

## **Budget VOTE 27: Office of the Chief Justice**

### **Speech by Adv Glynnis Breytenbach MP, DA Shadow Minister of Justice and Constitutional Development**

Honourable 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 severely 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 & 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 loadshedding 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.

The Office of the Chief Justice, while doing a relatively good job with the limited resources at their disposal, certainly has areas in which it can work towards improvement. Their failure to supply any updated information on reserved judgements since 2021 is a matter of deep concern. The Chief Justice has undertaken to attend to this as a matter of urgency, and we look forward to receiving this information within the coming weeks, with regular updates thereafter. There can be no excuse for delaying judgements for months, and sometimes years, with no mechanism for holding culprits to account.

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 vibrant, and for that we must have an adequately funded and independent and strong judiciary.

I thank you.