



**NATIONAL ASSEMBLY PROGRAMME COMMITTEE**

Chairperson:  
Speaker of the National Assembly

Committee Secretary:  
A Mbanga x 3218

**DRAFT MINUTES OF PROCEEDINGS**

Thursday, 28 January 2021 [Virtual Meeting]

Present:

T R Modise (Speaker)

Boroto, M G (House Chairperson)	Ntlangwini, E N
Dlakude, D E (Deputy Chief Whip of the Majority Party)	Ntombela, M L D (House Chairperson)
Frolick, C T (House Chairperson)	Papo, A H M (Parliamentary Counsellor to the Deputy President)
Hendricks, M G E	Pilane-Majake, Dr M C C (Programming Whip)
Julius, J W W	Shaik Emam, A M
Koornhof, Dr G W (Parliamentary Counsellor to the President)	Shivambu, N F
Lesoma, R M M	Singh, N
Majodina, P C P (Chief Whip of the Majority Party)	Swart, S N
Mazzone, N W A (Chief Whip of the Opposition)	Tsenoli, S L (Deputy Speaker)
Mkhaliphi, H O	Wessels, W W
Mulder, Dr C P	

Staff in attendance:

Ms P N Tyawa (Acting Secretary to Parliament), Mr M Xaso (NA Table), Adv. M Tau (Committees), Mr N Bell and Adv C R van der Merwe (Constitutional and Legal Services Office).

## **1. Opening**

The Speaker opened the meeting at 08:30 and welcomed all members.

## **2. Apologies**

There were no apologies.

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

The draft agenda, with the addition of the item 'President's State-of-the-nation Address' was adopted.

## **4. Consideration of minutes of meeting of 26 November 2020**

On the proposal of the Chief Whip of the Majority Party, supported by the Deputy Speaker, the minutes of 26 November were adopted.

## **5. Matters arising**

Ms Mkhaliphi requested progress on the further processing of the report on Filling of vacancies in the National Youth Development Agency (NYDA) Board. The Speaker said that Parliament had received a number of complaints around the process followed, including that it was unfair. When looking at the report of the Portfolio Committee on Women, Youth and Persons with Disabilities it was clear that there was not a fair representation of the youth. Subsequently, the National Assembly referred the report back to the committee for reconsideration. The Speaker stated that in her view the process should be restarted in order to ensure transparency and fairness in the process. Mr Xaso added that the committee had been provided with a legal opinion on the report and therefore the Programme Committee may recommend whether the process should be restarted or that the first report of the committee, as revised, could be referred back to the House for consideration.

House Chairperson Mr Frolick explained that the committee had deliberated on the legal opinion received in December, but that the Chairperson of the Committee had raised a number of issues which were of a political nature, which required further consultations. The option had been presented to the committee that it would be in the best interest of the National Assembly to restart the process.

After deliberations by members, it was **AGREED** that the committee should report back to the House as mandated, with the recommendation that the process would be restarted by the same committee. Members who had particular information of wrongdoing were also encouraged to submit substantive evidence around the process followed by the committee.

In response to a query whether the request that more opportunities be made available for smaller parties to participate in debates, the Chief Whip of the Majority Party indicated that as an interim measure, consideration would be given to increase the number of party motions for smaller parties to be debated in mini-plenaries on a particular day. It was proposed that according to the rotation system, four mini-plenaries a day would be considered, subject to confirmation by the Programme Committee.

## **6. Report by Committee Section**

Adv. Tau presented a report on matters before committees and highlighted the following:

- The *Ad Hoc* Committee to initiate and introduce legislation amending Section 25 of the Constitution postponed consideration of its report on public participation.
- Deliberations on the bill were scheduled for 9 and 10 February as well as 2 and 3 March.
- The Standing Committee on Finance intended to adopt its report on the South African Reserve Bank Bill on 17 March.
- The Portfolio Committee on Home Affairs would have a briefing on the Electoral Laws Second Amendment Bill on 9 February.

The Portfolio Committee on Justice and Correctional Services would be conducting shortlisting for filling of a vacancy in the South African Human Rights Commission on 10 February. The Chief Whip of the Majority Party made an appeal to the committee that it should adhere to the deadlines set for finalisation of amendments to the Domestic Violence Amendment Bill, Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Bill and Criminal and Related Matters Amendment Bill. Adv Tau reported that the committee would be receiving a legal opinion from the Parliamentary Legal Services on 16 February.

The Chief Whip of the Majority Party asked if legislation before the Portfolio Committee on Cooperative Governance and Traditional Affairs had any impact on the forthcoming Local Government Elections and whether such legislation would need to be fast-tracked. House Chairperson Mr Frolick indicated that a report on this matter would be made available in the following week.

The Chief Whip of the Majority Party also asked if there was any legislation before committees that may not meet Constitutional Court deadlines. House Chairperson Mr Frolick replied that, according to a discussion he had with the chairperson of the Portfolio Committee on Justice and Correctional Services, departments were taking too long to comply with those deadlines and, as a result, draft Bills were not tabled on time in order for Parliament to process them in time, thus shifting focus to the institution as if it had not complied with the order. He said that, as committees had the right to introduce committee bills, the National Assembly Table could seriously consider facilitation of processing of such legislation in the institution. The Parliamentary Counsellor to the Deputy President stated that the Leader of Government Business had also previously raised this concern in Cabinet meetings and indicated that there were processes in place to circumvent this issue and stakeholders in the Office of Leader of Government Business and various ministries were considering the matter. Mr Swart added that he had also raised this matter with the Chief Justice and that he made it clear that in terms of the Rules, Parliament could effect amendments through committee bills. Besides processing of the gender-based violence legislation, Mr Swart informed the committee that the Portfolio Committee on Justice and Correctional Services was prioritising the Correctional Services Amendment Bill which had a Constitutional Court deadline.

The Deputy Speaker advised that, whenever there were deadlines set by the Constitutional Court, Parliament should give the relevant department appropriate deadlines which they must meet, so as to allow the institution to consider processing a committee bill, should such a deadline not be met. The Speaker said she agreed with the sentiments that whenever legislation was sent back to Parliament, it remained the business of the institution to process it. Adv Van der Merwe explained that, through the guidance of the Programme Committee, Legal Services unit had since adjusted its opinion to chairpersons of committees that they should endeavour to comply with a judgment within a six months period so as to meet a set deadline. That entailed a decision between the committee and the Executive on whether a committee bill should be introduced or if the department would introduce a new bill. She, however, said that legal services would have more interactions with chairpersons of committees so that there was more decisiveness on whatever decision was taken on how the matter should be processed. Adv Van der Merwe also indicated that the biggest challenge with the committee bill was consideration of the policy that informs the bill, but that there should be continuous communication to ensure that undertakings by the Executive are met. Mr Shivambu also suggested that the CLSO should be capacitated and asked if there was a timeframe for assenting to legislation by the President, specifically when there were no constitutional concerns around it. He said that the delays in the assenting to legislation was in violation of Parliament's constitutional right to pass legislation as the issues that were cited as the reasons for the delay were merely political, which could have been raised during parliamentary deliberations before legislation was passed. The Speaker

replied that a legal opinion would have to be provided on whether Parliament can force the President to assent to bills within a stipulated timeframe.

On the issue of the synergy between Parliament and the Executive, Mr Singh said that a few members of the Executive had not complied with providing answers to a number of questions that had been posed to them in the previous year and requested that something should be done about that. The Speaker requested that the administration should follow up and provide a report on this matter.

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

Mr Bell presented a report on Bills before Parliament and indicated that seven Bills had been assented to by the President. The Road Safety Bill and Animals Protection Amendment Bill had also been certified for introduction.

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

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

Members' Training and Committees were scheduled from 26 January until 9 February.

The President's State-of-the-nation Address (SONA) was scheduled for 11 February at 19:00 in a hybrid Joint Sitting. The address would be followed by joint debates on the President's Address on 16 and 17 February, as well as the Reply by the President on 18 February.

Ordinary sittings were scheduled to commence on 23 February, in order to consider, among others, an urgent matter of national importance on the rollout of Covid-19 vaccines in South Africa and condolence motions for six members of the Assembly who recently passed away. The Budget Speech was scheduled for Wednesday, 24 February.

Mr Julius requested that dates for questions for oral reply in March be made available in the next meeting.

### *President's State-of-the-nation Address*

The Chief Whip of the Opposition expressed concern on the scheduling of a hybrid joint sitting for SONA as the country was in mourning and operating under the Disaster Management Act. She proposed that the President could just address the nation from his office and that this could

be broadcast to everyone. She said that, given the country's dire financial position and that every cent should be directed to the procurement of the Covid-19 vaccines, it was unnecessary to stage such an event in Parliament. Members could then attend a hybrid sitting to debate the address in the following week. Mr Swart indicated that he was in support of cutting costs by doing away with pomp and ceremonial activities associated with the event, but a situation whereby a hybrid sitting with a few members in the chamber would provide a sense of stability instead of having the President addressing an empty chamber. Mr Shivambu said that he was also of the view that the entire occasion could be conducted virtually instead of exposing members to the risk of contracting the virus by being in a crowded space. Mr Hendricks said it was important for Parliament to show the nation that it was doing its best to return to normality and that the institution had gone out of its way in ensuring that it was abiding by the Regulations.

Mr Julius noted with concern the calling of a press conference by presiding officers in order to outline arrangements for SONA without consulting members of the Chief Whips' Forum (CWF) beforehand. Mr Singh said that he was of the view that there had been sufficient consensus on the proposals regarding the arrangement of SONA and that the CWF had been advised the previous day that it would not be in violation of the adjusted National Lockdown Alert Level 3 Regulations if up to 50 members were to be allowed in the chamber. He added that SONA was a parliamentary occasion called by the President and that the IFP was in support of a hybrid system without any frills that were normally associated with the event. The Chief Whip of the Majority Party agreed with Mr Singh and stated that SONA could not be relegated to being a "family meeting". It was further stated that no parties would be forced to bring their members to the House.

Mr Wessels said that he was in agreement with sentiments expressed by other members, but asked why the sitting could not be avoided completely so as to avoid any form of risk as there was no participation of members on that day. He said that working from home was in the spirit of the Regulations.

The Deputy Speaker indicated that a line had to be drawn between the role of the CWF that considers the business of Parliament and the responsibilities of the Executive Authority as the leadership of the institution. Furthermore, he said that while consultation could take place within the CWF, there were instances where the final decision resided with the Executive Authority. He said that the role of the CWF was to merely make recommendations. In conclusion, he said that with 50 persons in the chamber all appropriate measures would be put in place. Mr Shivambu, however, said that the concerns raised were legitimate as the matter should be

viewed from the context that the CWF, is a consultative forum for all parties and it was in the middle of deliberating on the same issue.

The Speaker concluded by making the following remarks on the matter:

Presiding officers had in the past conducted a number of press conferences and an impression that permission had to be obtained from the CWF had never been created, hence in her view Mr Julius had crossed a line in raising the matter in the manner that he had done. Presiding officers had a constitutional duty to conduct the business of the institution as they deemed fit and were not required to always consult the CWF, though they always tried to do that in a harmonious manner. The role of presiding officers was therefore not a ceremonial one.

The President, as a head of state, had made a request to address the nation in Parliament and that this was a special annual occasion which was normally attended by dignitaries from the other arms of state. The sentiment that this would be viewed as an ANC event was not correct as the President was addressing the nation, as well as the international community. Every effort, however, would be made to ensure that the event was within the prescripts of the Regulations. It was also odd that parties who preferred to be on the virtual platform, and who were at liberty to do so, were trying to discourage other parties from attending the sitting. The event would be run in a restrained manner as Parliament was also in mourning for the number of members and staff who had succumbed to the virus. She also stated that there was no compelling reason not to hold the sitting in a hybrid manner and therefore the sitting, which annually brought all three arms of state together, should accordingly be honoured, though at a very minimal level compared to other years.

## **9. Announcements**

There were no announcements.

## **10. Closure**

The meeting adjourned at 10:22.