

REPUBLIC OF NAMIBIA

**BUDGET SPEECH BY THE HONOURABLE LIDWINA NDESHIMONA
SHAPWA, MP, DEPUTY MINISTER OF JUSTICE, NATIONAL
ASSEMBLY,**

VOTE 16,

MINISTRY OF JUSTICE

17 APRIL 2018

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

It is my privilege to present the Budget Statement for Vote 16 for the Ministry of Justice to this august House. In presenting this motivation, I am mindful of the need to fast-track the debate on the Appropriation Bill for immediate implementation. I am further aware of the fact that we are at the Committee stage of the Bill where details should be addressed.

For this reason, I summarized the most important statistics relating to Vote 16 on the bookmark before you, and I will make reference thereto during my presentation.

Let me extend my gratitude to the Honourable Minister of Finance and his colleagues as well as the Minister responsible for National Planning Commission for having produced volumes of information for consideration.

Hon Chairperson of the Whole House Committee,

The Ministry of Justice is a key part of the Harambee Prosperity Plan under the Good Governance and Accountability Pillar. You will recall that two legislations namely: the Whistler Blower's Protection Act 2017 and the Witness Protection Act 2017 which are important in the promotion of Good Governance were passed in this house last year. These important legal instruments will enhance good governance and transparency in our society once fully implemented. The implementation of these Acts will depend on adequate budgetary allocation. Regrettably, due to insufficient financial resources, the ministry is unable to implement these important legislation in the current financial year.

The budget that I am presenting to this august House also covers financial allocations to the Ombudsman and other statutory functions that are carried out by the Ministry of Justice on behalf of other Offices, like the capital projects of the Office of the Judiciary, which was created in terms of the Judiciary Act, 2015 (Act No. 11 of 2015). These responsibilities place additional demands on Vote 16 as their implementation require both human and financial resources.

It is therefore important to point out that Vote 16 is sub-divided into four Programmes in line with the Medium Term Expenditure Framework. (Image 1)

The Programmes under Vote 16 and the funds allocated to each of them are as follows:

Programme 01: Administration of Justice: This Programme has been allocated an amount of N\$67,431,000 (Sixty Seven Million, Four Hundred and Thirty One Thousand Namibia Dollars).

Under this Programme, there are two sub-programmes, namely:

1. Legal Representation of Indigent Persons, (i.e. Legal Aid) and
2. Management of Deceased Estates, Insolvencies, Trusts and Administration of the Guardian's Fund.

On sub-programme Legal Representation of Indigent Persons or Legal Aid. Legal Aid is a statutory service provided in terms of the Legal Aid Act, 1990 (Act No. 29 of 1990), as amended. The Act was passed in fulfillment of Article 95(h) of the Namibian Constitution, which impacts on the right to a fair trial as enshrined in Chapter 3 of the Namibian Constitution. The service is provided by the Directorate: Legal Aid, which considers applications by indigent persons and provides legal representation in defined instances. The objective hereof is to ensure a fair trial for all by providing legal advice and legal representation to eligible applicants.

The Directorate: Legal Aid is responsible for financing the cost of legal representation in over 80% of criminal trials in the High Court, Regional Court and Magistrate's Courts. During the 2017/2018 financial year, a total of 9487 (**nine thousand four hundred and eighty seven**) applications for legal aid were received. In terms of the Act, the Director provides legal aid by either instructing in-house Legal Aid Counsel, or instructing private legal practitioners who are remunerated on the basis of a tariff agreed with the legal profession and promulgated by the Minister of Justice in the Government Gazette. (Image 2)

Sub – Programme Management of Deceased Estates, Insolvencies, Trusts and Guardian's Fund is another statutory service provider. The Master of the High Court is required by statute to supervise the administration of deceased estates, liquidation of insolvent estates, registration of trusts, appointment and administration pertaining to tutors and curators, and the administration of the Guardian's Fund (in respect of minors and mentally challenged persons).

The Directorate of the Master of the High Court proceeded with the development of an Integrated Financial and Case Management System during 2016/17 to facilitate the speedy finalization of deceased estates, protect information and ensure daily reconciliation of Guardian's Fund accounts. The development of the system is completed and the Guardian's Fund module was launched during August 2017. However, due to an unforeseen delay with the scanning and capturing of the historical data, the Directorate will only be able to launch the Trust and Deceased Estates modules during April and June 2018. Staff members were trained on the Trust and part of the Deceased Estate modules. The system includes an e-filing system which allows the registration of Trusts and Deceased Estates via the internet. The turnaround time for applications will be reduced to one day. Guardians will be able to view at any time the accounts of the minors under their care and to apply for quarterly allowances online.

The Directorate will furthermore have a website which will enable members of the public to view information relating to deceased estates and trusts.

The Directorate intends to focus on the review of the Intestate Succession legal framework, the Administration of Estates Act, 1965, the Wills Act, 1953 (Act No. 7 of 1953), the Trust Monies Protection Act, 1934 (Act No. 34 of 1934), and the implementation of the Integrated Financial and Case Management System during 2018/2019 financial year.

Programme 02: - Legal Services: This Programme has been allocated an amount of NS43,373,000 (Forty-Three Million, Three Hundred and Seventy Three Thousand Namibia Dollars).

Under this Programme, there are three sub-programmes, namely:

1. Legal Services, including international cooperation, community courts, boards and committees and the Inter-Ministerial Committee on Human Rights and International Humanitarian Law;
2. Legislative Drafting; and
3. Law Reform and Development.

The objective of this Programme is to translate policies into legislation, recommend reform of the law, provide legal services and promote international cooperation in legal matters such as extradition, mutual legal assistance in criminal and civil matters and reciprocal enforcement of judgments in civil and maintenance cases.

The conclusion of bilateral agreements on cooperation in judicial matters with our neighboring States, such as Angola, Botswana, Zambia, Zimbabwe, other SADC States; as well as African and cross-regional States is a high priority. In this regard, the Directorate: Legal Services will prepare draft agreements and coordinate the exchange of drafts and information between States.

This Directorate is also responsible for the preparation of Cabinet submissions for approval to be obtained for conclusion of these agreements as well as submissions to Parliament for ratification thereof.

Community Courts: Community Courts are tools which could reduce the workload in the district Courts as an alternative measure to resolve disputes. We have engaged some of our Traditional Authorities and will continue with consultations so that we improve the access to and administration of justice at Community Courts level.

Sub-programme Legislative Drafting: The mandate of the Directorate Legislative Drafting is to translate Government policies into legislation; which includes drafting of Bills and subsidiary legislation such as proclamations; regulations; rules; and drafting of administrative notices in the form of government notices.

The Directorate has set itself strict standards for finalising bills, since its function directly impacts the constitutional mandate of Parliament (That of making and repealing laws). Performance standards for Bills are 1 day to 3 months for less complex Bills and 1 day to 6 months for complex Bills. In 2017/2018, the Directorate received 8 Bills and finalised 3 on time as per performance standards. The target is 59% and the actual is 34%.

Delays in the finalization of bills for consideration by Parliament have hampered the law-making process. Among others, some of the obstacles to finalization of Bills are: lack of proper consultations with clients; incomplete and unclear instructions; clients delay in submitting the required information on policy decisions; complexity of Bills as some Bills require extensive research. Some Bills are supervised by experienced drafters meaning that the Bill goes back and forth between supervisor and drafter.

In addition to these factors the Ministry has been experiencing a continuous shortage of experienced drafters who can draft Bills without supervision. It is important to mention that this challenge is receiving our undivided attention. (*Image 3*)

Sub-programme Law Reform and Development: The Law Reform and Development Commission (LRDC) is a statutory body with a full time Chairperson who is appointed at the level of a judge of the High Court of Namibia.

The main functions of the LRDC are to do in-depth research and analysis of all branches of the Namibian Laws and to make recommendations to the Namibian Government through the Minister of Justice.

The Commission is further tasked to conduct consultations with the members of the public and other relevant stakeholders. Such consultations are costly and often involve extensive travelling throughout the country. The LRDC has undertaken the following projects during the period 2017/18:

1. Laws that contain provisions that impede and or retard development in Namibia;
2. Namibia Legal Information Institute (NAMIBLII) website;
3. Road Safety and Management Bill;
4. Uniform Default Matrimonial Property Project;
5. National Equitable Economic Empowerment Frameworks (NEEEF);
6. Administrative Justice;
7. Red Cross.

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

Allow me now to proceed with **Programme 03: - Promotion of Good Governance** (Office of the Ombudsman). This Programme has been allocated an amount of NS19,408,000 (**Nineteen Million, Four Hundred and Eight Thousand Namibia Dollars**). The Ombudsman is a constitutional Office which exercises its powers and functions under Chapter 10 of the Namibian Constitution as well as the Ombudsman Act, 1990 (Act No. 7 of 1990).

The main activities in the Office of the Ombudsman are: The investigation of complaints relating to maladministration; human rights violations; misappropriation of public funds and the environment; including the over-utilization of the natural resources.

The Ombudsman also educates and sensitizes the public around the issues within its mandate. The importance of the Office of the Ombudsman cannot be over emphasized.

However, with the current budget allocation, the Office of the Ombudsman can hardly function optimally. During the 2017/18 financial year the Ombudsman received 3,976 complaints as new enquiries. Many of these complaints relate to Namibian children. The position of Children's Advocate in the Ombudsman's Office remain unfunded and therefore the work relating to Namibian children has stagnated. Another issue is the collection of child maintenance. (*Image 4*).

There are a total of 31 104 (thirty one thousand one hundred and four) active maintenance cases in Namibia. In places such as Windhoek half of the active cases are defaulted on and the maintenance is never paid. In places such as Katima Mulilo the collection rate is exceptional with only roughly 160 defaults on 5500 cases.

The Office of the Ombudsman requires funds to carry out investigations into the reasons for the defaults in different parts of Namibia and to ensure that such defaults are minimized.

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

Over and above the day to day activities, the staff of the Ombudsman, were planning to conduct the following activities although the budget allocation to the Ombudsman no longer allows it:

1. Complaint intake clinics by Windhoek head office as well as Keetmanshoop, Oshakati, Otjiwarongo and Swakopmund regional offices;
2. Continuation of the implementation of the National Human Rights Action Plan;
3. Investigation into solid and liquid waste management by town and village councils; and

4. Special investigation - comparative study of all education facilities in rural and urban areas as well as the long delays in the finalization of criminal cases against police officers.

Programme 04: - Supervision, Coordination and Support Services: This programme has been allocated an amount of N\$174,617,000 (**One Hundred and Seventy Four Million, Six Hundred and Seventy Thousand Namibia Dollars**). The objectives of this Programme are to ensure an enabling environment and high performance culture, to provide administrative, technical and technological support to ministerial programmes and to ensure proper financial management, gender mainstreaming, Capital Projects as well as an equitable distribution and effective utilization of resources. This programme also covers development projects for the Ministry of Justice as well as the Office of the Judiciary.

On Capital Projects, construction works for phase 1 were carried out for the new Magistrate's Court at Katima Mulilo in the Zambezi Region. The project is scheduled for completion in June 2018 and it will cost a total amount of NS 53 million. Alterations & Additions for Phase 1 were also carried out at the High Court in Windhoek in the Khomas Region during the period under discussion. This project which is estimated to cost a total amount of NS 35 million is expected to be completed in 2018/2019 financial year.

The completion of this project was jeopardized mainly by the tardiness of the contractor. The situation had to be rescued and the Ministry of Works and Transport was requested to terminate this contract in order for the process to engage a new contractor to complete the project. This resulted in the non-spending of a significant amount of funds, which were allocated for this purpose. However, once the new contractor is on site, the project will continue as soon as possible as the current situation at the High Court is uncondusive.

Other upgrading works executed entail construction of additional new offices at Omaruru Magistrate's Court in the Erongo Region and Kamanjab Periodical Court in the Kunene Region, respectively. The above mentioned upgrading activities have reduced a lack of office space and dilapidated conditions at these stations.

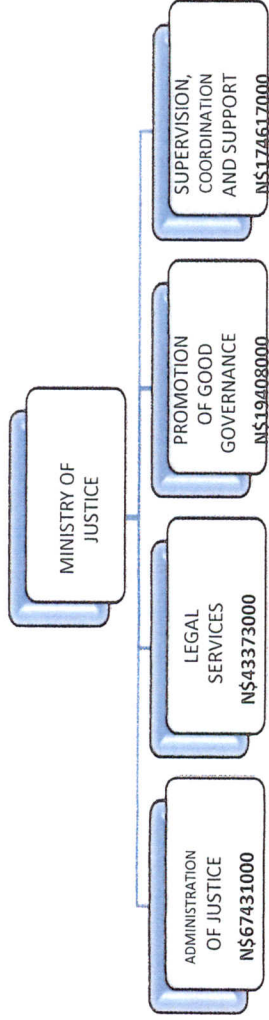
The Ministry has also acquired a building known as the Schönlein Building, situated at Schönlein Street, Windhoek-West, which is now the Headquarters of the newly created Office of the Judiciary. The Ministry has also concluded a Memorandum of Understanding with the City of Windhoek for the use of the former City Police building in Bismarck Street to be used as a Traffic Court by the Office of the Judiciary. This initiative is envisaged to reduce a backlog of traffic court cases in the Khomas Region. The building was renovated by the Ministry of Justice on instructions of the Office of the Judiciary.

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

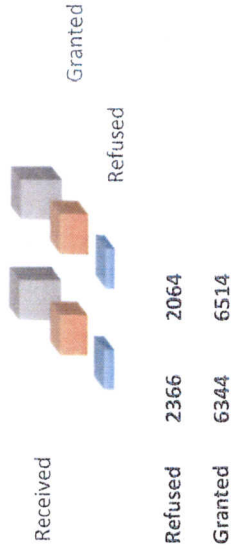
The Ministry of Justice is entrusted with numerous functions under a number of Acts of Parliament. We therefore require sufficient human and financial resources. However, we do understand the economic hardship we are facing currently as a country and will strive to do our best under the circumstances.

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

I now seek the indulgence of this august House to support and approve the allocation totaling N\$304,829,000 (**Three Hundred and Four Million, Eight Hundred and Twenty-Nine Thousand Namibia Dollars**) for Vote 16.



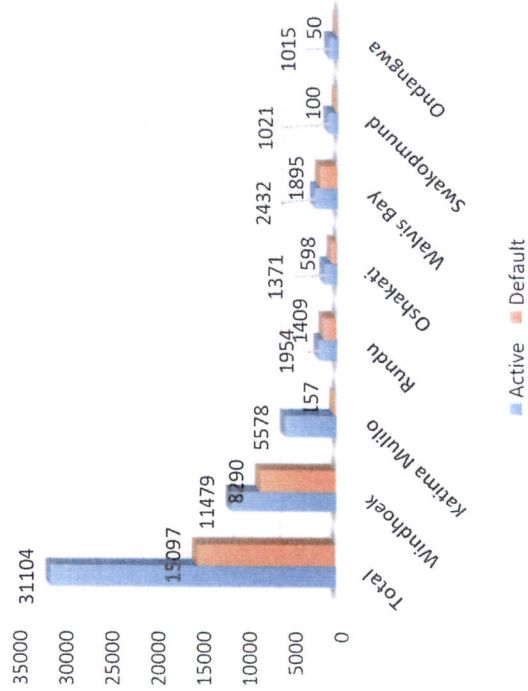
Legal Aid



Legislative Drafting 2017 /2018

TYPE	RECEIVED	FINALISED
1. BILLS	12	5
2. PROCLAMATIONS	21	21
3. GOVERNMENT NOTICES	233	207

Office of the Ombudsman: Report on Child Maintenance



Office of the Ombudsman: Report on Child Maintenance

