Minister Ronald Lamola: Virtual Political overview on annual reports of Justice and Constitutional Development, Correctional Services and Office of The Chief Justice

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Political overview on the annual reports for the Departments of Justice and Constitutional Development, Correctional Services and Office of The Chief Justice by Minister Ronald Lamola (MP) delivered virtually at the Parliamentary Portfolio Committee on Justice and Correctional Services

Honourable Chairperson of the Portfolio Committee  
Honourable Members  
Senior Management of the various government departments  
Ladies and Gentlemen

I wish to thank the portfolio committee for the opportunity to provide a political overview for the Departments of Justice and Constitutional Development, Correctional Services and Office of the Chief Justice.

Honourable Members, as you are fully aware, Annual Reports provide us with an opportunity to hold up a mirror to ourselves and assess what has gone right but primarily what is at fault.

Department of Justice and Constitutional Development

Honourable Members, in the Department of Justice and Constitutional Development, performance is worryingly on a continuous decline.  This decline stems from the fact that over the past couple of years, a culture of underperformance and little accountability without consequences has entrenched itself.  Most concerning Honourable Members, the department has at times unreasonably delayed filling critical vacancies across the board.

As members have correctly pointed out, performance is not about ticking boxes, but it is about changing people’s lives.  Ours is to make the justice system more accessible and to enable as much as possible the participation of lay people.

In the second instance, it is critical to ensure that as much as possible, we have a just criminal system which enhances the respect for the courts and obedience to the law.  These are not boxes to be ticked, but real life problems.  As the Ministry, our assessment is that the administration needs to be re-engineered significantly for it to meet the expectations of South Africans and we are currently spearheading this process.

I can state that rebuilding this critical part of our administration is in progress. The department is in desperate need of renewal, we hope that upon conclusion of the Public Administration and Cabinet processes, the new Director-General will add impetus into the renewal process.

We’ve appointed the Chief Master and the DDG for Corporate Services.

The appointment of the Chief Master, and the Deputy Director General for Corporate Services have been long overdue, nonetheless, these appointments give us the opportunity to reinvigorate the Masters office and also the level of corporate services we now have gives us the opportunity to ensure that we attract the best personnel in the right places.

Having said that, Honourable Members, in our 15 000 strong workforce, there are thousands of people who are diligent and are at the fore front of making our justice system more accessible. During COVID-19, these civil servants served South Africans across 2 283 court rooms and 748 courthouses.

Sadly, some of these diligent workers have succumbed to the pandemic, from Wednesday, 25 November to Sunday, 29 November 2020 which have been declared as the fives day of national mourning, we will be paying tribute to 1 judge, 6 Magistrate, 3 Prosecutors and 17 administrative staff, whom we lost to COVID-19.

Honourable Members, having assessed the department’s performance, I have called on the Senior Management in the department to conduct a root cause analysis of the problems we see in the department.  This is also to ensure that we develop a rescue plan as recommended by this august committee.

This rescue plan will set in motion plans to address the concerns of the Portfolio Committee, Auditor General, Internal Audit Committee and Audit Committee immediately.

Furthermore Chairperson, it is absolutely critical that senior management take accountability and lead from the front in addressing the challenges.

In the root cause analysis, we have identified the following areas within senior management which needs urgent attention:

* The high levels Leadership instability
* The Lack of capacity
* Lack of proper  performance management
* Lack of decisive decision making
* No defined organisational culture leading to a culture of  non-performance
* Lack of ethical tone in the Department

The following actions will have to be undertaken by the end of the financial

Firstly, re-align the macro structure

Secondly, the implementation of corrective action and consequence management.

Thirdly, a skills audit will be conducted to assess the skills set of our middle and senior management

These three tasks are critical and must be implemented without delay.

Honourable Members, the supporting of the reconstruction of the National Prosecuting Authority, remains an on-going task.  This is ultimately the reconstruction of the state itself. Whilst we exercise political oversight over the NPA, their operations and decisions to prosecute or not, are independent from any form of political interference. The NPA should prosecute without fear, favour or prejudice.

Therefore, ensuring it has all the capacity to address all manner of ills that manifest themselves in our society is critical, this includes corruption.

We will continue to find every Rand and Cent in the system to capacitate this institution. Capacitating the NPA is an investment to not only regain confidence for the rule of law, but also to recoup all the monies which have been lost to corruption.

Honourable Members,

In the midst of extraordinary challenges and uncertainty as a result of the COVID-19 outbreak which has affected every sphere of society – political, economic, social, technological, environmental and legal.  The correctional services environment is no exception.  It is indeed a fact that COVID-19 pandemic has caused huge disruption in the way in which we live and work however we have an unprecedented opportunity to learn from the current experience and draw lessons for the future, including the design of optimal systems that enhance access and quality of services as well as cost containment.

The Department’s response to the unprecedented global health challenge of COVID-19 fully respects the rights and dignity of everyone under its care.  Thus far the Department has handled this with great aplomb with a recovery rate of well over 95%.

In so far is performance for the previous financial year is concerned, over the five-year Medium-term Strategic Framework period (2015-2020), the Department continued to use its allocated budget to deliver on its core programmes. We have reached the highest performance for the MTEF period recording 86%. This is a great improvement from the 62% in 2015/16.

The Department of Correctional Services will strive to improve its audit outcomes. We have a roadmap that we have adopted and this will result in us once for all, addressing issues of irregular expenditure. The Department is also prioritizing consequence management and a backlog of disciplinary processes is currently being attended to.

We remain committed to strengthening financial management of the department.

Overcrowding in correctional facilities is remain a challenge for the department of correctional services. This is multidimensional issue.  The causes of overcrowding are not confined to the limits of criminal justice, but extend to other spheres of State responsibility, such as social welfare policies, access to health services, education and employment, among others.  The increase in offender population continues to present unavoidable challenges of overcrowding in correctional facilities.

The inmate population for 2019/20 was recorded at 166 449 against the approved bedspace total of 120 567.  We welcomed the announcement by the President of South Africa, Mr Matamela Cyril Ramaphosa in December 2019 of the Special Remission which has led to the release of 14 647 low risk inmates into community corrections and through this process overcrowding was reduced to 28%.

 Although the Special Remission of sentence assisted in alleviating overcrowding, it is important to take cognizance of the fact that a remission of sentence is not the final solution to overcrowding management but a short-term relief.

This has indeed eased up the pressure on officials in ensuring safety and security of inmates at our correctional facilities, which led to reduction in escapes, injuries and unnatural deaths as compared to previous financial years.

The Department's multi-pronged strategy to address overcrowding is stabilising the inmate population through various interventions including the increase of available bed spaces through renovations, limited expansions and upgrading of correctional facilities, reduction of awaiting trial detainees, greater integration within the criminal justice system and progressively optimising use of legal instruments at our disposal. We have opened the Ngqamakwe and Tzaneen Correctional Centres and the special Covid-19 Parole Dispensation has also assisted us to reduce overcrowding to 15.09%.

Honourable Members, the NDP implores us to invest appropriately and build comprehensive partnerships to close the proverbial revolving door by limiting the chances of citizens relapsing into a life of crime.  The Department remains committed to reduce recidivism by ensuring that our correctional facilities are transformed into safe and secure spaces that are truly rehabilitative.

“Providing the best Correctional Services for South Africa” remains our vision therefore, the work done during the year under review was informed by the need to create an environment that would strengthen safety and security and enhance offender rehabilitation.  Our continued focus on “delivering a more sustainable and effective correctional system” is thus in keeping with the call of the Department’s vision.

Honourable Members with regards to the Office the Chief Justice,

The National Development Plan (NDP) calls for a need of a strategy to strengthen the independence of the Judiciary. The establishment of the OCJ is one of the strategies to strengthening judicial governance and the rule of law. It also seeks to address court administration inefficiencies that denude people of their right to access justice as espoused in the NDP. Chapter 14 of the NDP also provides that judicial governance concerns independency and accountability of the judicial branch of State, and encompasses issues such as administration of the courts.

The Constitution entrusts me with the responsibility to rationalise the courts with a view to establish a single judicial system that is in line with the provisions of Section 166 of the Constitution. This is a continuous responsibility that requires the Executive branch of State to work together with the Judiciary. The Department of Justice and Constitutional Development will also continue with its efforts of supporting the OCJ as it plays a critical role that displays government’s commitment to ensuring that all South Africans have the assurance that our constitutional democracy is guarded by an independent Judiciary.

The fulfilment of this vision is continuously being made possible by amongst others, the support provided by the OCJ. Measures and systems have been put in place to ensure that we continue to fulfil our mandate of supporting the Judiciary in an effective and efficient manner.

The following are some of the successes of the OCJ since its establishment:

* The provision of technical support to the Chief Justice in his international obligations in view of the Constitutional Court’s membership to the World Conference on Constitutional Justice (WCCJ) and Conference of Constitutional Jurisdictions of Africa (CCJA);
* Vacancy rate is currently at 7.2%, below the 10% target;
* Improvement in the audit outcome: unqualified audit outcome in 2016/17 and clean audit outcome in two consecutive financial years (2017/18 and 2018/19);
* The department achieved 74% of its targets in 2015/16, 90% in 2016/17, 100% in 2017/18 and 90% in 2018/19;
* The acquisition of the new office accommodation for the OCJ National Office;
* Capacitation of Judge Presidents’ offices with the support to manage court performance information (e.g. appointment of statisticians in all Superior Courts); and
* The operationalisation of the Limpopo Division of the High Court and the Mpumalanga Division of the Court as part of improving access to Justice for all.

In Conclusion, I want to assure honourable members that we have heeded their calls, there will be no room for complacency in the departments, we will hold officials accountable and turn around the departments. The era of lack of consequence management for poor performance is over. Those who are not willing to perform as required will be deal with harshly. South Africans deserve nothing but service delivery.