

Submission to the Committee on the Rationalisation of Areas under the Jurisdiction of the Divisions of the High Court and Judicial Establishments (“the Committee”)

Attention: Mr Makena Z Moagi (Email: MakMoagi@justice.gov.za) and Adv Seakamela (Email: SSeakamela@justice.gov.za).

- 1) The Public Service Accountability Monitor (PSAM) forms part of the School of Journalism and Media Studies at Rhodes University, in Makhanda, South Africa. The PSAM produces research, offers training and undertakes advocacy to promote more accountable government’s that will progressively realise human rights.
- 2) We have considered the Interim Report of the Committee. While we welcome certain recommendations that will enhance access to justice we are opposed to the recommendation that the main seat of the High Court be moved to Bhisho.
- 3) We have considered the pertinent submissions of the Makanda High Court Action Committee and align ourselves with their position.
- 4) The PSAM’s almost 2 decades of analysis of Eastern Cape Provincial Departmental budgets and plans – especially those related to Health, Education and Human Settlement’s – indicate that underfunded budgets across these Departments various critical programmes should be prioritized over the extremely costly decision (if acted upon) to implement the proposed recommendation that the main seat of the High Court be relocated to Bhisho. We submit that the Committee has not fully considered the real costs of implementing such a recommendation, including whether scarce Justice Department budgets could not be better used to improve for instance, access to lower courts for communities, or upgrading the infrastructure of such courts, or committing greater resources to historically neglected maintenance budgets. We note the Committee’s rationale for this particular recommendation is phrased as follows in the executive summary of its report:

“We recommend that the main seat of the Eastern Cape Division must be moved to Bhisho. Bhisho is the provincial capital of the Eastern Cape. Ordinarily the main seat of a provincial division of the High Court is located at the capital of the province. It follows that in the Eastern Cape too, the same situation should prevail.

A number of Provincial Departments do not follow this rationale and are not headquartered in Bhisho. For instance the Human Settlement’s Provincial Department main office is situated in East London. The Education Department head office is in Zwelitsha and its large School Nutrition Programme has offices in East London. Also in contrast to the Committee’s rationale for the Eastern Cape, the main seat of the Gauteng Division of the High Court is recommended to remain in Pretoria, despite the provincial capital being Johannesburg.

- 5) We are concerned that the proposed recommendations to expand the responsibilities of the Mtatha Division will, if implemented, not result in adequate budget allocations to realise the

recommendation. We suspect the courts extended mandate will be significantly underfunded as we have seen in some departments that we have monitored over the years.

- 6) Budget's across ministries and departments at both national and provincial level have been impacted due to year-on-year [austerity measures](#) implemented by National Treasury and the Minister of Finance. South Africa faces significant budget deficits and inflation pressure while the repeated bail-outs of State Owned Entities erode budgets towards social services, including the Justice Department. Considering the extremely damaging and diverse impacts that's Eskom loadshedding continues to have on access to public services, surely it would be prudent to rather allocate pressured budgets to the installation of batteries, solar panels and inverters to keep the lights on in existing courts. This appears to be a more realistic and practical priority that would improve access and the functioning of courts.

Regards

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