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***PROCEEDINGS OF THE MINI-PLENARY SESSION OF THE NATIONAL***

***ASSEMBLY***

\_\_\_\_

Members of the mini-plenary session met on the virtual

platform at 14:00

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): Let me start by saying

that I will ensure that when you have one-minute left, I will

switch on my video. When you are speaking I will switch it

off. That is the first thing before we proceed. Let me welcome

the Minister, Minister Lamola and your department. Let me also

welcome the hon members that have logged in to this mini-

plenary session. We proceed.



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Hon members, before we proceed, I would like to remind you

that the virtual mini-plenary is deemed to be in the precinct

of Parliament and constitutes a meeting of the National

Assembly for 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 a sitting of the

National Assembly. Members should equally note that anything

said in the virtual platform is deemed to have been said to

the House and may be Ruled upon.

All members who have locked in, shall be considered to be

present and are requested to mute their microphones and only

unmute when 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, please, unmute your microphone and connect your

video. Members may make use of the icons on the bar at the

bottom of their screens which has an option that allows the

member to put up his or her hand to raise points of order. The

Secretariat will assist in alerting the Chairperson the

members requesting to speak.



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When using the virtual system, members are urged to refrain or

desist from unnecessary points of order or interjections.

We shall now proceed to the order, which is debate on Budget

Vote number 25; Justice and Constitutional Development,

Appropriation Bill. I recognise the hon Minister of Justice

and Correctional Services.

**APPROPRIATION BILL**

Debate on Vote No 25 – Justice and Constitutional Development:

The MINISTER OF MINISTER OF JUSTICE AND CORRECTIONAL SERVICES:

Thank you very much, hon House Chair; Deputy Minister of

Justice and Constitutional Development, hon John Jeffery;

Deputy Minister of Correctional Services, hon Inkosi

Phathekile Holomisa; Ministers and the Deputy Ministers

present on the platform.; hon Bulelani Magwanishe; the

chairperson of the portfolio committee; all members of the

Justice and Constitutional Development and Correctional

Service Portfolio Committee and all hon members of the House

in this mini-plenary, the director-general of the Department

of Justice and Constitutional Development, advocate Mashabane



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and distinguished guests, on 18 May 2020, I stood before

Portfolio Committee on Justice and Correctional Services to

give a portfolio overview of our strategic plans 2020 to 2025

as well as the annual performance plan for the financial year

2020-21.

At that time, we were all reeling from the devastating impact

of COVID-19, and I said that when we conceptualize these

plans, our priorities sought to invoke a paradigm shift in our

country, a shift to rebuild the capacity of the state; rebuild

our ability to fight corruption; restore investor confidence;

recalibrate the economy and create much needed jobs. However,

there’s the African proverb that goes:

*IsiZulu:*

Ikusasa alaziwa.

*English:*

No one knows what tomorrow brings. We are now required to

implement these plans on the back of COVID-19 pandemic amid a

recessional economic climate. Little did we know at the time

that will be presented with a hugely challenging year. While

responding to the unprecedented pressure of global pandemic,



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we also had to contend with the debilitating ransomware attack

in the past financial year. On the balance of this major

challenges, we’ve been able to overcome.

Hon members, I would like to take this opportunity from the

onset to condemn the racist incident that occurred and that

continue to raise their ugly heads in some of our high schools

in the country and in some of our universities, in particular,

the University of Stellenbosch recently. The university must

leave no stone unturned in investigating the incident. All of

us must send a clear and unambiguous message that there is no

space for racism in our country. Parents must teach their kids

love and to embrace diversity and not racism. White parents in

particular have also a duty to embrace diversity and to spread

love, same as black parents.

Recalibrating our economy needs all of all our efforts and it

also needs the criminal justice cluster. At the end of the

fourth quarter of 2021 Statistics SA reported an increase in

our real gross domestic product, which took our annual growth

rate in the last financial year to 4,9%. I mentioned this

because the budget allocation of the Department of Justice and

Constitutional Development for the financial year 2022-23



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amounts to R22,4 billion. This is an increase of approximately

R515 million.

This budget must enable the state to fight crime; to create a

conducive environment for investment and to create jobs. This

administration has taken a clear step to reinvest in the

justice system. The allocation will help to accelerate the

extensive work already underway to recover from the

unprecedented impact of the pandemic while delivering a more

efficient and modern justice system. The budget is inclusive

of the allocation of the National Prosecuting Authority and

the transfer to the two constitutional bodies, namely, the

Public Protector and the SA Human Rights Commission. The

budget allocation also provides funding for the information

regulator as well as the translate the Legal Aid South Africa;

the Special Investigating Unit and the direct charge to the

National Revenue Fund in respect of magistrate salaries.

This budget enables the department and its entities to execute

their respective constitutional and statutory mandates. Hon

members, the Legal Aid South Africa budget allocation is over

the years rendered legal services to many South Africans who

are unable to afford legal costs, thereby ensuring that the



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right of accused persons, enshrined in section 35(3) of the

Constitution in particular, becomes a reality. During this

financial year, Legal Aid South Africa is allocated

R2 billion. It is one of the few entities in government which

is distinguishable owner of being recognised among the top

employers in South Africa for 13 consecutive years.

Legal Aid South Africa increases its threshold for the means

test to increase its reach in society where the cost of legal

representation is expensive. Legal Aid South Africa has

increased the threshold of its means test. The threshold for

means test, legal aid has increased. As a result, access to

justice can be expanded to those who cannot afford it. In

terms of the new regulations which have been in effect since 1

April 2022, legal aid for criminal case, irrespective of

whether the applicant has a spouse or is a member of a

household, is increased from R7 400 to an amount of R7 700.

This increase also applies to civil matters for individuals

who do not have a spouse.

For individuals with spouses, there’s an increase from R8 000

rent to R8 400 in civil cases. For individuals who are members

of households and do not own immovable property and civil or



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criminal matters and has their net movable assets increase

from R128 000 to an amount of R141 900. For legal aid for a

civil or criminal matter, individuals who are members of

households who owns immovable property as their net immovable

and movable assets increase from R640 000 to an amount of

R665 800. In addition, the means test as an extension of

Security of Tenure Act for eviction matters, is said at

R13 625 as legislated in the extension of Security of Tenure

Act.

Legal Aid South Africa Land Rights Management Unit has been

operational since 5 January 2022. It is currently managed by

the Legal Aid South Africa National Office. The legal

executive land rights management is responsible for overseeing

and monitoring the performance of the ... [Inaudible.] ... New

vacancies have been filled in line with an interim

organisational structure for the unit. Most legal

practitioners who were previously providing legal

representation to farm occupiers, labour tenants and

restitution claimants throughout the ... [Inaudible.] ... have

been aggraded with Legal Aid South Africa on the judicial

system and continue to provide legal services as required.



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Internal capabilities to deal with the newly created Land

Rights Management Unit's financial and file management system

have been developed by Legal Aid South Africa. This

development enables Legal Aid South Africa to contribute to SA

land justice program and ensure access to justice, realise the

right of persons to have legal representation as envisaged in

the Constitution and provide legal aid and legal advice. This

will definitely increase access to farm occupiers, farm

dwellers and labour tenants. Building institutions enforce

accountability for crime and maladministration.

The National Prosecuting Authority budget allocation. The

National Prosecuting Authority, NPA, has been allocated

R4,9 billion which is an increase of R374 million. In the

previous financial year, we’ve set aside R106 million for the

investigative directorate. This year’s allocation for National

Prosecuting Authority is increased by R137 million and

R243 million in this financial year. Despite the continuous

performance inhibiting challenges hampering optimal

performance attributable to COVID-19 pandemic, the National

Prosecuting Authority continued to improve organisational

performance compared to the previous two financial years.



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In ensuring that the National Prosecuting Authority delivers

quality prosecutions, high conviction rates were maintained in

all courts forums. Conviction rates of 91,1% in high courts;

8,8% in the regional courts and 94% in the district courts

were recorded in the current financial year. Some progress has

been made in improving case finalisation. Leveraging on the

fusion center, the National Prosecuting Authority has been

crucial in addressing corruption related to the COVID-19

funds. A total of 232 matters have been registered with a

vision center. 173 matters are under investigation and 59 have

been closed.

The Asset Forfeiture Unit continues to play a critical role in

addressing the scourge of corruption and has delivered

significant pretense in the last financial year. The Asset

Forfeiture Unit obtain freezing order to the value of

R46 billion and to the value of R5,6 billion in corruption or

related offenses. At the end of the financial year,

R70 million was paid in the criminal asset recovery amount and

R210 million was paid to the victims of crime. This year the

Special Investigating Unit, marks 25-year anniversary with an

allocation of R152 million. In the last financial year, the

Special Investigating Unit has achieved significant recoveries



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through combining quality investigations with civil

litigation.

Between 2013 and 2021, the Special Investigating Unit has

recovered public money and assets amounting to R2,6 billion;

set aside contracts with a value of R18 billion. As of 26

March 2022, referred matters worth R75 billion for civil

litigation in the High Court and the special tribunal for

civil litigation. The establishment of the special tribunal in

2019 has expedited the work of the Special Investigating Unit.

The tribunal has adjudicated cases referred to it by the

Special Investigating Unit amounting to R8,6 billion in

unlawful contracts.

One of the cases that were finalised include the Beitbridge

border fence contract worth more than R40 million. The tender

was irregular and set aside and contractors were ordered to

pay back the money received. The Special Investigating Unit

had enrolled 119 cases worth more than R12,8 billion at the

special tribunal. Out of the 119 cases, 48 cases worth

R2,2 billion are related to the COVID-19 procurement

corruption and maladministration. President Cyril Ramaphosa

has appointed Judge Lebogang Modiba as the President of the



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Special Tribunal and added judges; Soma Naidoo and Johannes

Daffue both of the Free State division of the High Court as

the members of the tribunal.

I would like to congratulate Judge Modiba on her new

appointment as the President of the Tribunal and thank the

former President, Judge Mlindelwa Makhanya, who has retired

for the meaningful role he has played since this

establishment. He led the special tribunal with distinction

and wish him well in his retirement. Systematically, he

addressed the roots of gender-based violence and femicide.

Gender-based violence and femicide remains a pervasive

challenge in South Africa. Following the presidential

directives, the courts continue to put special emphasis on

conviction in sexual offences cases. High conviction rate of

74,4% for sexual offences cases demonstrates the success of

this focus.

The National Prosecuting Authority, NPA, participate

extensively in the implementation in terms of Pillar 3 of the

National Strategic Plan as facilitated by the Department of

Women. However, more needs to be done to address this scourge.

The Thuthuzela Care center model aims to provide a more



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effective and victim-centric approach to reporting sexual

offences. During the financial year, the National Prosecuting

Authority increased the number of operational Thuthuzela Care

Center, TCCs, from 55 to 60. The fight against violent crime,

particularly rape, has recently been undermined by the

challenges around the management of forensic Deoxyribonucleic

acid, DNA, due to shortages of essential chemicals required

for DNA analysis.

It resulted in a national backlog of these cases being

prosecuted in courts. As part of our interventions, the

National Prosecuting Authority established a partnership with

the SA Police Service Forensic Science Laboratory to reduce

the backlog in Deoxyribonucleic acid, DNA, processing; share

ideas and deal with the backlog. The National Prosecuting

Authority is capturing these reports or prioritise request for

DNA from the divisions received from Forensic Science

Laboratory, FSL, and compiles a monthly consolidated report.

The improved coordination between the National Prosecuting

Authority and the forensic science laboratories assisted in

reducing the backlog extensively. Gender-based violence is

entrenched by patriarchal social norms and belief systems,



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gender disparity, socioeconomic inequality, family

dysfunctions, the low social values attached to women and

girls and the lack of accountability at all levels of

responsibility. If men, in particular, do not take personal

accountability gender-based violence will continue to

traumatise our society and unhindered. For this reason,

Article 1 and 2 of the presidential summit declaration against

gender-based violence and femicide of 2019 unequivocally holds

every person living in South Africa accountable for actions

and omissions that are contrary to the realisation of South

Africa free from this kind of violence.

In support of the aspirations of the summit declaration and

the National Strategic Plan, and in particular, in response to

the demands of women who took to the streets in 2018 against

the scourge of gender-based violence, I introduced the gender-

based violence Bills in August 2020, which the President

recently assented into law on the 28 January 2022. I want to

thank this House for the enduring support, their hard work and

sleepless nights to ensure that these Bills reach finality.

The three Gender-Based Violence Amendment Acts do not only

ground the principles of victim central justice system, but

also inculcate the spirit of accountability by all for all,



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for example, the Domestic Violence Amendment Act of 2021,

criminalises bystanders by adults in domestic violence matters

perpetrated or suspected to be perpetrated against children,

persons, persons with disabilities or older persons.

*IsiZulu:*

Awusakwazi ukubukela uma uyazi le nto kufuneka uyibike.

*English*:

Section 54 of the Criminal law of Sexual Offenses and Related

Matters Amendment Act, number 32 of 2007, criminalises and

punishes the failure to report knowledge of a sex crime

against a child or persons with a mental disability. With

these laws in place, we should not have any surge in cases of

child abuse, statutory rape and even child pregnancies.

*Xitsonga*:

Vatsonga vari: Hambi wo famba enkoveni lundza ri ta vonaka.

*English*:

You cannot hide anywhere. Everyone is my sister’s keeper. We

all have a responsibility to report these crimes. In

continuing with our commitment to provide the victim-centric



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court system, in the 2022-2023 financial year, the Department

of Justice and Constitutional Development will upgrade

additional disability center courts above the 75 courts

introduced in the previous financial year. With these courts,

the department is progressively building a court system that

observes that reasonable accommodation for court users with

disability, to ensure the equal enjoyment of the right to

equal protection and benefit of the law and fundamental

freedoms by all. This support is also extended to older

persons.

One of the three gender-based violence laws, the Criminal and

Related Matters Amendment Act, number 12 of 2021 extend the

provision of intermediary services to older witnesses and

civil proceedings. The Domestic Violence Amendment Act number

14 of 2021, further permits the use of online application for

protection orders. This is a viable option for victims of

domestic violence to access our court services remotely and in

convenient and safe environment of their choice. The

department has already developed the online web portal for

domestic violence application for protection orders and this

system will be accessed by the public as soon as the date of

commencement of this Act is set this year.



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Very soon I shall be approving the amendment to the regulation

to the Domestic Violence Amendment Act. Shortly, I shall also

be approving the amendment to regulations for the National

Register for sex offenders, which has been aligned with the

new criminal law, sexual offences and related matters

Amendment Act number 13 of 2021. In response to the call made

by women of South Africa in 2018, these Amendment Act requires

the particulars of all convicted sex offenders to be entered

into the National Register for Sex Offenders, irrespective of

the age and the mental status of the victim. No registered sex

offender will be allowed to work or operate a business in an

environment accessible to vulnerable persons defined as

children, female students or lecturers under the age of 25

years, persons living in shelters and certain categories of

persons with disabilities and older persons, and so on.

In facilitating the implementation of this Act, the Department

of Justice and Constitutional Development has developed the

online web portal and the short message service, SMS,

notification system for the National Register on Sexual

Offence Services which will be made accessible to the National

Register on Sexual Offence’s applicants in this financial

year. The decentralisation of certain services of the National



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Register on Sexual Offence to a lower court will also commence

during the same. Through the implementation of the National

Register on Sexual Offence, NRSO, the department intends to

curb the exposure of vulnerable persons to pedophiles and

several sex offenders, and also to prevent sex offending in

the country.

It adds more pain to victims of gender-based violence when

their perpetrators roam the streets shortly after police

arrest. In terms of the Criminal and Related Matters Amendment

Act number 12 of 2021, bail in gender-based violence and

femicide matters must be denied unless it will be in the

interests of justice to grant such a bail. These Amendment

Acts also brings to an end the granting of what is referred to

as the police bail or prosecution bail in gender-based

violence and femicide matters. All applications for bail in

these cases must therefore be made in a court of law.

Modernising the justice services through the use of judicial

digital capabilities requires a supporting, responsive and

stable underlining information technology, IT, infrastructure.

The department’s currently aging information technology

infrastructure does not bode well in this regard. The



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department endeavors on upgrading and ensuring the continuous

upkeep of its information technology infrastructure as this

will not only impact the delivery of existing services enabled

by technology, but also its modernisation program. In the last

financial year, the department piloted four online justice

service projects. Maintenance online services were piloted at

the Family Court in Devon Point. The trust online services

solution enables the online registration and submission of

documents and respect of the new trust applications. This

solution was piloted at the Masters Office, Pretoria, to

identify ... [Time expired.] ...

The HOUSE CHAIRPERSON (Ms M G Boroto): ... thank you, hon

Minister. My face has been there for over a minute ...

The MINISTER OF JUSTICE AND CORRECTIONAL SERVICES: ... oh!

Okay ...

The HOUSE CHAIRPERSON (Ms M G Boroto): ... that’s a warning

when it appears to say that you are left with a minute. So,

unfortunately your time now has expired.



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The MINISTER OF JUSTICE AND CORRECTIONAL SERVICES: Oh! No,

thank you, hon House Chairperson.

Mr G MAGWANISHE: Thank you very much, hon Chairperson, hon

Minister Ronald Ozzy Lamola, hon Deputy Minister, John

Jeffery, hon Deputy Minister, Inkosi Phathekile Holomisa,

Ministers and Deputy Ministers present, the Director-General

of the Department of Justice and Constitutional Development,

Adv Mashabane, hon members and distinguish guests, we would

like to take this opportunity to pay a special tribute to sons

and daughters who held their last breath whilst in the service

of the justice family during the year under review.

Our nation shall forever be indebted to you and your family

for your sacrifices and commitment. We also welcome those who

were able to survive Covid-19 and other illnesses and came

back to work.

Hon Chairperson, we are a nation in mourning on our fellow

compatriots who lost their lives in recent floods in the

KwaZulu-Natal and the Eastern Cape. Others lost their

belongings to fires in the Western Cape. May the Almighty be

with their families and friends during this trying times.



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Hon Chairperson, the leaders and managers in the public

service of today do not have the luxury of resources of yester

year. Yet, the impatience of our people for quality service

delivery is palpable. The challenges of today require

different skills sets from both managers and leaders. They

require innovation and entrepreneurship, not how best to

manage resources in front of you, but how to innovate around

little resources around you. As we look at the issue relating

to the purse, you also need to feel the pulse of frustration

that our people experience on a daily basis.

Chairperson, we were dissatisfied by certain aspects of the

Justice Department’s plan. We therefore, welcome a letter from

the Minister informing us that the department has listened and

would revise this plan accordingly. We are pleased at the

Chief Financial Officer, Ms Irene Singo, has been appointed

from 1 April 2022. We note that the department intends to

implement its turnaround plan this year and will monitor

progress thoron.

We believe that greater attention should be given to

maintaining infrastructure, which is in a terrible state. We

welcome the department intention to explore the use of



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entities to implement projects for improved delivery. There

are also discussions with the Department of Public Works and

Infrastructure to increase the delegations for today to today

maintenance so that the department can undertake more of its

own maintenance. We remain concerned by the growing number of

case backlogs. We believe that additional resources are needed

to prevent this from overwhelming our legal system.

We will continue to monitor the backlogs in respect of gender-

based violence, GBV, cases. We have asked for further details

about the strategy to transform the master of this. We urge

the department to finalise the position of the Solicitor

General so that the recruitment process can begin.

We note that following the ransomware attacks in September,

the department must rebuild its ICT infrastructure from

scratch. We note the department plan to implement various

online solutions in 2022-23 but we are concerned about the

connectivity challenges on the ground.

The committee also notes the tension to rollout 59IGS related

project in 2022-23. We welcome the National Prosecuting

Authority, NPA, intention to focus this year on perusing high



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profile corruption matters. Nine seminal corruption matters

are prioritised for enrolment within the next six months. The

NPA is allocated an additional R1,1 billion over the medium

term. A significant portion is allocated to the Investigate

Directorate so that it can employ 90 extra permanent staff

members with specialised clean experience and also develop

existing employees.

The NPA is also able to recruit 17 senior state advocates for

the Asset Forfeiture Unit and 12 protectors for the Office for

Witness Protection as well as employs 700 experienced

prosecutors in the National Prosecuting Service.

We congratulate Adv Andrea Johnson on her appointment as Head

of the Investigative Directorate and notes that the leadership

transition has been described as similes. Budget cuts have

required Legal Aid South Africa to reduce posts contributing

to the increase number of case backlogs in the Criminal

Courts. Also fewer clients can be assisted in civil matters

with surprise.

We note that Legal Aid South Africa is allocated additional

funds to employ practitioners for the new specialised



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commercial crimes courts that have been set up in six

provinces.

We welcome the transfer of the legal representation function

in the land matters from the Department of Agriculture, Land

Reform and Rural Development to Legal Aid South Africa. We

agreed that the Special Investigating Unit, SIU, funding model

must be addressed. We urge the department to finalise

legislative amendment that will address the establishment of

permanent SIU deal with funding concerns of the SIU and

monitoring and enforcement call for remedial actions.

Additional funds have allowed the Public Protector South

Africa to provide for ICT infrastructure, e-library, 22 staff

posts and an electronic document management system.

We note that the SA Human Rights Commission investigation into

the cause of the July 2021 riots is near completion. The

commission will also monitor the provision of alternative

housing, food, water and healthcare relating to flooding in

KwaZulu-Natal.

We congratulate Adv Pansy Tlakula, Adv Lebogang Cordelia

Stroom-Nzama, Adv Johannes Collen Weapond and Mr Mfana Gwala



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on their appointment as members of the Information Regulator

from 1 December 2021. We asked the Minister to urgently

intervene in the matter of the regulator’s listing under

Public Finance Management Act, PFMA.

The committee having considered the Budget Vote No. 25,

Justice and Constitutional Development supported and recommend

that it can be approved. Thank you very much, Chairperson.

Adv G BREYTENBACH: Good afternoon House Chair and hon members,

the Department of Justice and Constitutional Development has

declared the year 2022-23 a year of the community. The

Department of Justice and Constitutional Development has

declared the year 2022-23 “A Year of the Community”. This will

reportedly culminate in the roll-out of an extensive community

outreach programme to interact with communities about justice

services and issues of constitutionalism, promotion of human

rights and respect for the rule of law.

For the 2022-23 financial year and over the medium term the

Justice department’s projected performance and expenditure is

shaped by a focus on increasing access to its services and

strengthening the fight against maladministration and



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corruption. These are lofty ideals; indeed they are laudable

ideals - ideals that we naturally support. They are putting

South Africans first, lowering the crime rate and deploying

the many corrupt cadres to jail – it sounds wonderful. But

then, there is a huge gap between having wonderful plans on

paper, and actually implementing them.

The portfolio committee has been engaging with the department

for some years now on various challenges, including the

decline in the department’s performance, accompanied by

qualified audit opinions in respect of the vote count and pre-

determined objectives over the past five financial years. The

position is so bad that the committee has recommended

the involvement of the Public Service Commission to

investigate the root causes of the challenges and identify

possible solutions.

The increase in court backlogs in both the district and the

regional courts described by the department as insurmountable

for the past two years, remains a serious challenge, and no

progress is noticeable in this regard. Court hours continue to

dwindle, and unless much needed discipline is imposed, the

backlog will simply continue to spiral uncontrollably. Case



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are increasing and will increase exponentially when the

matters emanating from the Zondo Commission are trial ready.

Our courts are simply not going to be able to deal with the

massive amount of work generated. One cannot lose sight of the

fact that the backlog is ever-increasing with just the

ordinary criminal matters being generated, and that these

cases cannot be shifted aside to accommodate the massive scale

corruption, fraud, theft and money laundering prosecutions

that must follow Zondo. There simply is no possibility of the

Police, the National Prosecuting Authority, NPA, including the

Investigating Directorate, ID, which still has a limited

lifespan and must end in less than two years and the courts

dealing with it al.

The run of the mill cases must be dealt with expeditiously.

Those are the cases that carry the interests of ordinary

citizens, and cannot be left aside to deal with State Capture.

The only possible way out of this is to form a new Chapter 9

institution, along the lines of an Anti-Corruption Commission,

and given the autonomy security of tenure, budget and capacity

to properly investigate and prosecute the matters generated by

the Zondo Commission’s state capture.



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The growing inefficiency of our court system is exacerbated by

internal failures of the department, such as failure to ensure

effective contract management, which has resulted in the

breakdown of court recording systems – for which the contract

expired some time ago with nothing in its place, and the

failure of CCTV systems countrywide. Of course, the total

failure of the Department of Public Works to carry out any

discernible maintenance of any court buildings must get an

honourable mention.

The ransomware attack in September 2021 impacted negatively on

service delivery, we still do not know why there was

insufficient protection against such an attack, nor do we know

precisely what information was compromised, nor what became of

it. The Information Regulator has indicated that the

department was less than ideally co-operative in this regard,

and one must wonder why.

The service delivery of the department is left wanting on so

many levels. We are constantly inundated with complaints and

requests for assistance with services or lack thereof from the

Master’s offices countrywide, and oversight visits made it

very clear just how shocking the service delivery is. Long



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queues form from the early hours in the morning, elderly

people and pregnant women are forced to stand on pavements for

hours, often repeatedly, before they are fortunate enough to

be attended to. The systems are down more days than they work,

and the offices are closed to the public from one o’clock

daily. It is simply untenable that citizens are treated in

this fashion.

While the oversight visits also revealed some very pleasant

surprises of outstanding service delivery, these were very

limited and isolated. Generally speaking, the visits revealed

crumbling infrastructure, total lack of maintenance, poor

accommodation and a sad lack of the tools of trade, poor or no

stakeholder management and shockingly inadequate contract

management. Court staff and officials are literally left to

their own devices, with no functioning landlines, no internet

access, none or very limited access to proper libraries and

law reports and inadequate support staff.

The department is quite frankly a rather depressing

mess. This decline is hardly surprising however, when one

takes into account that the Minister thought it was more

important for him to attend an ANC event in East London rather



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than be present annual performance plan. His attention is

clearly elsewhere.

Much is made of the newly enacted swathe of gender-based

violence legislation. Our committee worked very hard to ensure

that this very important legislation was finalised and passed

in good time, often sitting late into the night. Having done

so, no one should assume that legislation - even good

legislation, is the answer to the ever-increasing scourge of

gender-based violence.

Clearly, a strong and positive approach by the criminal

justice system must act to discourage and deter. But then we

are confronted with the type of occurrences that took place in

the past few weeks. The murder trial of Bongani Ngadleka,

accused of stabbing to death Phelokazi Mqathanya was delayed

once again in Khayelitsha, because the court ran out of

photocopying paper and could not supply a copy of the docket.

In Wolseley, an accused, and an illegal immigrant, in an

attempted murder trial, allegedly for stabbing a guest house

owner 10 times, was released on warning after the state had

opposed bail. Needless to say that he did not appear on the



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next date, but did subsequently allegedly kidnap and rape a

minor, and is now in hospital after the community exacted

their own revenge.

So, while the Minister galavants, the Justice department is in

a serious state of decline, and the criminal justice system is

in serious trouble. The Master’s office is a shambles, the

State attorney is in a ... [Inaudible.] ... state. Consequence

management is a pipedream, and there is no evidence that

contract management has received any attention, despite a

litany of disasters. It will require serious, and constant

attention and a firm hand on the tiller to set it on the path

to recovery. Given the Minister’s current preoccupation with

party business, there can be no guarantee that this will be

achieved. I thank you.

Mrs Y N YAKO: Chairperson, the EFF rejects Budget Vote No 25

on Justice and Constitutional Development. South Africa’s

democracy is entering a very dangerous period during which the

very concept of justice and rule of law will be severely

challenged and undermined. We are already seeing glimpses of a

justice system that is employed by the rich and the powerful



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to advance their interests while silencing the poor and the

vulnerable.

This phenomenon is more pronounced under the Ramaphosa’s

regime than it has ever been, since 1994. Take for instance

the factional prosecutions by an equally factional and

redundant national director of public prosecutions. In May

last year, the Hawks interfiled with the NPA in relation to

fraud and corruption in manner of the Eastern Cape and how its

government handled the funeral arrangements of the late Mama

Winnie Mandela. The Hawks completed the investigations and

recommended that the NPA must charge Mabuyane. To this day,

the NPA has not charged Mabuyane, because he is a key member

of those supporting Mr Ramaphosa. That is not the end of it

all.

Take for example Steinhoff, which represents the biggest

corporate fraud in the history of this country. The public

investment corporation lost over R21 billion from that

corporate heist. This is the direct public money looted by

white corporate criminals.



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Despite having taken more than 200 witness statements from

those involved with this corporate heist, the NPA has no

appetite of any kind to pursue the criminals involved. The

whites involved in looting Steinhoff are enjoying holidays

unbothered, while the NPA is busy fiddling fingers, and

getting involved in politics.

The worst policy development regarding the NPA are the recent

moves by the leadership of the NPA and the Minister of Justice

to source private funding for the NPA. When this happens, it

will practically hand over the constitutionally enshrined

functions of the NPA to private individuals and make the

prosecuting agency dance to the whims of those who fund it.

Our public prosecutions will lose whatever semblance of

independence that they have left, and will never have the goal

to prosecute wrongdoing by those who fund it.

This is a properly though-out plan by the Minister and it is

treason in fact. But treason is not something new in a way you

function as a Minister. Your conduct relating to the

appointment of the acting judges in the Constitutional Court

must be seen in the context of the ongoing plans by this

administration to capture almost all branches of the justice



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system in this country. Going as far as wanting to remove

names proposed by the then acting Chief Justice with names you

prefer for acting Justices, is a step too far. But with the

media on your side, you may think it will not come back to

haunt you, but these erosions of the independence of the

judiciary will come back to haunt you, Minister, and rest of

the country.

We condemn your lack of support for the Office of the Public

Protector and your complicity in the mainstream media assault

and the manning of that office. Advocate Busisiwe Mkhwebane,

despite some of the mistakes she has made, does not deserve to

be treated in that way by the democratic government. The fact

of the matter is that she has released hundreds of reports

that have not been found to be wanting, protecting the rights

of thousands of South Africans. She is subjected to

impeachment today because she dared to release reports that

challenged the sainthood of Mr Ramaphosa and Jamnadas.

We will defend the Public Protector and the integrity of the

office she occupies by all means necessary. We want a criminal

justice system that is able to investigate and prosecute



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criminals without fear or favour. We want the Public Protector

who is not ...

Mr B A RADEBE: Chairperson? [Interjections.]

The HOUSE CHAIRPERSON (Ms M G Boroto): I see your hand, hon

Radebe. Yes, what are you rising on?

Mr B A RADEBE: Chairperson, I am rising on Rule 82. The member

knows very well that we cannot refer each other on first name

terms. She just referred to the Minister of Public Enterprises

in the first name terms. Thank you, Chair.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon Yako, I heard you

very well. You referred to the President and when you ...

[Inaudible.] [Interjections.] Not, but it is not what you

said. You haven’t listened to me. Please, let’s follow the

Rules. Rule 82 expects that from us. Thank you. You may

proceed.

Mrs Y N YAKO: ... [Inaudible.] ... Jamnadas then. Thank you.

We will defend the Public Protector and the integrity of the

office she occupies by all means necessary. We want a criminal



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justice system that is able to investigate and prosecute

criminals without fear or favour. We want a Public protector

who is hounded by a wild animal, merely because she did

investigate and is being investigated by the powerful. We want

Human Rights Commission that is deeply rooted in the idea of

justice, particularly for the dispossessed majority. We want

our courts to be left independent, to interpret the law

without undue influence by the rich and the powerful.

Therefore, we reject this report. Thank you.

The HOUSE CHAIRPERSON (Ms M G Boroto): Thank you hon member.

We now proceed and invite the IFP by recognising the hon

Msimang.

Prof C T MSIMANG: Hon Chairperson, the access to justice for

the ordinary man on the street is not a lofty ideal. At its

core, it relates to efficient, cost-effective means to resolve

disputes. It relates to capable and competent institutions

serving the public, such as the Master’s Office and the Deeds

Office.

Grand promises of modernising and increasing access to justice

- as the department envisions in its annual performance plan -



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mean very little in face of the reality of the extensive backlog

experienced in our criminal courts, the ageing infrastructure

and the dire state of the Office of the Master of the High

Court.

At the end of March 2021, only 41% of the criminal case backlog

- representing cases older than 12 months in the High Court -

was reduced, according to the Judiciary Annual Report. This

reality causes a massive delay in justice, and we cannot continue

to use the pandemic as an excuse. We need to interrogate the

reasons for these delays, as justice delayed is justice denied.

The Master’s Office, which experienced a serious blow due to

cyber-attacks last year, forms a critical function to the

public, including administering the estates of deceased persons,

and administering the Guardian’s Fund. Any delay in its

operations has a dire effect on the public. The situation

prompted the portfolio committee to demand action and report

backs from the department on the situation. However, despite

clear deadlines provided, the department failed miserably to

provide the committee with such reports. This omission cannot

and should not simply be tolerated.



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As a portfolio committee, we are denied the means to effectively

fulfil our constitutional oversight duty. The IFP strongly

endorses the portfolio committee’s sentiment that this failure

also denied the committee to properly consider and interrogate

the department’s budget.

Finally, in light of the massive task the National Prosecuting

Authority faces in prosecuting State Capture cases, the IFP

welcomes the much needed increase in its budget. However, the

stark reality is that considering the scale of corruption laid

bare in the Zondo Commission reports, much more funding will be

needed over the next two years to ensure the authority has any

chance in successfully prosecuting these complex cases.

The IFP will furthermore closely monitor the progress of the

investigative directorate’s prosecution of the nine corruption

cases relating to State Capture, which the directorate has set

out to complete over the next six months. These cases will serve

an important measurement of the directorate’s ability to

prosecute such cases and the outcome thereof will be critical

in restoring the public’s faith in the NPA.



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May this year be the one where we as a country honestly see

justice being served, and those implicated in State Capture

finally being prosecuted.

The IFP accepts the Budget Vote. I thank you, hon House

Chairperson.

Mr F J MULDER: Hon House Chairperson, the committee report

before this House today is a reflection of how the South

African government is able to uphold and protect the

Constitution and the rule of law. To reduce the salaries

budget will affect all the effectiveness on the legal system

which relies heavily on warm bodies to deliver a wide range of

services.

The FF Plus therefore welcomes the prioritisation of the 2022

budget by the Minister of Finance to allocate more funds to

the National Prosecuting Authority, NPA. While additional

funding should be made available to the Special Investigating

Unit, SIU, as well.

The State Capture Commission should be allowed to complete its

work in the fight against corruption, and enough capacity



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ensured for the investigation and prosecution of criminal

cases emanating from the State Capture Commission.

The further reprioritised budget of R426 million over the

medium-term is therefore welcomed. The FF Plus is however

concerned about the significant decline in a number of

convictions against government officials in the recent years.

For the 2020-21 financial year, the relevant conviction

figures more than half from where they were in 2016-17. The

evidence simply does not support claims of a particular focus

on corruption.

The NPA was indeed one of the hardest hit by the Zuma years

and the effects are still being felt by the large numbers of

vacancies at the NPA, that half of highly skilled and

experienced prosecutors as well as staff morale issues.

Hon Chairperson, it seems as if the NPA is pursuing easy and

winnable cases across all forms of crime at the expense of

more complex prosecutions, that could bring down its

misleadingly high conviction rate. The mere fact that state



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departments owe the SIU more than R650 million could pose a

serious threat to the crucial important institution.

Without a well-funded and equipped Special Investigating Unit,

a more effective National Prosecuting Authority and the

completion of the work of the State Capture Commission, the

government will not be able to uphold and sustain the

Constitution and the rule of law. Therefore, Chairperson, the

FF Plus will not be able to support this Budget Vote. Thank

you.

Mr S N SWART: Hon Chairperson, it is the central role of the

state to protect its citizens and uphold the rule of law.

The ACDP believes that it is largely failing in this regard

despite the best efforts of thousands of dedicated court

officials, judges, magistrates, and prosecutors. The criminal

justice sector is struggling to cope with the high-levels of

crime and violence.

The average law-abiding citizen feels overwhelmed by the

lawlessness pervading the nation. Consider the high-levels of

gender-based violence, senseless murders, robberies,



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hijackings, and kidnappings. One can add the ongoing taxi and

trucker wars, the construction mafia, corrupt tenders running

to billions of rand, the gold, coal and diesel syndicates, the

copper mafia, illegal mining, State Capture and the looting of

state-owned enterprises, SOE’s, the theft of rail

infrastructure, bribery and kickbacks, political

assassinations, and corrupt municipalities. The list is almost

endless.

The ACDP has called for more resources to be made available

for law-enforcement agencies and the National Prosecuting

Authority, NPA, to respond to this lawlessness. This, in the

knowledge that the most effective deterrent to crime is the

sure knowledge that the perpetrator will be arrested,

successfully prosecuted, and sentenced to a lengthy period of

imprisonment.

Sadly, there appears to be very little deterrent to crime in

the country. South Africans are understandably demanding that

more must be done to ensure that criminals are placed behind

bars, and stolen state-funds recovered. The ACDP agrees.

The National Director of Public Prosecutions, NDPP, recently



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estimated that R1,5 trillion has been lost to corruption. Just

think what could be done with additional funds - to stimulate

the economy, create jobs, and to assist the poorest of the

poor.

We commend the work done by the Special Investigating Unit,

SIU, as well as the National Prosecuting Authority, NPA,

including the Investigative Directorate, ID, and asset

forfeiture unit, the recent successful preservation order for

Gupta-owned Optimum Mine of R3 billion, is welcomed. We look

forward to the next six months, which Adv Batohi said would be

and I quote, “seminal” in the prosecution of State Capture and

corruption cases.

The committee’s recent visits to courts and buildings in

several provinces revealed the deplorable, shocking, state of

courts. Not only are some of them are neglected and that they

structurally unsafe, court cases cannot be held in these

buildings. This cannot be allowed to continue.

The ACDP has also expressed its concerns about the arrests

arising from the COVID-19 regulations, where many citizens

were unaware that paying an admission of guilt fine resulted



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in them having a criminal record. We do believe that it is

desirable not to make criminals of citizens for these minor

offences. We are pleased that the department will look at the

Judicial Matters Amendment Bill later this year. I thank you,

House Chairperson.

The DEPUTY MINISTER OF JUSTICE AND CORRECTIONAL SERVICES

RESPONSIBLE FOR JUSTICE AND CONSTITUTIONAL DEVELOPMENT (Mr J H

Jeffery): House Chair, hon Minister Ronald Lamola, Deputy

Minister for Correctional Services, Nkosi Patekile Holomisa,

members of the executive, Chairperson and members of the

Portfolio Committee on Justice, hon members, Director-General,

Adv Mashabane, and officials of the Department of Justice and

Constitutional Development.

When we were in Delft on the Cape Flats last Friday at a

Justice Services Imbizo as part of the Year of the Community

Programme, we were once again reminded of the vital importance

of government being visible and active within our communities.

The best way to know what communities are experiencing and

what they require is to hear it directly from them.



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In the same way that Parliament conducts oversight work,

government departments should monitor the situation within our

communities. Where things are not working we need to know and

we need to address it without delay.

It was for this reason that I conducted two unannounced visits

to the Master’s Offices earlier this year together with the

Chair and Deputy Chair of the Legal Practice Council. I wanted

to establish, first hand, how well these offices were

functioning, whether practitioners and the public were being

served timeously and professionally, whether existing backlogs

have decreased and whether there have been improvements in

terms of the issuing of Letters of Executorship and Letters of

Authority.

It is common knowledge that complaints and concerns have been

directed to the department regarding service delivery issues

at the various Master’s Offices.

The Master’s Offices are responsible for the administration of

liquidations and deceased estates, the registration of trusts

and the administration of the Guardian’s Fund. This often

means serving the most vulnerable members of our communities



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such as the widowed families who have lost loved ones and

children and the elderly in particular.

These unannounced visits are part of our efforts to constantly

keep monitoring service delivery at these offices and I will

continue with unannounced visits at various Master’s Offices

until we see a very clear improvement in service delivery.

The Master’s Offices are currently, together with the

Information System Management, ISM, working on an online

registration of deceased estates as well as online

registration of trusts system. The development and rollout of

online registrations will be a convenient method that allows

people who want to report deceased estates or register trusts

to do so remotely from their homes, offices or any other

place.

The approach will effectively reduce the number of customers

having to travel to the offices of the Master or the various

service points, and will enhance access to the Master’s

services in the country. Online registration will also speed

up the registration process and ensure quicker availability of

the particulars of beneficiaries and trustees.



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However, I cannot say that I am at all satisfied with the

performance of the Master’s Offices and expect that a lot more

will be done and improved, in particular with regard to file

management and responding to queries from clients.

The process to revisit and amend the Administration of Estates

Act of 1965 in its totality, so as to allow for modernization

and for keeping up with electronic developments in the

country, has already started in the past financial year.

Similarly, the process to amend the Trust Property Control Act

of 1988 to allow for modernization also commenced in the last

financial year. This will allow the Master to obtain and keep

more of the information needed to curb fraud and money

laundering.

In addition to the Master’s Offices, another area of serious

concern to me is the functioning of our Magistrates’ Courts.

Infrastructure and maintenance are ongoing challenges and the

Minister and I have met with the Minister and Deputy Minister

of Public Works and Infrastructure in this regard.



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As I mentioned in the Office of the Chief Justice budget vote

debate last week, court performance and efficiency are, to a

large degree, within the purview of the judiciary. But there

are many areas of responsibility which are that of the

department and where our performance can and should be

improved.

The issue of faulty Court Recording Technology, CRT, machines

and Sexual Offences Systems, SOS, is one which I have raised

with the department on numerous occasions and an issue which I

am monitoring closely.

During the last quarter of the previous financial year, the

department experienced major setbacks within the Information

Technology, IT, space. Contract positions of IT personnel and

service providers came to an end at almost the same time and

this left our systems vulnerable. As a result of that, our

Court Recording Systems and the Sexual Offences Systems were

affected and this forced courts to postpone cases.

The problem was not that the procurement was started late but

that there were problems with the procurement processes

itself, which then caused considerable delays. However, since



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early February a service provider has been appointed and is

attending to repairs and maintenance of our Court Recording

Systems and the Sexual Offences Systems in the courts.

Parallel to this process, the procurement process for a long-

term solution is underway. The accounting officer is also

conducting an investigation and will take appropriate

disciplinary steps where necessary.

With regard to case backlogs and, specifically, those aspects

which form part of our department’s responsibility, the

department has developed an Action Plan to be implemented

immediately to address those challenges impacting on court

efficiency which fall within the department’s mandate.

During the current financial year, the department will work

with all the Justice, Crime Prevention and Security, JCPS,

cluster departments to enter into a Memorandum of

Understanding, MoU, that will see each department crafting a

performance indicator in their own Annual Performance Plans,

APPs, which will contribute towards reducing the case

backlogs.



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Our Action Plan includes interventions such as overtime work,

backlog courts being established where feasible, regular

meetings with service providers, for example, the CRT service

providers, the provision of additional human resources,

psycho-social support for court officials to improve on the

rate of absenteeism, regular repair and maintenance meetings

where the Regional Heads and Information Systems Management,

ISM, meet with service providers every Wednesday to track

progress, the procurement of additional IT equipment and

facilities interventions such as procurement of portable

battery packs and generators, facilitation of the carrying out

of minor maintenance works and procurement of mobile units to

be used as court rooms and testifying rooms.

The current initiatives being developed still have to be

discussed with the Lower Court Judiciary and consultation with

the respective judicial forums will be taking place soon.

There is a need to establish a platform for an interface

between existing judicial reporting structures, both National

and Provincial, to engage in ongoing consultations and

feedback to ensure meaningful interactions and to ensure the

required support from the department.



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Magistrates Courts are at the very coalface of our justice

system and it is vital that these courts, which are often the

first port of call for the dispensing of justice, are well-

capacitated and functioning optimally. The Minister made 158

new Magistrates’ appointments in vacancies around the country.

These magistrates assumed their duties in October last year

and the filling of these vacancies is an important step in

capacitating our judicial officers and our courts, so as to

enable them to deliver justice to all.

Our department has begun on the process of consolidating and

rationalizing the provincial offices to act as one department

and not several independent units. Corporate services will be

offered under one roof to the Masters, the Family Advocates

and the State Attorney instead of sourcing the same from the

national office as this is expensive and delays the provision

of services.

Furthermore, in line with the President’s vision of bringing

government services closer to the people and cutting down on

wastage and duplication, our department plays an active part

in the District Development Model.



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Our Small Claims Courts improve access to justice and make

civil justice inexpensive, less formal and accessible to those

who cannot afford litigation in the ordinary courts. These

courts are used to settle minor civil disputes and claims of

up to R20 000 between the parties without representation by an

attorney in an informal manner.

In 1994 at the dawn of our democracy these courts were still

mostly in white and urban areas. Today we have 415 Small

Claims Courts countrywide, with the additional 49 places of

sitting, that means there are 464 places where Small Claims

Court sittings can be held.

We currently have 2009 Commissioners, of these 239 are Legal

Aid SA practitioners and 98 are Magistrates who also sit as

Commissioners after hours and at no extra remuneration.

We want to thank all the Small Claims Court Commissioners,

many of whom are private legal practitioners, for this service

they provide free of charge to the community and to ensure

access to justice for all.



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We are pleased to advise that the Rules Board has made new

rules for the Small Claims Courts. The new rules aim to

address areas where the current rules are deficient and will

greatly assist litigants in the Small Claims Court. Upon the

gazetting of the new rules, they will be tabled in Parliament.

As the world celebrates the International Day against

Homophobia, Transphobia and Biphobia, IDAHOT, I want to add

the voice and the support of government in acknowledging this

important day, and that is today.

The date of 17th of May was specifically chosen to commemorate

the World Health Organization’s decision in 1990 to declassify

homosexuality as a mental disorder. IDAHOT was created to draw

the world’s attention to the violence and discrimination

experienced by lesbian, gay, bisexual, transgender, intersex

people and all other people with diverse sexual orientations,

gender identities or expressions, and sex characteristics.

We are pleased with the work of our National Task Team on the

Protection of the Rights of lesbian, gay, bisexual,

transgender, intersex, queer, LGBTIQ persons, and with its



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Rapid Response Team which is monitoring and tracking hate

crimes against LGBTIQ persons in the criminal justice system.

The National Intervention Strategy provides the framework that

informs the functioning of the National Task Team, NTT, to

counter violence and discrimination that is grounded on sexual

orientation, gender identity and expression and sex

characteristics in South Africa.

We’ve recently reviewed the National Intervention Strategy,

NIS, and expanded the scope of human rights violations to be

monitored and addressed beyond those of hate crimes only, but

to also include discrimination and hate speech.

I also want to congratulate Gender Dynamix and Iranti on their

successful bid to host the International Lesbian, Gay,

Bisexual, Trans and Intersex Association, ILGA World in Cape

Town in 2024.

At the end of last year, we hosted a very successful

international policy dialogue on the Rights of Transgender and

Intersex Persons and we look forward to building on the

successes of that event.



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The decriminalization of sex work is specifically mentioned in

the National Strategic Plan on Gender-Based Violence and

Femicide, GBVF. In Pillar 3 of the National Strategic Plan

there are a number of key interventions, key activities and

indicators. One of the key activities is: “Finalization of

legislative process to decriminalise sex work, fast-tracking

and promulgation.”

Currently, the selling and buying of sexual services are

criminalised in our country. There are various different

policy options to consider with the view to legislative reform

and I’ve been engaging with key stakeholders on the form that

this reform should take.

We hope to be able to take a Bill to Cabinet soon which will

be published for public comment before returning to Cabinet

for approval and introduction into Parliament.

The issue of decriminalization may be a difficult than a

contested one, but it’s also one that needs to be debated and

a decision taken as the issue has been one which has been

delayed for far too long.



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Finally, we’ve recently concluded a Tripartite Memorandum of

Understanding between our department, the Department of Basic

Education and the SA Human Rights Commission, SAHRC, regarding

the National Schools Moot Court Competition Programme. The MoU

signing ceremony will take place tomorrow.

The first annual National Schools Moot Court Competition took

place in 2011. It’s turned out to be a ground-breaking event

and we can look back with pride over the past 11 years when we

acknowledge the success of this competition in constitutional

awareness and human rights education.

These are but some of the many programmes, interventions and

initiatives undertaken by our department to make access to

justice and the attainment of human rights a reality for all.

As we take these programmes to our communities I want to thank

the portfolio committee for its invaluable feedback and

recommendations in assisting us to better the lives of people

and the justice system as a whole.

Chair, in this the few minutes that I’ve got I just want to

respond to the hon Yako who seems to be making a habit of



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making wide-ranging allegations and issues, I don’t know if

she gets marks for that in the EFF. I can’t respond, I don’t

have time to respond to all the issues that she raised. But

just on the issue of the Minister’s role and the allegations

against the Minster regarding the appointment of Acting

Constitutional Court Judges. Can the hon Yako please read

section 175(1) of the Constitution about the appointment of

Acting Constitutional Court Judges where it says: The

appointment must be made on the recommendation of the Cabinet

member responsible for the administration of justice, for the

uninformed that is our Minister of Justice, with the

concurrence of the Chief Justice. So, hon Yako, you make lots

of complains and claims but it doesn’t help the debate and

people’s understanding of the justice system. I thank you,

Chairperson.

Mr B N HERRON: House chair one of the greatest challenges is

currently facing South Africans is the minority of politicians

and crooks who feel nothing while they continue to exploit,

cheat and deny the justice system of this country of a

prosecution and accountability.



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State Capture and the cleaning up of corruption is of utmost

importance to the survival of our democracy and country and

for our democracy to retain the faith of our people. The

National Prosecuting Authority recently announced following

the damning reports of the Zondo Commission that there’ll be a

creation of a new task force focused on state capture.

This is a step in the right direction. However, the single

step is at the base of mountain of corruption that South

Africans have been struggling against. If there’s one take-

away from the Zondo Commission findings, it is that whatever

information has been revealed is probably but the fraction of

the truth and for this country to move forward, we need to be

looking not at the roots of the tree but rather those who are

actively trying to chop it down.

Advocate Shamila Batohi has admitted that this is a major

challenge for the National Prosecuting Authority and that

there’s a likelihood of an economic collapse should the latest

anti-corruption methods fail once again.



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We must not allow the words economic collapse to become so

climatised to them that we do not identify the crisis and the

impact of this on our country.

We, the people of South Africa must hold this new National

Prosecuting Authority force to the highest standards possible

and see to it that it remains impartial, unbiased and

independent from outside influence from its inception.

We should also heap Chief Justice Zondo’s advice and ensure an

independent anti-corruption agency including a council,

inspectorate litigation unit tribunal in court is established.

Chairperson, common sense must prevail, with more independent,

organisations created to protect South Africans. It will

become harder for them to become infiltrated by agents of

corruption. It is time for the justice system of this country

to be seen to be pursuing justice and rescue itself from our

darkest hours. For this, the National Prosecuting Authority

must be properly resourced.



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Chairperson, we must put our faith in South Africans and their

cry for justice and they will put their faith back in us. I

thank you.

Ms A RAMOLOBENG: Thank you so much House Chair, Minister

Ronald Lamola, Deputy Minister John Jeffrey, Deputy Minister

Holomisa, members of the executive and the legislature

present, hon Chair of the portfolio committee, Members of

Parliament, compatriots, comrades and friends on various

platforms present here, good day.

The preamble of the Constitution clearly articulates that its

adoption is to heal the divisions of the past and establish a

society based on democratic values, social justice and

fundamental human rights.

As we celebrate the 25th anniversary of the final Constitution

and Bill of Rights, it is important to remind ourselves that

the struggle for liberation was for the restoration of human

dignity. It was for justice, freedom and equality.



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The ANC 1943 conference endorsed the Bill of Rights. From that

moment it became an official policy informing the ANC’s vision

for a new South Africa.

The drafters of our Constitution did not draft from a position

of ignorance, they were guided by the Africans Claims document

of 1943. A document which whether the storms of colonialism

and apartheid and still finds expression in the final

Constitution unlike in the present day.

Constitutional democracy courts during apartheid did not have

the power of judicial review by which they could determine the

legality of Acts of Parliament instead courts were confined to

interpreting legislation. The Bill of Rights would be

meaningless if our courts could not enforce it.

One of the landmark cases decided by the Constitutional Court

is that of “S” versus Baloyi. In this case, the court heard

that the state had the constitutional duty to provide

effective remedies against domestic violence.

Penning down the judgement, justice search indicated that read

with section 2(2) and section 7(2) of the Constitution which



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obliges the state to protect, respect, promote and fulfil the

rights in the bill of Rights. Section 12(1) of the

Constitution obliges the state to protect everyone’s rights,

to be free from private or domestic violence, the right to

bodily and psychological integrity, the right to dignity, the

right not to be tortured in any way and the right not to be

treated or punished in a cruel, inhuman, or derogatory way

also obliged to the state domestic violence.

House Chair, our courts remain critical for enforcing and

defending rights of our people and dispensing justice. They

have played a pivotal part in protecting the rights of women.

The courts have consistently highlighted that women are a

vulnerable group whose wellbeing and safety is precarious in

our patriarchal society.

This arises from factors linked to historical oppression,

exclusion from economic activities including economic growth.

Our courts have developed rich jurisprudence which offers a

gender and social political approaches to cases.

The backbone of the fight against gender are the sexual

offences courts and Thuthuzela care centres which were



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introduce to focus on the speedy adjudication of cases

involving crimes and sexual offences in specialised courts

which are equipped to deal with this unique yet heinous

crimes.

The responsibility of ensuring that those responsible for

committing gender based crimes are brought to account rests on

the entire criminal justice system. Courts are the final

arbitrars in matters involving gender based violence. They

have the power to protect abused women and children and to

effectively punish the offenders. In so doing, it sends a

clear message to the perpetrators that such conduct will not

be condoned. Access to court is therefore very paramount.

While strides have been made to curb gender based violence and

violence in general, women, children and other vulnerable

groups still do not feel safe in our societies. The crime

statistics are very frightening; courts alone cannot

alleviate, let alone eliminate the scourge that society faces.

The concerted efforts of all South Africans, government,

private sector, faith based organisations, traditional leaders

and the community at large is needed in this fight.



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Chairperson, the ANC government remains committed in the fight

against crime and corruption. We welcome the efforts made by

the Department of Justice and Correctional Services and the

entire JCPS, Justice, Crime Prevention and Security, cluster

in the fight against fraud and corruption.

It was reported that a total of R36 million in the 2022/23

financial year to invest in ICT in institutions that include

the Investigating Directorate, Public Protector South Africa

and the SA Human Rights Commission.

A total of R426 million over the medium term to intensify the

fight against corruption and ensure sufficient capacity for

the investigation and prosecution of criminal cases emanating

from the State Capture Commission has been set aside.

Amongst others, this will allow the independent Directorate to

appoint an estimated 90 staff members in permanent capacity.

Legal representation is an indispensable part of access to

justice.

Legal Aid South Africa is a critical institution which ensures

the indigent in our country access justice. We welcome the



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report that an amount of R34,3 million is reprioritised to

Legal Aid South Africa over the medium term period to

capacitate the six newly established Specialised Commercial

Crimes Court in Limpopo, Mpumalanga, North West and the

Northern Cape.

To strengthen the NPA’s capacity, an additional R1,1 billion

will be allocated over the medium term.

Land dispensation, racial segregation, discrimination,

political exclusion, and all general socio economic under the

economic development are some of the factors the apartheid

system has.

The rippling effect of the 1930 Native Land Act still exists.

Therefore, there can be no justice without land justice.

We welcome the trans of the legal representation component

from the Department of Agriculture, Land, Reform and Rural

Development to Legal Aid South Africa. This will assist the

indigent who seek justice.



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Chairperson, as I close off, allow me to use a quote by the

Chairperson of the Constitutional Assembly, President

Ramaphosa who on the occasion of the signing of the

Constitution said:

“Today marks the legal transition to a Constitution that

the will of the overwhelming majority of the people of

this country. It’s one law for one nation. A document

that commits not only the government but every single one

of us to the values that have been disregarded in the

past. To human rights, fairness, decent treatment for

all, to democracy and government that is accountable to

the people. To tolerance over our differences and

appreciation over common humanity.”

Chair as I close off, the NAC supports the budget vote. I

thank you.

Mr S M JAFTA: House Chair, this budget vote must be prefigured

in our commitment to bring about the just social order for our

people. To succeed in this, institutions supporting democracy

must be vigilant against abuse of state power. The office of



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the Public Protector must serve the public and not be drawn to

wasteful litigation on matters that are patently frivolous.

The Human Rights Commission continues to perform its work with

abiding clarity and commitment. The National Prosecuting

Authority, NPA’s conviction rates must be sustained, through a

recruitment drive of young, skilled lawyers. The Legal Aid

Board must be capacitated and restructured to allow for the

outsourcing of skilled personnel in the private sector.

Hon members, we are regrettable concerned that the Special

Investigating Unit, SIU, is reportedly owed millions of rands

by government departments. The department must look into this

matter, urgently.

The progress of corruption matters referred to the NPA, is

under our radar. We are closely monitoring this process with

keen interest. We are not moved hon House Chair, by the work

of the department to giving full effect to the Truth and

Reconciliation Commission, TRC’s reparation findings. This is

but one area which has stalled since 1994. And the

department’s reparation sanction must be brought to light. We



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are equally not pleased with how the department has responded

to constant attacks against the judiciary.

In closing hon House Chair, we call upon the department

through the NPA, to repatriate the remains of our liberation

fighters, who have still not been brought to home, to rest. We

therefore, House Chair support the budget vote. Thank you.

Mr W HORN: House Chair, many vulnerable South Africans are

dependent on the justice system to access funds needed to put

food on the table: Maintenance money, guardian fund pay-outs,

collection of debts and restoration payments ordered by our

criminal courts typically enable beneficiaries to merely

survive from one month to the next.

The proper functioning of the justice system of any country is

also a precondition for the type of investor confidence and

economic growth our country desperately needs so that jobs can

be created, poverty could be reduced and in simple terms so

that hunger and destitute can be prevented.

This debate House Chair, takes place not only within this

context, but also within the context of a very serious



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regression during the state capture years in the capacity and

performance of every single institution, except for Legal Aid

South Africa, benefiting from this budget vote.

Three years into our current five-year term it unfortunately

would seem, that we are only seeing a tinkering around the

edges of crumpled, keeled over and ever ailing institutions.

A few examples, problem number one: A fiasco of bad advice,

poor litigation outcomes, money wastage and possible

corruption at the state law advisers.

The identified solution: Appoint a solicitor-general, heads of

offices and ensure policy reform. The outcome: Appoint only an

acting solicitor-general causing hesitancy and preventing

bold, decisive moves, appoint heads of offices, but hamstring

them by showing no urgency on policy reform.

Problem number two: Near collapse of Masters Offices. The

identified solution: Appoint a new chief master and heads of

offices, seemingly without agreeing on relevant and urgent

interventions. The continued outcome, long queues, lost

documentation, non-responsiveness and poor communication,



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massive delays and in many cases a state of paralysis in the

administration of specific deceased estates.

Problem number three: Court buildings countrywide operating in

a state of near physical collapse while court managers,

justice officials and public works officials all continuously

busy themselves with the identification of the need for major

maintenance projects, the implementation of which

unfortunately which as rare as Bafana Bafana qualifying for a

soccer world cup tournament.

The consequences: Ground hog day for officials who continue to

work in an environment not fit for purpose, while continuously

wasting time re-identifying urgent maintenance needs and

pleading for implementation.

The identified solution: Is confirmed again today, the

Minister is, that he has assured us himself, on a continuous

basis having talks about talks with his counterpart at the

Department of Public Works.

Problem number four: Millions of rands thrown towards the

development of an electronic Integrated Justice System over



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the last fifteen years - a project which languishes from the

one insignificant lateral milestone to the next.

The identified solution: Colleagues, have no fear. An

Integrated Justice System, IJS, Board, comprising,

unfortunately of the very same stakeholders that have been

part of the project from the start, has now been established,

which will, the Minister strongly believes, ensure that this

system will now rise like a Phoenix and sore like an eagle.

Problem number five: An implosion of governance on management

level at the Department of Justice. The identified

intermediate solution: Appoint a new director general,

unfortunately without any parallel process to identify the

gravest of risks facing the department and acting on them.

Further outcomes: A massive cyber-ransomware attack, a hack,

complete annexation and lockout from the online system of the

department, followed a few months later by the contract for

the maintenance and operation of electronic court recording

technology coming to an abrupt, but foreseen and avoidable

end - causing wholesale damage to case-flow, the ballooning of



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the criminal court backlog roll, frustration, suspicion and

secondary trauma to victims of crime.

The further identified solutions: In respect of the

information technology, IT systems; at first a frank admission

by the director, DG, that systems will need to be rebuilt from

scratch, partly due to the impact of the hack and partly due

to the inadequacy of the systems previously introduced. But,

then followed, only a few months later, with an assurance and

an insistence that all data has been recovered, all

functionality has been restored and that the old system is

really not a bad one.

The Court Recording Technology; after this system being in a

self-induced coma for nearly a year the previous contractor is

now reviving and nursing it on a temporary basis. Why no

emergency extension of the initial contract was entered into

with this contractor remains a mystery wrapped in a riddle.

Problem number six: Very little happening to prosecute the

corruption, theft and money laundering that happened during

the state capture years. The identified solution: Strengthen

the National Prosecuting Authority, NPA, and set up an



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investigative directorate. The unfortunate outcome: Promises

of seminal prosecutions within the next six months, which are

regurgitated, repackaged and re-announced every six months.

Minister, this is the reality. The backward slide of this

department is too big to think that you can tinker and doodle

it into success.

Wholesale structural changes needs to be made in respect of

how we maintain and manage court buildings and collateral

facilities, and how we manage contracts. Capacity and

expertise, will have to be added where it is needed on the

simple basis of merit and merit alone. A real sense of urgency

will have to become part of the executive and management

culture of this department and its entities.

And in the final analysis you will have to heed the call by

the portfolio committee and take up the fight against

continued budget cuts to this department and its entities.

For if this department and its entities continue to fail,

South Africa will not be able to succeed. Thank you.



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Mr X NQOLA: Thank you very much Chairperson, please allow me

to have video off for connectivity and audibility purposes. We

saw hon Mulder and hon Jafta were cutting and I don’t want to

fall into the same trap.

Chairperson, allow me to extend my greetings to the Ministers

and Deputy Ministers present, the management of the

department, Members of Parliament and South Africans at large.

Chair, I wat to start off by saying, the beauty of our justice

system is the application of the rules of natural justice.

They’re well known out as alteram partem rule. Therefore, this

means for the purposes of this meeting that if an office of

the Public Protector finds a certain hon Xola Nqola in the

findings of the remedial actions to have committed some wrong,

part of the remedies available to Xola Nqola which form part

of the recommendations and findings is taking that report for

review.

Should they not be satisfied in the manner in which

investigation was done, which this is the case in the matter

relating to the Premier of the Eastern Cape, I want to plead

with all hon members to allow the courts to do their work



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without any interference, without any doubt and aspersions

having being casted against the courts.

Chairperson, I wanted to start with that point.

Secondly Chair, the NA has established a committee following a

motion by the DA Chief Whip and following a report by the

independent panel. The NA established that committee in terms

of section 194 of the Constitution. The committee is

established for the purposes of fact finding into the

allegations against the incumbent of the Public Protector.

It is in my view very wrong for hon members to want to cast

aspersions and cause doubt to the section 194 committee’s

work. Particularly, the committee itself has vocally being

saying that there is no predetermined outcome. We are here for

fact finding purposes. We’ll then come back to the NA with the

report.

Fortunately, hon Yako’s supreme leader is part of that

committee so maybe she will be able to understand the work

process that the committee ought to follow.



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Chair, the ANC rises in support of Budget Vote 25, Justice and

Constitutional Development. Many countries across the world

were faced with the ravages of the coronavirus pandemic which

not only robbed us of loved ones but also crippled the

economy.

The coronavirus pandemic came at a time when we as a nation we

were still seized by the fight against gender based violence

and fermicide whose foundation is patriarchy and sexism.

Almost every day we learn of viruses and most gruesome acts of

violence perpetrated against women and children.

The war waged against the bodies of women and children is

relentless and is at such disheartened level that GBV was

declared a second pandemic. GBV goes against the ethos of the

Bill of Rights. It is a serious human rights violation with

major social and developmental impacts for survivors of

violence and their families, communities and society at large.

On an individual level, GBV leads to psychological trauma and

can behavioural and physical consequences for survivors. In

many parts of the country, there is poor access to formal



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psychological or even medical support which means that many

survivors are unable to access the help they need.

Families and loved ones of survivors can also experience

indirect trauma and many do not know how to provide effective

support. The Presidential Summit against gender based violence

and fermicide which was held in 2018 resolved amongst others

to fast track the review of existing laws and policies on

gender based violence to be victim centred and ensure that all

other relevant laws correspond to gender based violence,

implement recommendations that have been identified from

reviews and address legislative gaps and revisit and fast

track all laws and Bills that relate to gender based violence.

President Ramaphosa expressed the country’s commitment to

addressing the scourge of GBV and announced the emergency

response plan to address GBVF which includes strengthening the

applicable legislative framework. The legislative arm of the

state was then seized with the duty to create laws to this

effect.

Last year, both Houses of Parliament considered and passed

what is commonly referred to as the three Bills of gender



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based violence. Making it a good of his commitment, the

President ascended to loss that strength and fight against

gender based violence in January this year.

These pieces of legislation are the Criminal and Related

Matters Act, Domestic Violence Amendment Act and the Criminal

Law Sexual Offences and Related Matters Amendment Act. The

cornerstone of Criminal Law Sexual Offences and Related

Matters Amendment Act is the National Register of Sex

Offenders.

The National Register for Sex Offenders aims to stop thi aid

of incidents against children and people with mental

disabilities. The Department of Justice reported that the

number of sexual offences courts establish at designated

courts would be an indicator of increased access to justice

services.

Further, it was reported that R30 million would be allocated

to designate 150 additional courts as sexual offences courts

and improve the management of the National Register for Sex

Offenders.



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An amount of R49 million would be to upgrade all justice

buildings to be accessible to people with disabilities. It was

also reported that as a mitigating factor to the risk of delay

in the establishment of the sexual offences courts resulting

in perpetual victimisation of victims, designation or regional

courts where the sexual offences courts must be established.

The target for the number of sexual offences courts

established a designated courts has been increased to 80 for

the year 2022/23 financial year.

Hon Chair, the National Development Plan sates that safety

should be measured by the extent which the most vulnerable in

society feel and are safe from crime and the conditions that

predict.

Safety refers principally to a state of an area and is

determined based on real and perceived risk of victimisation.

Therefore, safety refers to areas characterised by the

significant prevalence of violence and crime.

The main objective of the National Democratic Revolution is to

attain a non-racial, non-sexist, innated and prosperous



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society. While there has been immense progress in the

emancipation of women in South Africa through legislative and

other means since the advent of democracy, women remain

disproportionately represented among the country’s poorest.

Women are still in the lower runs of the economic ladder, the

gender division is wide and this makes the ground fertile for

patriarchy and the subjugation of women to try.

Economic empowerment is a critical factor which contributes to

achieving gender equality, unleashing the entrepreneurial

potential of women which drive growth to innovation,

education, training and job creation are some of the effective

ways to ensure lasting empowerment.

To quote Thomas Sankara, when he said:

"The revolution and women's liberation go together. We do

not talk of women's emancipation as an act of charity or

because of a surge of human compassion. It is a basic

necessity for the triumph of the revolution. Women hold

up the other half of the sky."



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Chairperson, notwithstanding all the challenges of conduct, we

appreciate the report that gender based violence and fermicide

is a priority crime in SA Police Services. We acknowledge the

department’s efforts to implement its turnaround strategy to

deal with the DNA backlog. This is critical for the collection

of evidence in rape and GBV cases.

It has been reported that through the ministerial

interventions., by February this year 17 critical contracts

for DNA consumables had been awarded in forensic laboratories

capacitated with [Inaudible.]to fill critical positions. Forty

percent of human resources are dedicated to addressing the 60%

backlog of human resource and is dedicated for incoming cases.

It was reported that between April 2021 and 10 February 2022,

196 people accused of GBV were handed down 272 life sentences.

The ANC government is taking a collaborative approach to

ensure that no effort is spared to reach out to survivors and

address the scourge. The Department of Social Development has

established a 24-hour gender based call centre which offers

trauma counselling and assistance to survivors. It can be

contacted at 0800428428 and I repeat 0800428428 or people can



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send a please call me by dialling \*120\*7867#, I repeat

\*120\*7867# on their cell phones.

Chairperson and compatriots, it is important that I as a man

and the public representative take a stand against gender

based violence. Gender based violence is after all a problem

of male violence. It is mostly men who are rapists and

perpetrators of domestic violence.

As men, we should also be playing a more present role in our

families and communities exhibiting healthy and positive

masculinities opposed to sick and distractive masculinities.

As men, we must call each other out and follow true when

issues of GBV come to our attention. We must never look away

when injustices are committed, whether in our families,

circles, organisations or communities.

The fight against GBV cannot be fought by women alone.

Everyone must join the fight and we win if we work together

and it begins with me.



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Hon Chair, let us remind hon Horn of politics 101 or

leadership 101, that leadership can never have a focal point

of problematizing everything. Leadership must lead by example;

leadership must be a solution based kind of leadership not

problems this, problems that. Chairperson, the ANC supports

this budget vote and I thank you very much.

The ACTING CHAIRPERSON (Mr Q R Dyantyi): Thank you Xola Nqola,

I now recognise the Minister. Unfortunately, I don’t have an

upgrade for you. The minutes are allocated, hon Lamola

The MINISTER OF MINISTER OF JUSTICE AND CORRECTIONAL SERVICES:

Thank you very much, hon House Chairperson, and I agree with

the observation from the hon Chairperson of the Portfolio

Committee on the issues of infrastructure. It’s an issue that

we are all working on together with both departments to deal

with it in terms of the maintenance, devolution of the mandate

and also that it must be followed by the budget. Also on the

issues that relates to court backlog, we all have to address

as the Deputy Minister has said that assessment falls within

the purview of the judiciary with us giving the administrative

support.



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It is unfortunate that some members continue to attack the

institutions of constitutional democracy. It’s shocking that

in their attack, they are being factional. They are attacking

the courts and singling out certain Judges without any facts

and basis, just only armed with the conspiracy. No facts, no

reality and nothing. Such kind of conduct is very dangerous in

any constitutional democracy to cast aspersions on important

institutions, without any facts and evidence and being

factional. You cannot isolate just the courts and want to

protect certain institutions. The protection must be afforded

to all institutions of our constitutional democracy. To show

that it is not informed by any facts, for example they do not

want to acknowledge that the NPA and the Hawks are prosecuting

on the Tongaat matter, which is a white collar crime – mostly

white males who are being prosecuted which shows that the NPA

prosecutes without any fear, favour or prejudice. Neither do

they look any colour, they look at the facts of the matter.

They are informed by the evidence. They are not informed by

any Minister or politician, neither will any organisation

inform them to prosecute or not to prosecute anyone. Also,

even the opposition they must know that when you want to

instruct the NPA to prosecute anyone, you are also interfering

with their mandate. It is not only if it’s the Minister. So



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there is no organisation here in Parliament – hon House

Chairperson, maybe they may need to relook at the NPA Act

themselves. You cannot instruct the NPA who they must

prosecute. Even myself I cannot do so. Even yourselves,

Members of Parliament, you should resist and desist from the

temptation to instruct what the NPA must do in terms of

prosecuting anyone. Allow them to do so informed by the facts,

evidence, law in front of them and not by any political

statements and pressure.

I also want to agree with hon Msimang that we need to deal

with the issues that relates to the Master’s Office. We must

respond to these issues because they affect the day-to-day

delivery of services to our people and some of them the Deputy

Minister have already spoken to.

I am not surprised as usual by hon Mulder. He is biased and

also unsubstantiated criticism that is not informed by

anything except the political views of his organisation. I am

not shocked that they will never support this budget because

this budget is for all the people of South Africa. It is not

for a select few. It is not for any segment of the population.

It is for all South Africana for the benefit of everyone,



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black and white, coloured and Indians. Hon Mulder would have

preferred that we should only allocate the budget to only a

particular group of people in the country - which will never

go back to. Now South Africa belongs to everyone and that is

what we work for.

We want to clarify on this issue of the Solicitor-General that

we continue to give support to the office of the state

attorney and policies to turn around the institution. Some of

them are already before Parliament. We are hopeful will

enhance the work of the state attorney and others are already

in the office. In our view, we are turning around that

institution. It is only those that refuse to see that the

Office of State Attorney is being turned around. It is indeed

also the deliberate closing of the eyes by hon Horn, who does

not see that there has been an improvement in the performance

of the department from 66% to 79%. It’s a huge improvement

that this House should be able to acknowledge and which we do

believe that more can be done to improve. But to say that

there is no improvement, there’s a decline. It is not informed

by the outcomes percentage. [Interjections.].



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The ACTING CHAIRPERSON (Mr Q R Dyantyi): ...[Inaudible.] and

the Whips, you are cutting an axe. Let me take that axe away.

The MINISTER OF MINISTER OF JUSTICE AND CORRECTIONAL SERVICES:

Thank you, hon House Chairperson.

The ACTING CHAIRPERSON (Mr Q R Dyantyi): I now remind hon

members that the debate on Co-operative, Governance and

Traditional Affairs will start at 16:30. I thank you, members.

Debate concluded.

Business of the day concluded.

The Mini-plenary session rose at 15:55

