

Republic of Namibia

MINISTRY OF JUSTICE





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## LIST OF ABBREVIATIONS

MP Member of Parliament
MOJ Ministry of Justice

O/M/A Offices/Ministries/Agencies

AG Attorney General EU European Union

**AVATT** Africa Vaccine Acquisition Task Team

AFREXIM African Export-Import

**OKACOM** Okavango River Basin Water Commission

NPC National Planning Commission
SACU Southern African Customs Union

MERCOSUR Southern Common Market (Spanish translation)

**ECN** Electoral Commission of Namibia

NAMPOL Namibian Police

**NUST** Namibia University of Science and Technology

AU African Union
UN United Nations

MLA Mutual Legal Assistance

**LRDC** Law Reform and Development Commission

**NEEEF** National Equitable Economic Empowerment Framework

**NEEEB** National Equitable Economic Empowerment Bill

**PDP** Previously Disadvantaged Persons

**OPM** Office of the Prime Minister

#### **FOREWORD**

This annual report demonstrates the interrelationship between the Ministry of Justice and the other government ministries in the administration of government affairs for the Namibian people.

The Ministry as mandated with the responsibility to provide legal services and access to Justice works together with a host of stakeholders in the public and private sector.

The Ministry implemented its mandate in line with the national development priorities as outlined in the NDP 5 and HPP2 whereby the national goal is to improve justice administration efficiency through the review of judicial processes, infrastructure, capacity building, decentralisation and coordination with stakeholders. The Ministry is also cognizant of the effectiveness of its systems to ensure the promotion of good governance.



Hon. Yvonne Dausab
(MP)

The year under review was a challenging year due to the Covid-19 global pandemic. During this period a state of emergency was declared in the country and restrictions on movement of persons were introduced by H.E. Dr Hage G. Geingob. This state of emergency impacted on the efficient and effective service delivery of the Government as a whole.

To this effect, the Ministry in conjunction with the Attorney-General, was tasked to draft Public Health Covid-19 regulations in terms of the Public Environmental Health Act, 2015 (Act No. 1 of 2015) to provide for restrictions introduced in the country due to Covid-19. The Ministry will continue to draft the Public Health Covid-19 Regulations for the foreseeable future.

In maintaining line of sight and ensuring the effective implementation of our mandate, the Ministry focused on ensuring that our strategic objectives as encapsulated in the strategic plan have been met.

Our Strategic objectives during the period under review were therefore to improve timely delivery of quality legal services, enhance access to justice, ensure effective regulatory framework and compliance, promote independent and impartial resolution of complaints relating to public administration and to enhance organizational performance. To achieve these objectives, the Ministry worked tirelessly to operationalise the Witness Protection Act, 2017 (Act No. 11 of 2017) and the Whistle Blower Protection Act, 2017 (Act No. 10 of 2017).

The Ministry further drafted a number of statutes and bills, Acts of Parliament, such as the Basic Education Act, 2020; Income Tax Amendment Act, 2020; Communications Amendment Act 2020; Gaming and Entertainment Control Act, 2020; Post and Telecommunications Companies Establishment Amendment Act, 2020. With the increase in its strategic function the legislative agenda of the Ministry continues to grow.

The 2020/2021 annual report will further inform the reader of the Ministry's engagement with strategic partners nationally, regionally and globally during the reporting period.

In the end, our aim is to ensure in all our activities we must show, the role of law, is to be a tool that changes the lives of our citizens.

Yvonne Dausab (MP)

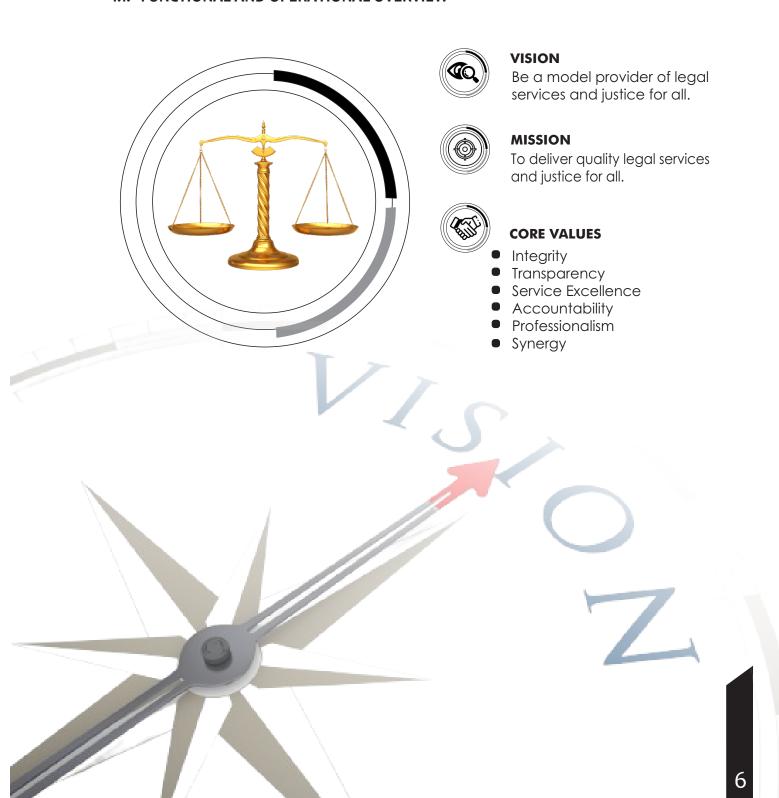
Minister

## **PART A: INTRODUCTION**

## 1. ABOUT THE MINISTRY OF JUSTICE

The Ministry of Justice was established in line with the Namibian Constitution and is headed by the Minister of Justice who is a member of Cabinet duly appointed by the President of the Republic of Namibia in terms of Article 35 of the Namibian Constitution.

#### 1.1. FUNCTIONAL AND OPERATIONAL OVERVIEW



## **1.2. OUR DIRECTORATES**

The mandate of the Ministry is carried out through its various directorates as indicated below:

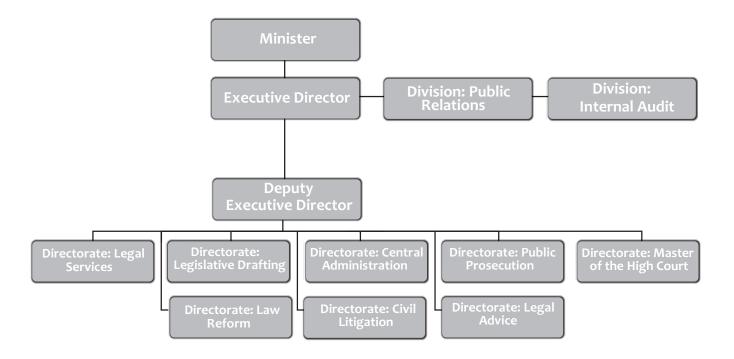
DIRECTORATE	FUNCTIONS
Central Administration	The directorate provides administrative support services to the Ministry of Justice, the Attorney-General, Prosecutor General, Ombudsman, and legal directorates associated with these constitutional appointees.  The Directorate's primary strategic objective is to establish and maintain an enabling environment and promote a high-performance culture.
Legal Aid	The mandate is to ensure access to justice by providing legal aid, that is, legal advice and legal representation to persons with insufficient income, at the expense of the State.
Legislative Drafting	Provides legislative drafting services and publication services in the followings Bills, Statutory Instruments, Publications in the Government Gazette and Advisory function, to Offices, Ministries, Agencies, Local Authority and Regional Councils, Public Owned Enterprises, other statutory bodies and the public.
Legal Services	Responsible for the administration and execution of legal processes on national, regional, and international level relating to mutual legal assistance in criminal and civil matters; extraditions; human rights and humanitarian law; reciprocal enforcement of maintenance matters, investigating and presenting of maintenance matters to the court; bilateral and multilateral legal matters; providing administrative support to the Board for Legal Education; Disciplinary Committee for Legal Practitioners and issuing of Apostilles in terms of the Hague Convention of 05 October 1961.
Law Reform	The Law Reform and Development Commission Act 29 of 1991 establishes the LRDC. The core function of the directorate is to render support to the LRDC by conducting research in connection with and to examine all branches of the Namibian Law to enable the LRDC to make recommendations for reform and development of the said law. The directorate also provides policy and research capacity for legislation administered by the Ministry of Justice

DIRECTORATE	FUNCTIONS					
Master of the High Court	This directorate is required by statute to supervise the					
	administration of deceased estates, liquidations and					
	insolvencies, registration of trusts and the administration of					
	the Guardian's Fund.					
Civil Litigation	This directorate is mandated to represent Government					
	O/M/As in civil cases and individual staff members of					
	Government O/M/As when they have acted in their					
	professional capacity.					
Legal Advice	This directorate provides capacity to the Attorney General on					
	legal matters to enable the Attorney General as principle					
	legal advisor to the President and Government to execute					
	his/ her Constitutional mandate.					

## 1.3. OUR STRUCTURE

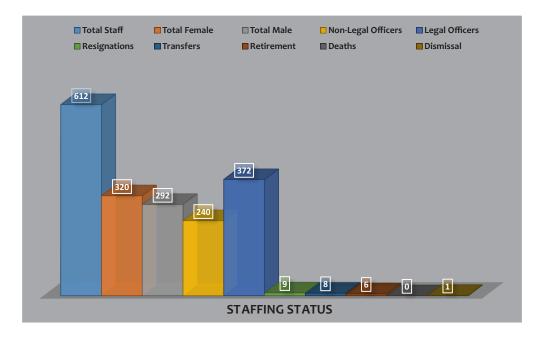
The Minister and Executive Management are tasked with ensuring good corporate governance which is vital to the Ministry's compliance with laws and legislative frameworks guiding the Ministry's operations.

The Executive management of the Ministry is coordinated by the Executive Director and the management team within the Ministry.



#### 1.4. WORKFORCE PROFILE

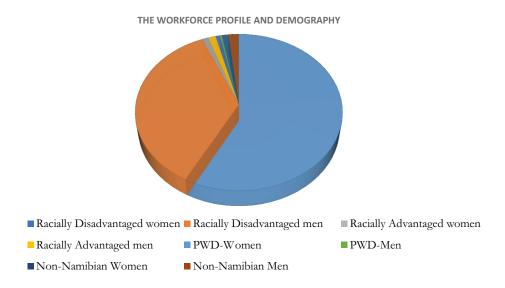
During the reporting year, the Ministry employed a total workforce of 612 employees which includes legal officers and non-legal officers. The table below reflects the staffing status for the Ministry during the reporting period.



#### 1.5. DIVERSITY MANAGEMENT

The Affirmative Action (Employment) Act, 1998 (No. 29 of 1998) was instituted to address workplace imbalances resulting from the discriminatory socio-economic conditions that previously existed in Namibia. As a designated employer, and guided by its Affirmative Action Policy, the Ministry is dedicated to transforming the current demographic workforce profile in accordance with the requirements and objectives of the Affirmative Action (Employment) Act, 1998 (No. 29 of 1998). The goal is to achieve an equitable representation of competent employees from designated groups at all occupational levels within the Corporation, to the extent practical.

The following chart illustrates the workforce profile and demography in the Ministry during the period under review:



#### 1.6. STAKEHOLDERS

The Ministry has various stakeholders national, regional and international level. The Ministry has classified its stakeholders that are pertinent to the functional operations of the ministry and have been instrumental in the success of the attainment of its strategic goals within the reporting period.

## 2. GOVERNANCE FRAMEWORK

#### 2.1. GOVERNANCE FRAMEWORK

During the period under review, the Ministry set an objective to ensure that relevant policies and compliance frameworks have been developed and operationalised.

The legislative framework that governs the Ministry of Justice in Namibia includes various laws, regulations, and statutes that outline the powers, functions, and responsibilities of the ministry. Some key legislative instruments that guide the operations of the Ministry of Justice in Namibia may include:

- 1. Namibian Constitution
- 2. Public Service Act, 1995 (Act No. 13 of 1995)
- 3. State Financial Act, 1991 (Act No. 31 of 1991)
- 4. Public Procurement Act, 2015 (Act No. 15 of 2015)
- 5. Labour Act, 2007 (Act No. 11 of 2007)
- 6. Legal Aid Act, 1990 (Act No. 29 of 1990)
- 7. The Affirmative (Action Employment) Act, 1998 (Act No. 29 of 1998)
- 8. Legal Practitioners Act, 1995 (Act No. 15 of 1995)
- 9. Law Reform and Development Commission Act, 1991 (Act No. 29 of 1991)
- 10. Trust Monies Protection Act, 1934 (Act No. 34 of 1934)
- 11. Government Attorney Proclamation of No. R. 161 of 1982
- 12. Criminal Procedure Act, 1977 (Act No. 51 of 1977)
- 13. Administration of Estates Act, 1965 (Act No. 66 of 1965)

The Ministry of Justice operates within a well-defined governance structure that is aligned with the principles enshrined in the Namibian Constitution. This structure facilitates effective leadership, accountability, and compliance with legal frameworks governing the Ministry's operations.

#### **Corporate Governance**

The Ministry places paramount importance on good corporate governance, recognizing its significance in ensuring transparency, accountability, and adherence to legal frameworks. The Minister and the Executive Management are collectively responsible for upholding these governance standards.

## **Compliance and Legal Frameworks**

The governance structure of the Ministry is underpinned by a commitment to compliance with laws and legislative frameworks that govern its operations. The Ministry operates in alignment with the provisions set forth in the Namibian Constitution and relevant legal statutes.

#### 2.2. LEADERSHIP AND DECISION-MAKING



Hon. Yvonne Dausab
(MP)

#### Minister of Justice

At the helm of the Ministry's leadership is Hon. Yvonne Dausab, Minister of Justice. The Minister holds a dual role as a member of both the legislative arm (National Assembly) and the executive arm (Cabinet) of the Namibian Government. The Minister is appointed by the President of the Republic of Namibia in accordance with Article 35 of the Namibian Constitution.

As the figurehead of the Ministry, the Minister provides policy direction, takes strategic decisions, undertakes high-level engagement and provides high level leadership.

#### **Executive Director**

Assisting the Minister in managing the day-to-day operations of the Ministry is the Executive Director. This key executive is responsible for coordinating and implementing the Ministry's strategic objectives, policies, and programs. The Executive Director ensures efficient resource allocation, oversees directorates, and collaborates with the Ministry's management team to ensure effective execution of tasks.



Mrs Gladice Pickering

## 2.3. INTERNAL AUDIT

Through its Division of Internal Audit, the Ministry carries out its function of assisting the management in accomplishing its objectives by evaluating the effectiveness of the Ministry's governance, risk management, and internal control and recommending improvement.

The Division perform internal audit services in accordance with the International Standards of the Professional Practice of Internal Auditing (ISPPIA) and in accordance with the government regulatory framework best practices as approved in the internal audit activity charter.

# 3. STRATEGY MANAGEMENT

To achieve the Ministry's long-term vision, the Ministry implemented its strategic framework as depicted below. The Ministry implemented five strategic objectives with 16 key performance indicators that determined the level of performance of the Ministry.

Strategic Pillar	Strategic Objective	KPI
Administration of	To enhance access to justice	<ul> <li>Access to justice for all by providing legal representation to those without or with inadequate income.</li> </ul>
Justice	To enhance access to justice	<ul> <li>Ensure orderly and speedy supervision and finalization of deceased estates, insolvencies and trusts and Guardian's Fund.</li> <li>Key functions decentralized</li> </ul>
Promotion of good governance	To ensure effective regulatory framework and compliance;	Implementation of effective governance framework within the Ministry of Justice.
Provision of Legal services	To improve timely delivery of quality legal services;	Legal services completed on time and key services streamlined.
Supervision and support services	To promote independent and impartial resolution of complaints relating to public administration; and To enhance organizational performance.	<ul> <li>Compliance with the Performance Management System.</li> <li>Decline in justified complaints.</li> <li>Increase in ministerial performance score</li> </ul>

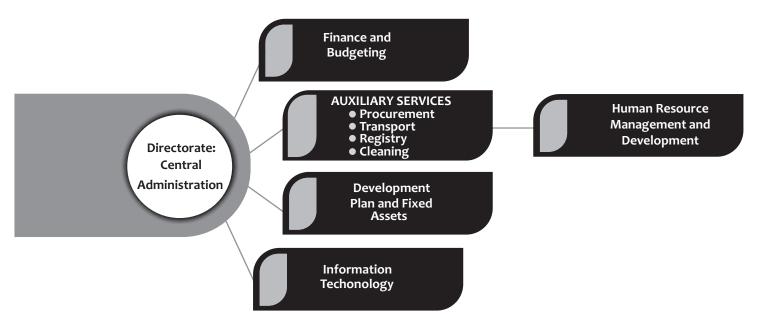
The Ministry's strategic plan is aligned with the Vision 2030 and is guided by the principles outlined in the National Development Plan 5, as well as the Harambee Prosperity Plan.



## PART B: CONSOLIDATED PERFORMANCE

## 1. DIRECTORATE: CENTRAL ADMINISTRATION

The directorate provides administrative support services to the Ministry of Justice, the Attorney-General, Prosecutor General, Ombudsman, and legal directorates associated with these constitutional appointees. The Directorate's primary strategic objective is to establish and maintain an enabling environment and promote a high-performance culture.



#### 1.1. OVERVIEW OF ACTIVITIES

In the fulfilment of its mandate the Directorate was seized with the following activities during the reporting year:

- Facilitate strategic planning and management interventions.
- Administer financial transactions.
- Facilitate budgeting and resource management.
- Manage and maintain fixed assets.
- Manage and administer human capital.

## 1.2. FINANCIAL OVERVIEW

In the financial year under review, the Ministry was allocated a total budget of four hundred seventy-eight million and seven hundred and forty-six thousand Namibian Dollars (N\$ 478,746,000).

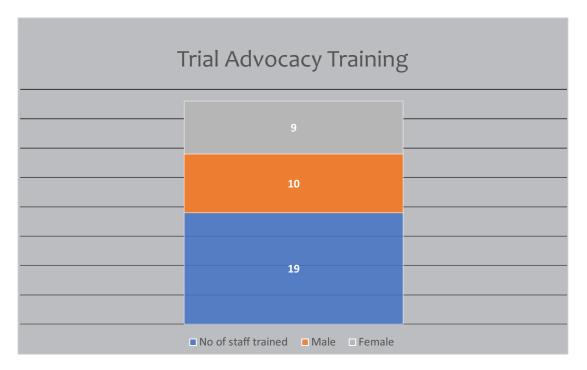
The table below provides a breakdown of the appropriation amounts and an overview per Directorates during the financial year under review:

				Variations	
Service		Authorized expenditure	Actual expenditure	Under- expenditure/ (Excess)	Percentage
	N\$	N\$	N\$	N\$	%
01. Office of the Minister:					
Original budget	3 699 000				
Less: Virement	(334 319)	3 364 681	3 329 549.84	35 131.16	1.04
<sup>02.</sup> Central Administration:					
Original budget	180 936 000				
Less: Virement	(10 141 451)				
Less: Suspension	(2 000 000)	168 794 549	162 224 003.97	6 570 545.03	3.89
03. Law Reform:					
Original budget	11 383 000				
Less: Virement	(1 771 200)	9 611 800	9 546 403.26	65 396.74	0.68
04. Legislative Drafting:					
Original budget	16 301 000				
Plus: Virement	490 500	16 791 500	16 583 584.59	207 915.41	1.24
05. Office of the Ombudsman:					
Original budget	18 259 000				
Plus: Virement	293 200	18 552 200	18 439 651.69	112 548.31	0.61

## 1.3. TRAINING AND DEVELOPMENT

The Ministry of Justice places a significant emphasis on human resources development, demonstrating a firm commitment to enhancing organizational performance and reputation through employee development. This commitment extends to both long-term and short-term development and training interventions, ensuring that employees possess the necessary skills to effectively fulfill their entrusted mandate.

Throughout the review period, a notable training intervention focused on enhancing trial and adjudication skills among court-going lawyers from both the Directorate Legal Aid and Government Attorney. The training was conducted by the well-regarded legal training institute in the Southern African Development Community (SADC) region, namely the Black Lawyers Association Training Center based in South Africa. This initiative underscores the Ministry's dedication to fostering continuous professional development and ensuring that its legal professionals are equipped with the requisite skills to excel in their roles.





## 2. DIRECTORATE: LEGAL AID

The mandate of the directorate is to ensure access to justice by providing legal aid, that is, legal advice and legal representation to persons with insufficient income, at the expense of the State.

## 2.1. OVERVIEW OF ACTIVITIES

The primary objective of our directorate is to ensure equitable access to justice by providing legal aid, encompassing legal advice and representation, to individuals with limited financial means, all funded by the State. In the past year, we implemented strategic measures to reduce the outsourcing of cases to private legal practitioners. This involved imposing a quota on outsourced cases, resulting in decreased legal costs and creating opportunities for senior legal aid counsels to actively engage in High Court proceedings, particularly in appeals and criminal trials.

One notable challenge faced was the revelation that a significant portion of our legal aid lawyers lacked familiarity with the e-justice system, e-filing procedures, and the case management system employed in the High Court. This knowledge gap impeded the efficiency of both our legal professionals and the court. Although plans were in place to conduct training sessions to address this issue, budget constraints unfortunately hindered the execution of these training programs.

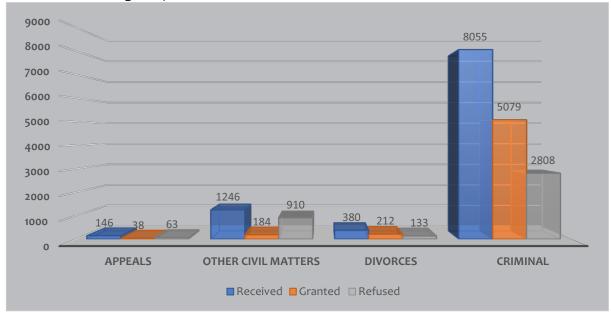
Recognizing the need for better financial oversight, we took a crucial step by revising the Legal Aid Regulations. This revision empowered the directorate to scrutinize invoices submitted by private legal practitioners, ensuring compliance with prescribed legal aid tariffs. Additionally, the revised regulations mandated the payment of contributions fees by legal aid applicants. However, it became apparent that a significant number of applicants in criminal cases faced challenges in meeting these contributions promptly, leading to delays in issuing instructions.

On a positive note, applicants in civil or divorce cases demonstrated a prompter ability to fulfil their financial obligations. Despite the challenges, our commitment to facilitating access to justice remains steadfast, and we continue to explore innovative solutions to address the identified issues and enhance the overall effectiveness of our legal aid services.



## 2.1.1. STATISTICS

The table below reflects provides an overview of the applications handled by the Directorate during the period under review.





## 3. DIRECTORATE LEGIS LATIVE DRAFTING

The Directorate is mandated to provides legislative drafting services and publication services in the followings Bills, Statutory Instruments, Publications in the Government Gazette and Advisory function, to Offices, Ministries, Agencies, Local Authority and Regional Councils, Public Owned Enterprises, other statutory bodies and the public.

## 3.1. OVERVIEW OF ACTIVITIES

The Directorate's focus during the reporting period was on the drafting of State of Emergency laws to address the challenges posed by the Covid-19 pandemic. Collaborating with other legal directorates within the ministry, the Directorate played a central role in formulating legislation aligned with various restriction measures and public health regulations announced during the pandemic.

Despite the heightened demand for State of Emergency laws, the Directorate juggled an extensive workload of three hundred and fifty (350) legislations received. Out of the nineteen bills received, the Directorate successfully completed nine, showcasing a commitment to efficiency and timely legislative response. A remarkable four thousand one hundred and forty-five (4145) publications were issued in the government Gazette, reflecting the Directorate's dedication to transparency and dissemination of legal information.

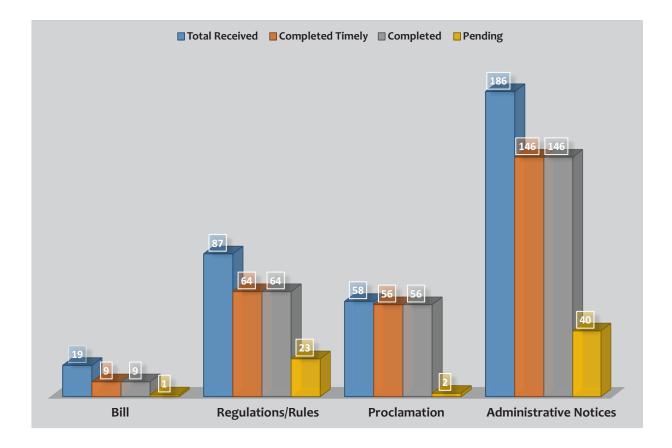
Efficiency improvements were evident within the Directorate, with legal drafters showcasing a commendable 84% overall efficiency rate in completing various legislations, including Rules/Regulations, Statutory Instruments, and Gazette instructions. The Directorate actively contributed to the enhancement of drafting processes by facilitating the engagement of a consultant to create a Drafting Manual Guideline. This guideline is envisioned to serve as a valuable resource for legal drafters, offering guidance and standardization in the execution of their duties.

However, the Directorate faced a significant challenge in the shortage of experienced legislative drafters. Legal drafting is a specialized skill that requires years of training and passion for mastery. With only 15 drafters in operation, 3 possessing 16-40 years of experience, 4 with 10 years, and the rest between 5-7 years, the Directorate struggled to address the shortage of seasoned professionals.

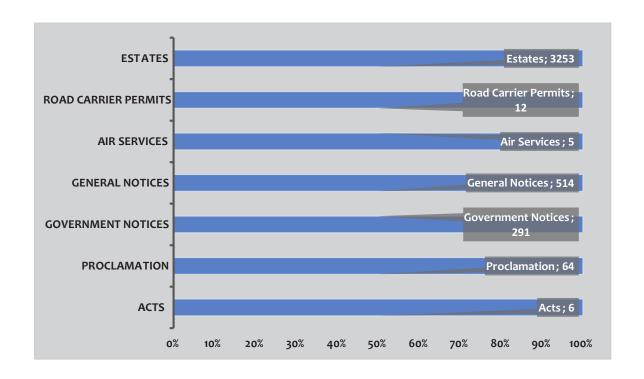
The declaration of the State of Emergency understandably redirected the Directorate's attention towards the drafting of corresponding laws, causing delays in finalizing other routine instructions. Despite these challenges, the Directorate remains committed to legislative excellence, aiming to navigate the complexities of legal drafting with resilience and dedication.

## 3.2. STATISTICS

The table below reflects an overview of the pieces of legislations handled by the Directorate during the period under review.



The table below reflects different publications which were published in the government Gazette during the period under review.



# 4. DIRECTORATE: LEGAL SERVICES

The Directorate oversees legal processes nationally, regionally, and internationally, covering areas such as mutual legal assistance, extraditions, human rights, humanitarian law, reciprocal enforcement of maintenance matters, and multilateral legal affairs. Additionally, it provides support to legal education boards, disciplinary committees, and issues Apostilles under the Hague Convention of 1961.

#### 4.1. OVERVIEW OF ACTIVITIES

During the review period, the Directorate actively participated in international cooperation, handling extradition and mutual legal assistance requests. It also took on responsibilities like drafting human rights reports, supporting Community Courts, and aiding key entities. The Directorate played a pivotal role in maintaining legal standards and facilitating the effective functioning of various legal entities.

#### **Notable Achievements:**

## 1. Maintenance Investigations and Court Documents:

- Conducted financial investigations in 381 maintenance cases.
- Issued 310 directives and served 2,527 court documents.

#### 2. Divisional Growth:

- Employed 10 Maintenance Investigating Officers and 5 Maintenance Officers.
- Geographic distribution: 3 Officers in Windhoek, 1 in Swakopmund, and 1 in Katima Mulilo.

## 3. Human Rights Reports:

 Drafted and submitted five human rights reports to relevant United Nations committees.

## 4. Community Courts:

- Facilitated the effective functioning of 42 Community Courts nationwide.
- Proposed a draft Bill to amend the Community Court Act for structural improvements.

## Challenges Faced by the Directorate:

## 1. Tracing Maintenance Suspects:

■ Difficulty in tracing suspects not employed in government or unemployed.

## 2. Shortcomings in Maintenance Matters:

- Some Magistrate Courts lack Maintenance Officers, causing delays.
- Overloaded Public Prosecutors affecting Maintenance Cases.

## 3. Community Courts Disputes:

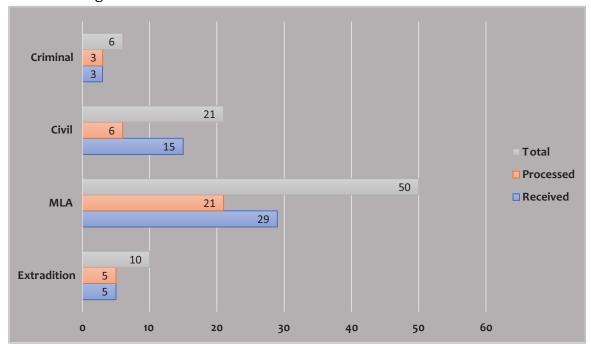
■ Disputes in Traditional Authorities affecting the functionality of some Community Courts.

## 4. Legalization or Authentication Law:

- Lack of a law for legalization/authentication of documents.
- Discussions needed for a comprehensive law; currently relies on the Apostille Convention.

## 4.2. EXTRADITION AND MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

The table below gives an overview of the requests received and processed for Extradition and Mutual Legal Assistance in Criminal and Civil Matters



## 4.3. HUMAN RIGHTS REPORTS

The following reports were drafted and coordinated by the Directorate.

- International Covenant on Civil and Political Rights.
- The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.
- Universal Periodic Review 3rd Cycle Report.
- Draft Report on the International Covenant on Economic, Social and Cultural Rights.
- African Charter on human and people's rights

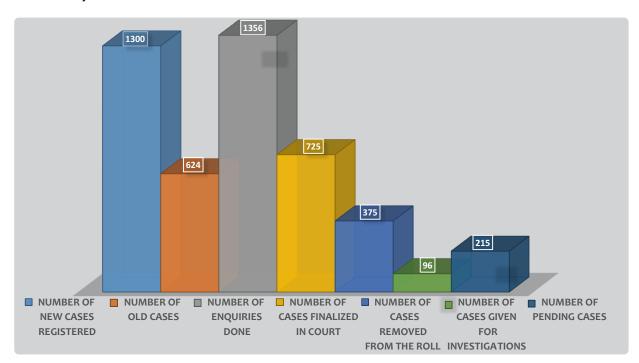
#### 4.4. MAINTENANCE OF MINOR CHILDREN & OTHER BENEFICIARIES

The Maintenance Division derives its mandate from the Maintenance Act, No. 9 of 2003, the Division handles maintenance complaints, maintenance court hearings and investigates maintenance inquiries.

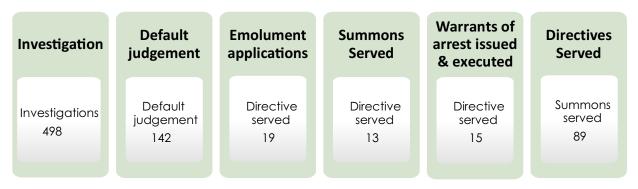
The table below reflect cases dealt with by the Maintenance Division during the period under review and is from nine (9) magistrate districts across the country where maintenance officers and investigators are assigned, namely:

- Keetmanshoop,
- Swakopmund,
- Walvis Bay,
- Windhoek,
- Rundu,
- Ondangwa,
- Katima Mulilo and
- Oshakati.

During the period under review, the following were the affairs of the maintenance matters handled by the Maintenance Division.



The Maintenance Division has offices at various Magistrates Courts in the country. The work of the Maintenance Division at the respective stations is reflected as follows in the diagram below.

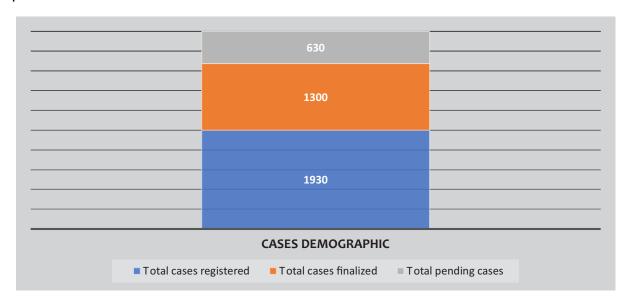


#### 4.5. COMMUNITY COURTS

The Community Courts are Namibia's first line of access to justice in the rural communities. Community Courts have become the immediate solution to the exorbitant legal costs involved in adjudicating matters in the formal judicial system.

During the reporting period, the country had 38 functioning Community Courts which are gazetted.

The table below reflects cases dealt with by the Community Court division during the period under review.

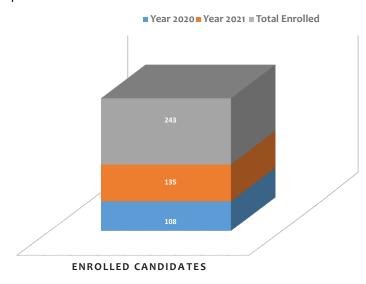


#### 4.6. BOARD FOR LEGAL EDUCATION

The board for Legal Education is established in terms of Section 8 of the Legal Practitioners Act, No. 15 of 1995. The administrative work pertaining to the functions of the Board is performed by officials of the Ministry of Justice appointed by the Executive Director for that purpose as a Secretary of the Board.

During the period under review, the Board for Legal Education held eight (8) ordinary meetings and two (2) extra-ordinary meetings. Moreover, the Board interviewed three (3) exemption applicants and welcomed two (3) newly appointed members.

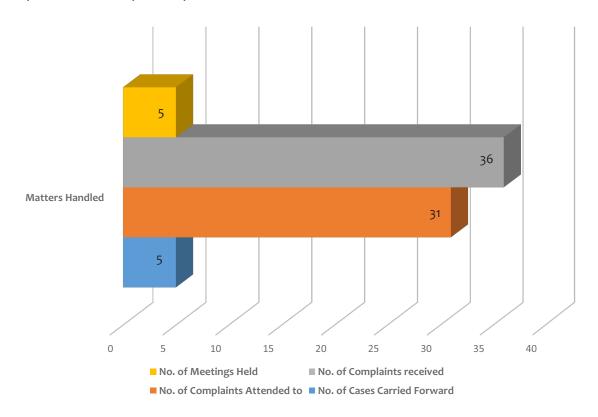
The table below reflects the number of candidate legal practitioners enrolled for the period 2020/2021



## 4.7. DISCIPLINARY COMMITTEE FOR LEGAL PRACTITIONERS

The Disciplinary Committee for Legal Practitioners is established in terms of the Legal Practitioners Act, No. 15 of 1995. The administrative work pertaining to the functions of the Committee is performed by officials of the Ministry of Justice, appointed by the Executive Director, for that purpose as, a Secretary of the Committee as per Section 34(10) of the Act. The Disciplinary Committee welcomed two (2) newly appointed committee members, who replaced two (2) out going members of the Committee.

During the period under review, the Disciplinary Committee carried out its functions as depicted in the table below, with most of the received cases, filed against legal practitioners in private practice.



The Law Reform and Development Commission Act 29 of 1991 establishes the LRDC. The core function of the directorate is to render support to the LRDC by conducting research in connection with and to examine all branches of the Namibian Law to enable the LRDC to make recommendations for reform and development of the said law. The directorate also provides policy and research capacity for legislation administered by the Ministry of Justice.

#### 5.1. OVERVIEW OF ACTIVITIES

## National Equitable Economic Empowerment Framework (NEEEF) Project:

- Aims to translate the NEEEF framework into law for broad-based empowerment.
- Draft Bill handed over to the Office of the Prime Minister in December 2020.
- Ongoing consultations and reviews for alignment with best practices and constitutionality.

## Review of the Insolvency Act, 1936 (Act No.24 of 1936):

- Holistic review to align with international insolvency practices.
- Final report submitted in August 2020, addressing policy issues.
- Ongoing work to finalize policy issues for submission to the Minister of Justice.

## **Review of Administrative Justice in Namibia Project:**

- Focus on enhancing administrative justice through legislation.
- Administrative Justice Bill finalized, Cabinet Memorandum and Final Report in review.
- Abolishment of Common Law Offences of Sodomy and Unnatural Sexual Offences:
- Project assesses the impact of criminalization of sodomy on human rights.
- Final report submitted for printing, awaiting submission to the Minister of Justice.

## **Mental Health Bill:**

- Addresses the rights and care of individuals with mental and intellectual disabilities.
- Project finalized, handed over to the Ministry of Health and Social Services.

## **Road Safety Management Bill:**

- Addresses road safety challenges with a comprehensive bill.
- Consultations held, awaiting further steps based on Namibian Police Force objections.

## Laws Impeding Access to Housing - Thematic Area: Urban Land and Housing:

- Investigates laws hindering housing development.
- Draft final report submitted to the line ministry.

## Repeal of Obsolete Laws: Phase Two:

- Initiative to identify and repeal obsolete laws.
- Phase 2 project finalized: final report with the printers for submission to the Minister of Justice.

#### 5.2. CHALLENGES

The Directorate encountered the following challenges in the execution of its work during the reporting period.

- Shortage of capacity (Legal Researchers) and insufficient skills pool resulting in slow paced completion of projects.
- Delays in tabling in Parliament of Bills finalised by the Commission.
- Insufficient budgetary allocation to the Law Reform and Development Commission leading to inability to fill critical vacancies.
- Inadequate pandemic support from relevant structures within the Government: Law Reform and Development Commission not considered to be a provider of an essential service, negatively affecting efficiency of the Commission in its work.
- Delays in printing of the Commission's approved reports.
- Poor visibility and limited role in efforts to fight Covid-19 Pandemic.

## 5.3. ACHIEVEMENTS

Despite facing challenges, the Directorate successfully accomplished the following milestones:

## **Published Reports:**

- Mental Health Report: Addressing rights and care for individuals with mental and intellectual disabilities.
- Report on Repeal of Obsolete Laws: Identifying and repealing outdated laws for relevance.

#### **Public Relations Initiatives:**

- Radio Sessions: Sharing information on Namibian legal landscape and reform initiatives.
- Covid-19 Regulations Communication: Informing the public about Covid-19 regulations in May 2020.
- Covid-19 Judgment Communication: Explaining and sharing information on a Covid-19-related judgment.
- Traditional Authorities Act Explanation: Providing insights into the Traditional Authorities Act.
- Television Session on Covid-19: Conducting a session with the Minister of Justice
- Published Articles: Contributed to public awareness through articles in the Namibian Newspaper and Namibian Economist.

## 6. DIRECTORATE: MASTER OF THE HIGH COURT

The Directorate: The mandate of the Master of the High Court is to supervise the administration of deceased estates, liquidations (insolvent estates) registration of trusts, appointments of and administrators pertaining to tutors and curators, and the administration of the Guardian Fund (in respect of minors and mentally challenged persons).

#### 6.1. OVERVIEW OF ACTIVITIES

During the reporting period, the Directorate handled essential functions, including:

## **Supervision of Deceased Estates:**

- Ensuring orderly winding up of a deceased person's financial affairs.
- Protecting the financial interests of rightful heirs and creditors.

## **Supervision of Liquidations and Insolvencies:**

- Protecting the rights of creditors and businesses.
- Administering various duties, such as appointing/removing trustees, issuing orders, and evaluating rehabilitation applications.

## **Registration of Inter Vivos Trusts:**

- Overseeing the registration of intervivos trusts.
- Ensuring compliance with Trust Deed provisions and Trust Monies Protection Act.

#### **Administration of Guardian Fund:**

■ Managing funds for various individuals, including minors and those incapable of managing their affairs.

#### 6.2. ACHIEVEMENTS

- Established a Customer Care Division to handle complaints and review processes for improved services.
- Created a WhatsApp group for regular engagement and information sharing with Estate Practitioners.
- Developed a new correspondence management system, including a training video for staff and practitioners.
- Conducted staff training on Zoom application for virtual meetings, ensuring operational continuity during the pandemic.
- Held Insolvency meetings via Zoom.
- Trained Estate and Trust Practitioners on the Master's online system.
- Initiated the "Tip of the Day" project to address information gaps and shared pamphlets with Estate Practitioners.

## 6.3. CHALLENGES

- Increased workload due to the COVID-19 pandemic, impacting overall productivity.
- Extended duration of Deceased Estates due to factors like lack of Wills, family disagreements, and delays by Estate Practitioners.

## 6.4. STATISTICS

The table below reflects the overall case report of all applications submitted on the Master of the High Court integrated financial and case management online system during the period under review.

		Total Nu	ımber of		
		Applications	Processed		
Case Type	Total No of Applications Received	No of Applications Approved	No of Applications Rejected	Total No of Applications in Process	Percentage of Applications Processed
Guardian Fund	5940	5538	378	24	99.60%
Deceased Estates	2767	2581	60	126	95.45%
Trust	828	722	66	12	95.17%
Total	9535	8841	504	162	98.01%

The table below reflect total number of Insolvencies and liquidations matters which were reported during the period under review.

TYPE	2020	2020/2021
Insolvencies	42	165
Insolvent deceased estate	0	0

The table below reflect the total number of Trusts registered during the financial year under review.

TYPE	2020	2020/2021
Trust	813	644

The table below reflect the activities of the Guardian Fund during the financial year under review.

DESCRIPTION	2020	2020/2021
Interest rate	6.5%	6.5%
Monies paid to beneficiaries	N\$174,565,802.18	N\$163,105,537.93
Value of the fund	N\$1,674,072,035.91	N\$1,858,792,115.97

The Guardian's Fund is a statutory fund managing the funds of mainly minor beneficiaries that provides for their education, medical and daily needs. The investment strategy of the Fund is capital preservation, stable income for beneficiaries and is in line with the Guardian's Fund liquidity needs and its liability profile.

The bulk of the funds are invested through the Sanlam Namibia administrative platform in various underlying funds. This portfolio aims to grow capital at moderate levels of risk and with an investment horizon of 3 to 5 years. In addition to the growth of capital over rolling 12-month periods, the fund also aims to outperform the benchmark over rolling 24-month periods. To achieve these objectives, a diversified portfolio of local and offshore based collective investment schemes has been constructed.



During the period under review, the Guardian's Fund held the following investments, with the average return on the investment portfolio at 20.64%.

Description	Opening balance 1/4/2020	Closing balance 31/03/2021	Interest Amount	Interest %
Sanlam Cautious 1				
1536663	43,713,085.39	53,850,306.02	10,137,220.63	23.19%
1833250	41,518,724.16	51,146,187.73	9,627,463.57	23.19%
1542380	31,900,132.88	39,296,999.14	7,396,866.26	23.19%
1500255	29,210,787.92	35,984,474.35	6,773,686.43	23.19%
1807064	28,793,018.47	35,470,225.89	6,677,207.42	23.19%
1558972	28,787,987.34	35,463,473.44	6,675,486.10	23.19%
1777580	21,220,860.22	26,142,070.34	4,921,210.12	23.19%
1750397	18,929,754.08	23,319,340.96	4,389,586.88	23.19%
2259752	18,318,367.57	22,884,635.00	4,566,267.43	24.93%
1698646	13,721,401.50	16,903,816.09	3,182,414.59	23.19%
1767706	13,331,171.61	16,422,563.78	3,091,392.17	23.19%
2025690	12,076,121.93	14,876,922.19	2,800,800.26	23.19%
2220283	11,329,890.84	13,958,398.54	2,628,507.70	23.20%
1946425	10,037,781.80	12,366,050.12	2,328,268.32	23.20%
Sanlam Cautious 2				
1841931	56,906,990.41	69,995,074.00	13,088,083.59	23.00%
1400779	35,689,566.73	43,895,244.00	8,205,677.27	22.99%
1412782	33,650,652.19	41,387,311.00	7,736,658.81	22.99%
1285915	32,457,804.38	39,920,043.00	7,462,238.62	22.99%
1345339	31,599,383.28	38,865,071.00	7,265,687.72	22.99%
1361898	31,517,622.77	38,763,814.00	7,246,191.23	22.99%
2166023	24,418,121.65	30,032,579.00	5,614,457.35	22.99%
1424431	21,119,328.39	25,977,339.00	4,858,010.61	23.00%
1881655	18,416,336.00	22,651,209.00	4,234,873.00	23.00%
1391010	15,620,813.75	19,213,184.00	3,592,370.25	23.00%
1910975	12,693,022.78	15,611,415.00	2,918,392.22	22.99%
2055333	11,981,397.07	14,737,188.00	2,755,790.93	23.00%

2010809	9,785,907.72	12,035,994.00	2,250,086.28	22.99%
Sanlam Aggressive 1				
1227826	56,009,360.57	73,125,408.67	17,116,048.10	30.56%
1247345	43,951,739.99	57,382,846.15	13,431,106.16	30.56%
1216886	42,251,479.00	55,163,327.68	12,911,848.68	30.56%
1187657	21,098,065.38	27,545,846.45	6,447,781.07	30.56%
988659	19,909,192.16	26,416,389.00	6,507,196.84	32.68%
1199520	17,391,454.57	22,707,266.43	5,315,811.86	30.57%
1227461	17,013,527.25	22,214,452.37	5,200,925.12	30.57%
Sanlam Aggressive 2				
2789006	64,241,709.49	83,885,062.09	19,643,352.60	30.58%
1444132	24,864,925.59	32,461,884.66	7,596,959.07	30.55%
1484336	18,354,382.20	23,962,359.71	5,607,977.51	30.55%
1518638	18,132,542.02	23,673,158.14	5,540,616.12	30.56%
1616135	17,816,422.86	23,261,027.35	5,444,604.49	30.56%
1644780	14,439,373.71	18,852,109.57	4,412,735.86	30.56%
Sanlam Aggressive 3				
1341734	67,047,951.14	87,273,147.00	20,225,195.86	30.17%
1271238	64,033,165.58	83,326,281.00	19,293,115.42	30.13%
1330992	56,216,946.02	73,151,728.00	16,934,781.98	30.12%
1256379	45,383,944.58	59,059,977.00	13,676,032.42	30.13%
1298611	36,680,206.90	47,733,395.00	11,053,188.10	30.13%
1322262	29,752,120.57	38,721,341.00	8,969,220.43	30.15%
Simonis Storm Portfolio				
Call	1,518,713.04	120,237.37		
		2,951,673.43		6.96%
Bank of Namibia	1,000,000.00	1,000,000.00	85,000.00	8.50%
Bank of Namibia	20,000,000.00	20,000,000.00	2,100,000.00	10.50%
Bank of Namibia	4,700,000.00	4,700,000.00	493,500.00	10.50%

NEB Portfolio				
Call Account	168,015.08	168,015.08		
Bond GC21	20,000,000.00	20,000,000.00	1,572,000.00	7.86%
Bond GC21	3,010,000.00	3,010,000.00	221,235.00	7.35%
Bond GC21	940,000.00	940,000.00	63,826.00	6.79%
Bond GC 23	940,000.00	940,000.00	83,190.00	8.85%
Bond GC 23	10,000,000.00	10,000,000.00	885,000.00	8.85%
Bond GC 23	2,000,000.00	2,000,000.00	177,000.00	8.85%
Bond GC 24	10,000,000.00	10,000,000.00	1,050,000.00	10.50%
365 Days FX	9,200,000.00	9,200,000.00	805,000.00	8.75%
Fixed 364 Days	1,995,000.00	1,995,000.00	166,183.50	8.33%
FW Debentures	2,000,000.00	2,000,000.00		
FW Debentures	4,500,000.00	4,500,000.00		
FW Debentures	2,000,000.00	2,000,000.00		
FW Debentures	1,000,000.00	1,000,000.00		
FW Debentures	1,000,000.00	1,000,000.00		
FW Debentures	14,500,000.00	14,500,000.00		
FW Debentures	10,000,000.00	10,000,000.00		
FL Rate BWHK NCD	1,900,000.00	1,900,000.00	152,760.00	8.04%
FL Rate BWHK NCD	3,300,000.00	3,300,000.00	277,530.00	8.41%
Platinum Financial Services	32,087,300.69	34,827,921.59	2,740,620.90	8.54%
Bank Windhoek	37,190,607.94	37,190,607.94	1,982,259.40	5.33%
First National Bank	7,049,075.30	7,049,075.30	260,110.88	3.69%
Standard Bank	7,112,395.01	7,112,395.01	262,447.38	3.69%
Bank Windhoek Cheque Acc	60,539,096.59	200,000,000.00	13,000,000.00	6.50%
	1,602,984,746.06	2,104,492,861.58	384,131,056.51	20.64%

This directorate is mandated to represent Government O/M/As in civil cases and individual staff members of Government O/M/As when they have acted in their professional capacity.

## 7.1. OVERVIEW OF ACTIVITIES

The Directorate undertakes activities akin to legal practitioners, notaries, or conveyancers in adherence to legal norms. It operates as the legal arm for the government, representing both the government and related entities. The Government Attorney, within this framework, delivers legal services to individuals in government service. Furthermore, the Directorate assumes responsibility for representing the government in litigation across various courts, including Magistrates', Labor Court, High Court, and Supreme Court.

#### **Performance Overview**

During the reporting period, the Directorate managed over a thousand matters. The handling of these matters involved specific actions, with a notable number of pending files. The backlog is primarily attributed to either outstanding information or the continuity of many files. The impact of the Covid-19 pandemic restrictions has further contributed to the delays in addressing these legal matters.

New Cases Received	Finalized Cases	Pending
1127	206	921

#### 7.2. ACHIEVEMENT

Despite the challenges posed by the Covid-19 pandemic and associated restrictions, the Directorate successfully attended to and finalized several matters during the reporting period.

#### 7.3. CHALLENGES

## **Limited Geographic Presence:**

The office of the Government Attorney is currently situated only in Windhoek, necessitating the need for an expanded staff complement. Decentralization is proposed to reduce costs related to external legal practitioners and travel expenses.

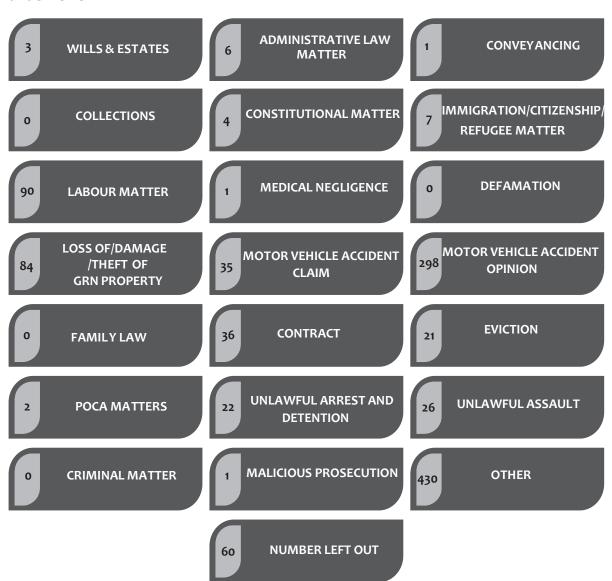
## **Insufficient Training for Legal Officers:**

There is a recognized need for comprehensive training programs for legal officers. Newly appointed officers should undergo training in trial advocacy, and experienced lawyers need training in the latest trends in litigation, particularly through advanced trial advocacy courses.

#### 7.4. NOTABLE MATTERS HANDLED

- Dimbulukweni Nauyoma vs. Government of The Republic of Namibia and The Attorney General of Namibia: Application filed in the High Court seeking the declaration of the Squatters Proclamation AG, 21 of 1985 as unconstitutional.
- Ovambanderu Traditional Council and Aletta Korikondua Nguvauva vs. Minister of Urban and Rural Development and 5 Others: Declaration of section 5(3) of the Traditional Authorities Act 25 of 2000 as unconstitutional, to the extent it conflicts with Articles 19 and 21(1)(e) of the Namibian Constitution.
- Ovambanderu Traditional Authority and Another vs. Minister of Urban and Rural Development: Relief sought in nullifying the designation of the third respondent as chief of the Hoveka Royal House on 23 November 2018, under the Traditional Authorities Act.
- The Prosecutor General vs. Richard Gustavo and Others: Application for restraint orders against the respondents and their realizable properties under section 25 of the Prevention of Organized Crime Act (POCA).

The table below reflects the types of collections made by the Directorate during the period under review.



# 8. DIRECTORATE: LEGAL ADVICE

This directorate provides capacity to the Attorney General on legal matters to enable the Attorney General as principle legal advisor to the President and Government to execute his/her Constitutional mandate.

#### 8.1. OVERVIEW OF ACTIVITIES

During the review period, the Directorate's scope of work encompassed:

## **Legal Advice and Opinions:**

- Providing legal advice and opinions.
- Conducting consultations with clients.
- Drafting agreements.

## **Legislative Scrutiny:**

■ Scrutinizing Bills and Proclamations before tabling in Parliament.

## **Representation and Negotiation:**

■ Representing and negotiating on behalf of the Government at national and international forums.

## **Commission Representation:**

- Representing the President and Government on commissions of inquiry.
- Serving as presiding officers, investigators, and initiators in disciplinary hearings for Offices/ Ministries/ Agencies (O/M/As).

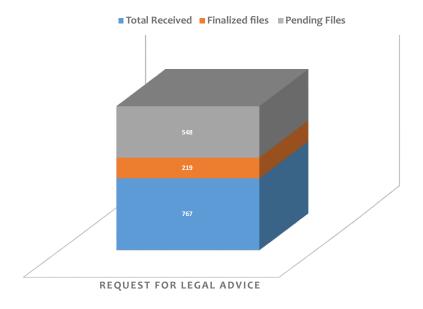
#### 8.2. POLICY ISSUE HIGHLIGHTS

Additionally, the Directorate played a crucial role in:

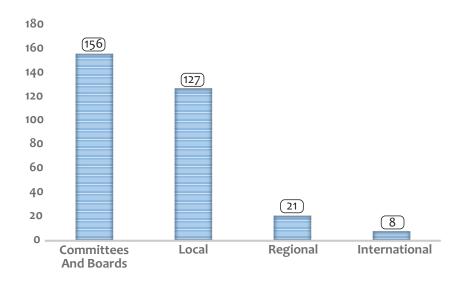
- Policy Advice: Advising O/M/As on legal and constitutional aspects of policy issues upon request.
- Capacity Building: Training, coaching, and mentoring staff to enhance capacity.
- Covid-19 Regulations: Direct involvement in drafting and scrutinizing all Covid-19 Regulations made under the State of Emergency.

#### 8.3. STATISTICS

The table overleaf reflects numbers of requests for legal advice received during the period under review, and their status. The pending matters includes Opinions, Agreements and Bills. The large number of pending files are due to either outstanding information or the fact that many are continuous files (matters).



The legal advisors serve on various Committees and Boards, at National, Regional, and International as follows:



## 8.4. ACHIEVEMENTS

The following were the highlight achievement of the Directorate during the period under review, the Directorate could however not as many agreements due to the Covid-19 pandemic.

International level	National level	
Separate Agreement to the Financing	Request for Scrutiny on the Namibia Covid-	
Agreement between the National Planning	19 Vaccine: Deed of Adherence to APA.	
Commission (NPC) and KFW for Phase iv of		
the Program for Communal Land		
Development (PCLD).		
Approval of MOU between the City of	Request for Scrutiny on the Namibia Covid-	
Biella and Keetmanshoop Municipality	19 Vaccine Procurement Participation	
	Agreement.	

International level	National level
MOU on the Establishment of a Joint	
Commission of Cooperation between	
Namibia – India.	
Advice on the Draft Tripartite MOU	
between the Ministyr of Agriculture, Water	
and Land Reform; Minstry of Environment,	
Forstry and Tourism and the Agence	
Francaise de Developpement on	
Implementation of a Technical and Science	
Support Programme.	
Request to Scrutinize the Letter of	
Commitment from the Ministry of Health	
and Social Services of the Republic of	
Namibia to China National Biotec Group	
Company LTD, China Sinopharm	
International Corporation, Beijing Institute	
of Biological Products Co, and Sinopharm	
International Hong Kong.	

#### 8.5. CHALLENGES

## Covid-19 Impact:

- Significant human resources and time devoted to Covid-19 related matters.
- Drafting and scrutinizing Covid-19 Regulations and legal opinions led to a backlog.
- Limited capacity to address non-Covid-19 legal advice requests.

## **Workload and Urgency:**

- Influx of complex and urgent files during the review period.
- Limited time available to attend to existing backlog files.

## **Demand for Legal Officers:**

- High demand for legal officers to serve on committees and boards.
- Inadequate number of legal officers to meet the demand effectively.

## **Virtual Meeting Challenges:**

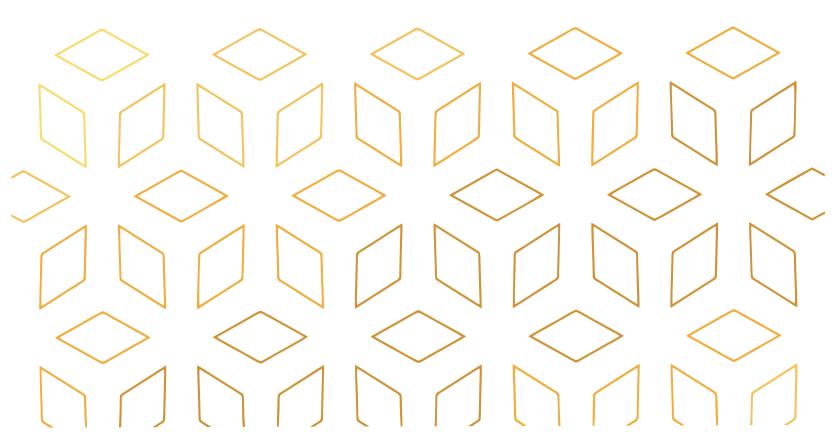
- Increased demand for staff to attend virtual meetings.
- Unique challenges associated with virtual meeting attendance.

## **Training Limitations:**

- Financial constraints and Covid-19 restrictions hindered staff training.
- Future plans to overcome training challenges include sponsored training and virtual engagement.

## ACKNOWLEDGEMENT

This report was a product of collective effort and input from management and staff members of the Ministry of Justice. This report may not be reproduced without the full consent of the of the Executive Director of the Ministry of Justice. In the spirit of accountability, transparency and good governance, the Ministry of Justice presents this report of the 2020/2021 Financial Year.



## Notes

## Notes



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