

REPUBLIC OF NAMIBIA



STATEMENT BY

**HIS EXCELLENCY DR HAGE G. GEINGOB,
PRESIDENT OF THE REPUBLIC OF NAMIBIA
AT THE OPENING OF THE 2018 LEGAL YEAR**

FEBRUARY 7, 2018

SUPREME COURT OF NAMIBIA

WINDHOEK

Check against delivery

Director of Ceremonies;

Honourable Chief Justice, Peter Shivute;

Honourable Deputy Chief Justice, Petrus Damaseb;

Justices of the Supreme and High Courts;

A special welcome to our judges based at the Oshakati High Court;

Honourable Minister of Justice, Albert Kawana;

Honourable Attorney General, Sakeus Shanghala;

Honourable Ministers present;

The Prosecutor-General, Martha Olivia Ekandjo-Imalwa;

The Ombudsman, Mr. John Walters;

Members of the Judiciary and staff of the Office of the Judiciary;

Chairperson and Members of the Magistrates Commission;

Members of the Legal Profession;

Distinguished Invited Guests;

Members of the media;

Ladies and Gentlemen,

It is my pleasure to join you this morning to mark the Opening of the 2018 Legal Year. 2018 is the year of reckoning, a year when the Judiciary is called to come to the fore, in order to safeguard, maintain and help advance Namibia's governance architecture.

When I announced that this year will be termed as the *year of reckoning*, many people posed the question as to why I used a biblical term. Given the significant influence that Christianity holds in our society, one can forgive those who immediately thought of the scriptural context of the word reckoning. However, the word reckoning has several meanings, as defined by the Oxford dictionary, and these are:

- 1. The action or process of calculating or estimating something.**

2. A person's opinion or judgement.
3. The avenging or punishing of past mistakes or misdeeds.

We have been given a mandate, by the people of Namibia, to govern and deliver on the promises which we outlined in our election manifesto. Through the trias politica model of the Executive, Legislature and Judiciary, we exercise the responsibility to deliver on our mandate and therefore, next year 2019, we will face the opinions and judgement of the people, as to whether we are delivering. But this year, all under my appointment must account to me so that I, in return, can account to the ultimate sovereigns – the People of Namibia.

Furthermore, in the context of the judiciary, our courts will also be called upon, on behalf of the people to mete out appropriate punishment on those whose transgressions, mistakes and misdeeds have exceeded the boundaries of the Rule of Law.

As John Ladner once put it, "the rule of law is essential in the creation, preservation and advancement of a civilized society. When judges responsively, protect rights and resolve discord by thoughtful, independent and unbiased application of the laws, the justice system secures the freedoms, and equality that foster a social environment wherein society's highest aspirations and evolution can be realized".

The judiciary must therefore ensure that the laws are applied to all in a fair, reasonable and understandable manner, thereby instilling confidence in the legal process which is our best hope for achieving the fullest measure of human justice, social harmony and progress.

In the book *Aristotle's Politics: A Treatise on Government*, Aristotle argues that, "it is more proper that law should govern than any one of the citizens; upon the same principle, if it is advantageous to place the supreme power in some particular persons, they should be appointed to be only guardians

and the servants of the laws.” As the Judiciary, you are tasked with the responsibility of being guardians and servants of the laws of Namibia, and this is a task you are expected to carry out with patriotism, dedication and integrity. Yours is a profession of trust. A noble duty, an indispensable function of our democratic construct.

At this juncture, I would like to offer a word of caution regarding what I term judicial over-reach, when the Courts are used, I assume, as the forum for the settlement of political disputes. The Chief Justice of South Africa in his opinion terms it as “Judicial over-reach”. This can result in what some may term, “disrobing of the Judiciary.” It will be a sad day when our Courts discard their aloofness and descend into the melee of politics. Let us therefore ensure that that day never comes.

Director of ceremonies,

Chinua Achebe once said, “One of the truest tests of integrity is its blunt refusal to be compromised.” In times of abundance, it may be easy to hold your ground, but in times of scarcity one’s integrity is truly tested. We are aware that we currently face resource shortages across the board. The situation calls for us to tighten our purse strings and trim the fat. However, under no circumstances should financial difficulties be used as an excuse to compromise integrity.

I note the fact that there is a problem of understaffing due to budgetary constraints, and I am further well aware that this has an effect on the effectiveness of the judiciary. However, the challenges we face present a true test of our integrity and we should pass this test by bluntly refusing to be compromised, no matter how difficult the situation is.

I often use the description of building a house as a means to illustrate the nation building process in Namibia.

I have referred to the mortar which cement which hold the bricks (our different tribes, races, etc.) in place as the laws of the country. You are all aware that a well-functioning judiciary is crucial to the success of our nation building process. It plays a role in maintaining a Nation's sovereignty, it promotes constitutionalism and it ensures adherence to the rule of law by buttressing the maintenance of law and order. The Judiciary is a catalyst for the creation of a conducive business environment and the promotion of social justice. Therefore, a well-functioning, competent, transparent and accountable judiciary sets a nation on the correct course towards prosperity.

Director of ceremonies,

The successful pursuit of Namibia's developmental objectives, the war against poverty and corruption, as well as the realisation of shared prosperity amongst our people cannot take place in the absence of social order. The Judiciary, through the application of the rule of law, is indispensable to the task of bringing order to our society.

In Namibia, the rule of law reflects not only the basic tenets of inherited colonial laws but incorporates our innate cultures, norms and traditions, which formed the bedrock of our social order long before the days of colonial occupation. Unfortunately, we often hold on to certain colonial laws and traditions which hinder our efforts to modernise and streamline our governance architecture. In this regard, I would like to encourage our Judiciary to review laws and customary practices that are archaic and do not apply to the realities of modern Namibian society.

Namibia's Governance architecture is rooted in democracy, unity, peace and rule of law. To this extent, we pride ourselves on the independence of our Judiciary. Despite the challenges we face, Government remains committed to improve upon the administration of justice within Namibia.

We will continue to support our courts as well as other key stakeholders, namely the legal profession and the judicial and legal services, to ensure fair administration of justice, for the purpose of maintaining the well-being of the population.

Independence has brought many freedoms to Namibians which were denied to them during the days of colonial occupation. However, as I often say, "One person's freedom begins where the other person's rights starts." It is therefore crucial that the administration of law is upheld since the freedoms we enjoy are not absolute. Furthermore, the administration of law should be viewed as one of the myriads of tools that Government is using to improve the lives of our people by protecting their human dignity and allowing them to pursue their ambitions under the umbrella of our national laws. We are intent on ensuring that no Namibian will be left out in terms of receiving justice.

We must ensure access to justice for all citizens, while enforcing the laws of the land in an accountable and transparent manner.

Director of ceremonies,

Having mentioned the difficulties that we are facing in terms of resource shortages, let me also acknowledge the fact that despite budget cuts, the Office of the Judiciary has still managed to achieve some notable milestones during the 2016/2017 financial year. This includes the finalization of the new draft rules for the Supreme Court which, once implemented, will contribute to making the Court more efficient. Furthermore, I am glad to note that the Supreme Court has implemented outreach initiatives to generate greater public interest in the court's deliberations by publishing on the court's website, summaries of upcoming cases and the court's decisions once delivered. Through this laudable initiative, you are contributing to the promotion of a knowledge based society.

I would like to encourage our Judiciary to continue working towards the expansion of local intellectual resources, as well as encouraging national discourse on matters of law. Let us not keep knowledge behind closed doors, but rather let us spread it nationwide and harness the power that comes along with it. In terms of the High Court, I am glad to note that there has been an improvement in the finalization rate with regards to criminal matters.

I congratulate all the dedicated judges assigned to the Criminal Stream, as well as the research assistants, whose dedication and tireless work resulted in this improved finalization rate. I encourage you to aim even higher this year. Despite these, and other notable achievements, I am aware that the issue of backlogged criminal cases is still a challenge. We are all aware of the legal maxim, "*Justice delayed is justice denied*". The delay of legal redress for those who have suffered, injury, trauma and damage due to crime, can sometimes be more painful than the crime itself. We therefore need to work together to ensure that we do whatever it takes to ensure that we do not prolong the suffering of those who have fallen victim to crime.

Let me also note, with concern, the prevailing climate of violence towards women and children, which goes against the spirit of love and compassion, which we are trying to cultivate in the Namibian House. I call on our Judiciary to ensure that stiffer sentences are handed out to the perpetrators of these deplorable crimes. We must send a stern message that there is no place in this Namibian House for those who harm our women and children.

Director of ceremonies,

Our Judiciary remains a stronghold for our democracy. It represents a foundation upon which we can construct a platform that will launch us towards our aspirations, as stipulated in our Vision 2030, National

Development Plans and Harambee Prosperity Plan. The Namibian House must be characterized by a just society, because a just society will always triumph over poverty, a just society will always stand up against the scourge of corruption and a just society will eventually realize the dream of shared prosperity.

Frederick Douglass once said, "Where justice is denied, where poverty is enforced, where ignorance prevails, and where any one class is made to feel that society is an organized conspiracy to oppress, rob and degrade them, neither persons nor property will be safe." I have the utmost confidence that in our Namibian House, our Judiciary will continue to ensure that justice is delivered instead of denied, that poverty is eradicated instead of enforced, that ignorance becomes a thing of the past, and that under the rule of law, we will stand and hold hands as one class, where no Namibian will be oppressed or robbed and no one will degrade a fellow Namibian. Thereby ensuring that all Namibians and their properties will be safe.

In conclusion, I wish all of you the very best for the year and hereby declared the 2018 Legal Year open.