

PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA

NOTICE 3599 OF 2025

MR. IMRAAN ISMAIL-MOOSA, MP

NOTICE OF INTENTION TO INTRODUCE A PRIVATE MEMBER'S BILL AND INVITATION FOR COMMENT, 2025

Mr Imraan Ismail-Moosa, MP, acting in accordance with section 73(2) of the Constitution of the Republic of South Africa, 1996 ("the Constitution"), intends to introduce the Implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid Bill, 2025 ("the Bill"), in Parliament. An explanatory summary of the Bill is hereby published in accordance with Rule 276(1)(c) of the National Assembly Rules (9th Edition).

One hundred and ten States are parties to the International Convention on the Suppression and Punishment of the Crime of Apartheid ("the Apartheid Convention"), which was adopted by the United Nations General Assembly on 30 November 1973, by 91 votes in favour, four against (Portugal, pre-democratic South Africa, the United Kingdom and the United States) and 26 abstentions, and came into force on 18 July 1976. The democratic South African government acceded to the Apartheid Convention on 14 May 2024, and the accession came into effect on 13 July 2024.

The Rome Statute of the International Criminal Court was domesticated into South African law in the Implementation of the Rome Statute of the International Criminal Court Act, 2002 (Act No. 27 of 2002) ("Rome Statute Act"). While the Rome Statute Act provides for crimes against humanity, which includes the crime of Apartheid, this draft Bill seeks to specifically deal with the crime of Apartheid as a stand-alone crime.

The draft Bill seeks to domesticate the Apartheid Convention so that South Africa may prosecute individuals accused of committing the crime of Apartheid. The draft Bill contains various definitions which are based on the Apartheid Convention. These include "Apartheid policies," "Apartheid state," and the "crime of Apartheid".

The draft Bill further seeks to confer extra-territorial jurisdiction on our courts in respect of crimes committed by South Africans, people who are ordinarily resident in South Africa or someone who is present in the Republic after having committed the crime of Apartheid, or a person who has committed the crime of Apartheid against a South African citizen or a person who is ordinarily resident in South Africa.

The National Director of Public Prosecutions ("NDPP") must consent before a person is prosecuted for the crime of Apartheid in terms of the draft Bill. The draft Bill also provides for the minister responsible for the administration of justice to, in consultation with the Chief Justice of the Republic and after consultation with the NDPP, designate a High Court to conduct a prosecution against any person accused of having committed the crime of Apartheid.

The draft Bill provides for the appointment of an advisory committee to advise the minister responsible for international relations (“the Minister”) on issues relating to the implementation of the Apartheid Convention.

The draft Bill provides that the Minister must make regulations for the effective implementation of the Bill. The Minister must report periodically to the United Nations Commission on Human Rights in compliance with the Republic’s obligation in terms of the Apartheid Convention.

The draft Bill further provides that it takes precedence over any other law that conflicts with it as far as dealing with the crime of Apartheid is concerned. The draft Bill seeks to incorporate the Apartheid Convention as a Schedule to the Bill.

Interested parties and institutions are invited to submit written representations on the proposed content of the draft Bill to the Speaker of the National Assembly within 30 days of the publication of this notice. Representations can be delivered to the Speaker, New Assembly Building, Parliament Street, Cape Town; mailed to the Speaker, PO Box 15, Cape Town, 8000; or emailed to speaker@parliament.gov.za and copied to iismailmoosa@parliament.gov.za.

Copies of the draft Bill, 2025, may, after introduction, be obtained from:

www.aljama.co.za

Al Jamah-ah

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Attention: Mr Imraan Ismail-Moosa

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