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**Address by Minister Ronald Lamola, MP Minister of Justice and  
Correctional Services at the occasion of the budget debate of the Office  
of the Chief Justice, July 2019, National Assembly, Cape Town**

Honourable Chairperson;  
Ministers and Deputy Ministers;  
Honourable Members;  
Distinguished members of the Judiciary;  
Heads of Professional Law bodies;  
Distinguished Guests;  
Ladies and Gentlemen

Honourable Members,

Allow me, as I open this important debate, to express my profound gratitude to our Chief Justice Mogoeng Mogoeng, whom I had the opportunity to meet ahead of today's debate. I look forward to his judicious guidance and wisdom and that of his leadership as we tackle the tasks ahead of us. I will therefore be engaging regularly with the Chief Justice and the Judiciary on matters that are important to the Judiciary and the Courts in general. We have agreed to meet regularly to discuss matters of common interest.

In his State of the Nation Address, the Honourable President Ramaphosa emphasised the importance of our people's dreams of a South Africa that espouses our collective aspirations. In this, he sought to remind all of us that the South Africa we have falls short of the ideals our people aspire for, and for which many paid the supreme price.

This year marks the 56<sup>th</sup> anniversary of the Rivonia Trial when Nelson Mandela and his core accused, namely, Lionel Bernstein, Denis Goldberg, Arthur Goldreich, Bob Hepple, James Kantor, Ahmed Kathrada, Nelson Mandela, Govan Mbeki, Raymond Mhlaba, Andrew Mlangeni, Elias Motsoaledi and Walter Sisulu, stood trial. That



case became known as the Rivonia Trial, named after one of the suburbs of Johannesburg. The case was heard before Judge President Quartus de Wet, then Judge President of the Transvaal Provincial Division of the Supreme Court. Leading the prosecution was Dr. Percy Yutar, then Deputy Attorney-General of the Transvaal. Mandela, Sisulu, Mbeki, Motsoaledi, Mlangeni, and Goldberg were found guilty on all four counts of High Treason. Nelson Mandela was sentenced to life imprisonment and served most of his 27 years and eight months on Robben Island.

Amongst the defence team that represented the accused was Arthur Chaskalson who went on to become the first President of the newly established Constitutional Court before it was merged with that of the Chief Justice of the Republic of South Africa.

The prosecutors of Nelson Mandela never harboured even the remotest imagination that his long walk to freedom will, in fact, be a journey of a triangle, from Robben Island to the Union Buildings and to the global stage that the United Nation proffered. It was on

11 November 2009 when the United Nations adopted a resolution by consensus, that the date of birth of the first President of a democratic Republic of South Africa be recognised internationally for his remarkable contribution to promoting world peace, resolving conflicts and promoting race relations, human rights and reconciliation. Beginning with the year 2010, the International Mandela Day has been celebrated world-wide as gesture of goodwill on which people of the world are encouraged to contribute 67 minutes towards humanity and making the world a better place.

We, as a country, have come a long way. Today things have changed: South Africa is a constitutional democracy and the outlook of the Judiciary and this democratic Parliament has changed from what it was then, and represent both the democratic will and demographics of the South African population.

We have had partial fulfilment of the ideal that was so eloquently articulated by President Mandela during the Rivonia Trial. As attested to by our recent national and provincial elections that ushered the 6<sup>th</sup> Administration and Parliament, our fledgling democracy has attained full maturity and is in safe hands of our democratic



Parliament and capable Executive, under the watchful eye of our independent Judiciary.

Notwithstanding the strides we have made, the ideal for which Nelson Mandela lived and was prepared to die will be fully realised only when South African live together in harmony with equal opportunities. This will be possible once we have been able to reverse the devastating legacy of the Land Act of 1913, *the* Native Trust and Land Act of 1936, and the Group Areas Act of 1950 and other racially based laws that deprived the majority of the right to land.

In the State of the Nation Address of 20 June 2019, President Cyril Ramaphosa reflected on the progress we have made to cure our country of the corrosive effects of corruption and in pursuit of the ideals and values of our Constitution. The Judiciary, as an independent arm of the State, is an indispensable weapon in the fight against corruption as in constitutional democracies similar to ours.

I have therefore deemed it fit that I dedicate today's debate of the Office of the Chief Justice to our quest for the democratisation of land ownership and the significance of well-grounded jurisprudence towards the attainment of land justice in this country. It is in this context that we envisage a much broader dispensation to that the current Land Claims Court for the full implementation of section 25 of the Constitution. The Inter-Ministerial Committee led by the Honourable Deputy President Mabuza is seized of this matter. The Land Court Bill that we envisage will address the current challenges confronting the Land Claims Court, including the appointment of permanent Judges in this important court. We will engage with the Judiciary in this respect.

It is not a mere coincidence that the Office of the Chief Justice was proclaimed as a department in the very same year that the United Nations declared the 18<sup>th</sup> July as an International Mandela Day, but it is of fundamental significance in the life of our democracy. It is in this spirit that I believe that today's debate will not only be inspired by the resounding speech of Madiba during the Rivonia Trial, but also by our collective duty to build a judicial system that is consistent with our supreme Constitution and a better world.



Honourable Members

The society envisaged in the National Development Plan Vision 2030 (NDP) in which poverty, unemployment and inequality will be banished into history, remains the cardinal compass of our endeavors towards its attainment. Here today, we are looking into the realisation of those dreams and aspirations of our people through the prism of justice. Important to our debate today, is the acknowledgment, of the NDP, of the significance of progressive jurisprudence that is required to complement and guide the efforts of the Executive and Legislative Branches of the State in transforming the State and society. By enjoining us to heal the divisions of the past the Constitution demands of us not to be indifferent to the challenges of poverty, inequality and unemployment as espoused in the NDP.

It is in this context that the Judiciary has an indelible role in the advancement of radical socio-economic transformation to realise those transformative ideals and to grow South Africa together. Twenty five years after the advent of our constitutional democracy, we remain committed to the vision of a non-racial, non-sexist, democratic and prosperous South Africa.

This has also found expression in the composition of the Judiciary where out of the total number of 251 Judges in the Courts, 166 (more than half) are Black Judges and 97 women. In contrast, in 1994 the Judiciary comprised of 165 Judges of which only three were black males, two white females and no black female Judges.

However, much still needs to be done to ensure that our Judiciary reflects the gender composition of the South African population. I am looking forward to participating in the Judicial Service Commission, and certainly so, with the other members of this august House who have been appointed to serve in this esteemed body, to continue with the important tasks of transforming the Judiciary. We are, similarly, accelerating the transformation of the legal profession which remains an important feeder to the Judiciary.



Let me, at this point, thank all the Honourable Justices who responded to the call of national duty and came to lead the Commissions of Inquiry assigned the magnitude tasks of probing the allegations outlined in the published terms of reference of each. The people of our land are indebted to Deputy Chief Justice Zondo, who, amid his busy schedule at the Constitutional Court, has stepped in to lead the Commission to investigate allegations of state capture, corruption and fraud in the Public Sector including organs of State. In the same vein we extend our gratitude to Justice Mpati who chairs the Commission on allegations of impropriety regarding the Public Investment Corporation which is still underway, and other Justices who sacrificed their well-deserved retirement to respond to the call of duty.

The South African Judiciary has demonstrated its agility and prowess in dealing with cases brought before the courts. The jurisprudence of the Constitutional Court continues to guide the Executive and Legislative Branches in exercising their distinctive constitutional mandates. The Judiciary continues to play a central role in the evolution of our jurisprudence and the eroding of the old archaic laws that had brought pain and suffering to our people. The courts have played pivotal role in enacting new progressive laws flowing from our democratic constitution.

Organs of State, of which the Office of the Chief Justice is part, have a constitutional mandate and obligation to assist and support the courts to ensure their independence, effectiveness and impartiality. This is our primary mandate as the administrative arm of Government, in order to ensure that the Judiciary and the courts are adequately equipped to exercise their constitutional mandate independently and subject to the Constitution and the law.

It is important that we celebrate and deepen the doctrine of the separation of powers and the independence of the Judiciary which underpin our constitutional democracy. Each of the three arms of the State has its distinctive role which it must exercise within the confines of the Constitution and the law and working together with the other Branches to deepen the overall thrust of our constitutional democracy. It is a complex dovetail that has inherent tension that requires a matured democracy to



manage and exploit the opportunities for cooperation amongst the arms of the State. Building this constitutional trust requires meaningful engagement and constructive interface amongst the three arms of the State.

I have been appraised of the work undertaken by the 5<sup>th</sup> Administration on the project of judicial governance and court administration, and will be approaching Cabinet soon for guidance in taking the process forward.

The work of the OCJ in supporting the Judiciary, contribute towards Chapter 14 of the NDP relating to promoting accountability and fighting corruption. The contribution to this NDP priority is done through strengthening the judicial governance and the rule of law which is the foundation of the focus areas in the OCJ's Annual Performance Plan (APP).

In support of the Government unwavering commitment to building a conducive and enabling environment for the effective functioning of the courts, the administrative functions and staff attached to the Superior Courts were transferred to the OCJ with effect from 01 October 2014. This transfer also included a budget of about R1, 5 billion which was transferred from the Department of Justice and Constitutional Develop to the OCJ. Of particular importance is that from 1 April 2015, the OCJ received its separate budget allocation on Vote 22. An amount of R7.38 billion is allocated over the current Medium Term Expenditure Framework. This represents an average growth of 9.8% year on year and reflects the priority that is given to the OCJ.

The growth reflected in the figures above is mainly to sustain the current level of services in the Superior Courts and support to the Judiciary.

The budget of the OCJ consists of R3.84 billion for voted funds and R3.54 billion for Judges' remuneration which is a direct charge to the National Revenue Fund. The core functions of the OCJ are allocated a total of 82.2% of the total budget.

One of the key priority areas for the OCJ concerns the improvement in the provision of Superior Court services as part of broadening access to justice and court services.



The OCJ has, since its budget vote of the 2015/16 financial year, recorded a continuous increase in the provision of its mandated core services. One of the contributors to this increase includes improved training and monitoring measures that are implemented to sustain and improve the delivery of services at the Superior Courts. The improved delivery of services was recorded despite an increase in the workload that each court is expected to handle, brought on by the continuous changes in the environment within which the courts operate. I am pleased to announce that all nine Provinces now have a Division of the High Court and the process of appointing judges of the Mpumalanga Division is under way.

We are liaising with the Presidency and the Office of the Chief Justice for a date in the near future for the official opening of the seat of this court which is a delight to every eye and exhibit magnificent architecture.

An efficient court system is of paramount importance to access to justice. It is important that the Judiciary participates in the administration of courts, so as to offset any bottlenecks in the attainment of justice as led through court proceedings. Judges are better positioned to understand the enormous challenge of how the system as a whole can impede or enable the efficient attainment of justice through the courts. One of the ways of ensuring access to justice and an efficient court system is through the use of technology.

I have already alluded to the modernisation project when I presented the policy budget statement of the Department of Justice and Constitutional Development. In respect of the Superior Courts in particular the OCJ continued with the development of the e-Filing solution, which will be rolled-out during the 2019/20 financial year. The system will enable all records linked to a case to be easily managed, secured and shared, contributing to effective and efficient delivery of court services.

I have, when I presented the policy statement of the Department of Justice and Constitutional Development earlier today, highlighted the importance of the modernisation of the justice system as a whole, particularly in the wake of the 4<sup>th</sup>



Industrial Revolution. It is also important that the modernisation project straddle across all courts, both Superior Courts and Magistrates Courts. We will endeavor to support the Judiciary in this important project for the common good of our country.

Our court users stand to benefit from a seamless court system that brings efficiency across the hierarchy of our courts.

The constrained fiscal position of the country continues to have a negative bearing on the consistent provision of efficient court services. The resulting budget deficits translate to reduced budget allocations for the OCJ, affecting one of the main objectives relating to its capacitation. The OCJ still required full capacitation for it to operate at the expected level and reducing court administration inefficiencies in areas where the services provided are labour intensive. The OCJ has been forced to reprioritize its already constrained resources in order to operate within the approved budget ceilings. The Department however, has made great strides in delivering on its mandate despite budgetary constraints by ensuring a strategic deployment of critical resources to the core areas of service delivery. The OCJ will therefore focus on filling vacant posts in line with the recently approved macro structure of the department, as well as capacitating the newly opened Mpumalanga Division of the High Court.

The Constitution enjoins the Chief Justice as the head of the Judiciary, to develop and monitor norms and standards for the exercise of judicial functions of all courts. The Chief Justice has, for the effective monitoring of these norms and standards, established appropriate structures and these are: the National Efficiency Enhancement Committee chaired by the Chief Justice himself, the Provincial Efficiency Enhancement Committee in each province chaired by the Judge President of the Division concerned as well as the Regional and District Efficiency Enhancement committees under the auspices of Regional Court Presidents and Chief Magistrates respectively. We will continue to be advised by the Chief Justice how the OCJ and other departments and State entities can continue to support the work of these committees.





Access to Justice remains an important Constitutional right and a value that the three Branches, acting together, must aspire to fulfill. An important aspect of this commitment relates to the rationalisation of courts required by section 16 of Schedule 6 of the Constitution which is further amplified in the Superior Courts Act. This constitutional injunction related to the rationalization of all courts including their structure, composition, functioning and jurisdiction, and all relevant legislation with the view to establish a judicial system suited to the requirements of the new Constitution.

Transformation of the Judiciary remains one of Government's mandates and is a constitutional imperative of establishing a Judiciary that represents the racial and gender demographics of South African society.

Before I conclude let me pay tribute to the Constitutional Court Judge, Honourable Justice Edwin Cameron who will be bowing out of active service, for his profound contribution to our constitutional jurisprudence. Justice Cameron is a renowned activist and one of the pioneers in the nascent development of our jurisprudence. The *Glenister vs the President* case remains a hallmark judgment for which he will be remembered.

Let me take this opportunity to re-affirm our commitment to the strong, independent and effective Judiciary as it is a prerequisite for a healthy and stable democracy.

It is a great honour to present the budget policy statement of the Office of the Chief Justice (OCJ), Vote No. 22 for the financial year 2019/2020.

I also 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.



Last, but not least I thank the 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 Department and the Justice family for their tireless efforts.

Let me end with this quote by the late former Secretary-General of the UN Boutros Boutros – Ghali: “Democracy is an objective. Democratization is a process. Democratization serves the cause of peace because it offers the possibility of justice and of progressive change without force”, close quote.

**I thank you**

