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MINI PLENARY SESSION - NATIONAL ASSEMBLY

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PROCEEDINGS OF MINI-PLENARY SESSION - NATIONAL ASSEMBLY

CHAMBER

Members of the mini-plenary session met in the National Assembly Chamber at 16:22.

House Chairperson Mr C T Frolick took the Chair and requested members to observe a moment of silence for prayer or meditation.

APPROPRIATION BILL

Debate on Vote No 21 - Justice and Constitutional Development:

The MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT:

Chairperson, Chair of the portfolio committee, Deputy Minister of Justice and Constitutional Development - hon John Jeffery, director-general of the departments, all other heads of entities within the Justice family present, hon members of

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this august House, members of the judiciary, including the president of regional court fora, other colleagues within the Justice family, ladies and gentlemen, I am honoured today to present Vote 21 budget policy statement of the Department of Justice and Constitutional Development for the 2018-19 financial year.

The budget and the programmes we present today underscore government's commitment to "access to justice for all" and the advancement of the rule of law. This is a proud inheritance from the past generations of pathfinders. The most eminent among these are two former members of this House - President Nelson Mandela and Mama Albertina Sisulu - whose centenary birthdays we are celebrating this year.

Hon House Chair, the programmes we are about to outline are made possible by a budget allocation of R19,265 billion for which we are eternally grateful to this House. That budget allocation includes transfers to five entities which form part of this Vote. Of that budget, R1,764 billion goes to Legal Aid South Africa, R310,6 million to the Office of Public Protector, R357,1 million to the Special Investigating Unit, R178,8 million to the SA Human Rights Commission and R2,216

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billion as a direct charge to the National Revenue Fund in respect of magistrates' salaries. The 2018-19 budget allocation represents an overall year-on-year increase of 2%.

The Renaissance Project which we announced during the debate of the 2017-18 budget policy statement remains our flagship project. It entails the transformation of the legal system from its colonial and apartheid construct. The infusion of the values of ubuntu and the Africanisation of the legal system, in particular of language, culture and heritage, lies at the heart of the Renaissance Project. In doing so, we aim to promote and advance social cohesion.

Following the escalation of litigation involving medico-legal claims which exposes the state to huge contingent liability and may have the effect of diminishing the fiscal capacity to deliver sorely needed health and other services, we intend to review the State Liability Act of 1957 in order to provide for periodic payments in respect of the claimants' future medical expenses. This is a departure from the "once and for all" common law rule which applies in cases of delictual damages. This also seeks to address widespread abuse and corruption in this area.

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It has also become necessary to review the Criminal Procedure Act of 1977 which, among other things, prescribes the period within which the state can prosecute persons for allegations of particular categories of crime. One of the categories in respect of which we intend to abolish the prescribed period of 20 years is sexual offences, femicide and all forms of gender-based violence. The review will also introduce harsher sentences for these offenses.

Further to combat these heinous crimes, we continue to roll out the dedicated Sexual Offences Courts which now stand at 75 nationally. During this financial year, we will establish 14 additional courts in deserving areas to extend their reach. We are mindful of the challenges facing some of these courts, and the Deputy Minister will highlight some of the interventions we intend to put in place to ensure their optimal functioning.

Another key enabler to delivering justice to all is an efficient and agile state legal service which adequately and diligently represents the best interests of the state through effectively managed litigation and other legal services and the use of alternative dispute resolution mechanisms. To achieve this outcome, we will soon present a policy framework

document to Cabinet which will outline the establishment of an appropriate institutional model to enhance efficiency in the delivery of government's legal services across all spheres of government.

We are making steady progress with respect to the transformation of the legal profession. The National Forum for the Legal Profession is working on the full implementation of the Legal Practice Act of 2014. As part of this process and in making regulations for the Legal Practice Council which will be the governing structure for the legal profession, there must be a 50/50 or equal representation of men and women on the council, with a 70/30 black to white representation. This will see the council achieving both gender and racial representivity in line with what is envisaged in the Legal Practice Act and of course the Constitution. I am advised that this governance model was agreed to by the constituent members of the national forum. This work is due for completion by October 2018.

An important part of access to justice is the provision of legal aid to those who cannot afford the cost of litigation. To this end, Legal Aid South Africa remains an important

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provider of legal aid and advice. As of the third quarter of the 2017-18 financial year, Legal Aid South Africa took on a total of 307,428 new matters, of which 266,583 were criminal and 40,845 were civil matters. The organisation rendered legal advice to 226,359 clients via its call centre, local and satellite offices. These successes were recorded notwithstanding a budget deficit of R45,3 million which is projected to rise to R92,8 million during this financial year.

Legal Aid South Africa also launched a "please call me" service through which members of the public send a "please call me" text message and a legal advisor returns the call at no cost to the sender. The institution has also established a social media presence on Facebook, Twitter and Instagram.

We are moving steadfastly with the exercise of aligning magistrates' courts and divisions of the High Courts' jurisdictional boundaries with municipal and provincial boundaries respectively where this is necessary to enhance access to justice. The roll-out to the outstanding provinces of the Eastern Cape, KwaZulu-Natal and the Western Cape is earmarked for completion during this financial year. The implementation of this project has broadened access to justice

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to communities, most especially the rural areas and areas that form part of the so-called homelands.

Hon members, the construction and maintenance of court infrastructure, human and material resources that are deployed for the effective functioning of the courts, including ICT equipment and platforms, constitute what is largely the mandate of the national executive, in particular the Department of Justice. During last year's Budget debate, we undertook to complete the construction of the Mpumalanga seat of the High Court in Mbombela in the just-passed financial year. This was based on projections made by the Independent Development Trust, which is the implementation agent under the Ministry of Public Works. The court building is 97% complete, but we are experiencing challenges with regard to the construction of the access road. The Director-Generals of Justice and Public Works are attending to the matter. We are also in consultation with the Department of Transport.

We will soon commence with the expansion of the Durban High Court at a cost of R728 million. The project will yield additional four criminal courts, five civil courts, five judges chambers, five consulting rooms, two labour courts, two

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labour court judges chambers, an administration block and holding cells to the existing structure.

Since the dawn of democracy and despite the recent budgetary cuts occasioned by austerity measures, we continue to build on average two new courts per annum in order to address the huge infrastructure backlog, especially in previous black townships and rural villages. This financial year, we will complete the construction of three magistrates' courts in Plettenberg Bay in the Western Cape, Booyens in Gauteng and Dimbaza in the Eastern Cape.

Chairperson, our overall mandate to ensure justice for all and the advancement of the rule of law will not only depend on the building of more courts and the employment of additional judicial officers and court personnel. Part of the solution to courts efficiency and enhancement lies in the full utilisation of court time to deal with all cases brought before the courts and, where necessary, the effective and speedy finalisation of urgent cases outside normal court hours. This is in line with some of the recommendations of the ruling party at its recent national conference. In this regard, I must mention that the initiative by Chief Justice to establish the national and

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provincial efficiency enhancement committees which he and the heads of courts convene is yielding positive results.

During this financial year, we will roll out court annexed mediation services to all seats of the regional courts and to large chief magistrates' courts countrywide. The Rules Board for Courts of Law is considering rules through which these important services could be extended to the High Court as well.

Last month, we introduced the Prevention and Combating of Hate Crimes and Hate Speech Bill into Parliament. It aims to define and criminalise conduct amounting to hate crimes and hate speech. Crimes of this nature have over the years polarised our society, especially as social media gets used as a conduit for the dissemination of offensive messages and images.

The implementation of recommendations of the Truth and Reconciliation Commission, TRC, remains one of the important elements for healing victims of apartheid. Following the successful implementation of individual reparations and education assistance to identified victims, the department will focus on rehabilitation projects in identified

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communities that suffered gross human rights violations as recorded by the TRC. We will also continue with the identification and exhumation of remains of victims of judicial and extra judicial killings that occurred during apartheid and colonisation. During this financial year, the department will launch at least five rehabilitation projects. We will do this in consultation with stakeholders concerned.

During the last financial year, the National Prosecuting Authority made great strides in maintaining high conviction rates in all court forums. It recorded, for example, 91,7% conviction rates in superior courts, 81% in regional courts and 96,1% in district courts respectively. The convictions also included a 98,5% conviction rate of prosecution in cybercrime cases. This represented the highest conviction rate performance of the last two decades.

For its part, the Asset Forfeiture Unit, in collaboration with the Financial Intelligence Commission and other institutions in the financial regulatory and services sector, continued to play a critical role in the fight against corruption and has delivered significant returns in the past few years. The National Prosecuting Authority has successfully championed and

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participated in the creation of various intervention mechanisms to combat the scourge of illicit financial flows, money laundering and foreign bribery. During the last financial year, the Asset Forfeiture Unit obtained freezing orders to the value of R3,8 billion and recoveries in terms of the Prevention of Organised Crime Act amounting to R308,3 million.

The Special Investigating Unit continued to play an important role in the investigation of maladministration and corruption within state institutions. During the 2017-18 financial year, the Special Investigating Unit recovered assets to the value of R33,5 million and secured the setting aside of administrative decisions to the value of R797,1 million.

Significant progress has been made to re-establish the special tribunal through which civil litigation and ultimate recovery of state losses will be accelerated, thus enabling the Special Investigating Unit to speed up its effort of recovery on behalf of the state.

We are moving steadily to establish the administrative capacity of the Information Regulator, and the Deputy Minister will elaborate further in this regard.

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In conclusion, let me thank the Chief Justice and other members of the judiciary, the Deputy Minister, the Director-General, heads of chapter 9 institutions, heads of entities and staff of the department for their continued support in our quest for making sure that access to justice becomes a reality to every South African. I acknowledge the invaluable contribution that you colleagues as Members of Parliament continue to play in exercising oversight over us, ensuring therefore that where our eyes cannot reach, you become an extension of our vision to ensure that we run a clean administration, good governance and uphold the values of our Constitution. I thank you very much. [Applause.]

Mr M S MOTSHEKGA: House Chairperson, Minister Masutha, Deputy Minister, John Jeffery, the conquest and colonisation of Africa and her people, denied African people access to justice, human and people's rights. Thus, the central mandate of the democratic government has been to transform the entire legal system to ensure that all the people of South Africa gain access to justice and enjoy human and people's rights.

The Department of Justice and Constitutional Development under the former Minister, Jeff Radebe, hosted a conference on the

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transformation of the judiciary. In 2009 it was agreed that the time has come to transform the entire legal system to make justice accessible to all South Africans, both black and white. The Renascent project adopted by Minister Michael Masutha, raised the hope of the committee that the transformation of the entire legal system would take a centre stage.

At the centre of access to justice is the restitution of the land and natural resources which were violently taken away from the black majority and Africans in particular. It is this violent dispossession of African land and its natural resources that resulted in the triple challenge of poverty, unemployment and inequality, which underlie the gross injustice faced by our people. This triple challenge is also responsible for the deepening moral degeneration and social ills.

Against this background the committee finds it difficult to understand why the Departments of Justice and Constitutional Development, and the Rural Development and Land Reform failed and or neglected to amend the Land Restitution Act to remove the bureaucratic obstacles to land restitution and to appoint

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full time judges to the Land Claims Court, make funds available to land claimants lawyers, to enable them to represent their clients who sought restitution of the land they claimed as early as 1998.

The committee also found it difficult to understand why the department ignored its repeated calls to transfer funds earmarked for land claimants lawyers to one attorney's firm, Cheadle Thompson and Haysom in Johannesburg, when the need is in the deepest rural areas, where lawyers that are closer to the victims of forced removals are working and are in need of financial assistance.

Besides, the department also appointed new lawyers, Maenetja Attorneys, to do this contrary to the calls of the committee. The committee observed that more than a decade ago, the University of Fort Hare was commissioned to assess the impact of the new Constitutional Jurisprudence on the transformation agenda. To date no report has come to hand. The committee always believes that language is the surest means for the delivery of quality legal services.

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For about a decade the committee has called for the introduction of an indigenous African language in the LLB curriculum for all law students, both black and white, to ensure that we produce lawyers who can communicate with the black majority who are served by this legal system. The committee observed that under apartheid colonial system, no black student could obtain a law degree and practice law in the courts without passing English, Afrikaans and Latin.

The new Constitution has recognised nine indigenous African languages that are spoken by the majority of the people. It is difficult to understand why the department is reluctant to make at least one indigenous African language a compulsory module in the LLB curriculum. The department outsourced this responsibility to law faculties. This is unacceptable because access to justice cannot be placed at the mercy of academics.

The department has not heeded the committee's calls for a Language Bill to address the matter. The committee has also, repeated calls for the recognition and acknowledgement of the indigenous African law as an equal system of law with Roman Dutch Law and English Common Law. Our judges and lawyers are expected to apply indigenous African law that they know

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nothing about and to hear appeals from traditional courts and yet they know nothing about the cultures, traditions and laws of the indigenous African communities.

It means that the department pays lip service to the equality of indigenous African laws, English and Roman Dutch law, and that there is no serious intention to transform the legal system in this regard. In our view, the Indigenous African laws like English and Roman Dutch law must be a compulsory subject for all law students who want to practice law and become judges in South Africa.

The necessary legislation must be passed to make indigenous African languages and laws compulsory subjects for LLB. Since there appears to be no political will to introduce such legislation, the committee has agreed to introduce a committee bill to ensure compliance with the constitution and access to justice. The modern courts and the legal profession are not accessible to the majority of the people as the legal costs and the languages are major barriers to access.

Experiences of other developing countries like Zimbabwe and Mozambique, show that community courts and paralegals play a

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major role in making justice accessible to the majority of the people. In South Africa, community courts and a community justice system evolved from community struggles and have been piloted more than a decade previously.

We were promised about a decade ago that the department has a pilot community court in Hatfield, Pretoria, but no report is forthcoming and no community courts bill has been drafted. Many South Africans are law abiding citizens and do not require attorneys and advocates. They require Community Advice Centres and paralegal practitioners who can explain their rights and duties, to enable them to comply with the law.

The committee has been waiting on paralegal legislation for about a decade. When the legal practice bill was passed, the committee was urged to leave the paralegal provisions out and it was promised that a separate bill would be introduced. Until this day there is no such bill. The paralegal sector in South Africa and on the continent, as the Kigali Conference demonstrated, has done extensive work on the regulation of paralegal practice.

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The ANC Department of Legal and Constitutional Affairs began discussions on the fusion of the side bar and the bar as early as the mid-eighties. It was hoped that the democratic South Africa would put this matter high on the agenda of Parliament as it is critical to gain access to justice. When the Legal Practice Bill was introduced, it was hoped that the matter would be entertained, but until today the matter has not been addressed.

It was hoped that the Renaissance project of the department would be the driving force behind the transformation of the legal system that was agreed to about a decade ago. The project had the potential to bring about the overhaul of the entire legal system. But the department has to-date not even produced the terms of reference and engage the committee on the scope of the project.

It appears that a golden opportunity for the desired transformation has been lost as the Fifth Parliament is nearing its end. The transformation path must also focus on inter-branch relations. In this regard, the committee noted that the department still intends to submit a policy on the

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decision of the judicial and court administration model to the Minister by the end of February 2019.

The committee is unhappy with the time it is taking to finalise policy proposals, let alone bills for submission to Parliament. The process began in the previous administration and the committee does not fully understand why it is taking so long. The state is the largest consumer of legal services in the country. It also employs hundreds of professionals who provide litigation and legal advisory services for the state in different capacities.

But the State Attorney's offices continue to experience many challenges. Towards the end of the Fourth Parliament, legislative amendments were passed to provide for a Solicitor General, but this appointment has been delayed because of challenges relating to the level of the post. More recently, the filling of the position was halted depending on the restructuring of the entire state advisory and litigation offices.

The committee is concerned that there is no turnaround strategy that has been developed to restructure the offices of

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the State Attorney to provide efficient and adequate legal services to the state. We have noted that a project leader has been appointed to assist with the transformation. However, that was last year and no progress has been reported.

We require a full scope of the transformation programme. The committee is also increasingly concerned about the lack of progress in fully capacitating the office of the Information Regulator. The Protection of Personal Information Act requires only that the Regulator consult with the Minister of Finance on its staffing. The Regulator has consulted with the Department of Public Service and Administration, National Treasury and the Public Service Commission, and has compiled the necessary documents, including a report on its benchmarking visits.

The latest obstacle is an insistence that the Regulator be listed in the Public Finance Management Act as schedule 3A entity before its organisational structure can be approved. However, the board of a Schedule 3A entity is the accounting authority, whereas the Protection of Personal Information Act clearly provides that the Regulator's CEO is its accounting officer.

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The Regulator must approach the Minister of Finance for assistance to resolve the contradictions. The Ministry should have provided the regulator with the assistance it needed to resolve this matter as soon as possible. An inefficient, slow and unreliable legal system that is unable to meet the demands placed on it undercuts the rule of law.

It is for this reason that we are very concerned about the impact of the budget cuts, particularly for the National Prosecuting Authority, NPA, and the Legal Aid South Africa. We understand the fiscal constraints that we are faced with, but argue that the budget cuts should be sensitive to the nature and importance of the work that is being done.

Measures to contain costs and the reprioritisation of funds can only achieve so much in mitigating the impact of an increasingly reduced budget. We argue that there comes a point at which it is inevitable that a lack of funds will eventually render an institution useless as it will no longer have the resources as it will no longer have the resources, both human and financial, to go about fulfilling its mandated task, in this instance, the delivery of justice services.

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The adverse effects of the budget cuts are observed sharply in the reduced staff establishment. Broadly, as the delivery of justice services is labour intensive, staff reductions slow matters down undermining the work that has been put in creating a transformed and responsive justice system.

Staff reductions can also increase the workload of officials, unacceptably, creating high levels of stress, low staff morale, an increased demand for employee wellness services, and loss of key staff to other positions in government or to the private sector. So far, the budget cuts have affected the staff establishment as follows:

In 2017-18, the compensation of employee's budget for the vote was cut by R429 million and 1213 posts within the department were terminated; 205 officials left the NPA; and 110 posts were cut from the Legal SA establishment. Although the department has assured the committee that it will prioritise the filling of identified critical posts and sharing of support services wherever possible so that service delivery is not affected. The committee is gravely concerned by this development. The NPA has also shared ... [Interjections.] [Time expired.] The ANC supports the Budget Vote.

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Ms G BREYTENBACH: House Chair, hon members and a special welcome to the hon van Rooyen. I see he is fond to find the correct venue. This is the first time he has made it to any of the portfolio committee events since he was appointed to the committee. Hon members, the Portfolio Committee on Justice and Constitutional Development deals with issues that are crucial to each and every citizen of South Africa.

Justice is an issue that arises in the lives of each and every South African on a daily basis. Constitutional Development is crucial to the continued wellbeing of all the citizens of this country and to our constitutional democracy.

The Minister and his Deputy have a huge job to do, a huge burden of responsibility rests upon them. The Minister often tells us that his is the task of ensuring that South Africans live in safety and security without fear. It's a very big task indeed. Sometimes he succeeds, sometimes his efforts bring success, and for this we are all grateful. But most times, unfortunately, he continues to fail to make no difference in the lives of ordinary South Africans at all.

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Statistics show that we are moving backwards and that we are finalising fewer and fewer cases with verdict, that the backlog of cases in all courts, except the High Courts, continues to increase. We are less and less effective. Court hours across all courts, from the lower courts to the High Courts are decreasing. Courts across the board start late, adjourn early, and postpone cases for long periods, causing the cost of litigation, both criminal and civil, to be beyond the reach of all but a few ordinary South Africans. Again, only Legal Aid South Africa continues to shine, but of course this is not thanks you, Minister. I am sorry to tell you that you are failing miserably.

I am not, today, going to quote figures or statistics, those are available for anyone with sufficient interest to go and read up on. It is sufficient for today's purposes to point out that they demonstrate, amply, that too little progress is being made.

Of course, you are hampered by a constrained budget, and austerity naturally has a negative effect on your ability to deliver, but even making generous allowance for that fact, there is no acceptable explanation to be given for the abject,

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dismal failure of you and your department to deliver adequate and acceptable justice to the citizens of this country.

Your department comprises of five entities, and I concede again, that yours is an enormous task. But having accepted that task, you should hold yourself to account and deliver. Instead, as always, your offer paltry excuses shift the blame and take no responsibility for the lack of performance in your own department, and those over which you preside. The baseline of the Justice Vote will decrease by R2 billion over the medium term.

There is nothing to be gained from bleating about a lack of funds. The department is your responsibility, and you must ensure that it delivers. You must simply produce more with less. That is your challenge.

In the state of the nation address, the President highlighted the following issues that affect the Justice Cluster: The need to reinforce a commitment to ethical behaviour and leadership; that plunder of public resources will not be tolerated; that law enforcement institutions should be strengthened and shielded from interference in carrying out the investigation

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and prosecution on all acts of corruption - just bare in mind here the new prosecution against Johan Booysen that is clearly political motivated and the leadership issues that the National Prosecuting Authority, NPA, will be attended to urgently to ensure that the institution is stabilised and able to perform its duties without fear, favour or prejudice. Well let's unpack this.

Minister, you will appreciate that charity begins at home. You must provide the leadership and the example for all of these lofty ideals to become reality.

But you have sat on your hands and watched the NPA being systematically destroyed from the inside by the previous President and his deployees. When Mxolisi Nxasana appealed to you for assistance in halting the rot and removing the toxic cabal of Jiba and Mwrebi, you did nothing. Instead, you involved yourself, rather questionably, in the exit negotiations and subsequent unlawful contract.

When Abrahams, in a Hollywood style press conference announced the still-born and disgraceful prosecution of the hon Pravin Gordhan and others, you remained silent. When, days later, he

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was forced to backtrack spectacularly, you did nothing to hold him to account.

The National Director of Public Prosecution, NDPP, may be the appointee of the President, but you have considerable power and ability to influence the President in how he deals with such shameful behaviour. You have taken an oath to uphold the Constitution and protect the citizens of this country. Yet you did nothing.

The DA, given the opportunity to run this department, would instil ethical leadership and accountability. But this, of course, costs nothing. You would know nothing of that. You are that person that thought it would be just fine to meet with the NDPP at Luthuli House just hours before the ill-fated indefensible announcement of the prosecution of the hon Gordhan.

The DA would ensure that prosecutors arrive at work on time, and that courts sat for the entire day as required. This would cost nothing extra. There are hundreds of prosecutors and court officials who go to work each day and do a sterling job

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under difficult condition. To encourage all to follow their example would be no extra expense.

If courts sat for the requisite 4h30 that they are intended to sit, and not the paltry 3h16 that they currently sit, more cases would be finalised, and the backlog would be reduced. This would not cost one cent more. They are already being paid to do it. But of course, about accountability you know very little.

When questions are submitted to you by the official opposition regarding the nefarious activities of the Public Protector, and she tells you to take a hike as she regards herself erroneously as accountable only to the National Assembly, you meekly accept that situation and offer her claptrap as an answer. Such behaviour is unconscionable, and frankly, cannot go unchallenged. Yet you remain silent.

When the Public Protector sits at the Justice Committee and tells us that the State Security Agency is involved in almost every aspect of her office, from front of house security to setting up, installing and running her Electronic Case Management System, you remain silent. Not one word emanates

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from your office. It is shameful. This is an office tasked with protecting our constitutional democracy. There is no shred of independence left in that office. But you do nothing.

The DA would ensure that the Judges of South Africa have access to the essential tools of their trade. Since last year, no judge has had access to the South African Law Reports, the Criminal Law Reports, Butterworth or the All South African Law Reports, neither electronically nor otherwise. They only have access to the publicly available SAFLI, which reports selectively. They have been rendered incapable of doing their jobs and you do nothing.

When the President, with no discernable consultation, transfers Arthur Fraser, the deeply compromised Director-General of State Security to the same position in Correctional Services, over which you preside, you say nothing. The Deputy Minister assured us that you had no choice. Fraser is so compromised, so deeply involved in illegal PAN project that he should be suspended and prosecuted. Yet you accept the transfer and say nothing.

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Let's face it; you are never going to speak truth to power. You are not concerned with delivering justice to the people of South Africa. This is not about money, or how much of it you get or don't get. You are desperately clinging to your job at all costs and certainly at the cost of a functional justice system for South Africa. I thank you. [Applause.]

Tshivenda:

Vho E T MULAUDZI: Mudzulatshidulo, ri ne vha lihora la EFF ri khou thudzela kule hoyu Mugaganyagwama wa Muhasho wa Vhulamukanyi na Mveledziso ya Ndayoteyo.

English:

Mr E T MULAUDZI: I am happy the Chairperson raised the concern of the portfolio committee about the budget reduction and the budget cut which impact the service delivery on justice services. Criminal justice institutions must apply the law without fear or favour. They must go after murderous criminals such as FW de Klerk with the same intensity they pursue ordinary criminals.

To this day, it is very strange and disturbing that none of the senior apartheid politicians have ever been brought to

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book, while those who fought on the other side, such as Kenny Motsamai, are still imprisoned to date.

The Ahmed Timol inquiry should have energised the National Prosecuting Authority, NPA, to follow up on unresolved apartheid era cases, and charge those responsible. This will also prevent having liberals force down our throats murderers such as the late Judge Ramon Leon as heroes. People like Ramon Leon, De Klerk and others will never account for their role in stifling the liberation movement and using their positions to kill freedom fighters. We want all apartheid era criminals, now glorified as heroes, to be charged.

Minister, lack of transformation in judiciary, particularly in the lower courts is of great concern as we raised it as an EFF. Instead for the department to solve the matter, the department is reducing and cut the budget allocated to court services.

We still cannot understand why in 24 years in democracy, there is still no transformation in the use of languages in our courts. You will find presiding officer, prosecutor, the defence lawyer, the accused; the witnesses and the police are

all African language speakers, but the court proceedings are still held in English. But why, Minister?

Tshivenda:

Vho Minisit̄a, hangei hayani T̄hohoyandou vha do wana magisit̄ara, pholisa, mufariswa na dzihanzi vhothe vha vhavenda fhedzi matshimbidzele a vha nga tshikhuwa. Ndi ngani zwi sa khwinifhadziwi, vho Minisit̄ara.

English:

Mr E T MULAUDZI: The state legal services need an urgent and serious attention. We cannot continue using the state legal services to fund senseless legal challenges by delinquent government leaders. This unit is embroiled in aiding corruption. There is no logical reason why Mr Zuma, for his own private corruption matters, would rely on the state to pay for his legal challenges. Zuma, Bathabile, Mokonyane and all other corrupt leaders must pay out of their own ...

[Interjections.]

Mr B A RADEBE: On a point of order, Chair.

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The HOUSE CHAIRPERSON (Mr B L Mashile): Hon member, just take your seat.

Mr B A RADEBE: Alright, the member has just referred to the Minister of Communications with her first name, which is unparliamentary.

The HOUSE CHAIRPERSON (Mr B L Mashile): As hon member, if you could, just address members of the House correctly. May you proceed?

Mr E T MULAUDZI: I am not talking about the members of the House here. I said, Bathabile and ...

The HOUSE CHAIRPERSON (Mr B L Mashile): Hon member, hon Bathabile is a member of this House.

Mr E T MULAUDZI: Bathabile who?

The HOUSE CHAIRPERSON (Mr B L Mashile): Just address her correctly.

Mr E T MULAUDZI: But Bathabile who?

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The HOUSE CHAIRPERSON (Mr B L Mashile): She is an honourable member.

Mr E T MULAUDZI: I only said Bathabile. I never talk about the surname here.

The HOUSE CHAIRPERSON (Mr B L Mashile): Hon member, let us not argue. Maintain the dignity that you have been maintaining since you started.

Mr E T MULAUDZI: So, but who is Bathabile, Chairperson.

Mr T RAWULA: Speaker, the least you should ask is which Bathabile he is referring to because there are many Bathabile in South Africa even here in this House. Please continue.

The HOUSE CHAIRPERSON (Mr B L Mashile): Please, take your seat. I am still speaking to the member on the podium. Hon member, I am pleading with you, we all know whom you are referring to. Please, just address her as an hon member.

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Mr E T MULAUDZI: Hon Bathabile, hon Mokonyane, Mr Zuma and all other corrupt leaders must pay out of their own pockets when the law finally catches with them.

Mr B A RADEBE: Through a point of order, Chair.

The HOUSE CHAIRPERSON (Mr B L Mashile): Take your seat, hon member.

Mr B A RADEBE: I am rising on Rule 84. The member is just call the Minister is corrupt without having substantiating that on Rule 85, please.

The HOUSE CHAIRPERSON (Mr B L Mashile): Hon Mulaudzi!

Mr E T MULAUDZIL: Yes.

The HOUSE CHAIRPERSON (Mr B L Mashile): Can you just withdraw that that those members are corrupt? You know that you need to present the substantive motion to do that to hon members.

Mr E T MULAUDZI: Yes, but they are corrupt. I am talking about the other leaders who are corrupt. I never mention the name.

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Those ones must just pay their money. The other corrupt leaders who are corrupt must pay. I have never mentioned who is corrupt here. Those who know that they are corrupt must pay. Who are those who are corrupt, Chairperson, assist me?

The HOUSE CHAIRPERSON (Mr B L Mashile): Hon Mulaudzi!

Mr E T MULAUDZI: Yes.

The HOUSE CHAIRPERSON (Mr B L Mashile): Please, you know that if you have to make that that you need to do it in a substantive motion for members of this House. We are requesting you to actually withdraw that.

Mr T RAWULA: Speaker, you are harassing our member.

The HOUSE CHAIRPERSON (Mr B L Mashile): Order, hon member.

Mr T RAWULA: No, Speaker, I am rising on a point of order. You are harassing our member. He is referring to the group of others.

The HOUSE CHAIRPERSON (Mr B L Mashile): Take your seat, hon member.

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Mr T RAWULA: He has specifically indicated that matter about these ones.

The HOUSE CHAIRPERSON (Mr B L Mashile): Please, take your seat. I am speaking to the member on the podium.

Mr T RAWULA: But don't intimidate our member. There is nothing to withdraw there.

The HOUSE CHAIRPERSON (Mr B L Mashile): Take your seat, hon member.

Mr T RAWULA: he is not going to withdraw.

The HOUSE CHAIRPERSON (Mr B L Mashile): Please, take your seat hon member. Please, take your seat. I am talking to the member on the podium. Hon Mulaudzi, I still request that you withdraw that those hon members are corrupt because you know what to do if you have any allegations of that sought to hon members of the House. Please, don't spoil the debate.

Mr E T MULAUDZI: Okay, I withdraw.

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The HOUSE CHAIRPERSON (Mr B L Mashile): Thank you very much. Proceed.

Mr E T MULAUDZI: Zuma, hon Bathabile, hon Mokonyane and all others who can find themselves in corrupt activities must pay out of their own pockets when the law finally catches with them. The EFF stands firm in our commitment to rooting out corruption, and having a seamlessly functioning institutions of justice. The NPA must be independent and prosecute without favour. The Special Investigating Unit, SIU, must investigate and ensure that criminals are charged.

This budget has cut hon Chairperson, very important serious service to the poor. The budget of the Legal Aid which must help the poor was cut by R164 million. The NPA which was supposed to charge people - the budget was cut by R100 million. The Public Protector's budget allocation is not enough. The SA Human Rights commission - the budget was cut by R4,6 million. The Land Claim Court - there is no permanent judge there. There is no capacity there. The Correctional Services, Mr Masutha, you still have an outsource prison, Kutama Sinthumule, SA Custodial Management, SACM. You are

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paying a lot of money there while you are reducing and cut the service for the Legal Aid.

Chairperson, we thank you very much. We reject this budget.

[Applause.]

The HOUSE CHAIRPERSON (Mr B L Mashile): Hon members, I just want to indicate that the quality of this debate depends on you as members debating. You can still have a robust debate without violating the rules of the House. You may proceed, hon Buthelezi.

Mr E M BUTHELEZI: Hon Chairperson, "pro bono publico" for the public good, in the sense of a public service, and for the development of a just, fair, accessible and corruption free legal system for all, - this is the underlying mandate of this department. In South Africa, no person should be above the law, and no person should derive benefits or rights greater than another.

Chairperson, allow me to be frank in saying our courts appear to only serve the wealthy as the cost of legal protection in our country is exorbitant and fail the poorest of the poor in

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seeking legal relief. While legal aid which services communities are bogged down in administration and suffer severe case backlogs, the poor are most affected. Rural communities are unaware of legal advice and mostly find themselves either out of pocket or left with no representation and behind bars. This department must seek to drive down costs of legal services to the most vulnerable communities in our country. Whilst the IFP supports this department and its leadership, the following areas of concern must urgently be addressed: In respect of the National Prosecuting Authority, NPA, there have been many well documented leadership failures that have beset this body, and perhaps, it is high time that an amendment is brought to the National Prosecuting Authority Act, Act 32 of 1998, and in particular the current process with regards to the appointment of the National Director of Public Prosecutions, NDPP, as this process has proven to be flawed, the office is weak and has become subject to much controversy.

The IFP is of the considered opinion that in order to enhance the appointment process and to affirm the independence of the NPA, as well as restore public confidence in South Africa's prosecutorial abilities, that section 10 of the NPA Act be

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amended to reflect a similar appointment process to that of the Public Protector and other Chapter 9-institutions in terms of section 193(5) of the Constitution. Chairperson, our justice system should be free, fair and impartial. Yet, the scourge of corruption appears to be on the rise at our courts and includes presiding officers, court officials, prosecutors and attorneys. As an example we received correspondence which shows on the face of it, corruption by a particular magistrate in KwaZulu-Natal who was presiding over a major rhino poaching matter in the province. I believe that the Minister is aware of this matter.

Trust in our courts has been lost, and it is incredibly difficult to restore. Lastly, in respect of court infrastructure, while there are improvements, much work needs to be done in some jurisdictions which remain in a critical state of disrepair. Chairperson, the IFP therefore supports this budget. Thank you, Chairperson. [Applause.]

Mr S C MNCWABE: Hon members and distinguished guests, good afternoon, for South Africa to continue to be a successful democratic country it needs a very strong Justice system. It is therefore crucial that the Department of Justice and its

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entities be adequately funded. The NFP is concerned about the budget reduction in this department and we believe that this will impact negatively on the delivery of the Justice system which is not good for our constitutional democracy.

Hon Chair, access to justice is still a challenge in some areas of our country. This means that we still need more courts to be built and in this regard, we applaud the department for the construction of the Mpumalanga High Court which is due to be completed this financial year. We have noted also the construction of some Magistrates' courts in Gauteng. This is appreciated because it guarantees easy access to justice by our people. Hon Chair, access to justice cannot be limited only to the construction of courts. It also must cover the use of indigenous languages in our courts, a language that everyone can understand regardless of academic credentials. In this regard, the NFP supports the observations and recommendations of the portfolio committee that the ability to speak an indigenous African language should be a necessary requirement in the practice of law in our country.

The NFP also applauds the University of KwaZulu-Natal, which has already made IsiZulu a compulsory subject in its LLB

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curriculum. We urge other universities to follow on those steps.

IsiZulu:

Sihlalo sifuna ukugcizelela ukuthi nabo laba abatolikayo ezinkatolo kumelwe baqeqeshwe kakhulu ukwazi nokukhuluma izilimi zomdabu. Njengamanje kubuhlungu okwenzakalayo uthole ukuthi umangali noma umangalelwa utolikelwa izinto angazange azisho. Kuze kungene emabhukwini ukuthi uMthembu lamlahla icala ngoba ube ngufakazi ongathembekile okhuluma eziphikisa kanti inkinga yilo otolikayo otolika into ethanda nguye. Abukho ubulungiswa lapho.

English:

Hon Chair, the land question also is back on the agenda of our country and fully supported by the NFP and almost all other political parties in this House. However, what is happening in the Land Claims Court raises serious concerns. The Land Claims Court lacks capacity. The processing of land claims is very slow and there is a huge backlog. We are afraid that our people will start expressing their frustration in this regard.

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The NFP urges the department to continue with speed the engagements with the Rural Development and Land Reform Department on the matter of capacitation of the land claims court and measures to accelerate the review of the Restitution of Land Rights Amendment Act in line with the Constitutional Court judgement.

Hon Chairperson, we appeal to the Minister to give decisive leadership in what is happening in the NPA which, does not give a good picture of our Justice system. Having expressed our concerns, we support this budget with the hopes that it will address crucial aspects in the delivery of the Justice system in our country. I thank you. [Applause.]

The DEPUTY MINISTER OF JUSTICE AND CORRECTIONAL SERVICES (RESPONSIBLE FOR JUSTICE AND CONSTITUTIONAL DEVELOPMENT): Hon House Chairperson, Ministers and Deputy Ministers, members of the judiciary, hon members, distinguished guests, ladies and gentlemen, former President Mandela would have turned 100 years old on 18 July. The centenary celebrations are commemorated under the theme: "Be the legacy". What is the Mandela legacy? It is the ideal of a nation built on democracy, freedom and equality, and a Constitution to

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guarantee human rights - keeping this legacy alive means protecting and promoting those hard-won freedoms and human rights. Have we lived up to this formidable task? Mandela said: Overcoming poverty is not a task of charity; it is an act of justice.

What has our department done to achieve this to overcome poverty, to help the poor and the vulnerable? We have extended justice services to rural and traditionally poor areas, those areas which never had access to these services in the past. Our small claims courts now extend across the entire country. With 411 of these courts and another 33 additional places of sitting, this means that in every single magisterial district of the country, people can access these courts, free of charge and without the use of a lawyer, to have their matters heard. For a matter to be heard in the small claims court, the amount of the claim must not exceed R15 000. We have received requests, which we are considering to increase this amount last adjusted in 2014, which would mean that even more of these matters could then be heard by these courts.

We will soon be approaching role-players in this regard. Legal Aid South Africa, as we have heard from the Minister,

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continues to make access to justice a reality by assisting the poor who would otherwise not be able to afford legal representation. How else do we help the poor? We have passed several pieces of legislation, many of them focusing specifically on the poor. The recently enacted Courts of Law Amendment Act aims to protect the poor, often nonliterate, who in their desperation conclude credit agreements which push them further into debt traps. This legislation puts a stop to abusive debt collection practices.

We've also amended the Rules of Court which came into effect in December last year on the attachment of a debtor's residential property. The amendments provide enhanced protection for debtors by providing that the court must consider an alternative means to attachment and the setting of a reserve price on the property. Maintenance is always an emotional issue. Maintenance improvements help the poor and the most vulnerable. Many of you would have read over the weekend of a businessman who has been convicted in a criminal court of failing to pay more than a R1 million in maintenance while he was living the high life, his ex-wife and children were living in abject poverty. He could now face a term of imprisonment.

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Earlier this year, certain sections of the Maintenance Amendment Act were put into operation. These sections provide, amongst others, that parents who default on child maintenance can now be blacklisted. The department is also on track with its service delivery improvement plan of maintenance applications being finalised within 90 days. We are aware that the whole maintenance process needs to be overhauled and for that reason the SA Law Reform Commission has been tasked with reviewing the Maintenance Act. However, in the interim, we must ensure that the system acts as optimally as possible.

Madiba said that education is the most powerful weapon which you can use to change the world. How can we do that - by ensuring that we undertake constitutional and human rights' education? A recent survey, the Socioeconomic Justice for All Baseline Survey provides us with useful information in order to assess where we stand on constitutional and human rights. Respondents were asked if they had heard of the Constitution or the Bill of Rights. Only slightly more than half that is 51% of respondents had heard of either. This shows that there is still an enormous task ahead of us in raising levels of constitutional and human rights awareness. If persons or communities are not aware of their rights, how can they

possibly enforce them? We need to continue with human rights education if we are, as Madiba said, to change the world.

Madiba also said, and I quote:

Safety and security don't just happen, they are the result of collective consensus and public investment. We owe our children, the vulnerable citizens in our society, a life free of violence and fear.

Therefore, what have we done to protect people and make sure that they are and feel safe? The Prevention and Combating of Trafficking in Persons Act came into operation in 2015, and we are making progress in the fight against human trafficking. In 2016, Global Slavery Index ranked South Africa 27th out of 167 countries and the United States Department's Trafficking in Persons Report from last year says, and I quote:

Government demonstrated increasing efforts by identifying more than double the number of trafficking victims and referring all identified victims to care.

As the Minister has indicated, our department has been upgrading regional courts into sexual offences courts in line

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with the revised Sexual Offences Courts Model. A National Forum on the Implementation of the Sexual Offences Act comprising of both government and civil society role-players, was held for two days at the end of October last year, to identify the challenges that hinder the successful implementation of the Act and to come up with a set of proposals to make the Act work better.

The national forum provides civil society role-players with an ideal opportunity to engage with government and to be part of finding the solution. We urge them to continue to make use of this opportunity. At last year's Budget Vote debate we had just learnt of the tragic death of Karabo Mokoena. Today, we know that her killer has been sentenced to 32 years in jail. It is said that the total number of women murdered in our country, half of them are killed by their intimate partners. For this reason, the department will be establishing a femicide watch as recommended by the United Nations, with phase 1 thereof to be completed by March 2019.

Children are our most vulnerable in society and our Chief Family Advocate will continue to increase the number of children who will be assisted through the family advocate

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intervention to 25 000 by the end of the next financial year. With regards to the Lesbian, Gay, Bisexual, Transgender and Intersex, LGBTI, community, our national task team on LGBTI rights is a very successful partnership between government and civil society and was named in a 2016 report by the United Nations' Office of the High Commission on Human Rights as a best practice model and international case study of government and civil society co-operation. Again, we urge civil society to continue to use these opportunities for engagement. In 1993, when Madiba addressed the United Nations, he expressed his gratitude to the international community, and he said:

We have together walked a very long road. We have travelled together to reach a common destination. The common destination towards which we have been advancing defines the very reason for the existence of this world organisation. The goal we have sought to reach is the consummation of the yearning of all humankind for human dignity and human fulfilment.

He also mentioned the then Organisation of African Unity, the Commonwealth, the Nonaligned Movement, the European Community and other intergovernmental organisations. Today, we still

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value the support we get from our international role-players and donor partners. Here, in particular, I want to mention the Global Action to Prevent and Address Trafficking in Persons and the Smuggling of Migrants which is a joint initiative by the European Union, the United Nations Office of Drugs and Crime, and I just want to acknowledge the Southern African Regional representative of the United Nations Office of Drugs and Crime, UNODC – Ms Zhuldyz Akisheva, who I see in the gallery – the International Organisation on Migration and United Nations Children’s Fund, Unicef, with our department.

South Africa’s response to trafficking in persons is in a critical phase of implementation and therefore we value this initiative. The European Union, through our implementing partner, the Foundation for Human Rights, has assisted with many constitutional initiatives. I also want to thank the United States Agency for International Development, Usaid, and the Embassy of the Kingdom of the Netherlands for their valued support.

We take our international reporting obligations very seriously when we report to various international structures on human rights progress in our country as we did when we appeared

before the United Nations Human Rights Council in September last year for the last phase of our Universal Periodic Review. Madiba said:

A simple vote, without food, shelter and health care is to use first generation rights as a smokescreen to obscure the deep underlying forces which dehumanise people. It is to create an appearance of equality and justice, which by implication socioeconomic inequality is entrenched. We do not want freedom without bread, nor do we want bread without freedom.

In this regard, South Africa submitted our first country report on the International Covenant on Economic Social and Cultural Rights to the United Nations in April last year. In September this year, South Africa will appear before the United Nations Committee to engage on the progressive realisation of socioeconomic rights. This process is extremely important, given our constitutional protection of socioeconomic and cultural rights. The phrase "Leave no one behind" is the clarion call of the 17 Sustainable Development Goals which aim to address the root causes of poverty and the

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universal need for development that works for all people.

Madiba said:

We speak here of the challenge of the dichotomies of war and peace, violence and nonviolence, racism and human dignity, oppression and repression and liberty and human rights, poverty and freedom from want.

What have we done to fight racism and discrimination? In addition to what the Minister has said about the Hate Crimes and Hate Speech Bill, we have established equality courts. However, there is concern that these courts remain underutilised and the public must be made more aware of how to approach them. We are undertaking a number of sustained and visible antixenophobia campaigns and the National Action Plan to combat racism, racial discrimination, xenophobia and related intolerance is to be finalised and submitted to Cabinet by the end of this year. What did President Mandela say about the courts and the justice system? He said, and I quote:

Even although I now happen to be tried by one whose opinion I hold in high esteem, I detest most violently

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the set-up that surrounds me here. It makes me feel that I am a black man in a white man's court.

What have we done to change this? Have we transformed the legal profession and the justice system to make it a court and a justice system for everyone and to ensure equality before the law? As the Minister has indicated, we have rolled-out new courts and refurbished existing ones. In terms of the Legal Practice Act we are enhancing transformation of the legal profession. A key transformational initiative involves growing the pool of advocates and attorneys. This is achieved by increasing briefs to previously disadvantaged individuals and female legal practitioners. We have met our targets in this regard, which is, I think, about 79% to 80% even and the details of those who are being briefed are available on our website – the details of who is being briefed and what the type of matter is that they are dealing with. We would like to include the amount of people that are paid, but still have to engage with the advocate's profession on that. I want to urge all interested parties to scrutinise these figures.

The sheriffs' profession has been transformed and professionalised, we have a new board and we are filling

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vacancies with greater efficiency. We are onto a yearly and annually cycle now of filling vacancies in the sheriffs' profession. We have succeeded in creating people-centred justice services that are accessible, reliable and efficient. In the 2018 financial year -this current financial year - the department will put in place initiatives that will improve how currently the satisfaction level will be measured. So, we will be engaging on projects to look at measuring the satisfaction level of the uses of the courts. At the same time, we must be realistic about the risks due to budget cuts between, as the Minister I think has said 2015-16 to 2017-18. The National Prosecution Authority has lost 244 officials whilst the Department of Justice and Constitutional Development has lost a total of 1 213 employees during the past financial year.

We have, as some members have said, to come up with ways of doing more with fewer resources. Ho members, we are succeeding in keeping Madiba's legacy alive, but we cannot rest on our laurels. As he said:

After climbing a great hill one only finds that there are many more hills to climb.

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We are steadfast and resolute in our task. There are many more hills to climb, many more people and communities to assist, many more services that need to be delivered, this budget will enable us to do so. I've just got limited time, but a quick response to the hon Breytenbach that in terms of the latest statistics you are not correct. In terms of the latest statistics, there was an increase from 80 420 cases finalised with verdicts to 82 966 – a 3,2% increase. So, please just check on that. To hon Steenhuisen, I don't know if that was you that was shouting, but thank you for not heckling me. Thank you ... [Interjections.] ... Oh, it wasn't you, okay. Thank you. [Applause.]

Afrikaans:

Adv A De W ALBERTS: Voorsitter, Minister, die effektiewe en ewewigtige administrasie van justisie is 'n belangrike onderdeel van enige moderne demokrasie. Sonder dit, kan die staat nie die reg opeis om orde te handhaaf nie, en is die staat se monopolie op geweld in reaksie op misdadige optrede ook self in die gedrang.

English:

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It is therefore unfortunate that we note a growing disconnection between society, at large, and the state, in this regard. We see, for instance, more community members taking the law into their own hands in a vote of no confidence in the criminal justice system. There must be a direct connection between this and the very low conviction rate in criminal matters.

A study by the economist, Mike Schussler, which he based on the President's development indicators, is quite illuminating. He has found that over the last 10 years, the conviction rate of all crimes reported is only 6%. This is the case, while the reporting of crime is also actually dropping. Only half of the cases make it onto the court roll. This means that the investigation levels are actually very low.

Given this situation, one can understand where vigilante justice - while, in principle, wrong - comes from, and why private security firms are proliferating among the middle class. It is quite ironic that the private sector is taking over a role in the community that the state must attend to. This is dangerous ground, and it deserves urgent attention.

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The National Prosecuting Authority, NPA, must therefore also be urgently fixed. There is a valid view that the NPA prosecutes selectively and that some people are immune to prosecution. For instance, why did it take so long to institute proceedings against former President Zuma, on the one hand, and Malema, on the other, on separate corruption charges? These decisions not to prosecute and then, again, to continue are completely political in nature, and correlate with whoever is the President at the time. It is unacceptable.

Afrikaans:

'n Ander kwessie wat dringend aandag verg is die hantering van alle amptelike tale in howe in Suid-Afrika. Ons verstaan dat die hoër howe Afrikaans, as taal, uitfaseer. Die probleem is egter nie beperk tot Afrikaans nie, maar raak al die ander amptelike tale, behalwe Engels.

Die vraag is, Hoe gaan 'n persoon wat nie Engels enigsins kan praat nie of net gedeeltelik magtig is om Engels te kan praat of verstaan homself kan handhaaf in die howe in daardie omstandighede? Daar is geen rede hoekom vertalingstechnologie, benewens tolke, nie ingespan kan word om te sorg dat justisie oop is vir alle amptelike taalsprekers van alle agtergronde in

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Suid-Afrika nie. Daar bestaan ook geen rede hoekom uitsprake nie in alle tale beskikbaar gemaak kan word nie, want tegnologie bestaan daarvoor. Daar is dus ook geen rede om reg te laat geskied in al ons land se amptelike tale, uiteindelik, nie.

English:

Minister, I also wish to point out a matter that deserves your attention. I have spoken to the Deputy Minister about this, as well. It concerns the judicial investigation on the Ford Kuga death of Mr Reshall Jimmy.

Mr N S MATIASE: House Chair, I would like to know if the hon member will take a question.

The HOUSE CHAIRPERSON (Mr B L Mashile): Hon Alberts, are you prepared to take a question?

Adv A De W ALBERTS: Chairperson, unfortunately, I don't have enough time to answer a question.

Mr N S MATIASE: He must pasop. [be careful.] [Interjections.]

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Adv A De W ALBERTS: We can discuss it in private.

The HOUSE CHAIRPERSON (Mr B L Mashile): Proceed, hon Alberts.

Adv A De W ALBERTS: Thank you.

The matter concerns the unfortunate death of Mr Reshall Jimmy in a Ford Kuga. It is of the utmost importance that the current, ongoing investigation should commence before a High Court judge – that is, a judicial investigation – so that certainty can be created regarding the original causes of his death. It is possible that these vehicles may claim more lives in future if we do not come to a conclusion, in that regard.

Lastly, Minister, regarding the proposed Act on hate speech. The Act, itself, must be balanced and realistic. It must also be implemented in a balanced way, otherwise we might find that the Act, itself, will polarise society even further. We might find ourselves in the Constitutional Court in the future, so we must be very careful when we go ahead with that specific Act. I thank you.

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Ms D CARTER: Chairperson, the national Budget presented earlier this year, and which informs this Budget Vote, once again, brought home the stark and tragic consequences of a decade of the betrayal of our nation.

We have seen bad and corrupted governance. We have seen state capture and the white-anting of government capacity. We have seen wastage, and the abuse and looting of our fiscus and the resources of the state, the bloating of the civil service to unsustainable levels. We have seen reckless fiscal management that has seen government debt reach alarming levels; and the destruction of investor confidence and economic growth. These are the tragic consequences of a decade of betrayal of our nation.

This betrayal is clearly evident in all its nakedness within the Department of Justice and Constitutional Development report. The report, *Betrayal of the Promise: How the Nation is Being Stolen*, details how the NPA was captured and how, since the dubious removal of Nxasana and his replacement by Shawn Abrahams, several questionable decisions and actions have been taken. These include its defence of Zuma in the spy-tapes saga; the frivolous charges laid against Minister Gordhan and

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other former senior SA Revenue Service, Sars, officials; the attempts at charging Independent Police Investigative Directorate, Ipid, head, Robert McBride; the apparent hesitance to charge the Guptas and others involved in the looting of the state; and the withdrawing of perjury charges against Jiba and her being retained as Deputy National Director of Public Prosecutions, despite her having been struck off the roll of advocates.

It is always said that a picture paints a thousand words. This afternoon, seeing Shawn Abrahams sitting in the gallery with former Minister Tina Joemat-Pettersson, really told a story of a thousand words.

We have been subjected to an NPA that has acted with fear, with favour and with prejudice - against the nation. I want to repeat that. We have been subjected to an NPA that has acted with fear, with favour and with prejudice - against the nation. The nation has no trust in the NPA or much of the criminal justice system, apart from the judiciary.

If we are serious about stamping out crime and corruption and ensuring the rule of law, and when we should be increasing our

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spend, budget cuts have depleted the capacity of the NPA and will continue to do so as the consequences of austerity begin to be felt. When we should be increasing our spend – as a consequence of a growing population, increasing urbanisation, and as the ills associated with poverty and inequality inevitably lead to higher crime levels – we are being forced to cut back.

Instead of upholding and defending our constitutional order – we know that part of the state capture project was to promote the narrative that the Constitution represents a barrier to redress, transformation and black empowerment – and this narrative was propagated, in part, from within government. Where were you, Mr Minister, when all of this was going down? Did you protect the independence of the NPA and defend the Constitution?

Under the circumstances, Cope finds it very difficult to support this Budget Vote. Thank you.

Mr G J SKOSANA: Thanks hon Chair, the hon Minister of Justice and Correctional Service, the hon Deputy Minister Responsible

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for Constitutional Development and all other Deputy Ministers present, hon members, distinguished guests, lochane!

Human rights have been an important subject to the ANC since its formation. The ANC proposed for the adoption of a Bill of Rights from as early as 1924, again in 1944 and again in 1955 in the Freedom Charter. The ANC's mission has always been for an open, democratic, transparent and accountable government.

The thinking of the ANC regarding the establishment of the Office of the Public Protector was accountability, transparency and openness. Past experience, through the apartheid regime, exposed the dangers of a government that was neither transparent nor accountable.

The ANC, through the establishment of these two institutions supporting democracy, was a way of transferring power to the people. Hon Chair, one of the main objectives of the ANC policy, as per the 1992 Ready to Govern Document, was to overcome the legacy of inequality and injustice created by colonialism and apartheid, in a swift, progressive and principled way.

It is in this document that it was said that South Africa had never had a good government. The apartheid government's objectives were to divide, harass and humiliate the majority of South Africans, while securing privilege and relatively high standards of service for the minority.

The ANC sought a Constitution that would guarantee a high quality of government service for all. The public service would be based on representivity, competency, impartiality and accountability. The ANC envisaged public service that would serve the public as a whole.

In 1993, the ANC had proposed, in a document titled, Building a United Nation: ANC Policy Proposals for the Final Constitution, that, I quote:

The Constitution shall as far as possible empower the poor and the vulnerable to enforce their rights and shall inter alia create a Human Rights Commission and a Public Protector to perform this function.

The constitutional principle 24 of the Interim Constitution provided for the independence and impartiality of a Public

Service Commission, a Reserve Bank, an Auditor-General and a Public Protector shall be provided for and safeguarded by the Constitution in the interests of the maintenance of effective public finance and administration, and a high standard of professional ethics in the public service.

Hon Chair, human rights, transparency, openness and accountability were some of the issues within the thinking of the ANC. The ANC wanted to transform government, making it a government of the people, which is accountable to its people.

In its 1994 election manifesto, the ANC affirmed its position of striving for an open society that encourages vigorous debate. It affirmed that people must be free to express their views without fear, including criticising the government of the day. This is something, which did not exist in the apartheid regime.

In the manifesto, ANC promised South Africa a new style of government. It committed itself to creating a government administration that would serve the people and that it would be answerable to them.

The ANC undertook to encourage private citizens to use the independent Public Protector to investigate corruption, dishonesty or violation of rules of conduct on the part of government officials, and that those found guilty would be dealt with.

In the First Certification Judgment, the court held: The independence and impartiality of the Public Protector will be vital to ensuring effective, accountable and responsible government. After amendments to the initial provision, Constitutional Principle 24 was certified by the constitutional court in the Final Certification.

At the African Regional Workshop of the International Ombudsman Institution, Seaparankwe former President Mandela said:

People must be encouraged to speak out against maladministration with the surety that their complaints will be taken seriously and in confidence. Every citizen needs to be familiar with their obligations and duties. They must be able to claim the right to be treated justly, promptly and courteously, and to claim their due

under the law. Only then will we be able to ensure that government is dedicated to public service and a culture of efficiency and transparency.

The Office of the Public Protector was established by means of the provisions of the interim Constitution of 1993 and confirmed as an institution that strengthens constitutional democracy by the final Constitution, 1996. The Office of the Public Protector came into being on 1 October 1995.

For the ANC, the Public Protector's Office is not only a critical instrument for good governance but also holds centrality in the transformation of the public service by, among other means, rooting out the arrogance, secrecy and corruption so rampant during the apartheid years.

Hon Chair, Isithwalandwe the great OR Tambo once said:

Persistent contravention of human rights is a recipe for violent conflict and war. The people can clearly not tolerate the arrogance of the oppressors indefinitely. Already the people have decided to stand up and fight for their rights, arms in hand.

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Our fight is for justice. We cannot cease until we have won, as we will in time. And in achieving human rights for all men in Southern Africa we will be making our contribution to the fight for human rights and freedom the world over.

Thanks hon Chair. We support the Budget Vote. Ndiyathokoza.
[Applause.]

Mr S N SWART: Chairperson, the ACDP joins other speakers in expressing our deep concern about the R2 billion baseline budget cut that will negatively impact service delivery in the criminal and civil justice spheres.

We must however ask ourselves how we as a nation landed in this financial state. It is in our view largely due to the former President Zuma and certain Ministers who allowed themselves to be captured by the interests of a select few or family and we know that is the Guptas.

This has resulted in billions of rands being siphoned off from departments and SOEs. The level of state capture at Eskom and

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other SOE's is indeed staggering and has cost the nation dearly.

In this regard, we wish to commend that the Asset Forfeiture Unit for eventually obtaining a number of preservation orders pertaining to Gupta-related companies and state capture.

How these looters escaped justice for so long is a severe indictment on us all when the facts were made known in the Public Protector's State Capture Report in 2016. But better late than never, let's prosecute those responsible and recover those ill-gotten gains.

We don't have to wait for the outcome of the Zondo Commission of Inquiry to do this. While it is correct that more needs to be done with less. It is also time for us to accept political responsibility for the fact that we as Parliament that we appropriate funds are not able to properly fund the department and various institutions reporting to us. For example the excellently-run Legal Aid South Africa has indicated that it will not be able to provide legal representation as required to do due to budget cuts in the medium term.

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As it is such a tightly run ship and very excellently run it is very unfair that it should have to its budget cut by R92, 8 million. This will lead costly to understaffing in courts and will lead to further court delays. The same applies to the NPA. Now the committee approached the Minister of Finances in October last year to obtain and ask for additional funding for various entities: the OCJ, NPA, SIU, SAHRC, the Public Protector and Legal Aid SA.

We specifically asked for the legal aid funding that is presently allocated by the Department of Rural Development and Land Reform to a private firm of attorneys that it should be transferred to the Legal Aid SA.

We know Legal Aid South Africa can play a very important role in dealing with land claims, which of had many delays and have resulted in much frustration; and have added tension to the land issue.

The Minister responded that due to the constrained fiscal outlook the scope to provide additional funding is limited. What wasn't limited very little or nothing was given. So how do we resolve this issue?

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We as the MP sitting here we have got all the entities represented here, we come time after time. We wring our hands helplessly and we say we are so sorry we have asked the Minister, but go back, do your work with the reduced budget but we will still hold you accountable.

Firstly, we need to accept political responsibility for the damage that state capture did. Secondly, we have the provisions of section 10 of the Money Bills Amendment Procedure and Related Matters Act 2009. It is Parliament that appropriates funds and it is Parliament that can adjustments.

In this regard the ACDP recommended to the committee to approach the Appropriations Committee for additional funding or for the movement of funds. We can approach them for those funds from the rural funds, the R85 million close that is allocated by the rural department for legal funds to the Legal Aid South Africa.

So we as the committee - I am grateful that it accepted the ACDP's proposal and I look forward to our chairman appropriating and approaching the Appropriations Committee so that they can decide on this issue and that we can then say we

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are not just sitting back, we are taking active steps. I thank you. [Time expired.]

Mr M S A MAILA: Hon House Chair, hon members and distinguished guests, throughout its existence, the ANC has always championed for human rights and human dignity. In 1911, the founding father of the ANC, Pixely ka Isaka Seme, having realised how the divide and rule tactic of the colonisers had effected the human rights abuses on the African majority, called on Africans to forget the differences of the past and unite in one national organisation.

Understanding full-well the injustices of what was called the justice system of the past, the ANC committed itself to making justice accessible to all. The ANC understands that there can be no justice when the justice system can only be accessed by the privileged and the elite. There can be no justice when the poor cannot enforce their rights in the courts or other tribunals because of the exorbitant legal fees. There can be no justice when courts are only in urban areas and not in rural areas.

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The hon Mulaudzi and the hon Mncwabe made an informed observation that there can be no justice when the court proceedings are conducted in a language foreign to the litigants. There can be no justice without interpretation services or with interpretation services that are found wanting. There can be no justice when the criterion for access to justice is wealth and privilege. The ANC continues to ensure that justice is indeed accessible to all.

The concept of access to justice has evolved over the years from a narrow definition that refers to access to legal services to a broader one that includes social, economic and environmental justice. Justice is not the exclusive preserve of the courts. The various functionaries including government, independent institutions, the private sector and civil society need to take on special responsibilities for the achievement of justice and thus access to justice is much more than simply access to the courts.

The ANC as the true leader of the society resolved that: If a person is unable to pay for legal representation, and the interest of justice so require, the state shall pay for a competent defense. On access to legal services, we are proud

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of the work of Legal Aid SA, Lasa. The Legal Aid SA under the exemplary leadership of Judge President Dunstan Mlambo has played a tremendous role in ensuring access to justice by the poor.

In the true spirit of *thuma mina*, Legal Aid SA has delivered on its constitutional and legislative mandate by providing legal assistance and advice and delivering programmes within its budget. The Legal Aid SA has evolved into a high performing organisation, which has delivered more than 90% of its business plan annually and has received consecutive unqualified audit opinions. [Applause.]

The Legal Aid SA has been achieving this irrespective of the budget cuts. The ANC is of the opinion that the current 5% budget cut on Legal Aid SA will make it almost impossible for Legal Aid SA to roll out legal aid to the indigent.

[Interjections.]

An HON MALE DA MEMBER: Why are you voting for the budget?

Mr M S A MAILA: The ANC through its government has had many successes which include: Combating sexual and gender-based violence by rolling out of sexual offences courts of which

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additional 14 such courts are planned to be established in the 2018-19 financial year.

The completion of the Mpumalanga High Court is at an advance stage thus ensuring that the High Court services are accessed by people from rural areas.

The roll out of maintenance courts, and particularly the enactment of the Maintenance Amendment Act showing the ANC's commitment to the enhancement of the maintenance system and ensuring that the most vulnerable in society, being women and children are protected.

The roll out of Small Claims Courts which provide inexpensive and speedy justice and offer quicker and easier ways of resolving disputes that involve amounts limited to R15 000.

The roll out of equality courts which provide assistance those who believe that they have suffered unfair discrimination, hate speech or harassment.

The piloting of community courts in the Western Cape. These courts practice a restorative justice approach and many

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diverse and alternative sentencing options area available. Restorative justice, which is rooted in ubuntu, is something which the ANC has constantly championed for.

We recommend speedy finalisation of the regulation of paralegal legislation which will give statutory recognition of paralegals in community advice centres. We recommend the use of indigenous languages in courts. It cannot be that we have a situation where all the parties in court proceedings speak and understand a particular African language, but the proceedings are conducted in a foreign language.

While we are engaged in making sure that our own have access to justice, our adversaries who are also pretenders, the DA, are at each others throat. [Interjections.]

Having used Mayor De Lille to amass votes in the Western Cape, they are now spitting her out. [Applause.] Mr Maimane made an accurate an accurate description of the white caucus of the DA in Cape Town. He called them amateurish and that is the description which befits the entire DA, very amateurish.

However, as the President indicated yesterday, we will protect Mr Maimane from his own party. [Applause.] He should continue

exposing them and telling them the truth and showing them the mirror that they are an irrelevant party in the South African set up. [Applause.]

Next year as the elections come, it is time for the people of South Africa to reject the DA and embrace the ANC. Thank you, so much. The ANC supports this budget. [Applause.]

Mr W HORN: Hon Chairperson, firstly allow me to thank the hon Motshekga, who for the very first time has used his time allocation as chair of the portfolio committee to highlight some of the failures, delays and weaknesses identified by the portfolio committee, PC, rather than to just try and protect the Ministry. Indeed a possible case of a regenerated spine.

Therefore Chair, allow me to add the following, which I am sure he wanted to address before his time allocation ran out. Let us start with the conviction rates expressed as a percentage of cases enrolled again quoted here today by the Minister as so-called proof of the good performance of the National Prosecuting Authority, NPA.

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And while the Deputy Minister like the Shakespearean sorcerer prospero used smoke and mirrors and selectively referred only to the minute increase in finalised matters in our regional regional court rolls, consider this: The Annual Performance Plans, APPs, of this department over the last three years show that since 2015-16, the NPA has been allowed to lower the target they set themselves in respect of cases to be finalised with a verdict in all of our lower courts for 2018-19 from 337 400 to 298 700, a decrease of roughly 39 000 cases.

Juxtapose this with the information that while 2 126 500 serious crimes were reported to the SA Police Service, SAPS, in 2015-16, this number increased by roughly 2 500, during the next financial year. So, while more crimes have been reported, the NPA is always aiming to prosecute fewer cases.

This clearly and sadly indicates how the system is in a snowballing manner failing to deliver justice to specifically those victims - the poor and the vulnerable - who by their very nature is wholly dependent on this very system to keep them safe and to bring them justice when their safety is breached. The very people Deputy Minister who are unable to mitigate their losses via insurance or self-funded litigation.

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However, colleagues, this picture becomes even grimmer if we consider the manner in which the system keeps on failing us as South Africans in respect of the cardinal role it should play to fight the plague of corruption, state capture, fraud and theft that has so nearly robbed us of our constitutional integrity and freedom.

However, given the inept and lackadaisical manner in which specifically the possible prosecution and arrest of the Guptas and one Duduzane Zuma were handled earlier this year, when these crooks fled the country while apparently being under the constant surveillance of the Hawks at the time, who acted under the guidance of the NPA at the time and who publicly just days before assured the nation that the Guptas and Mr Duduzane Zuma were not a flight risk at the time, it would seem the inflated targets regarding corruption related prosecutions are but a pipedream.

So, what must be done to turn the ship around, Chair?

Firstly, Chair, the position of the National Director of Public Prosecutions and the deputies at the NPA headquarters should be filled by people whom South Africans can trust to be

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not only competent, but also committed. The basket of deplorable made up by people like Shawn Abrahams, Nomcobo Jiba and Lawrance Mrwebi, currently at the helm of our prosecuting authority have sucked out all public confidence in the leadership of the NPA through their politically manipulated of prosecutorial decisions.

Minister, while you are very eager when it suits you to proclaim that you only have an overarching responsibility for the NPA, we know from the judgement in the Freedom Under Law case that you were prepared to dirty your hands and place your signature on an unlawful agreement with Mr Nxasana to get him to leave that office by paying him a perfidious R17 million golden handshake – a move solely motivated by your zeal to serve your former political master, Jacob Zuma.

Now, President Ramaphosa, deliverer of new dawns, protector of our Constitution, king of the walkers and shutter upper of note has asked for volunteers, people who are willing to be sent by him.

Here is a thought Minister: You can at least partially redeem yourself and for once do something of significance. Just ask

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President Ramaphosa to send you North with a note to Abrahams, Jiba and Mrwebi informing them that they should pack and leave immediately. [Applause.]

Secondly, Chair, our system and specifically our criminal justice system is under serious threat from budget cuts. This is not merely posing risks as claimed by the Deputy Minister here today it constitutes underfunding and is a real danger to the system itself.

Are we to react to this apparent new normal of an ever shrinking budget with acceptance, a mild plea to the Treasury to look into assisting the NPA and legal aid, while meekly suggesting cost-cutting measures to these role-players?

All of this while specifically legal aid who is to play a fundamental role in ensuring fairness in our system has been operating without any of the trimmings and trappings so often associated with government overindulgence since long before the word austerity was first uttered post the 2009 recession.

No Chair, what should also happen is that the Department of Justice and Correctional Services should embark on a critical

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evaluation of every position within its ranks in order to streamline its organogram to ensure that only essential positions remain. The current way of only assessing whether positions are to be deemed critical when they become vacant tells us one thing only; are still nonessential positions in their staff establishment. I thank you. [Time expired.] [Applause.]

Ms M R M MOTHAPO: Chairperson, I think it is high time that here in Parliament we introduce “Lingo 101” so that other members are able to pronounce our surnames “Motshega and Nxasana”

In 2018, as we celebrate the selfless struggle and contribution of former President Nelson Mandela and mama Albertina Sisulu and mourn the loss of dedicated fighters for freedom comrade Zola Skweyiya and the mother of our nation comrade mama Winnie Madikizela-Mandela. We must take this opportunity to emulate the values of these great leaders and intensify the revolutionary fight for equality and empowerment.

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As the ANC we have committed ourselves to a year of action to build a better South Africa for all as we focus on renewal, unity and jobs. Even before 1955, the ANC envisioned an equal society where all would be equal before the law. Equality before the law is an ideal which is contained in the Freedom Charter. Having prepared to govern in 1993, the ANC adopted a new approach into security. The ANC declared that the security institution shall respect human rights, nonracialism and democracy and act in a non discriminatory manner towards the citizenry.

In the 1994 manifesto, the ANC declared that detention without trial will be done away with. And that the system of justice will be made more accessible, cheap and fair to everyone.

In the 2018 state of the nation address President Ramaphosa spoke of the need "To reinforce a commitment to ethical behaviour and leadership, to strengthen law enforcement agencies, and to fight corruption, fraud and collusion in the public and private sector. The fight must be led by agencies such as the Special Investigating Unit, SIU, and the National Prosecuting Authority, NPA.

The NPA is critical in the proper functioning of South African criminal justice system and upholding of the rule of law. For it to play this critical role it must be independent from any external influence and manipulation and carryout its functions without fear, favour and prejudice.

Section 179 (2) of the Constitution empowers the NPA to institute criminal proceedings on behalf of the State, and to carry out the necessary functions incidental thereto. In terms of section 20(1) of the NPA Act, the powers vests in the prosecuting authority, to institute and conduct criminal proceedings on behalf of the State.

Hon Alberts, you are aware and you must be aware that in terms of this section, the NPA is the only institution to institute prosecution in this country. No any other body except where the NPA has declined to prosecute an a relevant certificate has been issued.

The mission of the NPA is to provide justice to the victims of crime by prosecuting without fear, as I have already alluded to, and by working with our partners and the public to solve and prevent crime. Understanding the importance of this institution and the

challenges it has been seized with over the years, His Excellency President Cyril Matamela Ramaphosa, in his maiden state of nation address said: "We will urgently attend to the leadership issues at the NPA to ensure that this critical institution is stabilised and able to perform its mandate unhindered".

Presumption of innocence, you know it very well. The matter of the National Director of Public Prosecutor, NDPP, is before is in the Constitutional Court and you come here and grandstand hon Breytenbach, no!

In the 2014 Election manifesto, the ANC promised that inter alia, further measures to be developed to identify and prosecute corrupt actions by public servants and others.

In the ANC NEC January 8 Statement, the President said "Anti-corruption efforts within the state must be more effectively co-ordinated and all forms of corruption must be exposed and prosecuted in both the private and public sectors". And in his state of nation address, the President said "Corruption and fraud in the private sector must be fought with the same purpose and intensity".

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As at 31st December 2017, the NPA... listen! luister! the NPA maintained good conviction rates in all court platforms, recording 87% in the High Courts, 74% in Regional Courts and 88% in District Courts.

Notwithstanding the financial constraints, we are however concerned about the suspension of the Aspirant Prosecutor Training Programme as it has a huge impact on the sustainability of the NPA prosecutorial services.

The SIU has embarked on a significant organisational review process to ensure it becomes 'the state preferred and trusted forensic and litigation agency'. In the 2018-19 financial year and over the medium term the Unit intends to improve on quality and turnaround of investigation. We hope that the organisational renewal process will not lead to joblessness on the unit but will enable it to fight maladministration and corruption more effectively and efficiently.

We were however, pleased from the unit head that arrangements are being finalised for establishing a special tribunal. Additional funding of R5million has been provided and the tribunal shall be operational by March 2015.

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Chairperson, on the issue of Adv Lawrence Mrwebi and Nomgcobo Jiba members should be aware ... especially members from the opposition that the matter is before the Supreme Court of Appeal and they know very well the sub judice rule. They just came here and grandstand. Hon Mulaudzi, NPA is still charging people. It has not stopped from charging people. It has not stopped charging people. You spoke as if it did that in the past and no longer doing that - it is still doing that. Hon Alberts, please acclimatise yourself with the prevailing South African situation. You are still live in the past. Come on board... [Time Expired.]

The MINISTER OF JUSTICE AND CORRECTIONAL SERVICES: House Chairperson and hon colleagues, I thank you for the enrichment that you have effected to this debate and in particular, I would like thank the Deputy Minister for further amplifying some of the issues that are the subject of this debate.

Let me also take this opportunity to thank the last speaker for so aptly responding to some of the issues. Given the five minutes that I have, this has made my job lighter. Perhaps continuing on that note let me respond to some of the issues that have been raised.

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The issue about low targets that hon Horn refers to is a matter that is being put without looking at the full context of the situation. You would recall that part of what we sought to do in the criminal justice system is to ensure that we introduce other methods of resolving criminal methods especially when it comes to petty crime so as not to clog the system unnecessarily. So, diversion and other measures, such as mediation to resolve disputes have been introduced. A significant number of matters have been taken off the roll, thus preventing unnecessary clogging and reducing backlog. So, I think that that aspect needs to be taken into consideration.

Let me indicate to hon Alberts that the former President, like any other person confronted with accusations of a criminal nature is entitled to exhaust their rights under the Constitution in terms of the judicial process and that is precisely what happened here. Of course when the matter came back for reconsideration by the prosecuting authority, you would agree with me that there wasn't unreasonable time spent by the NPA in finalising the decision to prosecute because as you know the *audi alteram partem* rule, for example, kicked in where the NPA afforded the former President an opportunity to make representation.

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Talking about representations, in order to review decisions of the NPA, the other prominent people who were alluding to the subject of prosecutorial decision were equally afforded such an opportunity. It is in the normal course of the criminal justice system that prosecution on the basis of a case that they believe has to be answered before a court, decides to proceed with a criminal charge do afford the accused person the opportunity even before they step at doorstep of the court the opportunity to make representations. This has been applied to all citizens who wish to take advantage of that opportunity.

Trying to score cheap points here, just because you do not like the head of the prosecution or the NPA itself is just not helpful. I would appreciate if we tried as hon members to bring here constructive proposals of how we can improve the system than resort to that. And the same thing with hon Breytenbach, maybe you should have started by reminding us of the circumstances that led to your resigning from the NPA and suddenly joining a political party and using the platform here to do much more damage by appearing to want to interfere with the work of the NPA ... [Interjection.] ... rather than focus

on strengthening ... [Applause.] ... that institution ...
[Interjection.]

The CHIEF WHIP OF THE OPPOSITION: It is Rule 85. The hon Minister is casting aspersions on the hon Breytenbach. There are many members in this House, who performed different jobs before they got here. If we want to start going through them, it might start to be a little bit embarrassing for the ANC. If he has allegations that the hon Breytenbach is damaging or acting improperly as an MP, he must bring it with a substantive motion or as the Rule say; he must write to the Speaker and point it out but he can't do it on a debate like this - cast aspersions on hon Breytenbach ... [Interjections.]

The MINIISTER OF JUSTICE AND CORRECTIONAL SERVICES: Hon House Chair, may I address you on this point because the hon Breytenbach seems to be comfortable with this? You seem to be doing a bad job in attempting to represent her. I think maybe you should do a bit of legal training, which might assist you in doing a better job in trying to represent a competent lawyer ... [Interjections.]

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The HOUSE CHAIRPERSON (Mr C T FROLICK): Hon Minister, that was a point of order and I wish rule as follows: that if there are any behaviour or information pertaining to a particular member, then it must done by a substantive motion. I want you to withdraw that remark, please! [Interjections.]

The MINIISTER OF JUSTICE AND CORRECTIONAL SERVICES: As it pleases the Chair, we withdraw. Thank you very much.

Chairperson, let me proceed to deal with few matters that have been raised here. The Public Protector, I have watched the Public Protector while disparaging remarks are being made against her. The same Rule should apply and members of the opposition should desist from abusing their position to do exactly the same thing that they want protection from. [Time expired.] Thank you.

Debate concluded.

The mini-plenary session rose at 18:24