**UNREVISED HANSARD**

**MINI PLENARY - NATIONAL ASSEMBLY TUESDAY, 18 MAY 2021**

**VOTE NO 27 – OFFICE OF THE CHIEF JUSTICE**

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***PROCEEDINGS OF THE NATIONAL ASSEMBLY***

Members of the mini-plenary session met on the virtual platform at 16:30.

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

**ANNOUNCEMENT**

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon members, before we proceed, I would like to remind you that virtual mini-plenary is deemed to be in the precinct of Parliament and constitute a meeting of the National Assembly for the debating purposes only. In addition to the Rules of the virtual sittings, the Rules of the National Assembly including the Rules of the debate apply. Members enjoy the same powers and privileges that apply in the sitting of the National Assembly.

Members should equally note that anything that is said in the virtual platform, is deemed to have been said to the House and may be ruled upon. All members who have logged in shall be considered to be present and they are requested to mute their microphones and only unmute when you are recognised to speak. This is because the microphones are very sensitive and will pick up noise which might disturb the attention of other members.

When recognised to speak, unmute your microphone and your video. Members may make use of the icons on the bar at the bottom of their screens which has an option to allows for a member to put up his or her hand to raise a points of order. The secretariat will assist in alerting the Chairperson to members requesting to speak. When using this virtual system, members are urged to refrain and to desist from unnecessary points of order or interjections.

**APPROPRIATION BILL**

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

*Xitsonga*:

HOLOBYE WA VULULAMI NA VUKORHOKERI BYA MAKHOTSO: Ahee,

Mutshamaxitulu. Ndza khensa swinene.

*English*:

Ministers and Deputy ministers on the platform, hon members, distinguished members of the judiciary, heads of professional law body, distinguished guests, ladies and gentlemen, today I wish to table the budget of the National Department of the Office of the Chief Justice. The budget consists of

R1,211 billion for voted funds and a further R1,118 billion for judges’ remuneration, which is a direct fund to the National Revenue Fund.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon Minister.

The MINISTER OF JUSTICE AND CORRECTIONAL SERVICES: Hello.

The HOUSE CHAIRPERSON (Ms M G Boroto): My apologies to disturb you. I see Mr Swart’s hand is up, maybe he is going to talk about also what I wanted to talk about, but let me allow him first.

Mr S N SWART: Indeed, House Chair. The Minister is a shadow of his former self and we will like to see him more clearly. I am sure that is what he ... [Inaudible.] ...

The HOUSE CHAIRPERSON (Ms M G Boroto): ... yes, thank you. No, it is true. Minister, I do not know what is happening with ... your background is bright but you are just a dark figure that we can’t even see. I am not sure what is happening where you are, maybe you may be assisted. Oh! so, you will go on without the video, there is no problem. However, they can help you to

... you are very dark. If you want to proceed without the video you are also allowed to do so. Is the Minister still there? Uh, Table ...

The MINISTER OF JUSTICE AND CORRECTIONAL SERVICES:

Chairperson, I am here. On my side I can’t see how the picture looks like but I tried to remove and put some light. I don’t know if that would help.

The HOUSE CHAIRPERSON (Ms M G Boroto): No, you know, it is not. The background is so bright but where you are it is very dark. So, I don’t know. Continue.

Mr Q R DYANTYI: Hon Chair, I was to ask that he continues because we can hear him quite clear. He is very clear. We know him, he is dark, if you don’t see him ...

The HOUSE CHAIRPERSON (Ms M G Boroto): ... no, no, no, it is not about that, don’t be out of order, hon Dyantyi. Okay, continue, hon Minister. We can hear you very clearly, it is only the lighting where you are. Thank you, proceed. You may start.

The MINISTER OF JUSTICE AND CORRECTIONAL SERVICES: Thank you

Chairperson, today I wish to table the budget of the National Department of the Office of the Chief Justice. The budget consists of R1,211 billion for voted funds and a further R1,118 billion for judges’ remuneration, which is a direct fund to the National Revenue Fund. The superior court and the judicial education support are allocated 81,14% of the total allocation budget.

A budget reduction of R30 million on goods and services and payment for capital assets was already implemented on operational budget during the special Covid-19 adjustment budget. This reduction represents 8,8% of the department’s

goods and services budget, much of which is deployed towards court operations. Hon members, even though budgets across government have contracted and resources have been redirected to respond to the national Covid-19 emergencies, we have to be innovative and develop new ways of operating in order for us to keep the courts operating under the new normal.

*Xitsonga*:

Vari, vana va munhu va tsemelana nhloko ya njiya.

*English*:

Children born of the same family share the head of a locust. Hon members, this is what is happening across all the departments and the Office of the Chief Justice is no exception. We have to do with what is available. During this period of Covid-19 the department has reprioritised its budget and operations in order to ensure that the delivery of core services, that is, the support of the courts is not negatively affected. This has, however, increased operational pressures in the courts and has necessitated a dynamic approach in implementing the mandate.

In the current Medium-Term Expenditure Framework budget, the compensation of employee’s budget of the department was reduced by R263,69 million which is 14,9% and the budget of judges’ salaries was reduced by R334 238 million, which is 14,6%. The operational budget has experienced further reduction of R32 742 million, representing a further reduction of 3,4%. In spite of these difficult economic and public health complications, we are more than determined to serve our nation ... [Inaudible.] ... to deliver strongly on constitutional promise. This year our nation celebrates the 25th anniversary of the Constitution of the Republic of South Africa. The first democratically elected constitutional assembly adopted this Constitution in 1994 in this House.

The adoption of the Constitution was one of the critical milestone reached by our beautiful country and we will cherish it forever. During the adoption of this revered Constitution on08 May 1996, President Cyril Ramaphosa, in his capacity as the Chairperson of the Constitutional Assembly, as he was then, made the following defining observations, and I quote:

This Constitution with its Bill of Rights is the mirror of the South African society, it reflects both the

history from which we have emerged and the values we now cherish, human dignity, equality and freedom. It proclaims to the world that we are a society committed to democracy, to the rule of law and to the protection of human rights. It proclaimed to all South Africans; the landless, the homeless, the women, the workers and the children of this country that their basic needs and aspirations matter enough to be included in the country’s Constitution ...

He went further to state that,

... through this Constitution we hope to transform our society from one that is based on injustice and strive to one based on justice and peace.

Hon members, the celebration of the Constitution with its commitment to the rule of law and the protection of human rights will be insufficient if we do not celebrate our country’s strong and independent judiciary. We deliver justice impartially, without fear favour or prejudice. The judiciary is without a doubt the guardian of our Constitution. Our judiciary is central to ensuring that the constitutional

vision of transformative society is fulfilled. The Constitution vest judicial authority in the courts and guarantees their independence. It also compels organs of state through the necessary means; to assist and protect the courts, to ensure their independence, impartiality, dignity, accessibility and effectiveness.

The Office of the Chief Justice, OCJ, is one of the measures which the state has put in place to support our judiciary in discharging its responsibility. The judicial independence, which is foundational to the indispensable discharge of our judicial function in a constitutional democracy based on the rule of law. This independency of which structural dependence is indispensable part, is expressly proclaimed and protected and promoted by subsection 2, 3 and 4 of section 165 of the Constitution. This was said in the Constitutional Court by Judge Ackermann in the De Lange versus Smuts matter.

In line with subsection 165 of section 4 of the Constitution, the Office of the Chief Justice has continued to provide support to the judiciary to ensure effective and efficient courts administrations services despite the difficult conditions. These have been made possible by the chief justice

directives and the various measures put in place by the government in response to Covid-19 pandemic. The introduction of these measures have ensured that the courts and the public service including the Office of the Chief Justice, remained functional during this challenging period while also ensuring safety of both court users and the officials.

Hon members, the Office of the Chief Justice continues to contribute to Chapter 14 of the National Development Plan’s priority in strengthening of the judicial governance and the rule of law by providing training to the judges and aspirant judges through the SA Judicial Education Institute. Mindful of its critical role to the country’s priority and the importance of scaling up judiciary, South African Judicial Education Institute has put in place measures to mitigate the effects of Covid-19 on South African Judicial Education Institute operations. The South African Judicial Education Institute introduced online training platform, through the use of Microsoft Teams and Zoom. In addition, South African Judicial Education Institute has introduced a South African Judicial Education Institute online portal, for the easy access of training materials by judicial officers*. Ad hoc* training programmes resulting from requests from the leadership of the

judiciary based on the identified need have been implemented and as a result 123 judicial education offices for judicial officers were conducted during the period under review. The courses were attended by 3 297 delegates.

In line with the objectives of South African Judicial Education Institute, Act 14 of 2008, the institute will be working specifically for aspiring women judges in order to contribute towards transformational judicial education and training. In his state of the nation address of 11 February 2021, President Cyril Ramaphosa, reiterated government’ commitment to fighting corruption and strengthening the state. The diagnostic report of the National Development Plan, NDP, on corruption, observed that South Africa suffers high levels of corruption that undermines the rule of law and hinder development and socioeconomic transformation. This observation still finds relevance today and point to the need for a strong and independent judiciary that will adjudicate without fear or favour on matters related to corruption.

Hon members, part of the work of the Office of the Chief Justice is to provide secretarial support to the Judicial Service Commission, the JSC, ... [Inaudible.] ... Among other

responsibilities, the Judicial Service Commission secretariat co-ordinates the JSC sittings. Members will remember that during the previous ... [Inaudible.] ... April and October 2020, were postponed to the current financial year due to Covid-19 lockdown restrictions. The Office of the Chief Justice through the Judicial Service Commission secretariat recently organised an extended hybrid sitting, a physical and virtual sitting on which the candidates for the vacant judicial position in various superior courts were interviewed.

The support provided to the Judicial Service Commission in this regard ensured that it keeps ... [Inaudible.] ... to its mandate and to ensure that the judicial vacancies in the courts are filled by competent judicial officers. It also contributes to the transformation agenda of the judiciary. The appointments ... [Inaudible.] ... to the President to effect the appointments of the last Judicial Service Commission sitting. Hon Chairperson, the modernisation of the courts and the digital transformation remain crucial for improving service delivery. The Covid-19 pandemic has necessitated that the Office of the Chief Justice moves with speed to leverage digital platforms and make digital transformation a reality in the courts.

The Office of the Chief Justice has partially implemented the courts online system in the Gauteng division of the high court case line as a stand-alone solution evidence management was successfully piloted at these courts at this division. The court online system is an advanced cloud-based collaboration that is aimed at providing a platform to legal practitioners or litigants to file documents to the court electronically, e- filing, over the internet. The Office of the Chief Justice aims to continue the roll out of these electronic platforms to other service enters during the Medium-Term Strategic Framework period in order to contribute to the government role of broadening access to justice. Hon members, the importance of the judiciary cannot be over emphasised if our democracy is to continue to flourish. It is the judiciary that ensures that our celebrated Constitution is upheld and protected.

Allow me to close with a quote from former Chief Justice, Arthur Chaskalson, when he addressed the Cape law society in 2012, on the importance of an independent judiciary, he said, and I quote;

The supremacy of the Constitution and the rule of law requires everybody in our country, including Parliament

and the executive to obey the law, to respect and uphold the provisions of the Constitution. Our Constitution is explicit about these obligations. The courts are mandated to be the guardians of the Constitution. This is the role of our courts in a constitutional democracy. This is in line with modern democratic theory which recognise that respect for fundamental rights and the rule of law are essential components of a democratic system of government.

For our part as the executive, we are doing all we can through the Office of the Chief Justice and other avenues to support and promote a robust judiciary that delivers with uplomb on the constitutional promises and uncompromising rule of law. We call on this House to stand with us on this mission.

Chairperson and hon members, I therefore present the 2020-21 Budget Vote 27 of the Office of the Chief Justice for your support and approval.

As I step off the podium, allow me to convey our profound gratitude to the chairperson of the portfolio committee and his entire committee for their continued support and guidance. Allow me to extend a word of appreciation to the Chief justice

of the Republic of South Africa; Chief Justice Mogoeng Mogoeng, as he retires in October 2021, for his altitude leadership of the judiciary and wish him well for the future. We hope Parliament will accede to the request that we have made with regards to this end of term of the Chief Justice. I acknowledge the Acting Chief Justice, Raymond Zondo, for the work he continues to do as the Chairperson of the Judicial Commission of Inquiry into allegations of state capture. May I also recognise the Acting Deputy Chief Justice; Sisi Khampepe, President of the Supreme Court of Appeal, Justice Mandisa Maya, the heads of courts and the Chairperson of the Magistrates Commission; Deputy Judge President Ledwaba, and all members of our judiciary for their continued services to the people of South Africa. The oversight role played by the Office of the Chief Justice audit and risk committee should also be acknowledged. Lastly, but not least, I thank the secretary general of the Office of the Chief Justice, Ms Memme Sejosengwe, the management team of the Office of the Chief Justice and the staff for their tireless efforts in serving the people of South Africa.

*Xitsong*a:

Ha khensa, Mutshamaxitulu.

*English*:

Thank you very much.

*Xitsonga*:

MUTSHAMAXITULU WA YINDLU (Man M G Boroto): Ndza khensa, Muchaviseki.

Mr G MAGWANISHE: Hon Chairperson and hon members, let me start by also agreeing with the Minister to wish our Chief Justice well into his retirement. The functioning justice system is one of the glues that keep society together. Its integrity must be beyond reproach. Therefore, the committee believes that the decision to implement budget cuts should be fit for purpose.

In the case of the Office of the Chief Justice it should not be forgotten that the rule of law support healthy economies and allows people to feel safe. As the Office of the Chief Justice is labour intensive to the salary’s budget should be likely negatively affect the delivery of court services, compromising the right of users of our courts to access to justice.

Also, the cuts may undermine judicial function. This failure to adequately resource the judiciary could be regarded as undermining judicial independence.

The committee is concerned that the case backlogs may eventually overwhelm the legal system, undermine the right of access to justice. Although there is a plan to address the backlogs, warm bodies are needed for this.

Given the cuts to salaries, the committee is unclear how it will be possible to realise the plan, but we will continue to closely monitor the situation.

The COVID-19 pandemic has provided increase impetus to the court modernisation projects that will result in a more effective and efficient court system. The information and communication technology, ICT, strategic plan provides the technology road map to automate, digitise, and transform the delivery of services.

However, the committee is extremely concerned that the lack of funds may undermine the roll out of these important modernisation projects.

The committee trust that the Office of the Chief Justice will not be required to fund the Land Courts from its existing budget baseline. The committee will further engage on the resourcing of the court when it considers the Land Court Bill.

Although the Office of the Chief Justice did not achieve the representation targets of 50% females, at senior management level, SMS, and 2% for people with disabilities, the committee welcomes the reaching of these targets by making use of various targeted strategies. Again, the committee will regularly continue to monitor progress.

The committee wishes to thank the Office of the Chief Justice for facilitating the meeting between it and the judiciary. The committee undertook to engage with the Minister on a number of matters discussed and will arrange a meeting as soon as its programme permits.

The committee having considered the Office of the Chief Justice, Annual Performance Plan 2021-22, supports these and recommends that the National Assembly approves them. The committee having considered Budget Vote No 27 – Office of the

Chief Justice and Judicial Administration, supports this Vote and recommends that it be approved. I thank you, Chairperson.

Adv G BREYTENBACH: Hon House Chair and hon members, the Office of the Chief Justice and Judicial Administration was allocated its first Budget Vote from 1 April 2015. The transfer and administrative functions and identified staff attached to superior courts from the Department of Justice and from the Office of the Chief Justice, OCJ, commenced in October 2014.

The department has continued to support the administration of the Magistrate Courts. Significant gains have been achieved by this office. The management of its budget continues to be well received by the Auditor-General.

In dealing with the CVOVID-19 pandemic some notable successes were achieved, but the growing backlog in the court rolls cannot be ignored, as is the case with dwindling court hours. Significantly the Constitution’s 17th Amendment Act designated the Chief Justice as the head of the judiciary, whose responsibility of the establishment and monitoring of the norms and standards of the exercise of the judicial functions of all courts. This responsibility includes over presiding

over the Judicial Services Commission responsible for appointing judges and safeguarding the integrity of the judiciary and unfortunately in the current prevailing circumstances the discussion on the judicial integrity is unavoidable.

Despite the fact that our judiciary has been a shining light in difficult times and has justifiably earned the respect of most South Africans.

Explosives allegations of corruption were made in February at the Zondo Commission of Enquiry by the Acting State Security Agency, SSA Director-General, Loyiso Jafta, who told the Deputy Chief Justice Raymond Zondo that while allegations have not been levelled at a particular judge bribes were allegedly paid in order to influence judges in favour of President Zuma.

Our Constitution provides that courts are independent and subject only to the Constitution and the law which must be applied impartially and without fear, favour or prejudice. The Bangalore principles which provides the international best practice standards for judicial conduct require that judges

exercise their functions free of any extraneous influences in using of pressures, stress or interference.

It is surely impossible for a judge to act, consistent with these requirements if they have received money from the SSA. These allegations turned out and go out on spotlight on to the possibility of corruption on the judiciary. There has never been any definite evidence of corruption by judges, but the allegations made at the commission would be harmful for public confidence in the judiciary.

The evidence of Sidney Mofamadi concerning the so-called “Project Justice.” allegedly obtained millions of rand to members of the judiciary has not help this perception. The most recent millions of rand in cash handed to David Mahlobo for honoured passage to members of the judiciary have underlined this very serious potential risk.

Unfortunately, the process of the JSE in this regard are noted only for their glacial pace taking 20 years to deal with the Mothata matter and over 12 years to deal with Judge President Hlophe and that matter is far from over. Any allegations of these serious nature must be investigated. However, this is

not ideal to involve judges in these investigations as the appearance of the judiciary investigating themselves will not inspire confidence.

The process of the Judicial Commission of Enquiry appears to be the most appropriate cause of action, but serious consequences as in the form of prosecutions by the National Prosecuting Authority, NPA, should the findings warrant it.

An independent commission headed by credible legal professionals that could include the retired judge is urgent and necessary to ensure that the judiciary is not permanently stained by allegations being made.

In demonstrating that the Judicial Service Commission, JSC, is capable of acting against judges when their conduct falls short of the mark, the JSC announced two recommendations for suspensions for complains of gross misconduct some time ago.

It has been recommended that President Ramaphosa suspends Judges, Parker and Makhubele, pending the outcomes of their hearings by the Judicial Conduct Tribunal. If they are suspended, they will be the first suspensions on gross misconduct claims in the South African history since 1994.

While the conduct of both is serious and falls woefully short of conduct from judges, neither can hold a candle to the Western Cape Judge President John Hlophe when it comes to serious bridges of conduct. Hlophe has recently accused the judiciary of being sucked in politics, battling to deal with transformation and allowing apartheid era judges to dominate the narrative. Tellingly after he had been found guilty of gross misconduct by the Judicial Service Commission Tribunal, JSCT. One suspect that his disenchantment for South Africa system of law arises instead from the fact that after 14 years of serious complains, the legal system has finally find him guilty of gross misconduct.

Recently the Judicial Conduct Tribunal found that Hlophe attempted to improperly Justice Bess Nkabinde and Justice Chris Jafta in a pending case before the court at the time regarding President Jacob Zuma. The tribunal ruled out that Justice Hlophe is a classic example of a judge sucked in politics, has bridged section 165 of the Constitution in that he attempted to improperly influence the two justices of the Constitutional Court to violate their oath of office. The truly remarkable aspect of Judge Hlophe’s case is that despite the tribunal’s findings the Judicial Services Commission

supposedly regarding on the integrity of the South African judicial system has consistently refused to recommend the suspension and also were permitted him to participate in the deliberations of the appointment of judges in the Western Cape High Court.

That Judge President Hlophe has allocated to himself a Public Protector’s challenge to the constitutionality of an enquiry into a fitness to hold office is evidence of his nontialising to the face of the judicial crises. Until this very pressing issues are resolved the dark cloud will continue to harbour every day judiciary and the public’s perception thereof.

The Chief Justice has now embarked on his own sabbatical and will not return to his office when his term ends in October. Whoever is chosen to fill that position should take cognisance of these important issues and deal with them as quickly as possible or the Office of the Chief Justice will invariably continue to suffer from a serious perceived lack of credibility. I thank you.

Ms Y N YAKO: Chairperson when all as firms in a society such as ours, when the features that separate is widen it is the

judiciary that must stay unbending in its commitment to the truth and to justice. When a time comes in which society questions sometimes was refreshingly our society is organising philosophy which are sustain and perpetuated the colonial and party legacy for appreciation and exploitation.

The judiciary must refuse to be used as an instrument of cults exploitation and race oppression. The time has arrived in South Africa and the Office of the Chief Justice all to stand ahead on shoulders above everyone else and reject all attempts to capture the judiciary.

The courts are the last line of defence for the people of this country who faced a bleach future because of leaders who have no interest in the development of this country but to obsessed in making money for themselves and their families.

When the people of the country rise up to challenge this despotic and corrupt tendencies, the courts must never seek to close rank with the rich and powerful at the expense of the truth. There are worrying signs that our judiciary is far getting absorbed in attempting to avert the Constitution for nefarious reasons.

The judgements of the court seem to have eyes and ears; they seem to have preferences. That is why now is okay for justice to seal documents that may reveal corrupt deal of those in power and we are recurring to be okay with this.

Today it is okay for judges to change the jurisprudence when it comes to how was the actions of the Public Protector. When the previous Public Protector reeled rightfully so against the corrupt elements of the Zuma administration, the courts were too eager to affirm her powers.

When the current Public Protector goes rightfully so for the corrupt and destabilising elements in the Ramaphosa administration, she gets slept with the fabulous personal cost order for simply doing her job.

The judiciary must do serious introspection about the roles it plays in a society and whether this role enhances a stature amongst our people. Let’s say we’re very supportive of the role played by the Office of the Chief Justice and we would like to see this office deepening its functions particularly on areas relating to the training of judges.

Further, we applaud the work done by the Office of the Chief Justice. We are not quite pleased with time it takes to some of the vacancies though in our courts, the Constitutional Court included.

To preserve jurisdiction coherence, the Constitutional Court must have the judges of all the Constitutional Court appointed permanently and where vacancies occurred it must never take more than a year to fill those vacancies. For this reason, we must introduce measures to strengthen the Judicial Service Commission to ensure the adequacy and speedy filling of vacancies. For these reasons we must introduce measures to strengthen the Judicial Service Commission to ensure that adequate and speedy filling of judicial service. The training of judges and the quality of transformation judiciary beyond numbers and demography.

We are pleased with the recent round of Judiciary Service Commission, JSC, interviews and the recommendations that the JSC has made for appointment to various courts around the country.

We have also emphatically asked the Office of the Chief Justice to be more hands on in the supervision of the lower courts too, particularly to the magistrate courts. It is at the level of the lower courts that most injustices happened where actually most of the people are kept in jail without trial where the magistrate act with impunity in cohorts with local government officials.

This supervision of the lower courts must essential include making sure that working conditions at these courts are improved.

The Lusikisiki Magistrate Court, for instance, is a container with no air conditioning and no equipment for recording in the court. We cannot expect justice when the magistrates and the prosecutors are working in conditions such as those. To this end perhaps it is the right time to speak about whether the appointment of magistrate should not be done in the same way as that of judges in order to guide until last time security to magistrate the same way is done by judges.

So to conclude, since this is the last Budget Vote debate the Chief Justice Mogoeng as a Chief Justice of the Constitutional

Court, we would like to thanks Justice Mogoeng for the role he has played over the last couple of years. We thank him for his bravery, for clarity of mind and his refusal to be captured by the dominant faction in the society.

As you are planning your retirement in October this year, do so with the full confidence that many of us do appreciate you. So, the EFF does support this Budget Vote. Thank you.

Prof C T MSIMANG: Hon House Chair and hon members, the critical role of the Office of the Chief Justice in our democracy cannot be overstated. This critical role is ... This is why the baseline reduction funds allocated to the Office of the Chief Justice is concerning as it will negatively affect its capacity to sufficiently resource courts in terms of personnel, equipment and information and communications ... infrastructure. Further, the reduction compromises judicial functions, the court modernisation process and the constitutional right to access justice, by reducing the number of circuit courts, among other necessary functions.

The IFP notes with disappointment the developments at the Mpumalanga High Court over and above the expense and the

lengthy time period it took to complete and open the court. It is now apparent that the court continues to be a financial problem. Only four of the intended eight courts were built at double the price with structural defects. The funds to remedy these structural defects will affect service delivery, both at that court and at others. The IFP wishes to caution government departments when engaging with service providers that inflate their prices. It is concerning that the Office of the Chief Justice, the buttress of our Constitution, did not consider this more fully.

The IFP is also concerned about the impact of the budget cuts on the establishment and functioning of the new Land Court.

The Portfolio Committee on Justice was advised that one of the more pressing issues at the Office of the Chief Justice is staffing. The budget cuts make it almost impossible to hire the needed personnel, particularly when the Department of Justice is already tremendously understaffed. If the Land Court takes off, the IFP is worried that substandard work might become the order of the day because of the lack of staff, considering also that staff members at present are terribly overburdened.

The IFP notes that the Office of the Chief Justice intended to keep vacancies and funded posts under 10%. However, with the budget cuts it now seems unlikely that this will be possible. Will this not affect the right of access to courts and the right to have one’s matter heard timeously? Further, will the budget cuts not result in the loss of employment for staff members to ensure that the Office of the Chief Justice remains within budget?

The IFP worries that this critical office will be crippled by a lack of adequate funds, leading to the miscarriage of justice for many, as well as opening loopholes for corruption to take place. The IFP supports the budget. Thank you, hon House Chair.

Mr F J MULDER: Hon House Chairperson, although the Office of the Chief Justice is primarily established to support the Chief Justice and the administration of superior courts, the Constitution’s 17th Amendment Act designated the Chief Justice as head of the judiciary with responsibility over the establishment and monitoring of norms and standards for the exercise of judicial functions of all courts.

Case backlogs in High Courts are a big concern and pose a threat to our judicial system. The crisis has highlighted just how inefficient court processes are and the extreme need to modernise and digitise courts. Proposed budget cuts that will further affect the compensation of employees’ budgets of all departments in particular, are likely to see the case backlogs increase even further.

The committee noted that the lack of progress regarding the finalisation of a court administration model that will see the transfer of functions presently still undertaken by the Department of Justice and Constitutional Development such as security services at courts, to the Office of the Chief Justice. The mere fact that the compensation of employees’ budget will be seriously affected by the proposed budget reductions will mean, amongst others, that positions will not be filled.

The reductions will not only contribute to further case backlogs but will most certainly compromise the Office of the Chief Justice’s ability to provide support to the Chief Justice himself.

The FF Plus welcomes the clean audit opinion, noting the Auditor-General and audit committee’s comments on the high standard of governance at the Office of the Chief Justice, but on the other hand, we note human resources as being an area of weakness.

The fully fledged specialist court envisaged by the Land Court Bill with the judge president and more judges to adjudicate on land claims cases will be a recipe for disaster if it does not have enough resources at its disposal to support the Land Court. A preferred model should be finalised for judicial accountability on court performance.

The planned transfer of more functions from the Department of Justice and Constitutional Development to the Office of the Chief Justice and court administration should be put on hold till the office has been adequately equipped.

The FF Plus welcomes the fact that mention is made that Parliament has received a complaint from the council for the advancement of the Constitution relating to the conduct of Members of Parliament representing Parliament on the Judicial Services Council and whether such members can make comments

that may be seen to undermine the independence of the judiciary. This unfortunate occurrence should be investigated.

*Afrikaans:*

Die VF Plus wil verder die Hoofregter ’n welkome en geseënde aftrede toewens en kan hierdie begroting nie ondersteun nie. Dankie Huisvoorsitter.

The DEPUTY MINISTER OF JUSTICE AND CORRECTIONAL SERVICES RESPONSIBLE FOR JUSTICE AND CONSTITUTIONAL DEVELOPMENT (Mr J J

Jeffery): Hon House Chairperson, hon Minister and hon Deputy Ministers, hon members, members of the judiciary who may be watching on this virtual platform as well, friends.

Our courts are often seen as the last bastion of people’s rights and freedoms. Our courts act as the very buttress of a constitutional democracy. If our courts work, democracy works. If people have confidence in the judicial system, they have confidence in democracy.

But our courts are not only a shield to protect people’s rights and freedoms, they are also an embodiment of Lady Justice who, blindfolded, with sword and scales, has to fend

off what is bad, has to protect human rights, bring about equality and fairness and apply the law without fear, favour or prejudice.

As we celebrate the 25th anniversary of our 1996 Constitution, the independence of the judiciary and the institutional prominence of our courts lie at the very core of our constitutional dispensation.

Our courts are there to serve the people and to ensure that justice is, as the famous saying goes, not only done, but manifestly seen to be done.

At the very heart of our Constitution lays its transformative nature and the deep commitment to bring about change in our country. As former Chief Justice, Pius Langa, said:

This is a magnificent goal for a Constitution: to heal the wounds of the past and guide us to a better future. For me, this is the core idea of transformative constitutionalism: that we must change.

Our courts are often at the forefront of these changes.

The Office of the Chief Justice was established as a government department separate to the Department of Justice and Constitutional Development to, amongst others, support the Chief Justice in executing his or her administrative and judicial powers and duties as Head of the Judiciary. In doing so it assists with developing policy, norms and standards and supporting the judicial functions of the Superior Courts. It supports the Judicial Services Commission and the South African Judicial Education Institute in the execution of their mandates and administers the Judges’ Remuneration and Conditions of Employment Act.

The Office of the Chief Justice is responsible for running the Superior Courts, the High Courts, the Supreme Court of Appeal and the Constitutional Court as well as specialized courts such as the Labour Courts.

The Office of the Chief Justice further contributes to a capable, ethical and developmental state by, amongst others, providing effective and efficient administrative support, and improved court efficiency.

If COVID-19 has taught us anything, it has taught us that we need to adapt and that the justice system needs to be responsive to the needs of society.

As the Minister has indicated, the Office of the Chief Justice has partially implemented the Court Online system in the Gauteng Division of the High Court with Caselines being successfully piloted in those courts.

The Court Online system provides a platform which allows for the electronic filing of documents. The Office of the Chief Justice aims to continue the rollout of this electronic platform during the Medium-Term Strategic Framework period.

Our courts have to continue to function regardless of circumstances; they are essential services. They need to hear criminal matters so that remand detainees who are found not guilty can be released from custody; to deal with civil disputes; to issue protection orders and to deal with urgent matters.

COVID-19 has forced us to move faster into the electronic communications age. An excellent example of what can be

achieved, albeit at a Magistrates Court level, is a recent case in the Kimberley Children’s Court. Initially, the matter was heard in the presence of all parties in the court room, but due to many parties being involved and the costs involved, the presiding officer issued directives for the matter to be heard virtually. And the Department of Justice, because it was a magistrate’s matter, immediately offered support and set up a court room with monitors, data connections, cameras and so forth.

The matter was conducted with the presiding Chief Magistrate, the legal aid practitioner and the Clerk of the Court in the physical and transformed virtual courtroom, one attorney was with his clients in Benoni, one attorney was with his clients and their counsel in Kathu, about 280km from Kimberley, and another attorney was with his clients in his offices in Kimberley. About three witnesses gave evidence from Bloemfontein and then the parties in Kathu and Benoni. We need to follow exemplary cases such as this.

We have to simply do more things virtually. There is already a provision in the Criminal Procedure Act which allows witnesses to give evidence by way of electronic means. But these

provisions in the Act come from a time when we didn’t have

virtual or online communications capabilities.

So apart from the witness testifying rooms in sexual offences courts, this is rarely used. This must change. One can just imagine how much time and expense will be saved if expert witnesses could give evidence remotely from their offices, it would save both time and money.

The section which allows for electronic testimony is quite wide, so it would need to be experimented with and tried out in different scenarios to see if it works efficiently.

There is currently no such provision to allow for electronic evidence in civil and family law matters.

Provision has been made for this in the COVID-19 Court Directions but this only applies during the National State of Disaster. It is being used by Magistrates in civil, maintenance and family law matters. We need to put this provision into our law permanently.

For this purpose, we currently preparing a Judicial Matters Amendment Bill to allow for a new chapter to be inserted in the Magistrates’ Courts Act to provide for electronic proceedings in respect of civil matters.

It aims to provide for an electronic proceedings management system and for filing, issuing, accessing, as well as the service delivery or discovery of documents by means of electronic communications services. It will allow for the conduct of court proceedings by means of electronic communications services.

To further bring our courts fully into the digital age, the Rules Board for Courts of Law has considered that the benefits of technology should be utilized and incorporated into the civil justice system to improve the efficiency of our courts and enhance access to justice for users of the civil justice system.

The Rules Board established a Task Team in 2018 to make recommendations on the amendment of the rules of the Superior Courts and the Magistrates’ Courts to facilitate the use of electronic systems and to recommend new rules where necessary.

The Rules Board has drafted its new e-Rules proposal to regulate the processes relating to filing and service of pleadings and documents and the hearing of cases, electronically. These new draft e-Rules and amendments to the Uniform and Magistrates’ courts rules for the electronic Civil Justice System were recently published for public comment.

These Rules will bring about transformation from paper-based and face-to-face court procedures to an electronic system in civil cases. Legal practitioners will be registered as users of the E-Justice system and unrepresented litigants have the choice to register as users as well.

It’s important to highlight that unrepresented litigants who are not registered due to device, data and/or skills constraints, will be assisted by a service desk to scan and upload documents at service points at courts.

The National Development Plan, NDP, envisages a South Africa where people feel safe and enjoy a life free of crime.

Achieving this requires a well-functioning criminal justice system. Yet all of us face the daily challenges of lengthy court processes, case backlogs, overcrowding in correctional

facilities and recidivism which continue to confront the criminal justice system.

There are many different role-players and stakeholders in the criminal justice chain, they are all vital to ensure that our criminal courts function, be it the National Prosecuting Authority, NPA, legal practitioners, Legal Aid SA, the court staff, court orderlies from the SA Police Service, SAPS, the Department of Correctional Services which house and transport detainees, and the Department of Social Development, which provides probation officers.

There are judicial functions and administrative functions. The Constitution contains very specific roles for both the Chief Justice and the Minister of Justice respectively. The Chief Justice is the head of the judiciary and exercises responsibility over the judicial functions of all courts. The Cabinet member responsible for the administration of justice may, amongst others, appoint acting judges to other courts after consulting the senior judge of the court on which the acting judge will serve and exercises final responsibility over the prosecuting authority. The Minister and the Chief Justice have a shared role to play in court administration.

We must highlight the importance of multi-stakeholder engagements to ensure that we have our courts functioning optimally.

From the side of government and specifically our department, we must strengthen and support our courts and whether this means being the link between the judiciary and, for example, the Department of Public Works when it comes to problems with infrastructure or, for example, the interface between the judiciary and the SA Police Service, we need to be the vehicle that ensures that the judiciary and the courts get the support they need from other departments and institutions.

The Chief Justice has set norms and standards for the exercise of all judicial functions in courts. With regard to court hours, we often see a discrepancy in court hours, with many courts not meeting the required 4,5 hours of sitting per day. These delays and/or backlogs are caused by a number of factors.

The Office of the Chief Justice recently presented a detailed breakdown of factors and causes leading to backlogs in Regional Courts. In most cases, 12%, it was the accused person

causing the delay, and another 12% was the prosecution. Private legal practitioners and Legal Aid SA were both stated as the cause in 11% of the cases, and witnesses’ non- availability 10%. What this means, in short, is we need to work together to ensure that the blockages in the system are unblocked.

The Medium-Term Strategic Framework identifies the need to develop a unified approach between the three arms of sate to fast-track various outcomes. We are, therefore, preparing a social compact within the context of fostering and strengthening the constitutional relationship between the three branches of state namely: The executive, legislature, and judiciary, underpinned by the doctrine of the separation of powers, the independence of the Judiciary and the Rule of Law.

The purpose and objectives are to strengthen the working relationship of the three branches of state through the development of a social compact suited to the three branches so as to give effect to the National Development Plan’s vision of building a capable, ethical and developmental state.

The Medium-Term Strategic Framework has identified the Department of Justice and Constitutional Development as the lead department, with the Presidency and the Department of Monitoring and Evaluation as contributing and supporting the process. It is envisaged that the Discussion Paper will be submitted to Cabinet for approval by the end of this year.

COVID-19 has revealed one critical thing about our society. Efficiency in the justice system is non-negotiable. The only way to achieve this is to ensure maximum stakeholder

co-operation, the users of our courts deserve no less. Thank you.

Mr S N SWART: Thank you House Chair, the OCJ, Office of the Chief Justice was allocated R2,33 billion in the present financial year down by R144 million from last year.

Now, we in the ACDP understand the need for the budget cuts but share the Justice Committee’s concerns about the one size fits all approach adopted by National Treasury. Fiscal policy targets the reduction of the Public Sector Wage Bill and this puts the departments that are labour intensive such as the OCJ in an extremely difficult position.

The failure to adequately the resource the judiciary can be regarded as undermining the judiciary independence and that should also not be forgotten that the rule of law supports healthy growing economies and should allow people to feel safe.

The OCJ raised a number of challenges it faces with the operation of the courts and access to justice. These remain in the impact of Covid-19 and the budgetary cuts. These challenges should be read with those mentioned by the Chief Justice in the judiciary’s annual report which include the absence of full blown court modernisation, the absence of rulemaking authority and the absence of the judiciary led independent court administration.

The Committee’s interaction directly with the judiciary was helpful and should be courage to find some solutions to these issues. The ACDP share this concerns of the huge workload in our courts. This is reflected in an increased number of backlog cases as a result of courts having to limit matters being heard on account of Covid-19.

The focus on addressing backlogs limits the ability to hear new matters which creates a snowball effect. With the fear as expressed by previous speakers is that case backlogs may eventually overwhelm the whole legal system.

Chairperson, for the first time virtual court hearings took place, [Inaudible.] courts fairly well but not so with trial courts which constitutes the major part of the court system.

In this regard the ACDP supports the Deputy Minister in his [Inaudible.] holding virtual trials in court including at a magisterial level and we look forward to legislative and rule amendments in this regard.

The ACDP is also pleased to see the judiciary at last dealing decisively with delinquency amongst its ranks. This week’s decision by Deputy Chief Justice Raymond Zondo, Chair of the Judicial Conduct Committee to refer judges [Inaudible.] charges of gross misconduct is to be welcomed.

Lastly, the ACDP would like to thank Chief Justice Mogoeng for his many years on the bench and wishes him well when he retires later this year. We also thank all those in the OCJ

and the judiciary and [Inaudible.] have sworn to ensure access to justice. I thank you.

Ms N H MASEKO-JELE: Hon Chairperson, members of the executive, members of the House good afternoon. Indeed, this year we mark a 20th anniversary of our much celebrated Constitution. Our Constitution is one of the most progressive in the world and enjoyed eacclaimed internationally. The Constitution was adopted to amongst others through the divisions of the past and gave us new and common identity. It is founded on human dignity.

The achievement of equality and the advancement of human rights and freedom. It is founded on a non-racial, non-sexism and the supremacy of the Constitution.

Constitution and constitutionalism go hand in hand with human rights. Chapter 2 of our Constitution contains the Bill of Rights which is the cornerstone of our democracy. It enshrines the rights of all people in South Africa and affirms the democratic values of human dignity, equality and freedom.

The Constitution additionally imposes a positive duty on the state of respect, protect, promote and fulfil the rights in Bill of Rights.

Section 39 prescribes that everyone has the right to have any dispute that can be resolved by the application of law decided by the third public hearing before the court. The Bill of Rights binds Parliament, the executive, judiciary and all organs of the state.

Chairperson, even before the adverse of democracy, the ANC declared that the Bill of Rights will be enforced by the courts headed by a separate newly created Constitutional Court which would have the task of upholding the fundamental rights and freedom of all citizens against the state.

Anybody or person seeking to deny those rights, we declare that the judiciary should be independent and would consist of men and women drawn from all sectors of the community on the basis that their integrity skills, life experience and wisdom.

Twenty-five years later, we have witnessed the Constitution being interpreted and enforced by our courts. We appreciate

the progressive Jurisprudence that has been developed by the courts both in the lower and superior courts. This contributes to our vibrant democracy.

The mandate of the office of the Chief Justice is to provide effective administrative and technical support to the Chief Justice as the head of the judiciary and the constitutional court as it was mentioned. The OCJ, Office of the Chief Justice, was established as a major to promote and reaffirm the principle of judicial independence as guaranteed by section 165 of the Constitution.

As aforementioned, section 34 of the Constitution guarantees access to courts and other independent tribunals or forums. Less ordinary people have access to courts and other independent forums or tribunals to raise their disputes. The vision of a society based on rule of law as envisaged by the Constitution will not be realised. The right to effective legal representation is an indispensable component of access to justice

It is an undeniable fact that legal services are inaccessible to most South Africans, particularly the poor and vulnerable

groups in society. It is therefore for this reason why Legal Aid South Africa exists. To protect human rights and promote justice in society.

Chairperson, South Africa remains one of the most unequal society in the world with a highly skewed income distribution. The gap between the rich and poor widens and inequality deepens each year. Access to justice is constrained by the triple challenge of poverty, unemployment and [Inaudible.]

Even in our courts which has increased the backlog of cases.

We do not wish to see the legal system overwhelmed. The right to access to justice undermined. Justice delayed is justice denied. It is vital to ensure that courts have sufficient even additional capacity in the form of warm bodies in order to efficiently deliver court services in line with the standards and the court’s rules.

Chairperson, it is often said that: “Every disaster is an opportunity.” The new normal as the result of the Covid-19 pandemic has created a putsch on the modernisation projects that were being piloted before the lockdown. The OCJ has

continued to deliver services utilising technology mainly for conducting court hearings, conducting judicial education and training, training of officials as well as convening meetings.

It was reported that in 2020/21 the intention is to continue along the tragedian, continuing to make use of court online and improving ICT and infrastructure so that it can respond to business needs.

The focus in 2021/22 will also be on modernising OCJ, ICT network, cope with the increased demand of data transmission and implementation of court modernisation systems.

With the Fourth Industrial Revolution upon us, the need for court online cannot be[Inaudible.] Chairperson, in the 52nd national conference on the issues of transformation the judiciary the [Inaudible]the ANC resolved [Inaudible.] suite, appropriate mechanism [Inaudible.]be urgently established to pursue officials who are steeped in and ... [Inaudible.]... even during the Covid-19 [Inaudible.] South African key priority of the OCJ. [Inaudible.]

Mr W HORN: Thank you House Chairperson, thank you, House Chairperson. Can you hear me? Thank you ... [Inaudible.] ... as I have alluded to our Constitution 10, 25 years of age.

Now, House Chair, the adoption of this Constitution was indeed a defining moment. A moment in which we as a country broke

decisively with our past, by adopting a supreme law which promised us that going forward we would all be equal before

the law. To ensure that our rights and freedoms as promised by the Bill of Rights, were to be realised, we have of course

chose being trust the judiciary with the only important task

of determining when called upon where there is any exercise of public power is in breach of our Constitution or not.

Now House Chair, to be successful in fulfilling this duty. It

was always going to be vitally important that we be served by a judiciary which itself was to be subject only to the

Constitution and the law. It truly independent judiciary as

explicitly demanded by our Constitution.

House Chair, as others have pointed out, a number of additional measures were introduced over the years to support this independent. This department, the Office of the Chief Justice, was removed from the Department of Justice in this

regard and in respect of this budget, it remains our serious concern that the budget reallocation to the judiciary has also been adversely affected by the same political choices of this government. The decision to persist with the continuous and repetitive bailout of dysfunctional state owned-entities like

South African Airways, SAA, even in the face of a fiscal cliff, has had a very real and very negative impact on the

ability of the government to appropriate a suitable budget to the Office of the Chief Justice, OCJ this year.

The administration of the OCJ is to be commended for the way it looks, after the funds entrusted to it. The fact that it

will not be able to optimally support the judiciary this year, is it because of no fault of its own.

Now House Chair, while this issue alone has the potential to

undermine and erode the credibility and the independence of

the judiciary. The time has also come to address the more serious ways in which the judiciary is being undermined at the moment. When our constitution was adopted, and in order to break with our authoritarian past, a past in which the Minister of Justice had an unfettered authority to appoint judges. A Judicial Services Commission was established,

tasked, amongst other things, with interviewing and nominated a suitable candidate for appointment as judges. Now the manner in which these interviews as of late deteriorated, is unacceptable in a country that professes to embrace equality and non-discrimination, and claims to have conclusively broken

with our racially divided and oppressive past.

The question must be asked how can we claim to be a country committed to never repeat the mistakes of the past. If some

members of the JSC attempt to and are allowed to target white

and Indian applicants with questions, and it’s illustrating that these candidates should not be considered for appointment

merely because they are white or Indian. The same with candidate with promised specific cultural and religious

backgrounds.

Now, House Chair a further measure to ensure the independence

of the judiciary was the fact that, the JSE was entrusted with the enforcement of discipline amongst the judges of our high courts. Unfortunately, as has been pointed out by hon Breytenbach, this matter has not been dealt with successfully over the years.

Now, House Chair history will judge the JSC very harshly for the failure to call for the suspension of judge President Hlophe when he was first accused of serious misconduct.

Similarly, history will not rule in favour of the JSC for deeming the matter not to be urgent or essential, once this

Judge President, was finally found guilty after a hearing into which the JSE was forced by legal action from civil society.

The very same JSC then allowed for this Judge President to

participate in interviews of prospective judges after having

been found guilty and after being the tribunal having proposed, that he be removed from office, and it should be

abundantly clear to all of us that both common sense and the law was put on the altar of the JSC through its seeming

reluctance to uphold the principles of legality and equality before the law, when it came to one of its own.

Now, House Chair in law judges would be quick to point out that they are always look for the so called cynic one moment or event that one event without which all other consequential events could not and would not have occurred. By this major considered this, timely action by those refusing failed to advice for the suspension of this Judge President more than a

decade ago, it probably would have prevented the unfolding of the further and more recent events that had plummeted the Western Cape High Court into chaos and brought it into a massive crisis.

House Chair, in the recent past, it has been noted and rightfully so that in some instances the judiciary has expressed his exasperation and disbelieve at the way in which we as the Legislature and even the executive of which some members have joined us tonight, has failed in our constitutional obligations therefore, in order to fulfil our role of oversight, let me say this very clearly, we hope and yes, we even pray that later this year, when the Chief Justice is to be selective in appointment, it would be a Justice that it will appreciate the importance of leading the JSC in such a manner and the judiciary had it not be accused that he asks of us stronger a obedience to the law and the constitution and it demands of itself. I thank you.

Ms W S NEWHOUDT-DRUCHEN: Chairperson, hon members as well as the members of the judiciary present on the virtual platform, I greet all of you. Before I begin the speech, I would to say that our committee and our study group have suffered a great

loss with the passing of our comrade and Whip, hon Jackie Mofokeng. Our deepest condolences to her family and her friends.

We all meet during these difficult times. The COVID-19 pandemic has forced us to work differently and to quickly move to working online. Various entities have had to make provisions to work online as well. Many entities also face budget cuts and at the same time have to accommodate to working differently. Chair, the ANC supports the committee report on the Budget of Office of the Chief Justice for 2021- 22.

The National Development Plan 2030, identifies amongst others the need to build safer communities, build a capable and developmental state and strengthen judicial governance and the rule of law. The Office of the Chief Justice, OCJ contributes to all of these and also the support it provides to the judiciary is intended to strengthen judicial governance and the rule of law, by the following:

Accelerating reforms to implement a judiciary-led court administration. Ensuring an efficient court system. Reducing

inefficiencies in the administration of the courts and ensuring access to justice.

The establishment of the Office of the Chief Justice with a mandate to provide administrative and technical support to the

judicial branch of the state, was the fulfilment of the constitutional obligation and an important building block for

our democracy. The Office of the Chief Justice Performance Plan for the 2021-22 financial year outlines the support it

will provide to the judiciary in ensuring accountability,

contributing in a very unique way to enhancing social cohesion throughout our justice system.

The Chief Justice as the head of judiciary, exercises responsibility over the establishment and monitoring of the norms and standards for the exercise of the judicial function of all the courts. The ANC declared in the 54th National Conference that, the ANC should as a matter of policy pursue expropriation of land without compensation. This should be pursued without destabilising the agricultural sector, without endangering food security in our country and without undermining economic growth and job creation.

The ANC's approach to land reform must be based on three elements, increased security of tenure, land restitution and land redistribution. On 10 March 2021, the Minister of Justice and Correctional Services signed a letter that was sent to the Speaker of Parliament, stating that Cabinet has approved the submission of the Land Court Bill to Parliament. This Bill seeks to establish a specialised Land Court with its judgements, orders and decisions appealable at the Specialised Land Court of Appeal.

The portfolio committee notes that the Land Court will require additional resources including provision for the appointment of permanent judges and support staff. The committee also trusts that the OCJ will not be required to find funds for the implementation of the court from its already stretched baseline and understand that, the OCJ is engaging national treasury on this. However, the committee will engage further on the resourcing of the court when considering the Draft Land Court Bill.

To assist in the fight against gender-based violence and femicide, the Department of Justice and Correctional Services aligned with the state of the nation address 2021, will

designate 99 additional courts as sexual offences courts and it will increase the number of Thuthuzela Care Centres from 58 to 61 by 2023-24. I am happy to say that, as part of my constituency work and to find out what the SA Police Service are doing about gender-based violence, and to check on their victim support room, yesterday I had the opportunity to visit and talk with SA Police Service, SAPS in Maritzburg in the Western Cape. This included a visit to a newly launched safe house which forms part of the Thuthuzela Care Centre, TCC rollout. The ... [Inaudible] ... I would like to commend that process.

The 2019-20 Judiciary Report repeats the judiciary’s proposal for the adoption of some of the measures that could help alleviate the plight of victims of gender-based violence, and strengthen the fight against the scourge even more. The focus is on public awareness campaigns by people who are knowledgeable in responding to and reporting these offences, revitalising, capacitation and establishment of more Thuthuzela Care Centres. The establishment of focused appropriately sensitised and well trained units of investigators and similarly equipped pool of prosecutors to

deal primarily or exclusively with sexual offences and gender- based violence cases.

Judicial officers must be especially trained on the investigation and further handling of these cases. Sexual offences courts must in reality be endowed with the critical capacity or resources. The Office of the Chief Justice has a budget of about R2,33 billion and one of the Medium Term Expenditure Framework, MTEF focus areas is to improve access. The ANC supports an independent judiciary. Parliament plays an oversight role in considering matters of the magistracy and plays an active role in the appointment of judges.

Section 178 of the Constitution for the composition of the Judicial Services Commission, JSC. The JSC selects fit and proper persons to be appointed as judges and to investigate complaints about judicial officers. It also advises government on any matter relating to the judiciary or to the administration. The JSC includes Members of Parliament from both Houses of Parliament, the National Assembly and the National Council of Provinces.

The Magistrates Court Act of 1993 provides for the composition of the Magistrates Commission. Four members of the National Assembly and four members of the National Council of Provinces are also included in the Magistrates Commission.

Hon Chair, while I still have time, may I please make a plea to the Office of the Chief Justice. In my engagement with the SAPS yesterday, something came up regarding language. I would like for the Office of the Chief Justice to look into this issue. I will give you an example, when a victim comes to the police station, they express themselves in their own language, but the officers have to take the statement in English. This traumatises the victim even more when the report is read back in English or not the language of the victim. This also puts additional pressure on the victim.

The SAPS has informed me that they are compelled to write the report in English because the report goes to court, and the court officials may want the report in English. My appeal is that the court provides more translation facilities and for court officials to not be burdened to having to do the translation. The victims should have a right to express themselves in their own language. I thank you Chair.

The MINISTER OF JUSTICE AND CORRECTIONAL SERVICES: Thank you,

hon Chairperson, I will respond without the video if you allow me due to the lighting. Firstly, I would like to thank the hon members for their contribution on the matter. Indeed, the issue of the budget cuts is the concern for all of us and through the whole of government. As I said earlier, it is something that we have to live, with given the current fiscal environment. But I do get the comments by members that it may affect the operations of the courts and to a certain extent, affect the issues that relates to the rule of law.

We will continue to engage with the National Treasury to press on this matter given its importance. With regards to the Hlophe matter, it is a matter that is in front of the judicial conduct authority and the Judicial Service Commission. It will deliberate on the matter on the 4 June, and I will prefer that I leave it there for the deliberations of that structure.

Hon members will also appreciate that there is a member also sitting in that platform. I am also going to have my views that I will have to express in that platform. So it will be inappropriate for me to comment and express a view with regard to that outcome at this stage. I will request that I be

allowed to express my views in that platform when the report is tabled. I also think that in the next sitting, maybe the House will also have an opportunity to deliberate on the matter. I also take note of the fact that the matter will also be processed through the Members of Parliament who sits in the Judicial Service Commission.

There is no executive or anyone who is attempting to capture the judiciary. We continue to give support to the judiciary and understand that its independent, and that independency is

... [Inaudible.] ...

The issues relating to the stealing of documents are currently being ventilated in our courts. I think that the checks and balances of the courts will be able to determine whether the decision to steal those documents was lawful or unlawful, and the courts will express their views and opinion in that regard. That is the beauty of our court system. It has its own built checks and balance that enables no one to manipulate, circumvent or to even supress the rule of the courts in our constitutional democracy. There is no one who can be able to do that.

We can state here that we continue to give support and calls on all South Africans to protect and defend the judiciary in the execution of its responsibility; that of safeguarding the Constitution of the country. Any unfounded theory and conspiracies must be condemned in a constitutional democracy. Any criticism should be fair, balanced and be informed by the facts and the law that is directed to the service judiciary.

With regard to the issues raised about the law courts; indeed, there are challenges which we continue to work on through the regional courts presidents and the Deputy Minister to resolve some of the issues that relates to the backlogs that also affects some of our inmates who sometimes stays long before the trials and so forth. There is that process which is underway.

Most of the hon members raised issues relating to the cutting of the budget, which I already commented on, including the staffing. With regard to the Land Court Bill, we share the sentiments of the hon members with regard to it going to the staffing and also the budget of the Office of the Chief Justice. Hence, there is that continuous discussion with

National Treasury to see how we could help to resolve this process.

The land court will play a very critical role, if we are able to fill the vacancies in that court and have full-time Judges, in speeding up matters related to the land question; which is a priority matter for our country, and which is also important for social cohesion and the economy, so that there is stability through prudential clarity with matters relating to the land. So, the land court will play that important role bringing certainty and clarity on these matters; hence it is an important court in our young democracy.

The issues relating to the virtual trials, the Deputy Minister has commented on and I agree with him, including some of the members, which includes hon Swart. The matters that have been raised about the 25 years of democracy, I agree that we have a role to play in ensuring that the Constitution is entrenched across the country and we continue to play a role to defend, protect and even promote and defend constitutional democracy.

With these words hon Chairperson, I want to thank all the hon members for their participation and their insightful comments;

which we are going to take into heart and also in our minds, and continue to improve the service to the people of South Africa. Thank you, very much.

Debate concluded.

The mini-plenary rose at 18:06