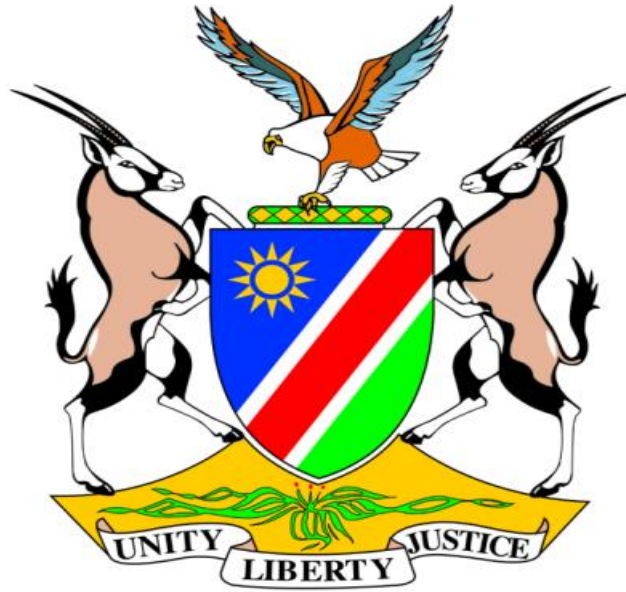


REPUBLIC OF NAMIBIA



STATEMENT BY

HIS EXCELLENCY DR HAGE G. GEINGOB,
PRESIDENT OF THE REPUBLIC OF NAMIBIA,
AT THE OPENING OF THE 2019 LEGAL YEAR

FEBRUARY 6, 2019

SUPREME COURT OF NAMIBIA

WINDHOEK

Check against delivery

Director of Ceremonies;
Honourable Chief Justice, Peter Shivute;
Honourable Deputy Chief Justice, Petrus Damaseb;
Justices of the Supreme and High Courts;
Honourable Attorney General, Albert Kawana;
Honourable Minister of Justice, Sacky Shangala;
Honourable Ministers present;
The Prosecutor-General, Martha Olivia Ekandjo-Imalwa;
The Ombudsman, Mr. John Walters;
Members of the Judiciary and staff of the Office of the Judiciary;
Chairperson and Members of the Magistrates Commission;
Members of the Legal Profession;
Distinguished Invited Guests;
Members of the media;
Ladies and Gentlemen,

It is my pleasure to officiate at the Opening of the 2019 Legal Year of the Judiciary. I am confident that all of you have used the holiday season to recharge and have returned with renewed vigour to perform your duties to the best of your abilities during this *year of accountability*.

This is a year, when the citizens of our nation will pass the ultimate judgement on their representatives by participating in elections, an exercise that is a cornerstone of our democracy.

Next month we will celebrate 29 years of independence; 29 years that have been defined by unity, peace, stability and the rule of law.

Government does not take the rule of law lightly and that is why the Opening of the Legal Year of the Judiciary is a significant event on the calendar. Even prior to our

independence, the SWAPO Party placed a high premium on the establishment of a credible administration of justice.

It was justice that many Namibians fought and died for.

As a consequence, following independence and the formation of the Government of Namibia, we have worked tirelessly to maintain and continually improve the manner in which justice is administered in Namibia. The administration of justice plays a factor in the life of every citizen of our country.

The courts are the protectors of our democratic way of life and human rights as guaranteed by the Namibian Constitution.

For this reason, we must as a nation, nurture the values of the rule of law, democracy and good governance. These are the ideals that nourish the very soul and spirit of our democracy. We uphold these values and the ethos, not as a facade to gain outside approval, but rather because as Namibians we understand that the rule of law is universally recognized as a fundamental human value.

In his work *Politics*, Greek Philosopher Aristotle captures the importance of the Rule of Law by presenting the argument that, "The rule of law, it is argued is preferable to that of any individual. On the same principle, even if it be better for certain individuals to govern, they should be made only guardians and ministers of the law."

Aristotle's line of reasoning implies that no one should be above the law and that the leaders of the State are only guardians to the law but still subject to it. For this reason, I emphasize once more that the separation of the Three Organs of State as well as the independence of the Judiciary are sacrosanct.

Most of us here know the importance of an independent judiciary.

We would want the public to be confident in the judicial system and this starts by having a judiciary that is free from improper influence from the other branches of government, or from private or partisan interests.

In line with Article 78 (5) of the Namibian Constitution and the definition of the rule of law, Namibia has made the monumental move to establish an independent body of the Judiciary which separates it from the Ministry of Justice. These two institutions remain jointly responsible for upholding the rule of law, but the Office of the Judiciary is operating administratively and financially independent.

The true measure of the independence of the judiciary and its ability to uphold the rule of law is the manner in which the judiciary interacts with the legislature and the executive.

Such interaction is governed by the principle of the separation of powers, which is firmly entrenched in the Namibian Constitution and recognised by the courts.

We have chosen Constitutional democratic rule over autocracy. We have chosen the rule of law over arbitrary use of governmental power. We have chosen respect for human rights over brutality and denial of freedoms and civil liberties.

We have made these choices because we are aware that in this 21st Century, security, peace and harmony, as well as the establishment of robust and incorruptible processes, systems and institutions, are keys to sustained economic growth and improvement of the social wellbeing of our people.

That our Judiciary contributes in no small measure to our efforts to build a successful nation has never been lost on the Government.

It is in this regard that I would like to re-affirm the Government's commitment to the promotion of an efficient and effective administration of justice.

An efficient and effective administration of justice would greatly assist in gaining the confidence of our people in our efforts to attain meaningful political and socio-economic development as well as social justice, where the Government would act positively for the well-being of our people as a whole. For this reason, my clarion call for greater accountability, applies to the judiciary as well.

Director of Ceremonies,

As we commence with the year of accountability, deep introspection is required in the following areas:

1. Has there been sufficient transformation in the justice sector to reflect the changing dynamics of a nation that has emerged from a divisive past?
2. Are we doing enough to ensure access to law and access to justice for all?
3. Are we doing enough to ensure the wellness, professional growth and specialization of your human resources?
4. Is justice being applied fairly, justly and swiftly?

Let me turn again to the wisdom of Aristotle, who said, "true forms of government will of necessity have just laws, and perverted forms of government will have unjust laws". We displaced the Apartheid Regime, which was a perverted form of government and replaced it with a true form of government. For this reason, we should ensure that all unjust laws of the past regimes are replaced with just laws. Our people cannot continue to be subjected to archaic and discriminatory laws anymore.

Furthermore, it is imperative that we introduce laws to help us combat a number of social ills that are hampering socio-economic progress in our country. As I recognise the efforts and commitments made with the view to improving the wellbeing of our citizens, I note with concern the prevalence of incidents of gender based violence within our communities.

It is a source of great concern that we continue to lose innocent lives, especially those of women and girls, as a result of gender-based violence, perpetrated mostly by men.

I am however pleased by the various initiatives introduced by the stakeholders in the criminal justice system as part of the process of intensifying the ongoing campaign to combat gender-based violence in our country. I therefore urge all of us to continue working tirelessly to find solutions to these heinous crimes.

I am also aware of the public's frustration with aspects of the criminal justice system, such as the long-delays in the finalisation of cases in the lower courts.

This public frustration is attributed to the long delays between arrest, appointment of legal aid counsel, first appearance at court and the ultimate finalisation of criminal cases. Justice delayed is justice denied.

I therefore find it appropriate to make use of this opportunity and urge all institutions involved in the criminal justice system to cooperate and coordinate their activities with the aim of ensuring that our people are better served by our criminal justice system.

Director of Ceremonies,

We can improve the service delivery of the judiciary by avoiding backlogs of cases in the courts. I understand that there is an issue of underfunding which causes these delays in resolving criminal dockets.

I am aware that often times, judicial officers and prosecutors are faced with the choice of warehousing untried accused persons in custody or releasing them to the public, therefore, this is one of the main issues that needs to be tackled.

This is an area which requires greater accountability.

We cannot safeguard the lives of our most vulnerable citizens when we have criminals released back on the streets due to a backlog of cases. There are various ways in which service delivery can be improved. Let us work together to find a solution for the sake of public safety.

The Rule of Law can only be firmly entrenched in our society once we are able to effectively demonstrate that we have the public's best interests at heart.

I pledge on behalf of the Government, our continuous commitment to ensuring that the Office of the Judiciary is able to execute its mandate. I enjoin the legal fraternity, the academic institutions, and the public servants in these courts and offices, each one in their relevant manner to support the Office the Judiciary in carrying out its mandate.

In conclusion, I wish to state that the purpose of law should be to maximize the common good of the community and to improve moral development within our society.

I have full confidence that our judiciary has the talent and intellectual capacity to help maintain unity in our Namibia House, to safeguard the liberty of our people and to ensure justice for all Namibians. With these words, I am pleased to declare 2019 Legal Year officially open.

I wish you good health, success and prosperity in your work as you continue to serve the nation to the best of your abilities.

I thank you.