes, yes, well done! [Applause.] We commit ourselves to working with the people of eNguthu to the best of our abilities, and to ensure that we continue doing all that which is in the interest of development.

IsiZulu:

Ningawuhlangaza nomunye sizoniphinda futhi.[Uhleko.]

English:

Hon House Chairperson, thank you Deputy President, the Commission for Gender Equality continues to punch above its weight despite its miniscule budget. Once a struggling Chapter 9-institution, it now outshines many government departments in

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terms of its contribution towards women's empowerment and gender equality. It was therefore imperative for the ad hoc committee to source only the best, most qualified and passionate South Africans to serve as Commissioners for the Commission for Gender Equality.

The IFP is confident that the committee was successful in this task. The CGE's task promoting, protecting, monitoring and evaluating gender equality, but it backs the question: how is this possible while women remain on the fringes our economy? We even have an economy now on a recession, while women still earn less than men and while men receive free favoured government condoms whilst our school girls missed out on education because they do not have access to sanitary towels. Chairperson, much more still needs to be done to achieve gender equality.

The recent incidents of gender-based violence which has drowned our nation in horror and fear is also an indication that the Commission must do more, to hold to account the Department of Social Development, Women in the Presidency, Justice, Police and Health for their collective failure to successfully execute government integrated plan to fight

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gender-based violence. When Hillary Clinton said "women's rights are human rights and human rights are human rights." She reminded us of a mammoth task which all of us have in ensuring that we protect women and ensure that they live in an environment where they do not have to look over their shoulders in the society we live in.

Therefore, the IFP supports the names that are before this today for consideration and approval. We congratulate the individuals for their appointment, and we wish them all of the best and all of the success in the execution of their duties. We thank them now for availing themselves for this all important duty of national service. Hon Chairperson, it remains our duty in this House to always remind society that women must not find themselves at the receiving end of violence at any time.

IsiZulu:

Ngakho ke asibavikele ngoba uma sivikela bona sivikela isizwe. Ngiyabonga lungu elihloniphekile.

IsiZulu:

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USolwazi N M KHUBISA: Angibonge Sihlalo, sikwamukele ukuthi usubuye wabuya.

English:

Chairperson, the NFP supports the recommendations of the ad hoc committee to approve the names of the Commissioners. We wish them strength and determination during their tenure as Commissioners and trust that they will build upon the good work done by the previous Commissioners to bring about gender equality in South Africa. Having said that, I must point out that the Commission for Gender Equality is a very important Chapter 9-institution. The painful history of our country bears witness to gross gender inequality with black African women, the most severely affected by a past colonial and apartheid policies and practices. This inequality has become endemic and part of our social fabric brought about by years and years of repression. This inequality finds expression in everyday life in the workplace and at home, in the public and private spheres. Even here in Parliament, Chairperson, in the hallowed Chambers of this Parliament, there is only one political party which is led by a woman that is the NFP.

[Interjections.]

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The Commission for Gender Equality has become highly proactive since its inception and has made significant strides in addressing gender inequality, but much needs to be done before we realise our constitutional goal of equality for all. It will be the task of the incumbent Commissioners to continue with the good work done by the previous Commissioners and to remain vigilant, to root all forms of gender inequality and discrimination whether overt or covert.

The NFP is satisfied that the ad hoc committee embarked on the pastoral fair process to shortlist the candidates. Therefore, Chairperson, we are not ashamed to support this Report. We take note of the fact that the shortlisted candidate underwent a rigorous process of interviews, verification and qualifications and screening. The criteria used by the committee to select the candidates during the interview process included motivation, technical knowledge, strategic leadership, teamwork, innovation and governance. Whilst we recommend the ad hoc committee to develop its own procedure to facilitate the selection process, we do believe that the process for selecting candidates to serve on Chapter 9-institutions and the criteria to be used should be standardised. In as much as innovation is welcome, we believe

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that a set procedure and criteria will enhance the process and in particular will encourage transparency, which is of great importance to attain credibility to the outcome of these selection processes. Chairperson, we support the appointment of the Commissioners. Thank you. [Applause.]

Mr N L S KWANKWA: House Chair, ...

IsiXhosa:

... masikwamkele kwakhona siyavuya ukuphinda sikubone.
Ndicinga ukuba siyathakathwa apha kuba ngoku kukho ...

English:

... recessions and junk status and we think that...

IsiXhosa:

... aba bantu basithakathayo baneefani eziqala ngoonobumba abakhulu u-G.

English:

The UDM supports the Report of the committee as well as the recommended names to fill the vacancies in the Commission for Gender Equality. House Chair, we have a Constitution that

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defines equality, but women's rights from equal pay to boosting women in leadership and lowering rates of violence are still a problem that faces us as a nation. The government metrics international women on boards survey revealed that South Africa ranked fifth globally in 2015. This means that South African women are underrepresented in leadership positions both in public and private institutions. In 2015 females only held approximately a fifth of all local directorships. The new Commissioners, House Chair, working together with their colleagues and many other stakeholders must double their efforts to push back the structural challenges that make it difficult for the nation to achieve gender equality, as enshrined in our Constitution.

This is particularly important when considering the fact that after two decades of freedom, we still as a nation battling with abuse of inhumane and brutal violence against women and the girl child. For instance, on Saturday a five-year-old girl from Strand in Cape Town was found dead under the bridge along Broadway in Nomzamo township here in Cape Town. This is just after two murder victims both which were found and we got that in Cape Town in the past week - may their souls rest in peace. Everywhere in South Africa, the big issue that has visited us

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is gender-based violence - whether you are rich or poor, black or white, old or young - women and girl children are still under attack. Certainly, it means the Commission has a lot to do. In this regard, we don't think that the R206 million budget allocated to the Ministry of Women in the Presidency is equal to the challenge referred above. It is worse when you consider that the Commission for Gender Equality receives a mere R78,2 million of this budget. The newly appointed Commissioners must work hard in ensuring that the Commission does its work properly. Commissioners must, among other things, make sure that they take the work of the Commission to the rural hinterland where most of these gruesome attacks occur on a daily basis without being reported. With these words the UDM supports the Report of the committee and the new work which will be done by the Commissioners.

IsiXhosa:

Siyabulela, masingathakathwa; siyacela.

Ms D CARTER: Chairperson, the Commission for Gender Equality has an important role to play in promoting and attaining gender equality. While it comes to increased public awareness and indeed even our own awareness of the right of the public

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to participate in the legislative and other processes of the NA and its committees, as was evidenced in the process, this needs to be further encouraged.

Cope supports the recommendations that the NA develops a standardised procedure to guide committees of the NA when dealing with candidates that are nominated for appointment as public office bearers to independent constitutional institutions, including their screening.

Cope further agrees on the need for the development of comprehensive and uniform guidelines for committees that are tasked with similar processes and responsibilities. We would like to suggest that the NA resolve the matter of the role of the State Security Agencies and the executive in the screening and vetting of potential candidates in these processes.

Cope supports the candidates recommended, with the exception of one Sediko Rakolote, who is committee's number three. On social media, Sediko posts show that basically he is the spokesperson for the ANC working committee and he is putting all the information on his Facebook posts.

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We are seeing issues on his Facebook posts that are rather racial and I don't think we can say/differentiate in gender whether you are white, pink or purple, but we see racial comments on his posts. He is also a staunch defender of state capture and should we say the cry baby from Saxonwold Shebeen as well.

Also, during the interviewing process, you could pick up a bit of arrogance. But, even if you go to his Facebook post, I mean the arrogance in sitting in the Speaker's Chair with a photo as his profile picture. So, we support the recommendations with the exception of Sediko Rakolote. Thank you.

Ms B J MALULEKE: Chairperson, Deputy President, members of this august House, Ministers, Deputy Ministers, visitors in the gallery, fellow South Africans, good afternoon. The ad hoc committee, on filling of vacancies in the Commission for Gender Equality, CGE, having considered by the NA to recommend suitable candidates for the appointment of commissioners in the CGE, they met and executed their task assigned to them.

It is a pleasure, on behalf of the ANC, to report in this House and also congratulate the recommended candidates to this

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august task of strengthening and deepening constitutional democracy in South Africa through the promotion, protection, development and attainment of gender equality.

The committee had a long robust discussion and was very careful in screening and interviewing candidates. The candidates were identified by all parties belonging in this ad hoc committee. [Interjections.] You were there! And they have proven themselves to be competent and have relevant skills and passion for gender issues. They are gender activists.

[Applause.]

The committee is hopeful that these commissioners will make an impact in the lives of women, even those in deep rural areas. For the commission to fulfil its constitutional mandate, an increase in its funding model should be considered by National Treasury. We also request that the commission be afforded an equal attention like all other Chapter 9 institutions.

We also call upon the Portfolio Committee on Women to play its oversight role on this institution. The institution must develop programmes to empower and protect our people, especially women, children and people with disabilities.

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In closing, let me quote from Isithwalandwe, our leader, O R Tambo:

The mobilisation of women is the task, not only of women alone, or of men alone, but of all of us, men and women alike, comrades in struggle. The mobilisation of the people into active resistance and struggle for liberation demands the energies of women no less than of men. A system based on the exploitation of man by man can in no way avoid the exploitation of women by the male members of society. There is therefore no way in which women in general can liberate themselves without fighting to the end the exploitation of man by man, both as a concept and as a social system

We make a plea to everyone that gender issues be taken seriously. It is just a pity that the DA and the EFF discriminate against men. Why would they object on the recommendation of Candidate Sediko Daniel? [Interjections.] Gender issues need to be tackled by everyone. So, Daniel Sediko showed competency and he has the skill. He is a gender activist, so I don't know why you are saying you reject his appointment. We recommend that those names that have been

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shortlisted by the ... [Interjections.] [Laughter.] ... by the committee, should be approved by this august House. We believe that these people have the competency and skills required. They have gender issues at heart and they are going to make sure that gender issues are taken into another level. Thank you. [Applause.]

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon members, are there any objections to the recommendations?

The CHIEF WHIP OF THE OPPOSITION: House Chairperson, may I address you in terms of Rule 92(2), if I may?

The HOUSE CHAIRPERSON (Ms M G Boroto): Okay!

The CHIEF WHIP OF THE OPPOSITION: House Chairperson, my reading of the enabling legislation of this, which was amended in 2013, requires the Assembly to appoint these commissioner and vacancies in the commission with the majority of 50% plus one of the Members of the Assembly. So, my understanding is that you would have to put this to a division, if I had to motivate. Thank you. [Interjections.]

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The CHIEF WHIP OF THE OPPOSITION: Yes! Yes, that is coming. Yes! [Interjections.] Thank you very much. [Interjections.] Hon members, order! In terms of section ... [Interjections.] Order, hon members! Order! In terms of section 193(5) of the Constitution, persons recommended for appointment as commissioners must be approved by the majority of the members of the assembly.

As there is no demand for a division, members will be required to record their support for the question by using the electronic voting system, in order to establish whether we have the required majority in support of the recommendation.

The bells will be rung for five minutes to alert members to the voting process.

[BELLS RUNG]

Question put: That Ms Tamara Eugenia Mathebula, part-time commissioner; Ms Nthabiseng Moleko, full-time commissioner; Ms Nthabiseng Sepanya-Mogale, part-time commissioner; Ms Sethembiso Promise Mthembu and Dr Praveena Sukhraj-Ely be

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recommended for appointment as commissioners on the Commission for Gender Equality.

VOTING

[TAKE IN FROM MINUTES]

Question agreed to.

Nominations accordingly agreed to in accordance with section 193(5)(b)(ii) of the Constitution.

**CONSIDERATION OF REQUEST FOR APPROVAL BY PARLIAMENT OF DRAFT
REGULATIONS MADE IN TERMS OF SECTION 23(1) OF LEGAL AID SOUTH
AFRICA ACT, 2014**

Ms M C C PILANE-MAJAKE: House Chairperson, members of the executive, Deputy President and members of the public, the Portfolio Committee on Justice and Correctional Services having considered the draft regulations recommended the National Assembly approves the Legal Aid South Africa regulations.

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The mandate of Legal Aid South Africa, LASA, is to make legal aid to be available to indigene persons within its financial means, providing content to the right to legal representation at the expense of the state for the realisation of the right to fair trial. This legal representation is inclusive of poor and vulnerable such as woman.

The committee further reports that the regulations are made in terms of section 23 (1) and (2) of the Legal Aid South Africa Act 2014 which came into operation 01 March 2015. The draft regulations were referred to the committee for consideration and report on 03 May 2017.

The new act provides that the existing legal aid guide will remain in force until it is withdrawn and replaced by the regulations and the legal aid manually made in terms of the new act. The regulation should have been published within 24 months after the act commenced, but the deadline was not met as the process and procedures requires to finalise the regulations took much longer.

The committee is informed that the department and Legal Aid South Africa sought the legal opinion from senior counsel

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which concluded that the existing legal aid guide would remain in force beyond the 28 February 2017 until such time that a new regulations and manual are made and published. However Legal Aid South Africa should take all reasonable steps to ensure that the new regulations and manual come into force as soon as possible on approval by Parliament.

The regulations are intended to provide the details on policy matters relating to provision of legal aid. in this regard the committee knows that the threshold that is applied to determine whether a person qualifies in terms of the means test has not been revised for sometime and urges the Minister to look into this.

The committee is of course concerned by the fact that as part of what you could call unintended consequences. Legal Aid South Africa services mostly covers criminal activities to the extend that the ordinary South Africans don't necessarily manage to always access legal services from Legal Aid South Africa taking into consideration the issue of women.

As we know we are now troubled as a country by the scourge of violence against women and children and we are therefore also

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cognisance of the fact that there are matters like for example when there is maintenance cases that women want to take to courts where you find that the man that actually has got the means might actually manage to afford legal services when the woman who is not having means would actually have to go into the court not legally represented.

We have actually urge LASA to actually made legal services available for matters of that nature and of course they are also looking into the possibility of looking at land claims so that they can actually assist South Africans who are actually trying to manage to access land. The report to be considered and I thank you, Chairperson.

Declarations:

Adv G BREYTENBACH: House Chairperson, the regulations of Legal Aid South Africa requires very little in the way of declaration or a vote. There are enabling regulations necessary in terms of section 23 (1) and (2) of Legal Aid South Africa Act requiring the Minister to table such regulations before Parliament for approval.

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Regulations once approved by this House will replace the outdated legal aid guide that came into operation from 01 March 2015 and this regulation should have been placed before this House somewhat earlier. The expiry dates in terms the act being 28 February 2017. While the delay is regrettable is not significant given the complexity and wide ranging subject matter thereof.

The regulations deal with day to day running of LASA and provide direction on matters as diverse as extradition maintain ace, domestic violence matters to asylum seekers and commissions of inquiry. If some of the members of the portfolio committee had managed to get their way, the regulations would have been expanded in order to make LASA responsible for providing legal aid and land claims matters as well. ... this was a burden that legal aid simply couldn't shoulder.

Ms E N LOUW: On a point of order, Chairperson.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon Breytenbach, please take your seat. Yes, hon Louw, what is your point of order?

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Ms E N LOUW: Hon Chair, I just want to check what the briefcase that the hon Minister of Finance has, could have been coming from Dubai?

The HOUSE CHAIRPERSON (Ms M G Boroto): Thank you very much. That is not a point order. Please, sit. That is a frivolous point of order and is a waste of time. Continue hon Breytenbach.

Adv G BREYTENBACH: Thank you.

The HOUSE CHAIRPERSON (Ms M G Boroto): I think you can ask him. Don't bring it here.

Adv G BREYTENBACH: Fortunately, they were persuaded that this was a burden that Legal Aid simply could not shoulder and, bearing in mind that land claims require a speedy response and resolved. It is clear that legal aid has neither the resources nor the capability of dealing with such issues.

Regardless of these issues, LASA remains a huge success story for the department. Lastly, thanks to the progressive

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leadership of Judge Dunstan Mlambo. The DA supports the regulations. I thank you.

Ms M O MOKAUSE: House Chairperson, the EFF rejects the draft regulations. Up to this point legal aid in South Africa has been governed by the legal aid guide prescribed in terms of the now repealed Legal Aid Act of 1969.

The legal aid guide has undergone a number of changes to make justice more accessible to the majority of those who don't have means to procure independent and quality lawyers for themselves but it remained an apartheid era.

We welcome therefore the promulgation of the Legal Aid South African Act of 2014 which came into operation with effect from 01 March 2015 and which prescribed the regulations we are now here to adopt.

Section 35 (2) (c) of the Constitution states that everyone who is detained or to appear in court has the right to have a legal practitioner assigned to them by the state and at the state expense. It is substantial injustice otherwise result and to be informed of this right promptly. So, ideally we

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should be welcoming any attempt to reform the legal aid guide which was at most an inherently inadequate measure to provide access to justice to everyone in South Africa.

But the draft regulations are not fundamentally different either. There is nothing in the draft regulations that seeks to deal with the problem of the quality of legal aid provided by the South African Legal Aid. Often times these services provided by legal aid have been of such poor quality and has led to the incarceration of who would otherwise not been incarcerated had they had a good quality lawyers. This then justify the wide held view by society that justice is only for those who have money and can afford good lawyers.

We also don't agree with the manner some of the sections of the regulations have been written which may suggest that granting of legal representation is conditional. Section 8 of the draft resolution state that legal aid South Africa must be satisfied on a balance of probabilities that bear is a good prospect of success before legal aid is granted and this is with respect to representation on bail hearing and review and on such matters.

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This would then mean that if LASA based on legal views that are not tested may refuse to appear in bail hearing, they think they will not succeed. This greatly violates the rights of those who don't have the monetary power to choose and pay for their legal representation.

We demand that access to justice must be open to everyone and no restriction irrespective of whether you do have money or not. We also demand that LASA must employ quality lawyers to represent ordinary poor South Africans. It is on this basis that the EFF reject these draft regulations. Thank you.

Prof C T MSIMANG: Chairperson, the IFP supports the regulations because it is very important that they exist as a guide in as far as who qualifies for legal representation especially, taking into consideration the plight of the impoverished majority of the citizenry.

It is also very important to seek clarity in this regard as it gives effect to the constitutional rights to fair trial where such aid is required and otherwise would not be affordable to individuals.

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As it stands, as a transitional arrangement, the new act provides that the existing legal aid guide will remain in force until it was withdrawn and replaced by regulations and the legal aid manual made in terms of the new act. However, because the deadline to publish the regulations within a period of 24 months after the act commenced was not met. Owing to that, the process to prepare and finalise the regulations took much longer than is the norm.

The threshold of the means test is one that is important to determine whether a person qualifies for legal aid and it is a great method to go about determining this. Therefore, the IFP supports the regulations. I thank you.

Mr S C MNCWABE: Hon Chairperson, Speaker and hon members, equal access to justice for all is a fundamental right enshrined in our Constitution. And it is a right which we must jealously guard.

Our painful past under the colonialism and apartheid regimes is a graveyard of miscarriage of justice and never ever must it happen again that justice only be accessible to a few at the expense of the majority. Legal Aid South Africa continues

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to perform exceptionally well in making sure that the poorest of the poor people in the country have access to legal representation.

During 2015-16, legal advice and assistance was provided in 749619 matters, 441 000 which were new legal matters and 300 were advised matters. In recent years, the case loads have increased as select civil cases, in particular, pertaining to family matters eviction, contract matters and employment matters. This has expansion into select civil matters was necessitated because it became clear that access to justice is not only confined to criminal matters but includes any matter where a travesty of justice would occur without adequate legally representation.

The NFP is disappointed at the lack of progress by the department to implement the provisions of the legal aid South Africa act and accelerate the repeal of legal aid guide and replace it with published regulations and legal aid manual within the timeframe stipulated in the act.

Chairperson, we have no doubt that Legal Aid South Africa will be able to function its normal way under the provisions of the

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legal aid guide. However, we do believe that finalising the regulations and the legal aid manual will enhance the service levels of the legal aid South Africa to the benefit of the people. Moreover, the new relations and legal aid manual will bring legal certainty to many of Legal Aid South Africa's initiative and sooner this process can be completed the better. The NFP supports this report.

Mr L K B MPUMLWANA: Hon House Chair, hon Speaker, hon Ministers and Deputy Ministers, hon members ...

IsiXhosa:

... nesizwe ngokubanzi, bhotani. [and the entire nation, good afternoon.]

English:

I stand here on behalf of the people's movement, the ANC, respectfully requesting that this House endorses these regulations. The Bill of Rights in section 35(2)(c) of the Constitution guarantees the right to legal representation for the arrested, the detained and accused persons at the expense of the state, where substantial injustice would otherwise result.

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These regulations are made in terms of Legal Aid Act, Act 39 of 2014, and an Act which replaces the apartheid Legal Aid Act, Act 22 of 1969. These regulations give effect to these obligations in the Constitution and go further in setting out the ways in which legal aid can assist in cases relating Land Reform Act, Act 3 of 1996, the Extension of Security of Land Tenure Act of 1997, the Prevention of Illegal Eviction from Unlawful Occupation of Land Act, Act 62 of 1988, which also provides for the assistance in cases relating to maintenance, domestic violence, harassment, divorce matters and other family matters.

The ANC, as known by everybody, has a history of looking after the interests of the oppressed and the disadvantaged people. This is why South African people always put their trust in the ANC. [Applause.] Some other parties try to emulate the ANC and of course they fail. The EFF is unfortunately rejecting these regulations. What does that mean? It means that ... And of course they contradict themselves. On the one hand they say they are helping the poor, on the other, the poor must not get money for civil cases because this is what these regulations are about.

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I know it is very easy to stand up and talk here. When people listening hear some other people's parties making noise, they think that they represent quite a number of people when actually not. It is only 1%, 6% and 5% of these people. These regulations ... [Interjections.]

Ms H O HLOPHE: On a point of order, House Chair! I am rising on Rule 68; Irrelevance. This member must continue with his speech ... [Interjections.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Order! Hon member!

Ms H O HLOPHE: ... And he must continue with his projects of signing 90 ANC MPs to the Public Protector. [Laughter.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Order! Hon member! Hon Hlophe!

Ms H O HLOPHE: He must not stand there and attack EFF. Rule 68 is irrelevant.

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon Hlophe, I will ...
Hon member, please proceed.

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Mr L K B MPUMLWANA: When you have nothing to say, you are allowed to it. [Interjections.] I want to congratulate ... [Interjections.]

Mr M Q NDLOZI: House Chair, on a point of ... [Interjections.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Order! What is the point of order, hon member?

Mr M Q NDLOZI: The hon MkhaliPhi was raising a point of relevance.

The HOUSE CHAIRPERSON (Ms A T Didiza): I heard, hon member MkhaliPhi. Can you please ... [Interjections.]

Mr M Q NDLOZI: Can you rule on that because this comrade is irrelevant?

The HOUSE CHAIRPERSON (Ms A T Didiza): Can you please take a seat, hon member? You know very well that this is a political debate. Your member too, did not only stick on the issue. I think it's important that we appreciate and listen to one another. [Interjections.]

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Mr L K B MPUMLWANA: I want to appreciate ... [Interjections.]

Mr M Q NDLOZI: It is not a debate but a declaration.

The HOUSE CHAIRPERSON (Ms A T Didiza): Order, hon member! Even with declarations, members express their views.
[Interjections.]

Mr M Q NDLOZI: This guy is irrelevant.

The HOUSE CHAIRPERSON (Ms A T Didiza): Can you please take a seat? Hon member, please proceed!

Ms H O HLOPHE: But Chair ... [Interjections.]

Mr L K B MPUMLWANA: I want to thank ... [Interjections.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon member, on the point of irrelevance, I have ruled. Can the member proceed with the speech? [Interjections.]

Mr J L MAHLANGU: On a point of order! [Interjections.]

Ms H O HLOPHE: But he is irrelevant.

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The HOUSE CHAIRPERSON (Ms A T Didiza): Can you please take your seat?

Ms H O HLOPHE: He must stick to his speech. He is very irrelevant.

Mr J L MAHLANGU: On a point of order! [Interjections.]

Mr L K B MPUMLWANA: I want to thank all the parties that ...
[Interjections.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Order, hon member!

Mr H P CHAUKE: House Chairperson, hon member Ndlozi, called the hon member here, this guy. In terms of Rule 82, it is inappropriate.

The HOUSE CHAIRPERSON (Ms A T Didiza): Thank very much ...
[Interjections.]

Mr H P CHAUKE: He must withdraw.

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The HOUSE CHAIRPERSON (Ms A T Didiza): Hon member, thank very much. Unfortunately due to noise levels, I will reflect on the matter and rule in the House. Can we please allow hon Mpumlwana to finish his speech?

Mr L K B MPUMLWANA: I want to thank all the other parties that have endorsed these regulations. It shows some kind of maturity and I respect that. [Applause.] The people of South Africa appreciate what we are doing for them and will always vote the ANC. I thank you. [Applause.]

**CONSIDERATION OF REPORT OF PORTFOLIO COMMITTEE ON JUSTICE AND
CORRECTIONAL SERVICES – DRAFT NOTICE AND SCHEDULE DETERMINING
THE RATE, WITH EFFECT FROM 1 APRIL 2016, AT WHICH SALARIES,
ALLOWANCES AND BENEFITS ARE PAYABLE TO CONSTITUTIONAL COURT
JUDGES AND JUDGES ANNUALLY**

Ms M C C PILANE-MAJAKE: House Chairperson, members, and members of the executive, good afternoon. The Portfolio Committee on Justice and Correctional Services, having considered the request for approval by Parliament of the Draft Notice and Schedule determining the rate at which salaries are payable to Constitutional Court judges and judges annually

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with effect from April 2016 referred to it on 24 January 2017, recommends that the House approves the Notice and Schedule.

The total remuneration package will include the following elements: a cash annual salary component of 72,24%, as well as a noncash component of 27,76%, which includes a motor allowance and an employer medical contribution. Perhaps I should just mention that when it comes to the motor allowance, the judges themselves actually have decided to downgrade their vehicles. The 250 judges that used to get S-class Mercedes Benzes and 7-series BMWs have now decided to downgrade to E-class Mercedes Benzes. In the total remuneration package, what is not included is the pension benefit, which is regulated separately by the Judges' Remuneration and Conditions of Employment Act, Act 47 of 2001.

I think it is important to note that Constitutional Court judges and judges have not received any increase in this financial year, as has been the case for Members of Parliament. I have heard a lot them saying: You are going to presenting this, but what about us? We didn't get an increase. Even the judges haven't been given an increase. The Chief Justice continues to get R2,7 million, and the ordinary judges

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will be at R1,7 million. I thank you, Chairperson, and present the report to be considered. [Applause.]

Declarations of vote:

Mr W HORN: Chair, in 1985, the United Nations adopted 20 basic principles on the independence of the judiciary to inspire the organisation and administration of justice in all member countries, enabling them to, through legislation, secure and promote the independence of the judiciary.

When adopting our Constitution, South Africa largely embraced and implemented these basic principles. Principle 11 states:

The term of office of judges, their independence, security, adequate remuneration, conditions of service, pensions and the age of retirement shall be adequately secured by law.

In this regard, section 176(3) of our Constitution declares that "the salaries, allowances and benefits of judges may not be reduced". The task to make recommendations in respect of increases to the remuneration packages is undertaken annually by the Independent Commission for the Remuneration of Public

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Office Bearers that last year recommended that, amongst others, the members of the judiciary serving in our higher courts should not be given an increase in remuneration.

Ordinarily, a proposal like this not to increase the remuneration of the judiciary should be reacted to like one would to a dead canary in a coal mine. The requirement of fair and adequate remuneration of judges is important, not only because a good salary may help attract the best-suited and qualified persons to the bench but, more importantly, also because it should make judges less likely to yield to either the temptation of corruption or to political influence and attempts at intimidation. In the times we live in, these are very important considerations. The requirement that judges be independent is not for the benefit of the judiciary therefore but, rather, for the benefit of society.

However, in respect of the 2016-17 year, the independent commission reported that in order to have made the aforesaid recommendation of no increase, it consulted with the Ministers of Finance and Justice and Correctional Services, as well as the Chief Justice. It further reported that the Chief Justice indicated that, given the sorry state of the country's

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economy, the judges' views were that they would sacrifice an increase in their remuneration. We are therefore satisfied that the no increase proposed here today, in respect of the salary of judges serving in our higher courts, is the result of an independent process and, ultimately, the product of an offer made by the judiciary in light of the prevailing economic situation.

However, I think we must all agree that next year, given the fact that the judiciary will in all likelihood be faced with a much higher workload next year in dealing with - and helping the country sort out - the mess caused by the so-called #GuptaEmails, a good increase in salary would be the right thing to do. I thank you. [Applause.]

Mr M Q NDLOZI: Chairperson, we have entered a period of normalised treasonous behaviour amongst the political elite - treason, of course, being the crime of betraying your own country. We have unpatriotic politicians with home addresses and bank accounts in foreign lands, acquired through corrupt means of selling state contracts to the Guptas. These people are willing to protect a state of normalised treasonous behaviour by defying, undermining, and even uprooting the rule

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of law. This means our constitutional order and democracy are under threat. Under these conditions, the independence of our courts is even more paramount.

When you have a captured president, a president who has outsourced his constitutional mandate and a party that does not comprehend the difference between majoritarian ...

Mr B A RADEBE: Chairperson, on a point of order: I rise on Rule 85. The EFF speaker has just said the President is "captured."

Mr M Q NDLOZI: Which president?

Mr B A RADEBE: He must come with a substantive ... there is only one President of the country. The country has one President. [Interjections.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon Ndlozi, you know that, in terms of the Rules, you cannot impugn on the member. If you have an issue that you want to raise based on a substantive motion, you can do so. For now, you should withdraw the statement.

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Mr T RAWULA: Chair, on a point order ...

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon member, I am still addressing your member at the podium. Please take your seat.

Mr T RAWULA: I want to talk exactly to that, Chair.

The HOUSE CHAIRPERSON (Ms A T Didiza): Please take your seat! [Interjections.] Thank you. A point of order was raised, and I was responding to that in my ruling. In respect of the statement that you made, you didn't say "alleged" but put it as fact, which is impugning on the hon member, as stated in Rule 85. In that respect, you would have to withdraw the statement.

Mr M Q NDLOZI: Two things, House Chair: I said "a captured president." I could have been talking about the president of the ANC, not the country. I could be speaking about the president of the medical society, and I said "a president". That is number one. You must bring a substantive motion for your point of order, not me.

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon member!

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Mr M Q NDLOZI: However, I don't mind telling the South African people that Jacob Zuma is a captured president.

[Interjections.] We don't mind saying that! [Interjections.]

The emails have proven beyond reasonable doubt that he is captured. He has sold his soul to the Guptas.

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon Ndlozi, can you please ...

Mr M Q NDLOZI: That behaviour by hon Zuma is treasonous. He has betrayed South Africa and the South Africans. With an address in Dubai, I mean, for real! [Interjections.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon Ndlozi, can you please ...

Mr M Q NDLOZI: What must I withdraw – the truth?

The HOUSE CHAIRPERSON (Ms A T Didiza): No!

Mr M Q NDLOZI: What?

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The HOUSE CHAIRPERSON (Ms A T Didiza): You, in your statement, even though you never mentioned which president but, in the context, it is very clear that you are referring to the President, and I am saying ...

Mr M Q NDLOZI: So, the President is captured - Zuma?

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon member, please withdraw. [Interjections.]

Mr M Q NDLOZI: House Chair, what is wrong with the word "captured"? What is insulting about that? I am not insulting him. I am characterising him - that he is a captured person. [Interjections.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon member! Hon Ndlozi!

Mr T RAWULA: Chair ...

The HOUSE CHAIRPERSON (Ms A T Didiza): No!

Mr M Q NDLOZI: You are suppressing debate!

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The HOUSE CHAIRPERSON (Ms A T Didiza): We are not suppressing debate.

Mr M Q NDLOZI: You are! What is wrong? What is insulting about "captured"? How can that word be banned?

Mr T RAWULA: Chair ... Chair ... Chair, may I rise?

The HOUSE CHAIRPERSON (Ms A T Didiza): I have noted you, hon member. Hon Ndlozi, can you please withdraw?

Mr M Q NDLOZI: Can I continue with my speech, Chair?

The HOUSE CHAIRPERSON (Ms A T Didiza): You continue to make inferences in your statement.

Mr M Q NDLOZI: But it is a debate! This is the House of ...

The HOUSE CHAIRPERSON (Ms A T Didiza): Can you please withdraw?

Mr M Q NDLOZI: This is the House of ...

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The HOUSE CHAIRPERSON (Ms A T Didiza): Hon Ndlozi, you know very well, in terms of the Rules, if you want to bring a substantive motion in the House, you do so appropriately.

Mr M Q NDLOZI: I am making a substantive argument, if only you would listen to me until the end ...

The HOUSE CHAIRPERSON (Ms A T Didiza): No, no! That is not allowed.

Mr M Q NDLOZI: ... you will hear that Jacob Zuma is captured.

Mr T RAWULA: Chair ...

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon member! Hon member, can you please ...

Mr M Q NDLOZI: That is treasonous. He has betrayed his country and the people. That is why we need to remunerate the judges so that they remain independent and they are not captured too. That is the argument I am making.

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The HOUSE CHAIRPERSON (Ms A T Didiza): Hon Ndlozi, do you want to withdraw or not? [Interjections.]

Mr M Q NDLOZI: No, I am not ...

Mr T RAWULA: Madam Chair ...

Mr M Q NDLOZI: I cannot come to Parliament and then withdraw the truth.

The HOUSE CHAIRPERSON (Ms A T Didiza): Please leave the podium, then.

Mr M Q NDLOZI: Maybe in an NEC meeting of the ANC, not in Parliament ... I am not ... [Interjections.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Would you please leave the podium?

Mr M Q NDLOZI: ... and be bullied to withdraw the truth.

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon member!

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Mr M Q NDLOZI: That is wrong! There is nothing wrong with the word "captured". [Interjections.] It is not an insult; it is a reality.

The HOUSE CHAIRPERSON (Ms A T Didiza): Serjeant-at-arms!

Mr M Q NDLOZI: You are captured! Jacob Zuma is captured!

The HOUSE CHAIRPERSON (Ms A T Didiza): Where is the Serjeant-at-arms?

Mr M Q NDLOZI: You are led by a captured president. How unpatriotic! [Interjections.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon Ndlozi!

Mr M Q NDLOZI: You don't take yourselves seriously, being led by a president who is unpatriotic like that - a captured president!

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon Ndlozi!

Mr M Q NDLOZI: No, I am not going to withdraw that, Chair.

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The HOUSE CHAIRPERSON (Ms A T Didiza): Please take your seat, then. Not there! Go back to your seat. [Laughter.]
[Interjections.]

Mr M Q NDLOZI: No, I still have three minutes.

The HOUSE CHAIRPERSON (Ms A T Didiza): No, you don't! You don't!

Mr M Q NDLOZI: But I still three minutes, House Chairperson. I want to finish my point.

The HOUSE CHAIRPERSON (Ms A T Didiza): Can you please ... where is the Serjeant-at-arms?

Mr M Q NDLOZI: You can't stop me from speaking on the basis of the word "captured". Hon Jacob Zuma is captured!
[Interjections.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Please switch it off. Hon member, you have actually committed a lot of transgressions. You have been asked to withdraw. You refused.
[Interjections.] You continued to speak when the Chair spoke

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to you. I asked you to withdraw several times. You refused and, therefore, you have disqualified your right to continue to address the House. [Interjections.]

An HON MEMBER: House Chair! House Chair!

The HOUSE CHAIRPERSON (Ms A T Didiza): You don't.

Ms H O HLOPHE: Chair!

The HOUSE CHAIRPERSON (Ms A T Didiza): If you wanted to exercise your right to speak for three minutes, you should have respected the Rules of the House. Thank you very much. [Interjections.]

Mr T RAWULA: Madam Chair, may I address you?

The HOUSE CHAIRPERSON (Ms A T Didiza): What is your point of order?

Mr T RAWULA: Madam Chair, you are out of order.

[Interjections.] Firstly, you have contravened Rule 63.

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Secondly, you have contravened Rules 82 and 85. There is nothing that refers to the Office of the President.

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon member, please take your seat. If you want to challenge the ruling by the Chair ...

Mr T RAWULA: The Rules refer to the impugning of a person!

The HOUSE CHAIRPERSON (Ms A T Didiza): ... you know exactly what to do. [Interjections.]

Mr T RAWULA: Chair, you have switched off my microphone. I am speaking.

The HOUSE CHAIRPERSON (Ms A T Didiza): If you want to challenge the ruling by the Chair, you know exactly what you have to do in terms of the Rules. I have ruled in respect of the matter ...

Mr T RAWULA: I am referring to the Rules that you are contravening.

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The HOUSE CHAIRPERSON (Ms A T Didiza): ... related to hon Ndlozi. Please take your seat. [Interjections.] Hon member, take your seat. Thank you very much. Proceed, hon Msimang.

Prof C T MSIMANG: Hon House Chair, the IFP wishes to commend our judges in South Africa ... [Interjections.]

Ms H O HLOPHE: Order Chair! You have also switched off my microphone.

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon MkhaliPhi, what is your point of order?

Ms H O HLOPHE: Chair, you have become a dictator on that Chair.

The HOUSE CHAIRPERSON (Ms A T Didiza): What is your point of order?

Ms H O HLOPHE: Chair, I am raising a point of order in terms of Rule 63 ... [Interjections.]

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The HOUSE CHAIRPERSON (Ms A T Didiza): I am listening to you.
What is the point of order?

Ms H O HLOPHE: A freedom of speech.

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon member, in respect
of what?

Ms H O HLOPHE: Chair, you are very, very, very inconsistent in
your ruling. Can I address you please? Can you give me time?

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon member, I have
asked you to say what is the point in which you are rising?

Ms H O HLOPHE: Give me a chance, listen and be patient.

The HOUSE CHAIRPERSON (Ms A T Didiza): Can you take your
chance and speak?

Ms N V MENTE: Yes.

Ms H O HLOPHE: Chair, I am saying that in the previous speaker
from the ANC when I stood up and I quote Rule 68 and I said to

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you that he is irrelevant and you said that because he is debating and I am out of order. However, when commissar Mbuyiseni is debating on the podium, you also have a problem with that. Why are you also bias in this House?

The HOUSE CHAIRPERSON (Ms A T Didiza): Can I tell you? Can you take a seat? No one has been biased. Your hon member was requested to actually withdraw a statement that he made - I think I was addressing one member and I was addressing hon Mkhaliphi - and the hon member refused. I asked him several times and he refused. That is why I asked him to leave his seat if he doesn't want. Can we now proceed? There is no point that was contravened in this matter. Hon Msimang! What is the point of order you are rising on?

Ms N V MENTE: House Chair, what is wrong with the word "capture"? There is no insult on capture.

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon Mente, can you please take your seat?

Ms N V MENTE: You asked him to withdraw on the basis of capture. What is wrong with capture?

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The HOUSE CHAIRPERSON (Ms A T Didiza): Can you please take your seat?

Ms N V MENTE: What is wrong with capture?

The HOUSE CHAIRPERSON (Ms A T Didiza): Can you take your seat?

Ms N V MENTE: You cannot dismiss us on the basis of capture. Capture is the word, it is not an insult.

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon member, can you take your seat?

Ms N V MENTE: Please, we have been insulted here people ... we were told that it is a political debate. Now, it is capture. Capture is just a word.

The HOUSE CHAIRPERSON (Ms A T Didiza): Can you then take your seat? Thank you very much.

IsiXhosa:

An HON MEMBER: Hayi niqalisile ke ngoku. Seniqalisile.

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English:

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon Msimang, can you proceed?

Prof C T MSIMANG: Hon Chair ... [Interjections.]

Ms H O HLOPHE: Order, Chair! Let us be patient with one another here because we need some clarity. Just explain to us, what is wrong with capture? Just explain because you are the Chair. You are supposed to guide this House. Don't be impatient sis Thoko, please.

Prof C T MSIMANG: Hon Chair, the IFP wishes to commend our judges in South Africa for leading from the front and walking their talk in respect of their 0% salary increase for the year 2016-17. This is the mark of a judiciary which is in touch with the realities on the ground; a judiciary which would rather that their increases go towards much needed service delivery for our poor and most vulnerable rather than into remunerating themselves.

Our judiciary continues to be a light amongst the darkness that threatens and to engulfing this land and this is not only

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through the sacrificing of their salary increases, but more importantly for the exceptional work they do each and everyday in our courts around South Africa. This is by enlarging a thankless and overwhelming job given the current time we find ourselves in. I thank you.

Mr S C MNCWABE: Hon Chair, the independence of the judiciary is a cornerstone of our democracy and nowhere is this independent tested more vigorously than in our Constitutional and Superior Courts. The NFP believes that adequate remuneration of our judges is an important aspect of independence of the judiciary as it leaves judges with financial security which frees them from independence and not be hold into any outside influence. Remuneration of judges is provided for in the Judges' Remuneration and Conditions of Employment Act of 2001 and assessed annually by Independent Commission for Remuneration of Public Office Bearers.

Currently, the total remuneration package for a judge of either the Constitutional or the Superior Courts consist of a cash annual salary component of 72,24% and the noncash component of 27,7% - the later as inclusive of a car allowance and medical aid contributions. The report of the commission on

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the annual remuneration recommendations for 2015-16 recommended an increase in the remuneration of judges of between 5% and 5,5% which was below the annual inflation rate of the country. For the year 2016-17, the commission announced its recommendations which included 0% adjustment for the next financial year for, amongst others, our judges of the Constitutional Court and Superior Court and in an unprecedented move the Chief Justice went public to announce that South African judges were willing to sacrifice an increase on their salaries in light of South Africa's struggling economy.

The NFP concurs with the portfolio committee the observations that the decision of the judiciary shows not only the responsibility of our judges, but also sensitivity. We agree that through its action, the judiciary is leading the way in belt-tightening to save resources in favour of the masses and the poorest of the poor and we commend them highly for it. The NFP supports the report. Thank you.

Mr N L S KWANKWA: House Chair, please protect me hon Mncwabe was trying to intimidate me then. Colleagues, I think we should discuss the principle here. We commend obviously the

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refusal or the decision of the judges not to take an increase last year. However, I think that the matter that we should be discussing here is that if you look at ...

IsiXhosa:

... kwaba

English:

... you considered last year like your regional court, President and others ...

IsiXhosa:

... abathe bonyuselwa...

English:

... it is problematic. They are not low income earners themselves. They should be able in light of what is happening in the country at some point to sacrifice salary increases as well. If the argument is that they are underpaid, so are our local government councillors at the bottom. If the principle is about closing the inequality gap between judges at the top and the magistrates and others at the bottom when salary

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increases are determined for public representatives, the same principle should apply. We can't treat, for example, our local government or brush them and tarred them with the same brush and say that ...

IsiXhosa:

... nabo bamnkela imali efanayo.

English:

So, those considerations should be made.

IsiXhosa:

Siyafuna ngakumbi ukuba...

English:

... that arm of government must not be captured. We are all at risk that we might be captured as well because we also control resources and make key decisions. Therefore, it means ...

IsiXhosa:

... xa sijonga ...

English:

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... these arms of government including the judiciary it must not be considered in isolation to what happens in other arms of government and the challenges that face the nation in totality.

IsiXhosa:

Bevuma bengavumi, bethanda bengathandi, inyaniso kaThixo bayayazi. Bendisandula kuthetha apha ...

English:

... with the Deputy Minister of Justice Correctional Services saying that if you look at starting from the magistrate, for example, it makes sense to say because ...

IsiXhosa:

... besezantsi kwaye behlawulwa kancinci, mabanyuselwe imali. Ngubani ke ngoku ekufuneka enganyuselwanga?

English:

Who is not supposed to be considered? This argument applies across the board. Therefore, it means when we reflect in future we must also consider that how do we close the inequality gap that exist within this various arms of

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government because there are different levels and different scales and different responsibilities which were discharged in terms of the very same Constitution in that. Minister ...

IsiXhosa:

... nditsho kuwe xa ndisitsho, musani ukukhetha apha. La masela!

English:

Thank you. We support the report. [Laughter.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon Kwankwa, can you come back to the podium and withdraw your last statement?

IsiXhosa:

Mnu N L S KWANKWA: Esiphi mama?

English:

The HOUSE CHAIRPERSON (Ms A T Didiza): Esi usitsho ngesiXhosa.

IsiXhosa:

Mr N L S KWANKWA: Sithini?

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English:

The HOUSE CHAIRPERSON (Ms A T Didiza): Samasela.

Mr N L S KWANKWA: Oh, grant me atonement I did not hear that.

The HOUSE CHAIRPERSON (Ms A T Didiza): Eish, Kwankwa!

Mr N L S KWANKWA: It is a withdrawal. Isn't it? I withdraw.

The HOUSE CHAIRPERSON (Ms A T Didiza): Thank you. Hon Bongo!

Adv B T BONGO: Hon Chair, the ANC understand the separation of powers meaning as the legislature as the one that makes the law, the executive administering the law and the judiciary applying the law. In applying the law, the judiciary will have to correct some of the things that the legislature and the executive does. That's our understanding.

Maybe, let me start with hon Kwankwa, you remind me when I was still doing standard seven many years ago when we were told that little knowledge is dangerous. It is dangerous in the sense that you know, the apartheid brought very serious challenges in this country. It brought serious disparities

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between the magistrates and judges in totality. But the ANC, having brought a constitutional democracy, it had to ensure that it grapples dealing with these disparities from the magistrates, regional judges and so on up to the Constitutional Court judges. It is against this background that we are faced with these challenges that we are faced with here today.

The matter today, it's not about magistrate but it is about Constitutional Court judges and other judges in the country. [Applause.]. I think that will be important.

Hon Horn speaks about the mess of the Guptas and why we must increase for the judges. I think the judges will have to take serious decisions around what has happened recently that the leader of the DA does not understand the Constitution of the DA. That's why he went into suspend Helen Zille, and hon Selfe had to go later and say, it's not a suspension, it's something else. So, I think the judges must have to deal with those kinds of issues going forward.

Hon Chairperson, as the ANC, we want to congratulate the Minister of Finance, hon Gigaba and the Minister of Justice

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and Correctional Services, hon Masutha for having interacted with a report. We must be very sure of this report. This report must be clear.

Parliament does not deal with remuneration of judges. It is a misnomer, hon Ndlozi, to think that Parliament deal with remuneration of judges. There is a body that is set by the President, which is called the Remuneration of Public Officer Bearers Commission. You understand that now. Part of its role, it looks at the role and the status of judiciary and responsibilities of office bearers, the inflationary increases, it looks at the availability of resources of the state and other relevant factors. So, they then present to the Minister of Justice and Finance whom will take the matter to the President of the Republic

So, hon President Zuma, His Excellency, had repealed Notice No. 235 published in the Government Gazette No. 39829 of 17 March 2006. In fact, we must congratulate the Chief Justice Mogoeng Mogoeng, who has said, given all the physical problems in the country, as judges they are taking responsibility just like any other state, Parliament executive of increase. So, they are refusing increase. They want everything to stay the

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same because they want to take responsibility. We need to congratulate the Chief Justice as it is. [Applause.]

So, this recommendation came as a result of a recommendation also from the Chief Justice himself. So, the misnomer and the misunderstanding that is displayed by the opposition parties, I think it is just misleading the people of this country and misleading yourselves. I am inviting you to come to the committee and engage on these issues more sharply so that you understand where we come from as we deal with this matter.

Mr M L W FILTANE: Point of order, Chair. [Interjections.]

The HOUSE CHAIRPERSON (Ms A T Didiza): What's the point of order, hon member? Hon member, what's your point of order?

Mr M L W FILTANE: Was the President able to understand such a complex matter?

The HOUSE CHAIRPERSON (Ms A T Didiza): Order, hon member.

That's not a point of order. Can you take your seat? Proceed, hon member.

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Adv B T BONGO: The President did understand such a complex matter because he is the President of the Republic unlike you before you came to Parliament; you were just an MEC in the Eastern Cape dealing with funerals and parties and weddings. So, the President is a season comrade. He served for 40 years in the NEC of the ANC not a simple ... You understand that.

Hon Chair, as the ANC, we fully support the judiciary in execution of its work. It's the ANC that brought a constitutional democracy in this country. We dare not failed to assist the judiciary where it needs to be assisted. The ANC support. Thank you very much, Chair.

Mr H P CHAUKE: Chair!

The HOUSE CHAIRPERSON (Ms A T Didiza): Order!

Mr H P CHAUKE: Chair!

The HOUSE CHAIRPERSON (Ms A T Didiza): What's the point of order, hon member?

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Mr H P CHAUKE: Chair, the speaker on the podium made a statement that someone has been running undertakers in the House here.

The HOUSE CHAIRPERSON (Ms A T Didiza): Order, hon member.

Mr H P CHAUKE: Is it parliamentary to have such people here?

The HOUSE CHAIRPERSON (Ms A T Didiza): Order, hon member. We did not hear that. We will consult Hansard. Can you take your seat?

The CHIEF WHIP OF THE OPPOSITION: Madam House Chair!

The HOUSE CHAIRPERSON (Ms A T Didiza): Order, hon member. Yes, what's the point of order?

The CHIEF WHIP OF THE OPPOSITION: House Chair, I am responding to the previous speaker. It will be appropriate to have undertakers in the House when you have dying puffins.

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon members, those are not points of orders. Are there any objections to the approval

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of the Draft Notice and Scheduled determining the rate, with effect from 1 April 2016, at which salaries, allowances and benefits are payable to the Constitutional Court Judges and Judges annually? [Interjections.] If there are objections ... [Interjections.] ... Does EFF objects? [Interjections.] The objection will be noted therefore.

Ms N V MENTE: Chairperson, please, we never objected. We will never object to the only arm which is serving this country. The justice system is the only arm that saves this country which is not captured.

The HOUSE CHAIRPERSON (Ms A T Didiza): Well, hon member, I will appreciate if member of the EFF who has just spoken should have also listen to some of the members of her party who actually said they are objecting. So, given that you are now correcting those members, you are now not objecting, agreed to. Yes, hon member. What's your point of order?

Ms E N LOUW: On a point of order, Chairperson. Hon Chairperson, I think it's wrong for you to speak on our behalf. No members have said they are objecting. So, please, don't mislead the House on our behalf.

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The HOUSE CHAIRPERSON (Ms A T Didiza): Hon member!

Ms E N LOUW: Don't ever do that.

The HOUSE CHAIRPERSON (Ms A T Didiza): I wish we were.

Ms E N LOUW: Don't ever speak on the grounds of EFF. We are the leadership of EFF and not you. Don't speak for us, please.

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon Louw, that's precisely why I was saying, your hon member who then spoke was correcting the chorus that came from your benches which we heard. Can we please move. Hon member!

Mr J L MAHLAGU: No, Chairperson, I think consistently members of the EFF continue to break Rule 67, whenever the Chairperson's speaks, they interrupt, and it's against the rule. I think they must be call to order.

The HOUSE CHAIRPERSON (Ms A T Didiza): Thank you, hon member. Indeed, your point is sustained. We have noted that and we will raise it with their Chief Whip. What is the point of order?

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Ms H O HLOPHE: Chair, I take offence on your last statement saying, there is a chorus on this side because when want to speak we stand up here and we speak. I think Chair, that is an insult to EFF caucus.

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon member, thank you very much. We have noted you. Can we move on point 12, which is the last Order of the day?

**CONSIDERATION OF REQUEST FOR PERMISSION IN TERMS OF RULE
286(4) (C) TO INQUIRE INTO AMENDING OTHER PROVISIONS OF FILMS
AND PUBLICATIONS ACT 65 OF 1996**

(Interim Report of Portfolio Committee on Communications on
Films and Publications Amendment Bill)

Mr C H MAXEGWANA: Thank you very much Chairperson. The Portfolio Committee on Communications is in the process of amending the Films and Publications Act 65 of 1996.

The committee has gone through a process of public hearings after the Bill was referred to it. In the process of the public hearings the committee realised that it may be

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necessary to amend other provisions of the principal Act which were not included in the Bill.

The amendments which the committee wishes to inquire into include, but are not limited to, the definitions sections 4 and 31. Members will recall that there are many definitions that we need to look into. The committee now seeks to amend certain other provisions of the principal Act and request the permission of the National Assembly in order to report on further amendments to the principal Act, other than those presented in the Bill.

National Assembly Rule 286 (4) (c) stipulates that when a committee deals with a Bill amending provisions of legislation and the committee intends to propose amendments to other provisions of the principal Act, the committee must seek the permission of the Assembly to do so, which we are now doing.

In light of National Assembly Rule 286 (4) (c), the committee hereby seeks the permission of the National Assembly to inquire into and amend additional provisions of the principal Act. That is the request that we place before the National Assembly.

There was no debate.

Declarations of Vote:

Ms V VAN DYK: The Films and Publications board Amendment Bill is a typical example of an increasingly poor approach that government, but specifically the Department of Communications, is following in the execution of its mandate.

Afrikaans:

Die vereiste proses kry voor dat 'n sosio-ekonomiese impakstudie eers onderneem moet word alvorens 'n wetsontwerp opgetrek of gefinaliseer kan word.

Soortgelyk moet daar konsultasie-prosesse plaasvind sodat die departement 'n behoorlike verstandhouding betreffende die omvang van die voorgestelde wysigings kan vasstel. Hierdie het nie gebeur nie en 'n wetsontwerp is aan die portefeuljekomitee voorgelê, wat nie opgetrek is met behoorlike oorweging van die groter prentjie nie.

English:

The socioeconomic impact assessment was approached as a mere formality; an ad hoc process which was undertaken after objection was made by the DA.

Afrikaans:

Dit is juis optrede van hierdie aard wat dui op 'n absolute vooropgesteldheid van die departement en regering om sekere doelwitte te bereik, en is doodeenvoudig swartregskepping.

Hierdie willekeurige proses wat gevolg is het verreikende gevolge aangesien dit bygedra het daartoe dat die wetsontwerp soos aanvanklik voorgehou is deur die Film-en Publikasieraad, nou in substantief ander dokumente uitmaak na al die wysigings wat noodgedwonge aangebring moes word.

English:

The DA proceeded to point out that this significantly different Bill will have to be reintroduced to the National Assembly in terms of Rule 286 (4) (c).

Afrikaans:

Ons sou graag substantiewe kommentaar wou lewer betreffende die wetsontwerp. Binne al die veranderings wat aangebring is,

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kan mens nie verkwalik word as mens nie meer die dokument herken nie. Die onderneming van impakstudies voor die voorlegging van die wetgewing sou baie tyd en koste bespaar het en sou seker maak dat die stem en bekommernisse van belangegroepe behoorlik artikuleer kon word.

Die DA het ook heelwat vrae gehad betreffende die impakstudie wat onderneem is en het herhaaldelik gevra dat dit ook aan die komitee voorgelê word sodat vrae rondom dit aangehoor en beantwoord kon word.

Inteendeel, ons beswaar in hierdie verband is reeds vroeg in die wetgewende proses duidelik gemaak en dit is beslis nie 'n kwessie wat ons ligtelik sal prys gee nie.

English:

The referral in terms of Rule 286 (4) (c) is long overdue and should have been done when it first became apparent that the Bill has taken a form different to that which was presented to this House. The DA as a party founded on the values of good governance and proper processes cannot support this Bill as it currently stands. It is the responsibility of government not to waste the time of this House and its committees by

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presenting substandard Bills for consideration. The absolute lack of care that has gone into the drafting and presentation of this Bill is a clear translation of the lack of respect that government has for the people of South Africa. The DA will not stand idly by while clumsy attempts are made to force substantial legislation through this House.

Afrikaans:

Hierdie wetsontwerp is nie opgetrek met die nodige sorg nie en die DA sal dit opponeer vir solank as wat die departement probeer om derderangse wetgewing aan die Parlement te smous. Dankie. [Applous.]

IsiZulu:

Mnu M HLENGWA: MaJoka ...

English:

I deliver these remarks on behalf of my colleague, hon Van der Merwe, who is a member of this portfolio committee.

One of the most important issues that this Films and Publications Amendment Bill deals with is the criminalisation

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in respect of the possession, production and distribution of child pornography.

Child abuse in all its myriad of forms continues in this country unabatedly. Our children deserve nothing less than the most stringent of our legislated protection. Our harshest criminal sanctions should be mandatory for anyone found to be involved in any of the aspects of this sickening industry.

IsiZulu:

Ngoba eyona nhlekelele ebhekene neNingizimu Afrika, mhlonishwa Sihlalo, yinkohlakalo eseyifike emazingeni aphezulu, lapho kuxhashazwa khona izingane ngendlela engagculisi esiyiziphendula izisulu zezigebengu nabantu abafuna ukuthi bazintshontshe ukuze bagile imikhuba nemigilingwane. Ngakho kufanele isandla somthetho siqinise ukuze sivikele izingane zaseNingizimu Afrika. Okwesibili nokubaluleke kakhulu owukuthi, nazo lezi zinto zezinkundla zokuxhumana [social media] seziphenduke izindawo lapho abantu besebenzisa khona ngesinxele ukuze izingane nazo zigcine sezi ngasaphephile lapha eNingizimu Afrika. Ngakho kubalulekile kakhulu ukuthi kuqinise isandla nanjengoba loMthethosivivinyo uphambi kwethu

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uzama ukwenza ukuze ngempela senze isibonelo sokuthi
sesikhathele yilolu dlame nalendlela abantu abaziphethe ngayo.

Kodwa, kuyaphoqa ukuthi nathi emiphakathini esihlala kuyo
siqinisekise ukuthi izingane siyazivikela nakakhulukazi abantu
besifazane siyabavikela ngoba nalento yokuntshontshwa kwabantu
bese beweliswa imingcele besuswa ngapha beyiswa ngapha. Konke
lokhu kungenxa yokuthi lobu bugebengu kusuke kubhekwe ukuthi
kuthathwe lama-video alenkohlakalo.

English:

Therefore, this interim report further deals with the request
by the committee in terms of Rule 286 (4) (c) for the required
permission of this House to inquire into and amend additional
provisions of the principal Act. The IFP therefore supports
the report and the request in terms of Rule 286 (4) (c).

Hon Chairperson, before I sit down I would like to invite all
of you to the next grand inauguration of Umzinyathi District,
because you had wanted to block Nquthu and to block
Umzinyathi. So since Nquthu is in the bag, you are all
cordially invited to the freedom day of Umzinyathi. Today was
the freedom day of Nquthu. So if there are any members who are

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interested in going there please let me know and I will make sure that you are there.

IsiZulu:

Niphinde nihlakazwe omunye umkhandlu futhi, sizoniphinda, ngoba siyonishaya oPhongolo. Ngiyathokoza Sihlalo. [Ihlombe.]

Mr M Q NDLOZI: Thank you very much hon Chairperson. I am back to the podium and indeed the EFF is not opposed to the request as reflected in the order paper. But we want the part of the considerations of the films and publications board to consider is the banning of the word captured on Parliament TV. But what is wrong with the people coming to view from their television screens, a publication of a true and honest debate about the character and behaviour of the President of the republic in relation to his businesses with the Guptas and his sons and the rest of other family members but also other members of the executive of the country. We want them to look into the fact that indeed these people are captured and this must be publicized on Parliament television so that our people can get the truth of how captured the leadership of the country is. Thank you very much. [Applause.]

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Mr M S MABIKA: Hon Chairperson, the NFP welcomes the interim report of the portfolio committee on communications tabled here today. The existing amendments to the Film and Publication Act are vast and far reaching but all directed in assisting the Films and Publication Board in executing its mandate to regulate the creation, production and distribution of films games and certain publications.

Chairperson, the stated vision, mission and values of the Films and Publication Board is clear and to the point. Society expects government to exercise some form of regulation to ensure that media entertainment content is of an acceptable standard and most importantly that our children are protected from evil of pornography which is increasingly becoming viral most noticeably on social media networks. The public is also entitled to meet a gaming content which embraces core values such as accountability, respect for human dignity, promoting social justice and above all is informed by integrity, professionalism and innovation. Chairperson, ...

IsiZulu:

... isigameko nje sayizolo eKZN lapho kudutshulwe khona abasolwa ababefuna ukuzitapela imali ebhange, sifika

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ngesikhathi lapho kunomdlalo okukhona umlingiswa obizwa ngoNkuzi ozitapela imali emabhange ngaphandle kokuphazamiswa. Ngakho-ke, le nto yenza ukuthi kube nesifundo esibi sokuthi ungaphila kamnandi ngokuthi uhambe uyothatha imali ungaboshwa, uphile kamnandi ube nabantu bakho abakusebenzelayo.

English:

The request by the Portfolio Committee on Communications today for permission to amend additional provisions of Films and Publication Act must be welcomed. The presentation of the Department of Communication to the portfolio committee on 16 May 2017 revealed that there are several concerns which are not adequately addressed in existing amendments currently under consideration. And it would be in the interest of the society if Parliament was to approve the request for permission to affect additional amendments. In conclusion Chairperson, the NFP supports the recommendation that Parliament approves the request by Portfolio Committee on Communication to further amends the Film and Publication Act. I thank you.

Isixhosa:

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Mnu M U KALAKO: Sihlalo weNdlu, njengoko ebesetshilo uSihlalo wekomiti, apha size kucela imvume yokuba uMthetho oYilwayo lo ubufakwe yikomiti utshintshe kakhulu ngexesha sibambe iimvakaliso zimvo zoluntu. Kubekho izinto eziliqela ezongezwayo nto leyo ethe yawutshintsha kakhulu kunalowo besiwufumene esebeni. Yiloo nto esebangela ukuba size apha ukuze sifumane imvume, siwuphonononge sikwazi ukubheka phambili.

Ukuba apha ePalamente singabawo umthetho othi xa usoloko ungayi kwikomiti kufuneka xa silapha ungathethi. Sithi neDA amaqela ekufanele ukuba ayathetha apha kuba andiwazi amanye amaqela kuba awayi ekomitini. Ifane ibe yiloo mbinana yamaqela amabini okanye mathathu ayayo kodwa ooNdlozi aba sabagqibela kudala. Kwedini Ndlozi ndiyakothuka ukuba uselapha.

[Kwahlekwa.]

English:

The HOUSE CHAIRPERSON (Ms T DIDIZA): Hon member, order!

Mr M Q NDLOZI: Heeey, Chair, on a point of order.

The HOUSE CHAIRPERSON (Ms T Didiza): Hon Kalako, can I remind you that in terms of our rules we need to be respectful to

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other members. Hon member Ndlozi is still a member of this House whether you say mister or honourable. But also the word nkwenkwe, you need to withdraw.

Mr M Q NDLOZI: Ja, you must withdraw that.

IsiXhosa:

Mnu M U KALAKO: Hayi kwedini ungakhe ulinge undikhombe.

English:

Mr M Q NDLOZI: Yes, you must withdraw because I will have to say kwedini as well.

IsiXhosa:

Mnu M U KALAKO: Hayi kwedini ungakhe ulinge undikhombe.

English:

The HOUSE CHAIRPERSON (Ms T Didiza): Hon Ndlozi...

[Interjections.]

Mr M Q NDLOZI: Do not say kwedini to me. Do not say kwedini to me. [Interjections.] Wena Mandela, you don't want to start.

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The HOUSE CHAIRPERSON (Ms T Didiza): Hon Ndlozi, you are indeed welcome back in the House after a long time but in terms of the statement of the member, I have advised him to withdraw both acts which were not supposed to be done - Hon Mente, he has not withdrawn because hon Ndlozi started engaging in the debate. Hon MkhaliPhi, wait a bit mama, I am talking to the member here on the podium. Can we please be respectful? Hon Kalako, can you please withdraw your statement?

Mr M U KALAKO: I withdraw Chair...

IsiXhosa:

... bendisatsho ke Sihlalo ukuba kubalulekile lo Mthetho oYilwayo siwukhawulezise ingakumbi ngeli xesha ...

The HOUSE CHAIRPERSON (Ms T DIDIZA): Hon Kalako, can you please take your seat? What is your point of order?

IsiZulu:

Nks M S KHAWULA: Bengithi mina into eyenzekile ukuthi kukhona le nto oyigqokile namhlanje okwakungafanele uyigqoke ngale

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kokuggoka le yobukhosi oyifakile. Uyabona ukuthi izinto ziyonakala la ngaphakathi.

English:

The HOUSE CHAIRPERSON (Ms T Didiza): Hon member can you please take your seat? Actually I should be asking you to withdraw that statement- can you take your seat? May you proceed hon member.

IsiXhosa:

Mnu M U KALAKO: Sihlalo, masibulele ukuba sinikwe ithuba nemvume siyile komiti lokuba siwuphonononge lo Mthetho uYilwayo ukuze siwukhawulezise kuba abantwana bethu bayaphela yile mikhuba yemifanekiso mibi yabantu abaze koomyayi. Kaloku abantwana bethu bayafikelela kule mikhuba kuba ifumaneka ngamaxabiso aphantsi kakhulu. Ngoko ke, siyabulela ngalo nto Ndlu yoWiso-mthetho.

Debate concluded.

The House adjourned at 15:59.