

ADDRESS BY HON. PETER SHIVUTE, CHIEF JUSTICE,  
AT THE LAUNCH OF THE LEGAL YEAR  
SUPREME COURT OF NAMIBIA,  
WINDHOEK, 6 FEBRUARY 2015

Salutations

This event marks a historic milestone in the annals of the history of the Namibian Judiciary. Under the Namibian Constitution, the Founding Fathers and Mothers of our Republic created three layers of Court: the Supreme Court at the apex, the High Court, and the Lower Courts. Each was accorded some form of autonomy from the other in terms of governance, although, notionally, the Chief Justice was the Head of the Judiciary with no real power to supervise and monitor the work of the Courts below the Supreme Court.

This situation did not leave much room for proper co-ordination and planning of the operations of the Courts.

To crown it all, the Judiciary, as an organ of the State, was not financially and administratively independent. Instead, the Ministry of Justice provided and, to date has continued to provide, administrative support to the Judiciary. The situation changed on 13 October 2014 with the promulgation of the Third Amendment to the Constitution. In the first place, the amendment created a unified command structure for the Courts with the result that the Chief Justice has now been confirmed by the Constitution as Head of the Judiciary, including all the Courts – not in a notional sense but in the real sense. In that role, the Chief Justice is responsible for supervising all the Courts, and is required to monitor the

norms and standards for the exercise of the judicial functions of all Courts.

The amendment also reinforces the independence of the Judiciary in ringing tones when it states that the financial and other administrative matters of the High Court and Supreme Court shall be performed in such a manner that the independence of the Judiciary can be effectively and practically promoted and guaranteed by means of appropriate legislative and administrative measures. Towards that end, the amendment contemplates an Office for the Judiciary, separate from the Ministry of Justice, with its own Accounting Officer who is answerable to the Chief Justice. The new dispensation confirms the Magistracy as an integral part of the Judiciary. The Magistracy will therefore fall under the yet-to-be-established Office of the Judiciary, together with the

Superior Courts. This is a very significant and positive initiative of the Government; a Government, which has always and consistently demonstrated its unwavering support for the Rule of Law and the principle of separation of powers. I wish, therefore, to thank our special guests of honour His Excellency Dr Hifikepunye Pohamba, the President of our Republic and the Right Honourable Dr Hage Geingob, Prime Minister and President-Elect, for their stewardship of these important and meaningful changes.

The challenge is now upon us in the Judiciary and all stakeholders to give practical expression to the values and noble ideals that are embedded in the Constitution.

Director of Ceremonies,

It is against this background that we have gathered here to witness the Launch of the Inaugural 'Legal Year' which will henceforth become a permanent feature on the national calendar. The objects of the Legal Year include the following: to inform the public of the state of the Judiciary; to bring the legal fraternity together on an annual basis; to review past performances and constraints; to set the tone for judicial performance in the new year; and to sensitise judicial officers about the need to dispense speedy, impartial and quality justice to our people so as to meet public expectations.

The event brings together members of the Judiciary, the leadership of legal practitioners, rank and file of the Law Society of Namibia, staff members in the Ministry of Justice serving the Judiciary, other key stakeholders, as well as

invited guests. As alluded to, our event is greatly honoured by the presence of special guests of honour, namely, His Excellency Dr Hifikepunye Pohamba, the President of our Republic and the Right Honourable Dr Hage Geingob, Prime Minister and President-Elect.

I would like to use this opportunity to express a word of gratitude to His Excellency the President for his sterling leadership of our country over the past 10 years, a period in which our country continued to experience peace, stability and respect for the Rule of Law. I do not do so only on my behalf, but, indeed, on behalf of the entire legal fraternity whose representatives are assembled here today.

Your Excellency, the historic milestone I mentioned at the beginning of my address, namely, the constitutionally

mandated financial and administrative autonomy accorded to the Judiciary in keeping with the separation of powers is undoubtedly part of your Excellency's proud legacy of unwavering commitment to the Rule of Law, separation of powers and independence of the Judiciary. As Your Excellency prepares to leave office, we wish you a very happy and peaceful retirement.

I also wish to express my deep appreciation to the Right Honourable Prime Minister and President-Elect for his kind acceptance of my invitation to grace this occasion with his presence. I would also like to express the Judiciary's commitment to work with him for the benefit of our country and people. His presence at this occasion undoubtedly speaks volumes about the esteem in which he holds the Judiciary.

Director of Ceremonies,

The first order of business facing the Judiciary in the coming months is to establish efficient administrative machinery that will support the core business of the courts, which is to administer justice to all without fear or favour. We will work hard to modernise the courts and to reform the Rules of all the courts so as to make them fit to serve a modern society.

We are faced with the reality that more and more people cannot afford the services of private lawyers and are at a serious disadvantage, especially if they are engaged in litigation with parties who can afford the services of private legal practitioners. Therefore, today's judicial officer needs to be equipped, through training, with the necessary tools and

skills to enable him or her to do justice to all parties even if there is no equality of arms among some parties.

Turning now to the performance of the Judiciary, I am pleased to report that work at the Supreme Court has improved considerably with a record number of reserved judgments having been delivered in the past year. Thus, the rate of delivery of reserved judgments has been considerably accelerated. Steps have also been taken to ensure that those reserved judgments that have been delayed inordinately are finalised and handed down as soon as possible. The appointment of new permanent and *ad hoc* Judges at the Supreme Court is a welcome development because it will go a long way in ensuring that the Supreme Court fulfils its mandate of delivering speedy and quality justice at the highest point of the judiciary.

The presence of the Namibian Judiciary at the regional and international levels continues to be felt. In the second half of last year I was privileged to be given a second mandate by my peers to lead the Southern African Chief Justices Forum (the Forum) until the next Annual General Meeting in Zimbabwe in August 2015. I will be leading a team, supported by my counterparts from the United Republic of Tanzania and the Republic of Zambia to two member countries of the Forum where issues of concern relating to the Rule of Law have been brought to the attention of the Forum. Our brief is to gather facts and make recommendations to the Forum for possible solutions. In the year under review I also had the opportunity to undertake an official visit to the United States of America where I met, amongst others, my counterpart Chief Justice of the United States the Honourable John

Roberts Jnr. Our two judiciaries have identified areas for possible cooperation, and we will explore those contacts for the benefit of our Judiciary and the country at large.

Director of Ceremonies,

Judicial reforms initiated in recent years at the High Court have yielded positive results. The reform of the Rules to make Judges responsible for the pace of litigation has led to speedier justice. The introduction of court-connected mediation has also led to a substantial number of cases being settled out of court and thus freeing up judicial time for the hearing of only those matters which are not susceptible to amicable resolution. Under the new Rules of the High Court, certain case types have been designated for compulsory court-connected mediation to allow the parties to attempt to amicably resolve disputes and save on legal costs. The

programme began on 6 June 2014. The High Court now has a total of 103 court-accredited mediators. As the statistics made available by the High Court show, over 50% out of a total of close to 400 mediations conducted between June 2014 and December 2014 ended in settlement out-of-court. This is a remarkable achievement by any standard.

The success of both the case management and alternative dispute resolution programmes at the High Court is apparent from the 2014 Legal Year Statistics of that Court which were made available to you this morning. The positive aspects of these reforms must now cascade to the Lower Courts. Once an appropriate legislative framework and administrative measures contemplated under Article 78 of the Namibian Constitution (as amended) are in place, we will be initiating reforms towards that goal accordingly. The Lower Courts are

responsible for the highest number of cases filed in our courts, especially in criminal matters. They are, thus, the forum to which the majority of our people relate. It is of utmost importance, therefore, that their experience with those courts is not a negative one. We need to urgently investigate the causes of the many postponements occurring in those courts and devise sensible solutions to arrest the problem. I am aware of the initiatives undertaken by the Ministry of Justice to deal with case backlog in the Magistrates Courts. Those initiatives should continue but they require being complemented by additional tested measures.

Training is going to assume a crucial role in the Judiciary's renewal in the years ahead. We need to empower our people so that they are able to assume leadership positions not only in the new Office of the Judiciary, but also as Magistrates and

Judges. Great emphasis will be placed on moulding a Judiciary and a judicial culture which are responsive to the ever-changing needs of our diverse and multi-cultural society.

As part of our modernisation drive, e-Justice is soon to be rolled out, starting with the High Court. Substantial preparatory work has already been done in order to attain our goals but progress has been hampered by the major renovations taking place at the Seat of the High Court. Once e-Justice is implemented, court documents will be filed electronically and a big part of court process will be conducted in electronic form. e-Justice is a web-based court management programme which enables legal practitioners to commence and prosecute proceedings electronically without having to be physically present at court, until the matter is

called in court for a scheduled hearing or trial. Namibia is one of the very few countries in Africa that have introduced such a reform initiative. No doubt, this feature of our legal process will indubitably add to the attractiveness of Namibia as an investment destination.

Speedy, competent and impartial justice is an essential prerequisite for attracting Foreign Direct Investment to a country. I am keenly aware that the Government's sustained drive to attract foreign investors to Namibia will come to naught if such good standard of justice is not a reality. My team and I will do everything possible to complement the Government's efforts by creating the conditions necessary for that to happen. If legislation is required to sharpen our processes, we will draw it to the attention of the policy makers for necessary action.

Making the Judiciary work better for our people is a collective responsibility. I, therefore, urge all judicial officers, supporting staff, legal practitioners and all stakeholders in the justice chain to rededicate their efforts to make the 2015 Legal Year a success.

I thank you.