

**SPEECH BY THE HON. MR JUSTICE DAMASEB, JUDGE-PRESIDENT OF THE
HIGH COURT OF NAMIBIA AT THE CEREMONIAL LAUNCHING OF THE HIGH
COURT LEGAL YEAR 2014**

16TH JANUARY 2014

My Lords and My ladies

The Learned Prosecutor – General

The Honorable Deputy Minister of Justice

The Permanent Secretary of Justice

The Learned President of the Law Society of Namibia

The Learned President of the Society of Advocates

The Learned President of the Namibian Law Association

Senior Counsel

Distinguished Legal Practitioners and Candidate Legal Practitioners

The Registrar and staff members of the High Court

The Media representatives

Ladies and Gentlemen

[1] It is once again the beginning of the Legal year of the High Court, offering us yet another opportunity to evaluate and to assess the achievements and challenges of the

past legal year and to share with you or plans for the year that lies ahead. I would like to thank the Minister, deputy minister and successive permanent secretaries of Justice for continuing to support the court in its quest for efficiency and the delivery of quality and prompt justice.

[2] I welcome Judge Cheda to the High Court bench. He had served as a judge of the High court of Zimbabwe and has recently joined the bench on a permanent basis. I am grateful for the contribution that he has already made since his appointment. Since the introduction of the judge's clerkship program in 2011, the court continues to benefit immensely from their contribution and their invaluable contribution to the work of the judges and the court. The aim remains to increase the number of judge's research assistants to equal the number of judges. While on this score, I wish to thank the Society of Advocates for having formalized the attachment of pupils as judge's research assistants. I hope we will have more this year and in the years to come.

[3] I will say a little bit more about case management but at this stage I wish to place on record that the introduction of case management in the High Court and the introduction of the judge's clerkship program have contributed a great deal to the efficiency of the court. That is amply demonstrated by our statistics for the legal year 2013. **[statistics provided]**

[4] I have the pleasure to inform you that the new rules of the high court have now been completed and will be published on 17 January 2014 in the Government Gazette No 5392 as Government Notice no 4 and will come into operation on the 16th April 2014.

[5] The new rules introduce very important innovations and measures. One such important aspect is the transparency and accountability which will be expected of the

judges. The delivery of judgments will soon be strictly regulated and monitored. Judges will be required to deliver judgments according to prescriptions provided for in the rules as far as interlocutory motions are concerned and, generally, where judgment is reserved, to announce in public and in open court the date for delivery of reserved judgments. The registrar will be required under the new rules to publish a report annually on the work of the court which will contain all cases registered; number of cases completed, number of reserved judgments and the period during which the judgment remained reserved and the deadlines by which a judgment should have been delivered in terms of published guidelines approved by the Judicial Service Commission.

[6] The new rules place emphasis on early identification of the real issues in the case and the speedy finalization of cases. That imposes an obligation on the practitioners to develop a discipline of early preparation. Therefore legal practitioners will be required to prepare at an earlier stage in the case and to fully acquaint themselves with the facts surrounding their cases in order to formulate complete joint reports as will be required by the rules. Co-operation amongst lawyers, and with the managing judge, is and will remain an important requirement when the new rules come into force.

[7] Another important feature of the new rules is the introduction of a system of court annexed alternative dispute resolution. This procedure will offer the services of a mediator to assist in exploring the settlement of disputes without the need for formal trial. We are in the process of framing practice directions in terms of which ADR will be conducted in deserving cases. A training programme is being planned for potential mediators towards the end of this term.

[8] In anticipation of the coming into operation of the new rules on 16 April 2014, what remains to be done is the completion of the practice directions and the administrative manuals and process relating to e-justice. The first phase of e-justice will be implemented in the Main Division. Implementation in the NLD will follow towards the end of 2014. The e-justice web portal launch is scheduled to take place during February 2014 followed by the User Acceptance Testing process (UAT) that is scheduled to take place as from the 27th January - 21 March 2014. We call upon legal practitioners to co-operate during this exercise. The actual training and availability of training materials will be done during the first recess at the end of this term. In addition, and in preparation for the introduction of e-justice, legal practitioners practicing with fidelity fund certificates are advised to take the following steps and measures:

- Ensure that the practice has a functional desktop computer or laptop installed with the windows operating system able to convert word documents to PDF;
- Acquire internet connectivity;
- Acquire an email address;
- Acquire a printer;
- Acquire a scanner for purposes of scanning annexures to pleadings.

[9] The High court renovations are imminent towards the end of this term and it is therefore important that I point out that inconveniences will be experienced during this exercise. The main entrance will be relocated and the public parking at the front part of the building will be closed for public usage. Noise, dust and all other inconveniences will also be experienced during the renovation.

[10] Taking the cue from the Minister's remarks, I need to focus a little on the High Court's criminal work. Statistics show that 38 criminal trials and 220 criminal appeals

were registered in 2013. The 38 criminal trials were distributed amongst three judges at the Main Division and two at the Northern Local Division. Only 29 of the criminal trials were finalised. I am concerned, as are my colleagues in the criminal division, that very soon we are going to be completely overwhelmed by the volume of criminal trials which the Prosecutor-General, exercising her powers under the CPA, chooses to indict in the High Court. Last year we were already setting down cases for 2014 and looking towards 2015. The criminal trial roll of the judges in the criminal division is already full for 2014 and many cases are waiting to be set down for trial. The consequence is that all cases that are trial-ready this year are likely to be allocated trial dates in 2015 and beyond. We simply do not have the physical facilities and judicial resources to try all the cases which are trial-ready in a particular year.

[11] It is common knowledge that criminal trials in the High Court, on average, last more than 30 days and part-heard cases are more the rule than the exception. We have designed a criminal justice system which is increasingly proving unsustainable. We have to look at innovative ways of dealing with our criminal cases. It is important therefore that, as a country, we earnestly investigate the possibility of introducing plea bargaining in our criminal justice system to serve as an incentive to accused persons to plead guilty. Current prosecution policy discourages guilty pleas as accused persons do not see any incentive in pleading guilty. I am therefore encouraged by Government policy which encourages investigation of plea-bargaining as a viable legislative intervention.

Invited guests

[12] I am hopeful that 2014 will be a year of progress, innovation and co-operation between the courts, policy makes and the organised profession in our quest to deliver quality and prompt justice to our people.

I thank you.