



**ADDRESS BY HONOURABLE MR UTONI NUJOMA,
MINISTER OF JUSTICE,
ON THE OCCASION OF THE
OPENING OF WORKSHOP ON CIVIL CASE
MANAGEMENT
IN HIGH COURT OF NAMIBIA,
WINDHOEK, 30 JULY 2013
VENUE: SUPREME COURT**

Honourable Peter Shivute, Chief Justice,

Honourable Judges of the Supreme Court,

Honourable Petrus Damaseb, Judge President,

Honourable Judges of the High Court,

Distinguished guests and friends, from Namibia and
outside Namibia,

And All Protocol observed,

1. It is an honour for me to be invited to attend this historic Workshop, and a pleasure to be asked to make some opening remarks in order to set the tone and mark the focus of the deliberations that are to follow at this Workshop on Civil Case Management in the High Court of Namibia.

2. We are aware that the High Court Act empowers the Judge President to make rules, after approval by His Excellency the President, for the orderly business of the High Court. This is a historic occasion because for the first time in the history of the judiciary of this country a Judge President has seen it fit to invite interested parties and stakeholders to a Workshop in order to carry out a frank assessment of the implementation of a rule of the rules of court, namely, on judicial case management that was introduced in the High Court of Namibia in May 2011.

3. I do not want to underestimate the nature of our undertaking at this Workshop. Yet in such an area of great importance in the realization of rule of law in our country through achieving the objectives of judicial case management, this is no time to seek approximate solutions to what the rules seek to achieve.

This is no time to be bogged down in purposeless and unproductive battle of wits. On the contrary we must ascend a conception of judicial case management that would make the system of the judicial case management of cases truly workable so as to achieve the objectives of judicial case management that are clearly set out in the rules of court.

The principles and the success of the judicial case management system must cascade down to the lower courts. The Magistrates courts and labour courts indeed need to apply the principles in their case management. I would therefore encourage the Judge President to guide the Magistrates Commission and the Labour Commissioner in whatever manner he deems appropriate. The Prosecutor-General must also be involved in this process.

4. Doubtless, all this calls for hard work on the part of all of us. Accordingly, on behalf of the Ministry of Justice and on my own behalf, I would like to register my profound appreciation for the initiative taken by the High Court to introduce a continuous judicial training programme for judges and other interested parties, particularly legal practitioners who are part of any solution required to deal with any problem that may arise from the implementation of the rules of court. I see this Workshop as an inaugural event in the continuous training programme.

5. I am pleased to note that in drafting the new rules of the High Court, the Judge President sought the cooperation and inputs of interested parties and stakeholders, including inputs from the political leadership and senior management officials of the Ministry of Justice. In this regard, I am pleased to note that my Deputy Minister, Honourable Nambahu,

attended Seminars convened for the drafting of the new rules. Similarly, some senior management officials of the Ministry, including the Permanent Secretary, attended the Seminars and gave inputs in the drafting of the part of the rules that introduces e-justice in the management of cases, including court proceedings.

6. I have said previously that there is a great deal of hard work ahead of all of us. In this regard, I should, as the Minister responsible for Justice and as a citizen, take this opportunity to say a word or two about the unending and unbearable high cost of litigation. The Government has put in place a judicial system whose workings compare favourably with the workings of some of the best judicial systems anywhere in the world – all in the realization of rule of law which is one of the noble ideals guaranteed by the Namibian Constitution. But, I am afraid; this effort would remain purposeless and empty if

the greater majority of our people cannot simply afford to litigate in our courts.

7. I am pleased to note that in order to do his part to make litigation affordable to the greater majority of our people, the Judge President has introduced measures in that direction in the new rules. The measures include regulated tariffs, with capping provisions in certain cases, judicial case management aimed at reducing turnover time, and alternative dispute resolution mechanism in the form of mediation.

Mediation is known to be a quick, cheaper and cost-effective way available to parties to a dispute to resolve their dispute outside the surrounds of the court. Mediation is by far cheaper than litigation. We should, therefore, strive to find ways to make this alternative dispute resolution mechanism provided in the rules of court work for our people.

8. A further way by which litigation may be made affordable is the establishment of small claims courts, chaired by legal practitioners as part of their public service to the community. I think the time has therefore come for the Ministry of Justice to consider seriously the establishment of small claims courts through appropriate legislation. *To this end the Small Claims Court Report (LRDC-6) compiled by the Law Reform and Development Commission in December 1997 must be reviewed to address the current constraints in the delivery of justice.*

9. In the new rules the Judge President has attended sufficiently and effectively to costs on the scale as between party and party. However, costs on the scale as between attorney and client remain a problem because there is no regulatory statutory instrument available to ensure that such costs do not go through the roof. This Workshop should, accordingly, find ways and means of regulating costs on the scale as between attorney and

client. One possible way is to introduce a capping provision on such costs which could be linked to the Gazetted party-and-party costs ; and, if found necessary, to make provision for it in, for example, the High Court Act or the Legal Practitioners Act.

10. We have a lot on our plate – as it were – and so I have decided to make but a few remarks. I earnestly urge all participants of this Workshop to speak freely and frankly, and contribute meaningfully to the discussions so as to assist in attaining the objectives of the Workshop.

11. I have no doubt in my mind that with diligence and dedication we shall achieve the goals of this Workshop and attain the objectives of judicial case management. As I see it; judicial case management would play an important role in deepening public confidence in the justice system as it seeks to bring about speedy but just and cost-effective litigation. And that would be in

keeping with the Government's avowed policy of ensuring fair access to speedy justice for the benefit of our people and for ensuring peace, democracy, rule of law, good governance and socio-economic development.

I thank you.