The House met at 15:03.

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

SUSPENSION OF RULE 290(2)(a)

(Draft Resolution)

The CHIEF WHIP OF THE MAJORITY PARTY: Deputy Speaker, I move that the House suspends Rule 290(2)(a), which provides inter alia that the debate on the second reading of a Bill may not commence before at least three working days have elapsed since the committee’s report was tabled.
for the purpose of conducting the second reading debate today on the Division of Revenue Bill. I thank you.

Agreed to.

REQUEST FOR LEAVE OF ABSENCE FOR HON TJ BONHOMME

(Draft Resolution)

The CHIEF WHIP OF THE MAJORITY PARTY: Deputy Speaker, the move that the House in terms of Rule 36 read with Item 7 of Appendix A to the Rules and not withstanding any provisions to the contrary grants hon T J Bonhomme, Member of Parliament, leave of absence from the House due to ill health until 30 June 2017. I so move.

Agreed to.

Consideration of Report of Standing Committee on Appropriations on Division of Revenue Bill

There was no debate.
The Chief Whip of the Majority Party moved: That the Report be adopted.

Agreed to.

DIVISION OF REVENUE BILL

(Second Reading Debate)

Ms Y N PHOSA: Hon Deputy Speaker, hon President and hon Deputy President in absentia, hon Ministers and Deputy Ministers, hon members and fellow South Africans.

It is my privilege to make a few remarks as I table before this House, a report on the 2017-18 Division of Revenue Bill on behalf of the Standing Committee on Appropriations, SCOA. The Division of Revenue Bill, 2017, was tabled by the Minister of Finance on 22 February, this year. We acknowledge that the budget was drafted within a very constrained fiscal environment. However, we believe this budget lays the basis for the implementation of radical socioeconomic transformation programmes
indicated in the state of the nation address delivered to this House by the hon President.

Our history as correctly described by Professor Ricardo Haussmann, a well known economist, was a historical accident of the different arrival of various groups of people at different times, each contesting the country was theirs, followed by the discovery of diamonds and minerals that resulted in diversity that created the economic base inherited in 1994.

This budget seeks to deepen and expand the gains we have made since 1994 through radical socioeconomic transformation of our country. I must also add that this budget is an outcome of extensive public participation process by the executive and Parliament wherein a wide variety of stakeholders was considered and it is a true reflection of the will people.

The 2017-18 budget will take us closer towards meeting the bold commitments outlined in the 2014 national government manifesto and 2016 local government manifesto of the ruling party, the African National Congress.
Indeed, this budget is one major bold step towards achieving the government priorities as flowing from the National Development Plan, NDP, the Medium-Term Strategic Framework, MTSF, and the nine-point plan.

The main budget expenditure has increased from R1 307 trillion for the 2016-17 financial year to R1 409 trillion for the 2017-18 financial year. The main Budget framework provides for average annual growth of 8,1% in the main budget allocations over the next three years.

Hon Speaker, over the period between 2017-18 to 2019-20, government is expected to spend R5,0 trillion relative to a revenue envelope of R4,6 trillion, however, it is important to note that most of these resources are allocated in the form of equitable share and conditional grant funding to all three spheres of government.

It is in this context that the ANC government continues to commit itself to a measured path of fiscal consolidation, which contains the budget deficit and
stabilises public debt through determination of spending ceiling for all spheres of government.

The committee welcomes the fact that accountability and compliance are improving in local government as evidence shows in the 2014-15 Auditor-General Report, where a clear consequence management and increased accountability in more than 50% of municipalities have been demonstrated.

The committee urges municipalities to find measures to deal with the increasing owed debt currently standing at R117 billion, as well as the need to find sustainable mechanism to resolve outstanding payment issues with Eskom.

The committee acknowledges the fact that the annual average nominal growth in the allocation to all three spheres of government is currently above inflation. Over and above, local government is still showing better increase of 2,5% in real terms which is driven by stronger growth in the local government equitable share allocation relative to local government conditional
grants, which are expected to grow marginally by 0.9% over the MTEF period.

Given the significant service delivery responsibilities of municipalities, the committee welcomes the relative priority given to resources allocated to local government. Furthermore, the increase in resources to municipalities, if spent effectively, should realise significant gains in terms of redistribution and access to basic service delivery for the poor households.

As quoted by the Minister in his Budget Speech, Pope Francis says, “Reforming the social structures which perpetuate poverty and the exclusion of the poor, first requires a conversion of mind and heart”. So, we are all called upon to change our minds and heart towards this Budget.

The committee welcomes the expansion of centralised procurement programme by the office of the Chief Procurement Officer for the purchasing of common goods and services with the intention to achieve savings, precisely to redirect the resources towards acceleration
of the basic services and we will closely monitor the progress in this regard.

The committee commends the efforts by government to ensure fiscal consolidation and better financial management without a negative impact on basic service delivery to our people. It is also important to highlight that some of these measures can only be achieved when there is much more effective intergovernmental fiscal relations, concerted efforts at reducing wasteful and irregular expenditure, promoting and enhancing efficiencies in government expenditure and co-operative governance amongst the spheres of government and departments.

The committee supports the new clauses in the Bill and believe that these will assist in improving consistencies and enhancing accountability in the delegations and assignment of powers by the accounting officers; and also reduce inefficiencies in managing conditional grants.

The committee also welcomes the reprioritisation of funds over the next three years to fund critical programmes,
which are basic education, higher education, health ... alright.

Hon members and hon Speaker, the 20 ... [Interjections.]

The DEPUTY SPEAKER: Deputy Speaker

Ms Y N PHOSA: ... Deputy Speaker ... it’s a prophecy maybe. The 2017 budget affirms government’s commitment to the principles of counter cyclicality, debt sustainability and intergenerational fairness.

Hon Speakers, the Standing Committee on Appropriations recommends that this House adopt the 2017-18, Division of Revenue Bill, without amendments.

In closing, I reiterate the Minister of Finance’s clarion call that: This is the time for activists, workers, businesspersons ... [Interjections.]

The Deputy Speaker: Your time has expired.
Ms Y N PHOSA: ... the clergy, professionals and citizens at large to actively engage in shaping the transformation agenda ... [Interjections.]

The DEPUTY SPEAKER: Hon member, no, your time has expired.

Ms Y N PHOSA: ... and ensuring that ... [Interjections.]

The DEPUTY SPEAKER: Drop it, hon member!

Ms Y N PHOSA: ... we have a just and equitable society. [Time expired.] [Applause.]

Dr M J FIGG: Deputy Speaker, the Bill before this House provides for the equitable division of revenue raised nationally among the national, provincial and local spheres of government; because South Africa cannot raise enough revenue to allocate to provinces and municipalities. The government has to borrow funds that future generations will have to pay. The government debt now stands at R2,2 trillion.
Projected revenues amount to R1,41 trillion and proposed expenditure totals R1,56 trillion. A further R149 billion will have to be borrowed to make up the shortfall thus increasing the government debt to R2,4 trillion.

After paying debt service costs of R169 billion, allocated expenditure shared between the three spheres of government amounts to R1,24 trillion. South Africa faces a number of economic challenges due to this clueless ANC government. The income growth is uneven; 35% of the labour force are unemployed; growth has been hovering around 0% and the gross domestic product, GDP per capita has declined since 2011 even though Minister Radebe bragged that the GDP has increased from R1,5 trillion in 1994 to R4 trillion currently.

We cannot support the Division of Revenue Bill because many local government grants will be reduced. These include: The R2,5 billion from direct grants and R189,3 million from indirect grants. The baseline of the Municipal Infrastructure Grant is reduced by R100 million. The Urban Settlements Development Grant’s baseline is reduced by R90 million. The direct component
of the Water Services; Infrastructure Grant is reduced by R400 million; and the Integrated National Electrification program is reduced by R30 million.

Also total conditional allocations for provincial grants are increasing at a decreasing rate. Some grants being revised downward are: The Human Settlements Development; Health Services Revitalization; Maths, Science and Technology and the Comprehensive HIV and Aids grants; Funds allocated for service deliveries are poorly managed by this ANC government.

The Auditor-General reported that irregular expenditure has increased by nearly 40% since 2014 to R46,36 billion. Six auditees were responsible for more than 50% of the irregular expenditure including the Passenger Rail Agency of South Africa and the Department of Water and Sanitation.

Fruitless and Wasteful expenditure also increased in 2016 by 14% to R1,37 billion. Six auditees were responsible for just over 70% of this expenditure; and again, the
Passenger Rail Agency of South Africa and the Department of Water and Sanitation were included in the list.

The Auditor-General rated the financial health of 76% of departments as either concerning or requiring intervention. The signs of poor financial management are apparent in the increasing inability to pay creditors within the 30 days.

Two departments, namely: Home Affairs R715 million and Defence and Military Veterans R428 million spent higher than their projected budget in third quarter of last year, while Higher Education R3,1 billion, Cogta R3 billion, Basic Education R2 billion and Social Development R1,1 billion spent significantly less than projected.

The root causes of the aforementioned weaknesses in financial and performance management are poor human management and the absence of sanctions for transgressions or fraud. We are in this situation because the ANC governs. Looking to my right at the ANC benches it looks more like a retirement village. These old people
put the ANC first. These old people put President Zuma first. These old people put the Guptas first.

The ANC should also be ashamed of themselves for putting hon Molefe, a man alleged to have been involved in corrupt activities with the notorious Guptas, in the same seats as Nelson Mandela and Kader Asmal amongst others. You have a President who has no clue what his Nine-Point Plan is, so how is he going to implement it. This man enjoys a corrupt relationship with the Guptas.

This privileged family has undeservedly accumulated wealth of R10 billion. Instead of one foreign family benefitting, ten thousand South Africans could have become millionaires. The solution to revive the economy includes DA. The D stands for Debt reduction and the A for Artisan development. A Skilled labour force is necessary to be productive in order to grow into a globally competitive manufacturing economy. You need people who have capabilities, desire and the will to add value.
Finally, two weeks ago we celebrated 20 years of our Constitution. Former President Nelson Mandela once said: that our constitution will help us forget our horrible past but as long as we have President Zuma, we will have a horrible future. I thank you. [Applause.]

The DEPUTY SPEAKER: Hon Paulsen, just one second. There are a few other members here who have not indicated whether they are going to come and speak like hon Paulsen. I didn’t have his name here. Please can we do that? Can the members who are going to speak just follow the list?

Mr M N PAULSEN: Thank you, hon Deputy Speaker. Good afternoon old people. [Laughter.] We came here last week to debate South Africa’s fiscal framework and the revenue proposals, and we illustrated that structurally, the fiscal framework in its current form is incapable of solving socioeconomic challenges, which we face as a country. And the Division of Revenue we are debating is a clear illustration of the problem of policies that are inherently incapable of solving our problems.
As long as we continue to allocate only 9% to the most important sphere of government, local government, a fraction of R1,5 trillion budget municipalities will remain in the state of dysfunctionality.

A Division of Revenue Bill that only allocate 9% to local government with a flawed understanding that municipalities must raise most of their revenue but the majority of these municipalities do not have a functional economy, is misguided and perpetuate apartheid economic and spatial structures. Municipalities cannot charge for services from people who are unemployed, in poverty and forgotten.

Municipalities cannot collect rates and taxes from people who do not have properties, are landless and receive no services. It is like trying to squeeze water out of a stone. Municipalities cannot facilitate any economic development when there is no economy to speak of anywhere.

It is for these reasons that not only will municipalities remain in the state of dysfunctionality but more and more
politically motivated service delivery protest will become even more violent. It is now more evident than ever that the current Division of Revenue formula has failed.

When few out of the 278 municipalities are in a position to raise some revenue, and even if they do it, is always the case that more people need services but very few can contribute to the revenue, things are not working.

The EFF calls for an immediate realignment of the allocation of the Division of Revenue for municipalities’ allocation to increase from 9% to at least 45% of the revenue raise nationally. The EFF calls for municipalities to get more money to build an internal capacity in order to abolish tenders. Municipalities must employ cleaners, security guards, artisans, engineers, and surveyors instead of outsourcing these roles. For ones we agree on something with DA in terms of building capacity.

The EFF calls for additional funding for municipalities to build the necessary infrastructure to build roads and
water infrastructure, deliver electricity and sanitation, and build houses for our people.

The EFF calls for provincial and national government including state-owned entities who owe municipalities billions to pay or else the National Treasury must put before the House, deductions on the equitable share of each of these municipalities.

The EFF further calls and reiterate for free basic services funded through the Division of Revenue Act to increase to ensure free water, electricity and sanitation is afforded to as many of our people as possible.

Without proper and substantial realignment of the Division of Revenue linked with building state capacity, the Division of Revenue in its current form cannot help to address socioeconomic challenges facing the country.

Thank you very much.

**IsiZulu:**

Mnu M HLENGWA: Ngiyathokoza ukukosha ithuba mhlonishwa Sekela Somlomo,
English:
The equitable division of revenue between the three Spheres of government and in line with the President’s so-called radical economic transformation directive and the National Development Plan, NDP, together with the slow growth of the economy as well as the education and other socioeconomic crises in the country, must all inform how fiscal monies are spent in 2017. The IFP has stated before and states again before this House that the current paradigm of government expenditure being informed by the supersession of wants over needs instead of needs over wants will do nothing but eventually economically obliterate this state.

The irony of course is that everybody knows now it is common cause that R246 million was spent to build a homestead in Nkandla for the President but the biggest irony is that the municipality of Nkandla with 13 wards is only given a budget of ± R150 million. So it just tells the extent of the commitment of this so-called government here on our right where wants are prioritised over the needs of our people. If you are able to go and build a house for R246 million for one of the villagers
there and the then the rest of the people in Nkandla you expect them to access development with R150 million.

It tells you about the problems of the funding model and how municipalities are in fact being set up for failure so this really in itself requires a moment of reflection about the national priorities and whether the ANC is fit for purpose and fit to govern but as things stand now ...

IsiZulu:
Ungaze uthi impela ...

English:
... you must pack your bags and ship out. Corruption remains rife in all levels of government and until this government draws the line in the sand which says: This far and no further and carries with it the attendant serious and long-term criminal consequences, corruption will continue to flourish in this country. So much money goes to the pockets of friends and cronies. So much money is spent irregularly. So much money is wasted, money really which should be going towards development. So all the intentions and all the plans may all be good and well
but the taste of the pudding is in the eating. And it really now needs to arrive at a point where consequence management becomes a priority in order for us to safeguard the public purse.

So we hope that government departments and their entities will take the duty of the spending seriously and do so within the confines of the law. Let us actually relook at the funding model which is there. In conclusion, the IFP wants to reiterate its support to the Minister and Deputy Minister and we are confident that with both of them at the helm of National Treasury they will rescue us from this quagmire of thievery which seeks to be the norm in the country. Thank you Deputy Speaker.

Mr A M SHAIK EMAM: Deputy Speaker, hon members in this House, guests in the gallery; The NFP welcomes and supports the approval of the Division of Revenue Bill tabled here today. We note that the central tenure of the Bill includes measures to protect spending on core social obligations and applaud the Minister for tabling a Budget that essentially pro-poor. We are also satisfied that the Bill continues to emphasise reprioritisation within the
existing fiscal envelope, so as to ensure that the state’s policy objectives are met despite the constraints of a lower expenditure ceiling.

Whilst we accept that the Minister had to reprioritise spending in a hostile economic environment, we are concerned by the reduction of conditional grants. The NFP expresses concern that despite the issue of the scholar transport system being addressed previously it has not been sorted out and the issue at hand I think is whether it falls under the Department of Transport or the Department of Basic Education. But the consequence has been that over tens of thousands of learners were not able to access this scholar transport especially in areas like the Eastern Cape. Another matter for concern is the equitable share allocations specifically to provinces which do not cater sufficiently for districts resulting in poor service delivery, this must be addressed and allocations distributed in such a manner so as to ensure that districts function optimally. The words “radical economic transformation” appears to be on the lips of many a politician but in reality it will only be a dream
unless drastic implementation mechanisms are put in place.

An ideal example is the fate of 20 000 people living in an informal settlement in the Hout Bay area who have been there for many, many years and now we continue talking about more and more informal settlements, upgrading informal settlements, that is not what our people want. What our people want is decent housing. They want to live with dignity. The NFP believes that a reduction in these vital grants now will have a negative impact on service delivery in years to come. Our people are crying out for adequate and accessible clinics and classrooms at grassroots level yet we just now find out that in Manenberg a school is about to be closed and people are striking demonstrating already because of what is happening without any consultation with the people on the ground already with over 50 learners in one particular classroom. Finally, amongst the many commendable recommendations, we also concur with the recommendation that the National Treasury, in partnership with the Financial and Fiscal Commission, research and develop instruments and mechanisms that will allow for the ring
fencing of budget allocations for government departments and entities to pay their outstanding municipal debts and municipal services. The NFP believes that such ring-fencing of budget allocations will go a long way to ensure that money is spent where it is intended for, rather than being swallowed up in a bottomless pit which is rife. Thank you.

IsiXhosa:

Mnu N L S KWANKWA: Siyabulela Sekela Somlomo ohloniphekileyo, anisokuze nisifumane kuthi isiXhosa esithi, siniqhwabela izandla. Ngunotshe lowo, intombi kaNtosho eNgcamngeni phantsi kwentaba kaNdoda.

English:

The UDM supports the Division of Revenue Bill.

IsiXhosa:

Nixwaxwa ninjalo.

English:
Needless to say, this Act determines the equitable division of national raised revenue among the three spheres of government.

IsiXhosa:
Ndifuna siyithethe ngolwimi lwenkobe sithi kudala siyithetha le nto, sineminyaka sithetha ngale nto yokufumanisa ukuba imali eya koomasipala ayonelanga. Sinezizathu ezibambekayo kolu luvo.

English:
It is hopelessly inadequate for a number of reasons. We make this point knowing that over the past three years ...

IsiXhosa:
... ukuba uyijongile noko ukhona umnyinyiva ngendlela ekhuliswa ngayo. Ingxaki ngoku niye nithi kwaba masipala nibekke amaqabane enu [cadre deployment]. Emva koko aba masipala baye bangakwazi ukusebenzisa le mali, niphinde nibethe abantu ngeempazamo zenu. Naba ngoku bexhwithana uMphathiswa uDes van Rooyen noMphathiswa uPravin Gordhan Uthi omnye uyisaphi le mali, uyayithoba, athi omnye
I do not know whether you are fighting about grants or fighting for positions. The other very important factor which concerns us greatly as the UDM is that when you look at the conditional grants at the local government level is when you compare their growth over the medium-term budget is 6,8% as opposed to the provinces which are 8,6% over the same period.

Now, it is difficult to say that the local government level sphere is the focus of the government over the next few years in terms of being able to improve how they function because capacity will only improve when you do away with cadre deployment and employ competent people. [Interjections.]

We are also deeply concerned to hear that the bucket eradication system grant ends in 2016-17.
IsiXhosa:
Sekela Somlomo kuza kufuneka ukuba undikhusele kuba andiyazi ukuba batheni ndibe ndithetha inyaniso.

English:
That remaining projects will be in 2016-17 completed through existing grants such as the Regional Bulk Infrastructure Grant and the Municipal Water Infrastructure Grant will cause in our view government to loose focus on this important task of eradicating the bucket system which has serious implications for human rights.

IsiXhosa:
Sithi siyi-UDM siyanixhasa kulo Mthetho oYilwayo wokoHlulwa keMali qha zilungiseni ezi zinto kuba kufuneka niyiqondile into yokuba aba masipala bethu ...

English:
... have a limited revenue raising capacity.

IsiXhosa:
Asinyanzelekanga sakunibonisa kanti.
Afrikaans:
Adv A DE W ALBERTS: Adjunkspeaker, terwyl ons elke jaar hier staan en min of meer dieselfde tipe begroting en verdelings debatteer, tel die VF Plus egter seismiese lesings op wat tekenend is van makroskuiwe onder die oppervlak wat die land kan oorrompel. Daarom praat ons nie vandag oor syfers nie, maar oor dié seine wat dringende aandag vereis.

English:
Minister, it is our duty to make this House aware of two major trends which, if ignored, can lead to catastrophic consequences. We also need to emphasise that this is a global movement, as witnessed with Brexit, the election of Trump as US President, as well as growing nationalism in Europe.

These events are in reaction to liberal and progressive ruling elites that have lost touch with regular people.

Afrikaans:
Teen dié agtergrond is die verdeling van inkomste ’n sinvolle metafoor vir die verdelings in ons land. Al hoe
meer belastingbetalers bevraagteken die morele
verpligtiging om belasting te betaal. Belasting word
ingevorder op ’n aggressiewe wyse, maar word verdeel vir
corrupte owerhede wat nie dienste kan lewer nie. Almal
word geraak, maar natuurlik word die armstes onder ons
die meeste geraak. Beide die belastingbetalers en die
armes ervaar al hoe meer die groeiende afstand tussen
hulle en die regerende elite aan hul sakke en hul lywe.

Hier is groot seismiese verskuiwings aan die gang. Aan
die een kant probeer belastingbetalers, swart en wit, al
hoe meer om belasting te vermy. Aan die ander kant vra
die armes waarom hulle enige hoop het vir ’n beter lewe
in die toekoms. Beide die tendense bearbei Suid-Afrika
vir ’n revolusionêre omgewing. Daar is natuurlik sekere
mense wat graag ’n revolusie wil sien gebeur in Suid-
Afrika, maar ons weet die meeste mense in Suid-Afrika is
verdraagsaam teenoor mekaar en smeek om ’n toekoms waar
daar ’n beter lewe en plek vir almal is.

English:

However, this government has to take note of the
following questions circulating in the minds of the poor
and the taxpayers of this country. They ask the following questions, amongst others: Must I pay tax if corruption has become endemic to government? Must I pay tax if government cannot protect me on the farm or in the city where I live? Must I pay tax if government cannot guarantee SA Social Security Agency payments to the poorest of the poor? Must I pay tax if it empowers government to expropriate my possessions without compensation?

The poor asks the following: Do I have hope that I will ever see a better life without poverty? Will I ever be safe from murder and mayhem, even though I am poor? Finally, both the poor and taxpayers ask a fundamental question to the government of this country: Do we need to abide by the law if the President has set an example of wilful disregard of the law by defying the findings of the Public Protector on the Nkandla matter until forced to abide by the Constitutional Court?

Unfortunately, it is evident that the disconnection between the government and the regular people of this country is growing fast. Thank you.
Ms M N S MANANA: Deputy Speaker, the 2017 Division of Revenue Bill has been crafted in an environment of exceptionally difficult domestic and global economic conditions and geopolitical dynamics.

Over the past years, we have witnessed a deepening narrow and conservative position, one that seeks to preserve narrow national interests against the greater collective good of building a more equitable economic global order. This has mirrored the politics within specific countries in the European Union economic bloc and the United States. The policy direction of a new US administration, the outcome of the UK vote to leave the European Union, and the upcoming elections in France and Germany are contributing to the global uncertainty, given that these developments directly involve four of the world’s largest economies.

The 2017 Budget proposals seek to maintain a balance between government spending commitments, particularly in higher education, health and social protection, and ensuring the long-term health of the public finances. These measures are aimed at contributing to the vision of
the National Development Plan, the principles contained in the job drivers of the New Growth Path and investment in the productive sector of the economy.

The division of revenue prioritises and protects social spending consistent with government’s unwavering commitment to look after the social needs of the most vulnerable citizens. The Budget continues to be pro-poor. Health, social grants, and basic education have been protected, with increases in social grants – something that we know reduces poverty.

The 2017 Budget proposals seek to make a balance between spending commitment, particularly in higher education, health and social protection. The Constitution sets out specific criteria for the sharing of raised revenue between national, provincial, and local government spheres. The Division of Revenue Bill introduces various new grants and initiatives to ensure that our fiscal consolidation does not negatively impact on social spending and protection.
The introduction of the early childhood development grant will go a long way towards ensuring that the children of the poor are developed sufficiently as early as possible in life. We welcome the grant for learners with profound intellectual disabilities. This grant will help to expand access to education for learners with intellectual disabilities.

With regard to the division of revenue at national level, we note the proposed increase of R5 billion for higher education and also welcome the pilot project for the mixed funding scheme to accommodate the missing middle. We welcome the baseline increase for the National School Nutrition Programme, which will take into account inflation and expand access to nutrition in public schools for children from poor economic backgrounds.

We further welcome the social work employment grant. This grant will go a long way in addressing the backlog in the number of unemployed social work graduates. We further welcome the termination of the national health insurance programme’s direct grant. The ANC supports the Bill.

Thank you. [Time expired.] [Applause.]
The DEPUTY SPEAKER: Hon Carter, as you come along ... members, I would like you to join me in acknowledging the presence in the gallery of a delegation from the House of Representatives of the Federal Republic of Nigeria which met us yesterday to discuss matters of mutual interests and means to consolidate our diplomatic relations between us. Welcome, hon members. [Applause.] Thank you. Hon Carter?

Ms D CARTER: Hon Deputy Speaker, the Division of Revenue Bill is essentially a Money Bill that gives effect to a constitutional imperative - the equitable division of revenue raised nationally, amongst all three spheres of government. To be able to divide revenue one must first raise it and collect it. To raise sufficient revenue commensurate with the needs of our country - we need a growing economy, given our growing population and our continuing challenges of poverty, our growing unemployment and increasing inequality - let alone the need to address our past.

Instead of creating conditions conducive to growth, the ANC have created conditions for disinvestment and
stagnation. We need growth. And if any Minister says, “Leave us alone”, they are actually saying that South Africa should be left alone because they are only here for themselves, to eat their own meals and let the rest of South Africa starve. Yes, Minister. Instead of creating the capacity to collect all revenue due to the national fiscus - thanks to Mr Zuma, we have a Commissioner of SA Revenue Service, Sars, who is hell-bent on white-anting the organisation. He is undermining the authority of the Minister of Finance, in fact defying the Minister and destroying its capacity to collect revenue due. This is why we have seen that refunds have not being paid out. The only rational explanation for Mr Moyane’s actions and Mr Zuma’s tacit support points to nefarious ends – the aiding and abetting of tax avoidance and criminality.

We have organs of government at war with each other and a President who is intent on fostering it. Society sees what’s going down at Sars. The compact between taxpayers and government that was built up during the Mandela and Mbeki eras with the assistance of the then Minister Manuel and the then Commissioner Gordhan is now being
undermined. Government’s immorality under Mr Zuma’s leadership is affecting the tax morality of the taxpayers.

Government must take note of the growing calls within society to withhold their taxes. A tax revolt is becoming real. Once collected and allocated in terms of the Division of Revenue Bill, government has a moral and legal obligation to ensure that all revenue and the resultant expenditure, all assets and liabilities, are utilised in the national interest and in an efficient and effective manner.

Society also sees how Mr Zuma’s government does not act in the national interest and how revenue allocated is misspent. One need to look no further than the despicable SA Social Security Agency, Sassa, debacle, the continual crisis at PetroSA and SA Airways, failing service delivery and the dysfunctionality of many departments, SOEs and municipalities. How much longer are we going to throw good after bad? [Time expired.]
Mr S N SWART: Hon Deputy Speaker, the Division of Revenue Bill must be seen against the Budget and is inarguably one of the most important Budget Speeches since 1994 that the Finance Minister Pravin Gordhan has in our view gone a long way to stimulate economic growth, restore investor confidence, and of course, avoid the ever-looming sovereign ratings downgrade. Obviously, the question that I want to put is whether he will have the necessary support to implement his proposals, given the political pressure he is facing from within and outside his party.

We from the ACDP would urge him, the Deputy Minister Jonas and National Treasury to stand firm against those seeking to remove him and gain control of National Treasury for their own nefarious purposes. It is time for the looters to be looted and the poachers poached. It is time for those attempting state capture to be captured themselves.

Of serious concern is the estimated R30 billion shortfall in revenue collection for the past financial year. The question is to what degree this can be attributed to new management at Sars, and of course the loss of experienced
senior managers. We know that the Division of Revenue Bill allocates funds amongst the three spheres of government. The 2017 Budget lowers the spending ceiling by R10,2 billion for this financial year and R15,9 billion for the next financial year.

National Treasury has indicated that over the medium term there were certain additions to provinces and municipalities to serve growing populations, namely R7,3 billion to the provincial equitable share mainly for education and health and R5,1 billion for the local government equitable share for basic services and that, obviously the ACDP welcomes.

We also note in terms of the Standing Committee on Appropriations’ Report on the Division of Revenue Bill, the usage of incentive grants to improve spending performance for provinces and municipalities. This is a positive development as these include performance measures following the committee’s previous recommendations in this regard.
There are also new conditional grants, namely the social workers employment grant, the early childhood development grant, and a learners with profound intellectual disabilities grant, which we from the ACDP support. Sadly, we note the downward revision of allocations for grants for Human Settlements and the eradication of the bucket system. We agree on the committee’s demand for timeframes to complete this latter program of eradication of the bucket system. Having read the Standing Committee on Appropriations recommendations on the Division of Revenue Bill, we are broadly in support thereof. I thank you.

Ms D Z SENOKOANYANE: Hon Deputy Speaker, the Finance Minister’s tabling of the 2017 Budget Speech has provoked a lot of debate and engagement among different sectors of society. Public representatives and government employees have invested interest as it impacts on their work. The Division of Revenue Bill, by its nature, in a democratic government is aimed at ensuring equitable division of nationally raised revenue among the three spheres of government. Coupled with this is the focus on economic transformation, a challenge that has been with us for 20
years in an attempt to reverse the evils of apartheid where only a few benefited from the country’s resources - although some would want to give an impression that this came about because of the ANC-led government. This selective amnesia is never going to help as people of this country are not stupid. In order to achieve economic transformation, it is imperative that economic growth is realised. But unfortunately our economy has not been positive recently.

However, in spite of the challenges, it is still important to utilise the scarce resources in a manner that addresses the challenge of poverty, in particular. In order to contribute to economic growth, provinces and municipalities need to be more creative in their ways of working such as forming partnerships in order to promote efficient utilisation of resources and avoid implementation of parallel, yet similar projects.

The tax structure focuses on equity and efficiency while keeping in mind the promotion of economic growth. Raising tax for high income brackets is the way to go while also guarding against high tax to lower income groups. The
corporate tax, on the other hand has to be in line with the current economy but tax avoidance should be monitored closely.

One of the highlights of the Budget is the level of redistribution which targets real areas of need rather than just random allocation contributing meaningfully to the transformation agenda. We are going to see a pattern where resources will be redirected to the poor in rural communities in order to close the gap between the wealthy and the poor. It is not a secret that the wealth of this country continues to be in the hands of a few while the masses live under dire circumstances and many of this people do not play any role in giving back to the communities. Those in the upper middle class have benefited from this economy and should therefore do the right thing and plough back into the national fiscus so that more can be redistributed to areas of real need. What better way than to increase their income tax?

Budget and fiscal allocation is not one of the easiest processes as government does not have unlimited resources and it requires capable individual to have the interest
of the people in mind. One of the realities is that we have municipalities which are simply unable to sustain themselves through no fault of theirs and we dare not abandon them when it comes to resource allocation. Urban municipalities are more viable and have the capacity to raise revenue and carry out numerous functions while the smaller rural ones have no revenue base, thus cannot move forward on their own.

It is an expectation that municipalities provide free basic services to poor residents and build infrastructure and provide other municipal services. Municipalities, in particular, have an obligation to finance many of their programmes but there is a positive bias towards poorer municipalities in order to take them along, bearing in mind that this is aimed at servicing communities.

Budget allocation to provinces in terms of equitable share also reflected a trend which responds to the real need for services. In the process, poor and rural provinces tend to benefit more in that allocations, taking into account the demand for services. We all know the status of services such as health care and education
at rural provinces, including high poverty rates. This are the often left-out communities which those who claim to be advocates for the poor have no interest whatsoever in them. These are the communities which parties such as the DA have no time for as their interest is only in the metros for obvious reasons, of course.

In spite of the limited resources and making cuts in some budget items, the Division of Revenue Bill is such that it protects social expenditure and the potential for employment creation becomes a reality. Economic transformation has always been part of ANC-led government but some will conveniently behave as if it is a new concept and because they hate it and the word ‘radical’ seems to have brought about even more negativity. We do need to change the face of the South African economy so that we can achieve inclusive growth which goes hand in hand with transformation. Yes, we have repeatedly spoken to this concept and we shall continue to do so, no matter what the fat cats and surrogates think or want.

*IsiZulu:*

Ngeke sizwe ngabo.
So, many articles have surfaced in the media, each one allocating radical economic transformation in their own definition on the basis of some crazy imaginary observations - things they claim are happening within the ANC. How long can this aspect stoop? Where the ANC economic policy is heading cannot be any of their business, unless they want to make a contribution.

Once upon a time there were these very greedy apartheid agents who were the only beneficiaries of this country’s economy and they just cannot take it that this pack has really been removed and they have to share what they always believed they were entitled to. So, they will kick and scratch to try and change the status quo at all costs. [Time expired.]

Mr A R MCLoughlin: Deputy Speaker, it is a matter of great concern to the DA that the allocation to municipalities in this year’s division of revenue has remained at 9,1% of the available sum.
Most municipalities have experienced falls in their collection rates and sales of water and electricity in recent years which has forced them to reduce their budgeted operational and capital expenditure.

Every South African citizen lives within the borders of a municipality and, for many; their municipality represents government, as the municipality is their sole interface with government. Municipalities are expected to provide an ever increasing quality and, in many cases quantity, of services to an ever increasing number of residents, whether on a charged for basis or on a free basis as is the case with registered indigents. Municipalities are also expected to absorb the often substantial cost of stolen water and electricity.

Despite these challenges, National Treasury has inexplicably decided that it will make life even more difficult for municipalities when, in fact, it could and should, have rallied to their assistance. In the past, Municipalities were required to provide a minimum of 8% of their annual budgets for asset maintenance. This was
difficult enough as it had to be funded out of the municipalities’ own revenue.

While that revenue has contracted due to the poor growth rate of our economy over the past several years, National Treasury has increased the burden by insisting at maintenance of municipal assets now be provided for at the rate of at least 8% of the net value of those assets, placing an arguably impossible task in the hands of most municipalities. Even utilising the new municipal standard charge of accounts, this stipulation could easily more than double a municipality’s maintenance bill which can only be funded out of the pockets of Ratepayers.

What makes the situation worse is that no grant funding is provided for maintenance. Although many municipal assets are supplied at the expense of the national or provincial department, the burden of maintenance is left with the municipality and whose jurisdiction the asset is situated, leaving non indigident residents of that municipality to foot the bill. Municipalities provide merely all of the chief drivers of our national economy and these needs to be recognised.
When the DA takes over national government in 2019, we will ensure that municipalities receive properly apportioned and adequate funding. [Interjections.]

[Applause.]

Ms M C C PILANE-MAJAKE: Deputy Speaker!

The DEPUTY SPEAKER: Hon McLoughlin, please take your seat. What are you rising on hon member?

Ms M C C PILANE-MAJAKE: Deputy Speaker, is the member of the DA ready to take a question and to agree that there are other illusions ... [Interjections.]

The DEPUTY SPEAKER: No, no, no, no, hon member, don’t ask a question.

Ms M C C PILANE-MAJAKE: ... they are pressing a panic button to the public ... [Interjections.]

The DEPUTY SPEAKER: Don’t do that. Hon member you are not allowed to be doing what you are doing. Hon member, proceed.
Mr A R MCLOUGHLIN: Deputy Speaker, I will reiterate, when the DA takes over national government in 2019, we will ensure that municipalities receive properly apportioned and adequate funding. The result will be inter alia that not would indigent citizens receive complement or free basic municipal services; but, also that the cost of maintaining expensive and essential municipal assets is not fair to be shifted onto the shoulders of the already over taxed municipal residents. I thank you.

Mr N E GCWABAZA: Deputy Speaker, Ministers and Deputy Ministers hon members, we would like to draw the attention of the House to the technical error in schedule 3 of the Division of Revenue Bill, which we discussed in the committee yesterday and agreed that it should be submitted as part of the report of the committee. The Deputy Minister of Finance will speak to that as well.

The Division of Revenue Bill 2017, once again, shows that over 60% of the nationally collected revenue is allocated to the provincial legislatures and municipalities. While this Bill indicates a reduction in the spending ceiling for all the three spheres of government, the actual
spending on the priorities of government as spelled out in the Medium Term Strategy Framework, and further articulated in the January 8 Statement of the ANC, the President’s state of the nation address and the Minister of Finance’s Budget Speech have not been adversely affected.

The reduction in the expenditure ceiling is part of fiscal consolidation, one of whose aim is to cut down spending on non essential items and to increase and strengthen spending on the reprioritised priorities of government.

IsiZulu:
Ukwenza umzekelo nje sifuna ukutshengisa lokhu ngokuthi kukhona imali eyengeziwe yengqalakufunda kwezingane eseyifinyelele ku-R1,6 billion kulonyaka wesabelo sezimali. Kanti kunjalo nje kukhona imali entsha engango-R591 million eyabelwe ukuthi kuqashwe osonoNhlalakahle kuthuthukiswe nenhlalakahle yemndeni.

Okusha obekungakaze kwenzeke okwenzekile manje kule-Division of Revenue Bill, imali engu-R72 million ngowe-
2017-18 izokhula ibe-R220,8 million ngowe-2019-20
eyabelwe ukwenza ngcono ukufunda kwalezi zingane
ezingasheshi ukubamba imfundo ezikoleni. Loku-ke kuzosiza
ikuthi lezi zingane zingasaleli emuva kozakwabo.
Kutshengisa ngokusobala ukuthi uhulumeni we-ANC uhulumeni
onakakelayo nothanda abantu baseNingizimu Afrika,
iakahulukazi intsha nezingane ezincane ezisakhula.

English:
The fast growth of local government equitable share and
direct and indirect grants is responding to the need to
shift financial resources from urban municipalities with
a strong revenue base to the poor rural municipalities
with the aim of improving the delivery of basic services
to the poor and rural communities.

The large amounts of equitable transfers and grants to
the sub national spheres of government impose the
imperative for integrated planning, implementation and
monitoring in order to deliver better service and achieve
the intended expenditure outcomes. This calls upon the
national departments to strengthen oversight and
monitoring in the spirit of co-operative governance and intergovernmental fiscal relations.

Section 42(2) of the Constitution allows for strong fiscal relation among the three spheres of government. Equally, Parliament and Provincial Legislatures must co-operate through their committees to step up oversight on all departments and municipalities in pursuit of better quality of services.

The special focus in the ANC’s January 8 Statement, the sona on the radical socioeconomic transformation means that infrastructure spending of R950 billion as allocation in the Division of Revenue Bill and the R500 billion government spending on goods and services, and the expropriation of land must serve as catalysts towards achieving the transfer of ownership, control and management of the means of production in a manner that creates decent work and reduces inequalities.

We wish to highlight the fact that 45% of infrastructure spending is driven by state-owned enterprises 20% by provinces and 18% by municipalities. Thus importance of
integrated planning and execution, accountability and strong oversight cannot be over-emphasized. We emphasize that the ANC government is committed to ensuring that communities see and feel the impact of resource allocation benefit from government spending. The ANC supports the Division of Revenue Bill 2017 and we request that Parliament passes the bill. Thank you. [Applause.]

The DEPUTY MINISTER OF FINANCE: Hon Deputy Speaker, hon members, good afternoon. Let me just draw your attention to the technical error in the Bill which is captured in the report of the committee. The technical error relates to the omission of zeros from the municipal codes in Schedule 3 of the Bill. All municipal names and allocations are correct but the zeros had been omitted. That has now been corrected by the committee.

The Bill before the House today is the central pillar of the Budget that the Minister of Finance tabled on 22 February. It provides concrete measures towards advancing our objectives of promoting transformation and growth. To realise the vision of the Constitution, South
African needs transformation that opens a path to inclusive growth and development.

The Budget plays a central role in facilitating transformation and promoting redistribution and directing resources towards areas in which we could catalyse investment in human and physical capital.

The context within which the Bill is tabled has been well articulated. Firstly, our gross domestic product, GDP, growth has been slow at only 0.3% in 2016 and the surge of right-wing populism in the developed world poses new risk to the global economic outlook.

Lower economic growth has contributed to tax revenue that is significantly below what we had projected in last years’ Budget. At the same time, we need to ensure that the country’s borrowing path remains sustainable. We are already spending more on interest payments each year than we do on transfers to local government. All of this means that we have reduced the fiscal space in which we can act. At the same time, the tough economic climate increases the needs of the poorest and the most
vulnerable in society which, in turn, means increased demand for government resources.

In responding to the debate, I will essentially focus on three areas. The first is the fact that the Division of Revenue Bill reflects the difficult trade-offs that we had to make. On the one hand, several conditional grants have had their allocation reduced relative to the forward estimates published in the previous year’s budget. Contrary to what many of the members have said here, a serious discussion and consideration was made about the impact of that reduction and its possible negative impact.

At the same time, the Division of Revenue Bill includes significant resources that have been reprioritised towards provinces and municipalities over the Medium-term Expenditure Framework, MTEF, period. About R7,3 billion has been added to the provincial equitable share for Health and Education; R390 million has been added to the National School Nutrition Programme; R5,1 billion has been added to the local government equitable share for free basic services to cater for the rapidly growing
number of households; and R1 billion has been added to the Integrated Electrification Programme.

So, if you take overall view of the Division of Revenue Bill, transfers to provinces have grown on average by 7.5% per annum. Transfers to local municipalities have equally grown contrary to what people have been saying here. If you add to the revenue of municipalities, their own revenue, the total share from all revenue by municipality runs up to 25% of the total revenue. This is very significant. So the impression that we are driving an austerity budget is unfounded.

The second area that I would want to focus on is the redistributive nature of the Bill. Redistribution of resources is important for building social solidarity in our country. With our high levels of inequality and social economic division that still reflects deep scars of our apartheid past, this becomes very critical. Constructing a more equal society requires raising revenues from the privileged in the tax system and investing that revenue for the upliftment of the disadvantaged.
While roughly 70% of taxes are raised in our metropolitan areas, the eight metros collectively received a share of the division of revenue equal to the share received by the 61 most rural municipalities put together that account for only 5% of our tax revenue. The allocation per household to these rural municipalities is more than twice as large as the allocation to metros. Allocations to provincial governments are also significantly larger in provinces with more rural populations.

The third area is the spending support for inclusive growth. The impact of spending depends on the effectiveness of choices provinces and municipalities make in drawing up and executing their budgets. Non-priority spending must be reduced. In this we are encouraged by reductions in noncore spending that provinces have already achieved and planned to extend. Our scarce resources must not be diverted to enriching a few well-connected individuals. Procurement reforms will assist in this regard. Municipalities, in particular, need to prioritise spending on maintenance so that the infrastructure that we have built continues to deliver services in support of growth.
The second area obviously involves looking beyond the fiscus. Provinces and municipalities must also look beyond fiscal transfers for ways to stimulate inclusive growth. They should build partnerships with local businesses, communities, state-owned entities and other private investors to catalyse investment in their areas. They must provide services and facilities that make it easier to invest in new businesses. A cost-of-doing-business study conducted by World Bank shows there is significant scope for our cities to improve in this area.

Municipalities must also mobilise additional resources through borrowing. They should also use the fiscus to catalyse private investment in areas of infrastructure and in many other areas where it would traditionally only be the public sector that invests. We must even say that the core of the programme moving forward remains ...

[Interjections.] ... and transformation at the same time. Thank you very much. [Time expired.] [Applause.]

Debate concluded.
The Chief Whip of the Majority Party moved: That the Bill with technical corrections be read a second time.

Question put.

Division demanded.

The House divided.

[TAKE IN FROM MINUTES].

Question agreed to.

Bill, with the technical corrections, accordingly read a second time.

CONSIDERATION OF REPORT OF PORTFOLIO COMMITTEE ON HOME AFFAIRS – ON REFUGEES AMENDMENT BILL

There was no debate.

The CHIEF WHIP OF THE MAJORITY PARTY: I move that the Report be adopted, hon Deputy Speaker.
Ms D CARTER: Hon Deputy Speaker, in terms of the programme adopted on 9 Thursday and is reflected even on the systems right in front of us. Okay, it is not reflected on the programme. I believe it there was consultation in the House yesterday for us to have a debate on this issue today. We were not consulted and other smaller parties were also not consulted, including the FF, who unfortunately left. I really want to make a plea to this House, giving everyone in the House a fair opportunity to participate, to move the item below the line to the next sitting of the House.

The DEPUTY SPEAKER: Hon ... Yes, what are you rising on, hon member?

Ms D DLAKUDE: Hon Deputy Speaker, consultation was made yesterday in the House and also in the Chief Whips’ Forum. We had an agreement. The 10 other parties are represented by two Whips in the Chief Whips’ Forum, who are supposed to go back and report to them. I thank you, hon Deputy Speaker. If they were not here, it’s not our problem. Thank you. [Applause.]
Ms D CARTER: Hon Deputy Speaker!

The DEPUTY SPEAKER: Yes, hon members! Hon Carter, do you still want to pursue this?

Ms D CARTER: Just for information purposes, the Chief Whips’ Forum takes place this morning. So, a decision was taken this morning that it must be debated today. It is not fair. People’s lives are affected by this Bill. It is not fair. So, the Deputy Chief Whip’s reaction to say that it was in the Chief Whips’ Forum this morning is not sufficient. It is not hood enough. When I spoke to hon Bhengu earlier, he apologised.

The DEPUTY SPEAKER: Okay, hon members, can we agree that the Chief Whips’ Forum will ensure that such displeasure doesn’t arise so that we attend to those matters properly next time.

There is a debate and we will now follow that. In fact, my earlier comment needed to go via the debate.

[Interjections.] Okay, no sorry. No, this is confusing.
Hon members, there is a small confusion in the documentation and the guide.

Motion agreed to (Economic Freedom Fighters dissenting).
Report accordingly adopted

SECOND READING DEBATE – REFUGEES AMENDMENT BILL

The DEPUTY MINISTER OF HOME AFFAIRS: Deputy Speaker and hon members, this being a debate on the Refugee Amendment Bill, I have requested that the bulk of my speaking time be reserved to the end of the debate so that I can respond to any of the members’ questions and queries.

I think I will use the rest of this minute to thank those members who are participating in the debate upfront and thank them for their support for these rather technical but important amendments to the Refugee Act. Thank you very much.

Mr B L MASHILE: Deputy Speaker, I would like to thank members for being here to listen to this particular debate and thank the guests present today. The portfolio
committee received the Refugee Amendment Bill as referred by the Speaker for consideration and reporting on 16 September 2016.

The committee received briefing from the department on 11 October to get the main reasons why the Act should be amended. The committee then advertised the Bill to invite the public to make submissions or representations. By the closing date of 28 October 2016, we received 20 written submissions. During public hearings on the Bill, nine organisations and individuals were invited for engagement on the Bill.

I just want to indicate that the Refugee Act presents a system in which people that are running for their lives from original countries are accepted into South Africa. Those who qualify are then granted refugee status.

In South Africa we need to indicate that this particular system, up to now, is being abused by economic migrants. We need to tighten this particular Act to ensure that genuine asylum seekers are catered for through this system.
The Bill was drafted in response to challenges including issues of abusing asylum system, corruption and ensuring that there was an increase in efficiency of workforce.

There were challenges with the previous two amendments to the Refugees Act, amended in 2008 and 2011, but these two amendments were not brought into effect because of certain challenges. These challenges prevented the Department of Home Affairs from implementing them.

The 2016 amendment Bill seeks to bring into operation both the 2008 and 2011 Acts. The 2008 amendment dissolved both the Standing Committee for Refugee Affairs and the Refugee Appeal Board and thus introduced the Refugee Appeal Authority, RAA. It entrusted the RAA with the power to deal with reviews and appeals.

The 2011 amendment introduced, for example, the Status Determination Committee, in anticipation of fighting corruption. All these legal challenges had to be corrected.

Prior to 2011, the finalisation of an application for refugee status could take about six years or more. This
resulted in a huge number of pending applications. In 2011, the Department of Home Affairs set a benchmark of prioritising application of asylum to be finalised within three months.

The Asylum seekers system continues to be abused as a de facto means of obtaining legal residence in South Africa by those without imminent threat to their lives. To address this, the Department of Home Affairs introduced the three member status determination committee in order to fight corruption. However, there were no resources available to operationalise the 2011 amendment. Due to resource constraints, the Department of Home Affairs thus intended to move away from the status determination committee and return to a single Refugee Status Determination Officer.

The Supreme Court of Appeal in the Watchenuka case decided that asylum seekers could work and study whilst awaiting finalisation of the refugee status and that this could be allowed in certain circumstances. The big problem arose from the fact that over 90% of asylum applications were rejected. For that reason, the right to
work and study has been revised because they are seen as incentives to apply for asylum.

Courts were correctly guided by the Constitution when interpreting the Refugees Act and regulations, however the provision of full legal avenues, work and study opportunities for a growing magnitude of unwarranted asylum applications was unsustainable and at odds with the objectives of the immigration legislation which provides for work and study Visas to be applied for from outside the country.

The 2016 Refugees Amendment Bill seeks to provide, among other things, measures to combat fraud and corruption in refugee reception offices, in the Servicemembers Civil Relief Act and in the RAA, for the re-establishment of the Servicemembers Civil Relief Act and to confer additional powers on Servicemembers Civil Relief Act, and for the withdrawal of refugee status in respect of categories of refugees.

Some changes were made to definitions: The definition of dependant was amended, immediate family was removed,
permit was changed to visa, the definition of Servicemembers Civil Relief Act was inserted and SDC was removed.

There was a huge interest in this Bill although many were raising immigration related issues. During the public hearings, many of the organisations were worried of the following: The expansion of the grounds of disqualification from refugee status; the grounds to loose refugee status; requirement of an asylum seeker to report to a refugee reception centre within five days of entry into the country; rejection of the application on the basis of false, dishonest or misleading information; right for one member of RAA or Servicemembers Civil Relief Act to consider an application or appeal; and the department busy with a migration policy while making changes to the Refugee Bill.

The committee sought legal advice on international instruments relating to refugees, and it was clear that states have different circumstances and the international instruments had to be adapted in its domestic laws. The committee agreed that the Department of Home Affairs
having been classified as a security cluster department, had to ensure that all people, including foreigners, are protected while in the country.

The committee raised an issue on what the difference between a refugee and an economic migrant is since it appears to be that the majority of the people who come to South Africa are economic migrants. Clarity was provided that the Immigration White Paper aimed to provide special dispensations for Southern African Development Community citizens to regularise their stay in South Africa and thus reduce the majority of the asylum applications by those that were actually economic migrants.

Committee members indicated that their constituencies complain about South Africa’s porous border and thus South Africa supported measures to only allow genuine refugees to gain this status.

Members suggested that the minimum qualifications for the chairperson and members of the Refugees Appeals Authority should be specified; reasons or requirement that could be met in order to appoint a non-citizen in terms of section
8(e)(a) should be elaborated on. They also suggested that the minimum qualifications for the chairperson and members of the Refugees Appeals Authority should be included in the revised regulations to the Act.

The committee sought clarity on whether this Amendment Bill would come into operation first and, as a consequence, operationalise the 2008 and 2011 Amendment Acts which had been on hold. Reference was made to the short title as follows: This Act is called the Refugees Amendment Act 2016 and comes into operation immediately after the commencement of the Refugees Amendment Act 2008 and the Refugees Amendment 2011. The other two amendments would be brought in force through reference made in the proclamation to be made by the President on the 2016 Amendment.

All questions were clarified by the department and the importance of processing this Bill as the migration policy may take long. The committee deliberated in more than three meetings until adoption of this Bill.
All political parties, of course except EFF, participated meaningfully and agreed to these amendments. I hope that the EFF will explain themselves why they have not participated and considered to support the Bill. As the ANC welcomes genuine asylum seekers, we will continue to take measures to prevent economic migrants from abusing the asylum system.

This will relieve the capacity constraints experienced in our offices. I therefore, on behalf of the ANC, support the adoption of this report and the Refugee Amendment Bill. The ANC lives, the ANC leads. I thank you.

Mr A M FIGLAN: Hon Deputy Speaker, the Refugees Amendment Bill seeks to amend the Refugees Act 130 of 1998. As amended by the Refugees Amendment Act 33 of 2008 and the Refugees Amendment Act 12 of 2011. It is a vital piece of legislation and one that has a serious implication on our domestic policy as well as our international relations. While amendments to this Bill are vital and many are welcomed, we remain in firm believe that not enough attention was paid to suggested amendments in the committee and that more could have been done to make this
Bill line up with the Constitution and obligations to protect those seeking asylum.

This Bill call to question the commitment of the Department of Home Affairs to uphold its obligation under international law, specifically with regard to the United Nations Refugee Convention.

We welcome the amendments regarding integrating measures to combat fraud and corruption within the Department of Home Affairs and the re-establishment of the Standing Committee for Refugee Affairs. This will go far in aiding the process of resettlement of refugees.

The double checks and balances systems that the NCOP offers to the legislation process will be of the utmost importance in the situation. We remain hopeful that once this Bill has been through the NCOP process, adjustment and rectifications will have been made, thus assuring that a more refined, constitutional aligned document is brought back to this House. I thank you. [Applause.]

IsiZulu:
Nk H O HLOPHE: Ngiyabonga Sekela Somlomo, yebo impela sihlalo wezaseKhaya asibanga yingxenye yalo mthethosichibiyelo sazibeka izizathu ekomidini ukuthi asikwazi ukuba yingxenye yesichibiyelo somthetho olwa nabantu baseAfrika eAfrika.


English:

So, we as the EFF from the outset are saying, we acknowledge the asylum process in the country has been riddled by corruption for a very long time such that the Department of Home Affairs initiated an operation called
Bvisa Masina meaning “throw out the rod”, which led to the arrest of 30 officials in December 2015.

However, our opposition to this Bill is at more fundamental level that it does nothing to prevent the asylum process from corruption and is a legislative piece that perpetrates hatred of other Africans because in the main, it is Africans seeking refuge in this country.

As it is, this Bill is open to abuse and opens up desperate asylum seekers to be subjected to the whims of the Refugee Status Determination Officer, RSDO, who is only accountable to the proposed standing committee. It gives the RSDO discretionary power to decide on the fait of asylum seekers and does not provide a watertight oversight over the office. It gives more power to the RSDO to even refuse refugee status if the RSDO has reason to believe that if an asylum seeker has committed any of the acts listed in the Bill. This practically makes the RSDO a police, a prosecutor and the judge at the same time. This is against the principles of fairness guaranteed by our Constitution. For this Bill does not
say anything about the type of information that will be relied on by the RSDO to come to such a conclusion.

Secondly, the Bill makes it mandatory that asylum seekers must apply for refugee status within five days on arriving in the country, failing which the government will be empowered to deport them. This is inhuman and insensitive with the reality of trauma that most of asylum seekers have undergone and is nothing but an attempt to legislate xenophobic attitude in the country.

In addition applicants for asylum will be assessed to determine his or her ability himself or herself and any dependence with assistance of a family or a friend for a period of at least four months while limiting or prohibiting him or her from working. This is absolutely crazy and will lead to further violation of human dignity and suffering to the Africans.

As a country, we must never legislate for dehumanisation of other people, particularly African people who were there for us during our toughest times. Africa is one. We must not make it difficult for our brothers and sisters
to come to our country. The EFF rejects this Bill.

[Applause.]

The DEPUTY SPEAKER: Hon members I have given hon Nkomo to address us from where she is standing.

Ms S J NKOMO: Hon Deputy Speaker, the Refugees Amendment Bill seeks to tighten up legislation so that government can better deal with refugees and associated issues in our country. As a constitutional democracy and guardian of human rights on the continent, we have a duty to provide a safe haven to those who find themselves persecuted by their governments on the continent and to ensure their safety from harm and the right to earn an income whilst they are guests in our country.

Refugees must enjoy the same rights and freedoms as ordinary South Africans. Xenophobia continues unabated and is fast becoming entrenched in South Africa. This must be dealt with decisively by government as it remains a major threat to peace and stability within our borders and if allowed to proceed unchecked, it will tear-off at the fabric of social cohesiveness which we are trying so
very hard to establish in our young constitutional democracy.

Corruption by departmental officials is a serious problem and it is hoped that this Bill once enacted will make it extremely difficult for corrupt officials and their nefarious operations to go undetected and unprosecuted. Porosity of our borders is an issue which only exacerbates the influx of economic migrants into South Africa. This fuels the concern by some of our South Africans when they actually state that their jobs are under threat and this in turn definitely fuel xenophobia. Porous borders also make it easier for people to be trafficked in and out of our country.

In conclusion this legislation is definitely welcomed as the right step in the right direction for taking care of our refugees in South Africa and for us as the IFP, it is actually an area which was long started by His Excellency Prince Mangosuthu Buthelezi and the IFP definitely does support this Bill. Thank you.
Prof N M KHUBISA: Hon House Chairperson, public participation in the process of law making and is very important for it gives the people an opportunity to contribute meaningfully to enact legislation that is in essence, a reflection of the democracy we live in.

However, when we look at the submissions made during the public hearings on the Refugees Amendment Bill, it is clear that interest groups with their own agendas participated, but not ordinary South Africans. The sad reality, Chairperson, is that ordinary South Africans, and particular poor black South Africans, very seldom participate indirectly to the law making process.

Yet, the voices of the people are not silent. Their discourse is different, but speaks to us of an urgency which we cannot ignore. We are at a juncture in our social and political landscape where xenophobic violence is rearing its ugly head with a frequency that is alarming. It is imperative that we put in place legislation to assist us in dealing with this problem. However, we need legislation that is based on, and informed by sound policy.
Unfortunately, that is where the crux of our legislative uncertainty lays - the lack of clear and enforceable policy. There seems to be a tendency in our social discourse to use the terms refugees, asylum seekers and economic migrants interchangeably. This gives rise to confusion, particularly so in the minds of the general population.

The NFP believes that, in addition to effective legislation to regulate immigration, refugees and asylum seekers, we need to find ways to educate our people. Our people need to understand the vulnerability of those who are refugees, and have empathy for them for the price that asylum seekers always have to pay for their freedom.

We are saying in as much as we welcome the Refugee Appeal Authority, it is sacrosanct that we deal with issues of corruption because so many of the asylum seekers have been abused by our people in various Departments of Home Affairs. One case in the Ugu district, for instance, where an official was taking money from these people and claiming to assist but they were never assisted.
Just recently, one asylum seeker was saying that they do want their children to get education, especially in public schools. I think if we move around that direction, I think they can be assisted. We need to fight fraud and corruption, which rears its ugly head especially in the offices.

The amendments to the Bill are, therefore, important and we support the Bill. [Time expired.]

Ms C DUDLEY: House Chair, the understanding of the ACDP is that this Refugee Amendment Bill aims to protect refugees, who actually need refuge but are not getting the attention they should because of the abuse of applications for refugee status by those who are not actually refugees.

According to the UN High Commissioner for Refugees, there are 42 000 refugees in South Africa, but Minister Gigaba, has said that currently there were more than 100 000 applications for asylum.
Many individuals applying for asylum are economic migrants, who do not qualify for refugee status under the Refugees Act. Not only do they know before they apply that they do not qualify but they then proceed to lodge an appeal when their application is turned down. An ever-increasing backlog of appeals sabotages the system. While the loopholes must be closed, concern that it will impact on the rights of bona fide asylum seekers are relevant. A constant review of the impact of the Bill and parliamentary oversight will be critical.

The ACDP notes that Children of refugees will assume the citizenship of the parents, but can apply for South African citizenship when they turn 18 if they can show that they are stateless. Allowing those born to asylum seekers in the country to assume South African citizenship would create a crisis, as it would encourage even more people to come to South Africa to give birth here - something that is already happening.

The ACDP agrees with the Minister that this is an important aspect of managing the refugee processes to
avoid a crisis, not only for Home Affairs, but for South Africa as a whole.

The ACDP supports this amendment recognizing that South Africa is acknowledged by the UN High Commission for Refugees as having one of the most generous systems in the world, if not, the most generous - and further recognizing the need for South Africa to be wise in managing effectively, humanely and efficiently this very important yet complex and challenging process. Thank you.

Ms N W A MAZZONE: House Chairperson, the Refugee Amendment Bill and the Original Act are the cornerstones of South Africa's policy framework on the entry requirements and treatment of refugees in our country. It cannot be argued that our borders must be maintained responsibly and diligently and we must always be aware of our domestic responsibilities and the challenges faced by our citizens.

We must though never forget, we have the finest Constitution in the world, we have one of the most progressive Constitutions in the world and as such, we
must never lose sight of what our Constitution means, not only to South Africans, but those within our borders.

While there are many proposals in the Bill that are welcomed and necessary, it is the view of the Democratic Alliance that the Bill fails in four key areas: firstly, its shortcoming is the Bill’s definition of what a dependent is. It is a limited definition and seriously prejudicial to asylum seekers, who are most in need of our protection. We must remember that no one wants to leave their home, no one wants to travel in unsafe environments to a uncertain future, we must understand and have great empathy the desperation experienced by these asylum seekers.

The Bill does cater for minor, biologically related children, however, the Bill does not consider the case of formally or informally adopted children, nor does it consider the entire class of dependents beyond minor children, spouses and parents. It is in fact, silent on close relations that may be disabled, indigent or suffers from some other form of disability. The very purpose of the Bill is betrayed by its limiting definitions.
Secondly, is the definition of marriage by the Bill, there is an unconstitutional double standard being played out with this definition as well domestically both marriages and civil partnerships are acknowledged, this is not the case for civil partnerships concluded in foreign countries. We are a progressive and proud nation with strong and entrenched constitutional values. These values cannot count for South African citizens alone. This clause flies in the face of our Constitution and it cannot be permitted to remain in our law when we have it within our means to change it.

Thirdly, is the fact that the Bill currently withholds qualification for the refugee status in the event of a Schedule 2 crime been committed within the republic, none of us can pretend to understand the implications of being denied asylum.

The asylum that refugees seek in South Africa often means the difference between life and death. To return someone to their homeland, from which they are fleeing, is potentially a death sentence. It is simply beyond comprehension that we as South Africans could impose a
death sentence for a crime committed within our borders. We spare our own citizens’ fate and have legislated against this. Why would we deny a refugee the rights and privileges of a fair criminal justice system?

And lastly, the shortcoming of the Bill is that fact that upon Ministerial decree, refugee status may cease. There is no further qualification or test for this cession. As in all matters of human dignity and the right to life, power over the lives of asylum seekers should not be granted lightly. There should be a highly qualified test for such circumstance or at the very least; it should be based upon reasonable grounds.

The Bill before us today is admirable in its intentions, but it falls short of the acceptable mark. We have no fundamental opposition to the bill, in fact, we think that such legislation is imperative, but not like this and not in its current form. It’s our opinion that the Bill does not conform to our Constitutional mandate, nor does it comply with international best practice.
In the year, that we are celebrating two decades of living under the masterpiece that is our Constitution, let us be hopeful that upon study by the NCOP and with minor amendments as suggested in committee, this Bill will represent a higher and brighter future for South Africa and all who reside in her.

Mr D M GUMEDE: We thank the Minister for the introduction of this important Bill.

As a country, we continue to develop a comprehensive migration document. A number of studies have been made about immigration and asylum seekers in South Africa and the government responds continuously to the concerns of its citizens, of the immigrants – both documented and undocumented – and to the needs of the economy.

As South Africans we have to continue striking a balance between stakeholder needs, equitably, reasonably and with fairness to all.

Over the coming weekend, all migration stakeholders will meet in a conference, to be held in Sandton, which will
comprehensively look at the issue of migration, asylum seekers, refugees and other immigrants to South Africa. The conference will seek inclusive solutions from academia, the experiences of stakeholders and from public representatives. We are sure that, after this conference, we shall be wiser, smarter and better able to balance the needs of all stakeholders, going forward.

South Africa has had an abuse of the asylum seeker status. So we have to respond as a country. We have to listen to what our people’s concerns are, and react justifiably and with justice to all stakeholders. The ANC is a party of solutions and inclusive solutions we shall have. We listen to the voices of all citizens before moving forward.

Empirical evidence indicates that the majority of asylum seekers do not qualify. The presence of undocumented foreign nationals poses both economic and security threats to the country which the government has to deal with. There are also challenges relating to legislation, and regulation of access to citizenship by foreign nationals. Therefore, there is a need to balance the
inward flow of low-skilled labour to curtail the negative impact it has on domestic employment.

Thus, the Bill seeks to limit the large numbers of undeserving asylum seekers that are, in fact, economic migrants if not refugees from justice administration in their own countries.

While the country needs and continues to benefit from skilled immigrants and those who want to invest, the case of unskilled labour and the poor raises genuine economic as well as social concerns that affect South Africa negatively. Some of the cases arise from unscrupulous employers who use desperate economic migrants to exert downward pressure on wages and working conditions of South African citizens. For example, a few years ago in Durban when workers went on strike, the employer employed foreign nationals as scab labour. This resulted in conflict and, in some quarters, this conflict was called xenophobia.

So we have to manage this problem in such a way that we adhere to our values on the one hand and, on the other
hand, we make sure that our people, our citizens, are not affected adversely by the position.

The department has recently proposed a new approach to managing international migration which it believes will go some way in addressing these issues. The new approach recognises that migration is not a matter for the Department of Home Affairs only, but should also involve the whole government as well as the whole of society.

Government believes that South Africa must unite around a positive, pragmatic and people-centred vision for managing international migration - which advances national interests and reflects our values, as the Minister said, on this podium last week.

Last week, the Minister also said that we should not dismiss poor working class South Africans as xenophobic or afrophobic when they are raising genuine social and economic issues affecting them, especially relating to unscrupulous employers who use desperate migrants in order to exploit our fellow countrymen and women.
When criminals take advantage of a march they should be identified and arrested. They can be identified by the marchers as well as the police so that we do not confuse genuine political expression with criminal activity.

Like all governments, the South African government will prioritise its own citizens for economic opportunities and employment. This happens all over the world, and we are not different.

We welcome the joint business inspections that are carried out in business premises and the arrest of some employers as well as undocumented migrants.

We are also eagerly awaiting the finalisation of the Border Management Authority, given such large and porous land borders, and we believe that our borderline and ports of entry will be managed much better to protect our economy, our sovereignty, and the security of all.

[Interjections.]

The efforts of the AU for security, development and peace will hopefully add to the much-needed solutions for our
beloved continent. Other African countries are our partners towards the realisation of the dreams of Kwameh Nkrumah and many African leaders. We shall always respect the dignity of everyone – black or white – irrespective of where they come from in line with our values.

We believe that these amendments will allocate our scarce resources better, smarter so that the public is served faster as we manage our international migration.

Borrowing from the wonderful words of an African son who said:

Our glory lies in unity, our strength in our accord. Hatred and disparity, we cannot afford as Africa. We are one, we shall strive to be one and we shall be together.

The ANC supports this Bill.

THE DEPUTY MINISTER OF HOME AFFAIRS: Chairperson, in response to the debate, the chairperson of the committee, hon Mashile, raised the unintended consequences of
certain court pronouncements as well as judge-made law in this area. Certainly, refugee and immigration law is a highly specialised field and not many legal professionals are schooled in this field. They coexist.

However, while most countries do have immigration laws; not many countries have refugee laws. Paramount to the execution of international protection law under which the category of refugee law pertains is that all actors in the state must act in conceit with the common view of the law, its ambit and importantly its limitations. I think that our courts are yet to find a measured response to the asylum matters brought before them.

We have a broad definition of refugees and we provide basic rights including freedom of movement and access to various services. But, this is not the case in most countries south of the Sahara in particular, and this is not the case globally. It is therefore incorrect and dishonourable, frankly, to call into question this government’s commitment to international protection law.
I think that the hon Dudley was most accurate in her assessment in this regard. In addition, she raised some figures which she attributed to Minister Gigaba which I need to correct. Between 2008 and 2013, South Africa was amongst the largest recipients of asylum seekers in the world. From a peak of about more than 220 000 asylum applications in 2008, we have now moved to just under 40 000 in the last year, which is a decrease of about 550%.

We have seen marked declines in the numbers of new asylum seekers every year since 2011. Whilst the numbers of persons granted asylum has interestingly risen from less than 2% to more than 10% is another important indicator which tells us that we are being responsive to genuine asylum seekers; at the same time they are mitigating the occurrence of abuse in our centres.

The amendments that members are by and large hopefully supporting today will mean that we can build on the efficiencies which have resulted in us taking away a lot of the abuse in the asylum centres. We can now issue work
permits or work visas only to those who present with indigents amongst asylum communities.

There are many asylum seekers who come here with a lot of resources and who do not need work permits whilst we are busy processing their applications. And by the way, we now process applications within three months. It also means that we will be able to assist to eliminate the backlogs at the refugee appeal board.

Importantly, members have agreed to a transitional clause which nobody made reference to. It would mean that all matters that are currently before the Refugee Appeals Authority and the Standing Committee for Refugee Affairs, SCRA, will be dealt with in terms of the principle Act as amended, meaning that the quorum requirements for these bodies fall away. Members of the portfolio committee were reassured by concomitant provisions that require all of the members of these bodies to be legally qualified persons, as is currently the case.

The hon Mazzone did not participate in any of the discussions in the portfolio committee and I will do her
a service and suggest that she speaks to the hon Figlan to address her concerns which coincidently coincides with the NGOs who participated. [Interjections.] If you do not mind, I am speaking. I am speaking! [Interjections.]

It was the hon Figlan who was there throughout the discussion. Although I can’t agree with him when he calls our commitment to human rights into question, I think that he knows better. Most countries on the continent host refugees in camps. They do not do as we do in South Africa: Amongst ourselves in our communities. Here, in this country, refugees have the right to freedom of movement and full participation in our economy.

The hon Nkomo and Gumede raised the issue of porous borders and I am enormously grateful that they did. From our side we have hoped that the Border Management Authority Bill would also be on the Order Paper today as an important leg in maintaining our national sovereignty and safeguarding our national interests. We hope that our national interest in this regard will prevail in this matter.
In conclusion, I just want to say the following, that the UNHCR coined the phraseology of 'burden-sharing' in urging countries to execute their protection commitments in equitable proportion. Today, the burden of sharing the duty of hosting refugees is skewed towards developing as opposed to developed countries.

If the international protection regime is to continue into the next millennium, then this has to be addressed. In addition, nations implicated in refugee producing situations must be made to bear the bulk of the refugee burden so that they are compelled to consider the consequences and implications of wars at their ports. [Time expired.] Thank you very much. [Applause.]

Debate concluded.

Question put.

Bill read a second time (Democratic Alliance and Economic Freedom Fighters dissenting).
Mr C H M MAXEGWANA: Thank you very much, hon Chair and good afternoon members. The Portfolio Committee on Communications, having considered the resolution of the National Assembly to dissolve the SA Broadcasting Corporation, SABC, board, reports as follows.

On 5 October 2016, the committee resolved that an inquiry into the finances of the SABC board to hold office in terms of section 15A of Broadcasting Act 4 of 1999 was necessary. Following the resolution of the committee, the National Assembly established an ad hoc committee on the SABC board inquiry to inquire inter alia into the fitness of the SABC board to discharge its duties as described in Broadcasting Act 4 of 1999 and any other applicable legislation.

On 7 March 2017, the ad hoc committee on the SABC board inquiry recommended to the National Assembly that the
SABC board be dissolved and that an interim board be appointed. The National Assembly adopted the recommendation of the ad hoc committee on the SABC board inquiry.

The committee began with its deliberations on the interim board of the SABC on 24 January 2017 and agreed on the criteria to select the interim board members. Among other things, candidates should possess an in-depth knowledge of the Broadcasting Act, legal expertise and experience in dealing with human resources.

Since the process of appointing an interim board does not require advertising and interviews, different parties had to come up with names to be deliberated and finalised by the committee. On 14 February 2017, the committee met and parties submitted names of candidates as follows.

The ANC submitted the names of Mr Mathatha Tsedu, Ms Rachel Kalidass, Mr David Niddrie, Mr Krish Naidoo, Ms Febe Potgieter-Gqubule, Ms Sulungeka Dazana, Ms Khanyisile Kweyama and Mr Steve Motala.
The DA submitted the names of Mr John Mattison, Ms Tanja Bosch, Mr Mpumelelo Mkhabela, Mr Jack Devnarain and Mr Michael Markovitz.

Cope, on behalf of smaller parties, submitted the names of Mr Moses Maraladi, Mr Xolisa Mpeqeke, Mr Dumile Mateza and Ms Pearl Luthuli.

The committee agreed to afford the EFF an opportunity to submit names through the committee on 8 March 2017. The EFF submitted the names of Mr Thabo Kwinana, Adv Mojanku Gumbi and Mr Mathatha Tsedu. [Interjections.] The EFF was not part of the meeting.

On 14 March 2017, the committee deliberated on the names and recommends to the House that the following candidates be recommended for appointment to the interim board of the SABC: Mr John Mattison, Mr Mathatha Tsedu, Mr Febe Potgieter-Gqubule, Ms Khanyisile Kweyama and Mr Krish Naidoo. [Interjections.] Those are the five names. Did I say Mr? Ms Febe Potgieter-Gqubule. I know her very well.
Furthermore, the committee recommends to the appointing authority that Ms Khanyisile Kweyama be appointed chairperson of the interim board and that Mr Mathatha Tsedu be appointed deputy chairperson of the interim board.

We as the Portfolio Committee on Communications submit our proposal to Parliament for consideration.

There was no debate.

Question put.

Declarations of vote:
Ms P T VAN DAMME: Thanks hon Chairperson.
[Interjections:] The DA supports ...

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

Ms P T VAN DAMME: Andikaqali. [I have not started yet.] [Interjections.]
Ms P T VAN DAMME: The DA supports the report and its recommendation of names of candidates to serve on the SABC interim board. It is a pity that the Communications Committee did not fulfil the requirement to recommend names to the National Assembly for the interim board within 10 days of dissolution as required by the Broadcasting Act.

The SABC board ceased to exist on the resignation of former chairperson Mr Mbulaheni Maguvhe on 19 December 2016. The recommendation of the names to this House today is therefore three months overdue. Nevertheless, better late than never. We therefore urge the President to urgently approve the recommended names within the 10 days required by the Broadcasting Act and not delay this matter any further.

We wish the interim board very well on its mammoth task of steering the SABC to calm waters and we urge them to take this task very seriously. The first order of
business is to conduct a disciplinary inquiry into Mr Hlaudi Motsoeneng’s fitness to hold office as required by the Western Cape High Court. It is high time that the SABC was rid of that cancer.

The DA would like to commend all candidates who made themselves available to serve on the SABC interim board. It bears testament to the many quality, talented and qualified individuals who are willing to serve in the Public Service. There is really therefore no need to be appointing duds to public boards.

We note that the Minister of Communications is once again not in the House today and has been very scarce since the adoption of the SABC inquiry report. She even skipped two committee meetings because she claimed she was busy with the President.

We have also noted media reports that she will be taking the SABC ad hoc committee’s report on review in order to stall the implementation of its recommendations, and including halting the work of the SABC interim board. We strongly encourage the Minister not to do so because as
its stand is, we will fight this matter tooth and nail in order to restore good governance at the SABC.

Once again, we wish the SABC interim board well and look forward to engaging with it once appointed by the President.

Mr L S TLHAOLE: Thank you, hon Chair. The EFF notes the appointment of the SABC interim board.

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

Mr L S TLHAOLE: The challenge we have is the employees of the ANC that have been part of the problem that collapsed the board of the SABC. As long as those who are appointed to the board are part of one faction or the other, it does not matter. The SABC will continue in the state of dysfunctionality. Krish Naidoo works for the ANC on a full-time basis. [Interjections.] The only member that the EFF supports is Mathatha Tsedu.
If we are going to build governance in the SABC, we must start with a credible board that will at all times do the work that it is required to do. We must remove politics from the SABC for independent programming, journalist practices and the deepening of democracy. As long as the ANC and Minister Faith Muthambi still have access to the board, the SABC will remain a broadcaster.

Mr N SINGH: Thank you very much, hon Chairperson. The recent prolific meltdown of management and operations at the SABC has necessitated that an urgent interim board of directors be appointed, and as the chairperson said, it follows on the recommendation of the ad hoc committee.

It is trite knowledge that these brave individuals who have accepted the challenge of steering this corporation back towards a model of good governance have been given a poison chalice filled to the brim with years of corporate mismanagement and maladministration. Five board positions and a term of up to six months reveal the interim and emergency nature of the task at hand. It is an unenviable one but one that must be performed.
To the five appointees, the IFP congratulates and thanks you for accepting your nominations to the board. We wish you well in your tenure at the SABC and offer you our support as you seek to right the broadcaster to its original state as a model of good corporate governance and profit.

Having said that, I just want to follow on from the hon member from the DA, hon Van Damme. Well, I don’t know if her surname has changed but I will call her hon Van Damme. She mentioned the fact that there are media reports that the hon Minister of Communications and the department intends taking the report of the SABC ad hoc committee and all the resolutions and recommendations we made that this House – all sides of the House and every member – unanimously approved...

Now, does she want to make Parliament a laughing stock in the courts of our land? Does she not know about an Intergovernmental Relations Framework Act which says that there should be internal processes that need to be exhausted first? Talk to the other arms of government before you run off to court. Or does she want to go to
court and get embarrassed like somebody else who has been in the limelight for the last two days where the hon Chief Justice says, incompetence of the highest order?

Well, if she wants to do that then she must do that but I think its showing disdain for this august House if a member of the executive wants to take this Parliament and a report of this Parliament on review. I hope she does not do that and I trust that the interim board will apply its mind to the work at hand.

We want to see this corporation get back to a footing where all South Africans can be proud of the public broadcaster. As I’ve said, all of us in this House will support this interim board but we hope the interim board does not think that their stay is going to be longer than six months because the portfolio committee also needs to expeditiously begin the process of the permanent appointment of board members. It’s a process which we as a committee has recommended should be the same as the process involved in the appointment of the Public Protector. We will support these five members.
Declarations of vote:

Mr N M KHUBISA: Hon Chairperson, the NFP believes that today perhaps marks the concrete steps of resurrecting the SABC. It comes just immediately after the report of the ad hoc committee. But, at the same time, we are cognisant of the fact that the portfolio committee has amended the oversight report. We believe that, having received the report of the ad hoc committee, they will be able to read it, scrutinise it and then discharge their constitutional obligation of doing oversight.

We believe that the interim board will operate in a nonpartisan manner, that it will ensure that the SABC serves the masses of our people, and that it will be credible and independent. Of course, we take note that the interim board comes in at a time when the financial liquidity of the SABC is showing a shortfall of 503 million. We hope, as we recommended earlier on in the ad hoc committee, that they will turn the corner with regard to the SABC’s finances and bring about stability in the SABC.
So, obviously, the interim board has a mammoth and very daunting task ahead of it. We are aware of the fact that the candidates that have been nominated bring with them a wealth of experience and some impeccable credentials. For instance, Ms Kweyama has corporate experience, a Master’s Degree in Management and has held various management positions in the corporate sector. We have Krish Naidoo, a lawyer; Mathatha Tsedu, a veteran editor and journalist; Ms Potgieter-Gqubule, a political scientist also schooled in media studies; and lastly, Mr John Mattison, a professor in media studies. We believe that the application of this wealth of experience will ensure that the SABC is resuscitated.

There is a plethora of issues to which the new board has to attend. For instance, they have to deal with the financial stability of the SABC, human resources, issues of corruption, shady and suspicious deals and they also have to look into the report of the Auditor-General and the remedial work that was put forward by the Public Protector. All these issues will need a great deal of skill.
Therefore, the NFP wishes the interim board success and hopes that a time will come when there will be no corruption, no fraud, and we will have credible people to steer the SABC. Thank you so much. [Time expired.]

Mr W M MADISHA: Hon Chair and hon members, permit me to thank the portfolio committee members for working with each other regarding this whole issue of the SABC. I am happy that, as a committee, we are moving in unison, in our conviction that the SABC belongs to the people of our country, and that this Parliament represent the people of South Africa and must therefore deliver.

As you know, there are very serious problems in the SABC. It has no board and that is a major problem. Workers are being dismissed wrongfully and many have been forced to resign – about 53% in a short period of time. Those people were kicked out. Corruption levels are unbelievable high. For example, Hlaudi Motsoeneng does not have the required qualifications yet he gives himself salary increments that goes beyond R4 million. He overpays himself. We are talking about R11 million and
then R33 million later this year, as it has been reported.

What is particularly corrupt and momentous is that the SABC, which belongs to the people of South Africa, has been taken from them. Cope is therefore saying, please let us agree that this committee must go on. It is not going to be there forever; it is there for a period of six months. After that we will be able to come up with a committee that will be able to go on and help all South Africans, the people whom you represent. Cope agrees.

The HOUSE CHAIRPERSON (Mr C T Frolick): Before I recognise the next speaker ... hon Singh?

Mr N SINGH: Hon Chairperson, I rise on a point of order: I would like to correct what I said earlier. Earlier, I said that all parties supported the report unanimously. I now realise that the UDM did not support the report. So I just wanted to correct that.

IsiXhosa:
Mr N L S KWANKWA: The UDM supports the recommendation of the Portfolio Committee on Communications on the appointments of the interim board of the embattled SABC. We believe that the nominees are skilled and experienced leaders in their field who will toil night and day to pull the SABC out of the quagmire in which it finds itself.

The new interim board has its work cut out. It has to restore the credibility of the SABC, oversee the management, and ensure good governance at the SABC. It also has to ensure that, at its upper echelons, the SABC is not mindless but deliberate, and is not cavalier in the execution of its mandate but careful and responsible.

Furthermore, this interim board must move with speed to deal with all the findings of financial mismanagement at the SABC. In addition to the recommendation of the ad hoc committee, one of the matters that should feature
prominently on the interim boards’ agenda is the SABC’s cash flow problems and its impact on the engagement of freelance journalists, freelances and fixed-term contractors at the SABC. We have been told horror stories about how some of these employees have been ill-treated over the past few months at the SABC with some of them being told a day ahead of the expiry of their contracts that their contracts would not be renewed.

There are also allegations that many of these workers whose contracts would expire soon had been told that their contract would not be renewed, while those whose contracts had already expired had been ruthlessly purged. Many of those journalists manage critical programmes for the SABC, and their sacking has serious implications for the quality of the final product.

The interim board should urgently review the financial situation at the SABC with the view to addressing it. It also needs to review the SABC’s policy on employment of freelance journalists, freelancers and fixed-term contractors as this has now been turned into another form of modern-day slavery, a situation which is immoral.
These are some of the issues, hon members, that the SABC interim board has to focus on as it endeavours to be the midwives of the rebirth of the SABC. I would therefore like to take this opportunity to wish it the greatest success in its new assignment. Thank you very much.

Mr S N SWART: House Chair, the ACDP supports the five names recommended and wishes to thank all candidates who availed themselves for appointments.

Having participated in the ad hoc committee, we do not envy the enormous task facing this interim board. The ad hoc committee made far-reaching recommendations including urgently engaging Auditor-General on the irregular, fruitless and wasteful expenditure and we trust that they will be very fruitful in that engagement.

We also believe that the interim board would be a need to initiate disciplinary action and of course institute an independent forensic investigation into all those questionable and irregularly awarded contracts.
Now, a matter of great concern highlighted by the ACDP during the ad hoc deliberations was and is the financial state of the public broadcaster. While the SABC is by no means insolvent – its assets exceed its liabilities – I raised serious concerns about its cash reserves. This information is set out in the management letter of the Auditor-General. It would helpful for parliamentarians to get those management letters as they go deeper into the Auditor-General’s report that has been presented before Parliament and are very useful.

While the acting CEO Mr James Aguma has assured the Standing Committee on Appropriations in February that the broadcaster’s financial performance was satisfactory, a confidential internal risk committee report up to the end of January paints a total different picture. In it we see that cash reserves had plummeted to R174 million in December, drastically down from the R1 billion cash reserves declared in 2015. Even though the cash balance in January has improved slightly to R330 million – mainly due to delayed payment of suppliers – that confidential report warns that the SABC’s average monthly liquidity requirement is R650 million. So this will undoubtedly be
the most pressing issue facing the interim board, and we wish them well.

The ad hoc committee also recommended that the interim and final boards should ensure an environment free from fear and intimidation or abuse of power. It is imperative that the interim board urgently investigates the intimidation of employees and, in particular, the death threats directed at the SABC Eight while they were giving evidence before the ad hoc committee.

Lastly, the ad hoc committee made serious findings about political interference at the SABC. Now, bear in mind that that finding was made across all political party lines. In this regard, the ad hoc committee recommended that all political interference in the board’s operations must be condemned and be reported to the parliamentary Ethics Committee. We trust that the interim and final boards will withstand any form of the political interference that has become the norm at the public broadcaster. I thank you.
Ms N G TOLASHE: House Chair, Ministers and Deputy Ministers, and hon members, the ANC welcomes the report tabled here by the chairperson of the portfolio committee. The people’s movement commits itself to working even harder to make sure that the existing legal framework that guides this process will be followed to its total conclusion with the necessary speed it deserves, hon Van Damme. We thank all opposition parties whom we worked with during this process for the patriotism they displayed during it.

_IsiZulu:_
Nalabo abangakwesokunene madoda, siyababonga.

_English:_
Our task is to exercise an effective oversight over the interim board. We are not the board and we don’t even want to be but our task is to make sure that we discharge our constitutional responsibility to make sure that the interim board as it is presently being put in place by this august House, will follow all the legal processes so that we fast-track the process going forward.
Hon members, now more than ever, let’s take each other by the hand for the road ahead of us as the new board is established.

I wish to thank the Chairperson of the Communication Committee for displaying wisdom in his steering of the ship. Throughout the entire process, there was no voting. As members have confirmed, political parties presented their views and, because of his wisdom, we were able to negotiate very honestly. Through these frank discussions between political parties, a consensus could be reached. Therefore, hon members, speaking as an ANC member, I hope we can indeed travel this road of making sure that we have clean governance together.

Once again, hon House Chairperson, with great minds ...

IsiZulu:
... singavumelana ngokungavumelani.

English:
But also, in the same minds ...
IsiZulu:
... singavumelana ngokungavumelani

Mr N L S KWANKWA: Hon House Chairperson, on a point of order: Can I just clarify something if you don’t mind.

The HOUSE CHAIRPERSON (Mr C T Frolick): Yes, hon member.

Mr N L S KWANKWA: I know what hon Singh was referring to when he said that the report that the UDM did not support was the ad hoc committee report. However, I think that comment unintentionally created confusion. People would think that the UDM does not support even this report, which we do support. I just wanted to put that on record.

Question put.

Agreed to.

Consideration of request for Permission in terms of Rule 286(4)(c) to inquire into amending other provisions of Magistrates’ Court Act, 1994 (Act No 32 of 1994)
There was no debate.

Mr B T BONGO: Hon House Chair, hon members, the Portfolio Committee on Justice and Correctional Services, having considered the Court of Law Amendment Bill referred to it and classified by the Joint Tagging Mechanism as section 75 of the Constitution of the Republic of South Africa would like to report as follows: The Constitutional Court of Law Amendment Bill was referred to the committee on 11 May 2016. The Bill was advertised for public comments in various newspapers in all the languages that are recognised by the Constitution of the Republic of South Africa. Public hearings took place on 31 August 2016.

This Bill seeks to amend the Magistrate Courts Act 32 of 1944 largely to address the abuses in civil debt recovery system to provide for the rescission of judgement where debt has been settled. It also amends Superior Courts Act 10 of 2013, by inserting a new section – section 23(a), which provide for a rescission of judgement with the consent of the judgement creditor, where a judgement debt has already been settled.
Whilst we were deliberating in the committee meeting, it came to light that the Legal Aid Clinic at the University of Stellenbosch had brought an application to the High Court, which was also appealed in the Constitutional Court on behalf of its client, that was to the effect that clients who were low-wage earners and subject to exploitation of lending practices and debt collection procedures.

This application sought to have parts of section 65(j)(2) of the Magistrate Court Act 32 of 1944, declared unconstitutional as they fail to provide for judicial oversight over issues of emolument attachment orders against the judgement debtor. The application further sought a declaration of an emolument attachment order, obtained with a written consent of the debtor in jurisdiction that alien of the debtor invalid on the basis that it was permitted by legislation.

The Constitutional Court in the above mentioned cases and Judge Desai, as he is, noted this judgement after it was taken. It was immediately ordered that no emolument attachment order maybe issued unless the court has
authorised issuing of such an order after it has satisfied itself that that order is just and equitable and that the amount that the order wants is appropriate notwithstanding that the judgement debtor has consent to the emolument attachment order previously.

These amendments are in line with the Rules of this House. So, the Rules of this House proposes Rule 286(4)(c), which provides that if a Bill amends a provision of the legislation it must, if it intends to propose amendment to the other provision of that legislation, it musty seek permission of this House to do so. The Bill is introduced as referred to by the committee and did not amend section 55 of the Magistrate Courts Act. The committee therefore, requests the National Assembly to give permission to amend section 55 by inserting section 55(a) in this particular legislation. Thank you very much, Chair.

Agreed to.
Declarations of Vote:

Ms G BREYtenbach: House Chairperson, the Portfolio Committee on Justice and Constitutional Development considered the report on the provisional suspension of magistrate Monaledi, the Regional Court President of the North West province in mid-February.

The initial presentation by the Magistrates’ Commission was met with derision by the ANC members of the committee who launched a scathing attack on the credibility and integrity of the investigation done by two senior magistrates.

In the face of a comprehensive preliminary investigation into the fitness of Ms Monaledi to hold office, those members unanimously declined to support her suspension.

The allegations contained in the report against Ms Monaledi are of an extremely serious nature and include
the following: Ms Monaledi refuses to co-operate with the investigation and declined to provide her version of the events; she was absent from her office for an average of 71,49% of the time over the period October 2013 to October 2015 and it could not be confirmed that for the remaining 28,51% of the time, she was, in fact, in her office; she does not render any court work in the regional court in her area of her jurisdiction; she has never sat on a regional court bench as a regional court president; she claimed a total amount of R953 838,56 over the period 2013 to October 2015. Some of these claims amounted to over payments, some to fruitless expenditure, some were false claims in respect of the South African Judicial Education Institute and some were false claims in respect of the Magistrates’ Commission. The information supplied in support of the claims is contradicted by independent information.

The suspension was supported by the Minister of Justice, who provisionally suspended Ms Monaledi on 31 November, after he had given the matter due consideration. Despite this, the ANC members of the Portfolio Committee decided to ignore his advice, bizarrely suggesting instead that
there was some sort of ulterior motive by the opposition parties to suspend only women magistrates, which is of course devoid of any truth.

The ANC, who claims to be serious in the fight against corruption, again demonstrated that they are not capable of walking their own talk. They refuse to suspend a regional court president, who is employed in high office to give direction to the region, to sit on a bench in the division and give direction to all the employers in that office. Instead, she has been largely absent, conducted her own personal affairs in office hours and submitted claims to reimbursement, which give rise to great concerns.

Those members of the portfolio committee demanded a range of further investigations, including, astonishingly, an investigation by the Auditor-General. Now, three weeks later, the ANC has done an about face and has decided, with a large measure of reluctance, to implement the suspension with not one iota of further information.
Not much speculation is required to determine why this is, but they are yet again getting away with wasting time and the taxpayers’ money due to their inability to get their act together and take decisions based on facts.

The chairman of the portfolio committee had an ex parte meeting, bizarrely, with the Minister and came back to crack the party Whip, causing this rather startling about face.

It demonstrated again that the ANC has not come to grip with the basic principles of democracy and only reluctantly pay lip service to the provisions they in reality resent.

It is abundantly clear that this person should not be on the bench. It is clear that she should not be allowed to occupy the position where she sits, even only in theory, in judgment over others. [Interjections.] She sets a shockingly bad example to her juniors and her peers. [Interjections.] She brings the criminal justice system into disrepute. [Interjections.]
The ANC members of the Portfolio Committee on Justice did exactly the same thing by dilly-dallying on this issue and once again, let the people of South Africa down. I thank you. [Applause.]

Mr T RAWULA: House Chair, the judicial arm of the state remains our only hope. It safeguards our constitutional democracy, peace and stability. We do not have a credible government. One person who was supposed to embody the Constitution has instead become a constitutional delinquent and broken her oath of office.

Our government is captured and Mr Zuma and the Guptas have been looting state resources in billions, as and when they wish, without anyone stopping them.

*IsiXhosa:*
... not even acknowledge the constitutional judgement official.

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

Mr G S RADEBE: House Chair, on a point of order: I think that it is in order that this member calls the President, President Zuma. He is calling the President on his first name by saying Zuma. Thank you.

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon member, you must please refer in respectful terms to other members and that includes the President as well.

Mr T RAWULA: Mr Zuma, the EFF has rightfully called for the dissolution of the National Assembly, but the ANC refuses to listen, rendering Parliament useless.
[Interjections.] All we have that remains for us is the judiciary and only when men and women of highest esteem are in charge ...

Mr B T BONGO: House Chair, on a point of order: Can the hon member take a question?

Mr T RAWULA: Yes, shoot. Give me the question.

Mr B T BONGO: [Interjections.] I want to know why he is not attending the committee meetings. Secondly, I want to know what his understanding of constitutional democracy is.

Mr T RAWULA: I can answer that question simply. Firstly, he is referring to me. I attend the labour committee meetings and my attendance is 100%. Secondly, democracy is about accountability. Those who are in the executive must be held accountable by this Parliament and the Speaker must not defend them. [Applause.] That is democracy.
The EFF has rightfully called for the dissolution of the National Assembly, but the ANC refuses to listen, rendering Parliament useless. [Interjections.] All we have that remains for us is the judiciary and only when men and women of highest esteem are in charge, can we be guaranteed of its independence. It is for this reason that we cannot have people like Ms Monaledi anywhere near our judicial system while the investigation ...

Mr B T BONGO: Chair, on a point order: I am rising in terms of Rule 68, the relevance. We are discussing a suspension of a magistrate here. We are not discussing issues relating to things he is talking about.

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon member, will you take your seat. The member is about to finish his speech.

Mr T RAWULA: Bongo, you are becoming a nuisance. [Interjections.] It is for this reason that we cannot have people like Ms Monaledi anywhere near our judicial system while the investigation is underway. Parliament must communicate with the Minister in writing that the
investigation into Ms Monaledi is concluded, to ensure that if there are criminal charges, it must be brought forward immediately. Thank you. [Interjections.]

Prof C T MSIMANG: House Chair, an allegation or a charge of misconduct against a magistrate or a judge is always viewed by society in a grave light because society expects judicial officers to be above reproach. Judicial officers are the very embodiment of the justice system of any nation. Therefore, any blemish on a judge or magistrate makes the people lose hope in their justice system as a whole. This is mainly because justice should not only be done but must also be seen to be done.

In the light of the above, the IFP views the conduct of magistrate S R Monaledi as a disgrace to the good name, the dignity and the esteem of the office of magistrates and the administration of justice, especially because of her esteemed position as the president of a regional court.

Ms Monaledi is alleged to have submitted excessive transport claims, being more absent than present in her
office as well as for her failure to perform any work in
the regional court.

Ms Monaledi’s absenteeism between the years 2013 and 2015
amounted to an average of over 71% of the available work
days. When it comes to her transport claims, she seemed
to have created a second salary for herself, because in
the past three years, such claims amounted to almost
R1 million for meetings she never attended and even for
meetings of the Magistrates’ Commission which never took
place. To add salt to the wound, Ms Monaledi obtained a
certificate of good standing from the Magistrates’
Commission in which it was indicated that there were no
pending investigations against her, in spite of her
having been informed of the decision to conduct an
investigation against her.

The purpose of the certificate was to use it as
motivation in her application for appointment as a judge
of the High Court.

The IFP holds a strong view that this lady is not fit for
office and should she be found guilty of these
allegations, she should be removed from office and be criminally charged for fraud. I thank you.

IsiZulu:

Futhi abantu bomthetho abasebenza njenga lemantshi esikhuluma ngayo abantu esilindele ukuthi babe yisibonelo ekutheni uziphatha kanjani uma uyisikhonzi senkantolo noma usebenza ngaphansi kwezomthetho. Asikwazi ukuvumela ukuthi sibe nemantshi eyihlazo ngalendlela njengale esikhuluma ngayo. Empeleni yichilo leli esikhuluma ngalo
ngoba ukuthi imantshi itholakele ezenzweni senkohlakalo
nezokukhwabanisa akwamukelekanga lokho ngakho asikwazi
ukukuvumela.

Siyakweseka ekutheni lemantshi ayike ihlale ekhaya
iphenywe ngalokhu ukuziphatha kwayo eyichilo ngalendlela.
Uma kutholakala ukuthi inecala, cha, siyothi mayisuke
esihlalweni ixoshwe ukuze izinhlaka zomthetho ziqhubek
njalo zihlonishwa futhi nezingumo ezithathwa khona
zethenjwe njengezingumo ezingaveli kubantu
abanenkohlakalo. Ngakho ngaphandle kokupholisa amaseko
siyaweseka lombiko [report] noma lenkulomo esikhuluma
ngayo namhlange ekutheni unkosazana akasuke esihlalweni
akaphenywe. Ngiyabonga. [Ihlombe.]
apparently never available to the public, prosecutors and the clerical staff.

What makes matters worse is that Ms Monaledi is not only a regional court president in the North West province, but is also a member of the Magistrates’ Commission and has applied to be a judge of the High Court. I was a member of the Magistrates’ Commission for many years and it is an esteem body to appoint and discipline magistrates. So, that is why the committee has seen this in a very serious light, following the investigation of two senior magistrates.

From the available evidence, it would appear that there is more than sufficient evidence available to prove on a balance of probabilities that Ms Monaledi not only had made herself guilty of misconduct, but that there is prima facie evidence that she has, on numerous occasions, submitted false subsistence, travel and transport claims and therefore, may have committed fraud.

The ethics committee and of course the Magistrates’ Commission as well as the Minister himself agreed that,
given the seriousness of the charges, she should not perform the functions of a judicial officer while the disciplinary hearing and the possible criminal charges are pending. They recommended provisional suspension without anticipating the outcome of the hearing. The ACDP agrees.

Ms Monaledi’s alleged conduct has tarnished the good name, dignity and esteem of the office of magistrate and the administration of justice and we thus support the report and the provisional suspension of Ms Monaledi. I thank you.

Ms M C C PILANE-MAJAKE: Hon Chairperson, what I just want to say is that we now begin to realise that Parliament is becoming a House of horror and insults and to some extent, a House of creating stories. Please, understand that the public depends on us. [Interjections.] They are watching you. They want you to tell them the true stories. Creating ... [Interjections.] ... is not necessary. It would not actually make you look good. [Interjections.] The DA continues to be delusional in pursuit of always trying to gain favour from the
magistracy and from the judiciary. Please do not contradict Parliament’s business.

MS Monaledi was appointed as Regional Court President of the North West on 2 June 2003. [Interjections.] On 5 March 2015, the commission received a letter from a source not identified, which alleged that Ms Monaledi has submitted excessive transport claims, was seldom in office, performed no work in the regional court and was never available to the public, prosecutors, attorneys and the clerical staff.

On 23 July 2015, the matter was referred to the commission’s ethics committee, which resolved that a preliminary investigation be conducted into the allegations. Subsequently, two senior magistrates were appointed to obtain evidence with regard to allegations and all matters connected with or incidental thereto, in order to determine whether there are any grounds for a charge of misconduct against the regional court president, Ms Monaledi.
The Magistrates’ Commission alleges that, from the evidence obtained, it would appear that there is sufficient evidence available to prove on a balance of probabilities that Ms Monaledi made herself guilty of misconduct. It is further alleged that there is also prima facie evidence that Ms Monaledi, on numerous occasions, submitted false subsistence, travel and transport claims and therefore, committed fraud amongst others ...

The CHIEF WHIP OF THE OPPOSITION: House Chairperson, will hon Pilani-Majeke take a question?

The HOUSE CHAIRPERSON (Mr C T Frolick): Hon member, are you prepared to take a question?

Ms M C C PILANE-MAJAKE: Yes.

The CHIEF WHIP OF THE OPPOSITION: If this is as serious as you say it is, why did you block it on the first occasion?
Ms M C C PILANE-MAJAKE: Hon member, this is why I said in my introductory remarks, please, do not have insults all the time when you come to the podium. [Interjections.]
Please, do not have stories to tell to the public.
Everything you are saying is just delusional.
[Interjections.] It is not happening. Then you create a story. Your problem is that you are always trying to gain favour, instead of looking at legitimate Parliament business and addressing it on behalf of South Africans.
[Interjections.]

During the past three years, it is alleged that she claimed a total of R953 838,06 within which the commission identified a number of discrepancies, including that in 41 instances, she claimed to have had attended meetings held by the commission or one of its committees while, in fact, no such meetings were held on the days she claimed they took place. [Interjections.]

At each meeting on 25 November 2016, the commission deliberated on the matter and agreed that the evidence against Ms Monaledi was serious in nature that makes it inappropriate for her to perform functions of a
magistrate or regional court president, while the allegations are being investigated, which is what we are supporting. [Interjections.]

We are therefore recommending that, having considered this commission’s report, the provisional suspension from office of Ms Monaledi be undertaken. Therefore, this will then be pending what we have actually recommended, the need for forensic investigation because we take the matter seriously.

One other thing is that it would not help when a matter of this nature is brought before us to actually behave towards it as if a member of the magistracy has already been found guilty. Hon Swart has clearly articulated that. There are allegations and in my earlier presentation, I have indicated that allegations were actually received from a source that is not known yet.

The only problem is that you work with an opposition that does not intend looking at matters legitimately. When a matter is put before the committee, instead of looking at it honestly without fear, favour or prejudice, you start
looking at it as opportunities for making friends. This is what causes a problem. [Interjections.] Then you end up trying to make us look like we are controversial and like we are irrational in whatever we are preventing. Noting was irrational. [Interjections.]

A conclusion has therefore been reached, after we were addressed by the chairperson of the ethics committee that indicated to us that we have to support the suspension of magistrate Monaledi. We have then therefore decided that suspension will be appropriate. I thank you.

There was no debate.

Question put: That the Report of the Committee be adopted, including the recommendation that the provisional suspension from office of magistrate Ms S R Monaledi be confirmed.

Dr M S MOTSHEKGA: Hon House Chairperson and distinguished Members of Parliament, the celebration of our Constitution and human rights takes place in the year that we celebrate the life and times of our icon, Oliver Reginald Tambo, affectionately known as OR. In particular, we must celebrate OR’s contribution to the development of our constitutional jurisprudence and the Bill of Rights.

OR was informed by the human rights culture developed by his forebears. This culture is contained in the following documents: The 1923 ANC’s Bill of Rights which reclaimed the African humanity, ubuntu botho, and the right of African people to participate in the economic life of the
country; the African claims which reclaimed the African right of self-determination and human rights; the 1949 Programme of Action which reclaimed the African land and its natural resources; the 1954 Women’s Charter; and the 1955 Freedom Charter.

OR was the embodiment of the ANC ... [Inaudible.] ... philosophy and human rights culture. OR observed quite correctly that the fundamental problem facing our country was and still is racism. OR also helped us to identify and characterise the nature of our society. He said that in all the phases of the development of the South African state:

racism has served three principle purposes. The first was to justify the seizure of our country, our land and wealth by the colonisers. The second was to establish the basis for the transformation of the dispossessed millions of our people into instruments of labour for the enrichment of the colonisers. The third was to legitimise the exclusive concentration of political power in the hands of the colonial and settler oligarchy.
The 1994 democratic breakthrough transferred political, not cultural, social and political power to the majority. We have now entered a transitional period to a cultural, social and economic transformation. There are serious constraints to this transition. The constraints to this transition are deeply embedded in our history of racism and colonialism. O R Tambo cherished a united, democratic, nonracial, nonsexist and prosperous South Africa in which the value of every citizen is measured by our common humanity, ubuntu botho.

O R Tambo understood and described the enormity of the problem at the Kabwe consultative conference in Zambia in 1985, which laid the foundation for the achievement of the democratic society that OR envisaged. The conference took place at the time when pressure was increasing on the apartheid regime to enter into negotiations with the national liberation movement.

OR realised and acknowledged the need to develop a postapartheid South African constitutional policy informed by the human rights culture. To this end, OR established the department of legal and constitutional
affairs and appointed Dr Zola Skweyiya as the head of the committee. That department moved swiftly to mobilise the democratic lawyers’ movement in the country which saw the emergence of the National Association of Democratic Lawyers, Nadel, in 1986.

In his opening address to Parliament to 1986, President Botha responded to these developments. He stated that the government was committed to, “the sovereignty of the law as a basis for the protection of the fundamental rights of individuals as well as groups.” This statement laid the foundation for the doctrine of human and group rights.

In the same year 1986, Kobie Coetsee who was Minister of Justice, instructed the government’s statutory law commission to make recommendations about the definition and protection of group rights, and to consider the possible introduction of a Bill of Rights. A working group under the direction of Justice P J J Olivier was deputed to undertake the task and members of the general public as well as expert lawyers were invited to make submissions.
In the same year 1986, Prof Johan van der Vyver, after consultation with the ANC in Lusaka, organised a symposium on human rights. The symposium discussed the question of human and group rights proposed by President P W Botha. At the conference the Democratic Lawyers Congress led by me and young black lawyers formed the anti-Bill of Rights to oppose P W Botha’s constitutional reforms and the group rights ideology in particular.

In 1987, the ANC adopted the Statement on Negotiations which also rejected the apartheid regime’s group rights ideology. In the same year 1987, the ANC and members of Nadel and the Black Lawyers Association, BLA, attended the conference called the World United against Apartheid in Arusha, Tanzania. The conference discussed inter alia the legitimacy versus the legality of the apartheid constitutional order.

In 1988, the ANC published the Constitutional Guidelines for a Democratic South Africa which were profoundly influenced by the Freedom Charter. The following year the SA Law Commission, headed by Judge P J J Olivier, produced a draft Bill of Rights which endorsed basic
civic and political freedoms and firmly rejected the protection of racially-defined group interests, while opening the way for the protection of cultural, religious and language rights.

However, F W de Klerk who became State President in September 1989 sidelined Judge Olivier’s report and together with Gerrit Viljoen who was Minister of Constitutional Development, continued to press for power-sharing mechanisms rooted in group rights.

Informed by the ANC’s human rights culture, the ANC produced the Harare Declaration which provided the basis and roadmap for a negotiated political settlement.

It is important to note that the critical issue that arose from this process was the question as to whether there should be group rights or human rights. The ANC opposed group rights because group rights was an ideology that informed the Bantustan process.

However, today the ANC has also ensured that when the new Constitution was adopted, confidence-building mechanisms
are incorporated in that Constitution to ensure that all South Africans, both black and white, buy into this constitutional dispensation. That is why today we have a Bill of Rights which also includes section 25 of the Constitution and the enabled legislation called the land redistribution Act.

Those who don’t understand the process of nation-building and the importance of ensuring that all South Africans buy into that process, are today calling for unconstitutional ways of changing the Constitution, and also undertaking certain processes which would lead to chaos and disturb the peace and security that our people are enjoying.

So, I want to say in this hon House that our Constitution is not wrongly called one of the best in the world because this Constitution makes provision for orderly changes that are desired in the light of the situation prevailing in the country. Therefore, I want to propose that this House, in terms of this Constitution, has the fullest power to bring about whatever changes are
desirable and therefore there is no rational basis why this Constitution should be subverted.

The critical issue that we need to be mindful of as OR indicated is that racism ensured that a minority got ownership of 87% of the country, and that is the reason why we have poverty, unemployment and inequality. That is also why we have a deepening moral degeneration in the country. It therefore means that we must utilise the powers that we have to ensure that we adopt the necessary legislation of general application to ensure that we are able to redistribute the land ... [Interjections.] ... and its natural resources to the majority of the people. [Applause.]

Mr J SELFE: Madam Chair, It was really great to be a Member of Parliament in 1994, and to be a member of the Constitutional Committee that was shaping our country’s Constitution. It was a great privilege and honour to serve in the same committees as people like Kader Asmal, Brigitte Mabandla, Tony Leon, Musa Zondi, Richard Sizani, Colin Eglin, Mohammed Bhabha and even the excitable Salie Manie.
There were many people who contributed to our Constitution and a great Constitution that it is. One felt, at that time, that we were making history; that the huge yoke of apartheid had been lifted from our shoulders; that the future was full of promise.

One central idea animated our discussions: that we were never, ever going to allow the abuse of power, the systematic trampling of human rights, the torture and killings, the secrecy and lack of accountability that had characterised the apartheid state to occur again in the democratic South Africa.

It is thus natural that the Bill of Rights should be at the heart of the Constitution. The Bill of Rights encompasses not only traditional rights, such as the right to equality; dignity; life; freedom; privacy; freedom of religion, belief and opinion; but also second and third generation rights, such as the right to basic education; to a clean environment; and to access to adequate housing, health care, food, water and social security.
Bearing in mind the abuse of the past, the Bill of Rights was careful to guarantee the right of arrested and detained persons and provided that the conditions of detention be "consistent with human dignity, including...exercise and the provision...of adequate accommodation, nutrition, reading material and medical treatment".

As we approach Human Rights Day, we must ask whether South Africans enjoy those rights. The answer must be an overwhelming no. Anybody who has been to a mud school with a pit latrine will know that some South Africans are denied the right to basic education and to dignity. Anyone who has stood in a queue at a clinic and gone home, still sick, and without having seen a doctor or sister, will know that access to healthcare services needs vast improvement. And anyone who has visited a prison will know that the conditions, particularly for remand detainees, do not remotely conform to what the Bill of Rights prescribes.

The brutal fact is that this government has failed to guarantee the Bill of Rights. Instead of getting decent
and efficient services they deserve and which are guaranteed by the Constitution, our people get wastage, corruption and cronyism. [Interjections.]

Ms D G MAHLANGU: House Chairperson.

The HOUSE CHAIRPERSON (Ms A T Didiza): Order! Hon member, can you take a seat? What is the point of order?

Ms D G MAHLANGU: House Chairperson, I would like to check if the member is in a position to take a question.

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon member, will you take a question?

Mr J SELFE: If I had more time I would do so but I don’t.

The HOUSE CHAIRPERSON (Ms A T Didiza): Thank you. Can you take a seat hon member?

Mr J SELFE: It is particularly appropriate that this debate takes place today, when 17,1 million of the poorest and most vulnerable South Africans are having to
access the Constitutional Court to guarantee their right to social security because someone, somewhere has received a kick-back.

The reality is that this government is arrogant and uncaring. It does not care about the rule of law, as is so clearly illustrated by the contemptuous way the Minister of Social Development has treated the directions of the Constitutional Court.

It treats criticism with scorn, and invariably resorts to the race card. It has quite simply lost touch with the people. But the real fault lies with us Members of Parliament and particularly hon members of the ANC - spectacularly fail to hold the executive to account, as was so graphically illustrated by yesterday’s debate on the South Africa Social Security Agency, Sassa, crisis.

In many respects, the executive is as unaccountable, as arrogant and as secretive as the apartheid government. On 7 May 1996, I said the following in a debate in the Constitutional Assembly: In this Constitution, we have created oversight mechanisms and we have put in place
checks and balances. However, these constitutional mechanisms are only as effective as the will to make them succeed and that depends on the collective commitment of parliamentarians to transparency and accountability, not only now when the abuses of the past are fresh in our memory, but also in the future.

As Members of Parliament, we do not have that collective commitment to transparency and accountability, which is why people have to turn to the courts to seek their rights. Courts don’t like their new job they have to do because we don’t do ours, but they do it very well — whether it was in respect of Nkandla, the SABC, the police in Parliament or MenziSimelane. I trust that they will do the same about Minister Dlamini and Sassa crisis.

On every single one of these issues, the President and Ministers have evaded accountability by refusing to answer questions or to attend committees or to mislead this House. And the presiding officers have taken no steps to demand this accountability. So, unless and until we recommit ourselves to carrying out our responsibilities in terms of the Constitution and our
responsibilities to make Human Rights real in our country, we will be failing precisely those people who Dr Motshekga referred to who struggled and died in the fight for a democratic Constitution. Thank you. [Applause.]

Mr M S MBATHA: House Chair, good afternoon or good evening. Statistics SA has, on numerous occasions, stated that in South Africa today – 20 years into democracy – there is an ever widening gap between the poor and the rich and that we have taken over from Brazil as the most unequal country in the world.

Our people and this Constitution have no relationship. Our people are hungry. This Constitution was supposed to serve the majority first before extending more wealth to the minority. Our people do not eat the Constitution. [Interjections.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Order! Hon members. Before I call the name of members, can we please be orderly? Continue hon Mbatcha.
Mr M S MBATHA: Today I can note one of the reasons why it took the ANC so many years to celebrate O R Tambo in any event of special nature. It is because the breed that took over in 2007 is a different breed from that of O R Tambo. He would have never allowed a situation where, continuously, the gap between the rich is unabated, unmanaged and there are no mitigating laws even when the budget exists.

Maybe we must go back to the beginning. Why did we fight? We fought because we continued the wars that were fought by our fore fathers. These wars were wars of dispossession; they were about land. When these wars delivered us to our modern democracy, why is our democracy looking like this? Our people fought to achieve land ownership and free education. Why is it so difficult for our democracy to achieve this?

During the wars of resistance there were many measurable victories that our people achieved and these victories ensured that communities were self-sustaining and that people living in villages did not necessarily need to
have third parties or work to sustain themselves. The victors later made our people labours.

We cannot continuously celebrate the Constitution that continues to make us landless in our country. Our people want land - as I have said before - and if we are not heeding to this call, the problem will start again where new sets of struggles will be about land and land occupation.

The recent memory of human rights that we only have for this democratic government is a memory of fallen citizens such as the heroes in Marikana that were killed by this government. It is the memory of Andries Tatane and of hundred plus Esidemeni patients who were killed by this government.

There is no relationship between Human Right Day today and the socioeconomic rights of our people. We need to connect with our people; there has to be a relationship between everything we celebrate and how they get along in life. Thank you very much.
Mr M A MNCWANGO: Hon Chairperson, in a report released by Human Rights Watch on 12 January this year, it was stated that South Africa, and I quote, “Continued to face a number of human rights challenges.” And that public confidence in the government’s ability to deal with these challenges had eroded. It listed amongst the various challenges, government’s unwillingness to engage human rights violations, government’s corruption and an erosion of the rule of law.

Hon Chairperson, taking nothing away the great work done by Human Rights Watch in compiling this report, but one does not need to read a report to know that there are glaring human rights inadequacies in this country. Many of them in fact emanate from our highest office and occur in plain sight.

Take for instance government’s granting of safe passage to notorious human rights abuser Omar al-Bashir, and its flagrant and contemptuous actions in the wake thereof in defiance of a standing International Criminal Court, ICC, warrant for Bashir’s arrest and how does this government legitimise such actions? It legitimises its actions by
following the example of another serial human rights
abuser a tin-pot despots of the likes of Yahyah Jammeh,
the now fleeing ex-president of Gambia, by filing
unlawful papers seeking to remove itself from the
International Criminal Court.

Hon Chairperson, we are a country in serious trouble when
we follow the human rights example of an individual such
as Jammeh. Xenophobia or xenophobic violence for instance
has once again erupted in South Africa and has before
threatened to become a national crisis. Government must
take decisive steps in combating such violence. It has no
place in this country and yet, this government does not
seem overly committed that is beyond paying lip-service
to it to hold those responsible to account.

Decisive police and judicial action is what is required,
as well as ongoing educational initiatives at both
formative schooling and adult community levels.
Xenophobia if allowed to take firm route will destroy the
rule of law and all social cohesiveness made in South
Africa since democracy.
This government needs to take stock of how far it has fallen, arrest the fall and reclaim its position and constitutional guardian on the continent.

Two weeks ago, we celebrated the anniversary of our Constitution in this very House and today we reaffirm our commitment to the human rights enshrined in its Chapter 2 Bill of Constitution. I thank you. [Time expired.]

[Applause.]

Mr M HLENGWA: [Inaudible.] [Interjections.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon Hlengwa, I heard you! Proceed hon member.

Mr M S MABIKA: Hon Chairperson, our Constitution which was adopted 20 years ago as the guiding document around which our society is ordered, has been hailed as a fine example of a modern democracy. Fundamental human rights are entrenched, and clear guidelines are laid down for transparent and accountable governance.
Our Bill of Rights is based on the Universal Declaration of Human Rights which brings us in line with the prevailing international view and standard of conduct expected of governments worldwide. Chairperson, by adopting the Bill of Rights, South Africa departed from a disgusting state-sponsored system of systematic human rights violation. Apartheid entrenched inequality in our society and institutionalised race as a dividing feature of everyday life.

We still today suffer from the legacy of apartheid. We have the promise of a better life for all contained in our Bill of Rights. It is to the Bill of Rights which we turn for protection of our dignity and equality, and it is to our Constitution which we turn as our first and last line of defence against the abuse of the state power.

The potential for violation or infringement of our rights does, however, not only stem from state power. A defining and unique feature of our Bill of Rights is that it has horizontal and as well as vertical application. This means that the rights we have are enforceable against
each other as well as against the state. It is the horizontal application that protects our dignity from the likes of Penny Sparrow spewing racial intolerance, and this vertical application which compelled the state to introduce affirmative action and black economic empowerment into the discourse of our society.

As South Africans, we have much reason to be proud of our Constitution, and much incentive to take ownership of it. However, we need to be vigilant and not become complacent about the protection of our rights for often, our rights are being infringed indirectly and in underhand ways.

Every time the President breaks his oath of promise to uphold and defend the Constitution, our right to transparent governance is infringed.

Every time a Minister defies the judiciary and spurns accountability to Parliament, our right to democratic governance is infringed.

We, as South Africans, have an obligation to be vigilant and vocal about such infringements. [Time expired.]
The HOUSE CHAIRPERSON (Ms A T Didiza): Hon Dudu Mananna, be in order. [Interjections.]

IsiZulu:

USOLWAZI N M KHUBISA: Sihlalo ...

USIHLALO WENDLU (Nk A T Didiza): Yebo, muntu wenkosi.

USOLWAZI N M KHUBISA: Mhonishwa.

USIHLALO WENDLU (Nk A T Didiza): Lungu elihloniphekile ungaqhubeka.

USOLWAZI N M KHUBISA: Cha, ngithi ngisukume nje lapha Sihlalo egameni lokwenyela kancane.

English:

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

IsiZulu:
USOLWAzi N M KhUBIsA: Ngizwe ngapha ngemuva engathi kukhona umhlonishwa othe sekungakhulu-khulunywa ngoba sebaqedile angazi ukuthi bekuyisimo sini leso. [Uhleko.]

English:
The HOUSE CHAIRPERSON (Ms A T Didiza): Order, hon Hlengwa I am sure you were heard and you do not have to say that when others are still speaking. Can we proceed with the debate. I can see it is 20 minutes to 7 pm. Hon Filtane.

Mr M L W Filtane: The ideals of the Constitution were when our constitutional democracy was founded; we were a deeply divided people, and our society was unjust and our economy exclusive. However, we established this constitutional democracy with a commitment to reconciliation and the building of a nation that is united and prosperous.

The Constitution is therefore the embodiment of our collective conviction and it articulates the base that we, as a nation must fervently build on, to realise a good and just society.
We envisaged a good and just society, not necessarily as an idealistic utopia but as a modern society where the basics are in place. A place where citizens have access to food and water, a place where people can afford decent leaving, a place where streets and houses are lit, a place where children can go to school and university, a place where citizens are cared for when they are sick and they can live in an environment where their person and property are safe. That is the South Africa we envisaged.

Should a Constitution be casting stones? Of course not. Of course we must guard our Constitution and the principles it espouses at all costs, but it does not mean that it is a dead piece of paper. It should rather be a responsive living document, which helps us reach the goals of a good and just society.

A 2014 study conducted by the Human Rights Commission shows that almost 90% of South Africans never ever read the Bill of Rights. Consequently, we have seen how they become victims of police and other security forces’ brutality, when they take to the streets to demand what is their constitutional right.
Through civic education on our constitutional rights and responsibilities, we will avoid another Marikana massacre, as well as the painful ongoing massacre of people in the taxi industry in the Mthatha area. As of late, they were 25 and still counting. Where are their constitutional rights? We ask this question to our security forces.

It will also benefit public service practitioners who, notwithstanding the provisions of the Constitution, would go out of their way to stop water provision to people.

Our constitutional obligation to the executive accountable has recently been found wanting and, if citizens were active, there would have been consequences. Remember the judgment of the 31 March last year.

The historic judgment by the Acting Judge Siphokazi Poswa-Lerotholi on Thursday 9 March, where she found that the Mampies family did have the right in terms of the provisions of the Extension of Security of Tenure Act to bury one of their own, their mother, in a certain farm in the Northern Cape province, is a watershed judgment of
our system for a constitutional democracy and the upholding of human rights. Thank you Chair. [Time expired.]

Dr C P MULDER: Hon Chairperson, today, we are debating the 20th anniversary of the Constitution. The hon Motshekga started the debate and gave us a history lesson from the ANC’s perspective in terms of the contributions made within his own party and it was quite interesting.

The hon Motshekga made the point about how the ANC fought so that human rights could be accepted, but not group rights and he feels very strongly about that.

So, maybe one day I and the hon Motshekga should have a cup of coffee. I would like to hear more from him about the provisions in the Freedom Charter where they refer to all national groups shall have equal rights. That’s also in the Freedom Charter. It also says there shall be equal status in the bodies of state for all national groups. So, national groups are a reality and we cannot ignore that. Maybe that’s part of the problem at the moment why
we don’t have social cohesion. But we can talk about that.

Hon Chairperson, the Constitution was adopted by the Constitutional Assembly, in 1997. The negotiations took place basically within the Theme Committees as well as the Technical Committees. Then, there was a Constitutional Committee that agreed upon all those things that came out of the Theme committees and it went to the Constitutional Assembly.

Now, interesting enough that Constitutional Committee consisted of 18 members, some full time and some were alternate members. Now interesting enough, of those 18 members only 11 are still active in Parliament today. In alphabetical order for what is with, they are the following: hon Gordhan, hon Landers, hon Mapisa-Nqakula, hon Speaker Mbete, hon Rev Meshoe, Myself, hon Blade Nximande, hon Dr Naledi Pandor, hon Ramaphosa, hon Lindiwe Sisulu and hon Enver Surty. Those were the members. [Interjections.] Yes. So, that happened at that stage in terms of how the ...
The HOUSE CHAIRPERSON (Ms A T Didiza): Can I pick James Selfe.

Dr C P MULDER: Yes, but the record says ... We will talk about that. [Laughter.] Be that as it may, Chairperson, the Constitution was negotiated ... Today, we have a Constitution.

Sometimes, people refer to the Constitution as the final Constitution, but let’s leave it there. I want to end with a quote. It’s a quote that I used in my first speech in Parliament, many years ago. It’s a quote about democracy. I think we should take it seriously. It’s a quote by Prof A K Busia from Ghana, in his book *Africa in search of democracy*. He wrote the following:

A democracy in the last analysis depends on the character of individual men and women and the moral standards of the community. Rules governing elections may be made; freedom may be provided in constitutions; and Bills of Rights may be passed; they will make arbitrary acts easier to resist publicly, but they will not by themselves secure
democracy. There are other rules which are
unwritten, such as honesty, integrity, restraint and
respect for democratic procedures.

My concern is, maybe we need much more of that. Thank
you. [Time expired.] [Applause.]

The HOUSE CHAIRPERSON (Ms A T Didiza): I am sure hon
Motshekga, you have already accepted your invite for tea.

Mr M G P LEKOTA: Madam Chair, at the beginning of the
80s, when we got to the main land coming from Robben
Island, the leaders of our people said to us that you
must remember and you must work because when we started
off this journey at the beginning of the 60s, we made the
statement between the anvil of mass action and the hammer
of arm struggle, we shall compel a resolution to the
problems of our country.

Indeed, in less than a year, we formed the anvil and mass
action became the household action of the country. In a
short space of time by the end of that decade, President
Nelson Mandela and so many of our comrades, a younger
Nkwinti and many others that are no longer here walked out of their corners and we closed in on Convention for a Democratic South Africa, Codesa. There, we brought in with us the rulers we had been always holding a position superior to us, but they came now as equals to come and discuss and negotiate how best to move into the future with all of us. The product was this little book. [Interjections.] This is what we celebrate 20 years since. This is one institution that will bind our nation for centuries to come. Whatever adjustments and amendments will be made, we celebrate. I gave that, yes. We celebrate this.

We must not be shy about this. Along the way as South Africans, we will make mistakes, we will quarrel here like a family, and we will have these moments. But when the right time comes, we must always remember, we did something that no nation had ever done. We said, we are going to Codesa, we don’t want the United Nation, we don’t want the OAU, we want nobody from outside South Africa, we will choose the chairperson of the negotiation from among ourselves. We will choose the scribes; we will choose those who will guide and everything else.
Judges, scholars ... the late Justice Mohamed is gone now. We have all of those. It was only South Africans at Codesa, nobody else. When we had had our discussion, we walked away with a victory, with an achievement no nation failed to admire. I am very glad to say, let us be proud that we are South Africans. [Applause.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon Lekota! Hon Meshoe, you can take your podium. As you walk I just want to say to hon members, on 3 March, when we were launching the celebration of the Constitution, our moderator Mr Mac Maharaj said, it might be good at times to have the lighter moments and know the things that made others to feel a bit sway about the things they did and also some those little things that are not written anywhere else. I think that’s what Lekota has just done – to take us through those moments of the time.

Rev K R J MESHOE: House Chairperson, the SA Constitution is hailed by many as one of the most liberal and progressive in the world today. Compared to other Constitutions, it is much more inclusive with clauses
that are controversial in some circles, particularly among those who still uphold conservative moral values.

Even though the ACDP was the only political party to vote against the Constitution in 1996, we fully support our constitutional democracy and wish to give credit to those men and women that helped to stabilise a nation that was plagued by fear and uncertainty about its future.

Two of the main reasons why the ACDP voted against the Constitution were because of its failure to balance human rights with responsibilities, and its protection of criminals while failing to protect innocent unborn babies.

As we celebrate 20 years of our democratic Constitution, it gives me a great sense of pleasure and fulfilment to remember that I was part of the historic process that produced a Constitution that afforded me and my fellow South Africans the many rights that we all enjoy today.

On this note, I would like to acknowledge and give credit to my former colleague, Louis Green, who was a great and
passionate team member who represented the ACDP well in various subcommittees in dealing with the Constitution, including Theme Committee 4, which dealt with the Bill of Rights.

Lastly, I am grateful to God that the ACDP succeeded in persuading the ANC in particular not to include the words secular state in our Constitution.

Because of the ACDP’s contribution, we managed to include in our Constitution, section 15(2) that says, and I quote, “Religious observances may be conducted at state or state-aided institutions”.

The result of section 15(2) has enabled thousands of churches across the country to conduct their services and other meetings in state-owned buildings.

South Africa is indeed a developmental constitutional state and not a secular state that some incorrectly think it is. We are arguing against that. There is no known secular state in the world to our knowledge that has
references to God in their Constitution. The Preamble of our Constitution concludes with the words:

May God protect our people,
Nkosi Sikelel’ iAfrika.
Morena boloka setjhaba sa heso.
God seën Suid-Afrika.
God bless South Africa.
Mudzimu a fhaṱutshedze Afurika.
Hosi katekisa Afrika.

Indeed, the ACDP prays that God will bless all South Africans and prosper its entire beautiful and wonderful people. Thank you [Applause.]

The DEPUTY MINISTER OF JUSTICE AND CORRECTIONAL SERVICES (Mr J H Jeffery): House Chair, hon members, in some of the darkest periods in our country's history the poet, Mafika Gwala, wrote a poem called "Kwela-Ride." "It reads -

Dompas! I looked back Dompas! I went through my pockets; Not there. They bit into my flesh, handcuffs; Came the
kwela-kwela. We crawled in. The young men sang in that dark moment. It all became familiar”.

Many of us recall elements of those dark moments in our history - the dompas, the pencil test, forced removals, detention without trial, states of emergency. Things that, as the poem say became familiar to us, although no human being should have been subjected to it. Our Constitution stands like a stark refuge against the evils of our past.

Today, we are all equally entitled to our human rights without discrimination where, the human dignity of a person is not based on the colour of their skin.

The Constitution is a national compact that seeks to heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights. Our Constitution did not come from the heavens like the 10 Commandments which God dictated to Moses on Mount Sinai.
It came essentially from the position of the ANC developed over a century of struggle. Hon Motshekga earlier spoke into detail on this regard. It is a roadmap that seeks to transform the political, economic and social relations in South Africa.

The Constitution has drastically transformed our country. Advances made by government have had a positive impact on the lives of the people across a number of key areas. We have built democratic institutions; we have repealed apartheid legislation and passed laws that meet the requirements of the Constitution.

We have had free, fair and peaceful elections. Where there were, in the past, disparity in government services along racial and geographic lines, this has changed. The inclusion of justiciable socioeconomic rights in our Constitution is critical to the attainment of socioeconomic equality.

In the past financial year, about 9 million learners benefitted from the No-fee Schools policy. More than 9 million learners benefitted from the National School
Nutrition Programme. Across population groups, there is an increase of persons attending educational institutions - with the number of black Africans attending an educational institution increasing from 10 million in 1996 to nearly 15 million last year.

The expansion of health programmes has led to an increase in life expectancy. Infant mortality rate has declined. Formal housing has grown by 50% since 1994, translating to an additional 5.6 million formal homes. Government has delivered a total of 4.48 million housing opportunities and subsidies. South Africans are enjoying a higher standard of living.

This is because of a Constitution that guarantees human rights and an ANC government that gives effect to those rights - by formulating and implementing some of the most progressive policies in the world.

Some of the opposition will stand here today and present themselves as the great defenders of the Constitution. Yet, in truth, they are extremely selective when they shout “Constitution, Constitution”.

It always amazes me how some, like the hon Mulder, loudly uses the Constitution to support his arguments when his own party opposed the attainment of democracy in South Africa.

Some in this House are nothing short of two-faced when it comes to Constitution. They decry the use of violence against striking workers, but encourage violence, lawlessness and anarchy on our university campuses. They incite people to unlawfully occupy land. They will run to court at the drop of a hat when their own right to freedom of speech is seemingly infringed, but, sadly, disregard the rights of others. They advocate democracy and say they support the Constitution, but then they make a mockery of Parliament - a Parliament which finds its existence in the Constitution.

They disrupt the state of nation address infringing the rights of every citizen who may actually want to hear what government is saying. When members speak in Parliament, whether or not you agree with them, they must be allowed to speak - yet they seek to silence members by
countless objections dressed up as points of order - points of order in drag.

Often quick to seek out a TV camera, always quick to play to the media, that’s the EFF. One is reminded of a poem, born out of the Civil Rights movement, by African-American Gil Scott-Heron; “the revolution will not be televised, the revolution will not be brought to you by Xerox. In four parts without commercial interruptions, the revolution will not be televised, the revolution will be live”.

Freedom and real transformation require more than sensationalist sound-bites and taunting TV-clips. And then there is the DA. They have a campaign called “Know Your DA”. They claim that “from the birth of the Progressive Party in 1959 to the constitutional negotiations at Convention for a Democratic South Africa, Codesa, the DA never stopped fighting against apartheid”.

So they say. They say they never stopped fighting against apartheid - but they never, before the 1990s, fought for “one person, one vote”. Never! [Applause.]
The vast majority of white people vote for the DA. The majority of those, who were voting in the 1980s, voted for apartheid and whilst there may be younger people who only voted after 1994, they are still the beneficiaries of apartheid and opposed to transformation. The DA is a right-wing organisation, against the transformational values that our Constitution seeks to achieve.

Mr T RAWULA: Order Chair!

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

Mr T RAWULA: House Chairperson, can the hon member take one simple question?

The DEPUTY MINISTER OF JUSTICE AND CORRECTIONAL SERVICES (Mr J H Jeffery): I don’t unfortunately have enough time.

Mr T RAWULA: What were you doing before 1994?

The DEPUTY MINISTER OF JUSTICE AND CORRECTIONAL SERVICES (Mr J H Jeffery): As a party seeking power, they will, in
an attempt to try and attract black voters, seemingly espouse policies that seem more appealing to the majority. But look at their representation in this House - not exactly representative of the South African population.

They have only 20 African Member of Parliament and an astounding 58% white Members of Parliament, and remember that the South African population is 81% and the white population is 8%. So it's very clear who they represent.

The DA claims to stand for the legacy of Nelson Mandela, but the DA has not even adopted the Freedom Charter - a document which a former DA Chief Whip Douglas Gibson describes as “a pamphlet drawn up by a political party - nothing more and nothing less”.

Of course, we know what the hon Maimane’s views are on gay rights. According to media reports the hon Maimane’s church - where he is a pastor - “is not in favour of marriage equality and in fact sees homosexuals as sinners and equates them to alcoholics. He also regards Muslims
as sinners. Watch the video clip so much for rights of freedom of religion”.

As for xenophobia, civil society recently accused the DA's Johannesburg mayor, Herman Mashaba, of inciting violence against foreign nationals after he allegedly referred to them as “criminals”.

The Hon Kohler-Barnard misses PW Botha and the DA Caucus leader Hon Anchen Dreyer goes around hugging a cardboard cut-out of Transvaal President Paul Kruger. Kruger was the epitome of everything the Constitution is not. If you want to celebrate Afrikaner heroes, why not celebrate Braam Fischer or Beyers Naude!

In 2011 a judgement was handed down in the Western Cape High Court stating that the City of Cape Town had violated the constitutional right to dignity. The city had constructed 1 316 unenclosed toilets in Khayelitsha. The court held that the unenclosed toilets were inconsistent with the city’s constitutional duty to provide the poorest of the poor with their basic needs.
The Mayor at the time was Dan Plato - currently MEC for Community Safety in the Western Cape.

The DA claims to be pro-poor and has often claimed that the City of Cape Town spends 67% of its budget in poor communities. But, says Africa Check, that's not true - it's actually only 49%. Know your DA; a DA whose labour policy is based on classic right-wing economics. They say UIF contributions should be halved. They want to amend the Labour Relations Act, LRA, which imposes restrictions on employers wishing to dismiss employees.

They want the Sector Education and Training Authority, SETAs, disbanded. They want to introduce a six-month probation period during which firms will face no penalty for dismissing workers. They want to amend Schedule 8 of the LRA which means that employers don't have to take steps to employ improving employee performance ...

[Interjections.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Deputy Minister, can you take a seat? What is the point of order?
Mr C MACKENZIE: Thank you, House Chair. Will the hon Deputy Minister take a question on Birgu Shelter Graffiti?

The HOUSE CHAIRPERSON (Ms A T Didiza): Deputy Minister, Will you take a question?

The DEPUTY MINISTER OF JUSTICE AND CORRECTIONAL SERVICES (Mr J H Jeffery): No! I have said that I won’t take questions because I don’t have enough time.

The HOUSE CHAIRPERSON (Ms A T Didiza): Ok, proceed.

The DEPUTY MINISTER OF JUSTICE AND CORRECTIONAL SERVICES (Mr J H Jeffery): It would be good if you could listen. They want to amend Schedule 8 of the Labour Relations Act, which means that employers don’t have to take steps to improve employees performance prior to dismissal.

Remember the fiasco around the Employment Equity Amendment Bill which deals with demographic diversity in the work place. The DA voted in favour of the Bill in the
National Assembly, but a couple of weeks later withdrew its support.

Perhaps most telling is the DA’s policy on black economic empowerment. A DA poster, echoing their 2014 manifesto, showed a black man in a construction safety hat with the caption of “We support BEE that creates jobs not billionaires”. That’s exactly how the DA sees black South Africans - as labour. Not as owners of capital, not as professionals, but as labour. So, know your DA indeed.

We know that the Constitution and the laws, policies and programmes of this government in terms of the Constitution - seek to provide opportunities for all, human dignity for all, and equality and freedom for all.

As poet Lebogang Mashile writes:

Every child should know the scope of their greatness is contained in the weightless Inconvertible light that is their truest being. My child will know that boxes like race, class and gender are fated to be
transcended in the face of a limitless self that is free.

Thank you. [Applause.]

Mr M P GALO: Hon Chair, the gains of our democratic settlement were a radical and tremendous break from the past. For 46 years, the apartheid state continued its enforced policy of separate development, which deprived our people of their pre-political rights to human dignity, equality and freedom.

The people’s struggle predated 1948 and was a long endurance of torture, humiliation and violation. Our founding fathers had set the tone as early as 1652, challenging the very structure of colonial suppression and invasion. The preamble of the 1996 Constitution enjoins us to: “Lay the foundations for a democratic and open society in which government is based on the will of the people and every citizen is equally protected by law.”
The AIC recognises the underground struggle waged against apartheid by the masses of this country. It is in this context that the AIC honours their contribution in this year’s human rights anniversary. We celebrate the legacy of Maggie Resha, a human rights stalwart born in Matatiele. She, too, believed in the emancipation of our people from the bondage of self-imposed government.

The people of Matatiele recognise this day. Like Maggie Resha, who was exiled in Tanzania in 1962, the people of Matatiele are consistent that the Eastern Cape province has no legitimate claim over them. [Interjections.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Order, hon members! Let’s allow the member to finish. Hon Hlengwa!

Mr M P GALO: It is their will that should determine who presides over them. The AIC believes that human rights cannot be complete without the will of the people.

Dr Nelson Mandela understood that democracy is a government of the people, by the people, and for the people. He stated:
I stand before you not as a prophet but as a humble servant of you, the people. Your tireless and heroic sacrifices made it possible for me to be here today.

As we commemorate this day, we should never take for granted the aspirations of our people. Service to the people entails advancing ...
look for a small room and weep uncontrollably. The ANC has become the enemy of the Constitution.

[Interjections.]

It is no longer necessary for the ANC to quote our glorious history while they repeat the same mistakes and injustice. [Interjections.] Apartheid lied to our people; the ANC lies to our people. [Interjections.] Apartheid stole from our people; the ANC steals from our people. [Interjections.] Apartheid benefited a few; the ANC-led government benefits a few. [Interjections.]

Hon members, the sacred book of our nation has been given a price by the Zuma administration. Corruption and bribery have become a way of life, and our Constitution is defeated and manipulated by the majority party.

Ms H H MALGAS: Chairperson, on a point of order: He says “Zuma administration”. [Interjections.] It’s supposed to be “the President Zuma’s administration.” [Interjections.] Thank you.
The HOUSE CHAIRPERSON (Ms A T Didiza): No, hon member, that is not a point of order. Proceed, hon member.

Mr M A PLOUAMMA: Thank you, hon Chairperson. This sad part of history should strengthen our resolve to protect this Constitution at all costs.

The question we need to ask ourselves is why the ruling ANC is afraid of this Constitution. Why have they become a threat to the same Constitution in which they played a major role in drafting? How do we celebrate this Constitution when our people are still facing challenges relating to unemployment, lack of infrastructure and quality education, when there is inequality and the majority is still dispossessed?

How do we celebrate this Constitution knowing that the current President does not respect it? This Parliament has lost its integrity. We have just become a Chamber in which to chastise and spit on our Constitution.

Ms M C C PILANE-MAJAKE: Hon Chairperson ...

[Interjections.] ... is the hon Plouamma ready to take a
question to put into context what he is saying?

[Interjections.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Alright, can I ask the member? Hon member are you willing to take a question?

Mr M A PLOUAMMA: No, no, hon Chair.


Mr M A PLOUAMMA: How do we celebrate this Constitution while looting and stealing is at a high level? We must avoid making the celebration of the Constitution a fool’s prayer because it is very important to note that the Constitution should not be celebrated as just a document that will be locked away after today. We must live it and live according to its values.

I want to emphasise that it is very clear that that side of the House will never celebrate this Constitution in full, as it has become a true enemy of the Constitution.
I hope this side of the House will take over in 2019 and save the future and the lives of our people. [Applause.] There is no other way.

The ANC is dead. We must just look for a very good place to bury it - and that will come in 2109. I thank you. [Applause.]

Ms P T VAN DAMME: Chairperson, as we celebrate the 20th anniversary of the signing of our Constitution, it is important that we carefully assess where we are in achieving the human rights obligations it imposes in the Bill of Rights so we can map a way forward for achieving those still outstanding.

Our Bill of Rights forms a cornerstone of our democracy, enshrines the human rights of all people in South Africa, and requires that the rights it affirms are respected, promoted, protected, and fulfilled by the state. [Interjections.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Order, hon members! Please proceed.
Ms P T VAN DAMME: In assessing whether the government has fulfilled its human rights obligations as per the Bill of Rights, it is necessary to acknowledge the gains that have been made with the help of our august Constitutional Court and members of this House. Achievements worth applauding include the abolition of the death penalty, the legalisation of same-sex marriage, and the protection of freedoms related to rights of religion, political choice, culture, and language. [Interjections.]

However, many rights enshrined in our Bill of Rights remain unachieved, and it is on those we need intensified focus. Particularly and of paramount importance is the right to education. The systemic failures in our education system have prevented young South Africans from realising their rights, as enshrined in section 29 of the Bill of Rights which states that everyone has the right to basic and further education, “which the state, through reasonable measures, must make progressively available and accessible.”

We cannot say that the rights to basic and further education have been achieved in South Africa when the
Eastern Cape has 800 schools identified as having inappropriate structures that have to be replaced. KwaZulu-Natal has 1 379 schools which have pit toilets only. A total of 58 schools in the Eastern Cape have no water. Only 45% of top-up textbooks have been delivered in the Eastern Cape. [Interjections.] The National Student Financial Aid Scheme turned down more than 53 000 applications for the 2017 academic year, and students who get qualifications through technical and vocational education and training colleges have waited for up to two years to receive their certificates. Without quality education, we are nothing.

The same goes for jobs.

The HOUSE CHAIRPERSON (Ms A T Didiza): Order! Hon members in that corner, can you please allow the speaker at the podium to be heard?

Ms P T VAN DAMME: The new Castle Corner. [Interjections.] Section 22 of the Constitution states all South Africans have the right to choose their trade, their occupation,
and their profession freely. Over eight million South Africans cannot enjoy this right. [Interjections.]

Mr M A DIRKS: On a point of order, Madam Chair: As I walked in, the member referred to this corner as “the Castle Corner.” There is no Castle Corner in this House. [Interjections.] There is no …

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon Mervyn, please take your seat. [Interjections.] You have raised a point of order. I will check the Hansard because I did not hear from where I am sitting. Hon members, please be in order! Can you please be in order? Hon member, please proceed.

Ms P T VAN DAMME: Over eight million South Africans cannot enjoy this right because there are simply no trades, occupations, or professions for them to choose from. It is a right to choice that many are prevented from exercising.

The rampant joblessness in South Africa directly infringes on many other rights in the Bill of Rights for those without jobs, such as the right to human dignity,
life, movement and residence, housing, healthcare, food, social security, and access to courts.

Another right that has not been fulfilled is the protection against unfair discrimination on grounds of race, gender, sex, and sexual orientation. South Africa sadly remains a largely patriarchal and sexist society, where the rights of women and girls are not advanced or protected sufficiently. Our country unfortunately also remains divided on the basis of race. A reconciled and equal South Africa remains a pipedream.

It certainly doesn’t help when, unable to deliver on its constitutional obligations, the ANC chooses to divide South Africa along the lines of race, as we heard in John Jeffery’s speech. Unable to come here to talk about how the ANC-led government would deliver social grants, how the ANC-led government would make sure that there are jobs, how the ANC-led government would improve social delivery, he came here to talk on and on about opposition parties. This shows the ANC is running scared, is afraid of opposition parties in this country, and is preparing for a life in opposition. [Interjections.] [Applause.]
The ANC has abandoned the value of nonracialism, as espoused by the Constitution, and has done so because it is no longer convenient for it that the people of South Africa are reconciled. Race-based politics has become the order of the day. As South Africans who love our country and want it to prosper, we must stand against this and continue to fight for ensuring that the values of our Constitution, including nonracialism, are upheld.

In order to reach its full potential, our beautiful nation needs reconciliation, economic growth, job creation, and the advancement of rights in our Bill of Rights and Constitution. Let us reconcile and unite. Let us stand together for economic growth and job creation. Let us stand for quality education for all, and let us stand together to protect our Constitution. I thank you. [Applause.]

The MINISTER OF SCIENCE AND TECHNOLOGY: Thank you, Chairperson. It would appear Chairperson there are some of us in the House who are living in cloud cuckoo land and who have no appreciation of the advances that we have made.
I think Chairperson this is a very important debate in that it is absolutely vital that as Parliament we continue to highlight and celebrate both the content and spirit of the Constitution of our country; because it is the lodestar upon which our future will be determined.

Thus, if we fail as Members of Parliament to celebrate, which is the theme of this debate, our Constitution and highlight the vital importance of the human rights to advancing the objectives and principles of our country, we then fail in our presence here.

Those who say we have not made advances are really relying on that last refuge of a scoundrel which is dishonesty. We have on many occasions, Chairperson, sought to ensure ... [Interjection.]

Mr T RAWULA: House Chairperson, on a point of order, can I ask a question to the Minister?

The HOUSE CHAIRPERSON (Ms A T Didiza): Minister would you take a question?
The MINISTER OF SCIENCE AND TECHNOLOGY: Well the person can but unfortunately I’m not prepared to take a question as I’m busy with my speech.

Mr T RAWULA: [Inaudible.]

The HOUSE CHAIRPERSON (Ms A T Didiza): Can you please take a seat, hon member.

The MINISTER OF SCIENCE AND TECHNOLOGY: There is, I believe, Chairperson no righteousness in attempting to erase the heroic role played by the people of South Africa in achieving freedom; and history shows very clearly that the leading organ and movement in that process of waging a struggle against apartheid was our glorious movement, the ANC. [Applause.]

This is undoubted. It is known. It is established by history. No amount of vilification, no amount of screaming from the left. No amount of attempting to be dishonest on this will discount the fact the ANC led the struggle for freedom along with other liberation movements. [Applause.]
This Constitution that we celebrate today comes out of us having waged that struggle. We honour today as has been mentioned by my comrade, Comrade Motshekga, President OR Tambo; a man who led the struggle for freedom and a man who led the broader liberation movement.

I believe in marking his centenary year, we do him a well deserved honour; but I find it difficult to honour him without reference to his partner for life, and herself a great woman and leader, uMama Adelaide Tambo. [Applause.]

It’s these heroes and heroines who come to mind whenever we have the opportunity to reflect on our constitutional framework and the subject of human rights. Comrade O R Tambo worked tirelessly to prepare for and shape our Constitution.

Many attempt to make us forget the origin of our Constitution. They fail to acknowledge that the basis of the Constitution is the historic documents crafted by the ANC and its membership as well as by the people of South Africa.
One can only feel sad for such persons. One can only feel sad for the hon Plouamma as the one person party who believes that he knows the thought and the aspirations of the over one million members of the ANC. [Applause.] He certainly cannot and he doesn’t.

There is, hon Chairperson and members, no antipathy between the ANC and the Constitution of South Africa. We extol our Constitution. We admire it. It is a finely wrought puzzle, fitting together the complexity of our awful apartheid history, the beauty of our largely peaceful mass struggle for freedom, and the brave hope that the wonderful aspirations of our Bill of Rights will be fully met for all the people of our country.

It is this intrigued puzzle that we must bring to life as this Parliament. To the people of South African, I say the Constitution is our best hope against arbitrary exercise of power and exploitation. Guard it jealously.

We have, hon members, through the leadership of this government and the ANC made many advances through acting practically on the human rights and other aspirations
contained in our Constitution. We have built over 3 million houses for persons who would never have had the hope of owning a house in the past. [Applause.]

We have provided clean water to over 9 million people. We have provided free schooling to about 7 million learners each year - and while absolutely, the hon Van Damme is right not all has been done but advances have indeed been made. [Applause.] We have brought about over 4 million electricity connections.

Our children can now enter education for free and be supported from undergraduate level right through to PhD. We have spent billions on infrastructure on creating new jobs in a number of areas. Yes, hon Van Damme, not enough as yet but advances have been made. [Applause.]

We have expanded our public works programmes and community work programmes, providing millions of work opportunities for persons who would never have been considered for such opportunities in the past. We have implemented skills development programmes and policies to
prepare people for employment in new economic sectors where they would never have enjoyed such opportunity.

We are supporting small business with training and finance to unleash the economic potential of our country. Recognition of an opportunity and talent we never had before but which we have today. [Applause.]

We are focusing on programmes to address youth unemployment such as learnerships through the national youth service programme. We are creating internship and other opportunities for young people. Our community work programme is continuing to expand as our subsidies we provide for young people.

We have developed a vibrant anti-HIV and Aids programme which has saved lives and increased life expectancy, reduced overall mortality and dramatically reduced maternal mortality; all the imperatives that are contained in our Bill of Rights.

We have dramatically reduced mother-to-child transmission and reduced child and infant mortality. We have also
begun to act to reduce TB mortality due to successful
treatment and diagnostic programmes. [Applause.] We are
preparing assiduously for the introduction of a National
Health Insurance scheme.

Chairperson, we have also made significant progress in
civil and political rights which have strengthened
democratic representation which have helped create strong
independent institutions, which have led to a vibrant
civil society and have created many one person to three
person parties in Parliament. [Applause.] It is our
Constitution which has led to that.

We have increased access to justice. We have increased
public accountability and transparency. We truly have
free speech and free democrats expression. We have
administrative justice and we have effective
accountability in financial management. [Applause.]

However, as we mark these achievements Chairperson and
hon members, we must acknowledge as we are reminded by
the hon Van Damme that there is a long distance still to
be travelled and that we are not yet quite within reach
of the ideals envisaged in the Freedom Charter and in the Bill of Rights.

As some have said we are at fault in that sometimes we as members have failed to promote human rights, particularly in partnership with responsibility. We are and must give much more attention to promoting in our country nonracism, nonsexism and the observance and enjoyment of rights by all.

We have tendered to emphasise our differences to the detriment of nation-building; and this is something we must honestly reflect upon as a Parliament; because the Bill of Rights and the aspirations of the Constitution will not live if you have a Parliament of members who are constantly at odds with each other - whose only business is to hurl insults towards each other and who are unable to lift out from the Constitution - the highest principles of our land which are contained in our Bill of Rights.

It is really a great pity, hon Chairperson, that the person sitting to my left are the noisiest gentlemen you
can ever find in South Africa; and they are the worst at upholding the primacy of nonracialism and of nonsexism in our divided society. I think the time has come for them to actually begin to live the principles of the Constitution.

The CHIEF WHIP OF THE OPPOSITION: Why don’t you retire?

The MINISTER OF SCIENCE AND TECHNOLOGY: The Chief Whip of the Opposition is asking why don’t I retire. My answer to him is I cannot retire while there are people like him around. [Applause.]

I think the time might have come for us to remind ourselves that our presence in Parliament is sanctioned here by the people, to represent them and ensure their hopes are realised.

Most importantly, our Constitution provides the protection of the rule of law. It’s a protection that assures South Africans will never again be the victims of arbitrary governance – as was the case under apartheid.
Never again will their property be arbitrarily seized by illegal means. Never again will they be subject to ethnic chauvinism and exploitation; and male chauvinism and ageism. [Applause.] Never again will they be the victims of job reservation and unequal wages.

Let me end with this remark on the equality clause in our Bill of Rights. Today, we have achieved a level of gender equality shaped by our Constitution; a level that has only been accomplished in other countries after many decades of democracy.

With that in mind, look at the global consequences of gender inequality. More women die in wars than men. More women live in poverty all over the world than men. More women face unemployment than men all over the world.

So when we get to the point that fully addresses the talents of all women, all our nation will benefit. When we act to use all the talents of women, we will build a better world. So as we address nonracism, and as we address anti-ageism; because any member elected properly
through the constitutional means and the election, can serve in this House.

So shouting daunt and envy and your insulting shouts actually do very little for me because you are one of the most despicable, unfortunate presence in this House. Hon Chairperson, I thank you for the opportunity. [Applause.]

Debate concluded.

UNPARLIAMENTARY LANGUAGE

(Ruling)

The HOUSE CHAIRPERSON (Ms A T Didiza): Hon members, I wish to inform members that points of order were raised whilst I was in the Chair on 21 February.

One of them related to a word that was used by hon Mbinda. Unfortunately, he is not in the House. I thought as it is a matter that involves all of us, I will just raise the issue. It related to a phrase he uttered when
he said “crap”, and he immediately said, “and maybe I should have said ‘nonsense’”.

According to the Collins English Dictionary, “crap” means “nonsense” or “rubbish”. [Interjections.] Yes, and I just want to indicate that in 2001, in this House, the word “crap” was challenged in terms of whether it was parliamentary or not. No ruling was made. However, caution was advised. Therefore, I would really ask members to be mindful of the language they use which may, sometimes, be regarded as offensive and that we refrain from using such words.

I will come back to the ruling related to hon Mahambehlala, as the member is not in the House.

[Interjections:] With regards to the PAC, it related to all members. I will deal with it when the other member is here because the one who raised the point of order is in the House. In terms of the Rules, both members should be in the House when a ruling is made. The ruling is ready; we will make it at an appropriate time.

The House adjourned at 19:36.