

**SPEECH BY HIS LORDSHIP PETER S. SHIVUTE CHIEF JUSTICE OF
THE REPUBLIC OF NAMIBIA, ON THE OCCASION OF THE OPENING
OF THE 2024 LEGAL YEAR, SUPREME COURT, WINDHOEK
7 FEBRUARY 2024**

1. We gather today at the Supreme Court under somber circumstances.

On 4 February 2024, our nation was struck by a profound loss. His Excellency, Dr. Hage Gottfried Geingob, the President of the Republic of Namibia, passed on. As we inaugurate the Opening of the 2024 Legal Year, we do so with heavy hearts, aware that our nation has lost not just a leader but an icon and stalwart of our liberation struggle, a remarkable leader and compassionate statesman. Today's event, marking a decade of this revered tradition, is not just about the commencement of a new judicial calendar but also a moment to reflect

on President Geingob's immutable legacy, visionary leadership, and tireless dedication to public service, forever engraved in the annals of Namibia's history.

2. The absence of President Geingob is profoundly felt today, at an event which he graced without fail since its inception in 2015. His unwavering commitment to this occasion signified more than just his presence; it symbolized the Executive's recognition and support of the Judiciary as an independent yet integral organ of the State. Today, as we reaffirm our dedication to the principles of justice and integrity, which are the bedrock of our Judiciary, we also honor his memory and the legacy that he leaves behind – a legacy of unwavering commitment to the rule of law, separation of powers and constitutionalism. These are the ideals

that will continue to inspire us as we commit to a fair dispensation of justice in our nation.

3. On my own behalf and on behalf the members of the Judiciary and the support staff, I extend my deepest condolences to Madam Monica Geingos, the children and the rest of the bereaved family. In the words of the late Nelson Mandela, former President of the Republic of South Africa, *"Death is something inevitable. When a man has done what he considers to be his duty to his people and his country, he can rest in peace"*. Indeed, His Excellency, President Hage Gottfried Geingob, did his duty to his people and his country in an exemplary fashion. May his soul rest in eternal peace.

4. With Your Excellency's indulgence, may I now request that we all rise to observe a minute of silence in respect of the memory our dear departed President.

5. I am deeply grateful for the presence of our Guest of Honour, His Excellency, Dr. Nangolo Mbumba, President of the Republic of Namibia, and the senior members of his Executive, especially under these challenging circumstances.

6. I am equally grateful for the presence of Honourable Prof. Peter Katjavivi, the Speaker of the National Assembly, Honourable Lukas Sinimbo Muha, Chairperson of the National Council, and the distinguished members of the Legislature.

7. I also extend my greetings to the members of the legal fraternity present here today. Your consistent presence at these events, now under these solemn circumstances, is deeply valued. It reflects your commitment and genuine interest in the welfare and activities of our Judiciary.

8. Your Excellency, 2023 was yet another eventful year, full of significant firsts for our jurisdiction. I do not intend to keep you long with my address, but I want to highlight important events and noteworthy statistics that are relevant to the performance of the individual courts and the judiciary as a whole. The comprehensive statistics detailing the performance of the Supreme, High, and Lower Courts will be accessible on the Superior Courts website (<https://ejustice.jud.na>).

The Supreme Court

9. Last year, the Supreme Court took a significant step in fulfilling its commitment to enhance diversity on the Bench. The appointment of three women, namely Lady Justice Hannelie Prinsloo and Lady Justice Esi Schimming-Chase, both judges of our High Court, along with Lady Justice Rita Makarau, a judge from the Constitutional Court of Zimbabwe, as acting judges of the Supreme Court, heralded a new era. This historic development not only demonstrates our resolve to bring more female representation to the Supreme Court, but also enriches the range and depth of judicial insight at the summit of our legal system.

10. The Supreme Court also made commendable strides in expanding its capacity to hear more cases. By operating two courtrooms concurrently

during each of its three terms, the Court has successfully increased the number of cases set down for hearing, thereby significantly reducing its backlog of cases.

11. Between 1 January 2023 and 21 December 2023, the Supreme Court encountered a marked increase in its caseload, witnessing a surge in the number of appeals by approximately 59% compared to the previous year. Despite this rising trend and the heightened demand for judicial services in recent years, the Court has successfully managed to uphold its high standard in the disposal rate of cases. This is apparent from the fact that the Supreme Court has not only heard but also effectively resolved a significant portion of these cases. Specifically, from the start of 2023 until late December, out of 98 matters that were enrolled, 93

were heard, and judgments were delivered in 87 of these, translating to a case disposal rate of 93.5%.

12. In recent years, a concerning pattern has taken root and persists, where some litigants, and – more concerningly – legal practitioners, exhibit a recurring disregard for the Court's Rules. This ongoing trend has frequently resulted in the dismissal or removal of cases from the roll, leading to apprehensions regarding the inefficient utilisation of the Court's valuable time and resources. It is crucial that both litigants and, especially, legal practitioners make a concerted effort to familiarize themselves thoroughly with the Court's Rules to uphold the efficiency and integrity of our judicial process.

High Court

13. In 2023 the High Court comprised 17 permanent judges and 5 acting judges, including one ad hoc judge assigned to a specific case.

14. The High Court Main Division civil stream demonstrated a notable efficiency in case disposal, finalising a total of 6,827 civil and labor cases, which accounted for 64% of the matters heard during the year. Notably, 5,355 of these cases met the prescribed disposal benchmarks, leading to an impressive on-time disposal rate of 78%.

15. This achievement underscores a pattern of steady improvement in the on-time performance of the Main Division. When we look back at previous years, we see a clear trajectory of progress. In the 2022 Legal

Year, the Main Division handled 7,018 civil and labor cases, with an on-time disposal rate of 73%. This was a significant increase from the 2021 Legal Year, which saw a total of 9,828 cases with an on-time disposal rate of 71%. The consistent upward trend in performance is evident when comparing these figures with the 2020 Legal Year, during which the High Court processed 9,893 cases and achieved an on-time disposal rate of 72%.

16. The Judicial Case Management system remains a cornerstone in this success, ensuring efficient case handling and timely resolution of disputes. As we move forward, the High Court's commitment to improving its case management and disposal processes remains

steadfast, reflecting our dedication to upholding justice and serving the needs of our community effectively.

17. Regarding the handling of criminal cases in the High Court Main Division, the court achieved a disposal rate of 28% for indictments. Nevertheless, the court demonstrated higher efficiency in other areas, accomplishing a 90% disposal rate for criminal appeals and an 83% rate for reviewing cases from the lower courts.

18. One of the measures implemented in 2023 to tackle the challenge of delayed court proceedings was the revival of circuit courts. This initiative was carried out in the Zambezi, Kavango East, and Kavango West regions, with the Judge-President presiding over the cases. The

2023 circuit courts proved a monumental success and the High Court intends to institutionalise circuit courts as a regular practice.

19. In alignment with the Judiciary's commitment to the principles of transparency and accountability, the Judicial Service Commission took a significant step in this regard towards the end of last year. The Commission resolved to amend the Judicial Service Commission Regulations to mandate that interviews of nominated candidates for judicial office be conducted in public, marking a pivotal change in our appointment process.

20. In November of last year the first public interviews were held and resulted in the subsequent appointments of Judge Philanda Christiaan

as a substantive judge of the High Court, following her previous role as the Chief Magistrate, and Advocate Beatrix de Jager, as an acting Judge of the High Court. Although the selection of judicial officers has consistently been transparent, the move to conduct interviews publicly, as stipulated by the newly amended Regulations, reinforces our commitment to an open and accountable judicial system.

Lower Courts

21. In the 2023 Legal Year, the lower courts witnessed a dynamic period of change and development.

22. Two Divisional Magistrates were elevated to the position of Judges, reflecting a significant step in their judicial careers. Moreover, key promotions within the ranks included the advancement of a Principal

Magistrate to Deputy Chief Magistrate overseeing Court Administration, the elevation of two Principal Magistrates to Divisional Magistrate roles in Rundu and Otjiwarongo, and the promotion of a Principal Magistrate to a Regional Court Magistrate position. Additionally, the upward movement of three Senior Magistrates to Principal positions and the promotion of an entry-level Magistrate to a senior role underscores the Judiciary's focus on recognizing and rewarding judicial competence and dedication.

23. The recruitment drive brought in eleven new Magistrates, enhancing the operational capacity of our lower courts. However, the judiciary also faced challenges, with seven resignations spanning various levels of

the magistracy, coupled with the retirement of a Deputy Chief Magistrate and a Principal Magistrate.

24. The year was also marked by notable administrative advancements.

The declaration of new seats of courts in Okahao, Ohangwena, Gochas, Stampriet, Witvlei, and Impalila Island represents a crucial expansion in our judicial reach, ensuring greater access to justice for our citizens. Moreover, the increment in the remuneration of Magistrates is a step towards acknowledging their invaluable contribution to the judiciary.

25. While the lower courts made significant strides in judicial appointments and administrative enhancements, the achievement of set targets was

constrained by insufficient budgetary provision, a challenge that underscores the need for adequate support to ensure the efficient functioning and further development of this critical sector of our judiciary.

26. In 2023, the regional and district courts handled 4,682 additional cases compared to 2022. Despite this surge in caseload, the Lower Courts accomplished 37% case disposal rate in 2023, marking a 5% increase from the 32% disposal rate achieved in 2022.

27. Over the past year, the Magistrates' Courts Act 32 of 1944 underwent a crucial amendment through the promulgation of the Magistrates' Courts Amendment Act 18 of 2023, marking significant progress in the

protection of the most vulnerable members of our society. This legislative change introduces a clearer definition of a "primary home," emphasizing the need to protect one's principal residence from arbitrary sale in execution. The amendment empowers the Rules Board to craft guidelines for sales in execution of immovable property, ensuring these transactions are conducted equitably and in line with the property's actual value.

28. Additionally, the amendment notably expands the jurisdiction of magistrates' courts. This expansion enables these courts to handle a broader spectrum of cases, thereby enhancing access to justice, particularly for individuals in remote or underserved regions. The new provisions also introduce safeguards against the sale in execution of

immovable property, especially when it concerns an individual's primary home, aligning with our ongoing commitment to safeguard property rights and to uphold human dignity.

29. This change in legislation reflects the adaptability and responsiveness of our judicial system to the evolving needs of our society. The President's approval of this amendment signifies Government's and the Judiciary's joint commitment to refining the legal framework governing property rights and debt recovery, in harmony with the principles of fairness, transparency, and respect for the rule of law.

Budgetary provisions for the Office of the Judiciary

30. The budget of the Office of the Judiciary is a crucial aspect of our ability to execute our mandate effectively. The revised budget ceiling received

in the 2017/2018 financial year was the most sufficient allocation, catering to all our operational needs. However, subsequent budget ceilings have been insufficient, leading to the carryover of unpaid outstanding invoices each year.

31. The challenges faced in terms of budget allocations highlight the need for a more robust and sustainable financial framework to support the Judiciary's functions. The major setbacks in terms of personnel budget, goods and services, and the shortfall in budget allocations for utilities and court fees emphasize the urgency of addressing these financial constraints.

32. Despite these challenges, the Office of the Judiciary has continued to receive unqualified audit reports, showcasing our commitment to good governance and financial accountability. In the Auditor General's reports on the accounts of O/M/As, an unqualified report is defined as meaning that the "auditors conclude that the financial statements of [the] O/M/A present fairly its affairs in all material respects".

Capital Projects and Infrastructure Development

33. In our pursuit of justice and our commitment to providing accessible, efficient, and fair judicial services to all citizens, the importance of increasing and maintaining our infrastructure cannot be overstated. While our budget allocations have been challenging, the need for continued investment in capital projects remains paramount. In the

2017/2018 financial year, we received a budget allocation that allowed us to address some of our most pressing needs. However, the subsequent years have highlighted the growing demand for modernized court facilities, advanced technology, and improved access to judicial services.

34. The Office of the Judiciary recognizes the urgent need for capital projects that not only refurbish and expand existing court infrastructure but also integrate advanced technologies to streamline case management and court proceedings. These projects are not just about constructing buildings; they are about building the future of our judiciary.

35. As we advocate for increased budget allocations, we envision capital projects that encompass the development of new court facilities in underserved regions, the expansion of our electronic case management systems, and the enhancement of security measures to protect sensitive information and ensure the safety of our judicial staff and the public. These initiatives are critical in our journey towards a judiciary that is not only physically accessible but also technologically adept and equipped to handle the challenges of the digital age.
36. The successful implementation of these capital projects will require collaborative efforts and the support of all stakeholders.

Conclusion

37. As we embark on the 2024 Legal Year, let us remain steadfast in our pursuit of justice, our commitment to upholding the rule of law, and our dedication to serving the people of Namibia with integrity and excellence. Together, we can overcome the challenges ahead and continue to strengthen the fabric of our judiciary, ensuring that justice is accessible, timely, and fair for all.

I thank you.