



**PARLIAMENTARY OFFICE
OF THE
HONOURABLE PATIENCE MASUA, MP**

Parliamentary Contribution
on the
MAGISTRATES' COURTS AMENDMENT BILL
in the National Assembly
17 October 2023

Honourable Speaker,

Honourable Members,

My speech will focus on three substantive themes, namely **the Housing Crisis, Enhancement of Access to Justice through the Strengthening of Lower Courts and support for Financiers.**

Mr Speaker,

The housing crisis is one of the most pressing issues facing our nation today. We see it in the staggering rates of home repossessions; we see it in the abuse of our people in the housing market, particularly in high rental prices and forced evictions; and we see it in substandard housing and overcrowding in peri-urban areas. We must put aside our political differences and work towards a common goal of creating a sustainable and prosperous future for all. The amendments to the **Magistrates' Courts Act** bring us to a crucial juncture in our nation's economic history, where it is imperative that we set aside our divergent political ideologies and come together as one cohesive unit.

1. repossession of Homes: A Measure of Last Resort

The housing crisis in Namibia is not merely a statistical trend, it is a stark reality that impacts the daily lives of our citizens. We have all witnessed the growing disparity between supply and demand for affordable housing, visible in the lack of accessible and affordable housing.

The Governor of the Central Bank of South Africa, Mr. Kganyaga, in May of this year, following a hike in the repo rate, described the consistent hikes as a "bitter medicine" necessary to tame inflation. He further added that "the medication might be bitter, but if the patient does not take the medication, they will end up in surgery and in intensive care." "Unfortunately, Mr. Speaker, the Namibian people are already in ICU. The human stories behind these statistics are the ones that matter the most. Families are struggling to find and keep a place they can call home, and the social and economic consequences are significant.

The fundamental issue that we must address in this amendment bill is the repossession of homes. It is our duty as legislators to make this process a measure of last resort in supporting this bill—a process that takes into account the human face behind the legal documents.

The proposed amendments to the Magistrates Courts Act recognise the deep and lasting impact of losing one's home. Our goal is to protect the sanctity of the home, to safeguard families, and to ensure that the right to housing is respected. This is why we have introduced Section 66A, which will restrict the sale of immovable property in the execution of a court judgement. The court must first be satisfied that all other reasonable alternatives have been explored and that repossession is truly a measure of last resort. This change is more than just a legal adjustment; it is a reflection of our commitment to compassionate governance. It ensures that no one loses their primary residence without thorough consideration of their circumstances. By making this process more stringent, we are sending a clear message: the well-being of our citizens and the sanctity of their homes are our paramount concerns.

2. Support for Financiers and Alternative Housing Solutions

A detailed counterexample to this approach can be seen in cases where individuals have used their homes as collateral for loans or debts. In such situations, if the debtor fails to repay the loan, restricting the sale of immovable property can prevent the creditor from recovering their rightful dues and undermine the principle of contractual obligations. Additionally, it may discourage lenders from providing loans if they perceive a higher risk of not being able to recover their funds through property repossession. that a judgement debtor has insufficient movable property to satisfy the debt.

We understand the concerns of the financial sector and the potential reluctance of banks to finance homes due to increased interference and red tape. While we stand firm in our commitment to delivering justice, we also recognise the importance of supporting financiers in order to stimulate economic growth. We should, therefore, implement streamlined processes and regulations that make it easier for banks to provide loans for alternative housing solutions and developments. This not only addresses the housing crisis in our nation but also creates opportunities for financiers to invest in profitable

ventures while contributing to the overall economic development of our country. We recognise the need for a stable and reliable housing market. We acknowledge the vital role of the private sector in this endeavour.

Our approach is to create a balanced environment where the financial sector can thrive while contributing to the well-being of our people. This calls for constructive dialogue with financiers to ensure that their interests align with the common good.

Additionally, we must explore alternative housing solutions to address our housing crisis. The government is committed to investigating innovative ideas to provide affordable housing options to those in need. This, too, is part of our commitment to safeguarding the rights and well-being of all our citizens.

3. Enhancement of Access to Justice

Access to justice is not a mere principle; it is the bedrock of any democratic society. Our commitment to enhancing access to justice has led us to propose a significant increase in the jurisdiction of the lower courts, from N\$25,000 to N\$1,000,000. This is not a minor change, Honourable Members; it's a bold step towards making justice truly accessible for all our citizens.

In practical terms, this change means that citizens will no longer be forced to travel long distances to access higher courts. It will significantly reduce the financial burden on litigants, ensuring that justice is not just a privilege for the well-off but a fundamental right for every Namibian. With 121 magisterial districts across the country, these courts are reasonably accessible to the majority. Our goal is to democratise our justice system, making justice accessible to all, regardless of their location or economic means.

4. Creation of Jobs and Strengthening of Legal Infrastructure

The expansion of the jurisdiction of magistrates' courts is not just about justice; it's also about economic empowerment. As we anticipate an increase in cases at these courts, we are committed to creating more job opportunities for our legal professionals. This means more magistrates, legal aid lawyers, and prosecutors. It means improved court infrastructure and support systems to expedite cases.

This change is not only about legal proceedings; it's about stimulating economic growth. By increasing the capacity of our legal system, we are not only delivering justice but also creating employment opportunities, boosting our legal sector, and contributing to the overall economic development of our nation. This is a win-win for both our citizens and our economy, and we encourage particularly young lawyers to seize the opportunity and take up these legal positions that will become open once we operationalise the new law, in support of the goal of accessible justice for all Namibians.

Conclusion: A Bold Step Towards Justice and Prosperity

In conclusion, the Magistrates Courts Amendment Bill represents a significant step in the right direction towards justice and prosperity for all. By addressing the issues of overcrowding and inadequate housing conditions, we are not only ensuring the safety and well-being of our citizens but also creating a more equitable society. The government's commitment to finding alternative housing solutions demonstrates our determination to tackle the housing crisis head-on and provide affordable options for those in need. Moreover, this bill aligns with our overarching goal of promoting the common good. It recognises that access to decent housing is a fundamental human right and a prerequisite for individuals to thrive and contribute positively to society. By investing in innovative ideas and exploring new approaches, we are actively working towards a future where everyone has access to safe, affordable, and sustainable housing. The bill addresses the housing crisis, enhances access to justice, creates jobs, and fosters collaboration with the private sector. This legislation is a testament to our commitment to our people, our economy, and our shared future.

Our shared goal is to build a nation where no one fears losing their home, where justice is truly accessible, where our legal professionals thrive, and where our economy flourishes. Let us unite in support of this bill and take bold steps towards a more just and prosperous Namibia.

Thank you!