

## **The Judiciary remains an institution of which we can be proud of**

Adv. Glynnis Breytenbach MP – DA Shadow Minister of Justice and Constitutional Development

Chairperson, honourable members,

The Office of the Chief Justice has many and important responsibilities, and is still a relatively new office, with an expanding footprint.

It has taken over many responsibilities from the Department of Justice, and this has brought many challenges. The OCJ supports the Judiciary in contributing to Chapter 14 of the National Development Plan by accelerating reforms in a Judiciary led court administration, ensuring an efficient court system, reducing court administration inefficiencies, ensuring judicial accountability and providing training to the Judiciary.

But, as with most things, this onerous set of responsibilities does not come without problems. For some time now the Democratic Alliance (DA) has raised in the committee the issue of a lack of meaningful information, the reporting on which has either been abandoned or fallen between the cracks.

The Judiciary has effectively taken over the function of court administration. Yet they do not report on how well or how efficiently the Courts are working. This information cannot be obtained from the Department of Justice, since the function now resides with the Judiciary.

The information is not reported on by the NPA, because the function now resides with the Judiciary. The end result is that as a committee we are unable to exercise oversight over one of the most important issues in the criminal justice cluster – how well are the Courts working?

We know, just from everyday experiences of our citizens that they are not working well at all. Court hours continue to decrease, statistics on how many cases are enrolled and finalised continue to shrink, while crime is rampant and South Africans are exposed to a violent, crime ridden society with nowhere to go.

We know that the number of cases reported to the SAPS is exponentially higher than those that get through the system to some conclusion, yet it is near impossible to glean the information necessary to determine how well the Courts are working. This is an unacceptable state of affairs, and it must be remedied immediately.

South Africans are subpoenaed to court on a daily basis. They have no choice. Many are forced to leave home in the early hours of darkness to travel to these courts. Once there, they are barely acknowledged, and often have to sit for hours, with no information, food or

water or adequate sanitation, and wait, only to be told as an afterthought that their cases have been postponed and they will have to return on another day, forfeiting another day's wages.

Courts are supposed to sit for four and a half hours daily. There are no courts in South Africa that currently sit for that time. Very few courts start on time, and most finish early.

It is time to enforce court hours, ensure that courts sit for full days, and dispatch with many more cases than is currently the case. There should be consequences for such shockingly poor productivity. The battle against crime and corruption cannot be won unless the Courts sit, and sit productively.

That being said, judges and magistrates and prosecutors and the public are subjected to the most unappetising conditions at courts around the country. The buildings are in need of maintenance and repair, and the working conditions are quite shocking. The air conditioning in the North Gauteng High Court has not worked for the past 12 years, with temperatures inside the courts often rising above 38 degrees in the summer. Of course, no one can be expected to be productive in these conditions. This is the case all around the country. It is simply unacceptable.

Judges are required to produce high quality judgements in matters with increasingly complex facts, with little or no support. They have little in the way of administrative support, a huge shortage of research support and are expected to produce high quality work on a shoestring budget in less than agreeable working conditions. Generally speaking, they have done this, but it is just a matter of time before it becomes impossible. Last year, after a plea to the Deputy Minister, judges received a batch of long overdue law reports, which took them to March 2019. Since then, they have again not received them, with no access to the SA Law Reports, judges simply cannot remain abreast of developments in the law. Earlier this year, the intranet serving the Courts was down for weeks, making it impossible for the courts to send or receive emails. Bearing in mind that in the electronic age, heads of argument and other essential documents are often served via email, you can imagine the chaos that ensued.

Outstanding reserved judgements remain a perennial problem, with a few judges having outstanding reserve judgements that are not just months, but years late. Some as long as ten years. This is clearly just not a state of affairs that can continue, and some sort of discipline needs to be brought to bear, and consequences must ensue for this type of inaction.

But despite these problems, we have a lot to be grateful for. The Judiciary is one branch of the criminal justice system that was never captured. They held the line against state capture, and successfully defended and enforced our Constitution. The problems we will solve, and our Judiciary remains an institution of which we can justifiably be proud.