

**Address by Minister TM Masutha, MP (Adv) at the occasion of the budget debate of the
Office of the Chief Justice, 17 May 2017, National Assembly, Cape Town**

Honourable Speaker of the National Assembly;

Ministers and Deputy Ministers;

Honourable Members;

Distinguished members of the Judiciary;

Heads of Professional Law bodies;

Distinguished Guests;

Ladies and Gentlemen

It is an honour and a great privilege to present to this august House the budget policy statement of the Office of the Chief Justice (OCJ) at this occasion of the third anniversary of the separate budget allocation for the Office.

As I introduce the debate allow me to first join President Jacob Zuma in congratulating Honourable Chief Justice Mogoeng Mogoeng on his election as President of the Conference of Constitutional Jurisdictions of Africa (CCJA) during its Fourth Congress which was held in our shores here in Cape Town in April 2017. Bestowing the leadership of this important continental body to our Chief Justice is not only an acknowledgment of his judicious stewardship but is also an affirmation of the significant role that our Judiciary continues to play in the development of global constitutional jurisprudence. We wish him well in this important role.

This year marks an important milestone in our fledgling democracy as we commemorate the 23rd anniversary of the adoption of our democratic Constitution which was later certified by the revered Constitutional Court to be consistent with the 34 constitutional principles as required by the Constitution.

The adoption of the Constitution was a culmination of a maze of revolutionary policies which were developed and shaped by the African National Congress many of which are now imbedded in the supreme Constitution. Among these policies I can mention the African's Claims of 1943, the ANC Constitutional Principles of 1923 and the Freedom Charter of 1955. The independence of the Judiciary and the Rule of Law which underpins our constitutional democracy are some of the fundamental principles that resonate with the ANC's struggle for liberation. The ANC continues to uphold and defend these fundamental values unequivocally. The establishment of the Office of Chief Justice by a Presidential decree in 2010 signifies the ANC's unequivocal commitment to an independent, strong and resilient Judiciary that must, through the courts, jealously safeguard our constitutional gains for which many sacrificed their lives.

Chapter 8 of the Constitution which deals broadly with the justice system in the country defines the role of the cabinet member responsible for the administration of justice. The Constitution entrenches the independence of the Judiciary and the courts which function subject only to the Constitution and the Law. The Legislative and Executive Branches have a constitutional duty, through legislation and other means, to assist and protect the courts in carrying out this delicate and more often a complex constitutional mandate. The role of the Judiciary becomes even more vexed when the courts are called upon to adjudicate upon disputes that fall outside the province of the courts which lately is becoming a common phenomenon. When adjudicating over such disputes it is expected of the courts to exercise judicial restraint within the defined parameters of the Constitution and must resist the temptation of overreaching into the terrain of the Executive and Legislature.

The historic meeting of the National Executive and the leadership of the Judiciary of 27 August 2015 created a conducive platform for constructive engagement amongst the Branches of State on matters that straddle across each other's constitutional mandate. Before I step off this matter let me take this opportunity to apprise this esteemed House of the progress made by the Inter-Ministerial Committee led by the Deputy President Ramaphosa which was appointed by Cabinet to spearhead the development of policy and legislative reform on judicial governance and court administration. The Deputy President has already met with the Chief Justice to elicit the views of the Judiciary on the subject and a technical task team led by the

Director-General is undertaking guided research on the matter. The work of the Inter-Ministerial Committee will culminate in the desired policy and legislative reforms that will define the ultimate governance model for the Judicial Branch of the State. The reforms will also clearly delineate judicial functions which are the preserve of the Judiciary and meticulously address the question of accountability over court performance.

Honourable Members

The judicial system is at the heart of the Criminal Justice System and the effective and efficiency of the system is measured through what happens in the courts. Courts have an indelible role in our quest to restore public trust in the criminal justice system which, judging from the myriad of challenges facing the system appears to be spiralling downwards. Through the Constitution Seventeenth Amendment of 2012 and the Superior Courts Act of 2013 the Chief Justice exercises the responsibility over the norms and standards for the performance of judicial functions. We derive comfort from the work of the National Efficiency Enhancement Committee (NEEC) and the Provincial Enhancement Committees (PEECs) established by the Chief Justice as the coordination and oversight structures, in finding solution to these challenges. From the side of the Executive we are devising a mechanism through which we are able to complement the work of the NEEC and PEECs where specific intervention by the Executive is required. I will report in greater detail when I present the budget policy statement of the Department of Justice and Constitutional Development of the approval, by Cabinet, of the Integrated Criminal Justice Strategy (ICJS) which aims to adopt an integrated approach to addressing challenges facing the criminal justice system from start-to-end. We are looking forward to seek active participation by the Judiciary on the ICJS in our collective endeavour to establishing an effective and efficient criminal justice system.

Honourable Members

The Judicial Service Commission continues relentlessly in its endeavour to realise the constitutional imperative expressed in section 174(2) of the Constitution which alludes to the “[t]he need for the judiciary to reflect broadly the racial and gender composition of South Africa” when judicial officers are appointed.” It is commendable that out of an establishment of 246 Judges, 160 (65%) are black and 86 (35%) are white.

While the Commission has been resolute in rejecting nominations which do not advance gender transformation, the reality of the matter is the absence of an adequate pool that will enable a critical mass of candidates that are required to reverse the historical imbalances especially in relation to gender transformation. Women on the bench constitute an awful 87 (34%) of the total number of Judges.

The Chief Justice has raised with me the desirability of resuscitating the Aspirant Women Judges project which was initiated by the then Minister Bridget Mabandla and the late Chief Justice Langa. Through this project an in-take of eligible women practitioners will be put through a judicial training programme under the auspices of the South African Judicial Education Institute and are given exposure on the various judicial work thereby enhancing their opportunity to appointment to the bench. I am considering the Chief Justice's request favourably and will make an announcement in this regard soon.

The nomination, by the President, of the first ever woman to the position of President of the Supreme Court of Appeal who is also Black (African) namely Justice Mandisa Maya, is a cause for celebration. I also wish to congratulate Honourable Justice Zondo on his nomination to the office of the Deputy Chief Justice of the Republic of South Africa. May I take this opportunity to thank Justice Nkabinde for her continued enthusiasm and sterling work done as acting Deputy Chief Justice,

Let me further express appreciation to the two Judges President Kgomo and Sangoni of the Northern Cape High Court and Eastern Cape High Court respectively who will retire in the current year.

Honourable Members

One of the important functions of the Judicial Service Commission is to ensure judicial accountability. The Commission is seized with a number of complaints against Judges which have taken time to complete. This requires that we engage with the Chief Justice and the Judiciary to look at the effectiveness of the current complaints handling mechanism. The complaints range from delayed judgments and racist remarks. As part of the effort to safeguard the fundamental constitutional principles of judicial independence and judicial accountability, the Registrar of Registrable Interests located within the OCJ is seized with a responsibility of registering the

registrable interests of Judges in active service as required by law. All Judges in active service by 31 March 2017 have complied with the requirement period for disclosure, except one who could not do so because she was ill disposed.

Honourable Members

On 25 January this year the Limpopo Division of the High Court completed a year since it commenced with its operations. The court roll of the Division has shown steady increase since its opening.

We are on course to complete the construction of the Mpumalanga Division of the High Court by the end of the current financial year as was announced by the President during the State of the Nation Address in February this year. This milestone is proof of our concerted effort to realize the goal to establish a high court in every province in the Republic. The Judicial Service Commission has, at its recent sitting last month, recommended to the President the appointment of a Honourable Mr Justice Francis Legodi as Judge President of the Division. Upon his appointment Judge Legodi will in the interim oversee the transition and operationalization of the Court. The opening of the court in a year's time will symbolise the switching-on of the light in the terrace of justice in the province thereby bring to an end a long and painful journey that the people of the province had to endure in commuting to Pretoria in search for justice for over a century.

Honourable Members

We have recognised that the education and training of judicial officers is necessary to promote and uphold the independence, impartiality, accessibility and effectiveness of the courts. In this regard, the South African Judicial Education Institute located under the Office of the Chief Justice, continues to offer training courses to Judicial Officers. During the 2016/17 financial year, 90 judicial education courses which include, basic and advanced courses for newly appointed magistrates and aspirant Judges, were offered to serving and aspiring judicial officers, which exceeded the set target of 70. In this 2017/18 financial year, the number of judicial education courses to be offered by the South African Judicial Education Institute is 77.

Honourable Members

There has been a steady increase in the personnel of the OCJ to the initial 1486 staff members transferred from the Department of Justice and Constitutional Development. The employee headcount now stands at 1700 staff members. This increase was informed by the need for more staff to support the Judiciary in the performance of its administrative functions. More capacity will be added to the OCJ as soon as we finalise consultations on the OCJ macro structure.

I wish to inform this august house that the expenditure on the 2016/17 budget at the end of the financial year stood at 98 %. The budget spending was in line with the allocation and budget prescripts, meaning there was no overspending. It is commendable to note that the department had an unqualified audit outcome on the financial statements in the maiden year of operating the budget vote. This indeed should be commended.

Over the three year Medium Term Expenditure Framework period, the OCJ has been allocated a total budget of R6,32 billion. For the 2017/18 financial year the allocated budget amounts to R1,984 billion. Of this amount R966,06 million is allocated to Judges' remuneration and benefits. This means that the OCJ will have an operating budget of R1,018 billion.

Of the total budget, R737,47 million which represent 77,3% of the budget, is allocated to Judicial Support and Court Administration. Judicial Support and Court Administration has been allocated the bulk of the budget as it forms part of the key mandate of the OCJ. These funds will be utilized to improve the court system through an effective and efficient case flow management system and the capacitation of the OCJ Provincial Centers which will provide administrative support to the Superior Courts. The funds allocated for Judicial training of judicial officials has increased from R30,2 million to R49 million in 2017/18. A total amount of R154,94 million has been allocated to conduct about 246 judicial education courses over the Medium Term Expenditure Framework period. The budget for Administration of the entire OCJ amounts to R198,99 million which constitutes 19,5%.

I acknowledge the tight fiscal environment within which the country currently operates and the difficult decisions that the National Treasury needs to make to divide the limited resources against competing priorities of the government. Like any other department, the OCJ is faced with this reality and I shall engage my Cabinet colleagues to explore

mechanisms of alleviating the pressure especially on key areas of services delivery within my Portfolio (operationalizing the Mpumalanga High Court, funding the Superior Courts Act, 2013, capacitating the OCJ, etc). The OCJ commits to ensure that the funds allocated in this budget will be utilized in an efficient and effective manner.

In conclusion, let me convey our profound gratitude to the Chairperson of the Portfolio Committee and his entire Committee for their continued support and guidance. A special word of thanks also goes to the Chief Justice of the Republic of South Africa for his astute leadership of the Judiciary, the Heads of Court and all members of our Judiciary.

Please allow me to thank my two Deputy Ministers, the Honourable John Jeffrey and the Honourable Thabang Makwetla, for their profound and sterling support, and also my colleagues in the JCPS Cluster.

A special word of thanks goes to Secretary General for the Office of the Chief Justice, Ms Memme Sejosengwe, the Director-General of the Department of Justice and Constitutional Development, their respective managements and the entire staff in the Justice family for their tireless efforts.

I thank you.