**UNREVISED HANSARD**

**MINI PLENARY - NATIONAL ASSEMBLY TUESDAY, 9 MAY 2023**

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

***PROCEEDINGS OF MINIPLENARY SESSION - COMMITTEE ROOM M46***

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

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

**APPROPRIATION BILL**

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

The MINISTER OF JUSTICE AND CORRECTIONAL SERVICES: House

Chairperson; hon Chairperson of the Portfolio Committee in absentia; the Deputy Minister of Justice and Constitutional Development; hon John Jeffery; the hon members; distinguished members of the judiciary; the heads of professional law bodies; Ms M Sejosengwe, the Secretary General of the Office

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

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

Commendable as it may be, we know all too well, that the journey is far from complete. Hon members, the Office of the Chief Justice budget we are tabling today comprises of

R1,3 billion for voted funds and a further direct charge to the National Revenue Fund of R1,125 billion for judges’

remuneration, 79,2% of the total voted budget of the department is allocated to its core programmes, namely, superior court services, as well as Judicial Education and Support.

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

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

After rallying in the third quarter of 2022, the South African gross domestic product, the GDP, declined by 1,3% in the fourth quarter, October to December 2022. Although the GDP reached an all-time high in 2022, the economy has only grown

by 0,3% from the 2019 pre-pandemic reading of R4,5 trillion1. In this constrained environment, the Office of the Chief Justice will have to be innovative and develop new ways of operating to keep the courts operational. I usually say ...

*Xitsonga*:

Vana va munhu va tsemelana nhloko ya njiya.

*English*:

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

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

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

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

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

We are also pleased to report progress on how we are mitigating loadshedding in all our superior courts. We have installed generators in 18 superior courts. Five courts are earmarked to receive generators and one more is earmarked to service a solar system. This is also work in progress in regards to the magistrate courts throughout the country aimed to mitigate the effects of loadshedding.

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

Hon member, as alluded to earlier, this year marks the 29th anniversary of South Africa’s first democratic elections that ushered in an equal, representative and a non-racial society.

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

Our judiciary, as one of the three arms of the state, derives its mandate and authority from our Constitution. All South

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

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

Hon members, I take this opportunity to extend warm congratulations to Madam Justice Mandisa Maya, who was

appointed the Deputy Chief Justice of the Republic of South Africa by His Excellency President Ramaphosa, effective from 1 September 2022. The appointment of the Deputy Chief Justice Maya to the highest echelons of the leadership of the judiciary bodes well for our efforts to transform the judiciary. Announcing the appointment of the Deputy Chief Justice, President Ramaphosa said the following, and I quote:

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

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

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

Development Plan, NDP, has served as an action plan for securing the future of South Africans as described in the Constitution.

The Office of the Chief Justice supports the judiciary in its contribution to Chapter 14 of the NDP: Promoting accountability and fighting corruption. To this end, the focus area for the judiciary is in strengthening judicial governance and the rule of law. This focus area is fundamental in guiding the development of the strategic priorities as outlined in the 2023-24 Office of the Chief Justice Annual Performance Plan, the APP. The Office of the Chief Justice’s 2023-24 APP therefore articulates key priority areas which are central to improving the governance and efficiency of the department.

They are the followings: Implementing initiatives that contribute to broadening and improving access to justice and the services of the superior courts; ensuring an efficient court system; improving efficiencies in court administration through modernisation of systems, processes and infrastructure; implementing initiatives to address the impact of COVID-19 on the operations of the courts and contributing towards the revival of our economy and job creation.

To enhance service delivery, the education and training for both serving and aspirant judicial officers will continue to be a priority for the Office of the Chief Justice in the 2023- current financial Year. This will contribute towards the transformation of the judiciary. Increasing the number of judicial officers on the bench in conformity with constitutional obligations remains a priority. In this regard, the resourcing and capacitation of the South African Judicial Education Institute remains crucial in ensuring that available education and training courses are offered to serving and

aspirant judicial officers. Although *the SA Judicial Education Institute*, SAJEI, has successfully implemented virtual judicial training, the challenge is that load shedding has adverse impact on the delivery of that training. It is therefore imperative to consider adjusting the budget of the institute in order not to lose the momentum of enhancing judicial skills.

We express our sincere gratitude to Chief Justice Raymond Zondo for resuscitating the Aspirant Women Judges Programme started by the first woman Minister of Justice in democratic South Africa, Ms Brigitte Mabandla, and aptly naming the programme after her. The Brigitte Mabandla Aspirant Women

Judges Programme aims to address the underrepresentation of women in the judiciary by creating a pool from which women judges can be appointed. Through this training programme for aspirant women judges, women practitioners with potential to be appointed as women judges are identified, enrolled and exposed to a specially designed judicial education programme to enhance their opportunity for appointment to the bench. We look forward to positive feedback from this programme.

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

To further accelerate the provision of judicial education and training, SAJEI will also leverage technology by conducting some of the courses through virtual platforms. The Office of the Chief Justice continues to embrace the advantages that technology presents and leverages on it. The modernisation and digitalisation of court systems remain key priority for the Office of the Chief Justice to improve access to justice for

all by utilising technology in court hearings. The use of technology in court proceedings has proven an invaluable tool in ensuring access to justice and the safety of court users during the COVID-19 pandemic. As such, the Office of the Chief Justice will continue to prioritise the use of technology through the roll-out of its Court Online system. This system is meant to take advantage of the digital transformation initiatives that seeks to reduce the need for physical infrastructure ownership, and leverage on existing technology platforms that includes cloud computing and electronic document management to address the current storage space challenges in courts.

Hon members, the role of the judiciary and the administration of justice in our society is a complex one as, more than just being adjudicators of disputes, the judiciary has to respond to broader social needs. For our courts to be effective in delivering justice, the general public must have confidence in their ability to do so. This implies some important questions relating to judge’s legitimacy and public trust, judicial accountability, and efficient administration of justice, which are essential conditions for judges to effectively and efficiently serve society. Our judiciary has over the years

shown a profound understanding of this imperative as captured in our Constitution. This includes many judgments, particularly by the Constitutional Court, that have reflected a progressive interpretation of the Constitution for the advancement of human rights and the improvement of the socioeconomic condition of all South Africans.

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

Ladies and gentlemen and hon members, we present the Budget of the Office of the Chief Justice to you today in this spirit.

Supporting this Budget Vote is a means to ensuring the

constitutionally enshrined independence of the judiciary. We call on this House to continue cooperating with us to affirm the role of the judiciary in the protection of human rights and advancement of our democracy.

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

Finally, I thank the Secretary General of the Office of the Chief Justice, Ms Memme Sejosengwe, the management team of the Office of the Chief Justice and staff for their unwavering commitment to service and for always raising the bar higher.

Thank you, hon House Chairperson.

Mr Q R DYANTYI (On behalf of Magwanishe): House Chair, maybe to start with a disclaimer, I am not hon Magwanishe. But, I rise on behalf of hon Magwanishe as I wish him speedy recovery. He commanded me to come here and read what he would have presented. We agreed that I will not change anything in terms of what he prepared. Hon Chair, allow me to share his message.

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

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

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

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

This is an important point and at some point you would have three conversion problems in a particular court where you have got the magistrate, SA Police Service, the Department of Correctional Services, you have all of the stakeholders but the court cannot function because there is no water, electricity and network.

The committee welcomes the progress made so far with the court online project that it is concerned that system defects external dependencies including pending litigation pose a

threat to the plan rollout of the project. As such, the committee will continue to regularly monitor the project’s progress.

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

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

The lack of space in our courts makes storing old court files very challenging. Although the committee understands that the implementation of the court online solution will assist, the solution would not address the challenge of storing the old court records.

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

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

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

The committee notes the update provided by OCJ on the investigation and litigation of surrounding case lines tender irregularities including that the Special Investigating Unit, SIU, investigation is completed. We will continue to monitor the matter very closely.

The committee having considered the Office of the Chief Justice’s annual performance plan 2023/24 recommends to the House that it be approved. The committee having considered the Budget Vote 27, Office of the Chief Justice and Judicial Administration, recommends to the House that it be approved. I thank you House Chairperson.

Adv G BREYTENBACH: Hon House Chair, hon members, may I start by saying that I hope the hon Magwanishe recovers speedily, to protect us from listening to hon Dyanti from reading his speeches for the next two weeks. [Laughter.]

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

The Office of the Chief Justice is an essential institution in our democratic system. It is responsible for upholding the rule of law, ensuring the independence of the judiciary, and

protecting the rights and freedoms of all South Africans. The Chief Justice is also responsible for appointing judges through the Judicial Services Commission, managing the judiciary's budget, and providing administrative support to the courts.

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

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

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

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

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

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

In his budget speech last year, the Minister announced that he intends to introduce a Policy on Judicial Governance and Court Administration to Cabinet in this financial year, as well as

introduce to Parliament legislation that will overhaul the lower courts towards the establishment of a single judiciary. This would encompass the transfer of functions and risk management from the Department of Justice and Constitutional Development to the Office of the Chief Justice.

The recent oversight visits by the committee have brought into sharp focus serious challenges with regard to infrastructure and maintenance issues; security at courts and the digitization of court records. The oversight visits also highlighted the dilapidated nature of some of the court buildings with serious structural challenges at the Mafikeng High Court and Potchefstroom Magistrates Court, which is currently uninhabitable and has been so for more than a year, with little or no progress.

Frustration was expressed by the judiciary with communication challenges between the Department of Justice, Office of the Chief Justice and Department of Public Works and Infrastructure, DPWI. These challenges pose significant risks that need to be managed collaboratively. Many of these issues are having a significant impact on the work of the judiciary who are forced to manage issues around maintenance rather than

their core function, which affect the effective administration and standards for the exercise of judicial functions of all courts.

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

A complete lack of proper planning and risk management with regard to load shedding means that far too many courts in the country are unable to function for a full court day, or sometimes at all. Particularly hard hit in this regard are the courts in smaller towns and centres, where the majority of South Africans must go to access justice. The Minister has failed them, dismally.

This failure leads to a constant and chronic failure of other essential electronic equipment, which has the lamentable result of ever decreasing court hours, a situation already the cause of great concern, and an ever increasing backlog of cases, which just continues to grow exponentially, with little

or no hope of ever being addressed. While the Cabinet have the luxury of fully paid for generators to shield them from the dark, that courtesy is not extended to essential services.

What a disgrace.

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

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

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

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

The independence of the judiciary is further a priority because of the rampant corruption amongst those who lead. We must never have a situation wherein certain politicians and their handlers can at any time capture the judiciary and a

judiciary’s reasoning in the country of their nefarious interests.

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

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

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

Mr Ramaphosa, without reasons decided to blow that recommendation and appointed Comrade Zondo as the Chief Justice. The only inference to be drawn is that the appointment of Comrade Zondo was that payback time for his susceptibility to dangle in politics and hold political factional views on a range of issues. The dangers were all there to see for everyone.

Did you know when he was Acting Chief Justice Comrade Zondo, saw it fit to enter into a public spat with politicians on the role of the Constitution and on the suspected capture of the judiciary by politicians?

Why the Chief Justice Comrade Zondo recently made public statements about his views on the former President Jacob Zuma and the Guptas? Both Zuma and the Guptas made legitimate upon the Constitutional Court and Zondo may have to sit and listen to people he has already condemned as corrupt. Will it be unreasonable therefore, for Mr Zuma to never want Zondo presiding over his affairs? Would it be unreasonable for him to not trust the impartiality of the judiciary? All these would have been prevented had Comrade Zondo confined himself

to adjudicating matters before courts, instead of wanting to be a politician.

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

Would he ever preside on a fair and a partial manner? When he is required to make judgments on the conduct of Mr Ramaphosa and those associated with him. If he is of the view that Mr Ramaphosa is of a God sent.

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

The filling system is atrocious. There is no sort of any function that will prevent any files in that office from being burnt down to the ground and you see nothing wrong.

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

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

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

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

We are particularly in support of the judicial education function of the office even though we would like for them to replenish the libraries in their offices because it leaves much to be desired. It also leads to a situation where we have to undermine the decisions that are made because we do not have a library that is supplemented at the time. We would want to see more money channelled towards this function. For these reasons we are in support of this Budget Vote of the Office of the Chief Justice. We are looking forward to the end of the term of Comrade Zondo, so that there can be a proper administration of justice in this country again.

I think I would like to say that when we go to the courts, and when we go to the Office of the Chief Justice, and when we go and see what happens at the courts there is a lot to be desired and it leaves much to be desired because it speaks to a lack of competence. When we think of our judges we always think high-level of work that is being done and intelligence. It seems that when we go into these offices it does not seem to be a seen speaking to what we supposed to be happening in our country.

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

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

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

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

So, can you just remind them of what is their function here, otherwise they have to leave.

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

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

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

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

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

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

I was going to deal with that, but the manner in which you go about it is totally unacceptable, hon member. So, I humbly

request you not to do that and I humbly request all the members not to interject the manner in which you are doing. It is totally unacceptable hon member. It is not my intention to insult you, if you take that as an insult.

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

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

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

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

Mr Q R DYANTYI: Please, House Chairperson.

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

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

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

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

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

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

The other thing hon members that I want to bring to your attention, is that it is a general practice that when you refer to a member of the House, you to a member of this House as hon, Mr or Ms, it is a manner of respect and a way of doing it. That includes hon members, the judges of the courts, also should be referred to appropriately so to speak. That should be taken into consideration.

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

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

Without having to make a dialogue, I am saying hon members should please consider that.

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

Ms Y N YAKO: No House Chairperson.

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Hon member, fine. If you have an objection about that there are certain processes that you need to follow. At the moment this is what I am saying. You are most welcomed.

Ms Y N YAKO. Thank you. We will carry those processes. However, there is no way you can dictate to us as a party as to how we speak our speeches. For we are allowed to have debates. That is what the debate is about. For us to have a freedom of speech and how we deliver those speeches. You cannot dictate as to how we say those speeches. Thank you.

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

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

Mr Q R DYANTY: Hon House Chairperson, I just want to add and repeat what you have said and quote.

In terms of Rule 88, hon House Chairperson, which speaks about reflections on judges and holders of public office ... [Interjections.]

Ms Y N YAKO: Which part did I said?

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

Ms Y N YAKO: No ways!

Your own member is sabotaging you.

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

Mr Q R DYANTYI: Hon House Chairperson, therefore before I sit it will be important.

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

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

Mr Q R DYANTYI: House Chairperson, the point I am asking is: That I would want you to take this matter further. For this is undermining the authority of the presiding officer.

Ms Y N YAKO: Which part is undermining him?

Comrade Zondo. Is that undermining him?

Mr Q R DYANTYI: This is undermining the authority of the presiding officer.

The HOUSE CHAIRPERSON (Mr M L D Ntombela): Hon Yako that is exactly what I was saying to the hon Nkosi. No, but please observe your own rules. What we are doing here is to implement your own rules. Please.

Ms Y N YAKO: Hon House Chairperson, I am being very respective to you. I acknowledge what you have said.

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

Ms Y N YAKO: Alright.

*IsiXhosa*:

... uxolo. Ndicela uxolo ...

*English*:

It is fine.

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

Hon Ntlangwini, please give me a chance!

So, these are your rules. So, let us observe them. Yes indeed, the Chairperson is just as human as everybody and he might interpret them wrong. However, there are processes that we

need to follow in attending to that. It cannot just be free for all.

By the way where were we?

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

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

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

I think we all aspire to an independent judiciary, and we would like this judiciary to be independent, although this ideal is not always met. Having said, I think as the IFP we have ...

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

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

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

Mr N SINGH: Thank you, Chair, I haven’t even used the word comrade at all. I don’t know where they get that word from. I haven’t used it at all. I am entitled to say what I want to say and believe that we must use this House in such a way that we do not degenerate people that are not able to defend themselves in this House. But having said that, we all inspire to an independent judiciary. But as the IFP, we have said before and I say again, independent must also be in fact and in law.

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

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

Having said that, I think that it is important for us to realise that there are delays in judgements, and we come across this. Although there are rules and standards, delays in judgements means justice delayed is justice denied. But not only are there delays in judgements, but we also find ...

hearing from the public and law practitioners that getting trial dates sometimes can take you a year to 18 months to get a trial date. Now that again, is not satisfactory and Minister you have to work with the Office of the Chief Justice to see how this can be rectified.

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

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

colleagues, in the next Parliament, you have to seriously look at.

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

Hon Minister, I would like you to comment on ... [Inaudible.]

... I think they have made recommendations before about magistrates and the increases and the salaries. These are essential workers as far as I am concerned and have to pay them well. If we do not pay them well, then we are going to lose many of the good people out to other areas of law. So hon Minister, I trust that you would work with the judge and her name is Judge ... [Inaudible.] ... in ensuring that the increases are relevant to office bearers - which includes

Members of Parliament - are made timeously and made in line with inflation. I think the EFF members, including the hon Ntlangwini, will be happy that I am raising this point because she always raises this point with me.

The other issue that I would like to raise is the issue of court infrastructure and building. There is going to come a time when between public works and the department, is going to be a meeting of mind because we find many facilities are in a very poor state of repair and we have to address this. Thank you very much, hon Chair. I trust the Minister will respond appropriately.

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

It should also be noted that the 2023 Budget adopted theme, Navigating Economic Recovery, acknowledges that budgeting

takes place in a challenging global and domestic environment and that the report make mention of that Medium‐Term Fiscal Policy aims to achieve a balance between stimulating the economy, maintaining fiscal sustainability and strengthening welfare for vulnerable citizens through the protection of the social wage.

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

The current state of the economy of the South African government, state and budget cuts, impact directly on the ability of the Office of the Chief Justice to ensure an efficient court system and provide judicial support. The

Office of the Chief Justice already reported that the restricted budget has impacted on the filling of critical posts. Although the Office of the Chief Justice achieved an unqualified audit, it is alarming that the outcome has regressed, largely as a result of various instances of irregular expenditure that occurred in the ICT environment.

The FF Plus notes the Minister’s statement that the policy on judicial governance and court administration had now reached the stage where it was ready for engagement with stakeholders as far as envisaged the transformation to a single judiciary. The Minister should realize - with all respect - that a single judiciary on its own will not fix fundamental shortcomings, inefficiencies and other challenges that our judicial system experiences. Efficient training of prosecutors and aspirant judges is now more important than ever, considering the outcome of the Judicial Service Commission pointed out that the judgments of several of the candidates, delivered while they were acting as judges, were riddled with mistakes ranging from typographical errors to misunderstandings of foundational legal concepts.

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

*Afrikaans*:

Dit is nog 'n vrugtelose uitgawe, agb Voorsitter.

*English*:

The hon Minister Lamola should critically assess the conduct of the prosecutors and acting judge involved in the failure of this critical trial. ... [Inaudible.] ... Directorate of the National Prosecuting Authority who now wishes to appeal. The Office of the Chief Justice should also be held accountable in its training support role in this instance. State negligence cannot be tolerated. Thank you, House Chair.

Mr S N SWART: House Chairperson, the ACDP is deeply concerned about the delays in the policy on judicial governance. We note the Minister’s statement that the department had now reached the stage where it was ready for engagement with stakeholders, with intention to finalise by October this year. Now we

appreciate the judiciary’s frustration with the lack of finality, given that reports from former Chief Justices Chaskalson and Langa, were tabled way back in 2013, that’s 10 years ago. The finalisation of this policy must be a priority.

Not only is the establishment of a single judiciary a constitutional imperative, but also the lack of an appropriate policy contributes to many inefficiencies and other challenges that the judiciary experiences. IT continues to play an important role in ensuring efficient court system. The court online system consists of case management and an evidence management caselines component. While the ACDP appreciates that the court online system is still in a pilot phase, and that the caselines component is subject to litigation, we trust that the whole system will be rolled out to more courts, given the benefits it offers, and we as the ACDP have firstly experienced in litigation the benefits that caselines does offer.

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

resources. We as the ACDP believe that additional capacity must be given to the Office of the Chief Justice.

During the recent oversight visits, we witnessed many serious infrastructure maintenance-related problems. Courts are dilapidated and there are serious structural challenges. The committee heard complaints from the judiciary, frustrated at being drawn into managing issues around court management. This must be addressed. Loadshedding also impacts court performances, and while the Supreme Court of Appeal, SCA thankfully is now exempt from loadshedding, almost all superior courts have generators. Challenges remain at magistrate’s courts, and where there may be no water at High Courts due to loadshedding affecting water pumps. This again affects the courts which have to close when there is no water.

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

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

Jeffery): Hon House Chairperson, Minister Ronald Lamola, Deputy Minister Patekile Holomisa his on the platform, Ministers and Deputy Ministers who maybe on the platform, members of the portfolio committee, hon members, Members of the Judiciary, officials of the Office of the Chief Justice. Our courts are fundamental for upholding the rule of law, protecting human rights, and ensuring that justice is served in a fair and impartial manner. They play a critical role in interpreting and enforcing the provisions of the Constitution. They are critical to ensuring accountability and transparency in both the government and the private sectors. They are an essential component of our democracy and play a crucial role in protecting the rights and freedoms.

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

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

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

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

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

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

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

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

The South African Judicial Education Institute is crucial to a strong and independent judiciary. In October last year, the SAJEI Council unanimously agreed that a judge should be appointed as head of SAJEI or the concept of the judge heading

SAJEI. Six members of council were nominated to constitute a sub-committee under the leadership of the Deputy Chief Justice to consider all factors relating to the appointment of a Judge as Head of SAJEI and provide a report to council.

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

Hon members, many of our judges and our magistrates are women. As the Minister raised earlier, this year is a significant one and on 25 April this year, the High Courts in both Pretoria and Johannesburg held ceremonial sittings to commemorate the centenary of the Women Legal Practice Act of 1923. Prior to this Act, the courts had ruled, in *Schlesin v Incorporated Law Society of 1909* case and *Incorporated Law Society v Wookey, 1912* case that women were not included as ‘persons’ who could be admitted to legal practice. The 1923 Act expressly opened the door to women by decreeing that:

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

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

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

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

The Bills were advertised by the department for public comment and in December last year we briefed representatives from the

Lower Courts Judiciary on the various inputs received on the two Bills.

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

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

We have since been informed by the leader of government business that given the number of Bills already before Parliament and the fact that we really only have the remainder of this year to finalize Bills, given the upcoming elections, next year, that we have to re-prioritize the submission of any further Bills.

Given the comprehensive amendments contained in the Bills, it will not be possible to introduce them into Parliament this

year, but it is important to highlight that discussions and consultations will continue in order to have them ready for introduction after the 2024 elections.

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

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

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

The Committee on the rationalisation of the Lower Courts Judicial Establishments is making progress. The second phase of the rationalisation process, which entails the rationalisation of the judicial establishments of the district and regional courts as well as the geographical areas of the chief magistrates’ clusters for the district courts is underway.

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

The committee is chaired by Mr Sam Makamu, a Regional Court Magistrate. Adv E Mashile, the former Chief Magistrate of Gauteng; Dr Connie September and Mr Anton Prinsloo, a Senior Magistrate for Judicial Ethics, and they are appointed as additional members to this committee. The committee is expected to submit their report by the end of November this year in terms of the approved terms of reference.

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

The committee’s consultations began in March this, with the Cluster Heads and Regional Court Presidents who have also supplied written submissions.

The committee has also met the Regional Courts Presidents Forum last month and will be meeting the Chief Magistrates Forum next week. Other stakeholders will be consulted as per the committee’s roadmap and action plan.

I want to mention that have I approached the Deputy Minister of Finance for assistance regarding the development of a separate Financial Manual for Magistrates. This will assist in further removing the lower courts judiciary from the public service dispensation. Magistrates have now been excluded from

the national travel policy, which came into effect on 1 September last year.

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

The intention of the manual is to have one core document that will include, amongst others, travel and subsistence, catering, hiring of venues, tools of trade such as cellular phones and mobile data, as well as any other expenditure for the magistrates.

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

House Chairperson, case flow blockages and roll collapses in our Magistrates Courts remain a matter of serious concern. I therefore want to commend the Regional Court Presidents Forum

for convening a meeting, to be held on 20 June, next month, with stakeholders such as the Department of Justice, the National Prosecuting Authority, Legal Aid South Africa as well as private legal practitioners, for an in depth discussion with a view to agree on resolutions on the way forward.

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

The public should be able to have confidence in our courts and know that justice will be done, without fear or favour.

I thank you.

Mr A M SHAIK EMAM: Thank you, House Chairperson, allow me to

...[Inaudible.] ... the NFP will support the budget vote tabled here today. But Minister, I think one of the problems lies with your department. If you hear all the complaints and concerns that are being raised, I think you should be doing what I’ve asked the Minister of Police to do. You come to us with your plan and tell us this is all what we require to address the challenges we face in our department. Your job as

politician is to give us the resources. If you can’t give us the resources, we can’t do it. Instead of, we are insulting you, complaining, raising concerns and attacking you. At the same time, we are admitting that your budget has been cut. You don’t have enough resources. You can’t deliver the goods. So, how do you deliver the goods if you not given the tools to deliver the goods? That’s the problem your department is facing. I’ll give you one good example when I say this.

Everyone in this House understands and knows the issue of maintenance and things when it comes to infrastructure which falls under the domain of the Public Works is in a state of paralysis or in a crisis. But what has anybody done to help any of these departments that faces a crisis because your infrastructure is collapsing. I’ll take you if you want to be fully ... [Inaudible.] ... here in Cape Town. You know, the people working there have to remind every person that’s entering there to please close the door behind you because it won’t close on its own. That’s how bad the situation. So, the question is what you need to do is push the bug onto to us and say you are the ones passing the budget. These are all our problems if you want us to get the House because we are not superhuman. We need the resources. Bring the resources, deal with these concerns and we’ll solve the problems. I think

that’s basically right, but in having said that I want to raise a concern.

I think of the Regional Court President who has been suspended for many years. I think his name its Eric Nzimande and the problem I have with that it’s costing taxpayer’s money, for years he’s been suspended. But he is sitting at home and getting paid. Over and above him sitting and getting paid, it means somebody had to replace him who’s also getting paid. It simply means it’s a waste of taxpayers’ money. I think it’s something that we need to ... deal with as a matter of urgency.

The other problem that I want to raise is that ... yes indeed I think some have raised the delays in giving judgements.

There is certainly a problem and also on trial rates which seems to be quite a long waiting period. But given the fact that you have certain challenges in terms of budgetary constraints we can understand that. We can’t expect miracles and that is why I want to repeat while the NFP supports this budget. It’s certainly not enough for you to achieve what you want to achieve and bring it back to us. Thank you very much.

Ms W S NEWHOUDT-DRUCHEN: Hon Chairperson, members of three arms of state, South African public watching, hon colleagues, all protocol observed. The ANC supports this budget vote. In April this year, we celebrated 100 years of women within legal profession. This milestone comes against the backdrop of serious exclusion on the part of women. This was through the Women Legal Practice Act in 1923 when women were allowed to enter into the legal profession. Prior to the Act woman was not considered to be a person - you know - who could be admitted for a legal practice. This Act opened the door for women by stating that women can be admitted to the legal practice. As attorneys, lawyers, advocates, notaries, conveyances in any province of the Union subject to the same terms and conditions as applied to males.

We celebrate women like Irene who was the first woman to enter as advocate in 1923. Irene Geffen and then Constance Mary Hall was the first woman to be enrolled as an attorney and Desiree Finca as the black woman enrolled as an intern attorney in 1967. Without the bravery and resilience, we would not be where we are today where a girl child can be inspired to join the legal profession and the bench.

Chairperson, as a nation we recently celebrated 29 years of democracy compared to more matured democracies in different parts of the world. Our democracy is still relatively young. Nevertheless, we must pride ourselves in the democratic gains for which we have fought very hard and won. Among them is the existence of an independent and impartial judiciary. What we have today we did not always have. When considering the journey traversed as a nation it may be prudent to consider the status quo and juxtapose with what we once had.

In the 1934 Appeal Court ruling in the case of Sachs versus the Minister of Justice the then acting Judge Chief Justice Stratford made the following statement about the parliamentary sovereignty in South Africa. Parliament make any encouragement it chooses upon the life liberty and property of any individual subject to its way and that is the function of the courts of law to enforce its rule.

In 1989 Harare Declaration the ANC converted itself to be the kind of system judicial review that is currently in place in South Africa. Affirming that in a democratic South Africa all shall enjoy universally recognised human rights, freedoms and civil liberties, protected under an entrenched Bill of Rights.

South Africa shall have a new legal system which shall guarantee equality of all before the law. South Africa shall have an independent and non-racial judiciary. The ANC’s commitment to the rule of law, separation of powers, the administration of justice and building a strong state institution is reflected by the separate Budget Vote on the Office of the Chief Justice. Regarding administration of justice, the ANC in 1997 Mafikeng Conference resolved inter alia to rationalise the magistracy and judiciary into a single judiciary. To rationalise court system to provide at least for high court each province which should be situated in capital of such province. To introduce legislation to give effect to section 180 of the Constitution by providing for a training programme for judicial officers which includes sensitisation and capacity building components and a grievance procedure and mechanisms for complaints against judicial officers. Much work has been done by the ANC government to implement all these resolutions.

The ANC has been clear that judicial training and skills development of our judiciary is a non-negotiable and must be vigorously pursued and that appropriate mechanism should be established to pursue the priority of establishing an adequate

pool of judicial offices who are steeped in and reflect the progressive values of our Constitution.

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

.as well as continuous education and development of experienced judicial officers. The SAJDI is primary and controlled by the judiciary. It was reported that on 25 January 2022 and 2023 the SAJDI held a launch the aspirant women judge programme at the office of the Chief Justice. The programme which will be a year-long programme will include in- person lectures, training components and the mentorship programme. It was reported that 15 women will participate in the programme. The programme is intended to give intensive training skills, experience and knowledge that will assist aspirant judges to reach a point where they could be considered for appointment as judges. This is indeed a progressive move and we hope this budget will cater for this and similar progressive transformative programmes.

Chairperson, prior to the adoption of the Constitution, judges were appointed by the state President through the inherited tap on the shoulder system. In practice although they were occasional or often notorious exception the Minister of justice and the head of the relevant court wielded a great power essentially making this selection, which was ultimate rubber stamped by the state President. The primary and most damaging system of this selection were that the lack of transparency shrouded in the ministry the process by which an entire arm of government was appointed and almost all the appointees were from the ranks of Senior Counsel resulting in exclusively white and with one exception male judicial by 1990.

The creation of the JSC and the processes it has adopted in relation to the appointment of judges have gone to a great extent towards addressing the problems associated with the earlier system. The decision by the JSC to hold open interviews prospective candidates is one that is rightly loaded. It promotes transparency in the selection of judges and access an accountability mechanism for the JSC since the public can see whether it is performing its constitutional mandate task properly or appropriately. This is all happening

under the ANC government and for that reason I repeat the ANC adopts and approves this report. Thank you. [applause.].

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

However, the Chief Justice needs to be capacitated. I don’t think that the Minister and the Deputy Minister fought hard enough to get as much money as possible that the Office of the Chief Justice needs. The Office of the Chief Justice is nowhere ready to embrace the Fourth Industrial Revolution. I haven’t seen any ... [Inaudible.] ... who are robots in our courts. We need to move in that direction. Hon House Chair, we notice that the court systems has been improved because of ... [Inaudible.] ... courts, especially in the labour court. So, the courts are not clogged with unnecessary cases.

Al Jama-ah would like to thank the legal profession for their assistance in the *pro bono* courts of the labour court have a

small role to play as a member of the South African Society for Labour Law, SASLAW, in establishing these *pro bono* courts. However, these *pro bono* courts should also be in all the other courts especially the so-called lower courts so that people can as well as access to the best legal firms in the country so that the poor can have access. When it comes to legal aid they are doing a good job but a lawyer that belongs to affirm has quite a lot of resources ... [Inaudible.] ... the council of his colleagues they have resources. For *pro bona* courts it is something that we need to look at.

The judgment of a Constitutional Court need to be supported by the Department of Justice themselves. They don’t implement the judgment of the Constitutional Court. We saw that they’ve done nothing about the amendment to the Divorce Act, 12 months down the line and 12 months to go. We feel that the department must do more to support the Chief Justice. Lastly, we would like to ask that the Chief Justice takes the lead to establish Saria court now that the Constitutional Court has said that Saria marriage is a valid SA marriage. Thank you very much.

Mr W HORN: Judicial independence is a fundamental precondition for the rule of law for a functional constitutional democracy

and in practical terms, for ordinary citizens to be afforded a real and fair opportunity for their disputes with one another and with the state to be adjudicated in an impartial and objective manner. In South Africa the Office of the Chief Justice was established as a separate department in 2010, to give some effect to the constitutional imperative that the judiciary be independent, and since 2015 it has been apportioned its own budget. A fresh clean start.

Therefore, when the first reports of some irregular and wasteful expenditure arose a year or two later, this Parliament often accosted for failing in its oversight duties ironically amongst others by our courts, warned the Office of the Chief Justice, OCJ, that the judiciary should be beyond reproach when it comes to financial governance and therefore it should sharpen up internal oversight to prevent the problem from recurring or becoming bigger. Unfortunately, this was not done. Just after the debate on this Budget Vote took place last year, we sadly learnt that three former senior officials had been implicated in major tender irregularities regarding caselines, a component of the court modernisation and court online system.

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

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

Since then - and for a full decade now - the executive has in what can only be described as a prime example of obstinacy and obstructionism delayed, failed and refused to deal with the substance of this proposal. Minister, the way in which you have simply without even resisting it, allowed mediocrity to define your term up to now, is well illustrated by the manner in which you told the portfolio committee on 3 May last year, that you were then about to table the Department of Justice’s own research into future court administration models before Cabinet in order to finally engage the judiciary on their report.

Followed on 2 May this year, a full year later, without any sense of shame, by a statement to the portfolio committee that you are confident that your policy on this will be finalised soon. Today we are here, soon being seemingly October. Chair, closely linked to this is the Lower Courts Bill, the tabling of which has been labelled as being imminent since 2014 and which is supposed to establish a single judiciary and bring the magistrates courts properly under the authority of the OCJ, it also remains just a mirage. Today the Deputy Minister of Justice says that they were caught unaware by the fact that they will be having elections next year and that will prevent

the tabling. However, we know that the ANC desperately want to avoid those elections but they are coming.

The key takeaways from our oversight visits as the portfolio committee over the last year and a half to all provinces was not surprisingly. Firstly, how the current model of Public Works through the Department of Public Works and Infrastructure is preventing maintenance and upgrading of court infrastructure rather than enabling it. Secondly, how the officials of the Office of the Chief Justice more or less spend most of their time begging not only Public Works, but also Department of Justice to perform the duties and functions that are essential to the proper functioning of our courts.

Functions that are a natural and obvious fit for the Office of the Chief Justice and which should have been transferred to it long ago.

Minister, there is a small window of opportunity to give your term of office some semblance of credibility. Don’t delay further, act to remove the way in which the Office of the Chief Justice remains largely dependent on the Department of Justice and transfer those shared functions to the Office of the Chief Justice. Let me make it clearly on behalf of the

judiciary, Minister, that if you hold the view that this government can sit on the judiciary’s proposals on the court administration model for a decade and then finalise your policy without proper, full and substantive further engagements with the judiciary, you will end your term without any credibility. Thank you, Chair.

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

Ms N H MASEKO-JELE: Hon Chairperson, members of the executive, Minister and the Deputy Minister, members of the legislature, members of the judiciary, compatriots, comrades and friends.

Chairperson, let me join the celebration of women participation in legal practice centenary. And also note the progress as far by the ANC, the organisation which is in charge, which is ready for the coming election, 2024, to take over again in order to finish what we have started.

The ANC supports Budget Vote 27 on the Office of the Chief Justice.

People are entitled to live in a just and social inclusive society where their dignity and self-worth are cherished and kept intact. People are the bedrock of our democracy.

Institutions like the judiciary, which yield public power, are at their service.

A strong and an independent judiciary cannot be overstated. It is part of the transformation enterprise and the democratic project to make our country reflect the tax and living spirit of our Constitution.

This budget vote is a reflection of the ANC’s commitment to the upholding of the rule of law, separation of powers, the administration of justice, accountability, responsiveness and openness.

As we know, the courts are the final arbiters in disputes between persons and bodies. An independent and strong judiciary is important for building a capable, ethical and

developmental state as envisioned by the National Development Plan, NDP.

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

The Office of the Chief Justice core function is that of providing administrative support to the judiciary and has adopted the following strategic outcomes: effective and efficient administrative support, improved court efficiency, enhanced judiciary education and support.

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

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

The Minister announced that R14 billion has been allocated over the medium-term to fight crime and corruption, with the following specific allocations:

The National Prosecuting Authority, NPA, receives R1,3 billion to support the implementation of the recommendations of the state capture commission and the Financial Action Task Force.

The Financial Intelligence Centre is allocated an additional amount of R265,3 million to tackle organised and financial crime.

The Special Investigating Unit, SIU, is allocated R100 million to initiate civil litigation in the special tribunal,

following from the proclamations linked to the recommendations of the state capture commission.

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

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

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

The work of the superior courts services programme is intended to enable access to justice, primarily by ensuring that the judiciary is supported. The programme has a budget of

R3,1 billion over the next three years, accounting for 39,9%

of the department’s total allocation. To strengthen access to its services, the department aims to fill an estimated 33 critical positions for registrars, clerks and judges, secretaries at superior courts. That’s very important to listen to, hon Horn.

On this one, Mr Swart, to increase efficiencies such as the turnaround time in dealing with cases, the court online system is expected to be rolled out in 2024 to seven prioritised superior courts in the Eastern Cape, Free State, Mpumalanga, Limpopo, Northern Cape, North West and Westerns Cape. We will be monitoring this. And this must be commended, Minister, and we are looking forward to that one. And this is also the most important area that will also alleviate the problem of the files that honourables were referring to; so, I’m sure they are getting their answers now.

Last year the Office of the Chief Justice received an unqualified audit opinion with findings on compliance with legislation. Although the Office of the Chief Justice remains unqualified, the outcome is a regression as the Office of the Chief Justice has achieved a clean audit opinion since 2017-

18. We encourage the department to focus on an address, the

root causes of the issues which were flagged by the Auditor- General.

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

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

We want to also thank the Minister and welcome and appreciate the appointment of 50% of women. We want to thank you, Minister, for the work that you are doing with the team and we

also encourage you to continue doing it. Don’t listen to the distractors on this one.

The ANC supports budget vote 27. I thank you, Chair. [Applause.]

The MINISTER OF JUSTICE AND CORRECTIONAL SERVICES: House

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

The House should also appreciate the work done by the Office of the Chief Justice in alleviating the challenges of load shedding throughout the country. This House was criticising this office for having not provided that alternative. Today, the office has done so. The House is now shifting the goalpost. But it is a reality that most of the High Courts

have now been mitigated or cushioned against the effects of load shedding across the country with the exception of only five, and those five. And those five, some of them is the local division, the Western Cape High Court, the labour court in the Western Cape, East London circuit court service centre, the labour court in Durban. And there is also an innovation to put solar systems in some of the court where it is practically possible. And I do think that this House should commend tis good work by the Office of the Chief Justice.

This has also been extended to some of our busy magistrate courts or lower courts across the country to mitigate against the effects of load shedding so that even during difficult times, the courts are still able to function. I must state that the President, with regards to the appointment of the Chief Justice has acted so in accordance with the Constitution.

Section 174(3) of the Constitution prescribes that the President appoints the Chief Justice after consulting the Judicial Service Commission, JSC, and the leaders of parties represented in the National Assembly. When he appointed the Chief Justice in March 2022, Chief Justice Raymond Zondo, the

President did so after consulting the JSC which favour the President with his views following public interviews in February, as well as leaders of the parties represented in the National Assembly.

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

So, the current Chief Justice is a product of the most transparent and democratic process ever made in an appointment of a Chief Justice in the Republic of South Africa. And it is in complaint with the Constitution of the Republic. So, any suggestions to the contrary, it’s absurd, it’s baseless and it’s without merit, and it must be dismissed with the contempt it deserves.

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

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

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

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

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

The MINISTER OF JUSTICE AND CORRECTIONAL SERVICES: In fact,

he’s the one who is distorting the Constitution. The issues raised with regards to fraudulent court orders, we continue to strengthen internal controls and awareness to the public and cases have been opened against three legal practitioners and seven members of the public with regards to the issue of the fraudulent court orders.

A number of issues raised by hon members have been taken into cognisance and we thank you for supporting the adoption of this budget. We believe that though not sufficient, it will

... [Inaudible.] ... and we will continue to encourage and call that they must be given more support and resources which we continuously do – and that is in line with our work for the office to function efficiently for access to justice in our country. I thank you, hon Chairperson. [Applaud.] [Interjections.]

The mini plenary rose at 18:39.