TUESDAY, 9 MAY 2023

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PROCEEDINGS OF MINIPLENARY SESSION - COMMITTEE ROOM M46

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Members of the mini-plenary session met at Committee Room M46 at 16:45.

The House Chairperson Mr M L D Ntombela took the Chair and requested members to observe a moment of silence for prayer or meditation.

ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS – see col 000.

APPROPRIATION BILL

Debate on Vote No 27 – Office of the Chief Justice:

The MINISTER OF JUSTICE AND CORRECTIONAL SERVICES: House Chairperson, hon Chairperson of the Portfolio Committee *in absentia*, the Deputy Minister of Justice and Constitutional Development, the hon John Jeffery, hon members, distinguished members of the judiciary, heads of professional law bodies, the Secretary General of the Office of the Chief Justice, Ms M

Sejosengwe; and the entire leadership of the Office of the Chief Justice ... [No sound.] ...

... Victoria Mxenge, you may not have seen our first black President. But you can be reassured that your contribution to society is still glowing at a time when we need it the most. The young man you personally groomed in your offices as a candidate attorney and an associate, today leads the judiciary of the Republic of South Africa and the highest court in the land. It is also worth noting, in a significant way, that this year marks the centenary year of women in the legal profession. The first woman to be admitted as an advocate in South Africa was Irene Geffen in 1923. Twenty-three years later, the first woman attorney was Constance Mary Hall in 1926. Ninety-nine years later, the Republic of South Africa affirms a black woman to be the second in command of the highest office in the judiciary. Commendable as it may be, we know all too well that the journey is far from complete.

Hon members, the budget of the Office of the Chief Justice we are tabling today comprises R1,3 billion for voted funds and a further direct charge to the National Revenue Fund of R1,125 billion for judges' remuneration, and 79,2% of the total voted budget of the department is allocated to its core programmes, namely superior court services and Judicial Education Support.

Hon members, despite our government having lifted the coronavirus restrictions, the effect of the COVID-19 pandemic, coupled with the budget restrictions resulting from a suppressed economic environment, still pose limitations to the operations of government departments.

The Office of the Chief Justice, like all government departments, continued to experience budget cuts which hampered its capacity to perform in line with expectations. Despite these challenges, it remains the Office of the Chief Justice's aim to continue to discharge its constitutional mandate of supporting the judiciary effectively and efficiently.

After rallying in the third quarter of 2022, the South African gross domestic product, the GDP, declined by 1,3% in the fourth quarter: October to December 2022. Although the GDP reached an all-time high in 2022, the economy has only grown by 0,3% from the 2019 pre-pandemic reading of R4,5 trillion. In this constrained environment, the Office of the Chief Justice will have to be innovative and develop new ways of operating to keep the courts operational. I usually say ...

Vana va munhu va tsemelana nhloko ya njiya. *(Translation of Xitsonga sentence follows.)*

[... that the people shall share.]

As such, the Office of the Chief Justice will continue to reprioritise its budget and operations to ensure that the delivery of core services, namely support to the courts, is not adversely affected. Important in this regard is ensuring the adequate capacitation of the department. The budget reductions implemented since the advent of the COVID-19 pandemic have decreased the 2023-24 voted budget allocation of the Office of the Chief Justice by R144 million, which is almost a 10,2% decrease. The effect of scaling back this resource means that the compensation of employees' budget of the department has been reduced by R116,1 million and the budget for judges' salaries has been reduced by R183,3 million in this financial year.

A 5,5% reduction to the operational budget has also been implemented, translating to an effective R28,3 million in reductions. Budget constraints limit the capability of the Office of the Chief Justice to deliver services and support to the judiciary, and further impact key human resource strategies such as the recruitment of people with disabilities and women on SMS level. Despite these inhibitors, the department will continue striving to maintain the vacancy rate of 10% or lower.

A key consideration in a constrained economic environment such as the one our country finds itself in is ensuring that none of our precious resources are misused and misappropriated through fraud and corruption. The leadership of the Office of the Chief Justice take seriously their fiduciary duty to protect the resources entrusted to them by the South African public.

The department is constantly reviewing internal measures to curb fraud and corruption. Important in this regard are the lessons the organisation continues to learn through the process of accounting in this House.

The Office of the Chief Justice has decided to review the decision regarding Reuters UK Ltd in relation to CaseLines. The awarding of the contract is now being reviewed in the High Court in Gauteng. This will ensure that the process that must be followed is compliant and there must be accountability for everyone who played a role in previous processes.

We are also pleased to report progress on how we are mitigating load shedding in all our superior courts. We have installed generators in 18 superior courts. Five courts are earmarked to receive generators and one more is earmarked for a serviced solar system. This is also work in progress in

regard to the magistrate courts throughout the country, aimed to mitigate the effects of load shedding.

On behalf of the Office of the Chief Justice, I wish to extend our gratitude to the guidance the department has received from members of this House during the various oversight engagements held with members of the committee and this committee.

Hon members, as alluded to earlier, this year marks the 29th anniversary of South Africa's first democratic elections that ushered in an equal, representative and nonracial society.

Although we have made remarkable progress since 1994 in many endeavours of national importance, the spectre of inequality, poverty and unemployment remains one of the most glaring impediments to South Africa's goal of national unity and social cohesion. We also dare not forget the terrible past from which we have come, nor should we forget the many sacrifices made by patriots to ensure our democracy and freedom. Through the democratic dispensation we enjoy today, we have a world-renowned Constitution that anchors our society. The Constitution has created institutions to ensure that the state is accountable to the citizenry. It transformed all arms of the state into institutions that serve all the people of the country on the basis of democratic values, social justice and fundamental human rights. It guarantees the

basic freedoms and rights of all citizens, such as freedom of expression, association and equality, amongst other freedoms.

Our judiciary, as one of the three arms of the state, derives its mandate and authority from our Constitution. All South Africans have aconstitutional duty to respect the role of the judiciary in our society and ensure that it is protected from unwarranted attacks in the exercise of its judicial authority. As the executive arm of the state, we reaffirm our commitment to the doctrine of the separation of powers and to the constitutional directive to assist and protect the courts to ensure their independence, impartiality, dignity, accessibility and effectiveness.

I am certain this House will agree with me when I declare that we have a judiciary that is committed to the rule of law and the protection of human rights. We are thankful to the crafters of our Constitution for the protections afforded the judiciary to allow it to apply the law impartially and without fear, favour or prejudice. We will open engagements with regard to the judiciary and the public on the judicial governance model in this current financial year and, it is hoped that consensus will be found amongst all the stakeholders, the executive, the judiciary, Parliament and the people of South Africa.

Hon members, I take this opportunity to extend warm congratulations to Madam Justice Mandisa Maya, who was appointed the Deputy Chief Justice of the Republic of South Africa by His Excellency President Ramaphosa, effective from 1 September 2022. The appointment of Deputy Chief Justice Maya to the highest echelons of the leadership of the judiciary bodes well for our efforts to transform the judiciary. Announcing the appointment of the Deputy Chief Justice, President Ramaphosa said the following, and I quote:

> Justice Maya will contribute to the ongoing transformation process of the judiciary. Her ascendency to the apex court will serve as a beacon of hope for scores of young women and make them believe that South Africa is a country of possibilities regardless of gender, social or economic circumstances.

We look forward to a long and fruitful relationship with the Deputy Chief Justice as we continue the work to improve the efficiencies of our justice system.

Hon members, only seven years remain before the year 2030, the year in which we hope to have achieved many of our national goals as laid out in the National Development Plan – Vision 2030. Since its launch in August 2012, the National Development Plan, NDP, has served as an action plan for

securing the future of South Africans, as described in the Constitution.

The Office of the Chief Justice supports the judiciary in its contribution to Chapter 14 of the NDP which deals with promoting accountability and fighting corruption. To this end, the focus area for the judiciary is in strengthening judicial governance and the rule of law. This focus area is fundamental in guiding the development of the strategic priorities, as outlined in the 2023-24 Office of the Chief Justice Annual Performance Plan, the APP. The Office of the Chief Justice's 2023-24 APP therefore articulates key priority areas which are central to improving the governance and efficiency of the department. They are the following: implementing initiatives that contribute to broadening and improving access to justice and the services of the superior courts; ensuring an efficient court system; improving efficiencies in court administration through the modernisation of systems, processes and infrastructure; implementing initiatives to address the impact of COVID-19 on the operations of the courts; and contributing towards the revival of our economy and job creation.

To enhance service delivery, the education and training for both serving and aspirant judicial officers will continue to be a priority for the Office of the Chief Justice in the 2023-current financial Year. This will contribute towards the

transformation of the judiciary. Increasing the number of judicial officers on the bench in conformity with constitutional obligations remains a priority. In this regard, the resourcing and capacitation of the SA Judicial Education Institute, the SAJEI, remain crucial in ensuring that available education and training courses are offered to serving and aspirant judicial officers. Although the SAJEI has successfully implemented virtual judicial training, the challenge is that load shedding has an adverse impact on the delivery of that training. It is therefore imperative to consider adjusting the budget of the institute in order not to lose the momentum of enhancing judicial skills.

We express our sincere gratitude to Chief Justice Raymond Zondo for resuscitating the Aspirant Women Judges Programme started by the first woman Minister of Justice in democratic South Africa, Ms Brigitte Mabandla, and aptly naming the programme after her. The Brigitte Mabandla Aspirant Women Judges Programme aims to address the underrepresentation of women in the judiciary by creating a pool from which women judges can be appointed. Through this training programme for aspirant women judges, women practitioners with potential to be appointed as women judges are identified, enrolled and exposed to a specially designed judicial education programme to enhance their opportunity for appointment to the bench. We look forward to positive feedback from this programme.

In order to achieve enhanced judicial performance, the department will ensure that an increased number of judicial education courses are conducted, that research monographs, monitoring reports on the management of litigations and reports on secretariat support provided to the Judicial Service Commission, JSC, are produced.

To further accelerate the provision of judicial education and training, the SAJEI will also leverage technology by conducting some of the courses through virtual platforms. The Office of the Chief Justice continues to embrace the advantages that technology presents and leverages it. The modernisation and digitalisation of court systems remains a key priority for the Office of the Chief Justice to improve access to justice for all by utilising technology in court hearings. The use of technology in court proceedings has proven to be an invaluable tool in ensuring access to justice and the safety of court users during the COVID-19 pandemic. As such, the Office of the Chief Justice will continue to prioritise the use of technology through the roll-out of its Court Online system. This system is meant to take advantage of the digital transformation initiatives that seek to reduce the need for physical infrastructure ownership, and to leverage existing technology platforms that include cloud computing and electronic document management to address the current storage-space challenges in courts.

Hon members, the role of the judiciary and the administration of justice in our society is a complex one, as, more than just being adjudicators of disputes, the judiciary has to respond to broader social needs. For our courts to be effective in delivering justice, the general public must have confidence in their ability to do so. This implies some important questions relating to judges' legitimacy and public trust, judicial accountability, and the efficient administration of justice, which are essential conditions for judges to effectively and efficiently serve society. Over the years our judiciary has shown a profound understanding of this imperative, as captured in our Constitution. This includes many judgments, particularly by the Constitutional Court, that have reflected a progressive interpretation of the Constitution for the advancement of human rights and the improvement of the socioeconomic conditions of all South Africans.

One aspect of the role of the judiciary is to ensure that everyone is treated equally and protected by the law, regardless of their gender, religion, or the colour of their skin. An independent judiciary ensures that everyone, including minorities, can access their rights, as captured in the Bill of Rights, and that these can never be taken away from them. It is incumbent on all organs of state, therefore, to assist and protect the judiciary to ensure its continued independence, impartiality, dignity, accessibility and

effectiveness. An important part of this responsibility for organs of state is ensuring that the judiciary is adequately resourced to undertake its constitutional mandate.

Ladies and gentlemen and hon members, we present the Budget of the Office of the Chief Justice to you today in this spirit. Supporting this Budget Vote is a means to ensuring the constitutionally enshrined independence of the judiciary. We call on this House to continue co-operating with us to affirm the role of the judiciary in the protection of human rights and advancement of our democracy.

Chairperson and hon members, I therefore present the 2023-24 Budget Vote, Budget Vote 27, of the Office of the Chief Justice for your support and approval. I also wish to take this opportunity to recognise Chief Justice Raymond Zondo; Acting President of the Supreme Court of Appeal Justice Xola Petse; Deputy Judge President Aubrey Ledwaba as the Chairperson of the Magistrates Commission; other heads of courts; and all members of our judiciary for their continued service to the people of South Africa. I also acknowledge the Office of the Chief Justice Audit and Risk Committee for their oversight role.

Finally, I thank the Secretary General of the Office of the Chief Justice, Ms Memme Sejosengwe, the management team of the

Office of the Chief Justice and staff for their unwavering commitment to service and for always raising the bar higher. Thank you, hon House Chairperson. [Applause.]

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Thank you very much, hon Minister. The hon G Magwanishe is the next speaker. [Interjections.] Welcome, hon Magwanishe.

Mr Q R DYANTYI (On behalf of Mr G Magwanishe): House Chair, I'd like to start with a disclaimer: I am not the hon Magwanishe. I rise on behalf of the hon Magwanishe. I wish him a speedy recovery. He didn't just ask me but commanded me to come here and read what he would have presented. We agreed that I would not change anything in terms of what he prepared. Hon Chair, allow me to share his message.

We note the Minister's statement that the policy on judicial governance and court administration is now ready for engagement with stakeholders. Wehave urged for the finalisation of the policy and the accompanying legislation in a number of our previous reports. We therefore intend to closely monitor the progress of this project towards achieving the institutional independence of the judiciary. This is a very important aspect.

We have visited courts countrywide. The committee witnessed the many serious infrastructure problems and maintenance-related problems at our courts. The committee has also learned of the judiciary's frustration regarding this situation. In short, the infrastructure problems are undermining the delivery of justice to the people.

The committee made its findings known to the judiciary at the recent meeting and will also engage the Minister of Justice and Correctional Services and the Minister of Public Works and Infrastructure with its observations in the near future.

We welcome the information ... [Inaudible.] ... that the Supreme Court of Appeal experiences load shedding, a matter that the committee had previously raised with the Office of the Chief Justice, OCJ. We note the OCJ's assurance ... [Inaudible.] ... that almost all superior ... [Inaudible.] ... are going about ensuring that backup water is available at courts.

This is an important point and, at some point, you would have three converging problems at a particular court where you have the magistrate, the SA Police Service, the Department of Correctional Services -you have all of the stakeholders - but the court cannot function, which is not a problem of that

court but because there is no water, no electricity and no network availability.

The committee welcomes the progress made so far with the Court Online project but it is concerned that system defects and external dependencies, including pending litigation, pose a threat to the planned roll-out of the project. As such, the committee will continue to regularly monitor the project's progress.

We note that the OCJ has lost several experienced registrars, and this is placing considerable pressure on courts. It is likely to negatively affect the achievement of the quasi-judicial targets and there may even be a need to revise the targets downwards in the next planning cycle.

Further, the OCJ reports that it continues to experience a high staff turnover rate. The loss of experienced staff in critical positions is a risk to the organisation. We therefore ask the OCJ to report to us what it is doing to both attract and retain staff.

The lack of space in our courts makes storing old court files very challenging. Although the committee understands that the implementation of the Court Online solution will assist, the

solution will not address the challenge of storing older court records.

We are informed that funding has been made available through the Integrated Justice System, IJS, to assist with the digitisation of old court records and we have asked the OCJ for further details. At the recent Judicial Service Commission interviews, questions were raised concerning the quality of judgments of several of the candidates. These judgments were delivered while the candidates were acting judges.

The committee is therefore pleased that the SA Judicial Education Institute, the SAJEI, has already begun to engage with judge presidents on the training needs of aspirant judges.

We further note that the provision of library material remains a function of the Justice department, but we welcome the OCJ's undertaking to monitor the updating of library materials in the superior courts on a quarterly basis.

The committee notes the update provided by the Office of the Chief Justice on the investigation and litigation of surrounding CaseLines tender irregularities, including that the Special Investigating Unit investigation is complete. We will continue to monitor the matter very closely.

The committee, having considered the Office of the Chief Justice's annual performance plan 2023-24, recommends to the House that it be approved. The committee, having considered Budget Vote 27: Office of the Chief Justice, recommends to the House that it be approved. I thank you, House Chairperson.

Adv G BREYTENBACH: Hon House Chair, hon members, may I start by saying that I hope the hon Magwanishe recovers quickly, if only to protect us from having to listen to the hon Dyanti read his speeches to us for the next two weeks. [Laughter.]

Hon members, I must today express my deep concern about Minister Lamola's lack of support for the Office of the Chief Justice overall. As Members of Parliament, we must ensure that our leaders are held accountable for their actions and inactions. And, in this case, we must hold the Minister accountable for his department's failure to adequately support the Office of the Chief Justice.

The Office of the Chief Justice is an essential institution in our democratic system. It is responsible for upholding the rule of law, ensuring the independence of the judiciary, and protecting the rights and freedoms of all South Africans. The Chief Justice is also responsible for appointing judges through the Judicial Service Commission, managing the

judiciary's budget, and providing administrative support to the courts.

In short, the Office of the Chief Justice plays a critical role in ensuring that justice is done in our country.

Unfortunately, the Minister and his department have failed in their duty to support the Office of the Chief Justice. He has not provided the necessary resources and support to enable the Chief Justice to carry out his duties effectively. As a result, the Chief Justice through the JSC has been unable to optimally appoint judges to vacant positions, and the courts have been unable to function effectively as a result.

This has had a significant impact on our justice system, causing delays in the resolution of cases and denying justice to many South Africans. It has had a significant and negative effect on access to justice for so many South Africans.

Furthermore, as a result, the courts are constantly and chronically under resourced, with not only a shortage of judges, but also of support staff and basic infrastructure. This has led to significant delays in court proceedings and has undermined public confidence in the justice system.

Risk management is poor to nonexistent. Contracts with service providers are constantly allowed to lapse, with nothing in their place. Court recording equipment breaks down chronically, with no maintenance contracts in place. This regularly brings many courts in the country to a grinding halt. Judges have little in the way of administrative support, and access to local and international law reports and journals on a regular basis is but a pipedream.

A judiciary-led court administration model, much discussed but seldom seen, is long overdue, and continued budget reductions will ensure that this vital implementation is further delayed.

In his budget speech last year, the Minister announced that he intended to introduce a policy on judicial governance and court administration to Cabinet in this financial year, and to introduce to Parliament legislation that would overhaul the lower courts towards the establishment of a single judiciary. This would encompass the transfer of functions and risk management from the Department of Justice and Constitutional Development to the Office of the Chief Justice.

The recent oversight visits by the committee have brought into sharp focus serious challenges with regard to infrastructure and maintenance issues, security at courts and the digitisation of court records. The oversight visits also

highlighted the dilapidated nature of some of the court buildings with some structural challenges at the Mafikeng High Court and the Potchefstroom Magistrates Court, which is currently uninhabitable and has been so for more than a year, with little or no progress.

Frustration was expressed by the judiciary with communication challenges between the Department of Justice, the Office of the Chief Justice and the Department of Public Works and Infrastructure, DPWI. These challenges pose significant risks that need to be managed collaboratively. Many of these issues are having a significant impact on the work of the judiciary who are forced to manage issues around maintenance rather than their core function, which affects the effective administration and standards for the exercise of judicial functions of all courts.

An area of some concern and requiring urgent attention is that of fraudulent court orders. In the light of the reported fraudulent rehabilitation order presented by the erstwhile Tshwane mayor, steps must be taken urgently to ensure the integrity of court orders.

A complete lack of proper planning and risk management with regard to load shedding means that far too many courts in the country are unable to function for a full court day, or

sometimes at all. Particularly hard hit in this regard are the courts in smaller towns and smaller centres, where the majority of South Africans must go to access justice. The Minister has failed them, dismally.

This failure leads to a constant and chronic failure of other essential electronic equipment, which has the lamentable result of ever-decreasing court hours, a situation already the cause of great concern, and an ever-increasing backlog of cases, which just continues to grow exponentially, with little or no hope of ever being addressed. While the Cabinet have the luxury of fully-paid-for generators to shield them from the dark, that courtesy is not extended to essential services. What a disgrace.

It is important to note that the Minister and his department’s lack of support for the Office of the Chief Justice is not just a matter of policy or ideology. It is a violation of the Constitution and the rule of law. The Constitution requires the government to respect and protect the independence of the judiciary, and to ensure that the courts have the resources they need to function effectively. The failure to provide this support is a breach of constitutional duty and undermines the integrity of our democracy.

In conclusion, the lack of fiscal and other support for the Office of the Chief Justice is a significant cause for concern. It has had a detrimental impact on our justice system, causing delays, undermining the independence of the judiciary, and denying justice to many South Africans.

We must hold our leaders accountable for their actions. And, in this case, we must demand that the necessary support for the Office of the Chief Justice is provided. It is our responsibility as citizens to ensure that our democracy is strong and viable, and for that we must have an adequately funded and independent and strong judiciary. I thank you.

Ms Y N YAKO: Chairperson, when former President Jacob Zuma proclaimed the Office of the Chief Justice as a department with its own budget in 2010, we applauded the move because it further cemented the aspirational goal of an independent judiciary in the country. The independence of the judiciary is sacrosanct in a country with a history such as the one that we have, in a country with excessive inequalities and humongous gaps between the rich, who happen to be predominantly white, and the poor, who happen to be predominantly black.

The independence of the judiciary is also a priority because of the rampant corruption amongst those who lead. We must never have a situation in which certain politicians and their

handlers can capture the judiciary at any time and capture judicial reasoning in the country for their nefarious interests.

Since the adoption of the Constitution in 1996 until the retirement of Chief Justice Mogoeng Mogoeng, there was always the certainty that even when the judges got things wrong, the judiciary itself was beyond capture. The mistakes we made were bona fide mistakes and the judiciary always had the capacity to self-correct.

It is for this reason that we have always supported the Budget Vote of the Office of the Chief Justice in the past. Since the ascendency of Comrade Raymond Zondo in the Office of the Chief Justice, there is no longer that confidence and certainty that the judiciary is led by a person who is beyond the reach of the greasy and dirty hands of the politicians.

Firstly, the matter of his appointment left much to be desired. The Judicial Service Commission sat and interviewed four candidates. After intense deliberations it recommended that Justice Mandisa Maya be appointed Chief Justice.

Mr Ramaphosa, without reason, decided to ignore that recommendation and appointed Comrade Zondo as Chief Justice. The only inference to be drawn is that the appointment of

Comrade Zondo was payback time for his susceptibility of dabbling in politics and holding politically factional views on a range of issues. The dangers were all there for everyone to see.

Even while he was Acting Chief Justice, Comrade Zondo saw fit to enter into a public spat with politicians on the role of the Constitution and on the suspected capture of the judiciary by politicians.

While Chief Justice Comrade Zondo recently made public statements about his views on former President Jacob Zuma and the Guptas,both Zuma and the Guptas may legitimately approach the Constitutional Court, and Zondo may have to sit and listen to people he has already condemned as corrupt. Would it be unreasonable, therefore, for Mr Zuma to never want Mr Zondo presiding over his affairs? Would it be unreasonable for him to not trust the impartiality of the judiciary? All this could have been prevented had Comrade Zondo confined himself to adjudicating matters before courts, instead of wanting to be a politician.

The same comrade, the Chief Justice, once boldly proclaimed that the election of Cyril Ramaphosa as President of the ANC and the country saved this country from collapse.

Would he ever preside in a fair and a partial manner when he is required to make judgments on the conduct of Mr Ramaphosa and those associated with him, if he is of the view that Mr Ramaphosa is a godsend?

While dabbling in politics, Comrade Zondo has ignored the core functions of his office. The administration of justice across the country is collapsing, and that is the truth. There has been no intervention made to improve efficiency in the Master's Office. We have a Master's Office in Mthatha that is currently paying R100 000 for a very dilapidated church. It is costing us R100 000, but you cannot access the inside of that church.

The filing system is atrocious. There is no system that will prevent files in that office from being destroyed should the building burn down. [Interjections.] And you see nothing wrong.

We have judges who have obviously not been trained sufficiently and who are unable to deliver judgments on time. We have judges who delay judgments primarily because they have political interests.

The administration of the lower courts and the level of the judicial decisions taken by the lower courts leave many of our people vulnerable to miscarriages of justice.

In his own annual judicial report, Comrade Zondo bemoaned the incompetence and lack of proper leadership at the Land Claims Court, which has led to abnormal delays in the finalisation of cases in that court.

The importance of the Office of the Chief Justice is however not diminished by the fact that its leader is out of his depth.

We particularly support the judicial education function of the office even though we would like for them to replenish the libraries in their offices because they leave much to be desired. This also leads to a situation in which there is undermining of the decisions that are made because there wasn’t a supplemented library at the time. We would want to see more money channelled towards this function.

For these reasons, we are in support of this Budget Vote of the Office of the Chief Justice. We are looking forward to the end of the term of Comrade Zondo, so that there can be the proper administration of justice in this country again.

I would like to say that when we go to the courts, when we go to the Office of the Chief Justice and when we see what happens at the courts we note that there is much to be desired because this speaks to a lack of competence. When we think of our judges, we always think of the high level of work that is being done and of intelligence. When we go into these offices, they do not seem to be speaking to what we assumed should be happening in our country.

So, we would like to see more happening g and more work being done in terms of the work and the efficiency of the Office of the Chief Justice. We support this Vote. Thank you.
[Applause.]

Mrs E N NTLANGWINI: Hon House Chairperson, on a point of order.

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Yes, hon member. What is the point of order?

Mrs E N NTLANGWINI: Hon Chairperson, my point of order is that I just want you to once again remind our guests in the gallery and staff that they must not participate in the debates. I did not want to disturb commissar Yoli. Throughout the debate, guests have been making comments and disturbing interjections.

So, could you just remind them what their function is here, otherwise they have to leave?

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Thank you very much, hon member. [Interjections.]

Mrs E N NTLANGWINI: I saw them. Do not do that! I have seen them! I have seen them! [Interjections.] Do not do that! I can point them out one by one and, if they do not agree, then I will remove them! If you want trouble I will do it! [Interjections.] Do not do that! Do not do that! Even when it comes to the simplest thing you want to be corrupt!

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Hon member! Hon Ntlangwini!

The CHIEF WHIP OF THE MAJORITY PARTY: No, but the language is uncalled for, House Chair.

Mr Q R DYANTYI: Hon Chair, on a point of order.

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Hon members, you are turning this House into a circus. The manner in which you go about your objection is totally unacceptable. I have not commented about it. You have made your point and I was going

to comment about it. However, the way you go about it, hon member, is totally unacceptable. [Interjections.]

I was going to deal with that, but the manner in which you go about it is totally unacceptable, hon member. So, I humbly request you not to do that and I humbly request you, hon members, not to interject in the manner in which you are doing. [Interjections.] It is totally unacceptable, hon member. It is not my intention to insult you, if you take that as an insult.

Mr Q R DYANTYI: Hon House Chairperson, on a point of order.

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Hon Dyantyi, what is your point of order?

Mr Q R DYANTYI: My point of order, hon Chair, is that as a presiding officer - as you are addressing this House - no member should interrupt and speak while you are speaking. I would like you to make sure that those members do not do that when you are addressing the House. They are doing it already as I am on the floor! And I am addressing that point of order. It is not allowed, hon Chair!

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Thank you.

Mr Q R DYANTYI: Please, House Chair.

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Hon member, can I make this request?

Members have a right to say what they want to say in the House. No one disputes that. But we all have the responsibility to observe the decorum of the House. No member of the public will take us seriously, as Members of Parliament, if we behave at times the way some of us do. It is totally unacceptable.

What the hon Ntlangwini raised is a legitimate point: that visitors are not expected to participate in the House. That is quite understandable. No one disputes that. However, the manner in which we do that is not correct.

At the same time, the hon Nkosi was not correct. I was going to mention that, that the hon Nkosi please address me if you have a problem, not amember in the House directly. Then we end up with the type of chaos that is ensuing now and which is totally unacceptable. It is not expected of us.

So, I humbly request you to keep the decorum of this House. It is our responsibility, all of us. Whether you are a member of

the opposition or not, or whether you are a governing party or not, you have the responsibility to do that.

The other thing, hon members, that I want to bring to your attention is that it is general practice that when you refer to a member of the House, you refer to him or her as “hon” or “Mr” or “Ms”. That is the respectable way of referring to members. The judges of the courts should also be referred to appropriately, so to speak. That should be taken into consideration.

Ms Y N YAKO: No, Chair, on a point of order. I think you are now dictating to us how we should present our speeches and what to address as parties. So, I do not think it is appropriate for you to say that.

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Thank you very much. Without having to make a dialogue, I am saying hon members should please consider that.

Mr Q R DYANTYI: On a point of order, Chair.

Ms Y N YAKO: No, Chair.

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Hon member, fine. If you have an objection about that there are certain

processes that you need to follow. At the moment this is what I am saying.

Ms Y N YAKO: Thank you. We will carry through with those processes.

The HOUSE CHAIRPERSON (Mr M L D Ntombela): You are most welcome.

Ms Y N YAKO. However, there is no way you can dictate to us as a party how we to give our speeches. We are allowed to have debates. That is what the debate is about - for us to have freedom of speech and to deliver our speeches. You cannot dictate to us how we should give those speeches. Thank you. [Interjections.]

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Thank you, hon member. We do observe that that members have a right to say what they want to say. We all have freedom of speech, but it is done within certain parameters. I have made a ruling on that, hon member. I am not going to debate it.

Mr Q R DYANTY: Hon Chair, I just want to add and repeat what you have said. I want to refer to Rule 88, Chairperson, which speaks about reflections on judges and holders of public office ... [Interjections.]

Ms Y N YAKO: Which part? Which part did I say?

Ms T M MBABAMA: There are changed Rules, so you cannot.

Ms Y N YAKO: No ways! Your own member is sabotaging you.

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Hon Dyantyi, thank you very much. I have noted that.

Mr Q R DYANTYI: Before I sit, it’s going to be important therefore ... [Interjections.]

House Chairperson, I am on the platform. You have allowed me to speak. [Interjections.]

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Hon members! Hon Dyantyi, what is your point?

Mr Q R DYANTYI: The point I am making is that I would like you to take this matter further as this is undermining the authority of the presiding officer. [Interjections.]

Ms Y N YAKO: Which part is undermining him? Comrade Zondo? Is that undermining him?

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Hon Yako, that is exactly what I was saying to the hon Nkosi. Please observe your own Rules. What we are doing here is to implement your own Rules. Please!

Ms Y N YAKO: Chair, I am being very respectful to you. I acknowledge what you have said.

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Hon Yako, I have not recognised you. Could we follow the Rules please?

Ms Y N YAKO: Alright.

Uxolo. Ndicela uxolo. *(Translation of isiXhosa paragraph follows.)*

[I am sorry. My sincere apologies.]

It is fine.

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Hon members, I want to repeat myself. If there is anything that you want to raise in the House, please raise your hand and request to make a point of order. You will be allowed to do so. The Rules that we are applying here are not the rules of the Chairperson.

They are your Rules as political parties. [Interjections.] Hon Ntlangwini, please give me a chance!

So, these are your Rules. So, let us observe them. Yes, indeed, the Chairperson is just as human as anyone else and he might interpret them incorrectly. But there are processes that we need to follow in attending to that. It cannot just be a free-for-all.

By the way, where were we?

Mr N SINGH: It was me next, hon Chairperson.

The HOUSE CHAIRPERSON (Mr M L D Ntombela): The hon Singh is on the virtual platform.

Mr N SINGH: House Chairperson, let me start by saying that it is very unfortunate that we as Members of Parliament can hide behind freedom of speech in this House and cast aspersions, make offensive remarks and denigrate individuals that do not have an opportunity to respond in this House. I can see the hon Ntlangwini is trying to shoo me away. That’s the way they do things.

I think we all aspire to having an independent judiciary, and we would like this judiciary to be independent, although this

ideal is not always met. Having said, I think as the IFP we have ...

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Could you hold on, hon Singh? What is your point of order, hon member?

Mr N S MATIASE: Hon Chair, you have ruled on the matter that the hon Singh is raising. If he does not understand the significance of being called a comrade, it’s his own problem. I know that it’s the highest honour to be called comrade as a cadre deployee.

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Thank you very much. I have ruled. Yes, hon Singh, I have ruled. Hon Matiase, I have ruled. Thank you very much. Shall we continue, hon Singh?

Mr N SINGH: Thank you, Chair, I haven’t even used the word comrade at all. I don’t know where they get that word from. I haven’t used it at all. I am entitled to say what I want to say, and I believe that we must use this House in such a way that we do not denigrate people that are not able to defend themselves in this House.

Having said that we all aspire to an independent judiciary. As the IFP, we have said before and I say again: independent must also be in fact and in law.

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Hon member, could you give the hon Singh a chance? We can't hear him. Hon Singh, could you please continue. The member is now quiet.

Mr N SINGH: Thank you very much, hon Chairperson. As I was saying, I really need a lot of injury time on this. As I said, the independence of the judiciary must be both in terms of fact and in law. We have said before as the IFP, that if you want an independent judiciary, it must extend to the independence of the budget as well. We don't have that at the moment because the budget is controlled by the Minister responsible for this Vote. In time we hope to find that a budget is allocated to the Office of the Chief Justice, like we have for the Office of the Auditor-General. They manage that budget and account for that budget to Parliament, as the Auditor-General does to the Standing Committee on the Auditor-General, which I serve on.

Having said that, I think that it is important for us to realise that there are delays in judgments, and we come across this. Although there are rules and standards, delays in judgments mean justice delayed is justice denied. Not only are

there delays in judgments, but we also hear from the public and law practitioners that getting trial dates can sometimes take a year to 18 months. Again, that is not satisfactory. Minister, you have to work with the Office of the Chief Justice to see how this can be rectified.

Hon Minister, you spoke about your budget earlier. You said that the budget was not enough and that there had been cutbacks. Well, let me tell you, hon Minister, and Chairperson, that if I was a member of the ruling party that has a majority in this committee and a majority in Parliament, I would not support this budget. The reason I would not support this budget is because we want to help you. We want to help you and the department carry out your functions effectively and efficiently. If you don’t have the resources, then you cannot do that.

We have what is called the Money Bills Amendment Procedure and Related Matters Act which allows us, as Members of Parliament, to propose adjustments to Money Bills. Here is another golden opportunity that’s going by. As a committee we should actually use that to say to Treasury that more money should be allocated to this department. This is something that hon colleagues in the next Parliament, have to look at seriously.

I also note that 75% or 76% of the budget is consumed with the compensation of employees. Now, that is well and good because we have judges, we have magistrates, and we have judicial officers that must be paid. But, hon Minister, I think the one area that you must look at is the Independent Commission for the Remuneration of Public Office-Bearers, which also manages resources for Members of Parliament. Now, it takes them 12 months to come up with recommendations for increases in salaries and when those increases come, they are very paltry increases.

Hon Minister, I would like you to comment on your ... [Inaudible.] I think they have made recommendations before about magistrates and the increases in salaries. These are essential workers, as far as I am concerned, and we must pay them well. If we do not pay them well, then we are going to lose many of the good people to other areas of law. So, hon Minister, I trust that you would work with the judge concerned - her name is Judge ... [Inaudible.] ... - in ensuring that, one, the increases are relevant to office bearers, which includes Members of Parliament; two, are made timeously; and, three, made in line with inflation. I think the EFF members, including the hon Ntlangwini, will be quite happy that I am raising this point because she always raises this point with me.

The other issue that I would like to raise is the issue of court infrastructure and buildings. There is going to come a time when there is a meeting of minds between Public Works and the department, because we find many facilities are in a very poor state of repair and we have to address this. Thank you very much, hon Chair. I trust the Minister will respond appropriately. [Time expired.]

Mr F J MULDER: Hon House Chair, hon Minister, Deputy Minister, members, on 2 May 2023 the Minister of Justice and Correctional Services addressed the committee on the relevant political priorities regarding the Office of the Chief Justice and highlighted that the Office of the Chief Justice will continue to ensure that all South Africans have access to justice.

It should also be noted that the 2023 Budget’s adopted theme, Navigating an Uneven Economic Recovery, acknowledges that budgeting takes place in a challenging global and domestic environment and that the report makes mention that the Medium-Term Fiscal Policy aims to achieve a balance between stimulating the economy, maintaining fiscal sustainability and strengthening welfare for vulnerable citizens through the protection of the social wage.

However, the economy has weakened and although revenue performance was better than estimated in the 2022 Budget, finances are severely constrained at a domestic level. The report is unfortunately silent and without any reference to the detrimental financial effect of state capture, and the impact thereof on the department and on the Office of the Chief Justice's ability to fulfil its core function of providing administrative support to the judiciary. I also wish to remind hon Minister Lamola, who is a firm believer and supporter of cadre deployment, that cadre deployment was instrumental in state capture in the first place.

The current state of the economy of the South African government and of the state and budget cuts impact directly on the ability of the Office of the Chief Justice to ensure an efficient court system and provide judicial support. The Office of the Chief Justice has already reported that the restricted budget has impacted the filling of critical posts. Although the Office of the Chief Justice achieved an unqualified audit, it is alarming that the outcome has regressed, largely as a result of various instances of irregular expenditure that occurred in the ICT environment.

The FF Plus notes the Minister's statement that the policy on judicial governance and court administration has now reached the stage at which it's ready for engagement with stakeholders

as far as envisaged in terms of transformation to a single judiciary. The Minister should realise - with all due respect - that a single judiciary on its own will not fix fundamental shortcomings, inefficiencies and other challenges that our judicial system experiences. The efficient training of prosecutors and aspirant judges is now more important than ever, considering that the Judicial Service Commission has pointed out that the judgments of several of the candidates, delivered while they were acting judges, were riddled with mistakes ranging from typographical errors to misunderstandings of foundational legal concepts.

The recent unfortunate turn of events in the Vrede judgment in the Free State High Court in terms of which the National Prosecuting Authority now wants to appeal against the ruling of acting Judge Gusha in the first state capture case in the Free State is but one example - state versus state.

Dit is nog 'n vrugtelose uitgawe, agb Voorsitter. *(Translation of Afrikaans sentence follows.)*

[This is another fruitless expenditure, hon Chairperson.]

Hon Minister Lamola should critically assess the conduct of the prosecutors and acting judge involved in the failure of this critical trial. [Inaudible.] ... Directorate of the

National Prosecuting Authority who now wishes to appeal. The Office of the Chief Justice should also be held accountable in its training support role in this instance. State negligence cannot be tolerated. Thank you, Chair.

The CHAIRPERSON (Mr M G Mahlaule): Thank you very much. The next speaker will be the Deputy Minister, John Jeffery. [Interjections.] Oh ...

Mr S N SWART: Point of order, Chair. It’s Swart.

The CHAIRPERSON (Mr M G Mahlaule): Your point of order is granted. Hon Swart, my apologies.

Mr S N SWART: Thank you, House Chair. The ACDP is deeply concerned about the delays in the policy on judicial governance. We note the Minister’s statement that the department had now reached the stage where it was ready for engagement with stakeholders, with the intention to finalise by October this year. Now, we appreciate the judiciary’s frustration with the lack of finality, given that reports from former Chief Justices Chaskalson and Langa were tabled way back in 2013; that’s 10 years ago. The finalisation of this policy must be a priority.

Not only is the establishment of a single judiciary a constitutional imperative, but also the lack of an appropriate policy contributes to many inefficiencies and other challenges that the judiciary experiences.

IT continues to play an important role in ensuring efficient court systems. The Court Online system consists of case management and an evidence-management CaseLines component. While the ACDP appreciates that the Court Online system is still in a pilot phase, and that the CaseLines component is subject to litigation, we trust that the whole system will be rolled out to more courts, given the benefits it offers. We, as the ACDP, have personally experienced in litigation the benefits that CaseLines does offer.

The Office of the Chief Justice continues to be affected by the budget cuts that were made to its baseline as a result of the impact of the COVID-19 pandemic and other issues relating to the economy. This is despite receiving additional resources. We, as the ACDP, believe that additional capacity must be given to the Office of the Chief Justice.

During recent oversight visits, we witnessed many serious infrastructure maintenance-related problems. Courts are dilapidated and there are serious structural challenges. The committee heard complaints from the judiciary, frustrated at

being drawn into managing issues around court management. This must be addressed.

Load shedding also has an impact on court performance, and, while the Supreme Court of Appeal, the SCA, is now exempt from load shedding thankfully, almost all superior courts have generators. Challenges remain at magistrates' courts and when there is no water at High Courts due to load shedding affecting water pumps. This, again, affects the courts which have to close when there is no water.

Lastly, the ACDP would like to express its appreciation to the judiciary for its hard and committed work under Chief Justice Zondo and to the Office of the Chief Justice for the support it provides under very difficult budgetary and other conditions. I thank you.

The DEPUTY MINISTER OF JUSTICE AND CORRECTIONAL SERVICES RESPONSIBLE FOR JUSTICE AND CONSTITUTIONAL DEVELOPMENT (Mr J H Jeffery): Hon House Chair, Minister Ronald Lamola, Deputy Minister Patekile Holomisa who is on the platform, Ministers and Deputy Ministers who may be on the platform, members of the portfolio committee, hon members, members of the judiciary and officials of the Office of the Chief Justice, our courts are fundamental to upholding the rule of law, protecting human rights, and ensuring that justice is served in a fair and

impartial manner. They play a critical role in interpreting and enforcing the provisions of the Constitution. They are critical to ensuring accountability and transparency in both the government and the private sector. They are an essential component of our democracy and play a crucial role in protecting rights and freedoms.

It is for these reasons that we must support and strengthen our courts as much as we can. Although the support for the magistrates' courts is still administered by the Department of Justice and Constitutional Development, magistrates are part of the judiciary and should thus, as part of the concept of a single judiciary, form part of this debate.

The Minister of Justice and Correctional Services recently appointed 43 regional magistrates for various regional divisions across the country. Their appointment is with effect from the beginning of this month.

I, on the recommendation of the regional court presidents and the chief magistrates, continue to appoint acting magistrates in vacant offices, or in the place of magistrates on leave or on suspension, to ensure that the courts continue to function effectively. This means that where there is a vacancy in a magistrate's post, the post is filled by an acting appointment.

A fully transformed judiciary is a constitutional imperative. The new appointments of those regional magistrates will further enhance diversity in our courts in terms of both race and gender, with 57% of the appointments being women and 79% being black. Of the new appointments, 28% are black males, 14% are white males, 50% are black females and 7% are white females.

The appointments are an important step in capacitating our judicial officers and our courts so as to enable them to deliver justice for all.

Our magistrates' courts are where most people encounter the justice system for the first time. If the magistrates' courts work well, it builds trust and confidence in the justice system.

In addition to the 43 new regional magistrates, the Minister also appointed, at the same time, a senior magistrate as a Judicial Quality Assurance Officer in the Ethics Division of the Magistrates Commission, in addition to the two senior magistrates who were transferred to that office in the commission, and two senior magistrates to serve as judicial educators at the SA Judicial Education Institute, or the SAJEI.

Two hundred and fifty-nine posts of entry-level magistrates and the post of Regional Court President of the North West were advertised recently by the Magistrates Commission with a closing date of 21 April.

The SA Judicial Education Institute is crucial to a strong and independent judiciary. In October last year, the SAJEI council unanimously agreed that a judge should be appointed to head the SAJEI or the concept of a judge heading the SAJEI. Six members of council were nominated to constitute a subcommittee, under the leadership of the Deputy Chief Justice, to consider all factors relating to the appointment of a judge as head of the SAJEI and to report to council.

For this purpose, the Department of Justice has prepared an amending Bill to amend the South African Judicial Education Act, so as to make provision for a judge to head the institute and to provide for their functions. The draft Bill will soon be considered by the SAJEI council; in fact, on Friday, whereafter it will be formally submitted to the Minister for consideration and submission to Cabinet.

Hon members, many of our judges and our magistrates are women. As the Minister mentioned earlier, this year is a significant one. On 25 April this year, the High Courts in both Pretoria and Johannesburg held ceremonial sittings to commemorate the

centenary of the Women Legal Practitioners Act of 1923. Prior to this Act, the courts had ruled in *Schlesin v Incorporated Law Society*, which was a 1909 case, and in *Incorporated Law Society v Wookey,* a 1912 case, that women were not included as "persons" who could be admitted to legal practice. The 1923 Act expressly opened the door to women by decreeing that:

> Women shall be entitled to be admitted to practice and to be enrolled as advocates, attorneys, notaries public or conveyancers in any province of the Union subject to the same terms and conditions [that] apply to men.

This led to women becoming legal practitioners. Here we think of the first woman advocate, Irene Geffen, and the first woman attorney, Constance Mary Hall. Desiree Finca became the first black woman attorney which was only in 1967.

As we celebrate and honour these pioneering women, we reflect on the journey of women in the legal profession and we reaffirm our commitment to a bench which is truly representative of the people of our country.

The new Magistrates Bill and the new Lower Courts Bill have been long outstanding, and I also referred to them in the Office of the Chief Justice budget debate last year.

The Bills were advertised by the department for public comment, and in December last year we briefed representatives from the lower court judiciary on the various inputs received on the two Bills.

I had also indicated that there were a number of matters which still required policy decisions to be taken and that we would have further meetings in the course of 2023 with a view to submitting the two Bills to Cabinet for approval for them to be introduced into Parliament.

For example, one of the matters that will require a policy decision is the proposal by the magistracy that they be called judges. This will also require input from the Chief Justice as head of the judiciary.

We have since been informed by the Leader of Government Business that given the number of Bills already before Parliament and the fact that we really only have the remainder of this year to finalise Bills - given the upcoming elections next year - that we have to reprioritise the submission of any further Bills.

Given the comprehensive amendments contained in the Bills, it will not be possible to introduce them into Parliament this year, but it is important to highlight that discussions and

consultations will continue in order to have them ready for introduction after the 2024 elections.

We will soon communicate with the lower court judiciary on a date to continue with the consultations on the two Bills and will also further consult with the Chief Justice in this regard. These Bills, once passed, will indeed be the culmination of a significant milestone in the administration of justice in our country.

We need to ensure that the department moves more expeditiously in providing the magistracy with the necessary tools of trade and the necessary equipment so that courts can function optimally.

We are constitutionally bound to improve our efficiency in this regard. Of paramount importance going forward is the rationalisation of the judicial establishment of the lower courts as this will impact not only on vacant posts to which persons are appointed to act, but also on permanent posts of magistrates that will become vacant in the near future.

The committee on the rationalisation of the lower court judicial establishments is making progress. The second phase of the rationalisation process, which entails the rationalisation of the judicial establishments of the district

and regional courts and the geographical areas of the chief magistrate clusters for the district courts, is underway.

The rationalisation process is a constitutional imperative to promote access to justice and will take into account the rationalised magisterial districts, the current judicial establishments and the factors as stipulated in the committee's approved terms of reference.

The committee is chaired by Mr Sam Makamu, a regional court magistrate; Adv E Mashile, the former Chief Magistrate of Gauteng; Dr Connie September; and Mr Anton Prinsloo, a senior magistrate for judicial ethics. They are appointed as additional members to this committee. The committee is expected to submit their report by the end of November this year in terms of the approved terms of reference.

Internal processes are at an advanced stage for contracting service providers to conduct the quantitative analysis on the one hand and the qualitative research, on the other hand, and for the appointment of the researchers to perform these tasks, amongst other things, accessing information, facilitating information transfers between the departments and the researchers, and managing stakeholders.

The committee's consultations began in March this year, with the cluster heads and Regional Court Presidents who have also supplied written submissions.

The committee also met with the Regional Court Presidents' Forum last month and will be meeting the Chief Magistrates' Forum next week. Other stakeholders will be consulted as per the committee's road map and action plan.

I want to mention that have I approached the Deputy Minister of Finance for assistance regarding the development of a separate financial manual for magistrates. This will assist in further removing the lower court judiciary from the public service dispensation. Magistrates have now been excluded from the national travel policy, which came into effect on 1 September last year.

A separate travel and subsistence policy has been implemented for the magistracy which will be incorporated into the revised financial manual. The Department of Justice and Constitutional Development will also have to approach the Accountant-General to submit a request with motivation for a departure from Treasury Instruction No 3 of 2017-18.

The intention of the manual is to have one core document that will include, amongst other things, travel and subsistence,

catering, hiring of venues, tools of trade such as cellular phones and mobile data, and any other expenditure for magistrates.

We trust that we will be in a position to submit the financial manual for magistrates to the Director-General and the Minister for approval by the end of September this year.

Chairperson, case flow blockages and roll collapses in our magistrates' courts remain matters of serious concern. I therefore want to commend the Regional Court Presidents' Forum for convening a meeting, to be held on 20 June next month with stakeholders, such as the Department of Justice, the National Prosecuting Authority, Legal Aid SA and private legal practitioners, for an in-depth discussion with a view to agreeing on resolutions on the way forward.

To conclude, hon members, our magistrates' courts and our magistracy are the very foundation of our quest to ensure access to justice for all and putting justice services within reach of everyone, especially the poor and the marginalised.

The public should be able to have confidence in our courts and know that justice will be done, without fear or favour.
I thank you. [Applause.]

Mr A M SHAIK EMAM: House Chairperson, allow me to state at the outset that the NFP will support the Budget Vote tabled here today. But, Minister, I think one of the problems lies with your department. If you hear all the complaints and concerns that are being raised, I think you should be doing what I've asked the Minister of Police to do, which is to tell us what we are required to address in terms of the challenges we face in our department. Your job as a politician is to give us the resources. If you can't give us the resources, we can't do it.

This would be instead of our insulting you, complaining, raising concerns and attacking you. At the same time, we are admitting that your budget has been cut. You don't have enough resources. You can't deliver the goods. So, how do you deliver the goods if you are not given the tools to deliver the goods?

That's the problem your department is facing. I'll give you one good example when I say this. Everyone in this House understands and knows that the issue of maintenance when it comes to infrastructure, which falls under the domain of Public Works, is in a state of paralysis or in crisis. But what has anybody done to help any of these departments that face a crisis because your infrastructure is collapsing?

I'll take you if you want to the ... [Inaudible.] ... courts here in Cape Town. The people working there have to remind

every person that enters to close the door behind them because it won't close on its own. That's how bad the situation is. [Interjections.]

The issue is that you need to pass the buck to to us and say, you are the ones passing the budget. These are all our problems if you want us to get the House because we are not superhuman. We need the resources. Bring the resources, deal with these concerns and we'll solve the problems. I think that's basically right.

But in having said that, I want to raise a concern regarding the Regional Court President who has been suspended for many years. I think his name its Eric Nzimande. The problem I have with this is that it's costing taxpayers money. He's been suspended for years, but he is sitting at home and getting paid. Over and above him sitting at home and getting paid, somebody who has had to replace him is also getting paid. This is simply a waste of taxpayers' money. I think it's something that we need to deal with as a matter of urgency.

The other problem that I want to raise is the delays in giving judgments. Others have also raised this. There is certainly a problem, as there is regarding trial dates which seem to have quite long waiting periods. But, given the fact that you have certain challenges in terms of budgetary constraints, we can

understand that we can’t expect miracles. That is why I want to repeat that while the NFP supports this budget, it’s certainly not enough for you to achieve what you want to achieve and bring it back to us. Thank you very much.

Ms W S NEWHOUDT-DRUCHEN: Hon Chairperson, members of the three arms of state, the South African public watching, hon colleagues, all protocol observed.

The ANC supports this Budget Vote. In April this year, we celebrated 100 years of women in the legal profession. This milestone comes against the backdrop of serious exclusion on the part of women. The Women Legal Practitioners Act of 1923 allowed women to enter the legal profession. Prior to the Act, women were not considered to be persons who could be admitted for legal practice. This Act opened the doors for women by stating that women could be admitted to legal practice as “... advocates, notaries, notaries public ... in any province of the Union, subject to the same terms and conditions as apply to men”.

We celebrate women like Irene Geffen who was the first woman to be admitted as an advocate in 1923. Constance Mary Hall was the first woman to be enrolled as an attorney, and Desiree Finca was the first black woman to be admitted as an attorney in 1967. Without their bravery and resilience, we would not be

where we are today when a girl-child can be inspired to join the legal profession and the bench.

Chairperson, as a nation we recently celebrated 29 years of democracy. Compared to more mature democracies in different parts of the world, our democracy is still relatively young. Nevertheless, we must pride ourselves on the democratic gains we have fought very hard for and won. Among them is the existence of an independent and impartial judiciary. What we have today we did not always have.

When considering the journey we have traversed as a nation, it may be prudent to consider the status quo and juxtapose it with what we once had. In the 1934 Appeal Court ruling in the case of *Sachs v Minister of Justice*, the then acting judge, Chief Justice Stratford, made the following statement about the nature of parliamentary sovereignty in South Africa: Parliament may make any encroachment it chooses upon the life, liberty and property of any individual subject to its way and that it is the function of the courts of law to enforce its will.

In the 1989 Harare Declaration, the ANC committed itself to being the kind of system of judicial review that is currently in place in South Africa, affirming that in a democratic South Africa, all shall enjoy universally recognised human rights,

freedoms and civil liberties, protected under an entrenched Bill of Rights. South Africa shall have a new legal system which shall guarantee the equality of all before the law. South Africa shall have an independent and nonracial judiciary.

The ANC's commitment to the rule of law, the separation of powers, the administration of justice and the building of strong state institutions is reflected by the separate Budget Vote on the Office of the Chief Justice. Regarding the administration of justice, the ANC resolved, *inter alia*, at the 1997 Mafikeng Conference , to rationalise the magistracy and judiciary into a single judiciary; to rationalise the court system to provide at least for one High Court in each province, which should be situated in the capital of such province; and to introduce legislation to give effect to section 180 of the Constitution by providing for a training programme for judicial officers, which includes sensitisation and capacity-building components and a grievance procedure and mechanisms for complaints against judicial officers. Much work has been done by the ANC government to implement all these resolutions.

The ANC has been clear that judicial training and skills development of our judiciary is a non-negotiable and must be vigorously pursued and that appropriate mechanisms should be

established to pursue the priority of establishing an adequate pool of judicial officers who are steeped in and reflect the progressive values of our Constitution.

The SA Judicial Education Institution, the SAJDI, was established as a National Education Training Institute to enhance judicial accountability and the transformation of the judiciary. It was established to further educate and train aspiring and newly appointed judicial officers with a purpose of advancing their capacity and skills in the judiciary system, and to continually educate and develop experienced judicial officers.

The SAJDI is primarily directed and controlled by the judiciary. It was reported that on 25 January 2023 the SAJDI held the launch of the Aspirant Women Judges Programme at the office of the Chief Justice. The programme, which will be a year-long programme, will include in-person lectures, training components and a mentorship component. It was reported that 15 women would participate in the programme.

The programme is intended to give intensive training skills, experience and knowledge that will assist aspirant judges to reach a point where they could be considered for appointment as judges. This is indeed a progressive move, and we hope that

this budget will cater for this and similar progressive transformative programmes.

Chairperson, prior to the adoption of the Constitution, judges were appointed by the state President through the inherited tap-on-the-shoulder system. In practice, although there were occasional or often notorious exceptions, the Minister of justice and the head of the relevant court wielded great power, essentially making the selection, which was ultimately rubber-stamped by the state President.

The primary and most damaging consequences of this system of selection were that the lack of transparency shrouded in mystery the process by which an entire arm of government was appointed and almost all appointees were from the ranks of Senior Counsel, resulting in an exclusively white, with one exception, male judiciary by 1990.

The creation of the JSC and the processes it has adopted in relation to the appointment of judges have, to a great extent, addressed the problems associated with the earlier system. The decision by the JSC to hold open interviews for prospective candidates is one that is rightly lauded. It promotes transparency in the selection of judges and acts as an accountability mechanism for the JSC, since the public can assess whether it is performing its constitutionally mandated

task properly or appropriately. This is all happening under the ANC government, and for that reason I repeat that the ANC should adopt and approve this report. Thank you. [Applause.]

Mr M G E HENDRICKS: Hon Chair, I serve on forums consisting of Members of Parliament from over 40 countries. I am very proud to say that they are very proud and speak well of our Chief Justice and all the special courts, superior courts and people's courts that he is responsible for. This sets an example for the rest of Africa.

However, the Chief Justice needs to be capacitated. I don't think that the Minister and the Deputy Minister fought hard enough to get as much money as possible that the Office of the Chief Justice needs. The Office of the Chief Justice is nowhere near being ready to embrace the Fourth Industrial Revolution. I haven't seen any orderlies who are robots in our courts. We need to move in that direction.

Hon House Chair, we notice that the court system has been improved because of *pro bono* courts, especially labour courts. So, the courts are not clogged with unnecessary cases.

Al Jama-ah would like to thank the legal profession for their assistance in the *pro bono* labour courts. I had a small role

to play as a member of the SA Society for Labour Law, or Saslaw, in establishing these *pro bono* courts.

However, these *pro bono* courts should also be in all the other courts, especially the so-called lower courts so that people can have access to the best legal firms in the country, and especially so that the poor can have access.

When it comes to legal aid, they are doing a good job. A lawyer who belongs to firm has quite a lot of resources. He has the counsel of his colleagues. They have resources. *Pro bona* courts are something we need to look at.

The judgments of the Constitutional Court need to be supported by the Department of Justice itself. It doesn't implement the judgments of the Constitutional Court. We saw that they had done nothing about the amendments to the Divorce Act, 12 months down the line and 12 months still to go. We feel that the department must do more to support the Chief Justice. Lastly, we would like to ask that the Chief Justice take the lead to establish Sharia courts now that the Constitutional Court has said that Sharia marriage is a valid South African marriage. Thank you very much.

Mr W HORN: House Chair, judicial independence is a fundamental precondition for the rule of law for a functional

constitutional democracy and, in practical terms, for ordinary citizens to be afforded a real and fair opportunity for their disputes with one another and with the state to be adjudicated in an impartial and objective manner.

In South Africa, the Office of the Chief Justice was established as a separate department in 2010 to give some effect to the constitutional imperative that the judiciary be independent, and since 2015 it has been apportioned its own budget. A fresh clean start.

Therefore, when the first reports of some irregular and wasteful expenditure arose a year or two later, this Parliament, often accosted for failing in its oversight duties, ironically by our courts, warned the Office of the Chief Justice that the judiciary should be beyond reproach when it comes to financial governance and therefore it should sharpen up internal oversight to prevent the problem from recurring or becoming bigger.

Unfortunately, this was not done. Just after the debate on this Budget Vote took place last year, we sadly learnt that three former senior officials had been implicated in major tender irregularities regarding CaseLines, a component of the court modernisation and online system.

In terms of the principle of separation of powers, this Parliament, through its committees, is entrusted with the duty to oversee the way in which all institutions, which receive public funds to perform their functions and duties, spend it. In this regard it is of grave concern that the Office of the Chief Justice has not been prepared to account fully to the portfolio committee on the CaseLines saga. The same type of "We are investigating it but to share with you what we know might jeopardise the investigation" attitude, which is typical of institutions who see accountability as an irritation and want to evade it, has unfortunately characterised the stance of the OCJ on this matter.

This should however not deter us from supporting the further evolution of the institutional independence of the judiciary. If anything, it should only awaken us to the need to be forever vigilant about ensuring that proper checks and balances and oversight and accountability systems are put in place - even in the case of the judiciary. The judiciary as far back as 2013 - as others have said - adopted a report on the type of court administration model it believes should be the final model that would enable full institutional judicial independence – a judicially-led court administration model.

Since then - and for a full decade now - the executive has, in what can only be described as a prime example of obstinacy and

obstructionism, delayed, failed and refused to deal with the substance of this proposal. Minister, the way in which you have simply, without even resisting it, allowed mediocrity to define your term up to now, is well illustrated by the manner in which you told the portfolio committee on 3 May last year, that you were then just about to table the Department of Justice's own research into future court administration models before Cabinet in order to finally engage the judiciary on their report.

This was followed on 2 May this year, a full year later, without any sense of shame, by a statement to the portfolio committee that you were confident that your policy on this would be finalised soon. Today we are here; soon seemingly being October.

Chair, closely linked to this is the Lower Courts Bill, the tabling of which has been labelled as being imminent since 2014 and which is supposed to establish a single judiciary and bring the magistrates' courts properly under the authority of the OCJ. It also remains just a mirage.

Today, the Deputy Minister said that they were caught unaware by the fact that we would be having elections next year and that that would prevent the tabling. We know that the ANC

desperately wants to avoid those elections, but they are coming.

The key takeaways from our oversight visits as the portfolio committee over the last year and a half to all provinces were not surprising. Firstly, there is how the current model of Public Works, through the Department of Public Works and Infrastructure, is preventing maintenance and upgrading of court infrastructure rather than enabling it. Secondly, there is how the officials of the Office of the Chief Justice spend all of their time begging not only Public Works, but also the Department of Justice to perform the duties and functions that are essential to the proper functioning of our courts - functions that are a natural and obvious fit for the Office of the Chief Justice and which should have been transferred to it long ago.

Minister, there is a small window of opportunity to give your term of office some semblance of credibility. Don’t delay further; act to remove the way in which the Office of the Chief Justice remains largely dependent on the Department of Justice and transfer those shared functions to the Office of the Chief Justice. Let me make it clear on behalf of the judiciary, Minister, that if you hold the view that this government can sit on the judiciary’s proposals on the court administration model for a decade and then finalise your

policy without proper, full and substantive further engagements with the judiciary, you will end your term without any credibility. Thank you, Chair.

The CHAIRPERSON (Mr M G Mahlaule): Thank you very much, hon member. Hon members, I am informed that the hon Dyantyi left seven minutes which he wishes to donate to the hon Maseko-Jele. Hon Maseko-Jele, you have 17 minutes.

Ms N H MASEKO-JELE: Hon Chairperson, members of the executive, Minister and Deputy Ministers, members of the legislature, members of the judiciary, compatriots, comrades and friends, let me join in celebrating the centenary of women participation in legal practice. I also note the progress made by the ANC, the organisation which is in charge and which is ready for the upcoming elections in 2024 to take over again in order to finish what we have started. The ANC supports Budget Vote 27 of the Office of the Chief Justice.

People are entitled to live in a just and socially inclusive society where their dignity and self-worth are cherished and kept intact. People are the bedrock of our democracy. Institutions like the judiciary, which yield public power, are at their service.

The importance of a strong and independent judiciary cannot be overstated. It is part of the transformation enterprise and a democratic project to make our country reflect the text and living spirit of our Constitution.

This Budget Vote is a reflection of the ANC's commitment to upholding the rule of law, the separation of powers, and the administration of justice, accountability, responsiveness and openness.

As we know, the courts are the final arbiters in disputes between persons and bodies. An independent and strong judiciary is important for building a capable, ethical and developmental state, as envisioned by the National Development Plan, the NDP.

The Chief Justice, as the head of judicial authority, exercises authority and responsibility over the development and implementation of norms and standards for the exercise of judiciary functions, such as the allocation of judges and the administration of courts.

The core function of the Office of the Chief Justice is that of providing administrative support to the judiciary, and it has adopted the following strategic outcomes: effective and

efficient administrative support, improved court efficiency, and enhanced judicial education and support.

The Office of the Chief Justice's response to chapter 4 of the National Development Plan is: promoting accountability; fighting corruption, particularly contributing to focal areas; strengthening judicial governance and the rule of law by accelerating reforms to implement judiciary-led court administration; ensuring an efficient court system; reducing inefficiencies in the administration of the courts; and ensuring access to justice.

In his 2023 Budget Speech, the Minister of Finance indicated that government would be doing a number of things, including ensuring a state macroeconomic framework to create an environment conducive to savings, investment and growth; strengthening the capacity of the state to deliver quality public services; investing in infrastructure; and fighting crime and corruption.

The Minister announced that R14 billion has been allocated over the medium term to fight crime and corruption, with the following specific allocations. The National Prosecuting Authority, the NPA, receives R1,3 billion to support the implementation of the recommendations of the State Capture Commission and the Financial Action Task Force. The Financial

Intelligence Centre is allocated an additional amount of R265,3 million to tackle organised and financial crime. The Special Investigating Unit, SIU, is allocated R100 million to initiate civil litigation in the special tribunal, following from the proclamations linked to the recommendations of the State Capture Commission.

While these budget allocations do not form part of this particular budget, Budget Vote 27, they are, indeed, welcome as they speak directly to our government priority of fighting crime and corruption. The fight against crime and corruption cannot be viewed in isolation. Most of these cases will ultimately come before the courts.

In the context of addressing any social injustice or dispute, the relationship between all the role-players within the justice value chain is important for justice to prevail.

Chairperson, it has been reported that over the next three years the Office of the Chief Justice will focus on improving access to justice and the services of the superior courts and will focus on increasing access to judicial education courses.

The work of the Superior Court Services programme is intended to enable access to justice, primarily by ensuring that the judiciary is supported. The programme has a budget of

R3,1 billion over the next three years, accounting for 39,9% of the department's total allocation. To strengthen access to its services, the department aims to fill an estimated 33 critical positions for registrars, clerks, judges and secretaries at superior courts. That's very important to listen to, hon Horn.

On this issue, Mr Swart, the department is to increase efficiencies such as the turnaround time in dealing with cases. The Court Online system is expected to be rolled out in 2024 to seven prioritised superior courts in the Eastern Cape, the Free State, Mpumalanga, Limpopo, the Northern Cape, the North West and the Western Cape. We will be monitoring this. This must be commended, Minister. We are looking forward to this. This is also the most important area that will alleviate the problem of filing that hon members have been referring to. So, I'm sure they are getting their answers now.

Last year, the Office of the Chief Justice received an unqualified audit opinion with findings on compliance with legislation. Although the Office of the Chief Justice remains unqualified, the outcome is a regression as the Office of the Chief Justice had been getting clean audit opinions since 2017-18. We encourage the department to focus on and address the root causes of the issues which were flagged by the Auditor-General.

Over the years the portfolio committee has noted, as areas of concern, the inadequacies in Information and Communications Technology security and user access management and in ICT operational inefficiencies. The Office of the Chief Justice assured the committee that it is working hard to strengthen its ICT environment. We'll be monitoring this aspect too, Chair.

On this issue, Chair, we refuse to join the unfounded allegations against the Chief Justice by taking this opportunity to thank Chief Justice Zondo for his leadership as head of the judiciary. We also wish to thank all the hardworking and dedicated members of the judiciary who ensure that justice is dispersed and that South Africa is the best place to be.

We also want to thank the Minister and welcome and express appreciation for the appointment of 50% women. We want to thank you, Minister, for the work that you are doing with the team and we also encourage you to continue doing it. Don't listen to the detractors on this issue.

The ANC supports Budget Vote 27. I thank you, Chair.

[Applause.]

The MINISTER OF JUSTICE AND CORRECTIONAL SERVICES: House Chairperson, thank you for all the valuable inputs made by hon members, including support for the budget. This support for this budget will go a long way in responding to the challenges raised by hon members here on infrastructure, which we are working very hard on with the Department of Public Works to resolve. As a result, some of the powers to deal with maintenance and some of the minor infrastructural challenges have been devolved to the Office of the Chief Justice.

The House should also appreciate the work done by the Office of the Chief Justice in alleviating the challenges of load shedding throughout the country. This House was criticising this office for having not provided that alternative. Today, the office has done so. The House is now shifting the goalpost. But it is a reality that most of the High Courts have now been cushioned against the effects of load shedding across the country with the exception of only five courts. These courts are the local division, the Western Cape High Court, the labour court in the Western Cape, the East London circuit court service centre and the labour court in Durban. There is also the innovation of putting solar systems in some of the courts where it is practically possible. I do think that this House should commend the good work done by the Office of the Chief Justice.

This is also being extended to some of our busy magistrate or lower courts across the country to mitigate against the effects of load shedding, so that even during difficult times, the courts are still able to function.

I must state that the President, with regard to the appointment of the Chief Justice, has acted in accordance with the Constitution. Section 174(3) of the Constitution prescribes that the President appoint the Chief Justice after consulting the Judicial Service Commission, JSC, and the leaders of parties represented in the National Assembly. When he appointed Chief Justice Raymond Zondo in March 2022, the President did so after consulting the JSC which favour the President’s views following public interviews in February, as well as that of leaders of the parties represented in the National Assembly.

Most of the members who were speaking here were consulted, including the EFF and everyone else. They participated in this process. The President even opened this process to members of the public to share his powers with them in an innovative way that allowed members of the public to participate and nominate whoever they wanted to be Chief Justice.

So, the current Chief Justice is a product of the most transparent and democratic process ever held in an appointment

of a Chief Justice in the Republic of South Africa. And it is compliant with the Constitution of the Republic. So, any suggestions to the contrary are absurd, baseless and without merit, and must be dismissed with the contempt they deserve.

We have also stated with the utmost ... [Interjections.]

Mr N S MATIASE: Hon Minister? May I rise on a point of order?

The CHAIRPERSON (Mr M G Mahlaule): There is a point of order.

Mr N S MATIASE: The Minister is wilfully and deliberately misleading the public and the House. He knows that the President did not take the recommendations of the Judicial Service Commission. The point he makes is a deliberate distortion of what happened. I think you need to call him to order.

The CHAIRPERSON (Mr M G Mahlaule): That will be a point of debate, hon Matiase. Could you proceed, hon Minister?

The MINISTER OF JUSTICE AND CORRECTIONAL SERVICES: In fact, he’s the one who is distorting the Constitution.

Regarding the issues raised with regard to fraudulent court orders, we continue to strengthen internal controls and raise

awareness with the public. Cases have been opened against three legal practitioners and seven members of the public with regard to the issue of fraudulent court orders.

A number of issues raised by hon members have been taken into account, and we thank you for supporting the adoption of this budget. We believe that though not sufficient, it will ... [Inaudible.] We will continue to encourage and make the call that they be given more support and resources, which we continually do. That is in line with our work for the office to function efficiently for access to justice in our country. I thank you, hon Chairperson. [Applause.] [Interjections.]

The mini-plenary session rose at 18:39.

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