

WEDNESDAY, 03 NOVEMBER 2010

***PROCEEDINGS OF THE
LEGISLATURE OF THE PROVINCE OF THE
EASTERN CAPE***

The House met at 14:15.

Mr Speaker took the Chair and requested members to observe a moment of silence for prayers or meditation.

**CONSIDERATION OF FINAL MANDATE ON CIVILIAN
SECRETARIAT FOR POLICE SERVICE BILL AND INDEPENDENT
POLICE INVESTIGATIVE DIRECTORATE BILL**

Mr M NYUSILE: Thank you hon Speaker, Premier, members of the Executive Council, Colleagues, MPLs, Departmental Officials mandibulise emveni kwemini nje. I am standing here Mr Speaker to report on the outcomes of the Public Hearings that we conducted as the Committee of Safety and Liaison around the two Bills. The full report hon members is tabled and is in front of you. I am not going to read the whole report as I have to save time because I am told from here we are going back to Committees.

I am not going to talk also to terms of reference, the method of work. I am only going to speak hon Speaker on the Public Hearings where were conducted. I know the areas are also reflected in that report. That the first hearing was in Nelson Mandela Bay Metro, Lilian Ngoyi Sport Centre. The contribution from communities is part of that report.

The Cacadu again, in Grahamstown City Hall. The contents are also there.

The Chris Hani district also in Queenstown Indoor Sport Centre.

Ukhahlamba OR Tambo and Alfred Nzo. The last one was in Amathole East London Community Hall and Butterworth Christian Centre.

As I have said hon Speaker that I am not going to read the inputs received from members of the public they are all captured in the report, members will have time to go through those inputs. I am only going to talk to the findings hon Speaker both of those Bills. I will start with the Civilian Secretariat which is B16, that is Civilian Secretary for the Police Service Bill.

The findings there hon Speaker:

The Committee is of the view that the Civilian Secretariat for the Police Service Bill, Bill (B16) is necessary in order to give effect to Clause 208 of the Constitution which requires that a Civilian Secretariat of the Police must be established by a National Legislation.

And the recommendation that talks to that finding:

The Committee recommends that the Legislature supports the Civilian Secretariat for the Police Service Bill and confer a final mandate to the Eastern Cape delegate to vote for the adoption of this Bill. That is the first Bill, hon Speaker.

I shall now deal with the second Bill.

The Committee is of the view that the Independent Police Investigative Directorate Bill which is Bill (B15) is necessary in order to ensure that the Directorate is independent from the South African Police Services as provided for in Clause 206, Sub-Section 6 of the 1996 Constitution which requires the establishment of the Directorate in terms of the National Legislation.

Recommendation;

The Committee recommends that the Legislature supports the Independent Police Investigative Directorate Bill and confer a final mandate to the Eastern Cape delegate to vote for the adoption of the Bill.

Thus the report hon Speaker that I am actually putting in this House for the adoption of this House.

Thank you very much. [Applause.]

Mr SPEAKER: Thank you. I will now ask clarities if there are any for Committee members? None. Can we then move to hon J P Korkie for COPE.

Mr J P KORKIE: Goeie middag dames en here. Wees gegroet. I am a member of Cope. I am standing here on behalf of the Congress of the People. Goeie middag, greetings, dumelang, kawufela. Salaam eleikum.

Hon Speaker, hon Premier, hon MECs, hon MPLs, members of the public departmental officials. Once again let me greet you.

We convene today to debate on a mandate about the Independent Police Investigative Directorate Bill and the Civilian Secretariat Police Bill for the Police Service of South Africa. Of late we have been told that it is a Police Force but we are here to fill the force of the police.

On ICD Act which is now going to be the Independent Police Investigative Directorate Act. Obviously it is a sequel to be now soon to be repealed ICD Act Bill, seek to say there is investigation based whilst the ICD was compliance based. I must add it sounds good, it's a word improvement, good piece of Legislation if implemented properly I must add that rider. It compels a Station Commander most notably to report police conduct. In the past it is said that it had a discretion. Of late there is a clear obligation placed on the Station Commander to report such conduct. That piece of the Legislation is fairly good we cannot fall that one.

I must add that if you legislate you should legislate for the entire country and not the bureaucracy only. I notice that there is no obligation placed on the public to report police conduct or improper police conduct. May I add to this House that that debate took us 2 hours in the Committee finally the Chairperson reluctantly said fine I will add that but with a rider of course. When I heard what the hon Chairperson's comment where when he came back I was very happy. Because apparently the debate stood him in good stead when he got to Cape Town. I am happy about that Chairperson.

The impact Chairperson once again of the public not having an obligation to report police conduct I would just like to add that policeman generally do not commit crimes in the police stations in front of the Station Commander. Your best bet would be that your public as a police are using mostly informers to get them to nab a suspect. I would say that if there is an obligation on the public to report if they see a police involving himself in improper conduct or an illegal conduct it goes a long way in eradicating crime. The priority and the key strategic objective as very eloquently pronounced by the state President as well as the Premier said:

We want to eradicate crime, we need to bring down the levels of crime.

And yet in the legislation that you pass we do not see the same type of effect and the same type of vigour in making the legislation actually work and making it practically. Maybe hon Pakathi that fill good exercise that you are talking about once again finds expression in the Bill or in parts of the Bill. So that fill good speech of yours hon Pakathi it will go a long way I will not forget it easily. Thank you for that hon Pakathi.

The public has been consulted via Public Hearings. I have my doubts regarding the success of these Public Hearings. Again – a feel-good exercise. We have been to the public, we have told them so they cannot say we have not been there. The problem is that it sink in, that the public take note, that they interact in a manner in which one would say it really gives the name Public Hearing an emphasis and it really gives them the value of a Public Hearing. I cannot imagine to see that you are calling and you put up posters quickly, that look the public must come to a Public Hearing at an godly hours at 12 o'clock in the day. You want a productive workforce but yet to take them out of the work to sit in a Public Hearing to hear about the police Bill. It was impractical. And many of the police members I contacted said we did not even hear about it, we heard some wind blowing about it about this particular Bill and I heard my Station Commander talking about it ...

Mr SPEAKER: You have two minutes hon member.

Mr J P KORKIE: Thank you Mr Speaker. So whether it has actually reached the intended areas, I have my doubts hon Speaker. Civilian secretarial police, South Africa has become known and its inhabit of passing landmark legislation. And the list is endless, I can mention to you a quite a number of pieces of landmark legislation which you likely as a head of some countries.

Unfortunately Mr Speaker the actual execution of this particular law and laws and the monitoring of officials and government departments leave a lot to be desired. I have to raise this whilst we support the Bill and I am not saying that in passing. We support the Bill whole heartedly, Civilian Secretariat Police Bill why I am saying it is Land Mark it is a pioneering piece of thinking, it is very great. Unfortunately I am not too sure whether we have the budget for it and I am not too sure whether the timing is right. Thank you Mr Speaker. [Applause.]

Mr R S STEVENSON: Hon Speaker, hon Premier, MECs, hon members, guests and members of the department. The Democratic Alliance believes that these two Bills will assist in enhancing responsibility in the South African Police Service and accountability as well as ensuring that the rotten apples in our police service are dealt with. And we look forward to the implementation of this legislation.

If one looks at yesterday's *Herald* and today's *Daily Dispatch* you will see why we need this kind of legislation. The headline in yesterday's *Herald* was, "tortured" with a sub-headline "innocent Pastor betterment thrown into a mortuary freezer by cops". And I quote further from the report where it is alleged, and I quote;

Police yesterday admitted in a Port Elizabeth High Court that they had acted illegally when they arrested and tortured a Kirkwood Pastor locking him in a mortuary freezer, throating him and injuring his genitals".

This was the experienced that Phakamile Meyer allegedly had at the hands of Kirkwood police. If you look at the headline into today's *Daily Dispatch* the headline reads;

Women alleges cops raped her

Unfortunately these headlines are becoming all too common these days. And point two has shocking violation of human rights from people who are meant to uphold and value them. This is why this Legislation is important.

Section 29 of the Independent Police Investigative Directorate Bill places an obligation on the Station Commissioner as the hon Korkie pointed out. But it also places an obligation on any member of the South African Police Service within 24 hours to submit a written report to the Directorate when they become aware of certain misconduct. And this misconduct is pointed out in the Legislation and it refers to death in police custody, a complaint regarding the discharge of official firearm, rape by police officer, or rape of any person while they are in police custody. And then any complaint of torture or assault against the police officer in the execution of his or her duties.

So when other members of the SAPS become aware of people being assaulted or tortured there is an obligation in terms of this Legislation to report it and if they do not report it they are in defaults of this Legislation.

It also authorizes the National Provincial Commissioner as the case maybe within 30 days of receiving a report from the Directorate that he must initiate disciplinary proceedings in terms of recommendations. And a quarterly report also has to be sent to the National Minister advising him of progress. The SAPS is not regularly feedback on action taken in terms of recommendations by the old ICD. However for this Bill to have teeth there needs to be appropriate number of investigators in the Eastern Cape. And if you look at our report it says that the old ICD only has 7 Investigators to look after 199 police stations and keep an eye on 20 000 police officers. That is quite insufficient.

So the capacity of the new Directorate will need to be enhanced for it to be effective. We also support the Civilian Secretariat of Police Bill. This Bill gives more credibility to the Police Secretariat as a Civilian oversight entity because it is established

Mr SPEAKER: You have two minutes hon member.

Mr R S STEVENSON: Thank you. It is established in terms of its own Legislation and not in terms of the old SAPS Police Act. It also provides for close cooperation between the Secretariat and the soon to be Independent Police Investigative Directorate currently known as the ICD as well as Provincial Secretaries and Provincial Police Heads. Importantly this Bill also makes provision for the monitoring of police actions and for ensuring that the SAPS puts in place effective systems for the reporting and resolution of complains from the public. Our own department will then be able to monitor the number of complains that the police received about their action and see what they have done about it.

We have been concerned for a very long time that the recommendations of the ICD have not been enforced by the SAPS and that there was no Legislation compelling them to do so. This will change as a result of these two new Bills. This is an important step forward for police accountability and we welcome it.

One of the most significant changes is that the functions of the Secretariat is that it will now take over the responsibility of monitoring the police compliance with a Domestic Violence Act. This was previously the responsibility of the Independent Complaints Directorate which is performed rather dismally in this case in monitoring the police compliance with the Domestic Violence Act.

Members might be interested to know that a report of the ICD in 2008 shows that approximately 65% of police stations failed to comply with Domestic Violence Act in this country. And in 2009 a report of the Auditor General documented chronic failure inadequately reporting domestic violence incidents in police stations in 8 of the 9 Provinces. Hon Speaker ...

Mr SPEAKER: Time up hon member.

Mr R S STEVENSON: The Democratic Alliance supports the Legislation. Thank you. [Applause.]

Ms Z HLEKISO-THABANENG: Enkosi Somlomo. INkulumbuso yePhondo, abaPhathiswa abakhoyo, amalungu ePalamente, ndiqale ngala we-opposition ndigqibele ngeli cala molweni. [Laughter.] Oko kuqala i-UDM, siza kuqala kule ndawo ye-notices eziya for public hearings. Bendiye e-Chris Hani kwimithingi yethu ebise-Queenstown ibi-oganayizwe kakuhle. Kwimithingi yase-Aliwal North ayikhange ihlale kwakungekho bantu, yayingaziwa. So ithethe ukuthi ikhona ifeyila ekhoyo kulento yokuphabhlisayizwa kwezi-Public Hearings.

Okwesibini, nakwaba bezileyo isingase nokuba ngu-Legislature nokuba ngubani na akhe ajonge. Saba netshalenji phaya yabantu ababesithi balambile. Kwisetshini yokuqala babekhona abantu inokuba babephaya ko-60 but sakhe sane-break kuba besithi kudala befikile and nenothisi yayithe ngo-8h00 sabe sinexesha elithi ngu-10h00. So safika abantu sele bebupenika eholweni sele besithi abantu balambile. Isingase ke ikhe iyitshakishe i-Legislature okanye whoever o-responsible ukuba abantu xa beye kwi-Public Hearings i-food parcels maziye naphaya kwi-Public Hearings. [Interjections.]

Ukuza apha ke ngoku kwiBhili, kwi-Independent Police Investigative Directorate Bill esiyase sakubona ke siyi-UDM kukuba u-Accounting Officer okanye i-auditing of money e-alokheyithwe phaya kula Directorate ayibonakali ukuba iza kwenziwa ngubani na. Ikhona ke i-gab phaya.

Okwesibini nomntu olidisha i-Corporate Service Unit awukwazi ukumbona okanye akaspesifaywanga ukuba iza kuba ngubani na. Zi-gabs ezikhoyo kuleya ye-PID Bill. Kuphinde kubekho lombha we-ICD asazi ukuba ke ngoku kuza kwenzeka ntoni ngaba bantu bebeyi-ICD ayichazi iBhili ukuba kwenzeka ntoni ngaba bantu.

Uze ke ngoku kwiBhili yesibini i-Civilian Secretariat Police Bill. Zombini eziBhili xa uzijonga kuthiwa aba bantu bazakuqashwa phaya okanye le Secretariat izakuqashwa yi-ofisi ka-MEC ine-term ye-5 years iphinde irinyuwishwe ibeyi-5 years. So ine-second term akakho u-third term. So umntu uzakuseva i-10 years. Ithi ke ngoku i-UDM ingaba le position i-political na? Because xa uyidibanisa nale ndlela sidiploywa ngayo nathi and ibe iyi-responsibility ka-MEC ithethe ukuthi inabo ukuba political okuthile. Sithi ke noko siyi-UDM asiyamkeli landlela kuza kuqeshwa ngayo lamntu phaya, zombini eziBhili ngo-5 years after 5 years akabuyeli nokuba angasebenza kakuhle kangakanani na. Uphinde ubuye ke ngoku uze ku-page 10 ...

Mr SPEAKER: You have 1 minute hon member.

Ms Z HLEKISO-THABANENG: I-functions zale Secretariat u-“f” no-“d” i-duties ne-functions zakhona, xa siyijonga thina siyi-UDM zithatha i-duties ne-functions ezi zivele zisenziwa yi-Department. Sibuze ke ngoku ukuba kuza kwenzeka kanjani? Babini ngoku abantu abazakwenza lomsebenzi, i-

Department ikhona yenza lomsebenzi ingakumbi xa ujongwa u-“e” no-“f” zezi functions zenziwayo. Kodwa ke kunjalo i-UDM iyazixhasa zombini eziBhili. Enkosi. [Applause.]

Mr M P GALO: Hon Speaker, hon Premier, all protocol observed. It is a constitutional requirement that Civilian Secretariat for Police Service must be established by National Legislation to function under the direction of the Cabinet member responsible for policing. Therefore the AIC cannot go against the Constitution of the country by not supporting the Bill. However, the AIC is not convinced that the Legislation will improve the policing services in our crime reading communities. Let us hope that the Bill is not just another job creation for a certain comrade who will render this important institution useless. However, the African Independent Congress supports both Bills. Thank you very much. [Applause.]

Mr SPEAKER: Thank you. Hon Nkomonye from the ANC.

Mr F NKOMONYE: Hon Speaker, hon Premier, MECs present, hon members i-officials ze-Department ezikhoyo mandinibulise emva kwemini. Mandithathe eli thuba ndibulele kuqala ngokuba ndithunywe yi-ANC ukuba mandize kuxoxa kwezi-Bills zombini. IBhili okanye i-Legislation yenzelwa into yokokuba ifilise i-gabs ezikhoyo in the society. Yilonto ke namhlanje sixoxa nge-Bills. Ndiza kuthetha isiXhosa ukuba bendikwazi bendizakuthetha isiMpondo ukwenzela ukuba angandiva uVan Vuuren.

Yilonto ke namhlanje size kuxoxa ngeBhili ezimbini ukwenzela into yokokuba size kuqinisa kwi-society yethu sivale kweza-gabs. Inye ke into esivumelana ngayo no-hon Korkie, andimboni qha. Njengokuba sithanda ukungavumelani nje sivumelana ngento yokokubana uRhulumente we-ANC une-track record yokwenza i-policies ne-Legislation ephucukileyo. Siyavumelana no-John ngalonto leyo. [Interjections.] Hayi siyavumelana Mvenya. But also i-IPD siyayisapota siyi-ANC in that la Bill yenzelwe into yokokubana inike amazinyo u-ICD. Because amalungu azakukhumbula into yokokuba u-ICD uberikhomenda kuphela. But now when we introduce the Independent Police Investigative Directorate it gives effects kulento yokokuba mayingapheli ekunikeni i-recommendations i-ICD mayisose ifakelwe amazinyo ukwenzela ukuba eza recommendations izenzayo kubekhona into eyenziwayo ngazo.

But also iza kuncedisa into yokokuba aba bantu basekuhlaleni bakwazi ukuyi-aksesa i-IPD njengokuba bekunzima ukuba bayi-aksese ngela xesha ibiyi-ICD. When we went ke to the Public Hearings, uJohn ke uyathanda ukukleyima ke apha ufike ethetha ngezinto ebengayanga kuzo. Uye kwi-Public Hearing eyi-one that is why i-COPE inefilingi ethi ezi Public Hearings were not successful. But the ANC views ezi-Public Hearings ebesiye kuzenza as being successful. And issues that were raised there

Mr SPEAKER: What is the hand?

Mr J P KORKIE: Point of order Chairperson.

Mr SPEAKER: Yes.

Mr J P KORKIE: The member must not personalize things.

Mr SPEAKER: Must not?

Mr J P KORKIE: Personalize things and she is supposed to be referred to me as hon member. [Interjections.] Thank you Chairperson.

Ms F NKOMONYE: The issues that were raised ...

Mr SPEAKER: I think the member has heard that. Thanks.

Ms F NKOMONYE: The issues that were raised in the Public Hearings, we have noted as the ANC that kukho amapolisa who still have a feeling yento yokokuba in order to get information abantu must be tortured. As the ANC we cannot allow that. I-SAPS is not a force efana naleya ye-regime eyagqithayo ye-apartheid wherein abantu babecinezelwa iindawo ezithile ukuze bakhuphe i-information. We are a democratic society and therefore we cannot allow into yokokuba i-maximum force isetyenziswe xa kufunwa i-information. So the IPD talks to that into yokokuba amapolisa makayiyeke lonto leyo and we support that as the ANC.

We also support the Civilian Secretariat in that really if you look at i-police service you really need abantu abazakuyijonga ngelihlo lomntu ongakhange abekwi-force, i-CV ngamanye amazwi. So we support the Bill and sifuna ukuqinisekisa into yokokuba uhon John ne-COPE mabangoyiki soze ...[Interjections.] ...hon Korkie soze sizenze i-Bills singenazo iimali zokuzi-implimenta. In a nutshell siyazisapota siyi-ANC eziBhili zombini but also we must express into yokokuba siyayi-aprishiye yita hon Mvenya into yokokuba i-DA in the Eastern Cape is in favour of the IPD whereas in the Western Cape bebesithi abayifuni nokuyibona. [Applause.] Kuyacaca ukuba ikhona indawo esivana ngayo. Enkosi. [Applause.]

The MEC RESPONSIBLE FOR PROVINCIAL SAFETY, LIAISON AND TRANSPORT: Hon Speaker, hon Premier, hon members of the House, distinguished guests. The Department of Safety and Liaison would firstly like to take the opportunity to thank the Portfolio Committee of Safety and Liaison for the work they have done in taking the Bill out to the public and going through the consultation process.

As the Department we appreciate that even though some concerns are raised here but I think that is an internal issue that has to be addressed by the Legislature. So on behalf of the Department of Safety we would like to support the Bill. Thank you. [Applause.]

Report adopted.

That concludes the discussion on this matter and the business for the day. The House will adjourn until further notice.

The House adjourned at 14:40.