

Debate on the establishment of Phala Phala ad hoc committee

Speech to be delivered by Werner Horn MP

DA Shadow Deputy Minister of Justice and Correctional Services

Chair, the Constitution determines that the first and primary responsibility of the President, as our Head of State and the Executive, is simply to uphold, defend and respect the Constitution as the supreme law of the Republic.

It must therefore follow that as Parliament in holding the President to account must firstly monitor, as robustly as is necessary, whether the President upholds the Constitution and the law.

But, Parliament can also never escape from the duty we have, to ask the difficult questions to all involved in the type of mess we are discussing, for the reasons so accurately put by the Honourable Gwarube.

Also consider this, the official “Oversight and Accountability Model” of Parliament clearly states that in the event of transversal issues – which we clearly have here - an ad hoc committee is the most suitable oversight and accountability vehicle.

Not surprisingly, some argue that setting up an ad hoc committee now would be excessive and unnecessary given the appointment of the section 89 a panel of experts.

But, apart from the limited scope and sole focus on the President which this process has, this section 89 process is exactly the type of process that will be primarily dependent on findings of fact and law already made by other institutions, the type of findings of which there really is nothing to speak of yet.

Chair, the Leader of the Opposition has convincingly argued, specifically on the basis of the well-considered guidance given to Parliament in the Zondo report, that we may not, under any circumstances, even consider delaying our investigation to await the outcome of other investigations.

Of course, we have all already seen and heard the President refusing to answer questions in this House, clearly expecting of us to do just that and heard today that some feel we must respect that and concede.

Honourable members, and specifically the Speaker and Presiding officers: Let me remind you of the constitutionally enshrined privilege that Members of Parliament and of the Executive enjoy, determining that they could never face criminal proceedings, arrest, imprisonment or damages for anything that they say, produce or submit during proceedings of Parliament. A double edged sword, which makes it clear that there is simply no basis on which the President should be allowed to answer any question posed to him in Parliament, or delay answering those uncomfortable questions, for any reason whatsoever.

There are of course many more questions than could ever be posed in the structured oral question sessions we have in our sittings. An ad hoc committee will be best placed to ask all of them.

Questions like, what happened to the announcement in 2014, when the President assumed Office as Deputy President, that business interests like the one the President has in Phala Phala, was to be placed in a so-called blind trust managed by independent professionals and that he would not be giving any instructions regarding the management of these interests?

How did it happen that the President seemingly became or stayed involved in the day to day operations of Phala Phala and as a consequence probably acted in breach of the Exchange Control Regulations which requires prior permission to receive payment in foreign currency and requires foreign currency to be declared and to be sold to an accredited dealer within 30 days of receipt?

Also, was the failure to adhere to exchange control procedures, and the break-in and theft reported to the authorities, specifically the Reserve Bank, the South African Police Services, the Financial Intelligence Centre and the State Security Agency – if so, when and what have they done since then, and if not why not?

Did the President allow his Protection Unit to embark on an investigation and manhunt aimed at apprehending the perpetrators and if this was done without his knowledge, what did he do when he learnt of these abuses?

Were former members of staff at Phala Phala paid to secure their silence on the events, and if so who took the decision to do so, was the President aware and involved and if not, what did he do when he became aware of this?

Did the President discuss this matter with his Namibian counterpart, at the time, with a request that the matter and any assistance given by Namibia be treated confidentially?

Is 15 months really the standard time it takes the Department of Justice to determine that a request for mutual legal assistance does not meet the required standards, as was the case when dealing with the request from Namibia in relation to the alleged perpetrators?

Is the NPA and its Special Investigative Unit guiding the belated investigation into the matter by SAPS, if not, why not, given that everything known about the case screams out that it is the type of case that must be carefully investigated in light of all relevant laws?

Chair, these questions will not go away until answered properly. We call on all members who are serious about their oath of office, to support this proposal.

END