

REPUBLIC OF NAMIBIA



**STATEMENT BY
HIS EXCELLENCY DR HAGE G. GEINGOB,
PRESIDENT OF THE REPUBLIC OF NAMIBIA,
AT THE OPENING OF THE 2023 LEGAL YEAR**

FEBRUARY 08, 2023

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Director of proceedings;

Honourable Chief Justice, Peter Shivute;

Honourable Deputy Chief Justice, Petrus Damaseb;

Honourable Minister of Justice, Yvonne Dausab;

Honourable Attorney General, Festus Mbandeka;

Honourable Justices of the Supreme Court;

Honourable Judges of the High Court;

Your Worship, Chief Magistrate and other Magistrates;

Members of the Media

I am happy to join the Namibian Judiciary and the broader Legal fraternity for this very important occasion, marking the official opening of the Legal Year.

The Judiciary is constitutionally mandated to oversee the critical function of the administration of justice, which is an integral component of our Governance Architecture. As one of the architects of our Constitutional democracy, I am an ardent promoter of the independence of the Judiciary. However, the official opening provides me a rare opportunity to interact directly with the Bench and the Legal fraternity without it being seen as interference in their independence.

Therefore, let me once again, re-affirm the Executive's promise to upholding the rule of law and pledge that the judiciary will continue to enjoy unfettered independence.

We view the establishment, maintenance and enhancement of our administration of justice as an integral component, not only for the maintenance of peace and security within Namibia, but also for the advancement of our developmental agenda.

Therefore, the sacrosanctity of judicial independence in Namibia can never be questioned.

Director of proceedings,

After a prolonged period of lethargic global economic growth and depressed commodity prices, with resultant negative effects on our economy, and further exacerbated by persistent droughts and the Covid-19 pandemic, there are positive signs that our economy will slowly be bouncing back this

year. This brings with it optimism for improved fortunes for all of us.

Since assuming office, at the end of every year, I take time to reflect on the year that was and to envision the ensuing year. In line with this tradition, I “christened” 2023 the “Year of Revival”. This is once again a clarion call to the nation to deploy our collective best endeavors in reigniting the strength of our nation and to look to the future with renewed hope and optimism.

The good rains received in most parts of the country so far, should result in the increased use of productive land and thereby contribute to our economic recovery activities.

Our intensified efforts invested in the development of a Green Hydrogen Sector are also beginning to bear visible fruits.

In other sectors too, green shoots are on the horizon, indicating that the country is emerging from a prolonged economic downturn. The green shoots are amplified by amongst others, increasing tourist arrival numbers and high occupancy rates in most of our hospitality establishments. Finally, increased outputs from the mining sector is another welcome sign of the recovery of our economy.

The commencement of the development of a green hydrogen ecosystem as well as the recent discovery of commercially viable oil reserves are equally positive indicators of an

economy that is on the rebound. In a world determined to find solutions to reduce global carbon dioxide emissions and mitigate global warming, Namibia holds the potential answer through the green hydrogen development. However, we need to develop strong policy and legislative frameworks to seize the moment and ensure equitable development.

The Chief Justice provided us a good overview of the work undertaken by the Judiciary during the period under review. He also soberly reflected on the challenges encountered and opportunities for this year. It is pleasing to note that despite the challenges highlighted, you were able to find ways to ensure that access to justice was not hindered.

Notwithstanding the effects of the Covid-19 pandemic and its attendant Health and Safety Regulations, the Judiciary and the Legal fraternity, embraced resilient strategies to facilitate continuous access to justice. It is further reported that new processes, protocols and the information communication technology system were upgraded to enable successful virtual court hearings to ensure that access to justice was not compromised.

Another remarkable achievement was the historic launch of a book titled "Namibia's Supreme Court at 30 years". In his foreword, the Chief Justice noted that the book "contains a critical analysis of decisions and jurisprudence developed by the Namibian Judiciary".

I commend the Chief Justice and his team in bringing forth this valuable reference book, which would contribute to further development of Namibian Jurisprudence.

I further commend the Judiciary for the revised Judge President's Practice Note 1/2023 which enables legal practitioners outside the Flexible Radius of the High Court to provide legal services if they are registered on the e-justice system, thereby promoting access to justice. This demonstrates how the use of ICT can improve operations within the court system in order to further facilitate access to justice.

It is public knowledge that the Judiciary like other organs of State, has been constrained by reduced budget allocation, shortage of judicial officers and limited court infrastructure. The shortage of judicial officers is further compounded by the lack of availability of qualified legal practitioners to take positions on the bench as judicial officers. These challenges negatively affected the overall administration of justice, which may have led to perceived diminishing public trust in the justice system. I am confident that the Chief Justice and his team, are aware of these perceptions and are reflecting on these and other challenges with a view to finding sustainable solutions to enhance affordable and equitable access to justice.

There remains consistent concerns that court rolls are full, and that matters brought before the Courts take a long time to be finalised. It is also common cause that there are new phenomena whereby more and more people are resorting to litigation in the event of dispute thus contributing to heavy case load on the courts roll. I encourage the Judiciary in collaboration with the Minister of Justice, and other key players in the legal fraternity to explore innovative ways to increase court capacity through the establishment of specialized courts such as community justice services, small claims courts, family courts and commercial courts.

Furthermore, I wish to implore the Judiciary to explore various alternative dispute settlement mechanisms to alleviate the caseload in the court roll and to mitigate against the prohibitive legal costs which is a big stumbling block to the majority of Namibians to have reasonable access to justice. I commend the judiciary for the court guided mediation process that has been established to mitigate against this challenge. While commending progress made thus far, I urge the Ministry of Justice and the Judiciary to urgently address the need for improved accessibility to legal services for persons with disabilities through the incorporation of braille and sign language services.

I was informed last year that the Judiciary in collaboration with the Ministry of Justice was undertaking a comprehensive reform process, to address the shortages of judges, magistrates, prosecutors and the establishment of periodical courts to make legal services and courts accessible. I commend this approach to use law reform as a tool to enhance access to the justice system.

Furthermore, I encourage the Ministry of Justice in consultation with the Legal fraternity, to come up with proposals to improve the broader provision of legal aid, including the possibility of embedding mandatory pro bono legal aid in order to expand access to justice.

In the same vein, I encourage the Chief Justice and his team to make use of the Legal fraternity through amicus curiae briefs, for the layman, meaning "friend of the court", to enhance access to justice.

Another prohibitive factor to access justice is inequality and high legal costs. The Legal fraternity should regularly review its fees and evaluate affordability thereof within the confines of its governance framework. Similarly, the promotion of the culture of pro bono work, for some of us layman, meaning "free of charge", would go a long way towards improving access to justice.

I have also been alerted to the inadequate capacity at the National Forensic Science Police Institute to do some complex testing of certain items or subjects in criminal matters resulting in delays in finalizing criminal cases. This undermines the credibility of the administration of justice. Therefore, I urge the key stakeholders such as Ministry of Home Affairs, Immigration, Safety and Security, NAMPOL, the Prosecutor General's Office and Treasury to look into this matter and explore ways and means to further capacitate the Institute.

I am aware that the ongoing budget cuts curtail the Judiciary's ability to fill critical vacancies, promote staff development and capacity building, and improve the court's infrastructure.

As the fiscal space remains seriously constrained, we anticipate that budget cuts would be maintained this year. Doing more with less will remain the norm.

I therefore urge the Judiciary and the Ministry of Justice to deliberate on alternative funding solutions, while vigorously promoting pro bono work by legal practitioners. I also encourage improved coordination between the Ministry of Justice and NGOs/CSOs towards the provision of legal services and or representation for the indigent. These approaches could provide stability during these times of difficult economic circumstances.

Furthermore, it has been reported that lack of discipline in the legal profession is an emerging trend. This is indeed disturbing considering that the Legal profession is a highly respected profession. Society holds the legal profession in high esteem and this requires that as members of this noble profession, you remain above reproach at all times.

I urge the Chief Justice, the Minister, the Prosecutor General and all Practitioners to ensure that high standards of discipline and professionalism are observed at all times.

Director of proceedings,

The English philosopher Jonathan Sacks once said and I quote, "True freedom requires the rule of law and justice, and a judicial system in which the rights of some are not secured by the denial of rights to others." In the Year of Revival, let us endeavour to ensure that justice is not only a reality for a few but a reality for each and every Namibian. We should strive not only to ensure a swift delivery of justice but also a fair delivery of justice so that Namibians from all walks of life can have faith in a justice system that caters to all, cares for all and offers protection to all.

In so doing, we will take yet another step forward in our march towards becoming a truly prosperous nation.

**With these words, I now declare the 2023
Legal Year opened. I wish you all successful
deliberations.**

Thank you for your kind attention.

Long live the Republic of Namibia.