

JUDGE SIMELANE ON HIS ROLE AS NDPP, FOR THE BEST INTEREST OF THE NPA

It has now come to pass that Adv Menzi Simelane is the new National Director of Public Prosecutions (NDPP). It became clear after Adv Pikoli's out of court settlement with government was finalised that a permanent appointment was imminent. That development marked a period of both anxiety and excitement for all staffers in the NPA – it meant the uncertainty about the organisation's leadership was going to be behind us and we would be able to chart a future with the third NDPP. The anxiety was stirred by the wide public speculation about possible candidates for the position, and further analysis of each of their virtues and vices that would either qualify or disqualify them as the 'right' NDPP.

The President announced Simelane's appointment on 26 November and the outcry from all directions in the media has been on a free-fall since then. It is not for the NPA to justify the merits of Adv Simelane's appointment as its leader. The Minister of Justice & Constitutional Development, Mr Jeff Radebe called a media briefing to engage on the key issues around which the outcry is centred – Ginwala's findings about Simelane's testimony at the Commission and the subsequent Public Service Commission enquiry - even though the critics of Simelane's appointment still refuse to be convinced. Others are following the legal route to challenge the appointment, but we cannot be expected to just hold our breath while all this is underway.

In the meantime, the NPA moves from the perspective of finally having a permanent NDPP after more than two years of uncertainty, and proceeds forward one step at a time. We have to be positive and support the NDPP in achieving the best for this important institution of our democracy. The biggest challenge of being trapped in the past is that one may lose sight of opportunities that lie ahead, waiting to be discovered.

The best that Simelane can do for himself, the President who appointed him, the NPA and all those who support his appointment is to prove his detractors wrong. In this regard, he has a lot of work to do. He must take decisions that are in the best interest of the organisation and the country. He must also accept that he will never make everybody happy all the time – that is just the nature of the work of the NPA, ...'without fear, favour or prejudice'.

He has only been NDPP for less than a week, and it is safe to say that as NPA communicators we will shortly be in a better position to share with the public about developments in the NPA under his leadership. It appears that Adv Simelane is a man who pursues a course that always prefers action to hesitation, very conscientious - so I have no doubt that we will have many opportunities to share information with the public.

In his six weeks as DNDPP acting as the head of the National Prosecutions Service (NPS), he has already had engagements with all the DPPs and almost all the prosecutors in their respective regional jurisdictions. These engagements provided him with an opportunity to understand the challenges faced by prosecutors on the ground, and obstacles to service delivery.

At the last NPA national management meeting held on 27 November, he acknowledged the good work that had been done – the most recent annual report highlights the successes and challenges of the past years. He shared some of his ideas about how things could be done differently to improve

performance and enhance the NPA's contribution to the fight against crime. Significantly among these, he is of the view that very senior prosecutors at management level with a lot of experience and expertise must go back to court and be less 'office based'. This will increase the organisation's capacity to prosecute complex cases and to reduce the organisation's reliance on Section 38 appointments to deal with such matters. He is concerned about the reliability of the performance targets and measures for the organisation, which may not be a true reflection of its capacity and capability. Prosecutions work is in the middle of the criminal justice system value chain – it is therefore difficult to set realistic targets over which the organisation can be fully accountable, such as conviction rates and case backlogs. There is a great reliance on the police to forward fully investigated dockets for prosecution, and on the judiciary to enrol cases expeditiously – the NPA has no control over these functions, yet it is expected to set itself targets around these measures.

He has a vision of a prosecutions service that is able to focus on the core of general prosecutions, while also building the capacity to specialise in priority crime areas. This specialisation drills down to specific crime types per region or province, such that it reflects a mirror image of the communities where the prosecutors are operational. In this way, the organisation must be able to reinvent itself around the specific community needs of the day. The NPA of the future will have as much capacity to prosecute civil matters as it does criminal cases.

He wants a greater focus on co-operative governance with other State departments, especially partners departments in the JCPS cluster. This means that there will have to be a stronger focus on stakeholder relationship management within government, including other crime fighting agencies and organisations in the private sector. The organisational structural arrangement has an important impact on co-operative governance, and the NPA is in the final stages of the process of reviewing its macro-structure for this purpose. This process was started more than two years ago and Simelane will preside over the roll- out of the new structure.

He also has a deep commitment to ensuring organisational transformation and employment equity in line with Government's priorities. I expect that he will make some revolutionary decisions on this front. Watch this space, give him an opportunity to lead the NPA and judge him as an NDPP on the basis of his performance and conduct in that role.

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