

**WELCOMING REMARKS AT THE LAUNCH OF THE BOOK
'SUPREME COURT AT 30 YEARS'**

Director of ceremonies,

His Lordship the Chief Justice, Peter Shivute

The Vice- Chancellor of the University of Namibia, Prof Kenneth Matengu

Mrs Natalie Russman of the Konrad-Adenauer Stiftung

Associate Dean, School of Law, Dr Ndatega Asheela-Shikalepo

Executive Director, Office of the Judiciary, Mr Bernhardt Kukuri

Distinguished authors

Ladies and gentlemen

1. My task this morning is to welcome you all to this important event organised by the Office of the Judiciary of Namibia, the University of Namibia and the Konrad-Adenauer- Stiftung.
2. We have both an in-person and virtual audience. To all of you - our heartiest thanks and welcome. Your interest in what the Judiciary does as one of the organs of state is a source of encouragement.

3. I wish to extend a special word of welcome to the representative of the Konrad-Adenauer Stiftung, the Vice Chancellor of the University of Namibia and his galaxy of academics assembled here.
4. This event is very significant in our nation's history. It is to reflect on the last thirty years of the work of the nation's highest court – a forum at which our rights as citizens and all who dwell on our shores are ultimately decided.
5. Because of the significance of the occasion, I find it irresistible to make a few remarks beyond just welcoming you.
6. The Supreme Court has come a long way. From its very humble beginning of occupying the same space with the High Court on now JP Karuaihe street, to the splendor of the Supreme Court building on Reverend Michael Scott street.
7. The book we launch today discusses some of the critical issues that confronted the Supreme Court over the last 30 years. We may not agree with everything said in it, but it is a good basis on which we can have a meaningful discourse about the contribution that the court has made to our national life.
8. I hope that we can have more of this scholarly writing on the work of the courts. It is, I dare say, better that we have more written than speculated on about the work of the courts. I say so because writing imposes a discipline of justification. Such that any praise or criticism

one makes as an author about the courts the public will expect you to justify it and provide proof. For example, if an author makes the statement that the courts are independent, the reader will expect you to support the statement with evidence. The converse is even more true.

9. The Judiciary is the one institution that is most misunderstood because its actors are, by convention, silent and only speak through their judgments. Therefore, the more is written about it, the better because that is the only way through which the public can better understand the work of the courts.
10. It may sound immodest, but the jurisprudence cultivated by the Supreme Court over the last 30 years compares favorably with the best in the world. It is jurisprudence that has been developed carefully and incrementally by different generations of judges.
11. Allow me to say a bit more about these generations. At Independence, the government of the day had the foresight not to rock the boat too soon and secured the services of some of the best legal brains in the Southern African region.
12. That careful approach paid huge dividends. For that credit goes to the first Minister of Justice and the first Attorney-General – the late Dr Ngarikutuke Tjiriange and Mr Hartmut Ruppel.

13. I am a firm believer that an apex court's core group of judges needs to be kept together for at least ten years for it to develop a coherent set of principles and practices. Namibia succeeded in doing that.
14. First you had the Berker, Mahomed, Dumbutshena and Ackerman group - a generation which started us off with the first tentative steps at understanding the contours of the Constitution - in particular the Bill of Rights. They did an excellent job at laying the foundation for the future.
15. That generation was followed, albeit with some overlap, by the Strydom, O'Linn and Chomba generation. They built on the solid foundation laid by their predecessor generation.
16. Then followed the Shivute Court which, in many ways, is a beneficiary of much of the hard work that has been done by the generations that came before it. I hope that the Shivute generation will leave behind a stronger court and a solid jurisprudential bedrock on which the succeeding generations can further strengthen our constitutional value system.
17. While speaking of past legal luminaries that have served on the Supreme Court, allow me to share an anecdote about Justice Mahomed.

18. When I became Judge President, I decided to go around the High Court building to familiarise myself with all its rooms. I visited the library and whilst rummaging through some old court records came across Justice Mahomed's handwritten draft judgement in the *Tcoeib* matter. I compared it with the actual judgment in the law report and was amazed at how the two were identical without much by way of deletion or addition that I was left in awe at the brilliance of the man. He truly was a master of the craft.

19. Back to today's business.

20. An important theme that comes across in the academic contributions in the book is the role the Supreme Court has played in the development of Namibia's jurisprudence. The case is made in some of the articles that the Court missed the opportunity to do this or that in relation to the Constitution. The suggestion is made, at times explicitly and at others in a veiled way, that the judges missed the opportunity to be activist.

21. I have to speak up in defence of my Tribe.

22. The role of the judge is to decide cases brought before him or her, not to look around for interesting points to decide, however topical the issue might be at the time. The issues to be decided are defined in the pleadings filed by the parties against the backdrop of specific facts. That is where judges differ from academics for whom abstract interrogation of theory and principle remains a legitimate pursuit.

Much to one's disappointment that is not a luxury available to the Judge.

23. I think I have said enough by way of rebuttal.

24. Chief Justice and distinguished guests, I think I have said more than may have been required by way of a welcome. But it would have been remiss of me if I did not abuse this opportunity to provide some context to what we are gathered here for.

25. Again, welcome to you all. I have no doubt that you will leave this event better informed than when you joined.

Thank you.

Petrus T Damaseb
Deputy Chief Justice of Namibia
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