REPUBLIC OF NAMIBIA

Office of the Judiciary

2019/20

Annual Report

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Acknowledgements

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Foreword by the Chief Justice

I am pleased to present the fourth Annual Report of the Office of the Judiciary detailing our collective efforts in pursuit of justice and service delivery. As Head of the Judiciary, I continually remind myself of the principles of transparency and accountability. These values are necessary conditions for the public's trust in the judiciary, the administration of justice and ultimately in the rule of law. Above all, it is our statutory obligation to release a judicial report on an annual basis.

The overall performance of all courts and administrative bodies paints a picture of an institution doing well, although performance-related challenges were also encountered in the course of improving our judicial processes and enhancing access to justice. Despite these challenges, I am confident that united we shall overcome them. I now proceed to record the notable achievements in the year under review.

As the apex court, the Supreme Court continues to play a pivotal role in providing jurisprudential leadership and in that way contributing to the administration of justice. As it were during the past year, the workload at the High Court continues to increase which can be attributed, among others, to people becoming more aware of their rights and the mechanisms to enforce those rights. The civil stream is doing fairly well, despite worrying trends in the criminal stream. Court-connected mediation and the e-justice system continue to provide litigants with an affordable and expeditious way of resolving their disputes at the same time, freeing judicial resources and time. At the magistracy level, although the performance remained unchanged, the commissioning of a case backlog project has shown positive signs in our endeavour to reduce the backlog. I am pleased to inform that the vacancy of the Chief Magistrate that remained unfilled for a few years has now been filled. Based on the reports received since the appointment of the Chief Magistrate and as complemented by her two deputies, better reporting and follow up systems are being implemented to enhance greater accountability by magistrates.

On the central administration front, I am also pleased to inform you, our esteemed readers, that we have received an unqualified audit from the Auditor General for the past three financial years. We are happy with these achievements and we will do our best to retain this accolade this year and beyond. The Office of the Judiciary has an approved personnel complement of nine hundred and thirty (930) of which only seven hundred and eighteen (718) positions are filled at the moment. We still need to fill two hundred and twelve (212)

positions. The filling of these vacancies however requires adequate budget allocation, because besides payment of salaries and the provision of additional office space, office equipment has to be procured to ensure that the appointed officials are provided with their tools of trade to operate optimally.

On the regional and international front, judicial networks and cooperation are continuously being strengthened. The Namibian Judiciary attended various regional and international professional enrichment courses and gatherings where courts and administrators from around the world met to share experiences and best practices focusing on how to improve court processes and enhance access to justice for all.

Judicial training and development will remain important in ensuring that judicial officers and support staff are given the necessary capacity to discharge their functions efficiently and effectively. Over the course of the past year, a number of judicial officers and support staff were trained in various fields. It is hoped that the knowledge and skills obtained during these training interventions will ultimately improve our service delivery to the citizenry.

In closing, I want to give you the assurance that our judicial officers and administrators will continue to administer justice effectively and ensure access to justice for all. We will also continue to strengthen our cooperation with other stakeholders in the justice system. To all those who have contributed in one way or another to the realization of this report, I extend my profound gratitude to you and I wish to remind you that the success of producing future annual reports hugely depends upon your valuable contributions.
I hope this Annual Report will offer you a glimpse into the work of the Judiciary over the course of the past year.

Peter S. Shivute
CHIEF JUSTICE

Overview by the Executive Director

The justice sector has generally, over the past year undergone extensive reforms during a very challenging time. Having been an election year, the courts were looked upon to be available to perform its independent and impartial function of adjudicating as entrusted by the people to uphold the laws of the country and the Constitution.

The courts can only perform adequately when supported administratively with a reasonable budget provision. Over the last three financial years, the Office received a year-on-year operational budget reduction of 12,5% from the 2017/18 – 2018/19 financial year and a 2.9% decrease from the 2018/19- 2019/20 financial year.

With a contraction in the Namibian economy over the last 36 months, the Office of the Judiciary adopted the principle of doing less with more, all in the interest of ensuring that the administration of justice at the courts continues unhindered. A stronger judiciary is often associated with more rapid growth of small as well as larger firms in an economy and that is why it is of pivotal importance that the courts are well funded to ensure optimum performance. In fact, better performing courts have been shown to lead to more developed credit markets. Various studies have shown that the degree of judicial independence is correlated with economic growth.

There are quite a number of international indices such as the Mo Ibrahim index, Corruption index, Ease of Doing Business Index and Competitiveness index that are critical to Namibia in attracting foreign investment and the courts in this instance is a key player in ensuring a sizable and positive move in such indices.

Ensuring equal and unfettered access to justice has been a key priority for the Office, and therefore, over the past financial year, the Office planned and constructed, in collaboration with the Ministry of Justice, eight prefabricated courtrooms in various parts of the country, thereby making the courts more readily available and accessible to the Namibian public. In addition, the Office have also improved its media relations function, by ensuring the media receive timely information about the courts and giving the media unrestricted access to the courts, thereby allowing live broadcasts and social media streaming of prominent cases of public interest. This media-friendly and transparent approach permitted

Namibians countrywide access to court proceedings and events through live and recorded broadcasts, certainly an unprecedented achievement for the courts.

Tying in with the above, was the commencement of the electronic funds transfer (EFT) project at all Maintenance courts across the country. This was introduced to ensure that maintenance beneficiaries could now receive maintenance payments directly in their bank accounts, hence allowing for an efficient and effective payment system and saving beneficiaries the time and effort to travel to the courts for payments.

The global outbreak of the COVID-19 pandemic saw the entire country plunge into innovation mode, and the courts were not left out. Although most public and private entities closed their doors during periods of lockdown, the courts were regarded as a critical service provider and remained open to the public albeit with limited-service provisions. This was a challenging time for the Judiciary, however, we had to ensure that justice continued to be administered and access to the courts remained available.

I can therefore confirm that we remained committed to strive for "*Judicial Excellence*" even in times of harsh economic conditions, global health pandemics and other disasters. We must however acknowledge our stakeholders for their unwavering support for the past years and we look forward to continue our collaboration for the benefit of the Namibian people.

I equally extend a warm word of acknowledgement and appreciation to the head of the Judiciary, His Lordship Peter. S. Shivute for his sterling leadership and direction. I equally acknowledge the heads of the High- and Magistrates Courts, Honourable Petrus. T Damaseb, our Deputy Chief Justice and Judge President as well as to Her Worship, Mrs Philanda Christiaan for their guidance and support. To the judicial officers, management and staff of the Office, in totality, their contribution to the call of judicial excellence is sincerely appreciated.

Rolanda L. van Wyk
EXECUTIVE DIRECTOR

List of Acronyms and Abbreviations

AA	Affirmative Action
CJ	Chief Justice
CM	Chief Magistrate
CPA	Criminal Procedure Act
DCJ	Deputy Chief Justice
DIR	Directorate
FY	Financial Year
HC	High Court
HCMS	Human Capital Management System
HRM&D	Human Resource Management and Development
ICT	Information Communication Technology
IFMS	Integrated Financial Management System
IT	Information Technology

JSC	Judicial Service Commission
JCS	Judicial Commissions Secretariat
JUSTICE	Justice for all, Unyielding Judicial Independence, Service Oriented, Timeliness, Integrity, Competence and Excellence
MOJ	Ministry of Justice
NAMCIS	Namibia Magistrates Courts Information System
NLD	Northern Local Division
NPC	National Planning Commission
O/M/A's	Offices, Ministries & Agencies
OoJ	Office of the Judiciary
PG	Prosecutor General
PGD	Prosecutor General's Decision
PMS	Performance Management System
PR	Public Relations
ED	Executive Director

Strategic Overview

PART I

1.1 ABOUT THE OFFICE OF THE JUDICIARY

The Office of the Judiciary has since inception in January 2016, continued to strive towards becoming a customer-focused institution, by moulding its policies, strategies and internal procedures in a way that benefits the ordinary citizen.

The Offices' four-year strategic plan was crafted during a period of great economic uncertainty, yet a period of great excitement for the future, both locally and internationally. The following are the high-level statements to which the Office subscribes to.

1.2 VISION

To be a world class leader in judicial excellence

1.3 MISSION

To uphold the Constitution by promoting the rule of law through administering justice in a fair, timely, accountable and accessible manner.

1.4 VALUES

Corporate values are meant to reflect the organisation culture within an organisation, while stimulating cohesion amongst employees to behave and act in a likeminded manner. This is important to ensure that employees understand the common goals and purpose of the role of such an organisation, as well as the impact of their individual contributions. The Office of the Judiciary has developed purposeful values that speak to its mission and vision of becoming a world-class leader in judicial excellence.

JUSTICE FOR ALL

We apply fairness and impartiality in the administration of justice by the courts, accessibility of court processes, treatment of clientele with d ignity and respect

COMPETENCE

Demonstrate professional competence in the mastery of subject matter.

EXCELLENCE

Adhere to the highest judicial and administrative standards

SERVICE ORIENTED

Be committed to the diligent discharge of duties, true allegiance to the Constitution and laws of Namibia, dedication to meeting the legitimate needs of clientele of the courts in an efficient and effective manner.

INTEGRITY

Conduct business with uncompromising honesty and strong moral principles

UNYIELDING JUDICIAL INDEPENDENCE

We remain steadfast in operational, financial and administrative independence and steadfast in maintaining personal judicial independence of judicial officers.

TIMELINESS

We remain responsive and adaptable to changing community needs, improved systems, processes and procedures.

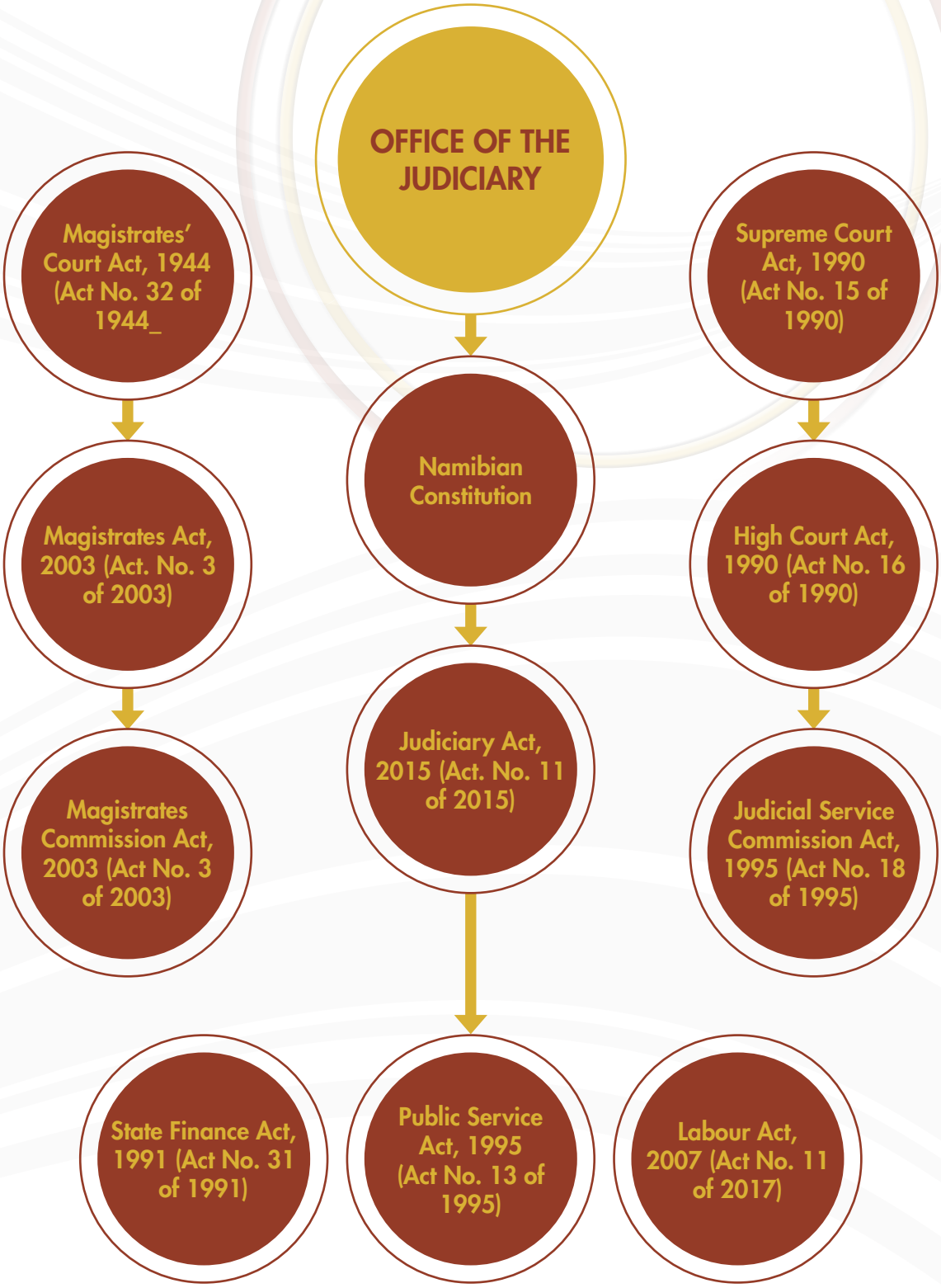
Governance

PART II

2.1 REGULATORY FRAMEWORK THAT GUIDES THE JUDICIARY

It is important to note that the courts exist firstly in terms of their Constitutional mandate before one considers the complementary legislation. This is equally the case for the Office of the Judiciary as the administrative body for the Judiciary. Therefore, without the supreme law, none of these juristic entities would exist.

Fig 2.1: Regulatory framework that guides the Judiciary system in Namibia



2.2 GOVERNANCE FRAMEWORK FOR THE OFFICE OF THE JUDICIARY

The Office of the Judiciary, as part of government Offices, Ministries and Agencies, operates within the governance's framework established by central government. However, considering that the Office also administratively and financially supports an organ of State, namely the Judiciary, the level of accountability and transparency weighs extremely heavy on each individual judicial officer and staff member. Therefore, complying with all relevant laws, regulations and governance principles, is of critical importance to position the office as a law abiding, responsible and well-managed entity.

Various governance committees have been established within the Office, some of which are mandatory while others are functional committees to enable the Office to comply with and adhere to best practices of good and sound governance principles.

Having regard to the value of good governance, two juristic bodies exist to ensure overall compliance with labour and other related legislation, specifically for judicial officers. These are the Judicial Service Commission and the Magistrates Commission.

2.2.1 Judicial Service Commission Meetings

The Judicial Service Commission (JSC) is mandated, subject to the provisions of the Judicial Service Commission Act, 1995 (Act No. 18 of 1995) to make recommendations to the President with regard to the appointment of persons to judicial offices, whether in a permanent or acting capacity, and the removal from office of persons holding or acting in such offices.

In addition, the Commission is also tasked to review or make recommendations on the terms and conditions of service, including retirement benefits, of persons holding or acting in judicial offices; conduct disciplinary inquiries into the conduct of persons holding or acting in judicial offices, and receive and investigate complaints from the members of public concerning the conduct of such persons or the administration of justice at superior court level amongst others.

The mandate noted above is executed through scheduled and ad hoc meetings held by the Commission and chaired by the Chairperson. During the year under review, the JSC had ten (10) meetings which took place on the following dates:

- 15 March 2019
- 17 May 2019
- 20 September 2019
- 21 and 23 October 2019 (Special Meeting)

- 04 November 2019 (Special Meeting)
- 11 November 2019 (Special Meeting)
- 15 November 2019
- 13 March 2020
- 15 May 2020

2.2.2 Magistrates' Commission

The Magistrates Commission held a total of nine (9) meetings during the period under review to ensure execution of its mandate. These meetings were recorded as follow.

- 26 April 2019
- 24 May 2019
- 28 June 2019
- 10 July 2019 (Extra Ordinary)
- 02 August 2019
- 06 September 2019
- 27 September 2019
- 23 October 2019
- 25 January 2020

During the period under review, the sitting Chairperson of the Commission, Honourable Mr. Justice Nate Ndauendapo resigned and the position was filled with a newly appointed judge, Honourable Lady Justice Claudia Claassen. The Chairperson of the commission is a judge of the High Court of Namibia, designated by the Judge President and appointed in terms of section 5(1) of the Magistrates Act, 2003 (Act No. 3 of 2003) by the Minster responsible for Justice. Justice Claassen took the reins of the Commission on 01 January 2020. The term of office for all commission members as per section 6(1) of the Magistrates Act is three (3) years, except for the Chief Magistrate, who is an ex officio member of the Commission.

It must be noted though, that such person whose period of office as a member of the Commission has expired, may be re-appointed or designated for another term, provided that such member may not hold office for more than two consecutive terms.

2.2.2.1 Appointments, resignations and disciplinary hearings

The Magistrates Commission is empowered in terms of section 3 of the Magistrates Act to, amongst others ensure that the appointment, promotion, transfer or dismissal of, or disciplinary steps against magistrates take place without favour or prejudice, and that the applicable laws and administrative directives in this regard are applied uniformly and correctly.

With a historical backlog of criminal trials not being finalised, it is imperative for the Commission to ensure that recruitment of new magistrates will ultimately impact on the

caseload and propel the Magistracy into an efficient entity, if it is done timely and within the legal framework.

During the past financial year, the Magistrates' Commission made some notable appointments in the form of the Chief Magistrate and the Deputy Chief Magistrate: Human Resources in the leadership cadre of the Magistracy. The position of a substantive Chief Magistrate has been vacant since December 2018, when the former Chief Magistrate got appointed to the High Court of Namibia as a permanent judge in the criminal stream.

Name of staff member	Date of appointment	Rank
Mrs. P. Christiaan	01.09.2019	Chief Magistrate
Mrs. I. Unengu	01.09.2019	Deputy Chief Magistrate: Human Resources

Table 2.1: Appointments to the Magistracy

Considering new appointments relative to the attrition rate over the last four (4) years, it is clear that there is a constant turnover of magistrates, making it difficult for the Magistracy to finalise matters. With the resignation of magistrates, partly heard cases are left, causing delays in finalisation of mostly criminal matters. It also becomes a loss for the magistracy when magistrates have reaped the benefits of institutional knowledge through on the job and other external training that they were exposed to.

To paint a more longitudinal picture, the mobility of Magistrates since the establishment of the Office in 2016 to 2019 can be classified as follows: Over the four-year period the Commission appointed 23 new magistrates, while over the same period there were 17 resignations and one dismissal, bringing the total rate of attrition to 22%. The current structure makes provision for only 104 magistrates, of which 94 posts are filled, leaving 10 posts vacant.

The below data illustrates the recruitment and turnover rate:

Year of Appointment	Number of Appointments	Number of Resignations	Number of Dismissals
2016/17	2	5	-
2017/18	6	3	-
2018/19	8	4	-
2019/20	7	5	1
TOTAL	**23**	**17**	**1**

Table 2.2: Magistracy appointments 2016/17 – 2019/20

The Office deemed it necessary to reflect on the past four years that it has been in existence, by looking at certain elements of its operations and how that has impacted its mandate, administration and interest of justice.

Therefore, considering the above, the Magistracy has been challenged over the last few years with a huge backlog of criminal cases and in order to adequately address this issue, it was important to ensure that sufficient and competent magistrates are appointed to administer cases and ensure that trials are completed in a fair and speedy manner. Accordingly, the magistracy is in the process of reviewing its structure to address its current needs.

2.3 AUDIT COMMITTEE

The Audit Committee that was established in 2018, was tasked with ensuring the development of relevant audit and other related policies and frameworks, in addition to the development of an internal audit plan as well as the constant improvement of robust systems and controls.

2.3.1 Terms of Reference:

The Audit Committee, working closely with the Internal Audit Division, is responsible for assisting management in discharging their responsibilities of monitoring the integrity of the Offices' financial statements and the effectiveness of the systems and internal controls as well as to monitor the effectiveness, performance and objectivity of the internal auditors. The Audit Committee also monitors the implementation of the recommendations from the Auditor General.

The Committee is authorized amongst others to;

- Investigate or cause to be investigated, any activity within its terms of reference;
- Seek any information that it requires in order to perform its duties and require all employees to co-operate with any request made;
- Delegate any of its duties as is appropriate to such persons or person as it deems fit; and
- Attend the meetings of the audit committee to advise the management and/or execute other functions as outlined under its terms of reference.

Meetings

Two meetings took place during the year under review.

- 30 August 2019 and
- 03 December 2019

Amongst others, the matters that enjoyed thorough attention during these meetings included, but were not limited to the tabling of the Auditor General's Report for 2018/19, internal audits that were completed, the consideration of draft risk management policy and frameworks, business continuity and business recovery plan, as well as the Office's delegation of authority and internal audit findings tracker to assist management in tracking the implementation of audit findings.

PART I

Judicial Administration

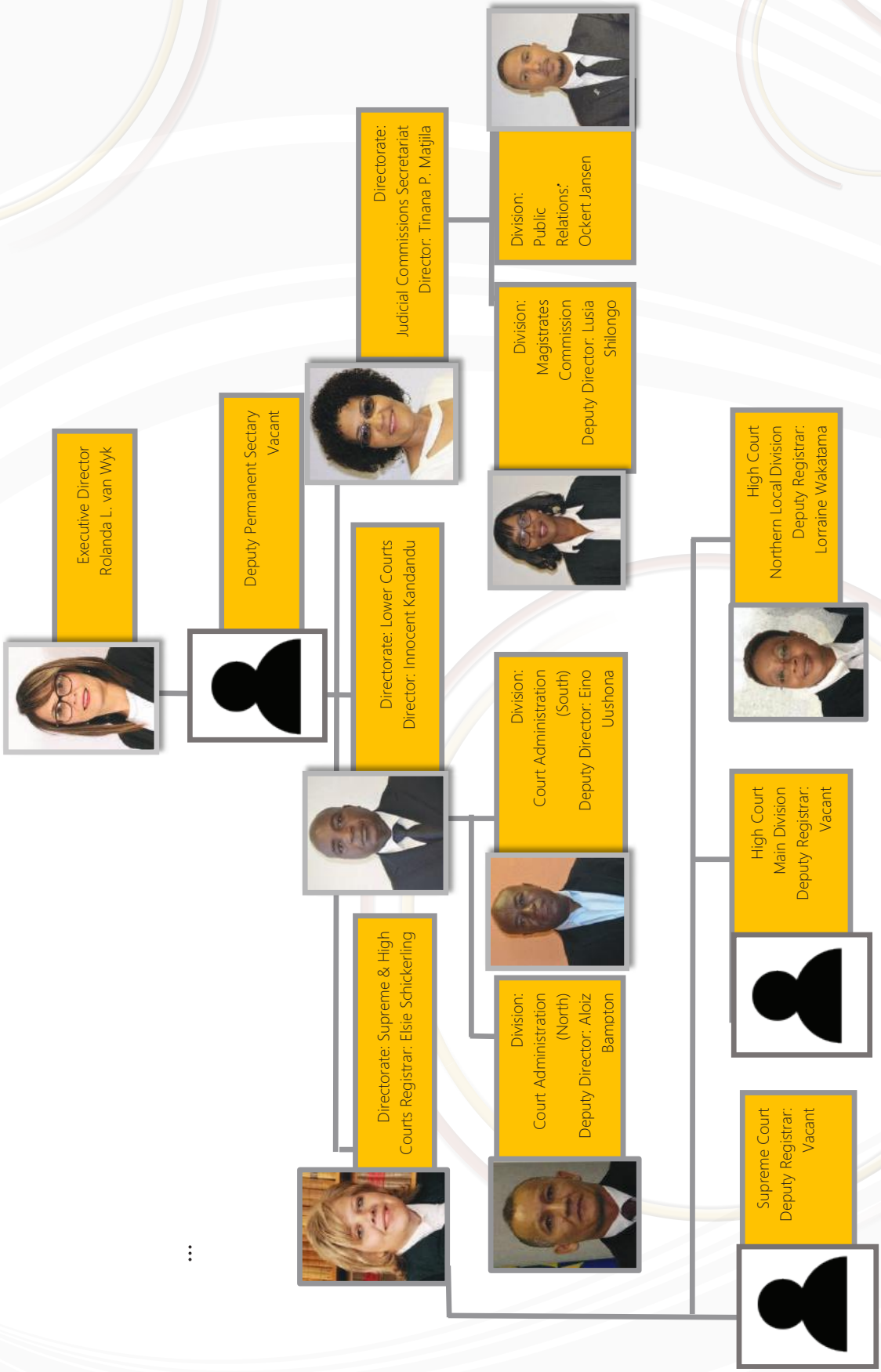
3.1 OFFICE OF THE EXECUTIVE DIRECTOR

3.1.1 Overview of the Office of the Executive Director

In terms of Article 78(5) and section 6 of the Judiciary Act, 2015, the Executive Director of the Office of the Judiciary performs the role of an Accounting Officer, subject to the control and direction of the Chief Justice. The Executive Director is therefore the head of administration and performs such duties, with the assistance of staff members, to ensure that the courts operate optimally, efficiently and effectively.

Further to this, two Deputy Executive Directors in the Departments Judicial Management and Judicial Services assist the Executive Director. It is important to note that the Deputy Executive Director for Judicial Services was appointed as Secretary to the National Council in April 2019 and the position has been vacant ever since. This is a critical position, as it oversees all court related administrative matters. Though advertised during the period 15 July – 14 August 2019, no suitable candidate could be attracted and the position was re-advertised in the ensuing financial year.

DEPARTMENT: JUDICIAL SERVICES



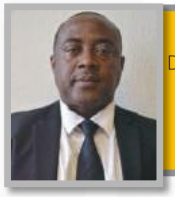
JUDICIAL MANAGEMENT

Executive Director
Rolanda L. van Wyk

Deputy Executive Director
Sylvester J.G. Böck

Directorate:
Administration
Director: Linea Kamati

Division: Human
Resource Management &
Development
Deputy Director:
Tangeni Haitula



Division: General Services
Deputy Director:
Jonannes Shikongo

Division:
Financial Management
and Budgeting
Deputy Director:
Louisa Kambanza

Division:
Information Technology
Deputy Director:
Wilfried R. Jantze

OFFICE OF THE EXECUTIVE DIRECTOR

Executive Director
Rolanda L. van Wyk

Division: Internal Audit:
Deputy Director:
Tiego Thudinyane

Division: Security Operations
Deputy Director
Onesmus Shivolo

3.2 INTERNAL AUDIT

The Internal Audit Division reports to the ED on the efficacy of the internal controls and systems in the Office. The Internal Audit Division also renders secretarial support to the Audit Committee and is responsible for the implementation of resolutions emanating from the Audit Committee meetings.

The below table highlights some of the audits conducted during the period under review.

3.2.1 Audits conducted 2019/2020

No.	Office Audited	Purpose & Focus Area	Report Issue Date
1.	Windhoek Magistrate's Office, Mungunda Street	Audit review conducted on the following systems: Bail, Maintenance, Court exhibits, Stock control and Cash hall/Commercial bank accounts.	12 Sept. 2019
2	Windhoek Magistrate's Office, Judge J.P Karuaihe Street	Follow-up audit conducted on the following systems: Cash hall/Commercial bank accounts, Stock control, AOG and Court exhibits.	23 Sept. 2019
3.	Ondangwa Magistrate's Office	Audit review conducted on the following systems: Bail, Maintenance, Stock control and Cash hall/ Commercial bank accounts.	07 Nov. 2019
4.	Outapi Magistrate's Office	Follow-up audit conducted on Cash Hall	27 March 2020

Table 3.1: Office Audits

3.2.2 Risk Register completion status

A risk register is a project management tool, which helps management and the organization to document, track/monitor and address risks through preventative controls and corrective actions.

The Internal Audit Division compiled the Audit Universe, which sets out or categorise high risks that need to be taken into account when planning to audit divisions. The strategic risk register needs to be compiled at corporate/management level and this would represent the risk register for the Office of the Judiciary. In preparation of this very important task, risk assessment in-house training was conducted on 6 November 2019 to sensitise management and staff members on the concept of risk management and how risk registers should be developed. The individual Divisions accordingly developed their relevant risk registers and presented same for review on 4 December 2019.

3.2.3 Enterprise-wide Risk Management Framework (ERM) synopsis

ERM is a continuous, proactive and dynamic process to identify, understand, manage and communicate risks that may impact the Office's objectives. A draft ERM Framework was developed in consultation with the various internal stakeholders and submitted to Senior Management and the Audit Committee for review. This ERM framework was also benchmarked with similar institutions to ensure relevance and conformity. It is anticipated that the ERM framework will be implemented in the new financial year, after approval.

3.2.4 Audit Charter – Synopsis

The internal audit charter is a formal document that defines the internal audit's activities, purpose, authority and responsibility. The final approval of the internal audit charter is vested with the Audit Committee which was approved on 09 May 2019 by the Chairperson of the audit committee after endorsement by the Executive Director.

3.3 PUBLIC RELATIONS

The Division Public Relations has over the last financial year employed a robust media relations strategy in which it continued to strengthen relationships and partnerships with the media. In addition, the Division also ensured that effective internal communication is strengthened. The Division also ensured that the Office's customised overall media communications strategy aligns to the overall government communication plans, as is required.

3.3.1 Court Relations

Over the last year public relations took a specific interest in ensuring that cases with high media and public interest are brought to the attention of the general public. This strategy tied in well with the institutional objective of enhancing public confidence and trust.

This strategy was brought to life by ensuring both access to the courts and access to information. The media was a central actor, acting as the conduit for information for and on behalf of the Namibian citizen.

3.3.2 Pro-Active Relations

In ensuring accountability and transparency, the Office took a pro-active approach to make information readily available to the media, but equally to the public and other stakeholders. The Judiciary has a website for *Superior Courts* in which the public can

access information pertaining to court rolls, dates and other filed information about cases, judgements etc. The Office as the administrative arm also had a corporate website since 2016 but decided to revamp the website during the last financial year. The revamped design was done internally but has not officially been launched. The office anticipates the website to be launched during the 2020/21 financial year.

The Office also revamped its newsletter and named it "*The Bench*" during the first quarter of the period under review. This was an additional initiative in ensuring that the achievements, projects, activities and challenges of the Judiciary are communicated to its stakeholders on a quarterly basis. The launch of the newsletter received great reviews and was welcomed by the various stakeholders.

3.3.3 Public Awareness and Outreach

The Judiciary undertook to ensure that its mandate, strategy and overall position on justice is clearly understood by its stakeholders and the general public. The Office consequently collaborated with various secondary schools and institutions of higher learning in order to explain the role and functions of the Judiciary.

Internal awareness included familiarising new staff members during induction, about the mission, vision, values, programmes and activities as well as how to deal with the media when approached.

3.4 SECURITY AND RISK MANAGEMENT SERVICES

This division conducted security assessments for the Office for the period under review in order to contribute towards the strategic achievement of the Office's strategic objective, i.e "to promote a high-performance culture and improved service excellence". These assessments were aimed to improve the current security support to the personnel, information and physical assets of the Office.

In addition to the above, the Division now has the capacity of two staff members, which includes the Deputy Director and the Chief Security Operations officer. They were able to develop a draft security policy and provided security awareness briefings to management and staff members at the various courts.

The Division also presented training on security related prevention- and detection measures during induction training sessions of new staff members and judicial officers.

3.5 ADMINISTRATION

3.5.1 Division Human Resource Management and Development (HRM & D)

Human Resource Management and Development is an integral part of any organisation's strategy. Therefore, the HRM&D Division supports the organisation to create a high performing culture as well as a motivated and productive workforce.

This Division therefore exists to ensure that the Office achieves its goals and objectives, by having a suitable number of employees with the appropriate competencies, the right attitude and behaviour to perform a specific job. Thus, the scope of this Division is to-

- Manage human capital;
- Administer policies and procedures;
- Facilitate training and development interventions;
- Ensure that the wellbeing of employees is maintained through employee wellness activities; and to
- Facilitate the enforcement of discipline and corrective measures to maintain a high standard of service excellence and professionalism.

3.5.2 Staffing status

The Office is operating on a skeleton staff complement since inception; thus, the current approved organisation and establishment is not responsive to its mandate. Currently, there are thirty-five (35) approved posts for Judges (for both the Supreme and High Courts); hundred and four (104) for the Magistracy and seven hundred and ninety-one (791) for staff members.

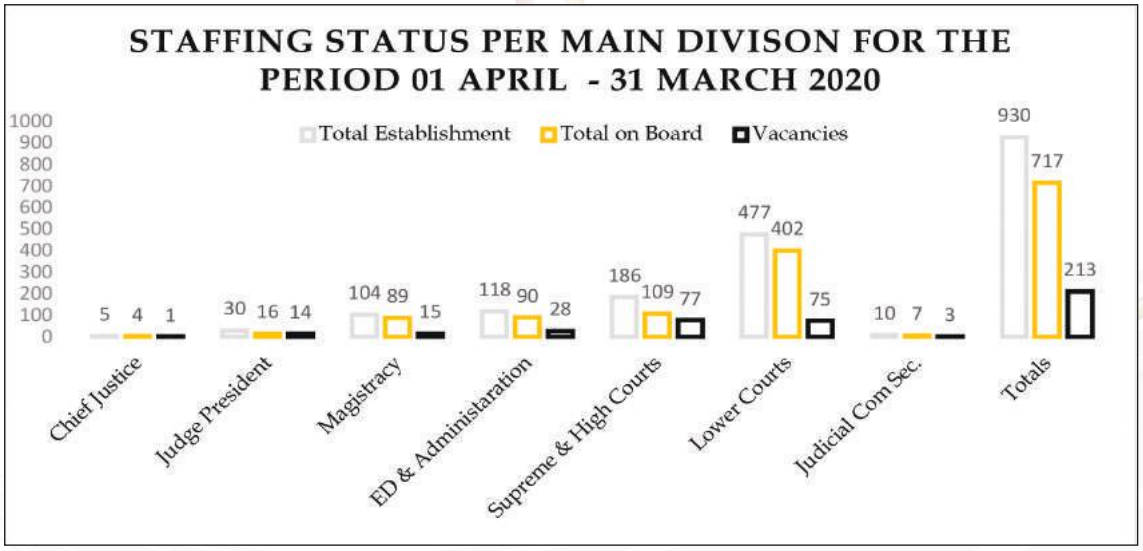


Figure 3.1: Staffing status per Main Division

The above chart illustrates that 77% of the posts on the approved staff establishment of the Office have been filled, while 23% of posts were vacant due to budget constraints and/or non-availability of qualified candidates in the labour market, for the period 01 April 2019 to 31 March 2020.

The bar chart below shows the staffing status and trend for a representative period of four (4) years from the 2016/17 to the 2019/20 financial years.

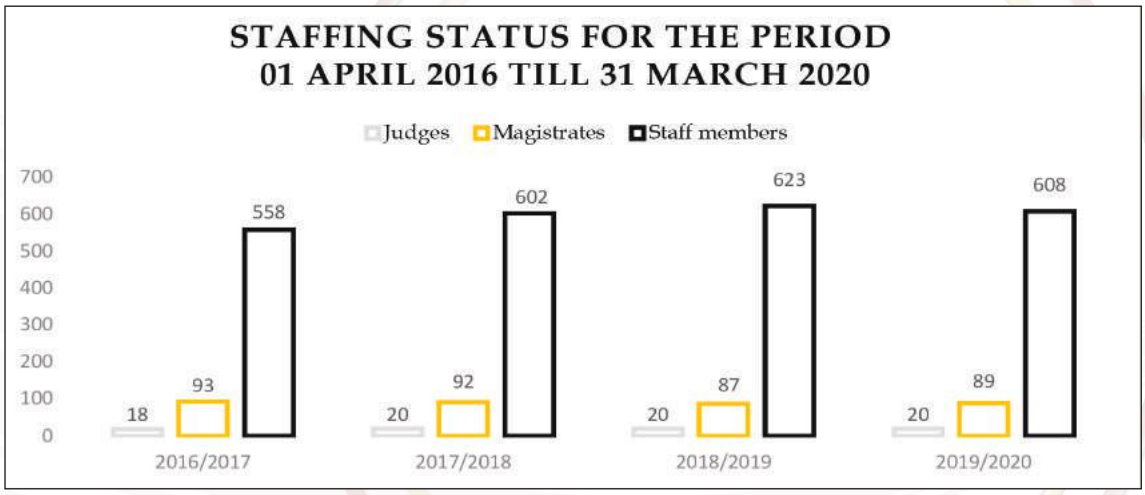


Figure 3.2: Staffing status 2016/17 – 2019/20

3.5.3 Gender Representation

In terms of the Affirmative Action Act, 1998 (Act No. 29 of 1998), every relevant employer shall submit an Affirmative Action Report in which gender representation at all levels is indicated. The Office complied with this requirement during the period under review.

The table below depicts Gender representation at different levels in the Office of the Judiciary as at 31 March 2020.

OFFICE / DIRECTORATES Gender	Management		Professional		Admin Support		Totals
	M	F	M	F	M	F	
Chief Justice	0	0	4	0	0	0	**4**
Judge President	0	0	10	6	0	0	**16**
Magistracy	0	0	44	45	0	0	**89**
Office of the ED & Administration	6	4	0	0	37	43	**90**
Supreme and High Courts	0	2	1	3	33	70	**109**
Lower Courts	3	0	0	0	118	281	**402**
Judicial Commission Secretariat	0	2	0	0	2	3	**7**
TOTALS	**9**	**8**	**59**	**54**	**190**	**397**	**717**

Table 3.2: Gender Representation

The table also shows that the Office is female dominated, and efforts are being made to bring about a more balanced gender structure.

3.5.4 Recruitment

The appointment of Judges is done in terms of Article 82 of the Namibian Constitution read in conjunction with the Judges' Remuneration Act, 1990 (Act No. 18 of 1990), while magistrates are appointed in terms of the Magistrates Act, 2003 (Act No.3 of 2003) and staff members are appointed in terms of the Public Service Act, 1995 (Act No. 13 of 1995) read in conjunction with the Judiciary Act, 2015 (Act No. 11 of 2015).

In view of the statistics further below, the Office continues to appoint more female staff members than male. The above statistics thus shows a distribution ration of 38% male to 62% female staff on board during the reporting period. In terms of the requirements of the Affirmative Action Plan, the Office endeavoured to appoint more persons with disabilities, however, this goal was not achieved due to the non-availability of suitably qualified persons with disabilities in the labour market.

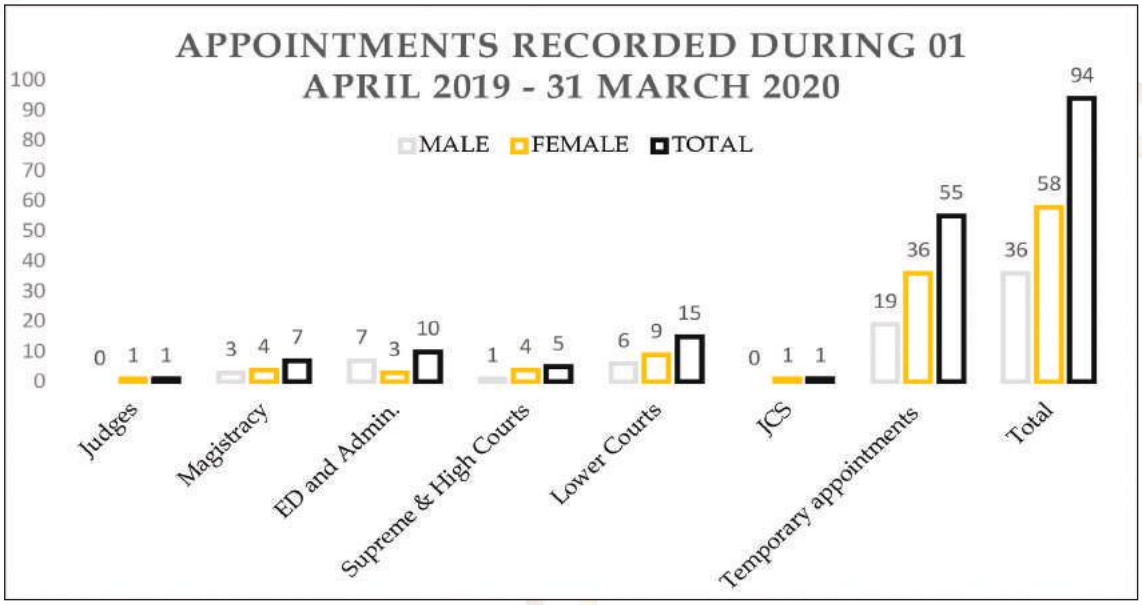


Figure 3.3: Appointments by gender

3.5.5 Appointment of Non-Namibians

During the period 01 April 2016 till 31 March 2020, only two non-Namibians were appointed namely one (1) Magistrate and one (1) staff member. The main reason for their appointment was due to the fact that the Namibian labour market continues to experience a scarcity of skills and expertise in the legal field, leaving employers with no choice, but to employ non-Namibians. The table below depicts appointments in the management cadre versus appointments in non-management posts for the period 01 April 2016 – 31 March 2020.

3.5.6 Appointment of staff in management and non-Management Positions

During the period 01 April 2016 to 31 March 2020, the Office appointed 2.72% staff members in Management posts and 97.28% in non-Management posts as can be observed below.

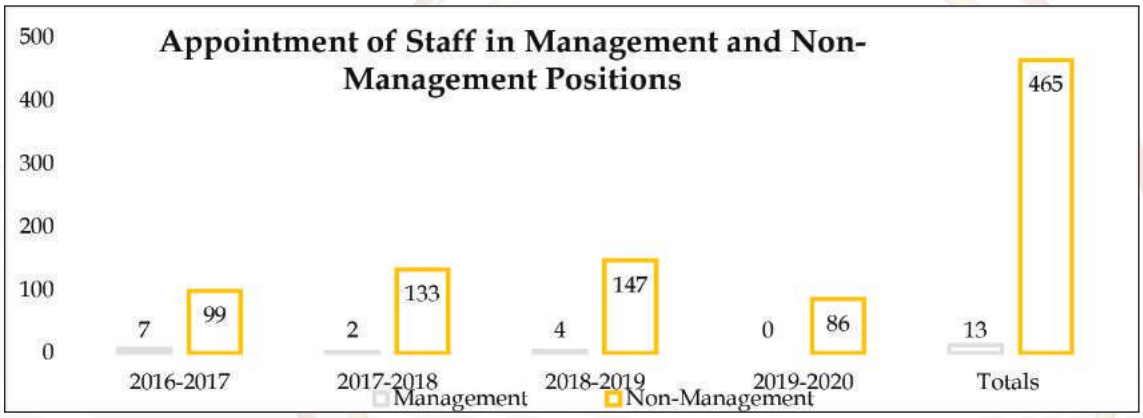


Figure 3.4: Appointment in management and non-management job categories

3.5.7 Staff turnover

Staff turnover is the rate at which employees leave an organisation and are replaced by new employees. The graph below shows the total number of staff terminations recorded per Main Division and the different units during the Financial Year 2019/2020. The total number of terminations recorded during the reporting period was sixty-seven (67).

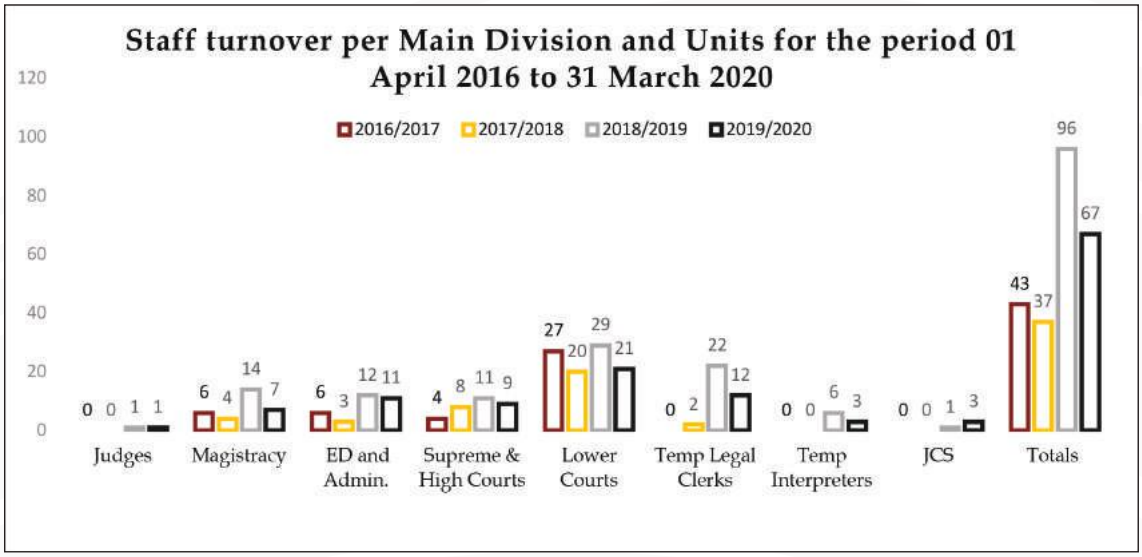


Figure 3.5: Staff turnover per Main Division and units

The highest number of terminations were recorded at the Directorate: Lower Courts, which stood at 31% permanent and 22% temporary staff members within the same Directorate. The reason for the high termination of temporary staff members is mainly because some are absorbed into permanent posts whilst others secured permanent employment elsewhere.

For the period 2016/17 to 2019/20, the total staff turnover across the organisation is depicted below.

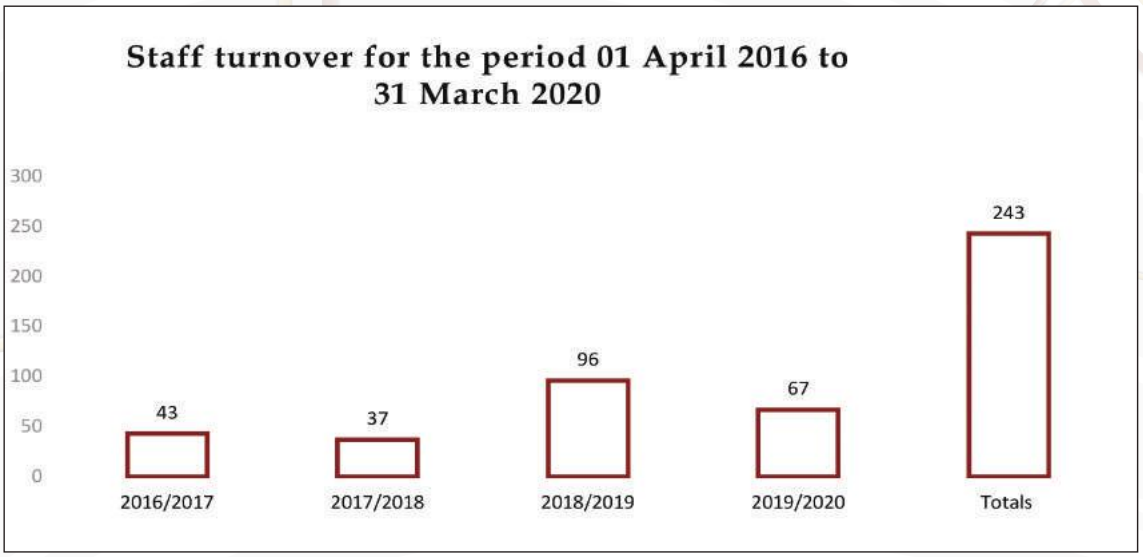


Figure 3.6: Staff turnover 2016/17 – 2019/20

The Office of the Executive Director & Administration recorded a 16% attrition rate followed by the Directorate: Supreme and High Courts with 13%. The Magistracy recorded 11% and Judicial Commissions Secretariat recorded 5%. The lowest termination rate was recorded by Judges with 2%.

The graph below indicates that since 2016 the highest number of terminations was always recorded at the Directorate: Lower Courts. It is important to note that the Directorate: Lower Courts represents 51% of the total establishment; hence the staff complement of the said Directorate is higher than any of the other Main Divisions.

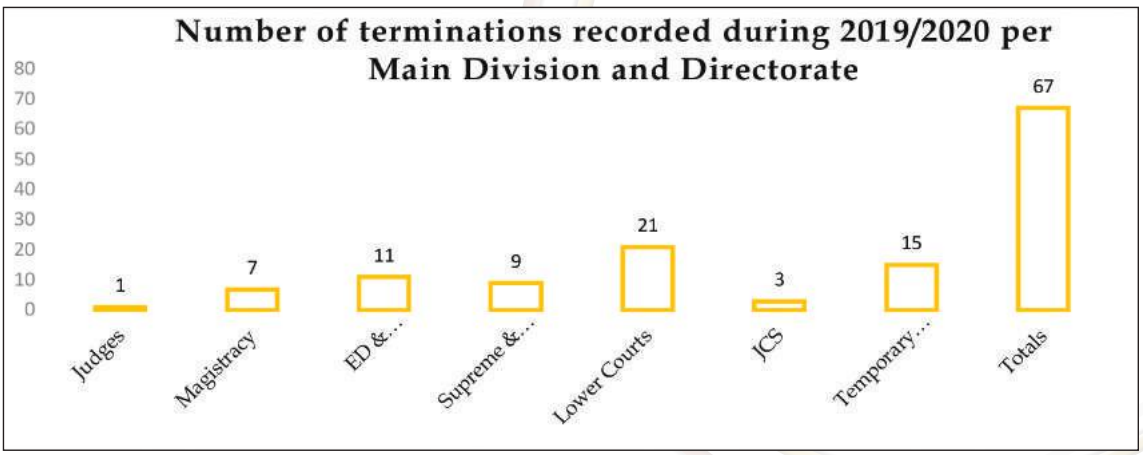


Figure 3.7: Number of Terminations 2019/20

3.6 INFORMATION TECHNOLOGY DIVISION

The objective of the Division: Information Technology is to provide accessible and reliable ICT infrastructure and services to the Office of the Judiciary countrywide and to continually improve and maintain internal ICT infrastructure and services. The following notable progress can be reported on the following service areas:

3.6.1 Software and infrastructure Projects

- Jutastat Online Research platform was tested for possible introduction
- Development of an in-house IT Inventory System commenced towards the end of December 2019, with the aim of improving prompt response and in compliance with IT governance standards
- Development of an in-house Leave Management System for the Division: Human Resource Management and Development began late December 2019 to address the current manual calculation of leave credits, which is both labour and time intensive
- An internally developed official website has been finalized and is ready to be launched in the new financial year.

3.6.2 e-Justice System

This Division continues to provide level 1 and 2 support for the e-Justice web-based electronic system to all internal and external e-Justice users. All requests are logged at ejusticesupport@jud.gov.na. During the period under review, a total of 21 Change Requests (CR's) have been identified and subsequently forwarded to the Service Provider (SP) for development.

At 31 March 2020, most of the CR's with the exception of three (3), which is still under development were successfully developed and deployed in the trial environment for user testing. Once testing is complete, all CRs will be deployed to production. A total number of **222** tickets were handled relating to e-Justice queries of which **144** were received from external users.

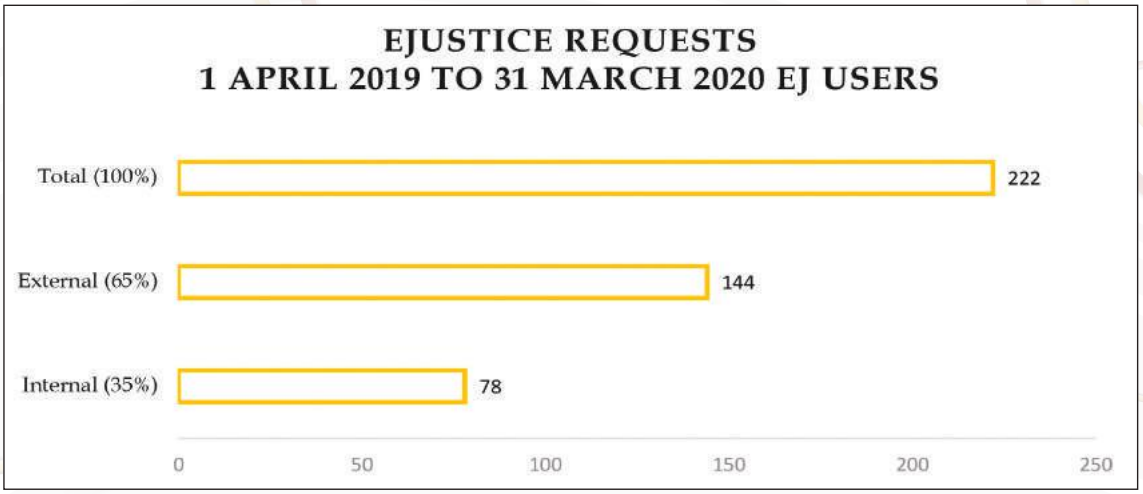


Figure 3.8: eJustice Requests

3.6.3 IT Roll-out at Stations

This Division implemented temporary wireless solutions at both the Otjinene- and Tsumkwe Magistrates Courts during the period under review. This solution addressed the need for internet services at both these remote courts.

Innovation is crucial in this day and age, especially considering that the Office of the Judiciary is busy with various reforms. During the past year, the Windhoek High Court (J Court) and Oshakati High Court (Omwandi Court) have been fitted with a video-capable system that has enabled video conferencing between the two (2) courtrooms.

Prefabricated Courts have been set up with Digital Recording Systems (DRS) to enable court proceeding recordings. The courts and the specific innovations are listed below:

- Ondangwa Magistrate's Court – B and C Court (equipment optimised for vulnerable witnesses)

- Outjo Magistrate's Court – B Court
  - New dedicated server room, new Cisco switches

- Otjiwarongo Magistrate's Court – B Court
  - New dedicated server room, new Cisco switches

- Grootfontein Magistrate's Court – B and C Courts
  - New dedicated server room, new Cisco switches

- Rundu Magistrate's Court – B and C Courts
  - New dedicated server room, new Cisco switches

- Henties Bay Periodic Court – A Court
  - New dedicated server room, new Cisco switches

- Katima Mulilo Magistrate's Court – A and B Courts (equipment optimised for vulnerable witnesses)
  - Waiting for completion of construction work to install DRS equipment

- Commercial Court – A and B Court (equipment optimised for video conferencing)
  - Waiting for completion of renovations to install DRS equipment

3.7 GENERAL SERVICES DIVISION

3.7.1 Procurement Plan

In terms of Section 25 (3) (a) of the Public Procurement Act, 2015 (Act. No. 15 of 2015), the Office is expected to prepare and file an Annual Procurement Plan with the Procurement Policy Unit for the purpose of monitoring and evaluation. Instances may however arise where deviations may become necessary due to an emergency or other substantial or compelling circumstances. The Office however only recorded two (2) deviations for the period under review.

3.7.2 Data on cancelled bids

The following table represents the details of cancelled bids recorded during the reporting period. In essence, these bids were cancelled due to the fact that either the services were no longer required or the unavailability of funds as a result of the mid-year budget review and the resultant suspension of funds.

No	Procurement Description	Procurement Reference Number	Date Received	Cancellation Date	Reason for cancellation
1	Procurement of corporate gifts for Magistracy	G/IQ/21-26/2019/20	16/08/2019	31/12/2019	It was not economically viable to proceed with the bid given the financial constraints. Sec. 54 (1) (f)
2	Procurement of presentation skills training programme scheduled from 11-15 November 2019 for five staff members	NCS/EPE/21-166/2019/20	23/08/2019	14/11/2019	The services were no longer required Sec. 54 (1) (C)

3	Approval to incur expenses for capacity building for DED:JM to attend the business process re-engineering course from 09-13 September 2019, NIPAM, Windhoek	NCS/EPE/21-160/2019/20	28/08/2019	02/09/2020	The services were no longer required Sec. 54 (1) (C)
4	Procurement of seven air coolers for Schonlein building	G/IQ/21-58/2019/20	29/10/2019	04/03/2020	It was not economically viable to proceed with the bid given the financial constraints. Sec. 54 (1) (f)
6	Procurement for hiring of chairs and chair covers for legal year opening	NCS/IQ/21-32/2019/20	28/11/2019	05/02/2020	The services were no longer required Sec. 54 (1) (C)
7	Hiring of cameras and display of screens/monitors for opening of legal year 2020	NCS/RFQ/21-34/2019/20	28/11/2019	19/03/2020	It was not economically viable to proceed with the bid given the financial constraints. Sec. 54 (1) (f)

Table 3.4: Cancelled Bids

3.7.3 Procurement Figures – 2016 - 2019

Over the last four years, the Office of the Judiciary has cumulatively procured goods and services to the value of approximately **N$223-million**. Procurement figures decreased for the 2019/20 financial years by approximately **17%** compared to the 2018/19 FY.

Quarter	Expenditure/Procurement Figure (N$)			
	Financial Year 2016/2017	Financial Year 2017/18	Financial Year 2018/19	Financial Year 2019/20
Exp. Q1	N/A	5 410 816,73	11 639 690,34	11 639 690,34
Exp. Q2	N/A	16 046 458,44	16 426 215,38	12 118 286,57
Exp. Q3	N/A	13 241 906,25	14 556 224,70	14 556 224,70
Exp. Q4	N/A	30 228 683,89	19 050 518,01	12 812 988,31
Total Expenditure/FY	**45 702 237,71**	**64 927 865,31**	**61 672 648,43**	**51 127 189,92**
Total for the period 2017-2020				**223 429 941,37**

Table 3.5: Procurement Expenditure 2016/17 – 2019/20

3.7.4 Capital Projects

In terms of Section 9 of the Judiciary Act, Act no. 11 of 2015, the Ministry of Justice is responsible for implementing the capital projects of the Office of the Judiciary. Infrastructural development remains however one of the key focus and priority areas for the Office of

the Judiciary in collaboration with the Ministry of Justice, with the overall objectives being to ensure that the current infrastructure is upgraded and that construction of new courts receives priority to create and provide a conducive working environment to both judicial officers and staff members. The main aspects attended to under infrastructure development, include, the construction of courtrooms, offices, reception, ablution and parking facilities. The direct and indirect beneficiaries of such infrastructure are: members of the public, judicial officers, prosecutors, legal practitioners, interpreters, and other court officials.

During the 2019/20 financial year, there were four major projects registered, although the output activities were more. The allocation for the above referenced projects does not form part of the Office of the Judiciary (Vote 21), but rather resorts under the Ministry of Justice (Vote 16). The budget execution rates of the projects are illustrated below.

No.	Project	Budget Allocation N$	Expenditure	Execution rate
1.	Upgrading & construction of Lower Courts	25, 100,000.00	20, 855,606-11	83%
2.	Upgrading of the High Court	26, 100,000.00	8,202,910.72	31%
3.	Construction of Prefabricated structures	29, 000,000.00	25, 350,440.99	87%
4.	Renovation of Lower Courts	1, 700,000.00	1,129,696.44	66%
Total		**81, 900,000.00**	**55,538,654.44**	**68%**

Table 3.6: Capital Project Budget Execution Rate

3.7.5 Project Completion Status

i. **Upgrading & construction of Lower Courts**

The only project registered during the 2019/20 financial year that progressed, is the Katima Mulilo Magistrate's Court which was carried forward from 2018/19. The other two projects namely; Construction of Magistrates Offices in Ondangwa and Grootfontein did not commence, due to the drawings which were referred back to the Architectural consultants for rectification, which delayed the progress. The purchase of land at Grootfontein, where construction is to take place, was also not finalised on time, hence the funds earmarked for these projects were viremented for the construction of prefabricated structures. We can however report that even though construction of court buildings did not materialise, prefabricated structures were erected to address the urgent need for additional courtrooms and offices at both the Ondangwa and Grootfontein Magistrates Courts.

ii. Upgrading of High Court

The upgrading of the High Court was carried forward from 2018/2019 and during the reporting period, significant progress has been made to the extent that phase 1 of the project reached an 80% completion rate at the end of the reporting period.

iii. Construction of Prefabricated structures

The following projects were carried forward from 2018/2019 to 2019/2020 and were completed during the financial year.

- Outjo
- Ondangwa
- Rundu
- Grootfontein
- Otjiwarongo
- Henties Bay

iv. Renovation of Lower Courts

The following projects were carried forward from the 2018/2019 to 2019/2020 and were completed in this reporting period.

- Walvis Bay Magistrate's Office
- Swakopmund Magistrate's Office
- Karibib Magistrate's Office
- Windhoek Magistrate's Office situated at JP Karuaihe Street
- Windhoek Magistrate's Office situated at c/o Sam Nujoma Drive and Simeon Shixungileni Street
- Ondangwa Magistrate's Office

v. Projects carried forward and expected dates of completion

The following projects were carried forward to 2019/2020 and will be completed in the 2020/2021 financial year.

- Construction of Commercial Court at Schonlein Building
- Windhoek High Court (Main Division)
- Seeis Periodical Court
- Omuthiya Magistrate's Court

3.8 FINANCIAL MANAGEMENT DIVISION

The Division Financial Management aims to administer the finances of the Office effectively and efficiently and ensures that the provisions of the Treasury Instructions, the State Finance Act, (Act No. 31 of 1991) and all other relevant legislation, regulations and directives concerning public financial management are adhered to. In addition, this Division serves as the central conduit for facilitating the allocation, payment and disbursement of witness fees and trust funds to the different courts.

During the period under review, the Office was allocated a budget to the tune of **N$368,444,000** for both its personnel and operational needs. After the Mid-term Budget review, a suspension on the budget of the Office was affected to an amount of **N$8,253,000** which resulted in an availability of funds in the amount of only **N$360,191,000**.

The operational Budget comprise of four (4) Expenditure Sub Divisions namely:

- Personnel Expenditure
- Goods and Other Services
- Subsidies and other current transfers and
- Acquisition of capital assets

Out of the total budget allocation of **N$ 360,191,000**, an amount of **N$ 277,386,000** was allocated to Personnel Expenditure, which represents 77% of the total budget. The remaining portion of **N$ 82,805,000** was allocated to Goods and Other Services including Subsidies and other current transfers, which represents 23% of the allocated budget. From the total budget allocated, an amount of **N$ 356,300,761** was spent which represents a **99%** execution rate as at 31 March 2020 on the Operational Budget.

3.8.1 Financial Statements

The below table depicts the income (annual appropriation) and the expenditure of the Office of the Judiciary for the period 01 April 2019 to 31 March 2020.

INCOME (ANNUAL APPROPRIATION) AND EXPENDITURE REPORE FOR THE PERIOD 1 APRIL 2019 TO 31 MARCH 2020		
	Actual N$	Actual N$
Income:		
Annual Appropriation		**360,191,000**
Total Income (Annual Appropriation)		
Expenditure:		
Remuneration	241,725,784	
Employer Contribution to the G.I.P.F and M.P.O.O.B.P.F	28,861,160	
Other Conditions of Services	3,928,488	
Employers Contribution to Social Security	652,292	
Travel and Subsistence Allowances	9,174,635	
Materials and Supplies	4,229,182	
Transport	1,913	
Utilities	38,581,002	
Maintenance Expenses	1,429,411	
Other Services and Expenses	25,095,600	
Training Courses, Symposiums and Workshops	618,371	
Printing and Advertisements	441,204	
Entertainment Executive Director	16,237	
Office Refreshment	89,389	
Office Entertainment/Corporate Gifts	38,018	
Security Contracts	927,689	

Membership Fees and Subscriptions: International	27,680	
Membership Fees and Subscriptions: Domestic	-	
Furniture and Office Equipment	-	
Total Expenditure:	**356,069,210**	
Remaining balance on the budget as at 31 March 2020	**4,121.790**	

Table 3.7: Annual Income and Expenditure Report

3.8.2 Investment Account

The investment call account for trust funds reflected a balance to the tune of **N$72,919,037.66**. Interest that accumulated as from 01 April 2019 – 31 March 2020 amounted to **N$3,510,198.74.**

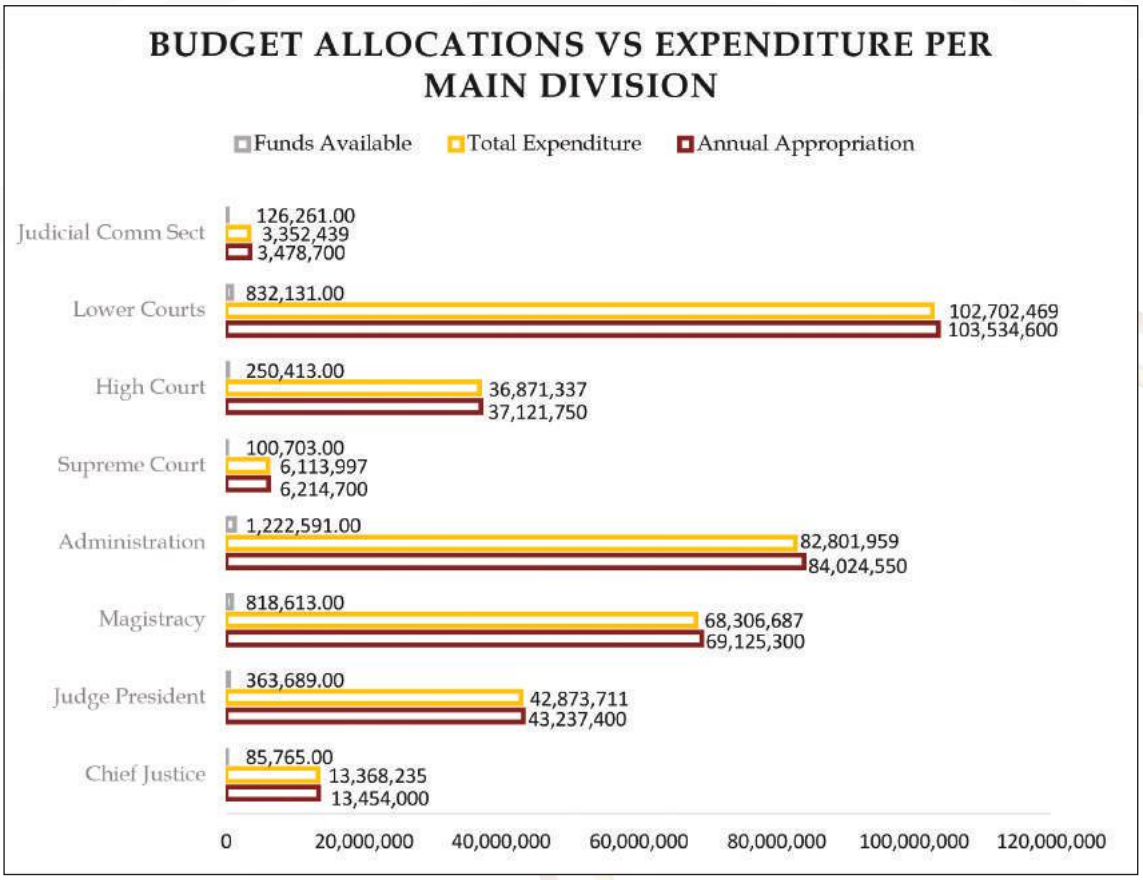


Figure 3.9: Budget Allocation vs Expenditure per Main Division

The above statistics illustrate information concerning the budget allocation and expenditure per main Division during the 2019/20 FY. The Lower Courts Directorate annually receives the highest appropriation, with N$103 534 Million for the 2019/20 FY, while the actual expenditure amounted to N$102 702 Million. This appropriation represents 29% of the overall annual allocation for the Office. This one-third appropriation to this Directorate is reasonable considering that it serves 35 Magistrates Courts and over 430 staff members form part of this Directorate.

3.8.3 Personnel Expenditure

As with some other reporting elements within this report, it is necessary to reflect on the progress of the Office over the last 4 financial years, hence looking at the trend of performance and expenditure from 2016/17 to 2019/20.

For the first year of operations, the Office received N$219-million from the Ministry of Finance, which was relative to the number of staff members it had at the time. However, for the ensuing year the appropriation increased to N$ 424-million, an increase of about N$ 156-million or 37%.

The increase in the annual appropriation indicates Government's commitment in promoting the independence of the Judiciary, including financial independence.

As denoted below, the personnel expenditure increased, as the demand for services increased over the last four years. There are however still over 200 vacant positions and it is clear the courts are not functioning optimally with the current staff complement.

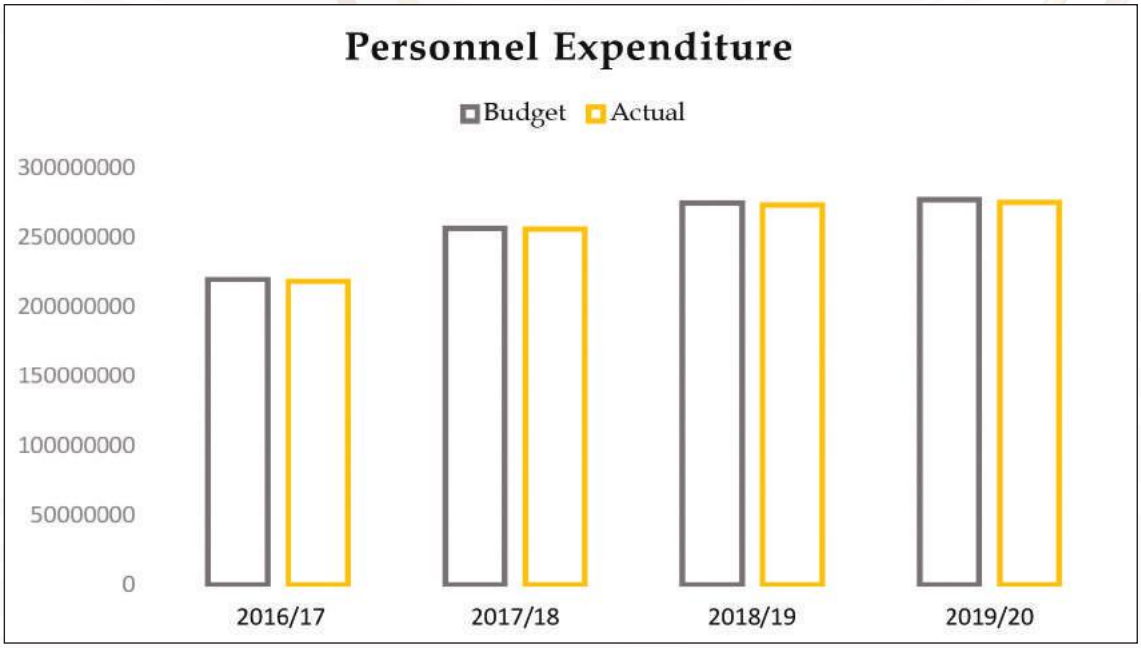


Figure 3.10: Personnel Expenditure

3.8.4 Other Expenditure

Similarly, to the reflection of expenditure on personnel above, the Office also looked at expenditure on utilities and subsistence allowance for the period 2016/17 – 2019/20. In addition to the 35 Magistrates courts across the country, the Judiciary also administers 36 periodical courts often located in the more remote parts of the country. In order to ensure that magistrates and other court staff can attend to court matters at these periodical courts and thereby ensuring equal access to justice, it requires frequent travelling.

For the first year in operation, the allocation for subsistence and travel allowance amounted to **3%** of the overall allocation to the Office. In the second year of existence, 2017/18, the overall allocation to the Office increased and this placed the percentage of Subsistence allowance at **2.7%** or N$11 750 000. In the same year, Namibia also experienced an economic downturn and allocations generally decreased throughout all government O/M/A/'s.

Generally, due to the reduced budget allocations, prudent financial management allowed for priority budgeting as can be noted from the reduction in allocation towards the vote for subsistence and travelling allowances.

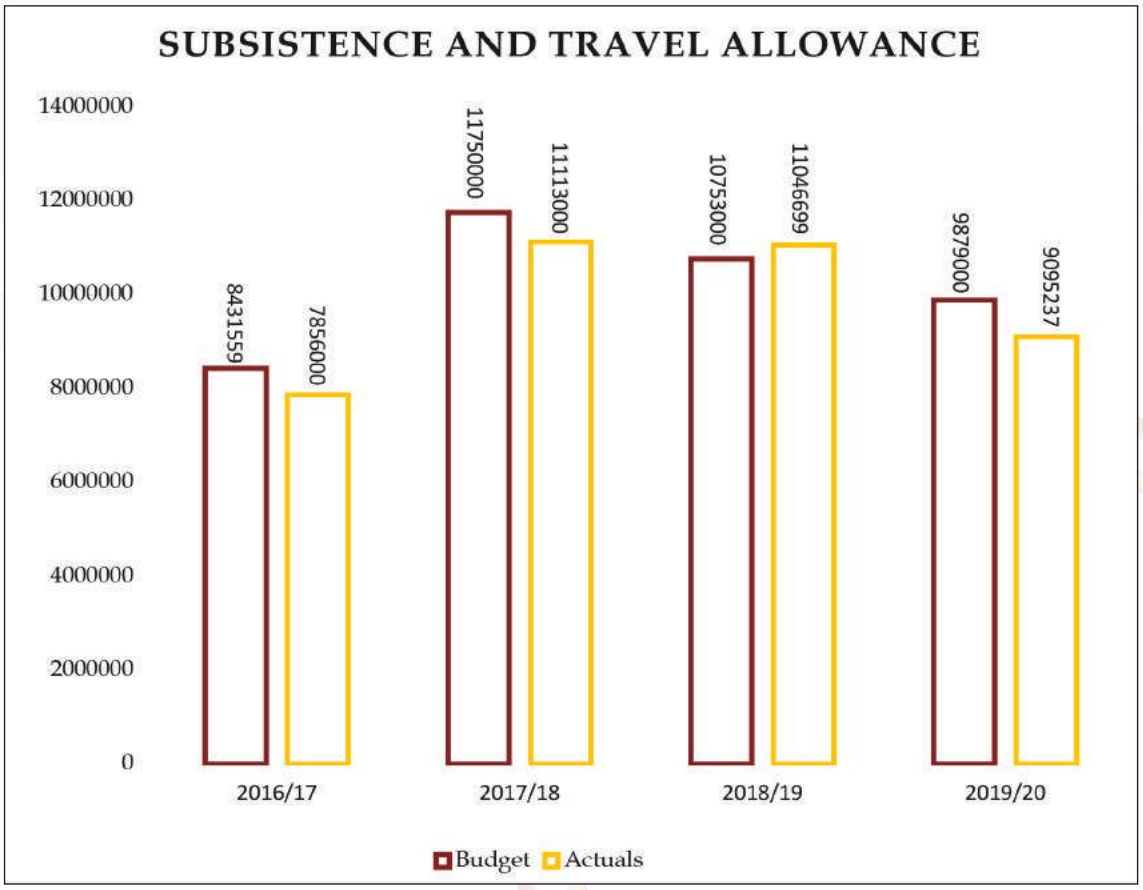


Figure 3.11: Subsistence and Travel Allowance 2016/17 – 2019/20

Utilities are one of the items on the budget that has, since 2016, consistently increased and this has required readjustment of priorities in other areas to allocate adequate funds to the increased utility bill. These increased utility bills were a result of various internal and external factors. With an allocation of N$38 586 600 towards utilities during this review period, it represented 11% of the Office's budget compared to a 6% allocation during the 2016/17 financial year.

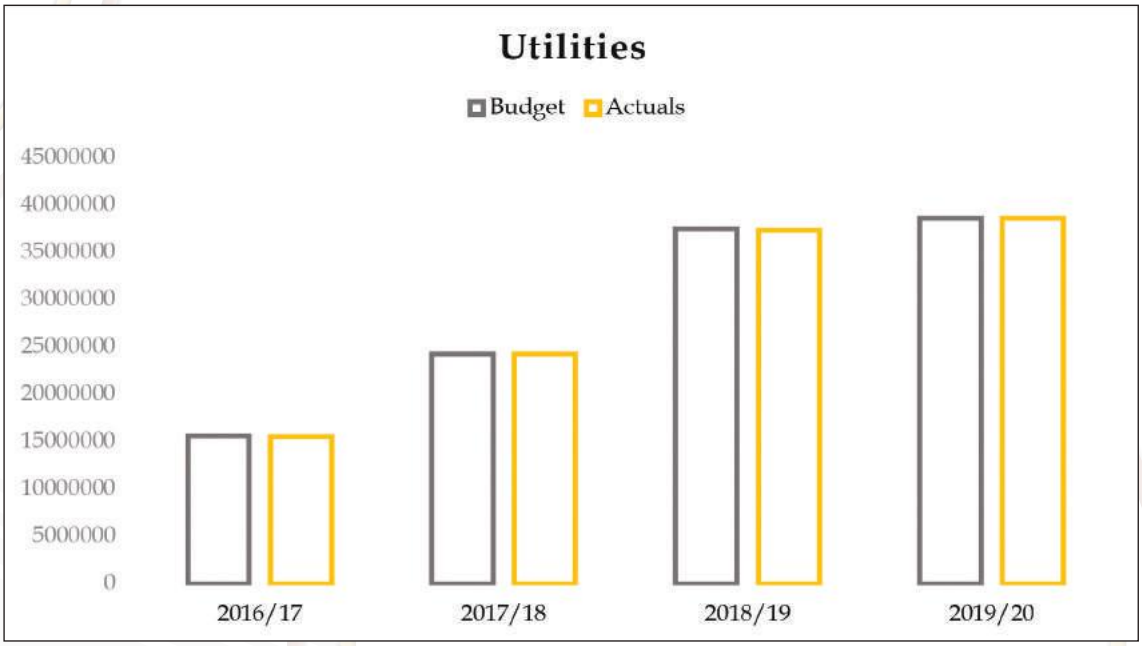


Figure 3.12: Utilities Spending 2016/17 – 2019/20

3.8.5 Revenue Collection and Projections

The Office recorded a revenue collection of N$2, 229,118 for the period under review.

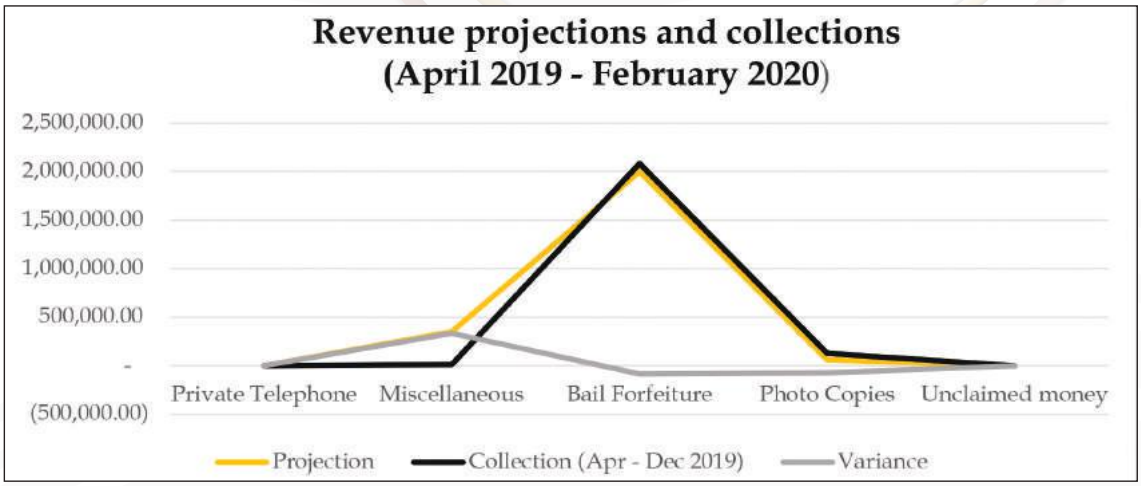


Figure 3.13: Revenue Projections

3.8.6 Court Fees

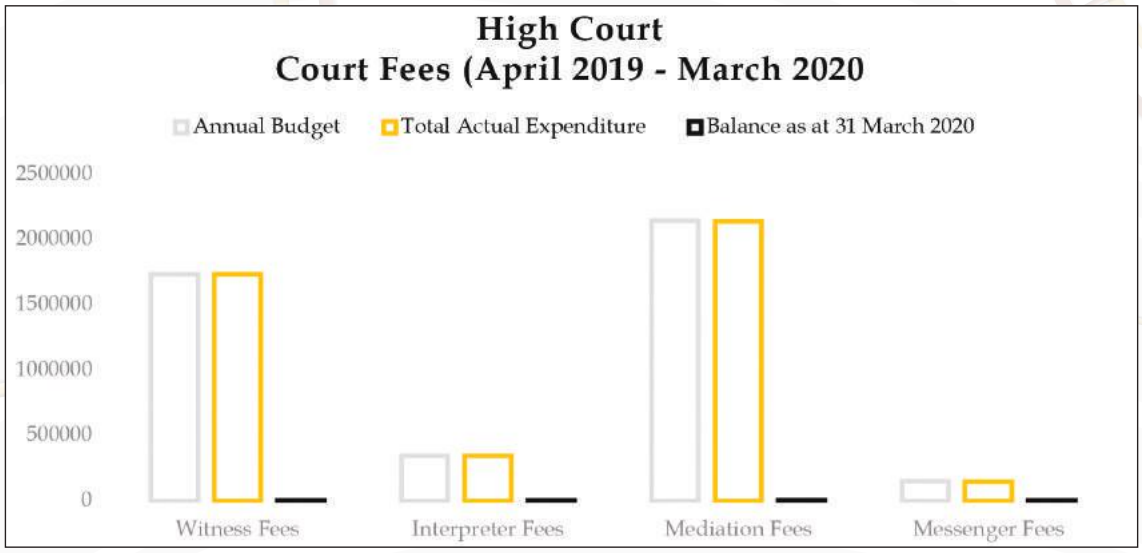


Figure 3.14: High Court Fees

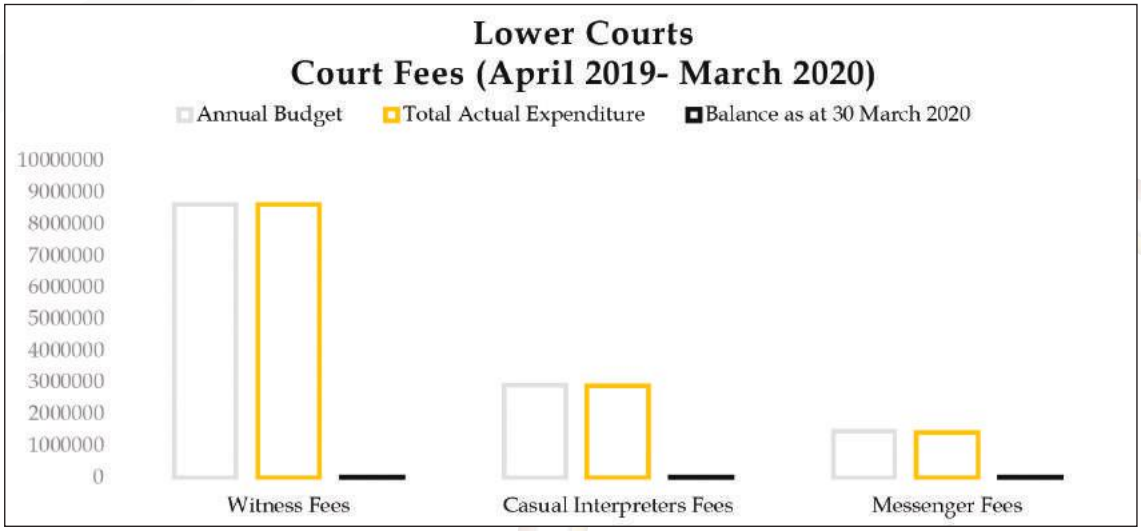


Figure 3.15: Lower Courts Fees

Supreme Court of Namibia

PART IV

4.1 OVERVIEW OF THE SUPREME COURT:

Namibia's Supreme Court finds it powers vested in Article 79 of the Namibian Constitution. Unlike other jurisdictions within the sub-region that have separate constitutional mandates for the Supreme Court, Constitutional Court and Courts of Appeal, the Namibian Constitution bestows upon the Supreme Court all such powers and therefore it becomes the Court of last instance.

This section reports on the performance of the Supreme Court during the 2019/20 period for all appeals, petitions and judgements adjudicated on during this period.

4.2 JUDGES OF THE SUPREME COURT:

Judges of the Supreme Court are appointed in terms of Article 82 (1) of the Namibian Constitution. The President, on recommendation of the Judicial Service Commission, makes all such appointments. There are only five permanent positions for Judges on the establishment of the Supreme Court. However, due to the workload and as the need may arise for additional judges to preside, the Supreme Court often relies on foreign ad hoc judges to assist.

4.2.1 Five permanent Supreme Court judges are as follows:

JUDGE	RANK	DATE OF APPOINTMENT	GENDER
His Lordship, Peter S. Shivute	Chief Justice	1 December 2004	Male
Hon Mr. Justice, Petrus. T. Damaseb	Deputy Chief Justice	21 October 2014	Male
Hon Mr. Justice, Sylvester S. Mainga	Judge of Appeal	1 May 2010	Male
Hon Mr. Justice, David F. Smuts	Judge of Appeal	1 January 2015	Male
Hon Mr. Justice, Elton P. B Hoff	Judge of Appeal	1 May 2016	Male

Table 4.1: Judges of the Supreme Court

4.3 ACTING/AD HOC JUDGES OF THE SUPREME COURT:

Acting and ad hoc Judges appointed in terms of Sub-Article (8) of Article 32 of the Namibian Constitution brings to the Supreme Court additional expertise, as highlighted above. During the review period, four judges were appointed on an ad hoc and acting basis to ensure that the Supreme Court continues to adjudicate on all matters brought before it timely.

JUDGE	RANK	DATE OF APPOINTMENT	GENDER
Hon Lady Justice, B. E. Nkabinde	Ad hoc Judge of Appeal	01 October 2018 – 31 October 2019; and 01 November 2019 – 31 December 2020	Female
Hon Lady Justice, Jennifer Y. Mokgoro	Ad hoc Judge of Appeal	01 January 2019 – 31 December 2019; and 01 January 2020 – 31 December 2020	Female
Hon Mr. Justice, Theo J. Frank	Acting Judge of Appeal	01 January 2019 – 31 December 2019; and 01 January 2020 – 31 December 2020	Male
Hon Mr. Justice, Ezer H.T. Angula	Acting Judge of Appeal	01 January 2019 – 31 December 2019, and 01 January 2020 – 31 December 2020	Male

Table 4.2: Acting and Ad-Hoc Judges of the Supreme Court

4.3.1 Rules of the Supreme Court

The Supreme Court is guided by a number of codified rules as approved by the Chief Justice. In terms of Section 37 of the Supreme Court Act, 1990 (Act No. 15 of 1990), and with the approval of the President of the Republic of Namibia, the Chief Justice of the Republic of Namibia made the rules to conduct proceedings of the Supreme Court of Namibia as set out in the schedule. The said rules came into operation on 15 November 2017.

4.4 YEAR ROLL OF THE SUPREME COURT 2019

The Supreme Court, not being a trial court but rather an appeal court, only hears limited cases during any given year. The court roll for the Supreme Court is divided into three terms. For each of the terms, the Registrar of the Supreme Court schedules on average 15 cases. For the 2019/20 financial year, the Supreme Court heard a total of 48 cases.

4.4.1 Term 1: 04 March – 15 April 2019

SET DOWN DATE	ACRONYM	CASE NO	YEAR	CASE NAME	COURT A QUO	JUDGE 1	JUDGE 2	JUDGE 3
4-Mar-19	SA	33	2018	DIRECTOR-GENERAL OF THE NAMIBIAN CENTRAL INTELLIGENCE SERVICE AND ANOTHER V HAUFIKU: MATHIAS AND 2 OTHERS	GEIER J	**DAMASEB DCJ**	**MAINGA JA**	**SMUTS JA**
6-Mar-19	SA	2	2018	S v STEWE: WILLIE AND 3 OTHERS	SIBOLEKA J et USIKU J	**DAMASEB DCJ**	**MAINGA JA**	**FRANK AJA**
7-Mar-19	SA	37 & 58	2017	CHRISTIAN CONGREGATION OF JEHOVAH'S WITNESS OF NAMIBIA INC. v SOCIAL SECURITY COMMISSION	UNENGU AJ	**DAMASEB DCJ**	**MAINGA JA**	**SMUTS JA**
11-Mar-19	SA	36	2016	HENDRIK CHRISTIAN t/a HOPE FINANCIAL SERVICES v NAMIBIA FINANCIAL INSTITUTIONS SUPERVISORY AUTHORITY	GEIER J	**CHOMBA AJA**	**MOKGORO AJA**	**NKABINDE AJA**
13-Mar-19	SA	36	2017	THE STATE v GARISEB: STEPHANUS HENDRICK RUBA	SHIVUTE J	**MAINGA JA**	**SMUTS JA**	**CHOMBA AJA**
15-Mar-19	SA	73	2017	PROSECUTOR-GENERAL v PAULO: ALEXES AND ANOTHER	ANGULA DJP	**HOFF JA**	**MOKGORO AJA**	**NKABINDE AJA**
18-Mar-19	SA	60	2017	PAMO TRADING ENTERPRISES CLOSE CORPORATION AND ANOTHER v CHAIRPERSON OF THE TENDER BOARD OF NAMIBIA	UEITELE J	**SMUTS JA**	**MOKGORO AJA**	**NKABINDE AJA**
19-Mar-19	SA	11	2017	RADIAL TRUSS INDUSTRIES (PTY) LTD v ACQUATAN (PTY) LTD	MASUKU J	**SHIVUTE CJ**	**SMUTS JA**	**NKABINDE AJA**
25-Mar-19	SA	10	2017	PROSECUTOR - GENERAL v JACO MARIUS KENNEDY	ANGULA DJP	**DAMASEB DCJ**	**HOFF JA**	**FRANK AJA**
27-Mar-19	SA	39	2017	GOVERNMENT OF THE REPUBLIC OF NAMIBIA v NDJEBO: THOMAS INGHANGWE	OOSTHUIZEN J	**SHIVUTE CJ**	**MAINGA JA**	**HOFF JA**
29-Mar-19	SA	62	2017	PROSECUTOR-GENERAL v KAMUNGUMA: MOSES PASANA UAJANDA AND ANOTHER	UEITELE J	**SHIVUTE CJ**	**HOFF JA**	**FRANK AJA**

01-Apr-19	SA	17	2017	ZILLION INVESTMENT HOLDING (PTY) LTD v SALZ-GOSSOW (PTY) LTD	ANGULA DJP	**SMUTS JA**	**HOFF JA**	**FRANK AJA**
03-Apr-19	SA	33	2017	PERMANENT SECRETARY OF THE NATIONAL PLANNING COMMISSION AND ANOTHER v REHOBOTH PROPERTIES CC	ANGULA DJP	**SHIVUTE CJ**	**HOFF JA**	**FRANK AJA**
08-Apr-19	SA	71	2017	S v NARIMAB: FRANSISCUS DIMITRI	USIKU J	**MAINGA JA**	**SMUTS JA**	**HOFF JA**
10-Apr-19	SA	29	2017	STANDARD BANK NAMIBIA LIMITED v KARIBIB CONSTRUCTION AND 3 OTHERS	UEITELE J	**MAINGA JA**	**HOFF JA**	**FRANK AJA**
12-Apr-19	SA	16	2017	ARANGIES: RAINIER v NEVES: JORGE MAUEL BATISTA AND 2 OTHERS	MILLER AJ	**MAINGA JA**	**SMUTS JA**	**ANGULA AJA**
15-Apr-19	SCR	3	2018	STATE v WERNER SHEETEKELA AND 2 OTHERS	USIKU J	**SHIVUTE CJ**	**HOFF JA**	**FRANK AJA**

4.4.2 Term 2: 03 June – 08 July 2019

SET DOWN DATE	ACRONYM	CASE NO	YEAR	CASE NAME	COURT A QUO	JUDGE 1	JUDGE 2	JUDGE 3
03-Jun-19	SA	59	2017	TJIHERO: IMBERT NGAJOZIKWE AND ANOTHER v KAUARI: BEN UAZIVA AND ANOTHER	PARKER AJ	**MAINGA JA**	**HOFF JA**	**FRANK AJA**
4-Jun-19	SA	31	2017	LEVON NAMIBIA (PTY) LTD v NEDBANK NAMIBIA LIMITED	OOSTHUIZEN J	**MAINGA JA**	**SMUTS JA**	**MOKGORO AJA**
5-Jun-19	SA	40	2017	KOCH: NICHOLAAS JACOBUS v KOCH: WILLEM ALBERTUS AND ANOTHER	ANGULA DJP	**HOFF JA**	**MOKGORO AJA**	**NKABINDE AJA**
10-Jun-19	SA	43	2017	NAMIBIA FINANCIAL EXCHANGE (PTY) LTD v THE CEO: NAMIFISA AND REGISTRAR OF THE STOCK EXCHANGE AND ANOTHER	PARKER AJ	**DAMASEB DCJ**	**MAINGA JA**	**NKABINDE AJA**
12-Jun-19	SA	45	2017	NAME NOVE CONSTRUCTION CC AND 2 OTHERS v DEVELOPMENT BANK OF NAMIBIA	UNENGU AJ	**SMUTS JA**	**FRANK AJA**	**NKABINDE AJA**
13-Jun-19	SA	47	2017	MINISTER OF SAFETY AND SECURITY AND 2 OTHERS v MUTANIMIYE: GEORGE LIFUMBELA	PRINSLOO J	**DAMASEB DCJ**	**HOFF JA**	**FRANK AJA**

18-Jun-19	SA	48	2017	DIERGAARDT: ALBERTUS CHARLES v DIERGAARDT: ELSABE VALENTIA	VAN WYK AJ	**SHIVUTE CJ**	**SMUTS JA**	**FRANK AJA**
19-Jun-19	SA	49	2017	ADCON CC v VON WIELLIGH: LEONI AND ANOTHER	UEITELE J	**MAINGA JA**	**HOFF JA**	**FRANK AJA**
20-Jun-19	SA	53	2017	THE PROSECUTOR GENERAL v ATLANTIC OCEAN MANAGEMENT PROPRIETARY LIMITED AND ANOTHER	ANGULA DJP	**SHIVUTE CJ**	**MAINGA JA**	**SMUTS JA**
24-Jun-19	SA	54	2017	THE GOVERNMENT OF THE REPUBLIC OF NAMIBIA (MINISTRY OF SAFETY AND SECURITY) v LAZARUS: BENHARDT	MASUKU J	**DAMASEB DCJ**	**HOFF JA**	**FRANK AJA**
25-Jun-19	SA	55	2017	NAMIBIA WILDLIFE RESORTS (PTY) LTD v INGPLAN CONSULTING ENGINEERS	UNENGU AJ	**MAINGA JA**	**SMUTS JA**	**FRANK AJA**
26-Jun-19	SA	30	2017	MILLER: REUBEN N.O AND 2 OTHERS v PROSPERITY AFRICA HOLDINGS (PTY) LTD	GEIER J	**SHIVUTE CJ**	**HOFF JA**	**FRANK AJA**
02-Jul-19	SA	63	2017	THE PROSECUTOR GENERAL v CHINA SOUTH INDUSTRY AND TRADING AND ANOTHER	UEITELE J	**DAMASEB DCJ**	**HOFF JA**	**FRANK AJA**
03-Jul-19	SA	65	2017	NDJEMBELA ALUTUMANI AND 63 OTHERS v WALVIS BAY STEVEDORING CO (PTY) LTD	UNENGU AJ	**SHIVUTE CJ**	**MAINGA JA**	**SMUTS JA**
08-Jul-19	SA	15	2018	STATE v HAIKALI DINALOMWENE	USIKU J	**MAINGA JA**	**HOFF JA**	**FRANK AJA**

4.4.3 Term 3: 01 October – 11 November 2019

SET DOWN DATE	ACRONYM	CASE NO	YEAR	CASE NAME	COURT A QUO	JUDGE 1	JUDGE 2	JUDGE 3
01-Oct-19	SA	1	2018	MINISTER OF SAFETY AND SECURITY & 2 OTHERS v CHUNGA: KENNEDY SIMASIKU	PRINSLOO J	**SHIVUTE CJ**	**MOKGORO AJA**	**NKABINDE AJA**
02-Oct-19	SA	20	2018	MINISTER OF SAFETY AND SECURITY & 2 OTHERS v MWAMBWA: AGREY SIMASIKU	PRINSLOO J	**SHIVUTE CJ**	**MOKGORO AJA**	**NKABINDE AJA**
03-Oct-19	SA	47	2017	MINISTER OF SAFETY AND SECURITY & 2 OTHERS v MUTANIMIYE: GEORGE LIFUMBELA	PRINSLOO J	**SHIVUTE CJ**	**MOKGORO AJA**	**NKABINDE AJA**
04-Oct-19	SA	56	2018	MINISTER OF SAFETY AND SECURITY & 2 OTHERS v KAUHANO: SIMON ELVIN	PRINSLOO J	**SHIVUTE CJ**	**MOKGORO AJA**	**NKABINDE AJA**

07-Oct-19	SA	76	2017	MINISTER OF HOME AFFAIRS AND IMMIGRATION & 3 OTHERS v PROLLIUS: COENRAAD & OTHERS	UEITELE J	**DAMASEB DCJ**	**MAINGA JA**	**NKABINDE AJA**
08-Oct-19	SA	16	2018	JONAS: TUHAFENI v ONGWEDIVA TOWN COUNCIL	CHEDA J	**MAINGA JA**	**MOKGORO AJA**	**NKABINDE AJA**
09-Oct-19	SA	17	2018	KAPIKA: HIKUMINUE v KAPIKA: MUTAAMBANDA & 2 OTHERS	UEITELE J	**DAMASEB DCJ**	**MOKGORO AJA**	**NKABINDE AJA**
11-Oct-19	SA	19	2019	MINISTER OF FINANCE & ANOTHER v HOLLARD INSURANCE COMPANY OF NAMIBIA LIMITED & 5 OTHERS	MASUKU J	**DAMASEB DCJ**	**HOFF JA**	**MOKGORO AJA**
14-Oct-19	SA	19	2018	LIKORO: VINCENT KAMPUMBURU v THE STATE	USIKU J	**HOFF JA**	**ANGULA AJA**	**NKABINDE AJA**
16-Oct-19	SA	70	2017	OTJIKAOKO TRADITIONAL AUTHORITY v TJAVARA: TJIMAKA & 3 OTHERS	USIKU J	**SHIVUTE CJ**	**HOFF JA**	**FRANK AJA**
22-Oct-19	SA	13	2018	VAN ZYL: JOHANNES JACOBUS v BARGAIN BUILDING SUPPLIES CLOSE CORPORATION & ANOTHER	OOSTHUIZEN J	**MAINGA JA**	**HOFF JA**	**FRANK AJA**
24-Oct-19	SA	10	2018	BABYFACE CIVILS CC JV HENNINA INVESTMENT CC & 2 OTHERS v //KHARAS REGIONAL COUNCIL & 8 OTHERS	ANGULA DJP	**SHIVUTE CJ**	**MAINGA JA**	**FRANK AJA**
31-Oct-19	SA	6	2018	THE STATE v MUTILIFA: MORDEKAI & 3 OTHERS	TOMMASI J	**DAMASEB DCJ**	**HOFF JA**	**FRANK AJA**
05-Nov-19	SA	39	2017	GOVERNMENT OF THE REPUBLIC OF NAMIBIA v NDJEBO: THOMAS INGHANGWE	OOSTHUIZEN J	**SHIVUTE CJ**	**MAINGA JA**	**HOFF JA**
08-Nov-19	SA	24	2018	DAUSAB: SOFIA v HEDIMUND: JELEVASIU & 2 OTHERS	PARKER AJ	**DAMASEB DCJ**	**MAINGA JA**	**ANGULA AJA**
11-Nov-19	SA	26	2018	SUN SQUARE HOTEL (PTY) LTD v SOUTHERN SUN AFRICA & ANOTHER	USIKU J	**DAMASEB DCJ**	**FRANK AJA**	**ANGULA AJA**

4.5 SUPREME COURT STATISTICS:

During the 2018/2019 legal year, a total of eighty-three (83) cases were recorded and documented by the Courts, either as appeals or requests for review in terms of section 16 of the Supreme Court Act, or as petitions. Of this number, forty-six (46) cases were enrolled for hearing and thirty-seven (37) judgments were delivered. However, a total of twenty-nine (29) appeals lapsed due to non-prosecution.

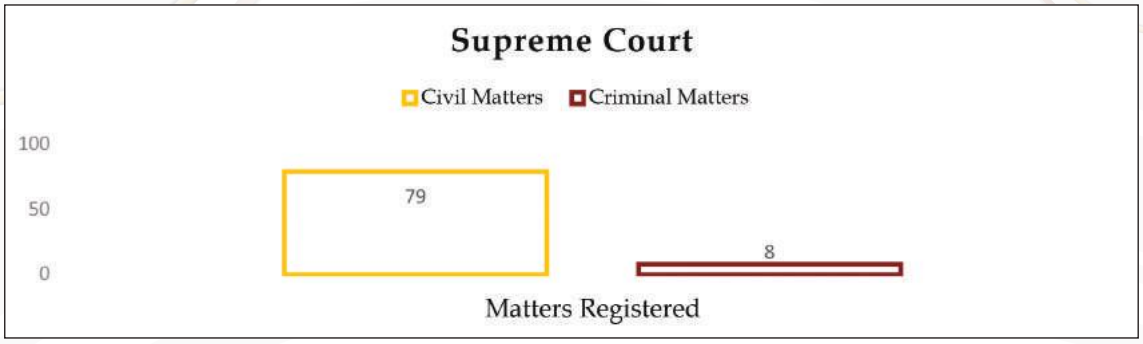


Figure 4.1: Registered Matters

4.5.1 Appeals

A total of seventy-nine (79) civil appeals and eight (8) criminal appeals were registered during the 2019 Legal Year. A total of fourty-nine (49) of the appeals registered were heard by the end of 2019 while the remaining balance of thirty-eight (38) were heard during the last session before the end of the financial year.

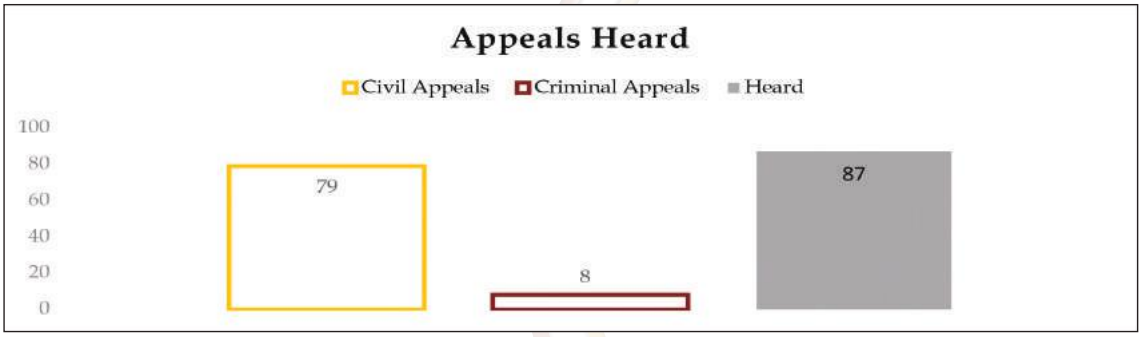


Figure 4.2: Supreme Court Appeals

4.5.2 Judgments

The Supreme Court works towards rendering judgments in reserved matters within three months of the hearing. Of the forty-nine (49) matters heard during the period under review, forty (40) judgments were delivered - representing eighty-two percent (82%) delivery within the approved guidelines. These statistics demonstrate that the Supreme Court is performing optimally and meeting the public's expectation for speedy justice.

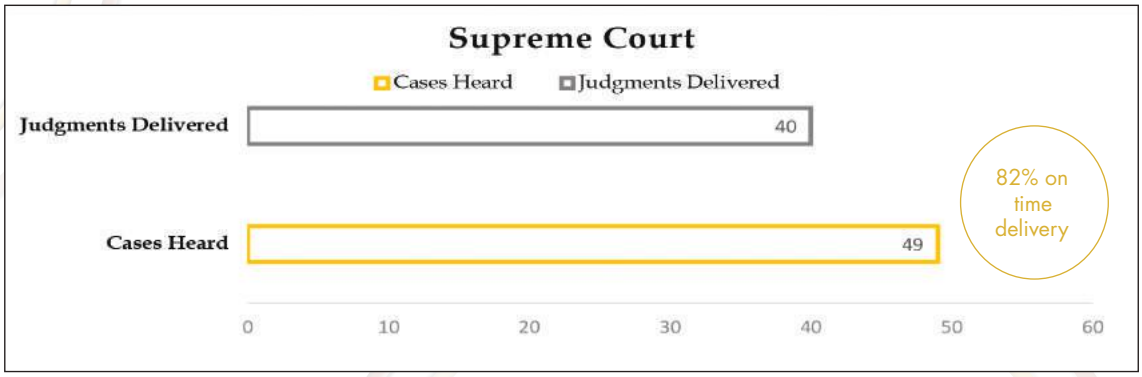


Figure 4.3: Judgments delivered

4.5.3 Petitions

For the period January 2019 to January 2020, the Supreme Court received seven (7) civil petitions and finalised six (6). The Court entertained seven (7) criminal petitions and finalised all seven as can be observed below.

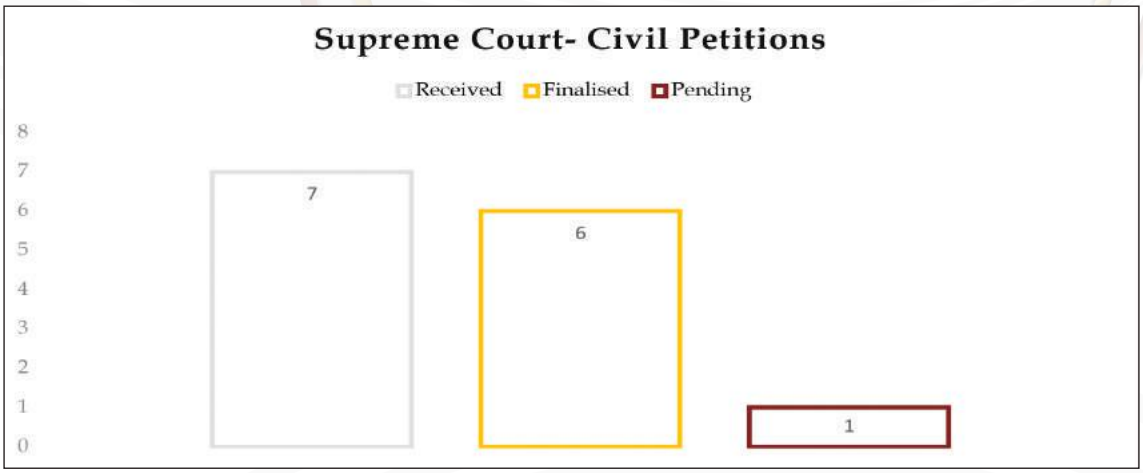


Figure 4.4: Civil Petitions

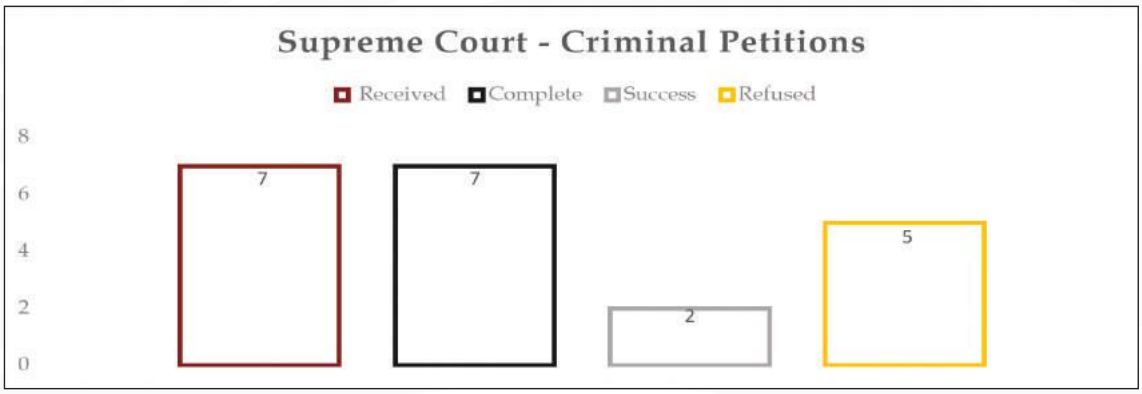


Figure 4.5: Criminal Petitions

High Court of Namibia

PART V

5.1 OVERVIEW OF THE HIGH COURT

The High Court, established in terms of Article 80 of the Namibian Constitution, find its authority within the same Constitution. Article 78 affords the High Court inherent and original jurisdiction to hear and adjudicate over civil disputes and criminal prosecution. At the discretion of the Judge President, the High Court may hold its sessions elsewhere in the country. The High Court currently has two seats, the Main Division is situated in the capital Windhoek and the second seat is the Northern Local Division in Oshakati. The High Court building in downtown Windhoek was inaugurated in 1960 and is currently undergoing renovations and expansions.

The High Court exercises original jurisdiction. It can act both as a court of appeal and a court of first instance over civil and criminal prosecutions and in cases concerning the interpretation, implementation and preservation of the Constitution. The High Court is presided over by the Judge-President. Its jurisdiction with regard to appeals shall be determined by Acts of Parliament and Rules made in terms of its self-regulating powers. Decisions of the High Court, which bind lower courts, are recorded both in Namibian and South African law reports. The decisions are recorded and summarized in the same way as Supreme Court decisions.

The Labour Court is a division of the High Court. The Judge-President must assign suitable judges to the Labour Court, each of whom must be a judge or an acting judge of the High Court.

5.2 JUDGES OF THE HIGH COURT

Judges of the High Court are appointed by the President of the Republic of Namibia. The President appoints such judges in terms of Article 32(4) (a) (aa) read with Article 82 (1) of the Namibian Constitution, and on recommendation of the Judicial Service Commission of Namibia. This applies for the appointment of judges permanently to the bench.

The President may also in terms of Article 32 (4)(a) (aa) read with Article 82 (1) of the Namibian Constitution and on recommendation of the Judicial Service Commission, appoint acting judges to the High Court.

The normal retirement age for judges is 65 years. However, judges that had been on the bench permanently and who reaches the retirement age, may be reappointed on recommendation of the Judicial Service Commission and, in terms of Article 82 (4) of the Namibian Constitution.

The High Court currently has sixteen (16) permanent judges. Two (2) are stationed at the High Court Northern Local Division and fourteen (14) are stationed at the Main Division.

JUDGE	RANK	DATE OF APPOINTMENT	Stream (Civil, Criminal or Labour)
Hon Mr. Justice, Petrus. T. Damaseb	Judge-President	01/12/ 2004	Head of Court
Hon Mr. Justice, Hosea E. Angula	Deputy Judge-President	01/01/2016	Civil
Hon Mr. Justice, Nate Ndauendapo	Judge of the High Court	01/05/2008	Criminal
Hon Mr. Justice, Christie Liebenberg	Judge of the High Court	01/12/2009	Criminal
Hon Lady Justice, Naomi Shivute	Judge of the High Court	01/12/2009	Criminal
Hon Lady Justice, Marlene Tommasi	Judge of the High Court	01/12/2009	Civil
Hon Mr. Justice, Harold Geier	Judge of the High Court	01/04/2012	Civil
Hon Mr. Justice, Shafimana Ueitele	Judge of the High Court	01/07/2012	Civil
Hon Mr. Justice, Maphios Cheda	Judge of the High Court	01/08/2013 – 31/07/2019 (Contract Ended)	Criminal
Hon Mr. Justice, Herman C. January	Judge of the High Court	11/08/2014	Civil
Hon Lady Justice, Dinah N. Usiku	Judge of the High Court	01/05/2015	Criminal
Hon Mr. Justice, Thomas Masuku	Judge of the High Court	01/01/2016	Civil
Hon Mr. Justice, Herman G. Oosthuizen	Judge of the High Court	15/01/2016	Civil
Hon Mr. Justice, Boas Usiku	Judge of the High Court	01/07/2017	Civil
Hon Lady Justice, Johanna S. Prinsloo	Judge of the High Court	01/07/2017	Civil
Hon Lady Justice, Johanna Salionga	Judge of the High Court	01/11/2018	Criminal
Hon Lady Justice, Claudia Claasen	Judge of the High Court	01/01/2020	Civil

Table 5.1: Judges of the High Court

5.3 ACTING JUDGES OF THE HIGH COURT:

For the period under review, the following judges were appointed on an acting basis.

JUDGE	RANK	PERIOD OF APPOINTMENT	Stream (Civil, Criminal or Labour)
Hon Mr. Justice P. Unengu	Acting Judge of the High Court	01/07/2019 – 31/12/2019	Civil
Hon Lady Justice, C. Claasen	Acting Judge of the High Court	01/07/2019 – 31/12/2019	Civil
Hon Lady Justice, E. Rakow	Acting Judge of the High Court	25/06/2019 – 30/09/2019, and 01/10/2019 – 30/06/2020	Civil and Criminal
Hon Mr. Justice, O. Sibeya	Acting Judge of the High Court	01/07/2019 – 31/10/2019, and 01/11/2019 – 30/06/2020	Civil and criminal
Hon Mr. Justice, N. Kangueehi	Acting Judge of the High Court	01/07/2019 – 09/11/2019	Civil
Hon Mr. Justice, M. Namweya	Acting Judge of the High Court	01/08/2019 – 09/12/2019	Civil
Hon Mr. Justice, A. Siboleka (retired)	Acting Judge of the High Court	01/03/ 2019- 30/06/2019	Criminal
Hon Mr. Justice, M. Cheda (retired)	Acting Judge of the High Court	19 /11/2019 – 28 June 2020	Criminal
Hon Mr. Justice, P. Miller (retired)	Acting Judge of the High Court	01 /01/ 2019 – 30/04/2019, and 01/05/2019 – 31/12/2019 01/01/2020 – 31/12/2020	Civil
Hon Mr. Justice, C. Parker (retired)	Acting Judge of the High Court	11/12/2019 – 31 /12/2020	Civil

Table 5.2: Acting Judges of the High Court

5.4 HIGH COURT STAFFING

5.4.1 Main Division

The High Court Main Division, has for the period under review held the following staffing capacity:

Staffing	Heads of Court		2
		Judge President	1
		Deputy Judge President	1
	Judges		11
		Criminal Stream	4
		Civil Stream	7
	Acting Judges		8
		Criminal Stream	5
		Civil Stream	3
	Support Staff		76
		Professional staff (i.e. registrars and researchers)	21
		Administrative staff (i.e., legal clerks, secretaries, drivers, cleaners, messengers, interpreters & administrative officers)	55

Table 5.3: Main Division Staffing

5.4.2 Northern Local Division

The High Court Northern Local Division, has for the period under review held the following staffing capacity:

Staffing	Heads of Court		2
		Judge President	1
		Deputy Judge President	1
	Judges		3
		Criminal Stream	2
		Civil Stream	1
	Acting Judges		1
		Criminal Stream	0
		Civil Stream	1
	Support Staff		24
		Professional staff (i.e., registrars and researchers)	4
		Administrative staff (i.e., legal clerks, secretaries, drivers, cleaners, messengers, interpreters & administrative officers)	20

Table 5.4: Northern Local Division Staffing

5.5 APPLICATION FOR ADMISSION AS LEGAL PRACTITIONER

In terms of Sections 3 and 4 of the Legal Practitioners Act, 1995 (Act No. 15 of 1995) as amended, it requires a person that is qualified to be admitted as a legal practitioner, to make such an application in terms of both the Act and the Rules of the High Court.

Further to this, section 83 of the Act, also requires each person admitted, to take an oath or make a solemn affirmation before the Judge-President, or a Judge designated by the Judge-President for that purpose, after which such a person becomes an officer of the court. Furthermore, in terms of Rule 80 of the High Court Rules, 2014, an application for admission to the High Court should be made to the Registrar not less than 30 days before the day on which his or her application is to be heard by the court.

Accordingly, we can report that for the period under review, the High Court received a total number of **67** applications for admission as Legal Practitioner, of which **54** admission orders were granted.

- Number of applications brought forward from previous year = **14**
- Number of applications registered = **53**
- Number of admission orders granted = **54**
- Number of applications withdrawn = **4**

5.6 CIVIL COURT STATISTICS

The High Court has two divisions: The Main Division in Windhoek and the Northern Local Division (NLD) with its seat in Oshakati. The Court's work is further divided into a civil stream and a criminal stream.

5.6.1 Civil Appeals

The High Court's civil stream recorded a total of four (4) appeals that were not finalised in the 2018/19 FY and which were brought forward into this review period. With five (5) new appeals registered, the total appeals on hand were nine (9) of which (six) 6 were finalised. This represents a finalisation rate of **67%.**

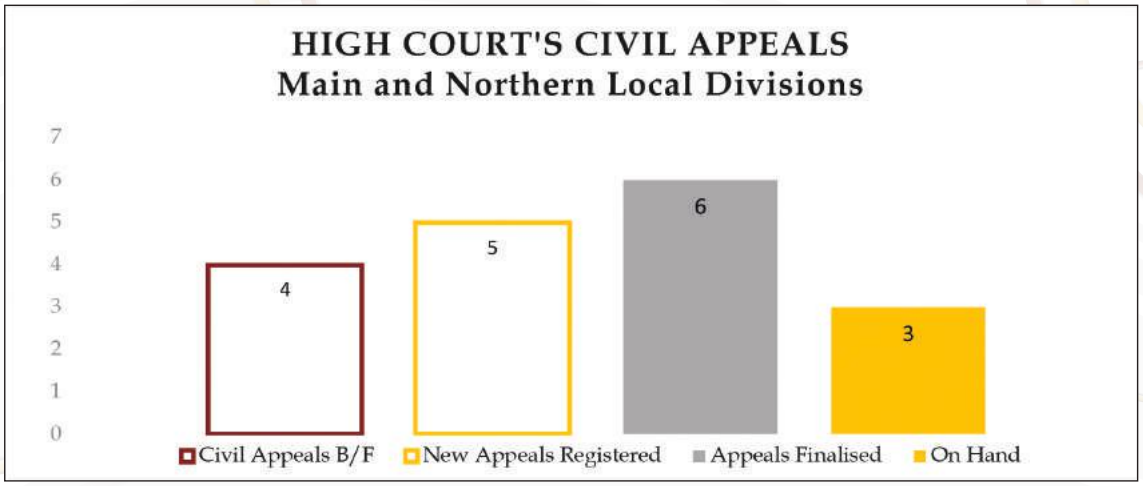


Figure 5.1: Civil Appeals

5.6.2 Civil Actions

The civil stream judges in both divisions attended to five thousand seven hundred and seventy-nine (5779) civil actions. This figure includes new filings made in 2019 and actions carried over from the 2018 Legal Year. Five thousand eight hundred and sixty-seven (5867) civil actions were finalised in both divisions. This left approximately 3779 civil action applications on hand.

Figure 5.2: Civil Actions

5.6.3 Court-Connected Mediation

A total of nine hundred and twenty-one (921) civil cases were referred to court-connected mediation, resulting in five hundred and ninety-one (591) out-of-court settlements. The percentage success rate for the Main Division was fifty-seven percent (57%) whilst that of the NLD was fifty-one percent (51%). The latter statistic shows that the mediation programme of the High Court serves a very important function of reducing the number of cases that actually proceed to court and in that way decongests the court roll.

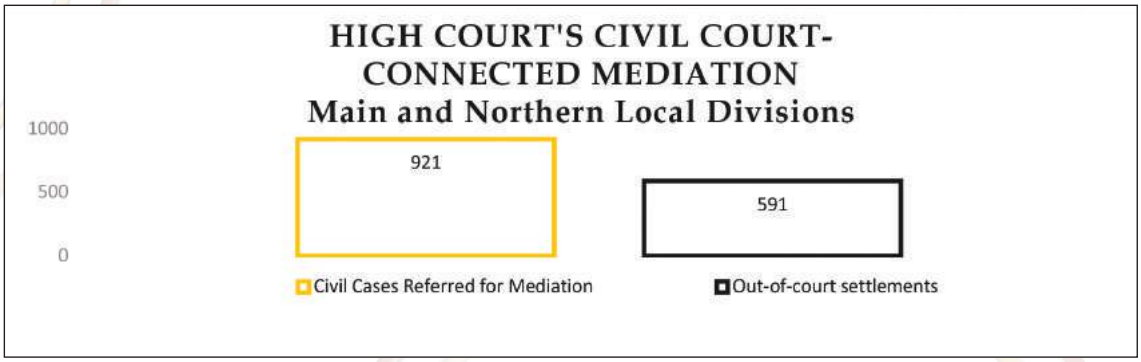


Figure 5.3: Court Connected Mediation

5.6.4 Civil Applications and Reviews

Both Divisions of the High Court recorded **611** newly registered civil applications and reviews while **371** were brought forward. After finalising **645**, the court was left with **337** applications on hand.

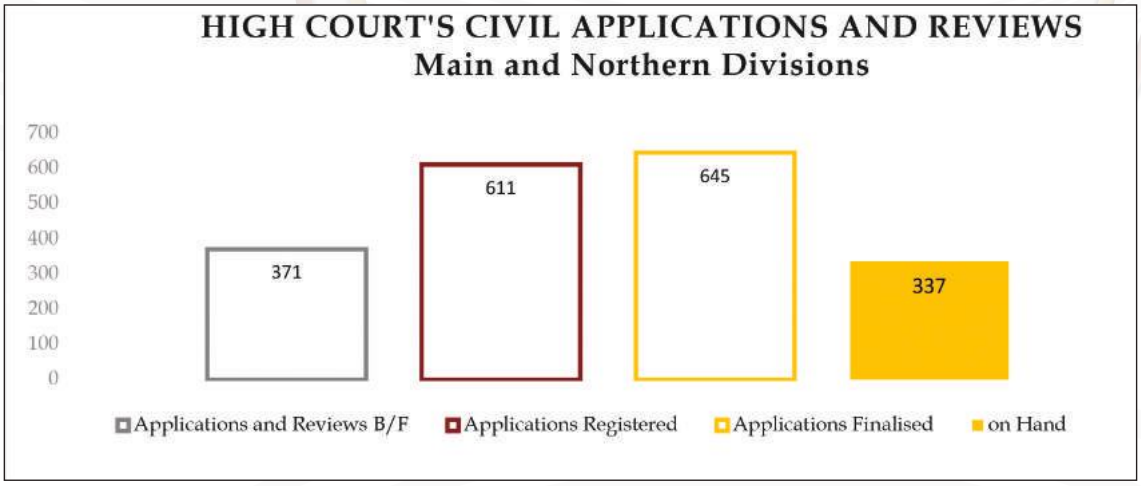


Figure 5.4: Civil Applications – Motion proceedings sub-stream

5.7 CRIMINAL COURT STATISTICS

Criminal procedure in Namibia is regulated in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977). The Prosecution of criminal cases in the High Court is determined upon a decision by the Prosecutor General before a trial commences. The below criminal trials took place in the High Court for the period under review.

5.7.1 Criminal Indictment Matters

121 criminal cases were carried over from the 2018/19 FY and **43** new indictments were added, bringing the total figure to **164** for the current FY. Finalised matters amounted to **45** cases.

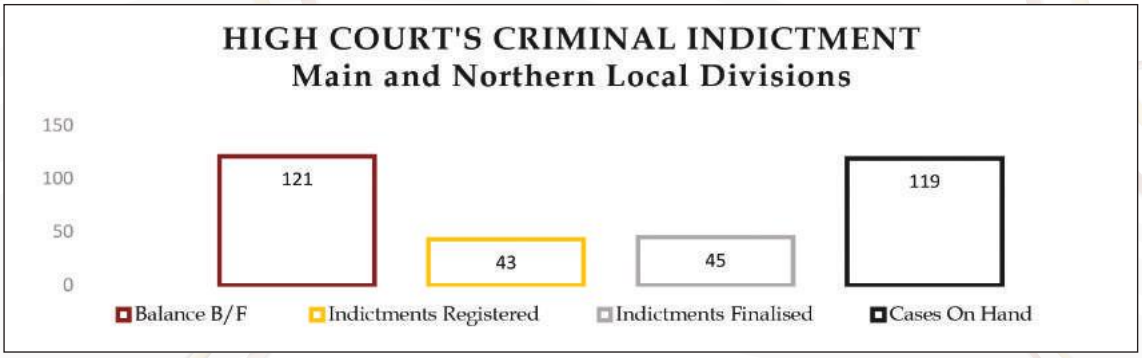


Figure 5.5: Criminal Indictments

5.7.2 Criminal Reviews and Appeals

The difference in the finalisation percentage ratio between reviews and criminal appeals is due to the fact that reviews are determined on the written record and focus on the procedural aspects of the case. Criminal appeals are determined on both facts and the law. The finalisation rate of the reviews translates into **86%** whilst the appeals finalised is **98%** for the 2019/20 FY.

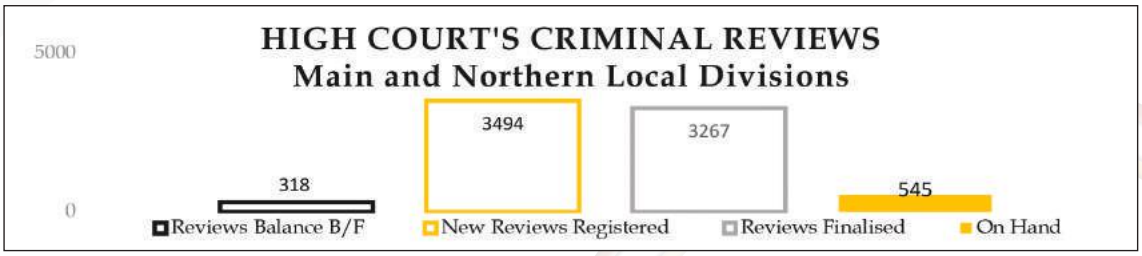


Figure 5.6: Criminal Reviews

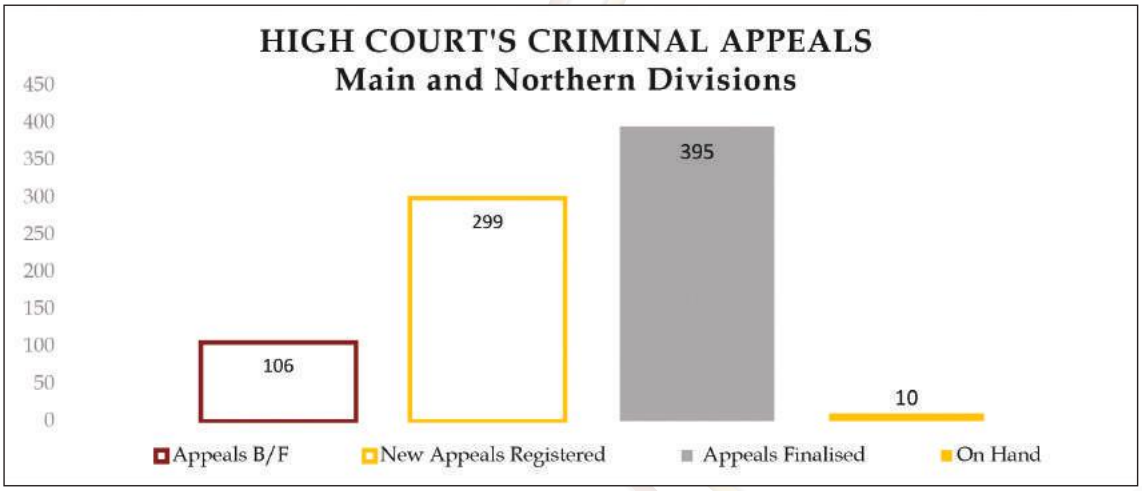


Figure 5.7: Criminal Appeals

5.7.3 Criminal Judgments Delivered

As indicated below, during the 2019 Legal Year, the judges in the criminal and civil stream delivered **692** judgments after completion of trials. This included **161** reserved judgments brought forward from the previous financial year, closing the year off with **99** judgments on hand.

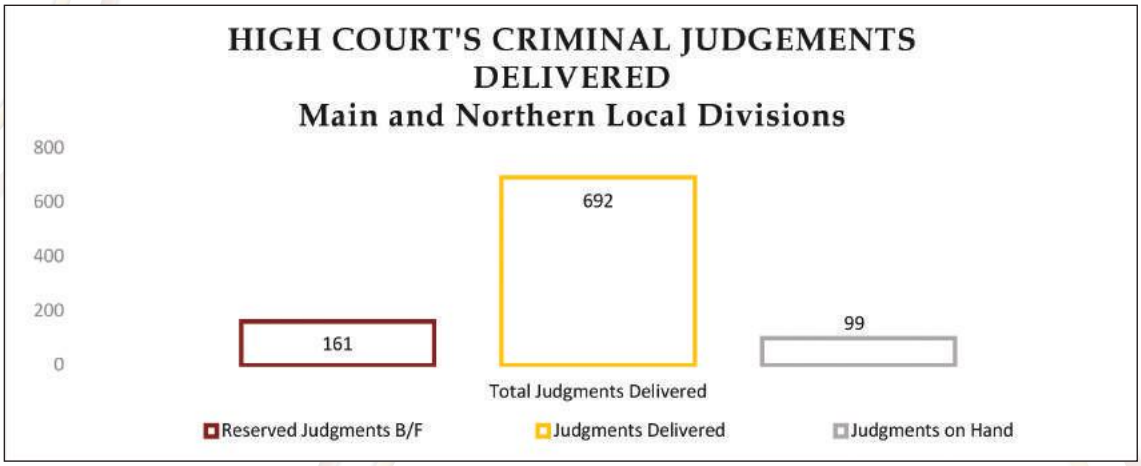


Figure 5.8: High Court Criminal Judgements Delivered

5.8 RESIDUAL COURT

For both the Main and Northern Local Divisions, the residual court roll comprises of matters pertaining to motion courts, undefended matrimonials, default judgments and Rule 108 Applications. For the period under review, the following statistics were recorded for the respective divisions of the High Court.

5.8.1 Main Division

RESIDUAL COURT TYPE	NO OF SESSIONS	TOTAL NO OF CASES ENROLLED
Undefended Matrimonial Roll	37	2106
First Motion Court Roll	36	603
Second Motion Court Roll: Default Judgments	36	2938
Second Motion Court Roll: Rule 108 Application	36	435

5.8.2 Northern Local Division

RESIDUAL COURT TYPE	NO OF SESSIONS	TOTAL NO OF CASES ENROLLED
NLD Undefended Matrimonial Roll	35	459
First Motion Court Roll	35	56
Second Motion Court Roll: Default Judgments	32	89
Second Motion Court Roll: Rule 108 Application	28	9

5.9 LABOURT COURT

During the period under review, the NLD did not carry any labour applications or reviews forward. On the other hand, **34** was brought forward at the Main Division. A total of **412** new cases and reviews were registered and **401** were finalised, giving it a combined finalisation rate of **97%.** From these applications, **76** new appeals were registered and **71** were finalised.

5.9.1 Labour Applications and Reviews – Main and NLD Divisions

	# BROUGHT FORWARD FROM 2018/19 FY	# NEW REGISTRATIONS 2019/20 FY	# FINALISED DURING 2019/20 FY	# AT HAND AT BEGINNING OF 2020/21 FY
Labour Applications and Reviews	34	412	401	45
Labour Appeals	61	76	71	66

5.9.2 Writs and Taxations – Main and NLD Divisions

Civil and Labour Writs in both Divisions have recorded a **100%** finalization rate. While 61 taxations were brought forward from the previous financial year, **594** newly registered cases were reported of which **600** were finalised.

	# BROUGHT FORWARD FROM 2018/19 FY	# NEW REGISTRATIONS 2019/20 FY	# FINALISED DURING 2019/20 FY	# AT HAND AT BEGINNING OF 2020/21 FY
Civil Writs Processed	0	3849	3849	0
Labour Writs Processed	0	161	161	0
Civil and Labour Taxations	61	594	600	55

Magistrates Courts

PART VI

6.1 OVERVIEW OF THE MAGISTRACY:

Over the last financial year, the Magistracy has undergone some exciting changes in the face of very challenging times.

The Chief Magistrate, together with her team, developed and implemented a backlog strategy project within the Windhoek and Oshakati Divisions. This report will reflect on the progress and challenges of the first couple of months into the projects' implementation.

6.2 BACKLOG STRATEGY PROJECT

A backlog project was started in September 2019 as a pilot in order to address the criminal case backlog in the district and regional courts countrywide.

The project duration as agreed amongst critical stakeholders (Magistracy and the Prosecutor General) was envisioned for 12 months, starting 1 September 2019 and ending 30 September 2020. The definition of backlog as agreed amongst stakeholders refers to cases older than 12 months, not finalized, from the date of first appearance, irrespective of the stage of proceedings.

The two divisions identified as having the highest number of backlog cases to address, as at 30 June 2019 were Oshakati Division and Windhoek Central Division. Oshakati Division had **3455** backlog criminal cases in the district and regional courts, and Windhoek Central Division had **125** backlog criminal cases in the district and regional courts.

The suggestion was to employ retired magistrates to attend to the backlog criminal courts; however, due to a lack of financial resources this could not realise. As a solution, two relief magistrates and the divisional magistrate were assigned to the Oshakati Division to attend to the backlog criminal courts. The towns selected, based on the number of statistics, were Ohangwena Periodical Court and Oshakati Regional Court. In Windhoek Central Division, one Principal Magistrate was assigned for the backlog Regional Court and one Relief Magistrate was assigned for the district criminal backlog court. Both these courts were situated at Windhoek Magistrates' Court, Luderitz Street with the court administration support at Windhoek Magistrates' Court, Mungunda Street.

Various challenges were experienced in the implementation of the project, being operational challenges as well as stakeholder related challenges.

6.2.1 Oshakati DISTRICT Courts (October – December 2019)

Backlog cases prosecuted in the district courts from October – December 2019 were **3694,** of which **675** cases were finalized; as a result, **3019** were carried over to January 2020. This means that the finalization rate of district backlog courts is **18%**, which will be used as the baseline to determine a target for the next annual plan performance of backlog courts.

The graph below is a depiction of the percentage of backlog criminal cases measured against the total number carried over from the previous year.

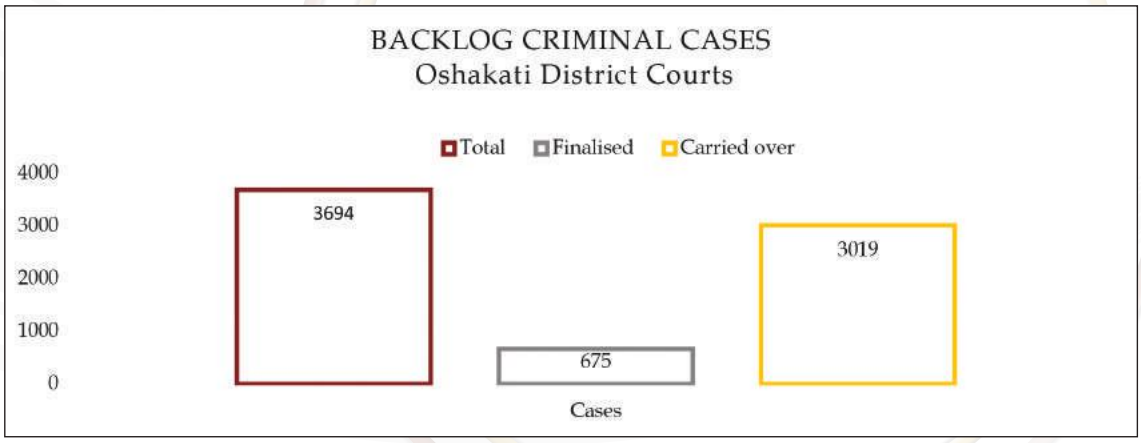


Figure 6.1: Backlog – Oshakati District Courts

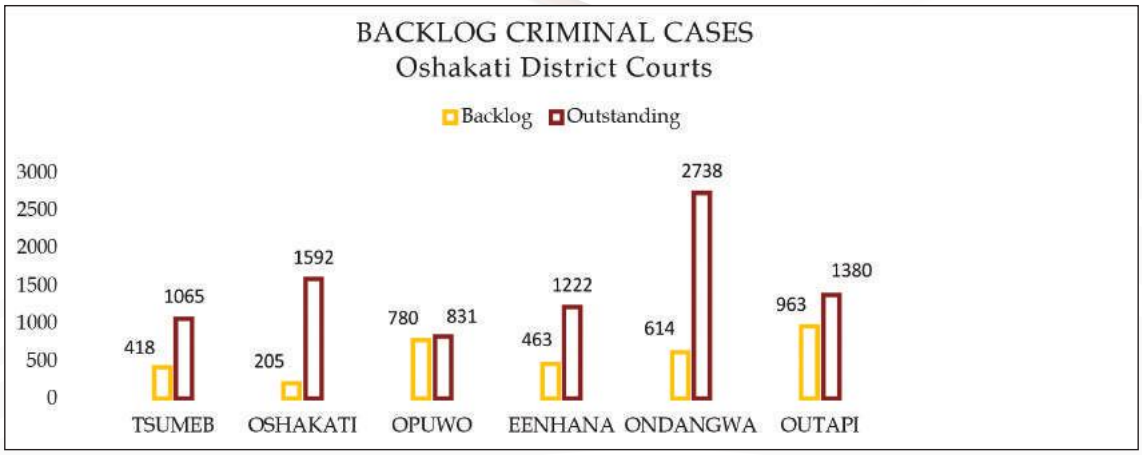


Figure 6.2: Backlog vs Outstanding cases

6.2.2 Oshakati REGIONAL Court (October – December 2019)

Cases prosecuted in the regional courts from January – December 2019 were **463,** of which **27** cases were finalized; as a result, **436** were carried over to January 2020. This means that the finalisation rate of regional courts is **6%**, which will be used as the baseline to determine a target for the next annual plan performance of the backlog courts.

The graph below is a depiction of the percentage of backlog criminal cases measured against the total number of district criminal cases carried forward from the previous year.

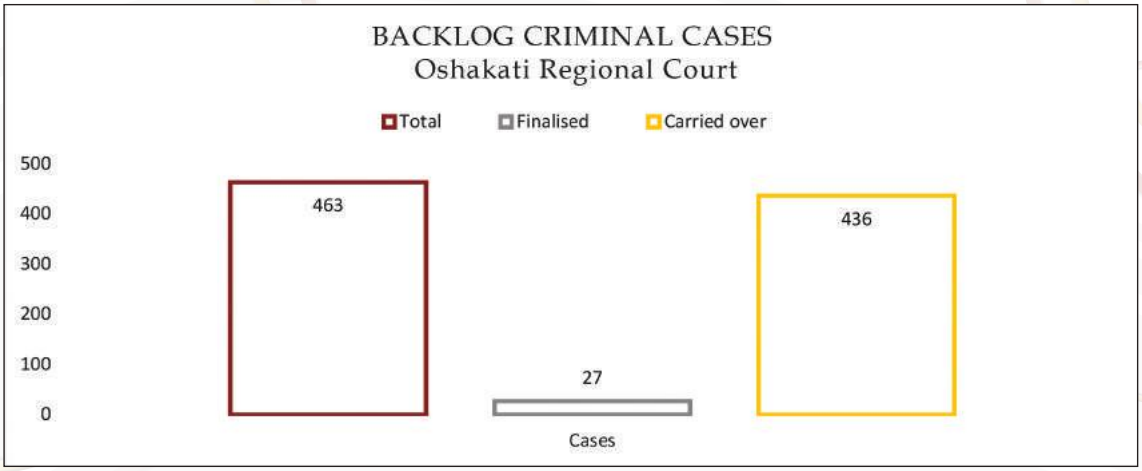


Figure 6.3: Backlog – Oshakati Regional Court

6.2.3 Windhoek Central DISTRICT Courts (October – December 2019)

Backlog cases prosecuted in the district courts from October – December 2019 were **91,** of which **58** cases were finalized; as a result, **27** were carried forward to January 2020. This means that the finalisation rate of district backlog courts is **64%**, which will be used as the baseline to determine a target for the next annual plan performance of the backlog courts.

The graph below is a depiction of the percentage of backlog criminal cases measured against the total number of district criminal cases carried forward from the previous year.

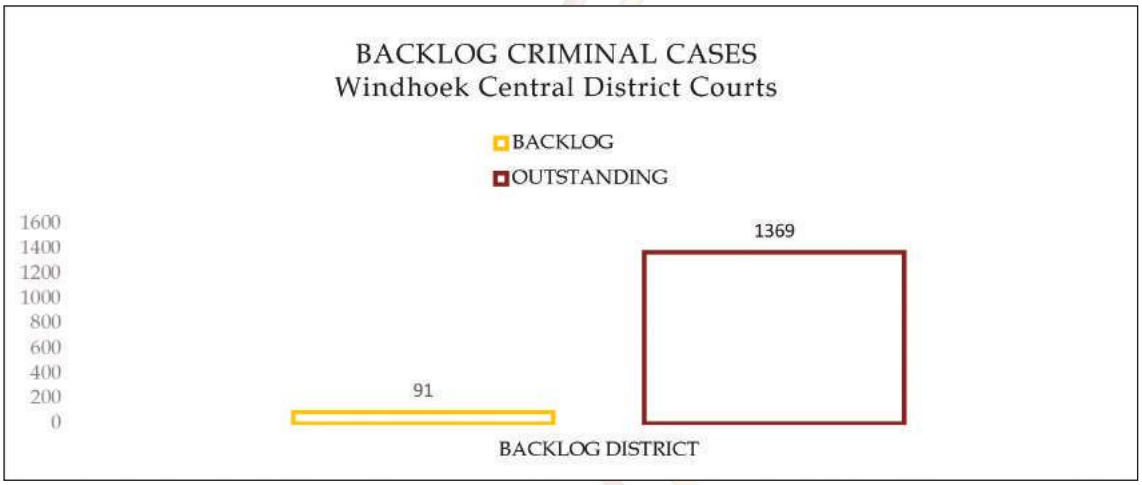


Figure 6.4: Backlog – Windhoek Central District Court

6.2.4 Windhoek Central REGIONAL Court (October – December 2019)

Cases prosecuted in the regional court from January – December 2019 were **34,** of which **0** cases were finalized; as a result, **34** were carried forward to January 2020. This means that the finalisation rate of the regional court was **0%**, which will be used as the

baseline to determine a target for the next annual plan performance of backlog courts. The 0% finalization rate came about as a result of the absence of one of the regional court magistrates, which prompted the use of the backlog court as a normal regional court for the month of November 2019. During December 2019 the prosecutors, legal practitioners, and magistrates went on leave.

The graph below is a depiction of the percentage of backlog criminal cases measured against the total district criminal cases carried over from the previous year.

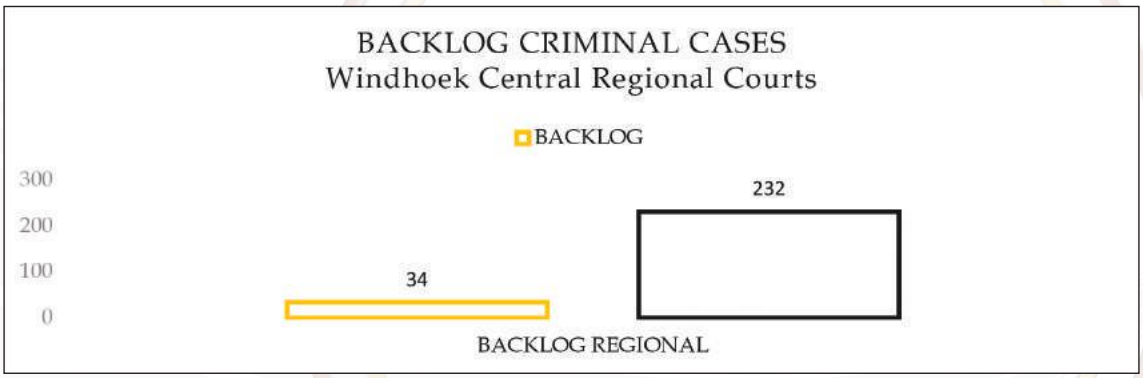


Figure 6.5: Backlog – Windhoek Central Regional Court

6.2.5 Other Divisions DISTRICT Courts (October – December 2019)

Cases prosecuted in the district courts in all the other divisions which were not part of the pilot project from January – December 2019 were **8642,** of which **3184** cases were finalized; as a result, **5458** were carried forward to January 2020. This means that the finalization rate of district courts was **37%**. The under-mentioned district courts were instructed to deal with the backlog in the normal course of their business.

The graph below is a depiction of the percentage of backlog criminal cases measured against the total of district criminal cases carried forward from the previous year.

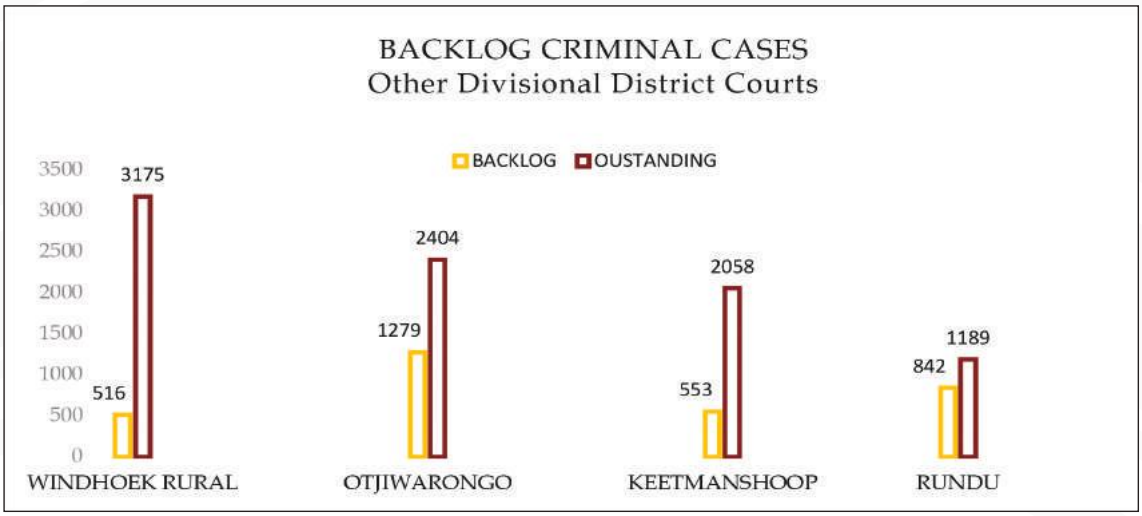


Figure 6.6: Backlog – Other Divisional District Courts

6.2.6 Other Divisions REGIONAL Courts (October – December 2019)

Cases prosecuted in the regional courts in all the other divisions, which were not part of the pilot project from January – December 2019 were **538,** of which **342** cases were finalized; as a result, **196** were carried over to January 2020. This means that the finalisation rate of regional courts is **64%**. The under-mentioned regional courts were instructed to deal with the backlog in the normal course of their business.

The graph below is a depiction of the percentage of backlog criminal cases measured against the total number of regional criminal cases carried forward from the previous year.

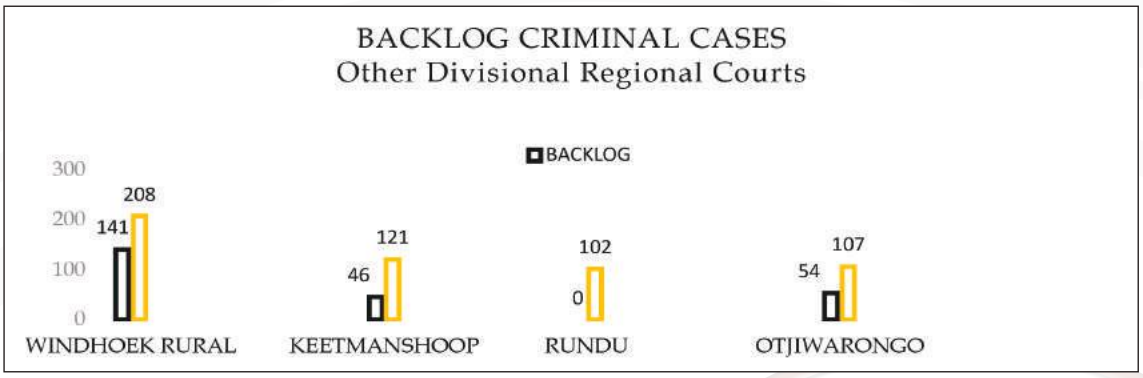


Figure 6.7: Backlog – Other Divisional Regional Courts

6.2.7 Action Plan to deal with challenges

The management of the Magistracy compiled an action plan which includes the following action steps to address the challenges that were faced during the backlog programme. These action steps include but are not limited to the following measures:

- Case flow management platforms should be introduced to deal with challenges
- Representatives of all stakeholders involved in addressing the plight against the backlog should identify project managers in the areas where they are;
- All courts throughout the country should deal with backlog in the normal course of business on a daily basis;
- Data should be kept by all stakeholders to be analysed so that best practices can be shared amongst stakeholders;
- Regular updates should be made monthly on the number of new backlog cases, finalized cases, and those that are carried over.
- Case-flow blockages should be identified at the earliest convenience, and the responsible stakeholder should be held accountable to deal with it.
- Backlog should be attended to and treated with urgency by all stakeholders as it encroaches on the constitutional right to a speedy trial.
- It is recommended that legal aid establish a special task force that deals with backlog case related legal aid applications to prioritize the appointment of lawyers.

- Legal practitioners should give priority to backlog cases as opposed to their normal caseload.
- Police officers should prioritize investigations of backlog cases and also execute warrants of arrests of accused persons, which form part of backlog cases as speedily as possible.
- National forensic institute should prioritize the analysing of evidence of backlog cases speedily.
- Social workers should prioritize pre-sentencing reports and screening of accused persons related to backlog cases speedily.
- Language interpretation needs, foreign and local, should be identified well in advance in order to ensure interpreters are available on the date of appearance.

6.3 COURT STATISTICS – 2019/20

The use of court statistics on case processing and cases pending, refer to important procedural steps, which took place over a given period. Different statistical reports offer a varying level of detail and may include information on the level of courts such as, High, Supreme or Magistrates' courts, or to access certain rates and ratios such as the completion or finalization rate etc.

For efficient judicial administration, international standards dictate that record keeping; such as statistical court reports are of utmost importance. Similarly, the judiciary attach equal importance to this exercise, although the lower courts have had challenges over the years to ensure accurate record keeping and reporting of the courts' performance.

This may be one of the reasons that the administration decided to strengthen the integrity of data collected by ensuring monthly statistical reports are filed and incorporated into the overall strategy of the Judiciary.

The performance of the courts is an important variable to enhance public confidence in the administration of justice. However, highlighting court performance, without distorting the reality is key in promoting the principles of transparency and accountability.
Even though the courts regress in their performance, it becomes more important to understand the lack in achieving targets and how to mitigate and improve on that, as opposed to the actual performance.

Below we report on the overall performance (excluding backlogs) of the Magistrates' Courts for the period 01 April 2019 – 31 March 2020.

6.3.1 Criminal

With 34 Magistrates' Courts countrywide, it is clear that these courts deal with the bulk of criminal cases. With an increase in the crime rate over the last decade, the courts were not able to adequately align its resources to cope with the increase of new cases being registered. Nonetheless, the Office can report that **49 127** cases were handled in the District and Regional courts. Out of the above figure, only **23 442** cases were finalised which represents **48%**. The remaining **25 685** cases were carried forward to the financial year 2020/21.

The graph chart below is a representation of the performance rate of the Regional and District courts on criminal cases.

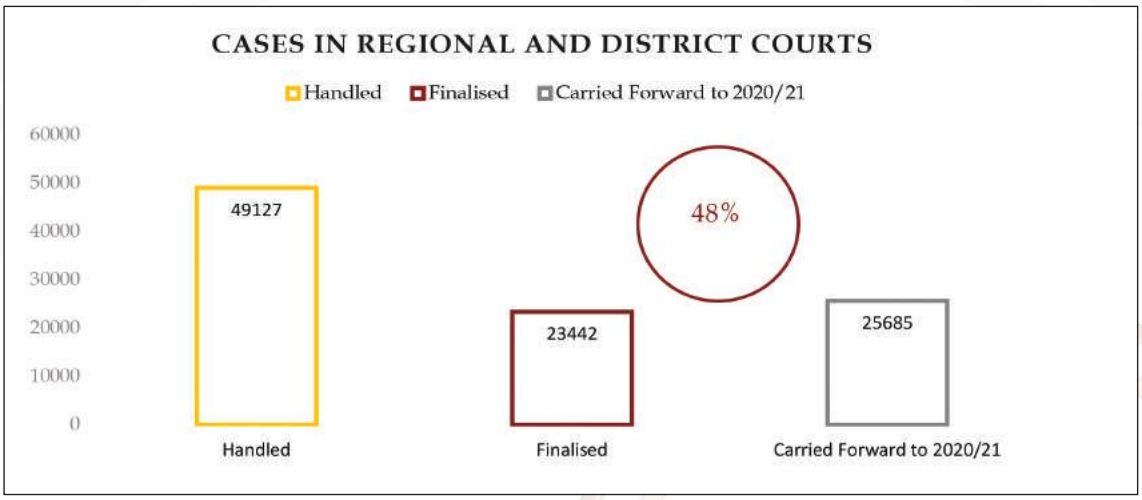


Figure 6.8: Criminal Cases Heard

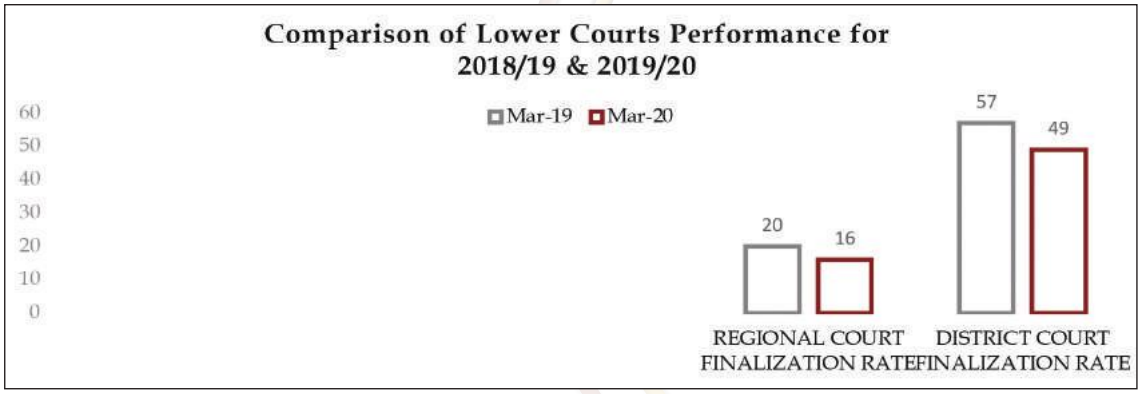


Figure 6.9: Regional vs District Court – 2018/19 – 2019/20

6.3.2 Criminal Cases in Regional Court

There are six (6) regional court seats with nine (9) regional court magistrates serving throughout the country on a circuit basis in towns identified as circuit seats of a regional court. In total these nine **(9)** regional courts magistrates serve twenty-two **(22)** towns. The Regional court only adjudicates over criminal matters.

Cases prosecuted in the regional court from April 2019 – March 2020 were **3 180** of which **504** cases were finalized; as a result **2 676** cases were carried forward to April 2020. This means that the finalization rate of the regional court is **16%**. Compared to the previous year (April 2018 – March 2019) where the finalization rate was **20%**, there has been a slight decrease in the finalization rate by **4%**.

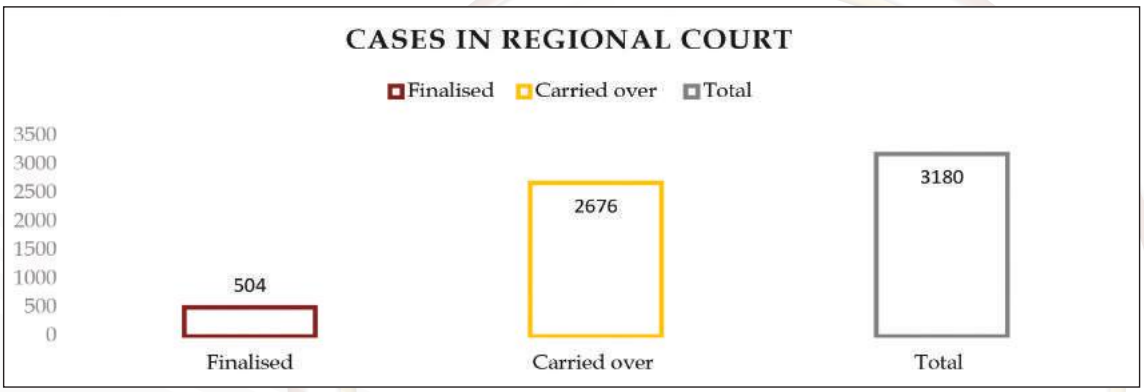


Figure 6.10: Regional Court Cases

6.3.3 Criminal Cases in District Courts

There are thirty-four **(34)** district court seats with thirty-two **(32)** periodical courts, served by ninety-two **(92)** district court magistrates. District court magistrates are responsible for criminal, civil, and family courts.

Cases prosecuted in the district courts from April 2019 – March 2020 were **46 412,** of which **22 938** cases were finalized; as a result **22 474** were carried forward to April 2020. This means that the finalization rate of district courts was **49%.** Compared to the previous year (April 2018 – March 2019) where the finalization rate was **52%**, at the Districts' level, there is also a slight decrease in the finalization rate by **3%**.

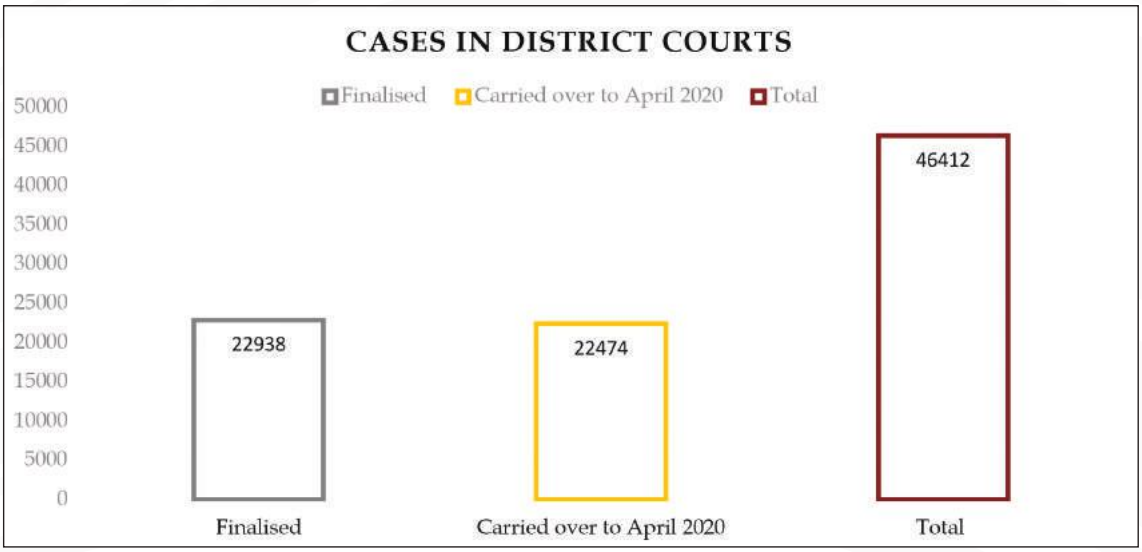


Figure 6.11: District Court Cases

6.3.4 Quasi-Judicial Cases

Staff members in the magistrates' court does not hold judicial office, however, by virtue of the clerk of civil court being appointed in terms of the provisions of the relevant legislation, they are empowered to perform administrative judicial functions., commonly known as quasi-judicial work. Quasi-judicial work ranges from summonses issued, admission of guilt, warrants of arrest as well as the criminal case, review case and appeal case registers.

Figure 6.12: Quasi-Judicial Stats – 2019/20

6.3.5 Civil Cases

Civil matters within the Magistrates Courts make up a large part of the administrative functions performed by the courts, although criminal matters from the bulk of the cases being dealt with that keep the courts fairly occupied. The following are notable figures to report for the year under review;

a) **No. of summons issued**

These summonses are civil in nature and does not include summons issued by local authorities, Home Affairs and other non-judicial agencies. Total civil summonses issued over the period amounted to **12 362**. Approximately **40%** of this figure was issued during the period July – September 2019.

b) **No. of Section 65 issued**

A section 65 application refers to an order of court for a debtor to pay the judgment creditor. The Clerk of the Civil court issued a total of 4087 orders. These are compounded across the entire country.

c) **No. of attachment orders**

Attachment orders are in some way a cause and effect of non-compliance of a debtor's obligation towards his/her creditor (s). The courts over the last year granted a total of 2881 orders for attachment, which according to the data, indicated that approximately one third of the orders were granted per quarter over the last year.

In addition to the highlighted administrative functions, the below graph further expands on the other services executed within the lower courts.

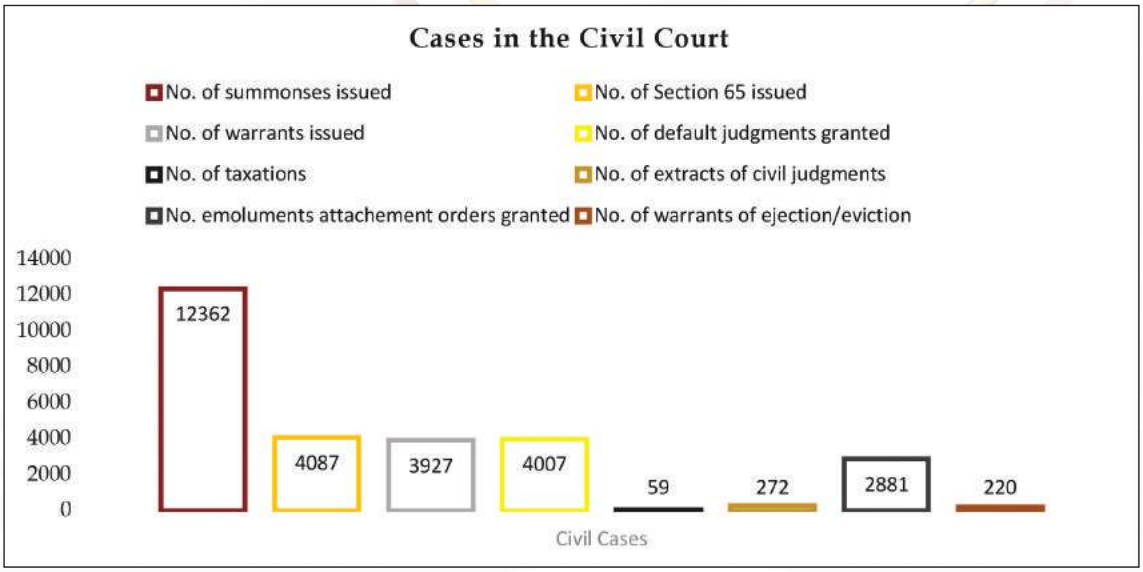


Figure 6.13: Civil Cases 2019/20

6.3.6 Deferred Fines

A deferred payment is a payment postponed until a future date. In deferred payments, the total balance of the principal and finance charges are put off until a future date. These are fines issued for various offences. The Magistrates Courts registered a total of **293** deferred fine cases for the period. During the same period, only four (4) applications were received to write-off such deferred fines.

As indicated below, the courts collected approximately N$2.6 million in deferred fines, while at the end of the financial year, just over 960-thousand deferred fines remained outstanding.

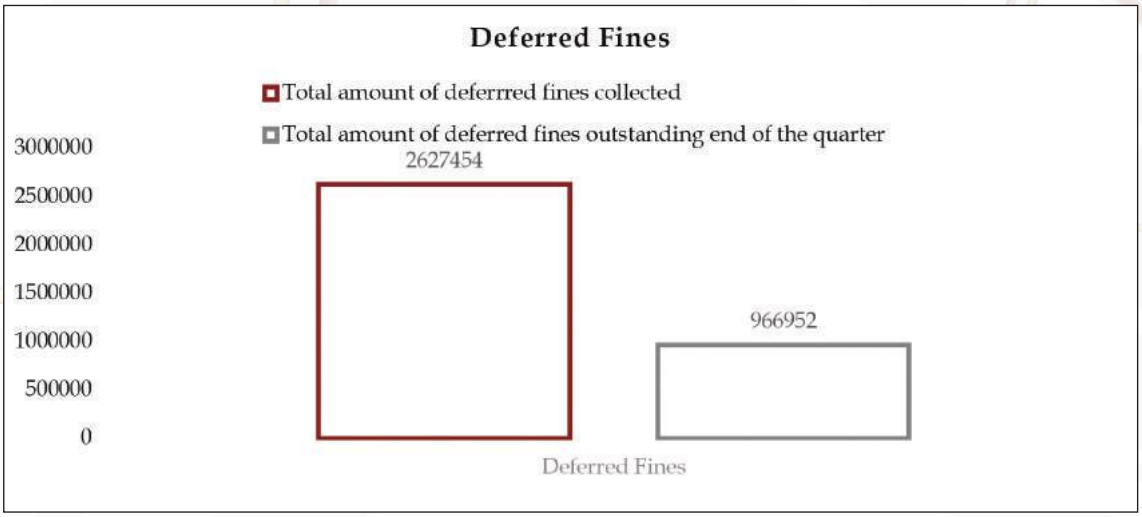


Figure 6.14: Deferred Fines

6.3.7 Maintenance and Children's Court

The Maintenance Act, 2003 (Act No. 9 of 2003), established the maintenance court and all functions, procedures and other administrative measures. Although the maintenance courts have been challenged with the absence of an online, automated and case management system, the Office has made significant progress when it introduced Electronic Funds Transfer (EFT) facilities to enable the efficient and effective payment of maintenance beneficiaries.

The total active maintenance cases currently stand at **58 364** across 33 maintenance courts. For the period 01 April 2019 – 31 March 2020, a total of **4476** new cases were registered. This is an increase of **607** cases compared to the 2018/19 financial year.

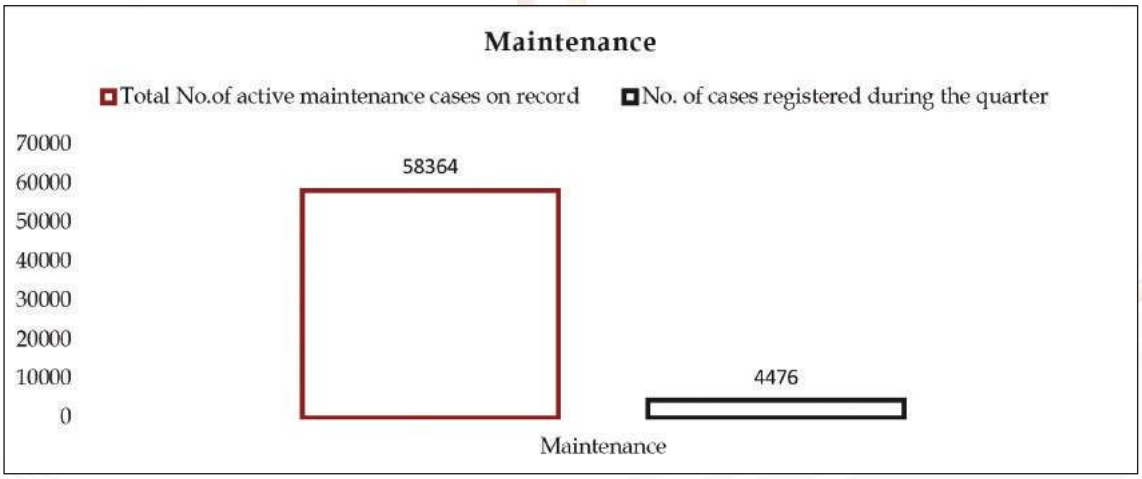


Figure 6.15: Active Maintenance Cases

The Children's Court's processes and proceedings are regulated by the Child Care and Protection Act, 2015 (Act No. 3 of 2015). This Act came into effect on 30 January 2019. Prior to the implementation of this Act the different types of Children's Court matters were dealt with in terms of either the Children's Act, Act 33 of 1960 or the Children's Status Act, Act 6 of 2006. In essence, these two (2) Acts were consolidated and updated in the Child Care and Protection Act, Act 3 of 2015.

A Children's Court is a special court, which deals with issues affecting the most vulnerable members of the society, which are the children. The children's court also takes care of children who are in need of care and protection and makes decisions about children who are abandoned, neglected or abused. Any person/ child may approach the clerk of the children's court when he/ she believes that a child may be in need of care and protection. The Children's Court can place a child in safe care or refer the child and/or the parent to services that they may require. Children's Court does not deal with criminal cases.

Cases within the children's court are often complex cases to deal with and therefore don't have a high finalization rate, seeing some cases carried forward from one year to the next. Generally, the court deals a lot with vulnerable children and orphans.

a) Adoptions - The past year saw **45** new adoption cases being registered and **23** being finalised. However, it still leaves 185 cases pending due to various issues that remain outstanding.

b) Guardianships – The Children's Court may also, upon assessment assign guardians to children under age, as an order of court. **501** new case applications were filed with **1889** pending and **251** finalised.

c) Foster Care – This legal process is one of the most backlogged in the Children's Court with **4468** pending applications for the year under review. With **182** newly registered cases, **124** were finalised.

d) Custody – The courts saw an alarming high number of custody cases for the past year relative to the number of guardianships and foster care. **337** applications were registered and **86** were finalised.

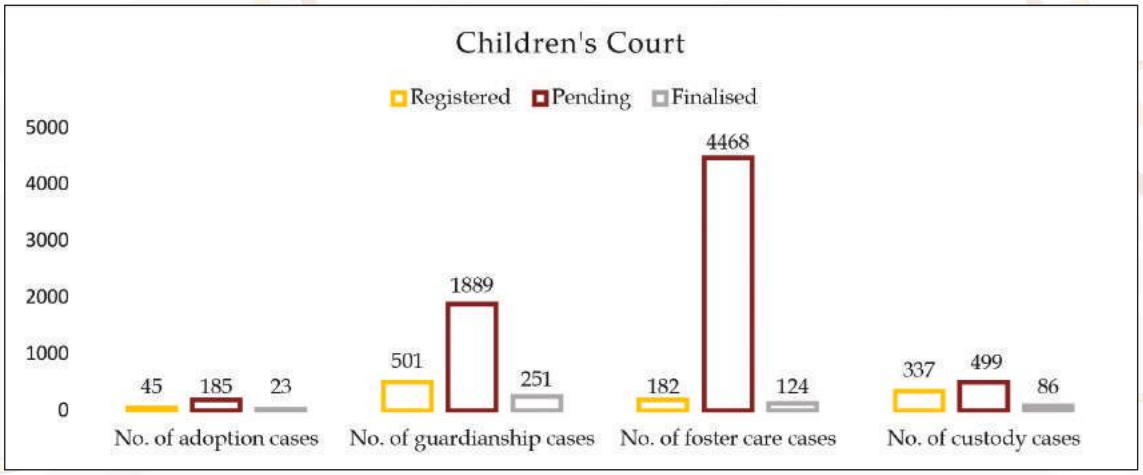


Figure 6.16: Children's Court Cases

6.4 AGENCY SERVICES PROVIDED BY LOWER COURTS

Due to the geographical positioning of all 34 courts and the existing services being provided, it continues to carry agency services on behalf of other offices, ministries and agencies. It is therefore prudent to report data on a yearly basis on these services as well. The services mentioned below do offer:

- Application and Renewal of Liquor Licenses
- Estates under N$100 000
- Receipt of PAYE, VAT and Income Tax
- Solemnising of marriages
- Issuing of birth and death certificates, and
- Receipt of land tax

A total of **5213** applications were received for both temporary and permanent liquor licenses for the 2019/20 financial year. From the 1448 temporary applications, **83%** of such applications were approved while **242** applications were rejected due to various reasons.

For the permanent applications, **51%** were approved while approximately 10% were rejected, leaving **1486** applications pending.

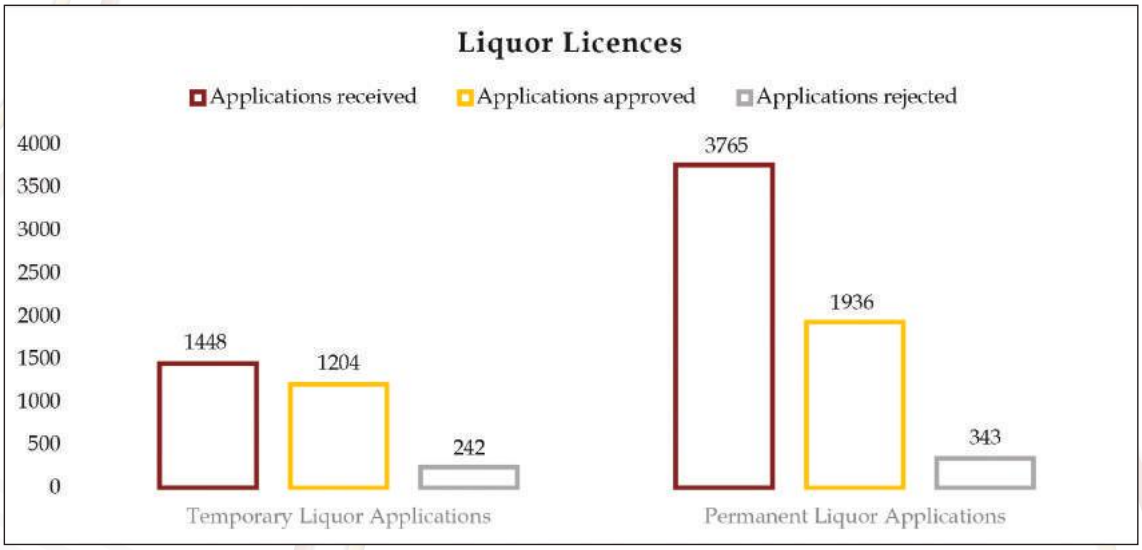


Figure 6.17: Liquor Licence Applications

In approving over **5 000** applications for liquor licences, the court collected approximately **N$8-million** in revenue as indicated below.

Figure 6.18: Liquor Licence Revenue

6.5 DOMESTIC VIOLENCE COURT

A Domestic Violence Court is established in terms of the Combating of Domestic Violence Act, 2003, to deal with matters of violence of a domestic nature and to grant interim and final protection orders to victims of violence. An interim protection order provides for temporary protection delivered by magistrates before hearings are held when "there is sufficient evidence that domestic violence has been committed by the respondent", while a final protection order can be granted after a trial with testimony and evidence, of a magistrate finds that abuse occurred, or by consent of both parties without a trial and without any findings of fact that abuse occurred. A court can order a variety of options for relief when issuing a protection order.

For the 2019/20 financial year, the courts recorded **2167** new applications received for protection orders. This is an increase of **205** more than the previous financial year. The courts granted a total of **829** orders, representing a **38%** grant rate. A total of **396** of the initial applications were withdrawn.

Figure 6.19: Applications for Protection Orders

6.6 TRAFFIC CASES

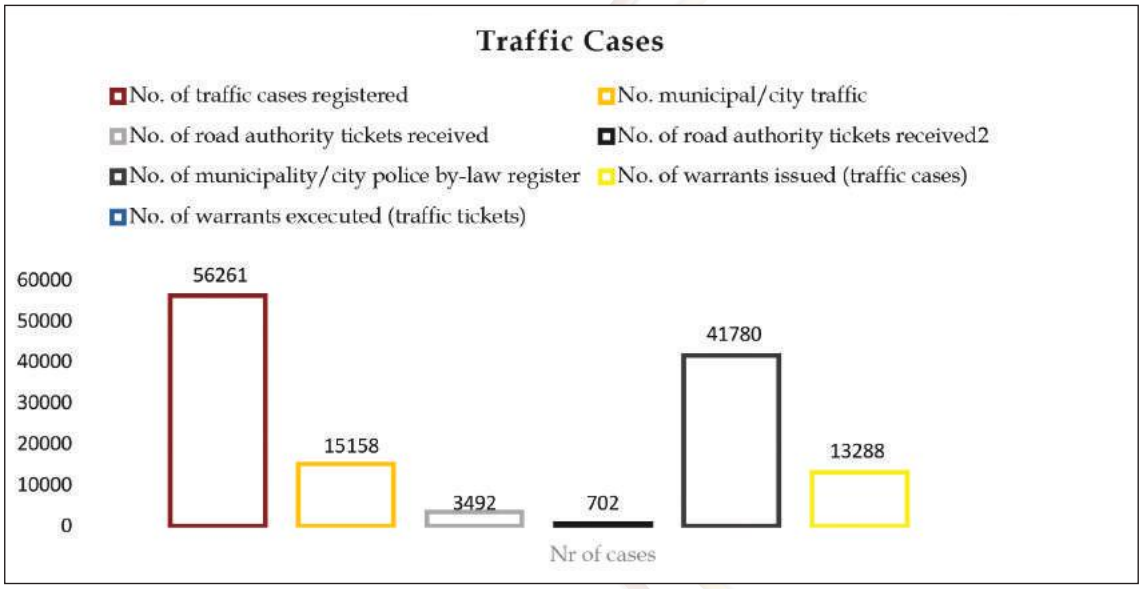


Figure 6.20: Traffic Offence Statistics

The above figure shows the number of traffic cases registered for the year under review amounting to **56 261**.

PART VII

Court addresses & contact details

The provision of equal access to justice and to the courts is a key and strategic concern for the Office of the Judiciary. Therefore, we have ensured that courts are well located geographically in order to ensure easy access by the public. Over the last year, the Office added to its existing infrastructure an additional 8 courtrooms across the country to further advance its strategy on access to justice.

Therefore, for any court related concerns, questions or enquiries, kindly find below a location map of courts across the country as well as the corresponding contact details.

7.1 SUPREME COURT OF NAMIBIA

Rev Michael Scott Street
Windhoek
+264 (0) 61 279 900

7.2 HIGH COURT OF NAMIBIA

High Court Main Division Windhoek
Corner of John Meinert Street and Judge J.P. Karuaihe Street, Windhoek
+264 (0) 61 435 3006

High Court Northern Local Division Oshakati
Sam Nujoma Road, Oshakati
+264 (0) 65 223 6500

7.3 MAGISTRATES COURTS, NAMIBIA

Aranos	Tel: 063-272 168 Fax: 063 272 157	Opuwo	Tel: 065 273 900 Fax: 065 273 908
Bethanie	Tel: 063-283 005 Fax: 063 283 023	Oranjemund	Tel: 063-232 360 Fax: 063 232 523
Eenhana	Tel: 065 263 057 Fax: 065 263 212	Oshakati	Tel: 065 220297 Fax: 065 221060
Gobabis	Tel: 062 562 351 Fax: 062 562 473	Otavi	Tel: 067 234 053 Fax: 067 234 202
Grootfontein	Tel: 067 242 066 Fax: 067 243 044	Otjinene	Tel: 062 567 530 Fax: 062 567 553
Karasburg	Tel: 063-270 0021 Fax: 063 270 178	Otjiwarongo	Tel: 067 302 029 Fax: 067 304 398
Karibib	Tel: 064 550 006 Fax: 064 550 328	Outapi	Tel: 065 251 024 Fax: 065 251 414
Katima Mulilo	Tel: 066 253 146 Fax: 066 253 471	Outjo	Tel: 067 313 709 Fax: 067 313 596
Keetmanshoop	Tel: 063 220 9500 Fax: 063 220 9548	Rehoboth	Tel: 062 523 007 Fax: 062 523 834
Khorixas	Tel: 067 335 200 Fax: 067 335 204	Rundu	Tel: 066 255 159 Fax: 066 255 543
Lüderitz	Tel: 063 202 313 Fax: 063 203 060	Swakopmund	Tel: 064 413 100 Fax: 064 463 879
Maltahöhe	Tel: 063 293 004 Fax: 063 293 098	Tsumeb	Tel: 067 244 700 Fax: 067 220 147
Mariental	Tel: 063 242 128 Fax: 063 242 120	Tsumkwe	Tel: 067 244 010 Fax: 067 244 065
Okahandja	Tel: 062 501 408 Fax: 062501 603	Usakos	Tel: 064 530 062 Fax: 064 530 507
Okakarara	Tel: 067 317 085 Fax: 067 317 002	Walvis Bay	Tel: 064 206 838 Fax: 064 206 838
Omaruru	Tel: 064 570 009 Fax: 064 570 566	Windhoek's Office Lüderitz Street	Tel: 061 292 1407 Fax: 061 238 492
Ondangwa	Tel: 065 240 306 Fax: 065 240 542	Windhoek's Office Mungunda Street	Tel: 061 320 1111 Fax: 061 320 1308

Notes