TUESDAY, 16 JULY 2019

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PROCEEDINGS OF* THE *NATIONAL ASSEMBLY

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Members of the mini-plenary session met in Committee Room E249 at 10:00.

The House Chairperson, Ms M G Boroto, took the Chair and requested members to observe a moment of silence for prayers or meditation.

APPROPRIATION BILL

Debate on Vote No 21 - Justice and Constitutional Development:

The MINISTER OF JUSTICE AND CORRECTIONAL SERVICES: Hon Chairperson, Ministers and Deputy Ministers who might be present, hon members of the National Assembly, members of the judiciary, heads of departments and entities linked to the Department of Justice and Correctional Services, distinguished guests present, greetings to all of you. I have the great honour today of presenting the Budget Policy Statement on Vote 21 of the Department of Justice and Constitutional Development for the financial year 2019-20. Vote 21 also covers the budgets of several entities and institutions linked

to the overall mandate of the Ministry of Justice and Correctional Services.

This being my inaugural Budget Policy Statement in my capacity as Minister of Justice and Correctional Services, with profound humility, I wish to dedicate this address to a special compatriot, a champion for youth development and meaningful participation in the economy; the late Sindiso Magaqa, indoda emadodeni [man amongst men], the former Secretary-General of the ANC Youth League, who was cowardly gunned down two years ago. Last Friday, 12 July 2019, marked the second anniversary of his demise. The trial of his murder will commence this October. The unhappy augury of the circumstances surrounding his death remains with us as the killing of political activists and ordinary citizens runs contrary to the ideals of our democracy.

This state of affairs endures as various typologies of violent and contact crimes continue to afflict many families in our country. We are reminded that the victims of these crimes are not mere statistics but families are left devastated and communities impoverished by the loss. The department and some of the entities linked to this Budget Vote 21 play a critical role in the criminal justice value chain; the Special Investigating Unit, SIU, which investigates maladministration and corruption, the National Prosecution Authority, NPA, which prosecutes the offenders and the

department which provides administration for the courts that adjudicate over these cases.

The budget allocation of the department amounts to R21,1 billion which is inclusive of the allocation for the NPA and transfers to the two constitutional bodies, namely, the Public Protector and the SA Human Rights Commission. Additionally, the budget allocation also provides for transfers to the Information Regulator, the Legal Aid SA and the SIU. This budget enables the department and its entities to execute their respective constitutional and statutory mandates.

Vatsonga va ri, vana va munhu va tsemelana nhloko ya njiya. Ku pfumaleka ka mali swi endla leswaku hi tirha hi leswitsongo hi nga na swona. (*Translation of Xitsonga paragraph follows.)*

[There is a Xitsonga saying that goes, sharing is caring. Lack of finances has resulted in us working with our limited resources.]

Hon Chairperson, the revelations of high levels of brazen corruption that have come to the fore at the various commissions of inquiry are serious affront to our constitutional democracy. As you know, these include the Commission of inquiry into Tax Administration and Governance at the SA Revenue Service, the Commission of Inquiry into the Public Investment Corporation and the Commission of Inquiry into allegations of State Capture are chilling. The Department of Justice and Constitutional Development will continue to provide the

necessary administrative support to enable these Commissions of Inquiry to do their work and thereby strengthen the rule of law and our constitutional democracy.

Further, the department will also provide budgetary support to the establishment of the Investigative Directorate under the auspices of the NPA to enable it to deal with the relevant cases emanating from these commissions. The Investigative Directorate will work collaboratively with a range of entities, both governmental as well as nongovernmental including, the SIU, the Special Tribunal and the SA Police Services, in particular the Directorate of Priority Crimes investigation, the Financial Intelligence Centre and the SA Revenue Services, to ensure that perpetrators of fraud and corruption are brought to book speedily. In order to ensure the speedy civil recovery of the proceeds of crime, I intend to finalise the regulations of the Special Tribunal during the course of this week. Recognising the key role of the NPA in the fight against crime and the restoration of respect for the rule of law, the President, during his state of the nation address, stated:

> We have asked the National Director of Public Prosecutions to develop a plan to significantly increase the capacity and effectiveness of the NPA, including ensuring effective asset forfeiture.

In order to strengthen the human resource capacity at the NPA we have approved the hiring of prosecutors in 19 one-person stations and resuscitated the Aspirant Prosecutors Programme. For this year, we have admitted 97 Justice and NPA officials, combined, who have appropriate legal qualifications and have expressed interest to participate in the programme. However, much more needs to be done to resource the NPA to enable it to meet the demands for its services. For example, the fiscally-induced freeze on all hiring of staff since 2015, resulting in 685 vacant prosecutor posts as at the end of June, needs to be reconsidered so that the NPA can recruit much-needed middle-to-senior level positions as a matter of urgency, especially in the specialised units.

While recognising the current fiscal constraints, the department will need to engage with National Treasury regarding measures to enable the adequate capacitation of the NPA. As the department, we will further engage the NPA and National Treasury to understand better the request and implications of private donor funding because as we leave no stone unturned to ensure all criminal cases are prosecuted, we will nonetheless endeavour to do nothing that will undermine the independence and integrity of prosecution in our courts. Furthermore, we've noted the recent judgment on the Rodrigues matter related to Truth and Reconciliation Commission, TRC, cases. We assure victims with similar cases that interference with prosecutorial independence of the NPA will not be tolerated. We

continue towards a durable and sustainable solution to all TRC-related cases including consideration of interest of the victims.

Let us remind ourselves that foreign direct investment thrives where the rule of law triumphs. Accordingly, the role of the Justice, Crime Prevention and Security, JCPS, cluster, constitutes an important pillar of our country's economic revival and growth strategy. The functioning of the criminal justice value chain is analogous with a relay race and the handing over of the baton by one athlete to another represents the different stages in the criminal justice system. The court's outcome resembles the finishing line and the spectators as end users of the system, among them, the victims of various crimes.

We, as different relay athletes in the criminal justice race, have often dropped the baton at various stages in the value chain and in the process developed the habit of blaming other athletes. The success of our justice system depends on an unbroken relay through the faithful stewardship of all involved. It is in this context that the comprehensive reform of the justice system includes the overhauling of the old-era Criminal Procedure Act of 1977 to ensure that is attuned to the constitutional democracy of our time. In this regard, we will draft a Bill that will culminate in the enactment of new legislation which will flow from the Integrated Criminal Justice Framework which was approved by Cabinet in 2017.

The envisaged legislation will also consider the victims of crime and witnesses as the main beneficiaries of the system. Invariably, the modernisation of the justice system lies at the heart of our transformation trajectory, which is guided by the National Development Plan and the Seven-point Plan approved by Cabinet. The Integrated Justice System is an important programme through which the JCPS Cluster seeks to improve the efficiency and effectiveness of the criminal justice system. It is driving a multidepartmental effort aimed at increasing the probability of successful crime investigation, prosecution, sentencing and rehabilitation of offenders.

The court-recording technology system is another important tool of the Integrated Justice System, IJS, which has been rolled out in over 2 000 court rooms across the country. A further 146 mobile recorders are used in periodical courts. The court-recording technology, CRT, enables the efficient recording and retrieval of court proceedings, improved quality of audio recordings and secure storage and retrieval of the electronic audio recordings at multiple locations. In addition, the CRT system has the ability to provide operational data which will assist in the efficient scheduling of cases. The data captured through the system enables both the judiciary and court administration to obtain further insights to improve court processes.

Hon members, the modernisation project is also being extended to other programmes of the department, including the office of the master. With the roll-out of the Master's Own Verification Information Technology system to 292 Magistrates' Courts, members of the public no longer have to travel to the six Masters' Offices to lodge applications for deceased estate benefits. The Paperless Estate Administration System, has also been rolled out to 278 Magistrates' Offices, making it possible for the deceased estates with a value of R250 000 to be reported at local service points which are closest to where the majority of people live. Through these initiatives, access to justice has become a reality for many of our citizens, particularly the poor and those who live in far-flung rural areas.

The Office of the Master is also working on a Master's online project, which is scheduled to be implemented by 2020. This project aims to streamline the trust registration process and will assist in curbing fraud and improving efficiencies across the Master's services value chain. The processing of maintenance payments is a critical area that requires our special attention. In the 2018-19 financial year, the department has paid an amount of R1,297 billion to maintenance beneficiaries. This amount translates into an estimated R108 million per month which could have been collected at the courts through cash payments. In order to manage the risks associated with the manual handling of such large amounts of cash in our courts, the department is encouraging parties to opt for

electronic payment of their maintenance benefits. Although the Department has successfully facilitated electronic fund transfers, EFTs, which have reduced long queues at our courts, maintenance payments remain a major challenge for many beneficiaries.

It is important that as we embark on the modernisation of our justice system, we embrace the benefits of the Fourth Industrial Revolution, particularly in facilities management. A move towards smart buildings and courts that use sophisticated information technology will generate huge savings in energy costs, space usage and indeed personnel without reducing the opportunities of employment. The footprint of our courts is in total 723 Magistrates' Courts and 21 Superior Courts, which are spread across the length and breadth of our country. These exclude the periodical courts which sit at certain police stations and correctional centres. The majority of these courts save for the 58 that were built and revamped after the advent of democracy in 1994, still bear the historical baggage and impediments that continue to hinder the department's endeavour to provide equal access to justice.

A total of 25 courts, including all Superior Courts, will be part of the total facilities management solution implemented by the Department of Public Works. This will bring relief to users of our facilities as breakdowns in equipment often disrupt court sittings and contribute to the delay in the finalisation of cases. We have - in respect of minor repairs and what is termed day-to-day

maintenance - come up with initiatives that will shorten the turn-around time in resolving repeated breakdowns to the aging court infrastructure. These measures include appointing personnel with the requisite qualifications in building management and maintenance.

The department is also implementing an insource model which allows sentenced inmates and participants in the Expanded Public Works Programme to be engaged for minor maintenance works. For example, the Middleburg local seat of the Mpumalanga Division of the High Court, which commenced work on 1 May 2019, was renovated through the insource model which involved inmates from a nearby correctional centre. This 12-month project costed the department less than R2,9 million compared to initial projections of around R20 million estimated for an outsourced model. An outsourced model could have easily taken more than three years to finish the work.

Undoubtedly, the country is experiencing an upsurge in incidents of sexual and gender-based violence. South Africa is one of the countries with the highest rate of femicide in the world. The department has completed the first phase of the establishment of a Femicide Watch, which is a databank which will enable it to collate data and pick up trends, profile the victims and perpetrators in order to help develop appropriate preventive and adequate responses to this phenomenon in our society. In addition, the Department will continue to roll out dedicated sexual offences courts through which we implement a range of measures, including the installation of

technology which allows the evidence of minor children to be transmitted in a child-friendly and secure facility.

To date, we have established 92 sexual offences courts and a further 16 will be rolled out in the current financial year. These dedicated sexual offences courts are backed by 55 Thuthuzela Care Centres and continue to yield impressive conviction rates. For the 2018-19 financial year the convictions recorded in these courts was 74,4%. There is ongoing work in transforming the Office of the State Attorney. This area is of significance, given the unprecedented levels of litigation against the state. We are giving urgent attention to this area of work and will soon be approaching Cabinet with a business case and Draft Bill containing recommendations that will take the Department and the country forward.

Legal Aid SA continues to do sterling work in ensuring access to justice and safeguarding the right to a fair trial by people who are indigent and unable to purchase legal services for that purpose. This work, viewed collectively with the plans of the portfolio, guided by the National Development Plan vision 2030, dovetailed with the United Nations 2030 Agenda for Sustainable Development which includes a set of 17 Sustainable Development Goals, to end extreme poverty and fight injustice and inequality.

The coming into effect of the Legal Practice Act on 1 November 2018, which among others established the Legal Practice Council and

provincial councils, is a real game-changer. The Legal Practice Council, as a new regulatory structure for both the advocates and attorneys' professions is in place and provincial councils are following suit. I have already met with the Councils and have agreed on measures and mechanisms that will foster co-operation in respect of matters that require our joint action and interventions. Among these is the Legal Services Charter which will confront the barriers of entry which have prevented our young graduates from entering the profession. The statistics that have been shared with me in preparation of today's budget debate are appalling as they do not represent the society we have become, a quarter of a century into democracy. For example, only 53 of the total number of 549 silks are women and a mere 11 of them are African women.

The department has a critical role in developing and sustaining our hard-earned constitutional democracy. We have just emerged from successful national and provincial elections. One of the efforts of the department in this regard, is the National Action Plan, to combat racism, racial discrimination, xenophobia and related intolerance. The plan was approved by Cabinet on 27 February 2019. The Deputy Minister will provide more details in this regard.

As part of its legislative programme, the department will promote the following Bills in this financial year: The revival of the Prevention and Combating of Hate Crimes and Hate Speech Bill which has already been introduced into the Fifth Parliament and was being

considered by the Portfolio Committee on Justice and Correctional Services; the revival of the Traditional Courts Bill which was passed by the National Assembly of the Fifth Parliament and was awaiting consideration by the NCOP; introduce a Bill which will provide for the establishment of a Land Court which is aimed at promoting land justice and the democratisation of land ownership. Through this Bill, we aim to address some of the challenges that have been experienced with the current Land Claims Court dispensation; introduce the Recognition of Customary Marriages Act Amendment Bill to ensure compliance with courts judgments which found certain provisions to be unconstitutional; and the Judicial Matters Amendment Bill.

Hon members, the following is a breakdown of the budget allocation which includes transfers to the five entities which form part of this Vote: R1,958 billion goes to Legal Aid SA; R31,4 million to the Office of Public Protector; R363 million to the Special Investigating Unit; R189,2 million to the SA Human Rights Commission; and R2,384 billion as a direct charge to the National Revenue Fund in respect of magistrates' salaries.

I also wish to take this opportunity to thank the portfolio committee for its constructive engagement; the support received so far from the Office of the Chief Justice and all entities reporting to the Ministry and aligned to the Department of Justice and Constitutional Development. Allow me also to thank officials from

the Ministry and the Department of Justice and Constitutional Development for the work they have put in making this occasion a success. Thank you. [Time expired.] [Applause.]

Mr G MAGWANISHE: Hon House Chairperson, Minister of Justice and Constitutional Development, hon Ronald Lamola, the Deputy Minister responsible for Constitutional Development, hon John Jeffery, Ministers and Deputy Ministers, hon members, heads of the constitutional commissions and statutory institutions in the justice sector, members of the legal fraternity, distinguished guests, ladies and gentlemen, and fellow South Africans, good morning.

Let me start by welcoming our new Minister, hon Ronald Lamola, Deputy Minister, Inkosi Phathekile Holomisa, aah Dilizintaba, and hon John Jeffery. As we celebrate 25 years of our democracy, we need to note with pride the forward march of ensuring that women are taking their rightful place in the administration of justice in our country.

The following women are leaders of institutions in the administration of justice: The President of the Supreme Court of Appeal is Judge Mandisa Maya; the Judge President of the North West Division of the High Court is Judge Monica Leeuw; the Acting Judge President of the Land Claims Court is Judge Meer; the National Director of Public Prosecutions is Adv Shamila Batohi; the Public Protector, Adv Busisiwe Mkhwebane; the Chairperson of Information

Regulator, Adv Pansy Tlakula; the Chief Executive Officer, CEO, of Legal Aid SA, is Ms Vidhu Vedalankar and the Head of Investigative Directorate, Adv Hermione Cronje.

Young and old women of our country and the rest of the world are looking up to you for inspiration despite the challenges you might face. Think of the many people who are inspired by the responsibility you carry. Having said all of the above, the road ahead is still long, and will have its highs and lows. As long as women are still subjected to gender-based violence and femicide, our nation will never be at peace.

Therefore, the need to eradicate gender-based violence and femicide should be treated as a national priority. The committee is interested to hear more from the department on the Femicide Watch that is being established. We need to do more to support black legal practitioners, in particular, black women who want to make law their career of choice. Obstacles that young black legal practitioners encounter require a comprehensive response, involving all stakeholders, in particular, the state as the biggest procurer of legal services.

We welcome the fact that the department includes a breakdown of the percentage and value of briefs awarded to previously-disadvantaged individuals, on its website monthly. We are acutely aware of the fiscal challenges that our country faces and the urgent need to grow

our economy so that we can address poverty, inequality and unemployment that too many of our people suffer from. A key strategy of government is to stimulate economic growth through investments.

Potential investors, however, look at several key variables when considering their investment options. Safety and security, state stability, control of corruption and the rule of law are high amongst these. In a context where the delivery of justice services is extremely labour intensive, the present budget constraints are felt especially in the salaries budget. Staying within the reduced compensation of employees means that there will be fewer prosecutors, public defenders, maintenance officers and other essential personnel.

Without these skills, the system becomes less effective and, in some places, even dysfunctional. Ultimately, there is a danger that the justice system will no longer work. If the justice system no longer works, there will be no investments and without investments, the economy will not grow. Without economic growth, unemployment, inequality and poverty will be difficult to address. If we cannot address the triple challenges facing us, democracy will be under threat. If democracy is under threat, better life for all will be a flirting illusion that can be pursued but never attained.

The present funding constraints are being felt already. For example, witnesses are increasingly at risk as a result of the reduction of

protection services. The level of security in our courts and justice buildings is compromised; the eradication of backlog cases is sluggish and key positions remain unfilled. The department reported that it has reached a stage where it can no longer absorb further cuts without these impacting on service delivery points.

The committee welcomes the appointment of Adv Shamila Batohi as the new National Director of Public Prosecutions and Adv Hermione Cronje as the Director for the Investigative Directorate. The committee took note of the challenges regarding access to skilled and specialist capacity in the investigative directorate. The committee welcomes the news that the establishment of the Special Tribunal is at an advanced stage. This will facilitate the swift recovery of monies lost to the state through corruption and other illicit flows.

The committee intends to further engage the department on the various transformational policies it is in the process of developing, as well as those that are at an advanced stage. The committee welcomes the intention to soon introduce legislation that will address the appointment of permanent judges to the Land Claims Court. Modernisation of the criminal justice system is a long-standing and key value-added project. The ultimate goal is to ensure seamless integration and consolidation of critical information between all the entities that form part of the Justice Crime Prevention and Security, JCPS, Cluster.

We are worried that, after all this time, the recommendations of the Truth and Reconciliation Commission, TRC, remain outstanding. We will arrange a dedicated briefing on all outstanding aspects relating to the Truth and Reconciliation Commission. We welcome the building of new courts in underserviced areas to expand access to justice. We welcome the focus on re-engineering the manner in which state procures legal services. For some time, there have been reports of disarray within the Offices of the State Attorney, as well as criticism of the quality of the services provided.

More recently, this office is a subject of Special Investigating Unit, SIU, investigation. We call upon on all role players to urgently finalise this matter. The committee is concerned about the slow progress in setting up the Information Regulator and requests the Ministry to assist the regulator in this regard. The committee notes the recent court judgement relating to the prosecution of apartheid cases. We urge the National Prosecuting Authority, NPA, to expedite the finalisation of these cases and we will be monitoring progress.

The committee welcomes the Legal Aid SA’s commitment to looking into ways it can make use of technology to assist people with hearing loss to access its services. As the committee, we do not generally support baseline reductions in the case of the Chapter 9 institutions. Both the Public Protector and the SA Human Rights Commission, SAHRC, have baseline cuts this year. The Public

Protector has requested additional funds for her work, and the committee will engage more fully on these requests during the upcoming Budgetary Review and Recommendation Reports, BRRR, process.

The Public Protector’s assurance that it is no longer technically insolvent is most welcome. The term of office of the Deputy Public Protector comes to an end in December 2019. The committee requests that the process of recruiting the next Deputy Public Protector commences soon to ensure stability in that office. In addition, the conditions of service of the Deputy Public Protector do not provide for a gratuity on vacation of office. This matter will need to be dealt with soon.

We are concerned about the lack of funding for security at the Offices of the Public Protector. The SA Human Rights Commission had requested additional funding to fulfil its court order monitoring responsibilities, but this has not been forthcoming. We are concerned that the SA Human Rights Commission will not be able to comply with the orders without this additional funding. Hon House Chair, having considered Budget Vote No 21, Justice and Constitutional Development, we support that it be approved. I thank you. [Applause.]

The HOUSE CHAIRPERSON (Ms M G Boroto): When I welcomed our guests, I took it that they are from the judicial sector and so, I don’t have to give the House rules. I have just seen some who have broken those

rules. Unfortunately, as our guests in these plenaries, you don't have to participate. I have seen some cameras taking photos and that is not allowed. Even the clapping of hands is not allowed. So, you must just sit and listen, please.

Adv G BREYTENBACH: Chairperson, hon members, we are at the start of a new Parliament and we have five years to make a difference; if we fail to do so, we may never get another chance. The damage wrought by the nine wasted Zuma years is incalculable and will take a lot longer than five years to undo but, we have an opportunity now to start that process and none of us here can afford to let it pass us by.

Every single institution of state has been seriously compromised, unimaginable amounts of money have been stolen, and the chances of getting it back are slim to none. We need to focus on building with what we have before we have nothing. To do that, we are going to have to work together. We are going to have to put South Africa first. If any one of us truly has the interests of South Africa at heart, then we are going to have to find a middle ground to build on. We are going to have to swim together or sink together.

We have a new young Minister of Justice and Correctional Services and Constitutional Development who has proven that he is brave and right now he is saying the right things. He has put money where his mouth is and made an amount of R37 million available for the new

Investigating Directorate of The National Prosecuting Authority, NPA. We look forward to a productive relationship with him. Where we are able to support his good initiatives, we'll offer constructive criticism and advice but also to hold him accountable when necessary. I believe that he will accept this in the spirit in which it is said. We will work together. We will make a difference. He will have to walk the talk.

We have a new National Director of Public Prosecutions, NDPP, a competent and experienced woman with integrity and with whom I have worked and hold in high regard, and believe can do the job but, it is an enormous task bigger than - I am sure - even she had anticipated. She will need all the support that she can get. She too, will have our support, constructive suggestions and criticism but we will never lose sight of the fact that we must hold the NPA to account, and we will. Ultimately, the NDPP will also have to walk the talk.

The NDPP has indicated that due to budget constraints they will have to shed 550 jobs in order to meet their financial obligations. The NPA has shed in the region of 600 jobs in the last 3years and have not been filling posts due to financial constraints. This cannot be acceptable if we are serious about combating corruption and the NPA must be placed in a position where it has the resources to do its job. If they are forced to prosecute complex crimes on a shoestring budget, they are being set up to fail. South Africans are punch

drunk from corruption, they are sick of it and crime feeds off it. Unless there are visible consequences for criminal behaviour and unless they are serious and happen soon, the fightback against crime in general and corruption in particular will be lost.

Legal Aid SA is again the jewel in the criminal justice crown performing very well and delivering an ever-expanding service to those citizens who need it most. The whole unit must be applauded but none more than the recently-retired head, Judge Mlambo, the man responsible for the remarkable turnaround of Legal Aid SA. It is a success story that all the other components can learn from.

No discussion of the criminal justice cluster would be complete without a reference to the Office of the Public Protector. Let me state at the outset that the DA is a firm believer in the rule of law and in the importance of the Chapter 9 institutions. We support the Constitution and the Chapter 9 institutions created by it. The Office of the Public Protector is no exception and we hold the Office of the Public Protector in the highest regard. We will continue to support that office as an institution created to support our democracy.

Our difficulty lies with the incumbent in the Office of the Public Protector. Let me stress again the office is and must be seen as separate from the incumbent and the two should not ever be conflated. The person of the public protector is a different matter.

She has been criticised increasingly scathingly in several matters before the courts. In the Absa matter she was found to have been less than frank and to have acted in bad faith. The court demonstrated its extreme displeasure and disapproval of her behaviour by making a punitive costs order against her in her personal capacity. This ruling she is appealing.

In any constitutional democracy a finding of that nature would be enough to find that she is not fit and proper to hold this high office. In fact, it should be enough to cause any decent incumbent with a shred of integrity to resign. The DA has long contended that our current Public Protector is incompetent. We have an array of court judgments that support our stance. It is up to the ANC caucus in the National Assembly to decide whether to remove her or to continue to shelter her from the consequences of her actions.

If the Public Protector is either dishonest, serious misconduct in any advocate or lacking in competence, she is incapable of fulfilling the constitutional mandate of her office in an independent, impartial and effective way. As long as Ms Mkhwebane remains the incumbent in that office, their resources ... [Interjections.]

Do your own work! ... are going to be poured down the drain defending the indefensible. It is the duty of the National Assembly

to resolve that she be removed from office. Dereliction of duty by politicians can no longer be an option and that includes you.

In conclusion ... [Interjections.] ... the portfolio committee was very fortunate to receive excellent research and analytical and administrative support in this very important budget period. The quality of the work done by the support staff must be acknowledged and I thank each of them for their excellent assistance. I thank you.

Adv T E MULAUDZI: Chairperson, good morning [ndi matsheloni], let me start by congratulating the newly-appointed Minister Ronald Lamola and the Deputy Minister Inkosi Holomisa. If there is any lesson to be learned from the past 10 years of the ANC's misrule is that when revolutionary morality has escaped an earnest liberation movement, it is the institution charged with guiding justice and the Constitution that prevent the country from descending into a full-scale "banana republic."

The judiciary, the police, the National Prosecuting Authority and the Chapter 9 institutions are key fundamental institutions that must be guarded against undue political interference and must be allowed to conduct their work without fear or favour. [Interjections.]

AN HON MEMBER: They do not support the budget. All of them.

The HOUSE CHAIRPERSON (Ms M G Boroto): Order, hon members!

This institution must be respected regardless of who occupies it. We are therefore appalled by the general attitude of disrespect and shameful conduct shown by the senior leaders of the government towards the Office of the Public Protector. There are a few general principles which we must remind members of this House. Firstly, the remedial action of the Public Protector is binding unless set aside by the court of law. That is the ruling of Concourt during the Inkandla case. Secondly, a mere review of the remedial actions of the Public Protector does not suspend the implementation of such remedial actions. It is an aggrieved party who wants that implementation to be suspended to apply for a court interdict. Lastly, Parliament has no power to review or change the report of the Public Protector.

Therefore, it is shameful that this constitutional body of the Public Protector has been disrespected by the highest office of the land, the Office of the President of the country. President Ramaphosa appointed Mr Jamnadas Gordhan despite the serious findings against Mr Gordhan by the Office of the Public Protector. Mr Gordhan had not interdicted the remedial action of the Public Protector, and as such had no legal bases to escape the implementation of the remedial actions. President then failed to apply his mind and honour his oath of always upholding and defending the Constitution by appointing a constitutional delinquent as a Minister.

This, coupled with a co-ordinated media attack on the Public Protector by Mr Gordhan and his accolades, is an indication of a government that does not respect its own constitutional bodies. Minister Lamola, you must stand up in defence of the Office of the Public Protector. It is also shameful that we witness members of this House engaged in political gymnastics trying to further soil the Office of the Public Protector because they just want to defend their stomachs.

You learned nothing from your spirited defence of Zuma in the past which only led to you losing key Metropolitan municipalities. Today, you think we have forgotten that you led from the front in defending a constitutional delinquent Zuma and you are doing it again.

Mr Lamola, you come from a generation of militant group of economic freedom fighters. We hope the trapping of your office will not erode your revolutionary consciousness. One of the first things your office needs to do is to do audit of all political prisoners still in prison today and release all of them. No Umkhonto we Sizwe, MK and Azanian People’s Liberation Army, Apla, cadre deserves to be in jail while their tormentors are free. Secondly, you need to pardon all Fees Must Fall activists who are languishing in jail and who have the regular appearance in court for fighting for free education, an ideal you have believed in, Minister Lamola.

There is an urgent need to introduce measures to strengthen the Judicial Service Commission, JSC, to ensure the adequate and speedy filling up of the judicial vacancies, the training of judges and the qualitative transformation of the judiciary beyond numbers and demographics.

New measures must include the role of retired judges in provision of judicial training and development. This department must provide stricter regulation to all government departments to make sure that black legal practitioners are briefed with critical government work. Past experience in this regard has been very shameful with government briefing mainly white attorneys and instructing white advocates. This must come to an end, Minister Masutha. This department must oversee ... [Interjections.]

The DEPUTY MINISTER OF HOME AFFAIRS (Mr N B Nzuza): Order! Order! Order! Order!

Adv T E MULAUDZI: ... pardon me, I meant to say Minister Lamola.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon Deputy Minister, you are not allowed to do that. Continue, hon Mulaudzi.

Adv T E MULAUDZI: ... this department must oversee the critical process of legalising marijuana for the medical and recreation purposes as soon as possible. This must be done in a manner that

will protect the people of Pondoland from commercial vultures who will want to take over their marijuana industry in this country.

Minister, the Offices of the Family Advocates in our courts are only centred in the central business district, CBD, and urban areas. We appeal to your office to make sure that these offices go to rural areas' courts. There are issues of corruption and misuse of money in the Office of the State Attorney. You need to ensure that, that office works in a proper way. There is the issue of the prosecutors who are resigning from the NPA resulting in the NPA not working effectively. We appeal to your office to also look into that matter. There's also the 331 cases that were referred by the Special Investigating Unit, SIU, to the NPA in 2018-19. Those cases have not been moved. We ask your office to also look into that. On the State Capture Commission, we need more time and resources to be allocated so that it can uproot deep-rooted corruption by the ANC-led government.

On the issue of corruption in the Labour Court administration, please also visit the Labour Court administration in Braamfontein. Files are missing, everything is missing there and that causes people not to go back to their work on time because of the poor administration in our Labour Courts. As the EFF, we proudly reject this budget. [Time Expired.]

Prof C T MSIMANG: Hon Chairperson, I want to congratulate hon Lamola, our newly-appointed Minister of Justice and Correctional Services. Madam Chair, our democracy is founded upon a living and value-laden Constitution upon which the rule of law and an independent judiciary are entrenched. As such, our courts remain vanguards of the rule of law and a principle check and balance against abuse of state power by the government.

Our courts are crucial arbiters who, in today's climate of endemic state corruption and apparent lack of parliamentary oversight and scrutiny of executive action, find themselves being drawn more and more into the sphere of politics. This is a failure we, as Parliament, must collectively shoulder for it is up to us to ensure that any legislation that passes before the National Assembly is within constitutional prescripts and the parameters of the rule of law.

Chairperson, corruption is rife in South Africa. It threatens to engulf and destroy this country. It takes away essential life-given basic services from those who require them most – our poor and most vulnerable. Yet, has any of it been investigated and prosecuted? Why are there no prosecutions? Has the National Prosecution Authority, NPA, been captured and rendered a toothless tiger against the machinations of state capture?

We recently noted the Public Protector state that there are 118 outstanding cases of corruption languishing upon the desks of the NPA, mostly involving senior politicians and government officials. Adv Batohi further stated that there were cases that should be revisited which were previously declined for prosecution by the NPA.

During Adv Batohi's recent address to the portfolio committee, she listed the following challenges at the NPA: Lack of credibility; cases for prosecution languish for periods of up to 10 years and then are simply withdrawn; low staff morale; high vacancy rates - 600 prosecutors recently resigned at the same time; limited professional development and training; divisions within the organisation; severe budgetary limitations; and a weakened sense of values and identity.

In addition, it must be noted that since 1994, the Office of the National Director of Public Prosecution, NDPP, has never had a single head who has completed his or her term in office. This speaks volumes as regards both the procedural appointment to and removal of persons from this office by the Head of State.

Chairperson, it is additionally critical that an independent body be created to prevent, combat, investigate and prosecute corruption in South Africa. The Scorpions were endowed with the capacity but evidently flew too close to the proverbial sun of government corruption and were unceremoniously shut down through a simple

majority vote in Parliament. They were then followed by the Hawks which, despite Constitutional Court judgment confirming their lack of independence, continue operations to this day ineffectively executing their mandate as their independence is clearly compromised.

How should this be remedied? There is a solution which was proffered by hon Narend Singh of the IFP in his question to the hon President recently, and that is through the creation of an independent Chapter 9 integrity commission. The President, in his reply, referred to this proposal as 'refreshing'.

In conclusion, the government must act with all due haste and urgency against both public and private individuals found guilty of corruption. The IFP supports this Budget Vote in the interest of a robust and independent judiciary under the Constitution and rule of law. I thank you.

Mnr F J MULDER: Agb Huisvoorsitter, Minister Lamola, ander Ministers teenwoordig, Adjunkminister Jeffery, lede, amptenare van Hoofstuk 9-instellings, en almal hier, die Departement van Justisie is veronderstel om die Grondwet van Suid-Afrika en die oppergesag van die reg te handhaaf en te beskerm. Verder moet die departement toegang tot 'n toeganklike, regverdige en koste-effektiewe administrasie en van geregtigheid, in die belang van 'n veiliger en

volhoubare Suid-Afrika, voorsien. *(Translation of Afrikaans paragraph follows.)*

[Mr F J MULDER: Hon House Chairperson, Minister Lamola, other Ministers present, Deputy Minister Jeffery, members, officials of Chapter 9 institutions, and everyone here, the Department of Justice is supposed to maintain and protect the Constitution and the rule of law of South Africa. Furthermore, the department must provide access to an accessible, fair, and cost-effective administration and justice, in the interest of a safer and more sustainable South Africa.]

Chairperson, multiple commissions and parliamentary inquiries have been setup to probe allegations of state capture, poor governance and corruption. Corruption has a huge impact on a progressive realisation of human rights as resources for development are siphoned out.

A national director for public prosecutions is there for our vital importance. South Africa has a progressive Constitution but poor implementation of laws and policies, disregard of constitutional values and inadequate co-operation by the executive and other institutions with the result that constitutional guarantees are not translated into reality.

The Human Rights Commission actually included this concern in its report to the committee. Chair, to the hon Minister Lamola, will the outcomes be different under your administration? Will the executive once again fail the Constitution? Will the executive once again fail South Africa?

Your Ministry and department is entrusted to uphold the Constitution. The FF Plus takes note of the fact that the Office of the Public Protector has been entrusted with more than 50 000 cases in 2016 of which 95% were bread and butter issues and that 35 000 cases were finalised.

There are still numerous serious cases outstanding, where municipalities have clearly violated the South African Constitution and the provincial and national executive failed to fulfil their oversight responsibility to respond or to act. Proper complaints have been lodged with the Public Protector and in spite of several enquiries since 2016, no feedback or response has been received up to date.

Die Hooggeregshof in Pretoria het in 2017 bevind dat die Openbare Beskermer, Adv Mkhwebane se aanbeveling oor die mandaat van die Reserwe Bank irrasioneel beskou en het dit ter syde gestel.

Verder, is daar ook nog bevindings oor die Estina-melkplaas in Vrede en die nalate om op te tree by Petro SA, waar, in een jaar,

R14,5 miljard verloor is. Die kantoor van die Openbare Beskermer wek tans nie vertroue van die publiek nie en die indruk word gewek dat die kantoor misbruik word, in belange van interne faksiegevegte in die ANC. Dit is vir die VF Plus onaanvaarbaar dat belastinggeld ook op hierdie wyse verkwis word. *(Translation of Afrikaans paragraphs follows.)*

[The High Court in Pretoria ruled in 2017 that the Public Protector, Adv Mkhwebane's recommendation on the mandate of the Reserve Bank was considered irrational and it was thus set aside.

Furthermore, there are also findings about the Estina dairy farm in Vrede and the failure to act at PetroSA, where in one year R14,5 billion was lost. The Office of the Public Protector does not currently inspire public confidence and the impression is created that the Office is being abused in the interests of internal faction battles in the ANC. It is unacceptable for the FF Plus that tax money is being wasted in this way.]

Chair, law and order in South Africa is under threat; the Constitution is under threat; and where the government has failed with land reform, the process is now in progress to amend section 25 of the Constitution to provide for appropriation without compensation.

This is a clear repetition of what happened in Zimbabwe. Nothing illegal will be allowed. Amend the Constitution, make it legal and pursue. This resulted in Zimbabwe's annual inflation rate hitting 175% in June 2019. The data on Monday, that is yesterday, showed that a return of hyperinflation is once again on the radar.

Supplies of essentials such as bread, medicine and petrol are running short in the country, thus violating the human rights of the country's citizens.

The shrinking South African economy and budgetary constraints mentioned in the committee report should be a warning that the Department of Justice and the Chapter 9 institutions supporting the constitutional democracy in South Africa will experience unbearable pressure to uphold its mandate in future.

The FF Plus will continue to fight for freedom with justice. Thank you, Chair.

The DEPUTY MINISTER OF JUSTICE AND CORRECTIONAL SERVICES RESPONSIBLE FOR JUSTICE AND CONSITUTIONAL DEVELOPMENT (Mr J H Jeffery): It's always quite astounding to follow the FF Plus and hear them go on and on about how great the Constitution is when they opposed democracy in South Africa. Hon House Chairperson, hon Minister, Chair of the portfolio committee, hon members, director-general and heads of entities - I see the Head of the Information Regulator, the

Head of the Magistrate Commission, and the Deputy Public Protector - I might have missed some people; my apologies if I did.

For a long time, the majority of South Africans were excluded from the justice system, unable to access justice services and unable to enforce their rights. Today, our justice system serves everyone in the country. Our Small Claims Courts improve access to justice and makes civil justice inexpensive, less formal and accessible to those who cannot afford litigation in the ordinary courts. These courts are used to settle minor civil disputes and claims of up to R20 000 between parties without legal representation in an informal manner.

When Small Claims Courts were first introduced in 1985 in the time of Mr Mulder there, they were established in Bloemfontein, Durban, Pietermaritzburg, Pretoria, Port Elizabeth, Rustenburg and Springs. Even in 1994, at the dawn of our democracy, these courts were still mostly in white and urban areas.

Today, we have 415 Small Claims Courts, with an extra 49 additional places of sitting across the country. In the last financial year, these courts disposed of 56 000 cases with claims to the value of R290 million.

The Department of Justice is currently evaluating the legislative framework governing Small Claims Courts. We want to ensure that these courts evolve in line with the Constitution, as these courts

pre-date the Constitution, and that some of the procedures are further streamlined to make it even more effective.

Under the apartheid regime, many were charged with crimes, often political crimes, and left to face a repressive, unjust and inhumane justice system on their own. Mr Mulder, you would know anything about that.

Many South Africans were denied access to courts or legal representation. For example, in 1992, a mere two years before the dawn of our democracy, a staggering 150 000 convicted persons were sentenced to imprisonment without any legal representation. In 1993, an estimated 60% of accused persons in the regional courts were unrepresented and in district courts the figure was about 89%.

Today, Legal Aid SA continues to champion the rights of all persons to access justice through the provision of independent, accessible and quality legal aid services in criminal and civil legal matters.

In the last financial year, Legal Aid SA took on a total of 416 000 new matters, of which 362 000 were criminal matters and nearly 54 000 civil matters. The provision of legal advice, in order to empower communities on their legal rights and responsibilities benefited 308 000 people via its national footprint of 68 local and 68 satellite offices, the Legal Aid Advice Line and consultations with remand detainees.

In total, 724 000 persons were assisted by the organisation in the last financial year of which 16 000 were children. Matters involving children continue to receive priority. In addition to providing legal representation to all children in conflict with the law, Legal Aid SA also does individual tracking of children who are incarcerated for periods in excess of one month in correctional facilities.

Legal Aid SA received its 17th consecutive unqualified audit opinion in the last financial year, confirming the organisation's commitment to the responsible, accountable and prudent spending of public resources.

I would like to take this opportunity to bid farewell to and sincerely thank the former Chairperson of Legal Aid SA, Judge President J P Mlambo, as well as the outgoing CEO, Ms Vidhu Vedalankar, who was here for their immense contributions to the success of Legal Aid SA today. [Applause.] I want to wish the new board under Judge Makhume all the best and to continue with the good work.

We are continuing to look at ways of increasing access to justice. Community advice offices are often the very first port of call for persons or communities seeking legal advice. We are therefore pleased that we are finalising the policy framework on community advice offices and to regulate community-based paralegals. This will

be finalised upon the development of a funding model which is currently being prepared. Sustainable funding is vital and we are looking at options around a mixed funding model to ensure the long-term sustainability of community advice offices.

When it comes to the sheriffs' profession which is very often, the first person someone meets when dealing with the civil justice system, sheriffs play an extremely important role in the justice system as they serve court processes and execute warrants and orders of courts and the arm of the civil courts. The continuous development of our court rules and processes will no doubt also impact on the traditional way of the work of the sheriff.

In May this year just before the end of the last term, I appointed 24 new sheriffs to fill vacant offices countrywide and for the first time in our history more women - that's 14 women and 10 men - were appointed as sheriffs. Whereas, in the past, the sheriffs' profession was overwhelmingly white and male, at the end of February 2019, that's before those appointments, of the 254 sheriffs operating nationally, 31% were female - so that is still somewhere to go - 36,2% were white and 63,8% were black.

Our department also continues to implement programmes and activities aimed at enhancing the protection of the rights of Lesbian, Gay, Bisexual, Transgender and Intersex persons through the work of our National Task Team on LGBTI rights.

For those who may not be familiar with the work of the National Task Team, NTT, is a very successful partnership between government and civil society and was named by the UN's Office of the High Commission on Human Rights as a best practice model and international case study on government and civil society co-operation.

South Africa also recently cosponsored a United Nations Human Rights Council resolution to renew, for a second three-year term, the mandate of the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity.

Out of the 39 pending hate crime cases that were being tracked by the National Task Team's Rapid Response Team, 10 of these cases were recently finalised with convictions of life imprisonment for both rape and murder.

In the current financial year, our department will convene a National Summit on the Protection of LGBTI Rights in South Africa. To further ensure that the criminal justice system protects the rights of the LGBTI persons who have been victims of violence, we will also rollout the Guide for Service Providers in the Criminal Justice system on the Protection of the Rights of LGBTI Persons, as well as assist the SA Police Service with the rollout of the Standard Operating Procedure for SAPS officials on LGBTI Rights.

We will also continue to protect the human rights of those living with HIV and Aids. Last month we - together with the SA National Aids Council - launched the National Human Rights Plan in response to Human Rights-Related Barriers to HIV and TB services to, amongst other, reduce stigma and discrimination, to sensitise and train health workers and service providers, increase legal literacy campaigns and strengthen access to legal support services for those living with HIV/Aids and TB.

With regard to the National Sexual Offences Register, I think it is important to repeat what I had said in the portfolio committee. But unfortunately, the registry as provided for in the Criminal Law (Sexual Offences and Related Matters) Amendment Act is not yet implementable. However, I think it is a real issue that we need to look at with regard to its implementation.

Currently, only persons convicted of sexual offences against children and disabled persons are placed on the register. Other sexual offences cases do not appear. An additional factor is that after several years a person’s name can be removed from the register.

One of the issues we need to look at is whether this registry is really necessary, especially since any employer - not only those who work with children and mentally disabled people - can go to SA

Police Service to determine if a prospective employee has a criminal record.

Currently in terms of the Act, the information on the sexual offences register is confidential. That is counterintuitive considering that employers can go to SAPS for this information. So, we need to relook at that issue should it not be a public register. These are some of the policy issues that must be considered before the registry can come into operation.

We have no illusions about the levels of racism, prejudice and intolerance that they are increasing — one simply has to look at social media to see this.

The Minister spoke about the adoption of the National Action Plan against Racism, Racial Discrimination, Xenophobia and Related Intolerance. This plan was adopted by Cabinet in February this year after extensive public consultation. It was launched with the United Nations in New York on 2nd this month. It is a five-year plan and will be reviewed after that five year period. The main thing to happen now is to set up governance structure which is chaired by the Minister involving government, civil society organisations, religious institutions, academia, sporting bodies and the media. So, that needs to happen. The Hate Crimes and Hate Speech Bill would also be revived and then we also have Equality Courts.

They stipulated that all High Courts are designated as Equality Courts and all Magistrate Courts have been designated as Equality Courts and that is also then moving to Regional courts. Some 473 cases were registered in the Equality Courts countrywide in the last financial year. I think two of those relate to your member, hon Kohler Barnard. [Interjections.] That's just for your information. [Interjections.] Of the complaints that were reported at the Equality Courts nationally in the last financial year, over 50% of the reported complaints relate to unfair discrimination, followed by hate speech with 30%. I think hon Kohler Barnard cases were there.

Given the relatively low number of cases registered in some provinces, we intend to embark on awareness campaigns to make everyone aware of the existences of Equality Courts and the types of matters that are dealt with by these courts. Two provinces, North West and the Northern Cape have been identified to have Equality Courts awareness sessions and we will be partnering with Legal Aid SA, the Chapter 9 Institutions and other role players.

When this House passed our Prevention and Combating of Trafficking in Persons Act, we said that the search for improved socioeconomic circumstances and the demand for the services of victims of trafficking contribute to making persons vulnerable to becoming victims of trafficking.

We passed the legislation because we were concerned by the increase of trafficking in persons, especially women and children. In April this year, the department launched the National Policy Framework on Trafficking in Persons in South Africa which is a tool for the implementation, management and monitoring of the Trafficking in Persons Act.

Key activities include the establishment of an information system to track these cases inside and outside the country. Other activities include the launch of the training manual on the Prevention and Combating of Trafficking in Persons and sector-specific training manuals for the Departments of Social Development, Health, Home Affairs and Labour.

One of our department’s main priorities is to ensure that persons know what their human rights are and where to go when those rights are infringed. A democracy cannot flourish, let alone function, if we do not actively promote awareness of human rights.

The main objective of the Socio-Economic Justice for All, Seja, is to facilitate the realisation of socioeconomic rights for vulnerable and marginalised groups and the strengthening of civil society organisations in the justice sector.

Some members would know that the Seja programme which is run in conjunction with the Foundation for Human Hights - and the

Chairperson of the Foundation, Ms Thoko Mpumlwana, is here - is coming to an end this year. The programme has been extremely successful when it comes to increasing awareness of constitutional rights and enhancing participatory democracy.

We are pleased that the Seja programme has met or exceeded all its targets in the last financial year, the performance indicators, with 3,8 million people reached by multimedia campaigns to raise awareness and knowledge of the Constitution — nearly double the set target of 2 million.

South Africa's commitment to multilateralism is realised by our dedicated and full participation in international, continental and regional organisations. We continue to support the work that has been done by the United Nations, the African Union and the Southern African Development Community.

South Africa deposited its Initial Country Report to the United Nations Committee on the International Covenant on Economic, Social and Cultural Rights and we were invited to the UN Committee to present this report in October last year. The feedback was positive and the committee expressed their gratitude to South Africa for developing jurisprudence on the justiciability of economic, social and cultural rights and for promoting the Human Rights Agenda within the United Nations system.

Just before the elections, we presented our periodic report to the Committee against Torture. The Fifth Parliament, shortly before its term ended, also ratified the Optional Protocol to the Convention against Torture and this optional protocol comes into effect this coming Saturday which is a month after it was launched with the United Nations.

Just to respond to some of the issues and I can't resist responding to hon Adv Mulaudzi, who wasn't sure who the Minister of Justice was. It doesn't unfortunately surprise me and it unfortunately reflects on – genuinely - the EFF. We had a situation in the last Parliament in the Justice Committee where the EFF or Adv Mulaudzi seconded the adoption of the Traditional Courts Bill. But when it came to the House, the EFF voted against it. The EFF voted against the Cyber Crimes Bill on the basis of sections that had been taken out of the Bill. So, that's the EFF for you.

In two-days' time, we celebrate the birth of President Nelson Mandela. Sello Hatang writes about Mandela Day and says that it isn't enough for people to take action against poverty for an hour and seven minutes on 18 July each year, as this will not change systems and structures.

Instead, we should use the campaign as a tool for social justice. We echo this call for Social-Justice for All. Madiba said: "Remember to celebrate milestones as you prepare for the road ahead." When it

comes to access to justice for all, there have been many milestones and we are more than ready for the road ahead. Thank you.

[Applause.]

Mr S N SWART: House Chair, firstly, may we also congratulate you, Minister, and give you the assurance from our side that we will play a constructive opposition role and partner with you to find solutions to the many challenges facing our nation. Now, we as a committee, are fully aware that the department, the NPA, Legal Aid SA, the Special Investigative Unit, SIU, the SA Human Rights Commission, SAHRC, and the Public Protector, are suffering severe financial challenges and this is impacting service delivery in the criminal and civil justice spheres. The constrained fiscal environment has resulted in a R2 billion baseline cut to the department's budget over the medium-term with R667 million in this year alone. Now, the question I posed in the committee is, yes, we call the members, we call the entities to come to the committee to hold them accountable but how can we expect them to reach targets when they are not being properly funded? And we also need to ask how we landed up in this constrained fiscal environment. It is undoubtedly because of widespread corruption and state capture. And we know that the Zuma administration allowed itself to be captured in the interests of a family. But the corruption goes far deeper and far wider than that one incident and this has resulted in billions of rand being siphoned off from the departments and state-owned enterprises, SOEs. The level of state capture is absolutely

staggering and in addition, as the Nugent commission found, the SA Revenue Service, Sars, was hollowed out, losing much of its expertise resulting in tens of billions of tax rand not being collected. This is disgraceful.

So, obviously state capture and corruption was naturally part of the focus during the Budget Vote briefings and we appreciate the forthright presentation by National Director of Public Prosecutions, Adv Shamila Batohi, as well as the briefing by the Head of the Investigative Directorate, Adv Cronje. What is apparent is that it is going to take some time for the institution for criminal action against those implicated in corruption, given the complexities of the case and forensic investigations required. However, we from the ACDP, urge that some action should at least be taken. People out there, the electorate, are waiting for and so we would urge as soon as possible for action to be taken. It is disgraceful that the Gupta's were allowed to leave the country. In the Fifth Parliament, we sat on the Eskom Inquiry, and we knew what was going to happen. They were about to flee the country. They were about to billions of rand but nothing was done in this regard. We also welcome the exemplary work that is done by the NPA's Asset Forfeiture Unit and the Special Investigative Unit but Minister, so much more could be done if these units were given additional funding. Clearly, the fact that almost R400 million is owed to the SIU is stymieing their work; this must be addressed at the highest level. And it is a matter of great concern that the Asset Forfeiture Unit that can collect

billions has a 25% vacancy rate. So, how do we resolve the funding issue? Do we stand every year, wring our hands and say we are so sorry, go and do your work; we are so sorry but we will hold you accountable for the targets. We will call you back.

Firstly, let us accept political responsibility for state capture; let us make sure it does not happen again. Secondly, let us make use of the provisions of the Money Bills Amendment Procedure and Related Matters Act. This Act was passed in Parliament in 2009. Committee chairperson, we as Parliament, appropriate funds; it is Parliament that can, within the fiscal environment, and under certain conditions, recommend adjustments. Let us in this Parliament make use of those provisions. We can go to the appropriations committee and say, in this case, let us shift funds from that Vote to another Vote. Lastly, the ACDP would like to thank all the magistrates, prosecutors, legal aid practitioners, court officials and Chapter 9 institutions who do their very best to uphold justice on a daily basis under very challenging financial and difficult conditions. I thank you.

Mr V ZUNGULA: Chairperson, Minister we want to congratulate you for your appointment. I also want to take this opportunity to greet all the hon members today. We need to be honest with one another and ask, Do we have the country which our forefathers fought for? The past 25 years was a transitional period after defeating the over 300 years of minority rule, hence we have a Constitution that is based

on negotiation and compromise. The structure and functioning of our country is based on the Convention for a Democratic SA, Codesa, negotiations and agreements. This is an unsustainable compromise, hence the inequality gap has widened and more people are becoming poorer.

What are the facts in our country currently? We have a Eurocentric Constitution that does not speak to the spirituality, morality and culture of Africans. A child as young as 12 can abort without the consultation of their parents whereas a person under the age of 18 is regarded as a child and needs to have a guardian. The Constitution recognises the institution, the status and the role of traditional leadership according to customary law, yet we have the AbaThembu King Dalindyebo sitting behind bars. African law has been relegated to play second fiddle, and we are governed by Roman-Dutch Law whereas we are Africans with African norms and values. In other words, we are made to be foreigners in our own country. In the same rite, we have certain kingdoms that were destroyed in the colonial period still not reinstated. We still have apartheid laws in practice and people are still charged based on those laws, the Riotous Assemblies Act for example. The very same Constitution allows for foreign companies to have mining rights for our God-given minerals. To show that this Constitution was not the will of the people even 23 years ago, there was a public outcry when the death penalty was abolished. Now, there is this narrative that we have got the best Constitution in the world. Now, the question is who is

saying that? Is it the people of Siyabuswa, Lebowakgomo, Kuruman, or is it the investors or is it the people outside of the country? And if it is the best Constitution in the world, why aren't we seeing other countries copying our Constitution since ours is the best? [Interjections.]

Rather than dealing only with section 25, Parliament must be proactive and look at the entire Constitution to ask if it is the will of the people of South Africa. The people do not serve the Constitution; the Constitution serves the people. We need a Constitution that is an expression of the will of the people. We need a people-centred and a people-driven Constitution that seeks to defend and advance the interests of the people of South Africa. As the ATM, we support the Budget Vote. Thank you. [Applause.]

Mr H MAHOMED: Acting House Chairperson, hon Minister Ronald Lamola, Deputy Ministers Jeffery and Holomisa, members of the Portfolio Committee on Justice, hon members, leaders of the judiciary present, leaders of Chapter 9 institutions present, comrades and friends, invited guests, and fellow South Africans, I rise on behalf of South Africa's oldest liberation movement, the ANC in support of the Budget Vote 21 as tabled by the Minister here today.

We also wish to congratulate our new Minister and Deputy Ministers on their appointment and pledge our commitment to work with them. I would like to dedicate this — my maiden speech in this august House

- to someone who influenced my life in a monumental way, the late Dullah Omar, who was a member of this House and the first Minister of Justice in a democratic South Africa. He was also a remarkable human being who mentored many and played a major role in shaping the lives of the youth of my generation. He taught us as young people not to mistake the law for justice, that "justice is an ideal while the law is a tool ..." and "... access to justice must reach the voiceless and vulnerable."

We are reminded of these values and the objectives which he espoused. We wish to thank the people of South Africa for entrusting the ANC to improve the operations of the justice system and to ensure that there is: "Access to Justice for all". The National Development Plan, Vision 2030 obliges us to build a country where all people are and feel safe. Central to this becoming reality is the work of the National Prosecuting Authority.

Adequate funding as we heard for the NPA has been a concern. The projected shortfall on compensation for employees compelled the NPA to reduce its staff establishment and to remain within its budget. It also had to adjust certain medium-term targets relating to convictions in courts in line with the resource constraints that the NPA is facing. Minister, we are glad that Treasury would be engaged on this, the soonest. We are also confident that the new Investigating Directorate of the NPA will serve as a key pillar of

our President's anticorruption objectives, with the aim of ensuring successful prosecutions and asset recovery.

Parallel to the work of the Investigating Directorate is the work of the Special Investigating Unit. We also welcome as the ANC, the establishment of the Special Tribunal which is tasked with adjudicating civil processes aimed at recovering monies siphoned off through corruption and other forms of illicit monies.

The 54th National Conference of the ANC reaffirmed that government must transform the legal profession and strengthen the briefing of black lawyers particularly black females—so as to equip them to defend the state and thus creating a pool for potential judges. We call on the department to swiftly transform the current briefing patterns.

Our President, in his state of the nation address, said that the eradication of gender-based violence requires top priority. This includes ensuring the improved functioning of sexual offences courts. We note that 16 sexual offences courts are to be adapted in line with the sexual offences courts model, which we welcome. It is concerning however, that funding constraints have led to a moratorium on the appointment of further intermediaries, which we hope the department will mitigate soonest.

We live in a world where levels of poverty and inequality especially among women and single parents are increasing daily. That is why accessing child maintenance services at courts are vital. We commend the department on the implementation of Mojapay and electronic funds transfer, EFT, payments made to maintenance beneficiaries directly which has proven to be successful. There are still too many maintenance defaulters. Some nonprofit organizations, NGOs have also expressed concern in this regard due to insufficient dedicated staff at courts. In the light of moving towards the Fourth Industrial Revolution, Minister, which you propagated, we must explore the possibility of how certain categories of maintenance applications can be made online.

It is important for the Human Rights Commission to focus on the realization of socioeconomic rights as this has a direct impact on the poor and vulnerable. We therefore commend the investigation undertaken by the Commission into whether the City of Cape Town's bylaws are infringing the human rights of homeless people. We also salute the Human Rights Commission for working together with the Department of Basic Education in the rewriting process of the Life Orientation textbooks for grades four and 12, thus infusing human rights issues into the school curriculum and for agreeing to lead the National School Moot Court Competition, working with the Department of Justice and Constitutional Development and the Department of Basic Education.

Young people who are the most affected by poverty, inequality and unemployment sometimes become involved in petty crimes. Years later they may be unable to find a job because they have a criminal record for this petty crime and would have paid an admission of guilt fine.

The process of expungement of criminal records becomes very important. There are stringent and strict criteria and one can only apply after a period of 10 years has lapsed after the date of the conviction for that offence. This is something we would like the department to brief us on, since it may enable young people to find employment and fully participate in the economy.

As we remember Dullah Omar, in my earlier reference to him and his values, we can be assured, that we are indeed achieving a great deal and that the struggle for Access to Justice for our people within a culture of human rights continues. Lastly, on behalf of the ANC I also want to thank the staff, the research unit that assisted the committee during the preparation of this Budget Vote, under tremendous time constrain, for the job well done. Thank you very much Acting Chairperson.

Mr M NYHONTSO: Acting House Chairperson, the PAC remains convinced that when we discuss the question of justice and constitutional development in the country, we must begin with the type of judicial system that we have allowed ourselves to be subjected to. We have allowed ourselves to be dominated by the same system that informed

our oppression without any attempt whatsoever to introduce an African-centred jurisprudence. The same laws that were used to justify land theft are still used to protect the beneficiaries of land theft.

The very laws that were used to arrest, sentence and incarcerate our Azanian People's Liberation Army, APLA cadres are still used to keep them in prisons today. Minister, the fight against apartheid was never a round-table discussion but rather a matter of life and death; our APLA cadres who were at the forefront had to engage the system the only way the system would be forced to surrender, and that was through the barrel of a gun.

The PAC calls for the release of APLA cadres who are still in jail. Our justice system turns a blind eye when injustice is done by the government and when the people respond to the injustice, then the justice opens its eyes and go harsh on the people, hence we have students in prisons.

The PAC remains disturbed that this government refuse to release records of President Robert Sobukwe's voice when he was addressing the court. Our system keeps records of the court proceedings and such records should be made freely available. We call for the release of these records without any further delays.

In conclusion, the PAC proposes that we do away with the usage of the Roman Dutch laws and invest in the African-centred legal system. The PAC supports the budget.

Mr W HORN: Chairperson, justice and constitutional development has a major role to play to restore the confidence of South Africans and the world in our country and its constitutional institutions. Governance, policies, strategies, programmes and budgets cannot be mere tick-box exercises if we are to restore our image as a constitutional democracy which is on the path to prosperity.

In addition to the vital need to deal speedily and effectively with corruption and state capture, our ability to deliver justice to the thousands of victims whose personal safety is breached and broken down every day in our streets and on our farms is of equal importance, if we are to restore confidence in the National Prosecuting Authority, NPA, and the criminal justice system, and if we are to fulfil the dream President Ramaphosa has of reducing crime by 50%.

For let there be no doubt, the current composition, skills set and budget of the NPA is in no way aligned to this target. This is not a political statement. It is a statement of fact based on what the National Director of Public Prosecutions, NDPP, and the Department of Justice informed the portfolio committee during our budget briefings.

Minister, the buzz term being thrown around by you is the request to the NDPP to develop a plan to make the NPA effective. There may be a need for such a plan but allow me to make it very simple. Your short-term priority must be to ensure the proper funding and upskilling of the prosecution services of the NPA.

We welcome the appointment of 19 prosecutors at one-man stations but in the bigger scheme of things, this can be only symbolic. We need more prosecutors at more stations.

In respective of the effectiveness of the NPA, we welcome the insight of the new NDPP and her willingness to admit that conviction rates as a percentage cannot be the only or even the most reliable way to measure success at the NPA.

Let me state only one of the real numbers that paint the sorry state of the NPA’s decline over the last years. Despite fewer criminal cases being enrolled, the backlog roll - that is cases being on the roll for 12 months and more - is estimated to grow from about 28 000 three years ago to 35 000 towards the end of this financial year.

While this issue must not be politicised, it must be said that the snide and personal remarks by the hon Jeffrey is a testimony of the unconcern manner in which he has dealt with this matter over the years. Forever obfuscating about the failures of the system, then

one must wonder whether it is possible because he wants to protect the cronies from the Zuma faction when the law comes for them.

Hon Lamola, in the short and medium term your legislative agenda will also either work towards restoring confidence that this government has re-embraced constitutionalism or that it is continuing on the part of what at best can be described as reimaging South Africa in line with the rule of man rather than the rule of law.

In this regard, you should be warned not to place much trust in your Deputy Minister. While he was part of the Zuma administration, he brought us some very bad Bills; Bills that not only undermined the rule of law and our international obligations, but which he also was well aware could never pass constitutional muster.

A Cyber Security Bill which in typical Zuma-era thinking could not imagine a South Africa where the State Security Agency is not at the centre of every state operation.

A Traditional Courts Bill which panders to the worst unconstitutional instincts of some traditional leaders and half-hearted democrats in the ANC, rebuffing the constitutional demand that customary law and practices are to be recognised and developed only in a manner consistent with the Bill of Rights.

A Hate Crimes and Hate Speech Bill which sought to criminalise offence and to clamp down on free speech instead of establishing a true culture of human rights earmarked by tolerance. Not one, but two attempts to facilitate our withdrawal from the International Criminal Court on the back of the friendship of the government with Omar Al Bashir, a despicable dictator wanted for crimes against humanity, war crimes and genocide.

Minister, whatever you do, never rely too much on the advice and opinion of your deputy when it comes to your legislative agenda. His ability to identify and prevent legislation that is averse to our Constitution is severely impaired by his service to the Zuma administration. [Interjections.]

We note the announcement today by the Minister that he will ask Parliament to proceed with the finalisation of the Traditional Courts Bill and the Prevention and combating of Hate Crimes and Speech Bill. We reiterate our serious reservations about these Bills and urge the Minister to first do a constitutional and specifically a Bill-of-Rights audit on these Bills before putting his stamp of approval on them.

We also place on record that there is a dire need for cybersecurity legislation but please, only after it has been reworked to address the overinvolvement of State Security Agency, SSA, in the administration of the law.

Allow me to add that we hope that your silence on the international crimes Bill ...

The CHAIRPERSON (Ms V S Siwela): Order, hon members.

Mr W HORN: ... means that the ill-advised decision to withdraw from the international crimes court has been abandoned. In respect of other matters in need of the Minister’s attention, we welcome the announcement of imminent steps to address the deficiency at the state legal services.

Other pressing issues must include the embarrassment that is the process of bringing into operation the information regulator. Our best advice to you in this regard is also to take control personally of this because your deputy is also failing in this regard. [Interjections.]

The snail’s pace at which the integrated criminal justice system is being developed, having been announced 12 years ago already and having gulped up hundreds of millions of rand of taxpayer’s money, is also in need of special attention.

Minister, we also urge you to stay through to your word to address the institutional independence of the NPA and the NDPP. This is the mission you chose to accept. We wish you success. I thank you.

Ms J M MOFOKENG: Hon Chairperson, Ministers, Deputy Ministers, hon members, ladies and gentlemen, from the onset, I wish to declare the ANC's support for Budget Vote 21 as tabled by Minister Lamola here, today.

Hon Chairperson, the main objective of the national democratic revolution is to attain a nonracial, nonsexist, united and prosperous society. For the purpose of this debate, I will place emphasis on nonsexism which is a foundational value of our Constitution.

The constitutional guidelines provide for equality between men and women. This value did not fall from the sky nor was it an accident of history. It is a direct response and challenge of the patriarchal society we find ourselves in.

Throughout history, women have been marginalised, regarded as the weaker sex and incapable of fulfilling the duties, which were traditionally considered as being for men.

History teaches us that women in most parts of the world including South Africa, were considered perpetual minors without rights to property, to inherit, to vote, to hold legal power and to hold certain occupations. Married women were legally dead in the eyes of the law. History teaches us that women were relegated to the lower rungs of society. Throughout all of this, history also teaches us

that the bodies of women have been considered and treated as objects.

Hon Chairperson, there has been a war against women. The war is still on. The progressive women's movements against sexism, femicide and gender-based violence have not stopped the killing of women and members of the LGBTQIA+. Women are in a state of constant fear of violence and abuse.

The gruesome killings of women and girls, either by intimate partners, relatives or strangers continue to traumatise our communities. The trend of discarding the victims' bodies without any thought, bludgeoned, dismembered or burned, is shockingly inhumane.

The root of all this is patriarchy. All these atrocities are manifestations of patriarchy and need to be uprooted and eradicated. It is an injustice to the lives of women. It must be noted, Chairperson, that our revolution as the ANC, was never about fighting men. Our revolution was about fighting a patriarchal system.

Last year, President Cyril Ramaphosa called a Presidential Summit on Gender-Based Violence and Femicide, where he declared gender-based violence and femicide a national crisis. This acknowledgment requires that action be taken if we are to realise Outcome 3 of the National Development Plan, NDP, which entails that: In 2030, people

living in South Africa feel safe at home, at school and at work, and enjoy a community life free of fear. Women walk freely in the streets and children play safely outside.

Hon Chairperson, rape targeting women and girls, is a serious problem in South Africa. The 2016-17 victims of crime statistics released reported that 250 out of every 100 000 women were victims of sexual offences compared to 120 out of every 100 000 men.

The statistics are deeply concerning. The ANC calls for harsher sentences for those who commit gender-based violence. A woman's body is not a crime scene. The body of a child is not a crime scene. The body of a member of the LGBTQIA+ community is not a crime scene. Deputy Minister, we agree with you that sexual offense register need to be looked at and public participation should be key in this regard.

Hon Chairperson, notwithstanding these challenges, the ANC has not been silent. The Department of Justice has progressively rolled out sexual offences courts. The nature of sexual violence is that many survivors of sexual abuse choose not to report this crime, mainly because of shame or fear of not being believed.

The sexual offences courts are therefore established to give them an experience defined by solace, care, compassion and justice so as to encourage reporting and healing. Sexual offenses courts are intended

to reduce the turnaround time in the finalisation of these cases, eliminate secondary victimisation and improve prosecution and adjudication of these cases.

The sexual offences courts offer a sequential and co-ordinated flow of victim-centred support services, which include information, private waiting room, court preparation, pre-trial emotional containment, private testifying, intermediary, post-trial emotional containment but to name a few. With this in place, our young women lawyers should find expression.

The National Prosecuting Authority, NPA, in collaboration with the Department of Health, has established the Thuthuzela Care Centres throughout the country, and we support them. As reported by the NPA, the life sentences imposed at the sexual offense courts on cases received from the Thuthuzela Care Centres increased by 36,5% in 2017-18 financial year, from 255 life sentences in 2016-17 to 348 in 2017-18 financial year. This indicates that courts have started to turn the tide of sexual offences in our country.

As of 31 March 2018, SAPS established 1 049 victim-friendly rooms at certain police stations. This is an increase from the 1 027 that were registered in 2016-17. They provide a friendly environment that assures confidentiality, respect and dignity. In Gauteng, there are 137 victim-friendly rooms and are operational. We hope this will assist in the prosecution.

The Department of Social Development has established six Khuseleka One-Stop Centres. We hope that they will also be able to acknowledge the work that has been done by Ikhaya LeThemba One-Stop Centre established in Gauteng.

Section 29 of the Criminal Law Sexual Offences and Related Matters Amendment Act requires the Minister of Health to designate, by government notice, any public health establishment for the purposes of, *inter alia*: firstly, providing Post Exposure Prophylaxis, PEP, to victims who have been exposed to the risk been infected with HIV as a result of the sexual offences within 72 hours after the alleged offence; secondly, carry out compulsory HIV testing and will provide pregnancy testing, medical examination, collection of forensic evidence, completion of medical report and provision of contraceptive treatment in a nutshell.

Hon members, as the ANC, we have made great strides in ensuring that justice is made accessible where the physical locations of these structures are placed. We have progressively ensured that the right to legal representation is enforced through the roll-out of legal aid services. We acknowledge the good work that they have done.

We are concerned with its limited funding, however. We appreciate the good work done by working with SA Human Rights Commission, NPA, Legal Aid SA and the department as a whole especially in this fight of ours against this scourge.

We call for a social compact to fight patriarchy, gender-based violence and femicide. Women's lives matter. Even as we differ politically, we are in agreement that human rights must be protected and the lives of women, children, persons living with disabilities and the LGBTQIA+ community must be protected.

Hon Chairperson, as I conclude, I do so with a quotation by a formidable man who has often been described as a feminist at heart, the first democratically-elected President of South Africa, uTata uMadiba, President Mandela, who said and I quote:

> As a tribute to the legions of women who navigated the path of fighting for justice before us, we ought to imprint in the supreme law of the land, firm principles upholding the rights of women.

I would like to go back to hon Breytenbach. On the Public Protector issue, the ANC is not going to do what you want but Parliament will do the right thing as per Parliament Rules and the Constitution of the Republic of SA.

Hon Mulaudzi, you have nothing to offer. We cannot even listen to you.

Hon Deputy Minister, we really thank you for appointing 14 women as sheriffs. [Applause.]

Hon Swart, thank you very much ...

Agb Swart, hou goeie moed, want slegte moed kom vanself.
(Translation of Afrikaans sentence follows.)

[Hon Swart, never say die, for bad courage comes naturally!]

Hon Swart, we want to thank you for always being positive in this committee.

As for hon Horn, you did and said nothing but you just wish to be a Deputy Minister. Thank you very much. [Applause.]

The MINISTER OF JUSTICE AND CORRECTIONAL SERVICES: Thank you very much for the opportunity to respond but also to thank all the political parties for their largely constructive inputs. I will not be able to respond to each one of them because of time constraints but some of the responses will come through action as we carry out our day-to-day work, executing the tasks and respecting the Constitution.

I think most of the parties, unlike hon Adv Mulaudzi, have acknowledged the new dawn and have brought their new speeches for the sixth administration. [Laughter.]

I think what did a disservice to Adv Mulaudzi was the speech he mistakenly brought, which he used for the fifth administration.

On corruption, the ANC-led government is unflinching on its commitment to deal with corruption. I am happy that the President has implemented the recommendations of all the commissions of inquiry that have sat thus far; the NPA and the SA Revenue Services, Sars, and there is nothing that is going to stop us to implement the recommendations of any commissions that are currently sitting.

The chairperson of the Commission on State Capture, the Deputy Chief Justice, Zondo, has also said that there is nothing that stops any law enforcement agencies from acting against anyone or any matter based on the facts before them and the facts before the commission. Well, we want to see the commissions fulfil their lives having lives of their own. The chairperson has said that there is nothing that stops the NPA, the Special Investigating Unit, SUI, or anyone or the police or Hawks from doing their jobs based on evidence before the commission.

The NPA is currently working with the SIU to deal with all the cases that the SUI has referred to the NPA to decide whether to prosecute or not to prosecute.

We, together with the Constitution of the Republic and the National Prosecuting Authority Act, have said that they must be able to do their job without fear, favour or prejudice to anyone.

With regard to marijuana, we are at an advanced stage of developing a Bill and I think this committee will soon be seized with that Bill as it is going to go to Cabinet.

With regard to briefs in terms of the State Attorney's office, the department regularly updates on quarterly basis. In my opening speech I alluded to the high briefing-rate patterns of black females and males – 84% – skewed more towards black females.

I think the challenge we have and have alluded earlier in the speech is that the private sector, listed companies and unlisted companies must also come to the party. It can't only be the responsibility of the state to brief black attorneys and black advocates.

We are also going to engage with the Department of Public Enterprise in this regard so that our own state-owned entities are also seized with transformation of the judiciary, local government and all organs of the state. But this does not only end with the state. The private sector must also come to the party.

This country's social cohesion is not only the responsibility of government but the responsibility of all social partners in our country.

With regard to the security that has been raised, we are also working in the department to ensure that the standards of security in our courts are in line with the norms that are expected in any society so that witnesses or people who work in our courts are able to do their job without fear or favour.

Our commitment to a constitutional democracy in the past 25 years can never be challenged or be questioned. We have respected court decisions and have done everything in line with the Constitution.

As I speak today, the former President of the Republic is at the Zondo Commission of Inquiry. This is a true reflection that our democracy is transparent. We don't try to hide anything; we allow institutions to do their job and process whatever that comes through proper procedures and processes in our constitutional democracy.

With regard to political prisoners, you are aware that some of the political prisoners spoken about have been refused amnesty and it made it almost impossible ... because of the nature of the crimes that they have committed. Currently, the President is looking at the presidential pardon through the process that was started by the former President of the Republic, Thabo Mbeki, and is going to

release the report soon. Thank you very much. [Time expired.]

[Applause.]

Debate concluded.

The mini-plenary session rose at 11:57.