



Africa Criminal Justice Reform
Organisation pour la Réforme de la Justice Pénale en Afrique
Organização para a Reforma da Justiça Criminal em África



Human resources

Issue paper 2

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Introduction

- The capacity, knowledge, skills and experience of an organisation's workforce will determine largely the extent to which it is able to fulfil its mandate.
- The aim is to problematise this particular issue in a succinct manner with the view to build consensus on understanding the problem properly in order to develop effective short to medium term responses.

Reporting on human resource management

- NPA must submit annual report to Parliament covering, amongst others, the 'personnel position'.
 - The scope and depth of such reporting leaves much to be desired and more accurate data is gleaned from the annual reports of the DoJCD.
 - The most recent NPA annual report has no information on the staff composition, staff establishment, number of vacancies and so forth.
- These matters are reported on in the DoJCD annual reports as part of that department and thus not receiving the requisite attention and analysis if the NPA produced its own fully fledged annual report as per the Treasury-approved template.
- Inconsistent, superficial and incomplete reporting on human resources is not assisting the situation.
- The NPA needs to produce an annual report on human resource according to the Treasury-approved template

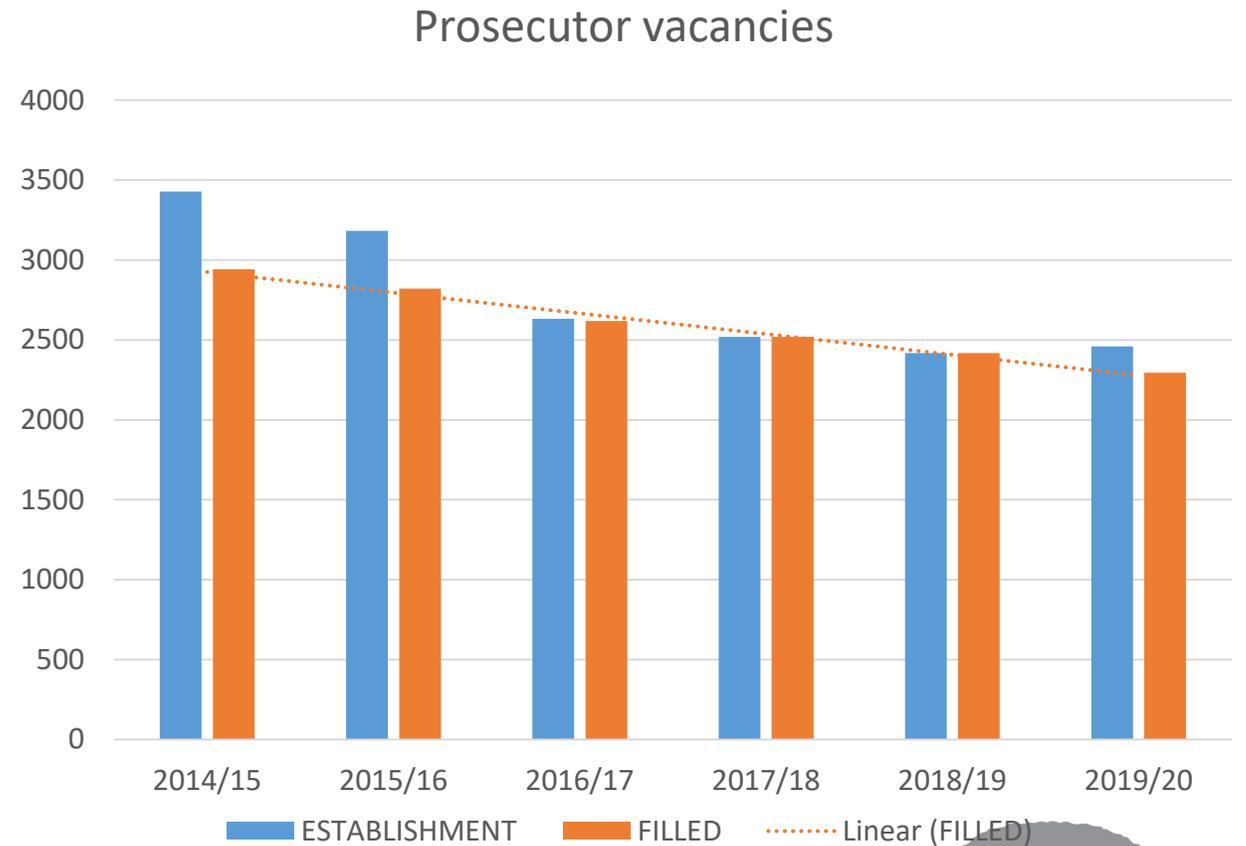
Overall vacancies 2019/20

The overall vacancy rate was nearly 26% and in seven of the offices/divisions the vacancy rate was more than 30% and at the Asset Forfeiture Unit (AFU), nearly one out of two posts were vacant.

Office/Division	Filled	Vacant	Total	Vacancy rate %
DPP: E-Cape	322	90	412	21.8
DPP: Free State	235	57	292	19.5
DPP: KZ-Natal	564	170	734	23.2
DPP: Limpopo	253	86	339	25.4
DPP: Mpumalanga	186	81	267	30.3
DPP: Mthatha	139	67	206	32.5
DPP: N Gauteng	335	103	438	23.5
DPP: North West	162	41	203	20.2
DPP: N-Cape	382	43	425	10.1
DPP: S Gauteng	427	118	545	21.7
DPP: W-Cape	494	148	642	23.1
Admin Support H/O	283	198	481	41.2
National Office (NDPP, NPS, LAD, PCLU)	66	36	102	35.3
Asset Forfeiture Unit (AFU)	114	96	210	45.7
Sexual Offences and Community Affairs (SOCA)	156	97	253	38.3
Specialised Commercial Crime Unit (SCCU)	154	77	231	33.3
Office for Witness Protection (OWP)	141	23	164	14.0
TOTAL	4413	1531	5944	25.8

Prosecutor vacancies

There is an attempt to massage the vacancy rate by adjusting the staff establishment in line with the number of positions filled, which is, of course, misleading. If the number of positions filled in 2019/20 is compared to the staff establishment of 2014/15, it would give a vacancy rate of 33%.



Job satisfaction

- 2019 and 2020 the NPA conducted two staff surveys to solicit the views of employees on a range of issues relating to job satisfaction. Participation rate not overwhelming
- The top five ranked statements in 2019 and 2020 were:
 - Lack of promotion/growth opportunities
 - Inadequate human resources/too many vacancies
 - Budgetary constraints
 - Lack of leadership/support from managers
 - Low staff morale.
- Low staff morale should be regarded as a consequence of other variables.
- Whilst budgetary constraints place important limitations on an organisation, it is also evident that poor management and leadership as well as managing staff in a manner where they see a career for themselves in the organisation is lacking.
- More resources but more resources into an unreceptive environment may indeed only result in a well- or better-resourced problem.
- Regardless of the level of resourcing, the management of the organisation must provide the necessary leadership and support, and must be held accountable for its performance.

Skills, qualities and qualification requirements for prosecutors

- The NPA Act requires that the NDPP must possess the necessary legal qualifications, and must “be a fit and proper person, with due regard to his or her experience, conscientiousness and integrity, to be entrusted with the responsibilities of the office concerned.”
- NPA Code of Conduct and a Code of Ethics; Growing body of jurisprudence on ethics, professionalism, independence and accountability in the state and in particular the criminal justice system; See also Ginwala and Mokgoro Commissions.
- There is indeed no shortage on guidance pertaining to the values and norms applicable to the NPA. The shortfalls concern (a) holding prosecutors to account for unethical and criminal conduct (b) the technical skills and experience required for effective prosecutions.
- There is at present no independent body with which a member of the public can lodge a complaint against a prosecutor for unethical conduct, but in process of being established: the NPA's Office for Complaints and Ethics
- Criminal complaints can be lodged with SAPS but not ideal
- The restrictions in the Prosecution Policy Directives concerning the prosecution of NPA staff also requires review and may indeed require some form of dedicated and specialised prosecution structure.

Skills, qualities and qualification requirements for prosecutors (Cont.)

- Current performance indicates a number of worrying trends:
 - a decline in overall throughput;
 - a decline, if not near absence, in complex but potentially high impact cases being prosecuted;
 - a reliance on guilty pleas and minor offences;
 - large numbers of cases processed through ADRM which is unregulated.
- COVID-19 pandemic impact on the training output of the NPA and the number of prosecutors receiving any form of training dropped from 2100 in 2019/20 to 561 in 2020/1.
- 2020/21 ID not able to appoint the scarce skills it required due to a protracted procurement process and it was further noted that related "to the dearth of specialist skills and historic experience to deal with matters of grand corruption, is the need for an appropriate methodology for investigating and prosecuting complex economic crime."
- The challenge do not only lie in prosecuting the complex high-level corruption cases, but also the day-to-day cases moving through the district and regional courts dealing with violent crime as well as commercial crime and lower-level corruption.

Conclusion

- Over a period of years, the NPA did not only lose a significant number of prosecutors, and did not fill these vacancies, but scarce skills and valuable experience were also lost. T
- To change the situation around, and see the more effective functioning of the prosecution service, it would require not only filling of vacancies, but also the rapid skilling of prosecutors.

Thank you

