



REPUBLIC OF NAMIBIA

KEYNOTE REMARKS

BY

HON. YVONNE DAUSAB, MP

MINISTER OF JUSTICE

**ON THE OCCASION OF THE REGIONAL WORKSHOP FOR
SOUTHERN AFRICAN STATES ON 'ENHANCING EQUAL ACCESS
TO LEGAL AID IN CRIMINAL JUSTICE SYSTEMS'**

IN WINDHOEK @AVANI HOTEL

TUESDAY, 24 SEPTEMBER 2024

Director of Ceremonies;

Your Lordship Justice Peter Shivute, Chief Justice of the Republic of Namibia;

Ms. Hopolang Phororo, UN Resident Coordinator;

**Ms. Jane Marie Ogola Ongolo, UNODC Regional Representative for Southern
Africa;**

Distinguished Guest from all over the world;

Colleagues;

Members of the Media;

Ladies and Gentlemen,

Good Morning to you all.

1. It is a great pleasure to welcome you all to Namibia, and specifically to this important regional workshop. It is a particular honour for me because in many ways I am legal aid and legal aid is me. I have been in this space, for a long time, first as a student, then as a human rights lawyer, a teacher and now the policy guardian here at the Ministry of Justice(MOJ). My relationship with legal aid related matters spans over 27 years. I say this not out of pomposity, but rather a realisation that legal aid is not about holding a position or being a legal aid lawyer. It is a way of life.
2. So a warm and heartfelt welcome to our friends and colleagues from across Southern Africa and the world at large, and we are honoured to host such an important gathering here in Windhoek.
3. Namibia has a long tradition of commitment to justice and equality, and this workshop serves as a critical opportunity to strengthen that tradition, especially as we reflect **deeply** on the pressing need to enhance equal access to legal aid across our criminal justice systems.
4. In Namibia we believe, legal aid work in whatever form is a call to action, it is a corporate social responsibility. It is a reflection of who we are as a society.
5. Democracy and the adoption of a Bill of Rights for Namibia not only brought about political change, but it also created expectations of a better life for all. **Already in the 1970s, I believe, while developing the blue print for Namibia's governance and nation building ecosystem, the provision of legal aid was part of that initial grand**

plan. It was something we thought about even before we gained our independence.

6. The Constitution guarantees equality before the law, access to a fair trial and the right to legal representation in criminal matters. The provision of legal assistance is one of the manifestations of the mandate of articles 12(fair trial rights) and 95 (state policies to improve the welfare of the people) of the Namibian Constitution. These rights and principles provide a foundation for constructing a system of legal aid designed to provide funding for those who cannot afford the cost of litigation. But more than that the provision of legal aid epitomises the heart and caring nature of a modern society. We are likely to be judged by how well and widely we provide for those that regrettably comes in conflict with the law, in addition to our socio-economic response to the elderly, people with disabilities and our people who are otherwise vulnerable.
7. Since access to justice is necessary for democratic participation of all citizens, re-enforced by the equality principle, it is the responsibility of the government to make participation possible by making access to justice a substantive right of access to both criminal and civil legal aid and this will require more resources(i.e human, infrastructure and adequate funding to cover for legal representation for indigent clients).
8. You will agree with me that an unrepresented accused faces a greater chance of conviction than a represented accused. Such an individual, unfamiliar with the rules of procedure and evidence and courtroom practices in general, may be frightened, inarticulate, and unable to adequately set up a credible defence to the allegations against him or her.
9. We also understand that access to justice requires a holistic and whole of government, private and civil society approach. It is for this reason that we are accelerating progress towards establishing a Small Claims Court(SCC). The SCC is

expected to be user friendly, not cumbersome and must be accessible to people of all walks of life. The project is at an advanced stage and we intend to make it happen as MOJ.

10. Access to justice encapsulates key social justice elements, such as the fair distribution of health, housing, welfare, education and legal resources in society, including where necessary, the distribution of such resources on an affirmative action basis to disadvantaged members of the community, and is concerned with the 'needs' rather than the 'wants' of society. Many of these rights are guaranteed in our Constitutions but emphasis on access to justice probably remains insufficient.
11. This workshop is taking place at a time when the MOJ, established a taskforce to review the legal aid legislation to make it more people centred. This is so because, we understand that law does not always equate justice. We must make deliberate efforts to ensure that our systems, processes and institutions, are conscientiously just, fair and reasonable, and that we should not hide behind the law not to help our people in need. Instead, we must reform the law, where appropriate, to respond to the needs of the people.
12. In Namibia, and several Southern African countries, marginalised and vulnerable individuals often face significant challenges in accessing legal assistance when seeking redress and safeguarding their rights in court just because of their financial positions. This systemic barrier hinders their ability to fully enjoy their basic human rights.
13. Therefore, law has been identified as a key tool to empower and mobilise demands on the government and to challenge government policies that don't speak to their needs as a people. Because of what use are rights contained in the law to persons, who by reason of poverty or exclusion do not know of the existence of such rights or the obligation that the government owes them. In the twenty first century, Legal

Aid, is generally referred to as the modern answer to the ancient problem of providing justice for the poor.

14. As a country, through the Ministry of Justice, the Directorate Legal Aid is an important service centre for us. It is the instrument that has been the avenue through which legal services are provided to those who cannot afford private legal practitioners to represent them in legal proceedings. Arguably, there is still a need for improvement, because the demand for legal aid continues to outpace our resources. Compared to 1,000 applications we used to receive in 1990 when our law was passed, today, legal aid applications are over 10,000 per annum. This reflects the evolving nature of our society and growing realisation that help is available.
15. From the highly developed and sophisticated legal aid system in the United Kingdom to the developing and slowly advancing system in Namibia the issues, largely remain the same, regardless of jurisdiction. In the end, the question must be, how can the legal aid system be poised to deliver effective access to justice and delivery of services required to meet the needs of all persons, and especially the disadvantaged and marginalised groups?
16. The United Nations adopted a General Resolution on Legal Aid, recommending that member states ensure the progressive development of comprehensive legal aid systems. The African Commission on Human and Peoples' Rights also recognises legal aid as a right, although it is enforceable mainly through guarantees of fair trial rights. This has established a normative framework for most African countries, ensuring basic minimum standards for legal aid provision.
17. Furthermore, access to justice as a human right has developed under customary international law and justice is now an essential part of human rights protection systems, which must be safeguarded even during crises or emergencies. This international trend points toward a growing recognition of the right to legal aid, despite its initially limited scope.

18. We are glad that this workshop is taking place, as it offers a timely and crucial platform for collaboration among Southern African states. The challenges of ensuring equal access to legal aid in our criminal justice systems are shared across the region, and addressing these challenges requires collective action. This workshop provides the opportunity for us to exchange ideas, **introduce new concepts and terminology to address the challenges and share best practices**, and learn from one another's experiences, **while taking into account the context of each**. There shouldn't be a one size fits all approach to the recommendations because challenges and opportunities are often unique.

19. Our expectations are high, as you can imagine, especially in this year of expectation and election, as declared by the late President Dr Hage G. Geingob, **may his soul continue to rest in peace**. With this in mind, we are eager to identify innovative solutions, reinforce regional cooperation, and develop concrete strategies to improve legal aid services. This workshop is not merely a forum for dialogue, but a starting point for tangible reforms that will bring us closer to achieving justice for all. We now have a shared responsibility to take the ideas, strategies, and solutions discussed here and turn them into action. The progress we make in enhancing legal aid systems will not only benefit our individual countries but will strengthen the integrity of justice across the Southern African region.

20. Let us leave this gathering with a firm resolve to break down the barriers to justice that persist in our societies. Let us remember that the ultimate goal is to uplift the most vulnerable among us—those who depend on the legal aid systems, we are committed to improving. **In the end, the provision of legal aid is noble as it is a passion. You cannot provide legal aid, if you don't believe in it.**

I thank you,

End.

