



## **Ministry of Justice and Correctional Services**

### **Budget Policy Statement for Department of Justice and Constitutional Development delivered virtually to Parliament by Minister Ronald Lamola on 25 May 2021**

Honourable House Chairperson

Members of the Executive Present

Deputy Minister for Justice and Constitutional Development, Mr John Jeffery

& Deputy Minister for Correctional Services, Nkosi Phathekile Holomisa

Chairperson of the Portfolio Committee on Justice and Correctional Services,  
Honourable Bulelani Magwanishe

Honourable Members of the Portfolio Committee on Justice and Correctional  
Services

Honourable Members of this August House

Director General for the Department of Justice and Constitutional  
Development, Adv Mashabane

Deputy National Director of Public Prosecutions, Advocate Anton Du Plessis

Distinguished Guests

Ladies and Gentlemen

It is perhaps a great coincidence of fate, that we gather on this historic day, Afrika Day, to discuss how South Africa, as a sovereign state, can continue to deepen constitutionalism, respect for the rule of law, promote the respect for human rights and provide quality and state legal advisory services, as well as access to Justice, which continuously restore the dignity of her people.

This budget for the Department of Justice and Constitutional Development, is presented on the backdrop of the 25th anniversary of the Constitution. In an article which traverses the history of our great constitution, Former President Thabo Mbeki, makes a point that none will refute, and that is: ***“This historic document seeks to establish a social order and governance system that is the direct opposite of what the Act of South Africa in 1909 and D.F. Malan and his National Party sought to impose on our country, building on and consolidating three centuries of colonial conquest, oppression and exploitation.”*** Unquote

House Chairperson, as we celebrate this historic document, We convey our gratitude to the speaker for acceding to our request for a debate on the constitution during a Joint sitting of Parliament on, Friday, the 28<sup>th</sup> of May 2021.

Honourable Members,

On this day in 1963, 58 years ago, Pan African revolutionaries like Kwame Nkrumah and many others, gathered in Addis Abba on the invitation of Ethiopian Emperor, Haile Selassie. As a collective, they formed the Organization of African Unity, which we know as the African Union today.

House Chairperson, the words of Emperor Haile Selassie at this gathering are a clear demonstration of what the liberation of South Africa meant to the other states on the continent.

Emperor Haile Selassie said, "***Our liberty is meaningless, unless all Africans are free. Our brothers in South Africa, cry out in anguish for our support and assistance. We must align and identify ourselves with all aspects of their struggle. It would be betrayal were we [to] pay only lip service to the cause of their liberation and fail to back our words with action.***" Unquote

Honourable Members, it is this firm commitment towards our liberation that helped us break the stranglehold of apartheid. Our African brothers and sisters spared no effort to help us break a regime premised on systemic corruption and total disregard for human rights.

We want to take this opportunity and wish all Africans a progressive Africa Day, which celebrates and acknowledges our successes in the fight against

colonialism and apartheid. We also reflect on the journey ahead in terms of common challenges that Africa is confronted with.

Today we table a budget which advances a new social order and enables us to uproot the legacy of apartheid and the remnants of a society which had no regard for human rights.

House Chairperson,

The budget allocation of the Department of Justice and Constitutional Development for the financial year 2021/22, amounts to **R21.5 billion**. This is inclusive of the allocation for the National Prosecuting Authority (NPA), and transfers to the two constitutional bodies, namely the Public Protector and the South African Human Rights Commission.

In addition, the budget allocation also provides funding for the Information Regulator as well as transfers to the Legal Aid South Africa, the Special Investigating Unit and a Direct Charge to the National Revenue Fund in respect of Magistrates salaries. This budget enables the Department and its entities to execute their respective constitutional and statutory mandates.

The above-mentioned budget was reduced by R2.4 billion.

R2 billion is allocated to Legal Aid South Africa, R437.9 million to the Special Investigations Unit, R329 million to the Public Protector South Africa and R195 million, to the South African Human Rights Commission.

Further, the tabled budget also includes an amount of R2.4 billion for the Direct Charge to the National Revenue Fund in respect of Magistrates Salaries

To combat crime, fraud and corruption, the National Prosecution Authority's allocation for 2021/22 amounts to R4, 446 billion, an amount of R106.4 million has been set for the Investigative Directorate whilst an amount of R40 million is provided for the establishment of additional Special Commercial Crime Courts in Limpopo, Mpumalanga, Northern Cape and North West.

The Specialized Commercial Crimes Courts (SCCCs) are central to the fight against corruption and will contribute to the successful implementation of the anti-corruption strategy. The SCCC's have been established in all provinces.

All serious economic crimes, including corruption and fraud cases, are being channeled through these courts. Cases enrolled in these courts, are being monitored separately to enable targeted interventions where necessary.

We will also continue to roll out Sexual Offences Courts, they play a critical role in the fight against gender-based violence and femicide. In the current financial year, a total of 100 Sexual Offences courts will be dedicated in terms of Section 55A of the Sexual Offences Act to improve the adjudication of sexual offences matters.

The modernization of the Criminal Justice System continues to be one of the JCPS Cluster's priorities, hence an amount of R626.2 million has been allocated for the Integrated Justice System. A further R524.3 million is set aside for the Department's specific modernization projects.

Honourable Members

The review of the criminal and civil justice systems remains a priority area of focus. We have assigned this important task to the South African Law Reform Commission and we have commenced with initiatives to increase the capacity of the Commission to carry out this important task.

During the 2020/2021 financial year, the Department was able to complete the consultation processes regarding the rationalization of magisterial districts in respect of the Eastern Cape and KwaZulu Natal provinces.

In the current financial year, we will commence with the second and last phase of the rationalization project. This phase entails the rationalizing of the

areas under the jurisdiction of the Divisions of the High Court and the Judicial establishments of both Divisions of the High Court and Magistrates' Courts.

The terms of reference of this important phase of the rationalisation project will be published in the Government Gazette in due course. A rationalisation committee will be established to provide a detailed report and recommendations which will enable us to finally dismantle the remaining apartheid-era judicial demarcations and fully align the courts to the new democratic dispensation.

Their work will culminate in the equitable distribution of judicial posts in both the High Court and Magistrates' Courts. This will translate into greater access to justice for all, as each court will have the requisite capacity and capability to dispense justice to the local community.

Honourable Members

The Department is continuing with the improvement of infrastructure to increase access to justice. Despite the slowdown in the capital infrastructure projects, which are coordinated through the Department of Public Works and Infrastructure, the department was able to meet its target in the last financial year.

For instance, the Durban Point Magistrate's Court which I had the pleasure of opening on 26 March 2021, is case in point. This court, with its immaculate

design and modern fittings, will go a long way in alleviating the congestion at the main District Court of Durban.

This court will be the first court in South Africa, where domestic violence survivors can apply online for a protection order. We hope to learn important lessons from this pilot as we prepare to roll out a more comprehensive version throughout the country.

Construction of the Dimbaza Magistrate's Court, in the Eastern Cape, was also completed in October 2020. The Department also completed major refurbishments and upgrading in a number of courts.

### **Integrating and modernising systems of the Criminal Justice System through the use technology**

Honourable Members

The Department, in intensifying its efforts to utilize ICT as a strategic enabler, and a mechanism to improve access to justice services, has done some considerable work.

Through technology, the serving of court processes like summons, which traditionally are served physically by the police and sheriffs, will now be able

to be served electronically to the parties, thus freeing up time to focus on service delivery priorities.

The integration of this technology across the justice system, will also enable a real-time single view of individuals engaging with the justice system, where for example, an integrated system will indicate, at any given point, whether individuals have protection orders against their names or are applying for maintenance from different defendants at different courts, across the country.

#### Key Initiatives over the 2021/22 period:

In the current digital era, it has become imperative to have an effective online presence between citizens and the Department. This initiative improves citizens' service through greater flexibility, cost savings, faster delivery of justice service, less paper to waste and certainly increased professionalism.

We will ensure that Justice Services are accessible to citizens via digital platforms.

The services will include:

- Maintenance services available on the DOJ Internet Portal (online)
- Protection Orders available on the DOJ Internet Portal (online)

- Expungement of Criminal Records services accessible via Digital platforms

## **A SUSTAINABLE AND RADICAL LAND JUSTICE PROGRAMME**

### **Honourable Members**

In March 2021, we announced plans to transfer the Land Rights Management Facility housed within the Department of Agriculture, Land Reform and Rural Development to Legal Aid SA. The implementation of these plans commenced in April 2021.

This is an extension of the entity's mandate to ensure access to justice, and the right of a person to have legal representation as envisaged in the Constitution, is materialized in pursuit of land justice, which has long evaded the majority of our population.

### **Combatting Gender-Based Violence**

Honourable Members, I would like to really commend this house and our portfolio committee for helping us to implement our resolve to build safer communities by strengthening our criminal justice system especially in so far as Gender Based Violence is concerned.

The work you have done on the three GBV bills is an invaluable contribution. These Bills are the fruits of the Presidential Summit on Gender Based Violence and Femicide in 2018.

The high conviction rate of 75,8% for sexual offences reflects the firm commitment to deliver justice to these vulnerable members of society.

### **Fight Corruption and Promoting Integrity**

The fight against corruption is a key priority for the NPA, as this scourge impedes service delivery, undermines the rule of law; and costs citizens trillions in monetary value.

A review of existing anti-corruption legislation and institutional arrangements in line with implementing the National Anti-Corruption strategy continues to be a priority.

The National Anti-Corruption Strategy, adopted by Cabinet in November 2020, has signalled the resolve of the Anti-Corruption Task Team to deliver on its work. The ACTT case management committee was revived and serious corruption cases, in cooperation with all other stakeholders, are being addressed in various projects.

A total of 128 cases were registered with 91 cases under investigation, 19 were closed, and 18 cases are currently before court with 35 accused persons. A total of 25 new cases were included on the list of ACTT Priority corruption cases.

One of the most important projects within the NPA in terms of corruption is increased co-ordination among relevant entities in fighting corruption. An example of this is the Fusion Centre in which corruption related to COVID-19 funds are dealt with. The number of incidents registered was 146, with 118 incidents under investigation and 28 closed.

The Asset Forfeiture Unit (AFU) plays a critical part in the fight against corruption, it has delivered significant returns in the past year, illustrating that crime does not pay.

In an effort to curtail the increase of corruption, the NPA obtained freezing orders to the value of R611 million in corruption or related offences in the last financial year.

The NPA and in particular the AFU, is implementing significant prioritisation initiatives during the 2021/22 period in partnership with the DPCI, SCCU, SIU, FIC, SARS and the Reserve Bank. Two main projects are the establishment of

Fusion Centre Regional Offices and the Expansion on the Anti-Corruption Task Team presence in the Regions.

The purpose of both these projects is to fast track the process of referral of high value cases, with asset forfeiture potential to the AFU. The NPA finalised a high-performance strategy in the AFU space to address the fight against priority crimes.

A process is underway to amend the POCA legislation in order to increase the effectiveness of asset recovery.

In partnership, the AFU and the Investigative Directorate through closely working together, are fast tracking cases with a view of initiating asset forfeiture proceedings and the recovery of stolen money from all jurisdictions, both national and foreign, this includes cases which are state capture related.

Honourable Members

The Investigating Directorate (ID), with its multi-disciplinary approach brings prosecutors, investigators and analysts together in order to combat serious, complex or high-profile corruption, this is the cornerstone of addressing corruption.

The NPA currently has its full top leadership team in place and it is prioritising the filling of other key senior posts in the coming months, this will bring much needed stability and leadership innovation to the NPA.

The top leadership is driving the following 4 priorities over the coming few months:

- Expediting high-profile corruption cases nationally and provincially.
- A stronger focus on serious violent and organised crime, and crimes that disproportionately undermine public safety.
- Capacitating the NPA through recruiting crucial additional skills and expertise, and capabilities, to respond to existing and emerging priorities.
- Enhancing staff morale and well-being.

It should be noted that high conviction rates were maintained in all court forums. Conviction rates of 93,8% in the high courts, 82,6% in the regional courts and 95,9% in the district courts, were recorded.

Regardless of these impressive conviction rates, the Covid-19 pandemic had a negative knock-on effect on the number of outstanding court rolls and backlog cases.

A National Integrated Criminal Case Backlog Management Plan was developed by the Department to create a framework and to provide guidelines for the management of historical and current criminal case backlogs in the lower courts which resulted from the lockdown measures.

The NPA, the Department, Legal Aid South Africa and the Judiciary, participate in the Optimisation Project which is led by the Deputy Minister John Jeffery.

Cases at a local level are prioritised, backlogs are monitored and steps to address the local challenges are agreed on by local stakeholders.

## **Reforming and Repealing Apartheid and colonial era legislation**

### **Honourable Members**

Several measures and interventions were over the years, initiated to remove apartheid laws from the statute book. The purpose of the Justice Laws Rationalisation Act, 1996, was to remove colonial and apartheid era legislation. A rigorous and robust constitutional review by the Constitutional Court also resulted in the declaration of a myriad of statutory provisions found by the Court to be inimical to the values and ethos contained in the Constitution.

Numerous other projects were also initiated or supported by government, such as the statutory law revision project conducted by the SALRC which focused on legislative compliance with Section 9 of the Constitution and the removal of archaic terminology and reference to repealed legislation.

However, some pieces of legislation which are not overtly unconstitutional, unjust or anti-democratic, nonetheless still formed part of a suite of legislative

enactments designed to foster the policies of apartheid, have survived. A few examples of these statutes include the Transkei Penal Code (Act 9 of 1983), the KwaZulu Act on the Code of Zulu Law (Act 16 of 1985) and the Riotous Assemblies Act (Act 17 of 1956).

Following the approval of the inclusion of the project onto the programme of the SALRC, I appointed experts to assist the SALRC in undertaking this critical task in November 2020. A call for submissions was widely publicised in May 2021, seeking public input into the repeal of these statutes.

The continued existence of these laws in our statute book is not compatible with our Constitutional order. We will lead the process to review and repeal these statutes. At the same time, great care should be taken to ensure that the abrogation of these statutes does not leave or create a lacuna in the law.

By way of example, the current Extradition Act as well as the Insolvency Act come to the fore.

The Extradition Act, 1962, is an outdated Act which is not in line with modern law and practices. We will introduce a new Bill which seeks to clarify the roles and responsibilities of the different functionaries and put procedures in place to expedite extradition requests. This Bill is aimed at ensuring that South Africa is not a safe haven for international fugitives.

### **Transforming the State Legal Services and the Legal Profession**

Ladies and Gentlemen

It is anticipated that the South African Law Reform Commission will finalize Project 142: Investigation into legal fees, including access to justice and other interventions, by the end of the first quarter of the 2021/2022 financial year.

Chapter 13 of the NDP refers to building a capable and developmental State, with the first objective being a State that is capable of playing a developmental and transformative role. A well-functioning litigation service is fully aligned with this vision.

The Solicitor General is also developing a comprehensive policy framework to address the transformation of the legal profession in a systematic manner, focusing on work distribution, management, oversight, skills development, and exposure as well as reporting. This policy framework is done with a particular bias to Previously Disadvantaged Individuals' (PDI's).

I am also pleased with the progress to date on the Legal Sector Code. Together with the Legal Practice Council, we have concluded all internal processes in developing the code. The transformation of the legal profession is not only a matter of demographical change, but it must also be linked to the quality of work that historically disadvantaged practitioners engage in.

## **A turnaround for the Masters Office**

House Chairperson

The department is developing an online deceased estate system. This will be a convenient method that allows people who want to report deceased estates to do so in the comfort of their offices, homes or at any other remote location.

This approach will drastically reduce queues and walk-in customers in the offices of the Masters or at the service points.

The online deceased estates system will cut across the population as both rich and poor are affected by death. It is envisaged that Deceased Estate online services will be implemented in the 2021/22 year.

We will also introduce trust online services this financial year.

This will streamline the Trust registration process and assist in curbing fraud as applicants will be able to lodge their applications online. This will assist with the workload of the Trust Sections as most information will be captured and scanned in by the applicants, freeing the Masters' hands to apply their minds thoroughly to the lodged documents and other clients.

The Master has a moral duty to protect the constitutional rights of the vulnerable 'incapacitated' members of the society.

Honourable Members, the advent of COVID-19 has really forced us to rethink all our processes and prioritize innovation.

I hereby table a budget that re-orientates our state in the image of the constitution. A budget that invests innovation, land justice and the rule of law as well as an accessible justice system.

As we commemorate Africa Day, we want to conclude by quoting Haile Selassie when he said: ***Throughout history, it has been the inaction of those who could have acted, the indifference of those who should have known better, the silence of the voice of justice when it mattered most, that has made it possible for evil to triumph.***

I thank you.