

REPUBLIC OF NAMIBIA



**OFFICE OF THE JUDICIARY
BUDGET SPEECH
VOTE 21
FOR THE 2017/2018 FINANCIAL YEAR**

**BY
HON. LIDWINA SHAPWA MP,
DEPUTY MINISTER OF JUSTICE**

**18 APRIL 2017
NATIONAL ASSEMBLY**

**Honourable Chairperson of the Whole House Committee,
Honourable members,**

I rise to motivate Vote 21, Office of the Judiciary.

In terms of the Appropriation Bill before us, I am here to present to you the proposed budget allocation of the Office of the Judiciary.

Before I, however, proceed to present the proposed budget, I wish to extend a word of thanks to the Minister of Finance, Honourable Calle Schlettwein, MP, and the Minister of Economic Planning and Director-General of the National Planning Commission, Honourable Tom Alweendo, MP, together with their staff for crafting our national budget during this peculiar financial climate.

It is important to note that section 13 of the Judiciary Act, 2015 (Act. No. 11 of 2015) provides that the Minister responsible for Justice represents the Office in both Cabinet and the National Assembly. This provision is thus the legal basis for my assignment to present the budget of the Office of the Judiciary on behalf of the Honourable Chief Justice, the Head of the Judiciary.

The coexistence in solidarity and the maintenance of peace as well as the pursuit of justice cannot be achieved without a well-oiled judicial system. Therefore, an independent and efficient judiciary is a cardinal component of a democratic State. It ensures that access to justice is guaranteed for all citizens, and that disputes are adjudicated in a consistent and neutral manner. This is fundamental to the very character of a constitutional democracy.

Article 78 of the Namibian Constitution vests judicial power in the courts and enjoins organs of State to jealously guard the independence of the Judiciary. To recapitulate, a year ago on 1 April 2016, I reminded the Honourable members of this august House of the amendments brought about by the Third Amendment to the Namibian Constitution pertaining to the Judiciary, and in particular to Article 78 of the said Constitution and the subsequent passing of the Judiciary Act, 2015 (Act No. 11 of 2015). The amendments to the Namibian Constitution reinforced by the Judiciary Act, 2015, culminated in the creation of the Office of the Judiciary as the administrative component of the Judiciary with its own separate vote allocation. This constitutional reform underpins the requests contained in this modest budget proposal.

Honourable Chairperson of the Whole House Committee, there is no real measure for the value of justice. The proposed budget I am about to present reflects a modest but pragmatic proposal which reinforces and supports constitutional arrangements made under Chapter 9 of the Namibian Constitution. This proposed budget allocation is designed to ensure that the Judiciary is equipped with sufficient resources to appropriately discharge its numerous functions under the Constitution and various pieces of legislation.

It is important for this Whole House to be informed of the achievements and challenges recorded in 2016 as follows:

Since its inception, the Office of the Judiciary has made great strides in transforming our judicial system. The establishment of the Office is now 667 members, inclusive of judicial officers and staff members. The appointed staff members perform administrative support functions at courts and assist the structures that have been established under the Judiciary Act.

The year 2016 marked an important turning point in the history of the Judiciary. Our Judiciary held its 1st Annual Judicial Conference.

This conference brought together more than 250 judicial officers and staff members as well as stakeholders to take stock of the achievements and prevailing challenges facing the judicial system and to map out the way forward.

Honourable Chairperson of the Whole House Committee, as we uplift the community through the administration of justice, I wish to report to this august House that the waiting period for reserved judgments has been significantly reduced in both the Supreme Court and High Court. While on this point, I wish to inform the House that the Office of the Judiciary has also initiated a programme to train serving magistrates and research assistants under a flagship *Aspirant Judges Training Programme* in order to enlarge the pool from which judges can be appointed. This initiative has already started to bear fruits as three (3) out of the twenty (20) trainees have since been appointed as acting Judges of the High Court.

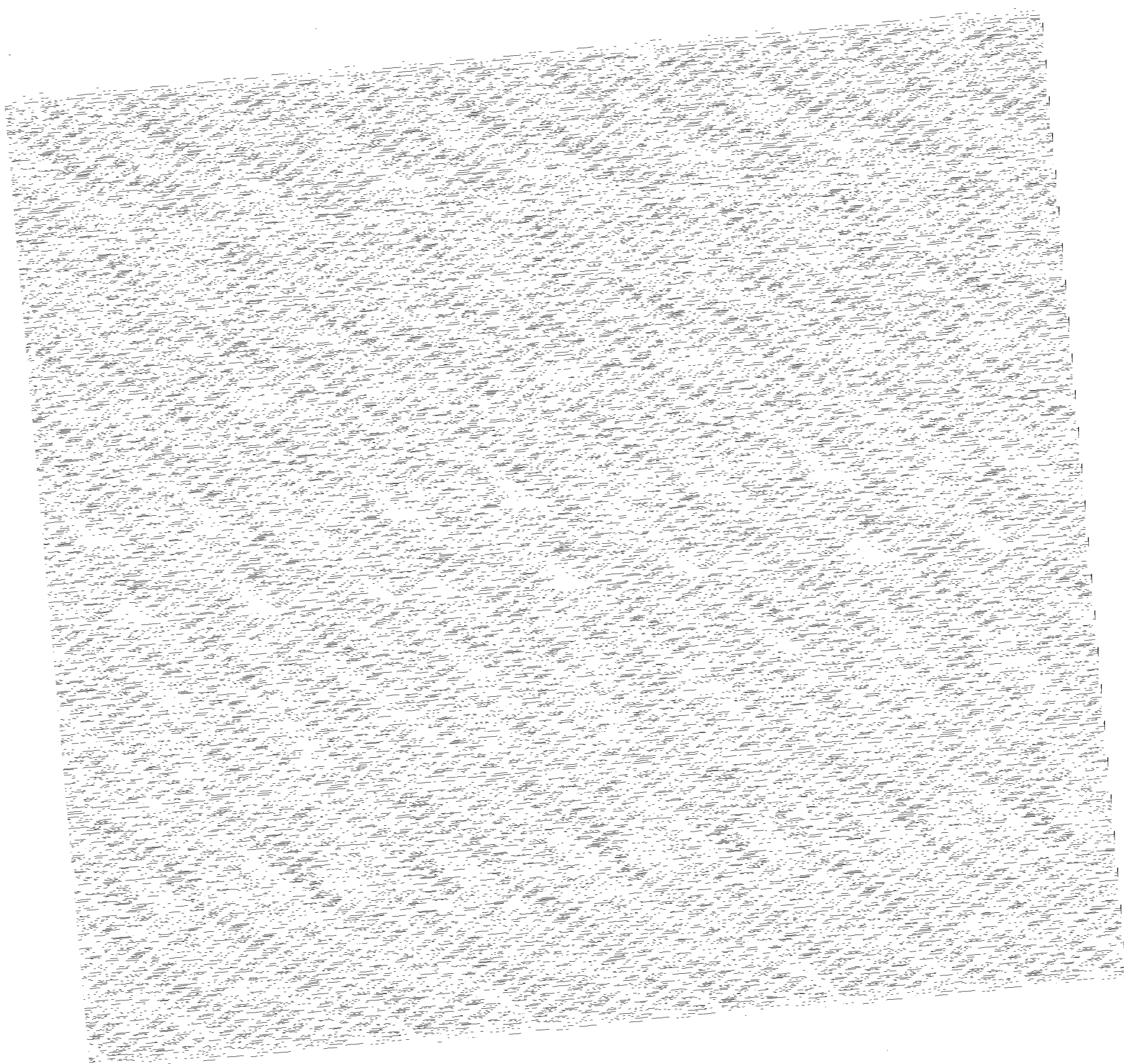
I am further pleased to inform the House that, in the Supreme Court, the number of cases enrolled per term has increased from 10 to 15 per session of that court and as noted above, the delivery of judgments has also improved significantly with closer to forty (40) judgments having been delivered in 2016.

In order to generate public interest and awareness in the court's work, summaries of forthcoming cases and court's decisions once delivered are published on the court's website. The new Rules of the Supreme Court have been finalised and once implemented, will contribute to making the Court even more efficient. The Judiciary is thus reforming very well at a pace that is appreciable and dignified

Honourable Chairperson of the Whole House Committee,

Turning to the High Court, I am also pleased to report to this House that the initiated reforms including Judge-controlled litigation (also known as judicial case management) and electronic filing system continue to contribute to speedy resolutions of disputes of the parties at lesser cost. The electronic filing system is currently operational at both the Main Division at Windhoek and the Northern Local Division at Oshakati.

We are all mindful that trials in courts are not the only dispute resolution mechanisms. To that end, mediation as non-adversarial and informal dispute resolution mechanism was introduced at the High Court level. Although living up to its expectations, it has been hampered by financial constraints which reduced the number of mediation conferences conducted.



In addition, the Judiciary is burdened by the expectation to perform various functions on behalf of several Offices, Ministries and Agencies on top of its core functions, without the requisite resources to enable it to do so. These include the collecting of taxes, conducting marriages, issuing and renewing liquor licenses, amongst others.

Access to justice is still a challenge due to long delays, high costs, the complexity of legal processes, and a lack of legal counsel as major obstacles for citizens seeking legal remedies. In addition, there are still thousands of people that represent themselves in both criminal and civil cases in our lower courts because they cannot afford legal representation.

Honourable Chairperson of the Whole House Committee, among the issues raised last year concerning our criminal justice system was the granting of bail to repeat offenders and the reported backlog of cases in our courts.

I am pleased to inform this august House that the Honourable Chief Justice has initiated reforms aimed at tackling these issues.

To that end, a consultative meeting with key stakeholders in the criminal justice system was recently held to discuss the contents of a report commissioned by him in which the challenges relating to case backlog and the postponement of cases were highlighted and recommendations were made.

For the benefit of this House, allow me to highlight some of the recommendations contained in that report. These include:

- The need for magistrates to manage cases and court proceedings as opposed to legal practitioners driving the process.
- Legislative reforms that provide for speedy resolution of cases thus giving effect to the provisions of Article 12(1) of the Namibian Constitution relating to a fair trial.
- Bail reform and methods of securing the attendance of an accused before court, i.e. arrest, warning, summons or a notice to appear.
- Introduction of Reception Courts in magisterial districts where a legal aid counsel is assigned to represent accused from initiation to the finalisation of a case, where applicable.
- Introduction of plea bargaining in cases involving minor or petty offences, for which a maximum penalty is either a fine or six months imprisonment.

- In minor or petty offences, judicial officers will be required to consider community service as part of alternative sentencing options.
- The need to involve a prosecutor at the investigation stage of a criminal case to guide the police in the investigation and selection of the most appropriate charge or charges.

In order to fully implement some of the recommendations contained in the report, the Chief Justice has set up a Task Force consisting of key players in the criminal justice system.

Honourable Chairperson of the Whole House Committee,

I now present the budget allocation for the Office of the Judiciary, Vote 21, in the amount of N\$398 968 000 (**Three hundred and ninety eight million, nine hundred and sixty eight thousand Namibia Dollars**) which comprise of the following programmes.

Programme 01: Policy Supervision, Coordination and Support Services-

This programme has been allocated an amount of N\$130,168,000 (**One Hundred and Thirty Million, One Hundred and Sixty Eight Thousand Namibia Dollars**).

The objectives of this Programme is to ensure an enabling environment and high performance culture; to provide administrative, technical and technological support to the programmes of the Office of the Judiciary; to ensure proper financial management, gender mainstreaming, capacity building as well as an equitable distribution and effective utilization of resources.

Programme 02:

Supreme Court Adjudication and Administration-

This programme has been allocated an amount of N\$17 160 000 (**Seventeen Million, One hundred and Sixty thousand Namibia Dollar**).

The main functions of this programme are to hear and adjudicate appeals from the High Court including appeals which involves the interpretation, implementation and upholding of the Constitution and fundamental rights and freedoms guaranteed thereunder.

In addition to the above functions, the rendering of quasi-judicial and administrative functions is also key to this programme.

Programme 03:

High Court Adjudication and Administration –

This programme has been allocated an amount of N\$77,018,000 (**Seventy Seven Million, Eighteen –Thousand Namibia Dollars**).

This programme is responsible for the adjudication of civil and criminal matters, including cases which involve the interpretation, implementation and upholding of the Namibian Constitution as well as hearing and adjudication of appeals from the Lower Courts. This programme further includes the performance of quasi-judicial and administrative functions.

Programme 04:

Lower Courts Adjudication and Administration –

This programme has been allocated an amount of N\$174,622,000 (**One Hundred and Seventy Four Million, Six Hundred and Twenty Two –Thousand Namibia Dollars**). This programmes caters for adjudication of cases within the jurisdiction of the Lower Courts, as well as the conducting of judicial inquiries.

**Honourable Chairperson of the Whole House Committee,
Honourable Members,**

Let me reiterate with emphasis and without hesitation that the budget proposed is not based on extravagance but is based on the pragmatic needs of the Judiciary. These funds will be utilised to improve the courts' system through an effective and efficient administration of justice in all our courts.

I now seek the indulgence of this august House to approve the allocation totaling N\$398 968 000 (**Three hundred and ninety eight million, nine hundred and sixty eight thousand Namibia Dollars**).

**Honourable Chairperson of the Whole House Committee,
Honourable Members,** Your united support and approval of this proposed allocation will serve as an affirmation to the realisation of access to justice for the people of Namibia.

I thank you.

