

Justice debate Vote 25 F.J Mulder MP FF Plus
30 May 2023

Honourable House chair

In the debate today I wish to draw the attention on what the inevitable result is when the 5 programmes of the Department of Justice and Constitutional Development fail to meet it's constitutional mandate due to poor governance, not only because of the aftermath of the Covid 19 pandemic but in fact also due to the devastating effect of poor governance, state capture and corruption that resulted in substantial budget cuts made in the 2022/23 financial year, limiting the capacity of the department to support and bring cases to court.

When the supporting entities of the department, for example the National Prosecuting Authority, the Special investigating unit and the Judiciary fail it results in what I am about to share with the house today.

Our courts are understaffed and overwhelmed, it is not uncommon to be awarded a hearing -or trial date, be present in court, ready to proceed with the trial and on the day told that the trial cannot proceed as there are too few judges and court rooms. It is not uncommon to sit in a court, ready to proceed with a trial, having obtained both a courtroom and judge and being told that the trial cannot proceed as there are no interpreters available for a specific indigenous language.

It is in fact very uncommon that a trial as scheduled for a specific date would proceed as planned for without any unforeseen circumstances causing the postponement thereof.

The courts are completely and desperately overburdened by paperwork and caseload and files are misplaced and go missing on a daily basis.

The courts are further understaffed for the loads that they carry and it is simply a case of too much work for too few hands to carry.

To exacerbate problems, the courts are notoriously archaic in their methods of dealing with paperwork in that a large number of courts are notoriously archaic in their methods of dealing with paperwork in that they still rely on a physical paper file being held by an office within its building.

Documents required to be present in the files are physically filed at court and the court personnel are required to place such physical document in the said appropriate file. When dealing with a load of files in the millions this is simply not workable and it seems obvious that files and documents will go missing without much negligence being involved.

House chair

Where the state fails, South African citizens seek alternatives and provide the services that the state is supposed to provide with tax payers money.

Many legal practitioners have now taken to favouring alternative dispute resolution mechanisms such as mediation rather than traditional litigation. In fact, even the Rules of court make it mandatory for litigants to consider mediation – seemingly to alleviate the caseloads of the courts.

Unfortunately there are some cases that are simply too contentious to be mediated and many of these get stuck for many years before getting a day in court.

Private prosecution is more commonly used than ever before and although the right to a private prosecution is not absolute, the right arises when the state has declined to prosecute which is more commonly the case.

All of this with after taxed money honourable house chair, minister as is the case with education, health care, community safety and electricity.

South Africans have to determine their own destiny where the state failed with after taxed money.

This state of affairs is not sustainable and a urgent solution has to be found. Either with a new dispensation or a new government

Thank you House chair