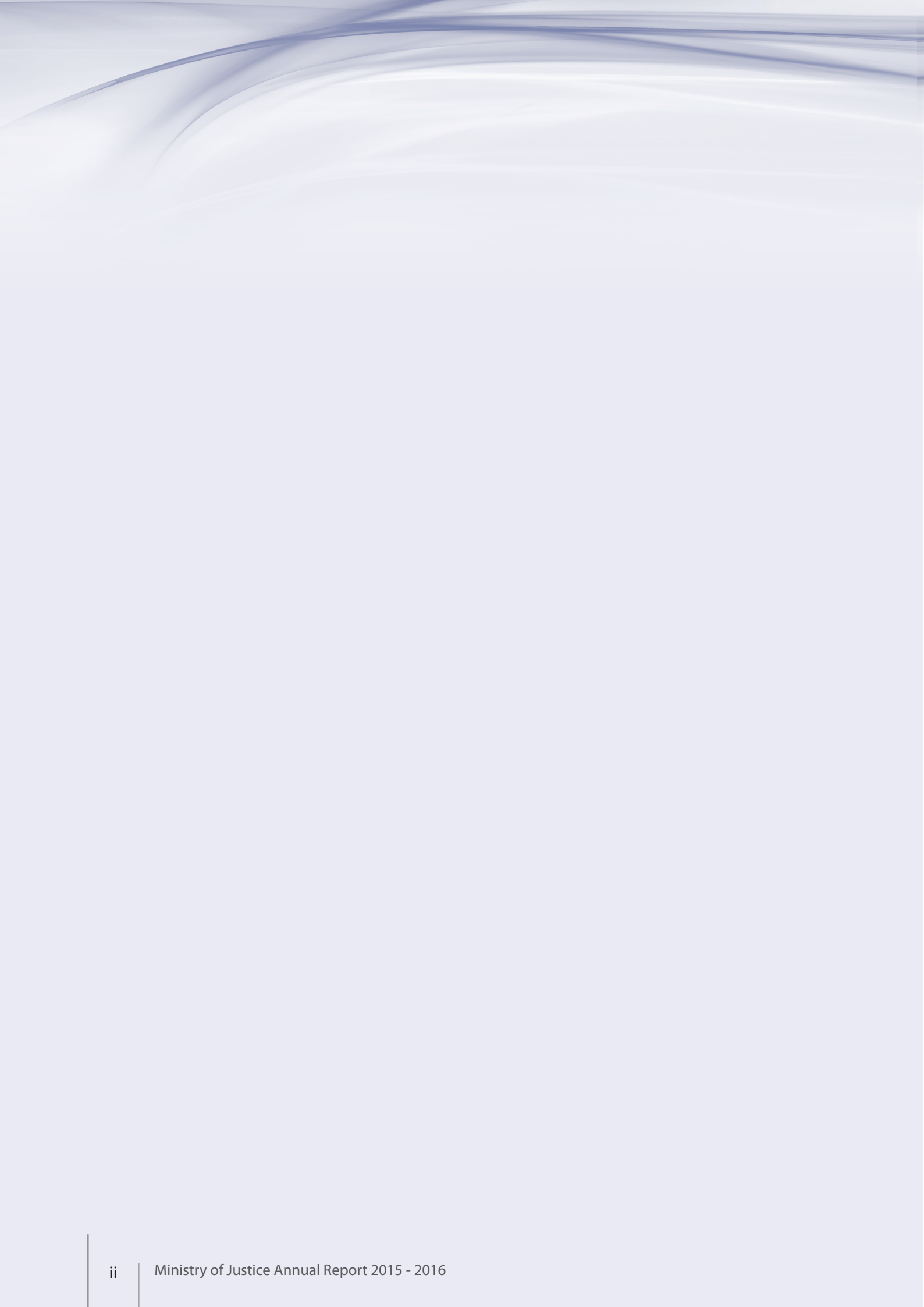




**MINISTRY OF JUSTICE**

## **Annual Report 2015/2016 Financial Year**







## **VISION**

BE A MODEL PROVIDER OF ACCESSIBLE AND TIMEOUS JUSTICE FOR ALL

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## **MISSION**

TO PROVIDE QUALITY JUDICIAL AND LEGAL SERVICES

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***Hon. Dr. Albert Kawana, (MP) Minister of Justice***



***The Hon. Deputy Minister of Justice, Lidwina Shapwa***



***MR I V K Ndjoze, permanent secretary***

## FOREWORD

**By Dr. Albert Kawana, MP Minister of Justice**

In keeping with the values of accountability, transparency and desire to keep the nation and all stakeholders informed, the Ministry of Justice is delighted to present its Annual Report for the 2015/2016 financial year.

The period under review was characterized by a heavy schedule of activities for me as Minister and the Deputy Minister, as well as all officials in the Ministry of Justice. It was a time during which our national economy was negatively affected by the global economic crisis which seriously impacted on the delivery of services by the Ministry.

However, I am proud to inform all Namibians that despite the challenges, we have risen to the occasion and achieved milestone successes in a number of areas.

We have implemented a number of capital projects that have made enormous contribution to the betterment of the working and of the living conditions of our staff members and our citizens. Despite some successes, much still needs to be done and we will continue to deliver in our mandate.

I am pleased to reaffirm that the Ministry of Justice will work harder to implement our stated policies, in



***Hon. Dr. Albert Kawana, (MP) Minister of Justice***

line with the 2014 SWAPO Party Election Manifesto; spearhead the realization of vision 2030 and implement the Harambee Prosperity Plan so that we can enhance the socio-economic development of our country.

As we strive to remain true to our Vision and Mission, the Ministry will continue to promote and maintain effective administration of justice and enhance transparency, accountability and good governance.



## Introduction

The 2015/16 financial year once again proved to be a challenging one, but the Ministry endeavored to improve its overall performance, amongst others, through regular strategic review progress meetings and an attempt to finalize the implementation of the Performance Management System. While this did not go as well as one would have hoped, I am satisfied that strides were at least made to accomplish this important intervention towards improved public service delivery.

The time it takes to process legal aid applications, which has always been a huge concern, was reduced from an estimated 20 working days to 10 working days. Furthermore, we managed to achieve a 59% to 41% ratio of in-house legal aid counsel vis-à-vis instructions to private practitioners which is quite an achievement considering not only the reduction in costs, but the opportunity for quality assurance.

The Ministry has been concerned to ensure that it reduces the cost of providing legal aid by reducing the number of instructions issued to private legal practitioners by increasing the number of legal aid counsel on the establishment of the Directorate of Legal Aid. Page 28 and 31 95% went to private lawyers while 5% instructions handled by inhouse lawyers 4 032 private, 1 531 inhouse.

The amended Rules of the High Court were published in the Government Gazette on 17 January 2014 and came into operation on 16 April 2014. These amendments aim, amongst others, to ensure judiciary oversight in certain civil litigation matters such as the selling of houses in lieu of outstanding debt, which will no doubt go a long way in preventing citizens from losing the roofs over their heads during these difficult economic times.

During the period under review, existing magistrate's courts at Outapi and Eenhana were upgraded and



**MR I V K Ndjoze, permanent secretary**

completed, while documentation was finalized for the construction of a new magistrate's court at Katima Mulilo in the Zambezi Region. I am also happy to report that the documentation for the comprehensive upgrading of the Justitia Building was finally completed after many years of struggling to get this project off the ground.

However, as indicated earlier, the achievements did not come without challenges; amongst others, the Ministry experienced serious financial and human resources constraints as well as others reported on under each directorate. Despite the many challenges facing the Ministry, the staff members mostly managed to deliver on the objectives as a team. I wish to reiterate that the Ministry will continue its commitment to skills development and capacity building, including the funding of applicable tertiary studies considered essential for the growth of the Ministry.

I would like to thank all staff members who worked hard to ensure a successful 2015/16 financial year for the Ministry.

## Office of the Minister

The Minister's Office is consisting of the Minister, the Deputy Minister and the five ministerial staff members.

During the period under review, the Minister's Office was engaged in various activities. Amongst others, are the consultative meetings with Community Courts in the North East regions of Zambezi, Kavango East and Kavango West as well as the Kunene region. The Minister Dr Albert Kawana visited the north eastern regions while the Deputy Minister consulted the community courts in the Kunene region.

The main purpose of the meetings with the community court was to consult community courts to assess the effectiveness of these courts and to discuss the challenges faced by at the community court level with a view to finding possible solutions. The meetings are also a result of complaints the ministry have been receiving from community courts throughout the country.



***Dr Albert Kawana and the Governor of Kavango East during the Community Courts consultative meeting in Kavango East region***

In addressing the community court in the Zambezi and Kavango East and West regions, the Minister stressed the importance of community courts in the administration of justice by saying that, community courts are providing access to justice to the masses at the community level.

He further emphasised that access to justice and services rendered by the community courts are not a privilege but a right for every Namibian. The minister further, informed members of the community courts that the other reason why he is consulting is to take stock of the courts' experiences since the passing of 2003 Community Courts Act and take recommendations for possible amendments if necessary.

The members of the community courts in the three regions took the opportunity to outline their operational problems to the Minister as follows:



- They feel that they are not adequately empowered as they are faced with limited financial reasons.
- They called on the Minister to look into the followings:
  - Strengthening community courts to take action against culprits who are ignoring summons issued by community courts.
  - Lack of support by local police officers in respective community court jurisdictional areas

On the other hand, the Deputy Minister Hon. Lidwina Shapwa undertook consultative meetings with Community Courts in the Kunene Region.

The first meeting took place in Outjo at Etotongwe Lodge on September 28, 2015, where she met two recognised Community Courts namely Aodaman and Fransfontain.



***Some members of Traditional Authorities during the Community Courts consultative meeting in Outjo.***

At this meeting, the Deputy Minister delivered the key note address and requested the Community Courts representatives to state their concerns which they encountered in their respective courts.

In their address, the Aodaman Chief Ukongo and Fransfontain Vise Captain informed the Deputy Minister about the challenges as well as the successes of their respective courts. Among the challenges they outlined are:

1. The low rate of the allowances paid to the justices as well as other court officers such as Clerks and Secretaries.
2. Serving of summons is a big challenge to the messengers of Community Courts as they do not have transport means to travel when serving summons.

However, the Community Courts informed the Deputy Minister that despite the above stated challenges, they have forged good relationship with Magistrates, Prosecutors and the Police in their areas. As a result of good relationship, Magistrates, Prosecutors and Police Officers are fully cooperating in assisting the Community Courts. Magistrates and Prosecutors are also advising Community Courts from time to time to refer complaints



or file their cases which fall under Community Courts to them. The Community Courts also requested if they can be offered training on different aspects.

Another meeting took place in Opuwo at Opuwo Country Lodge on December 03, 2015.

Three recognised and operational Community Courts in Opuwo area namely the Otjikaoko, Kakuru-kouye and Vita Tom participated at this meeting. The Community Courts in Opuwo also raised similar concerns to the Hon. Deputy Minister of;

1. Not being paid enough allowances and they feel they do the same work as judicial officers but do not get paid same salaries or monthly salaries.
2. Transport for messengers is a problem.
3. The Police in the areas are not willing to assist them in the event that they have to get the attendance of respondents beyond their court's jurisdiction.



***The Hon. Deputy Minister of Justice, Lidwina Shapwa in the company of Hon. Katuture Kaura, the Special Advisor to the Kunene Governor during the Community Courts consultative meeting in Opuwo.***

In her response, the Deputy Minister explained to the Community Courts that, the idea of establishing and recognizing Community Courts was to bring justice closer to the people. She expressed that Community Courts are pillars of justice at community level and should ensure that fairness and justice prevails. Therefore she urged the Chiefs to dedicate themselves to being traditional leaders and to practicing customs, gather their communities and discuss the customary practices so that they can teach their subjects the importance of customs and culture.

She further explained that the reason why State is involved is to recognise the traditional forums and ultimately ensure that formalities in adjudicating the matters are in line with the Constitution to the extent that Community Courts are recognised as Courts of record. She further noted that the Justices, Assessors and Chiefs are not State employees and the allowances paid to them is necessarily provided by Government to assist them in meeting some of their needs while carrying out the functions of the Community Courts.



***Hon. Lidwina Shapwa, the Deputy Minister of Justice addressing the Parliamentary Committee on Legal Matters at Otjiwarango***

Hon. Lidwina Shapwa, the Deputy Minister of Justice had an opportunity to engage the Parliamentary Committee on Legal matters in Otjiwarango during the year under review.

Together with core role players in the administration of justice system in Namibia such as, the Attorney General, the Prosecutor General, the Director General of the Anti-Corruption Commission and other MPs, Hon. Shapwa discussed various issues of concern to the justice system. Among those discussed were issues such as:

- Case backlogs experienced by the courts, especially the lower courts, a nightmare which she highlighted is being caused by a number of factors which among others was lack of adequate court facilities, lack of human capital to deal with the ever increasing cases, unfinished police work into investigation and witness testimonies.



- The lack of funds in setting up, court rooms and other capital infrastructures which are necessities in rendering efficient and effective judicial services to the public. She highlighted the need for extra court rooms at Otjiwarongo and the current ongoing capital projects in Omuthiya, Oshikoto Region, Nkurenkuru, Kavango-West and Katima Mulilo, Zambezi region.
- The deliberation by the Ministry and the newly created Office of the Judiciary to set up a dedicated team to clear up the current case backlogs and make use of mobile courts is an effort to fasten this process

## Terms of Reference

The Terms of Reference referred to below form part of appointment of the Minister responsible for Justice by His Excellency the President:

In executing his/her functions as Minister, and to ensure delivery, the following non-negotiable principles must be adhered to:

- Strong, honest and principled leadership;
- Transparent procurement with a focus on empowerment of Namibians, particularly youth and women, and job-creation but not at the expense of value for money;
- Driving a performance culture within the ministry through leading by example and applying a hands-on approach;
- Focus on timely interventions and implementation of policy decisions;
- Reviewing any law, policy, regulations or institution which hampers the effective delivery of judicial service to the citizens;
- Ensure maximum output within the context of limited financial resources;
- Ensuring coordination with Offices, Ministries and Agencies, especially those which are closely related to the line functions of the Ministry;
- Engaging and listening to the voices of civil society; particularly grassroots organizations, with the understanding that the ultimate goal is to improve the living standards of all Namibians;
- Continuous monitoring, evaluation and reporting on progress being made in the Ministry.

## Responsibility & functions of the Minister of Justice

- The Minister is the chairperson of the Cabinet Committee on Legislation (CCL)
- The Minister is also responsible and accountable for activities of the Ministry to the President, Cabinet and Parliament.

## The Minister is responsible:

- To motivate the annual budget of the Ministry in Parliament
- To table and motivate bills related to the functions of the Ministry in Parliament or to delegate such function to the Deputy Minister
- To table and motivate the annual budget of the office of the Judiciary in Parliament
- To submit the annual reports of the office of the Judiciary to Cabinet and Parliament

Missions undertaken, both local and international by both the Minister and Deputy Minister

Trips undertaken by the Minister:

DATE	DESTINATION	DESCRIPTION
2015		
12 – 16 August 2015	Katima Mulilo, Zambezi Region	Attending the Zambezi Bream Festival and cultural expo, in the capacity of a Patron
09 – 13 September 2015	Katima Mulilo, Zambezi Region	Consultation workshop with the Traditional Authorities of the Zambezi Region and visiting of Magistrate Court
30 September 2015 – 03 October 2015	Rundu, Kavango East & Kavango West Region	Consultation workshop with the Traditional Authorities of Kavango East, and Kavango West regions; addressing staff members at the Magistrates Court and inspection of the site at Nkurenkuru
31 October 2015 – 08 November 2015	St. Petersburg, Russian Federation	Attending the 6th Session of the Conference of the State Parties to the United Nations convention Against corruption
2016		
16-24 January 2016	Geneva, Switzerland	Attending Namibia's Universal Periodic review 2nd cycle.
04-10 March 2016	Geneva, Switzerland	Leading the Namibian delegation to attend the 116 Session of the Committee on the International Covenant on Civil and Political Rights (ICCPR).

### Activities and functions of the Deputy Minister

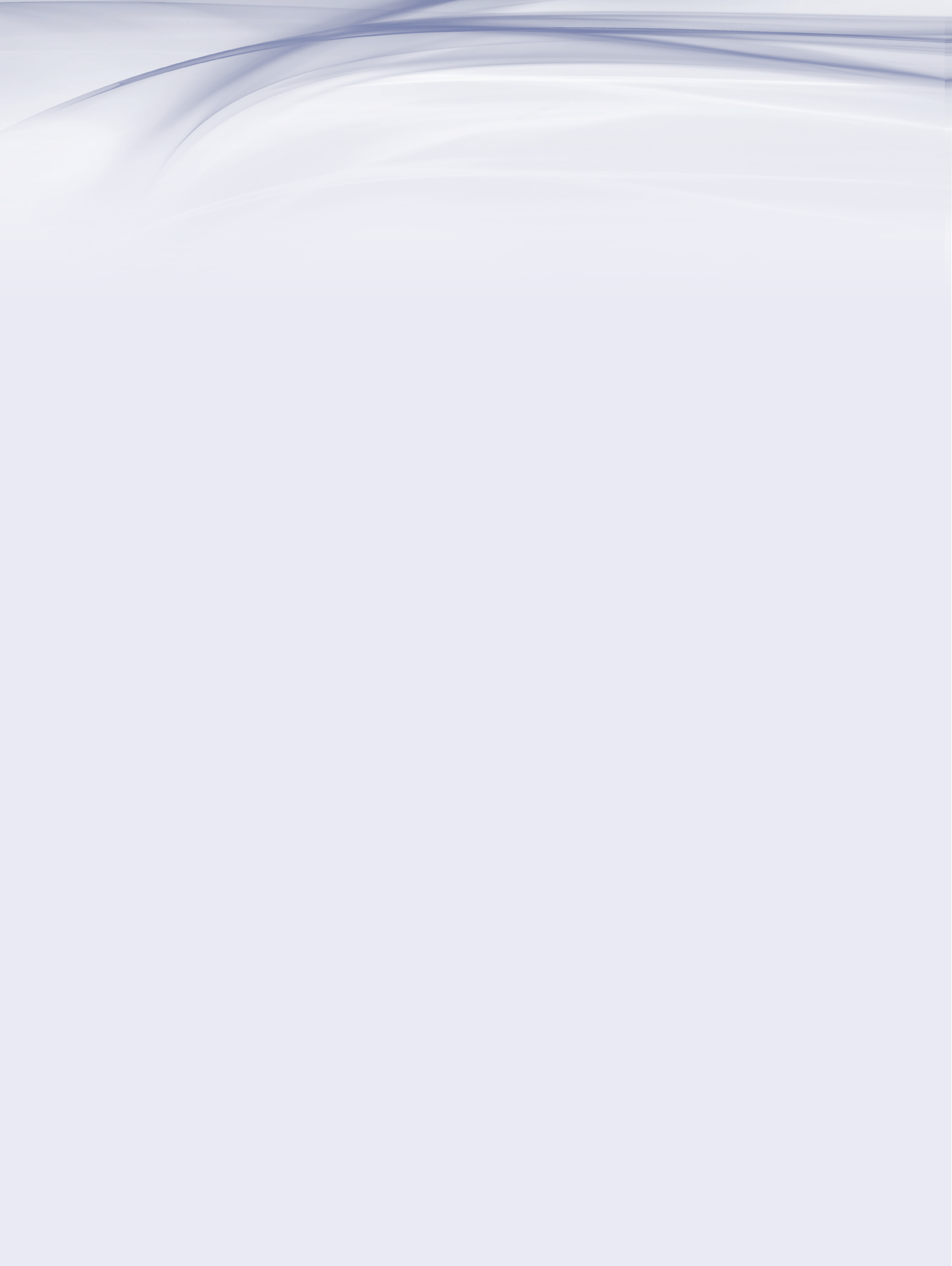
During the year under review, as per her delegated functions the Deputy Minister was assigned to execute the following Ministerial strategic objectives:

- Review of outdated laws
- Expedite legal aid to indigent persons
- Reduce cycle time of registration and winding up of deceased estates
- Effective governance and improved service delivery

### Trips undertaken by the Deputy Minister

Departure date	Returning date	Activities	Place
02/02/2015	05/02/2015	Addressing the community on the commemoration of casing day at Outapi Constituency	Outapi - Omusati region
05/06/2015	13/06/2015	Attending the Magistrate commission	Rundu- Kavango East region

11/09/2015	13/09/2015	Addressing the community of Okalongo constituency on the commemoration of Heroes day	Outapi - Omusati region
17/09/2015	20/09/2015	All women Parliamentarians Roundtable discussion	Swakopmund- Erongo region
24/09/2015	27/09/2015	Inaugural of the King of Ongandjera, and Ombandjele Primary School Fundraising	Outapi - Omusati region
02//12/2015	04/12/2015	Consultations with Community courts in Kunene region	Opuwo - Kunene region
02/02/2016	06/02/2016	Benchmark visit to Ghana School of Law	Accra - Ghana
19/02/2016	21/02/2016	Team Building event	Swakopmund
29/04/2016	01/05/2016	Addressing the community of Otamanzi	Otamanzi, Ongandjera – Omusati region



## DIRECTORATE: CENTRAL ADMINISTRATION



### 1. Mandate

The Directorate Central Administration is mandated to provide various administrative support services to the rest of the Ministry of Justice and Office of the Attorney General in terms of its strategic objective: “To ensure an enabling environment and high performance culture”.

### 2. Overview of activities

2.1 The scope of the Directorate Central Administration which spans across four divisions *inter alia* includes the following:

- manage and administer human capital, policies and procedures;
- facilitate training and development interventions;
- facilitate budgeting and resource management;
- administer financial transactions;
- render fleet management services;
- manage and enhance fixed assets;
- facilitate strategic planning and management interventions, and
- Provide access to information technology.



2.2 This directorate consists of the following divisions and subdivisions, namely:

- Division General and Auxiliary Services
  - o Subdivision Auxiliary Services
  - o Subdivision Human Resource Management
  - o Subdivision Human Resource Development
  - o Subdivision Ministerial Support Service
- Division Finance and Budgeting
- Division Information Technology
- Division Development Plans and Fixed Asset Management
- o Subdivision Maintenance-with Sections: ( Windhoek, Rundu, Oshakati, Keetmanshoop and Swakopmund)

The main activities of Directorate Central Administration encompass managerial oversight, strategic leadership and corporate services to ensure other directorates are able to deliver their services and to integrate the functioning of the ministry as a whole. Such services are aimed at providing administrative support services to ministerial programs, ensure proper financial management, and facilitate equitable distribution and effective utilization of resources as well as capacity building.

The Directorate also coordinates the implementation of the ministerial strategic plan and key strategic initiatives identified to be undertaken to achieve strategic objectives. In this regard the directorate coordinated the process of obtaining Tender Board's approval through an annual exemption to develop an Integrated Case Management System for the Directorate Master of the High Court as well as the signing of an agreement for this purpose on 29 April 2015.



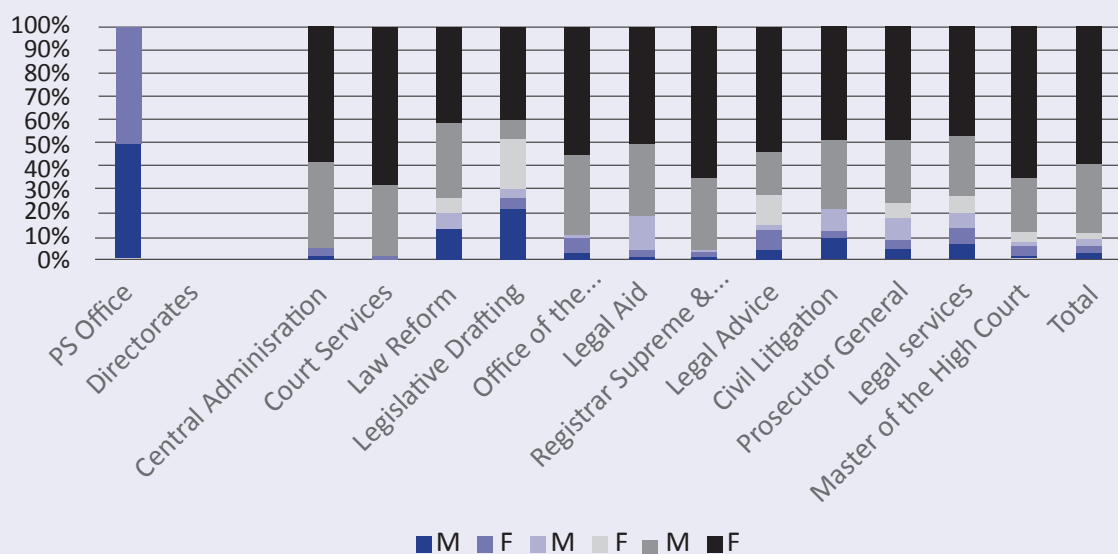
### 3. Successes

#### 3.1 Division General and Auxiliary Services

Disaggregated staffing status for the period ending 31<sup>st</sup> March 2016

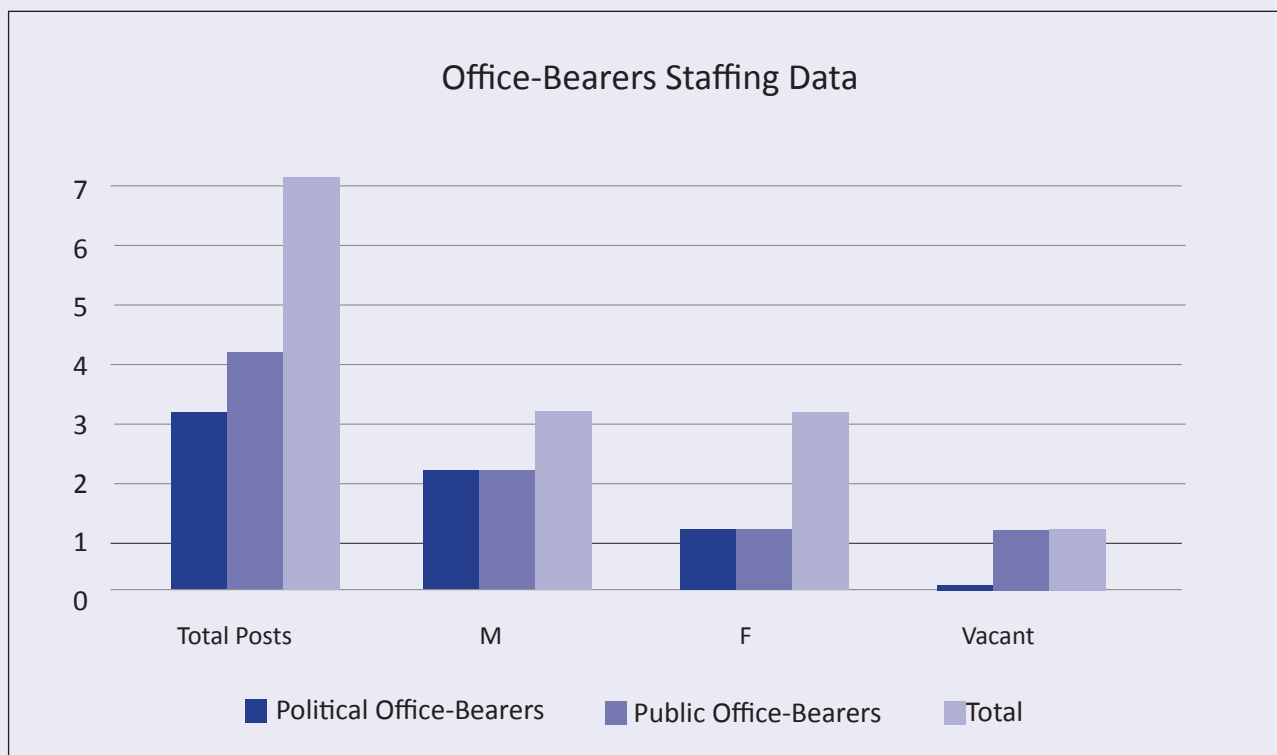
Head Office	M	F	M	F	M	F
Permanent Secretary's Office	1	1	0	0	0	0
Directorates	Management		Professional		Admin Support	
	M	F	M	F	M	F
Central Administration	2	4	0	0	47	73
Court Services	3	2	0	0	121	263
Law Reform	2	0	1	1	5	6
Legislative Drafting	5	1	1	5	2	9
Ombudsman's Office	1	3	1	0	15	24
Legal Aid	1	1	7	0	15	24
Registrar Supreme & High Court	1	2	0	1	28	59
Legal Advice	2	4	1	6	9	25
Civil Litigation	4	1	4	0	12	20
Prosecutor General	8	6	16	11	46	83
Legal Services	1	1	1	1	4	7
Master of the High Court	1	2	1	2	12	33
<b>Total</b>	<b>32</b>	<b>28</b>	<b>33</b>	<b>27</b>	<b>316</b>	<b>626</b>

**Division General and Auxiliary Services Disaggregated staffing status for the period ending 31<sup>st</sup> March 2016**



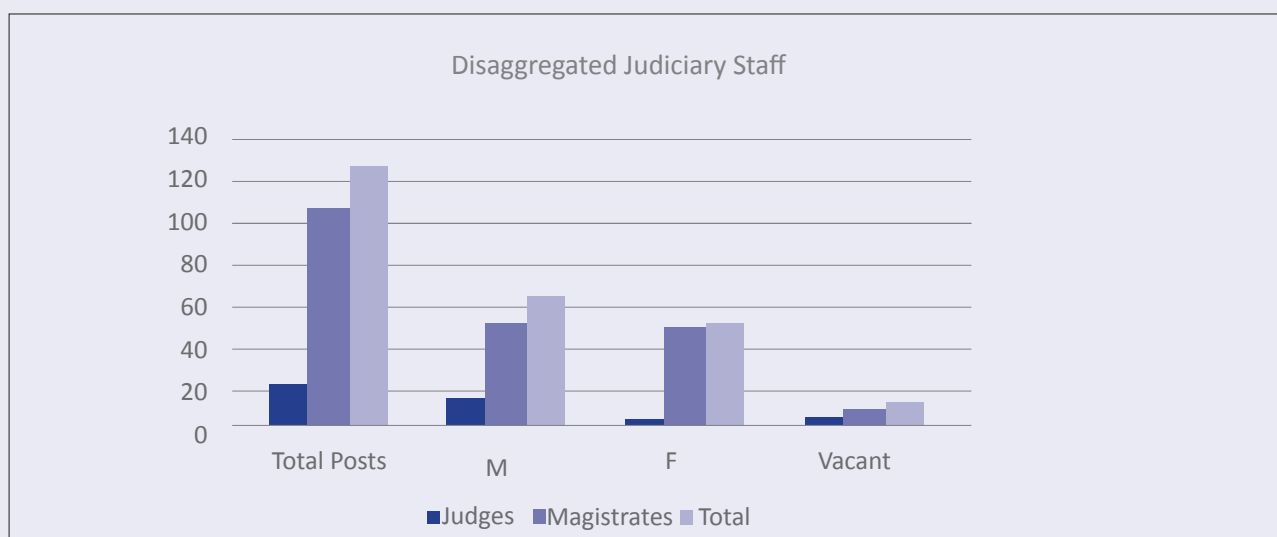
### 3.2 Office-Bearers Staffing Data

Offices	Total Posts	M	F	Vacant
Political Office-Bearers	3	2	1	0
Public Office-Bearers	4	2	1	1
Total	7	4	2	1



### 3.3 Disaggregated Judiciary Staff

Offices	Total Post	M	F	Vacant
Judges	20	13	3	4
Magistrates	104	49	47	8
Total				

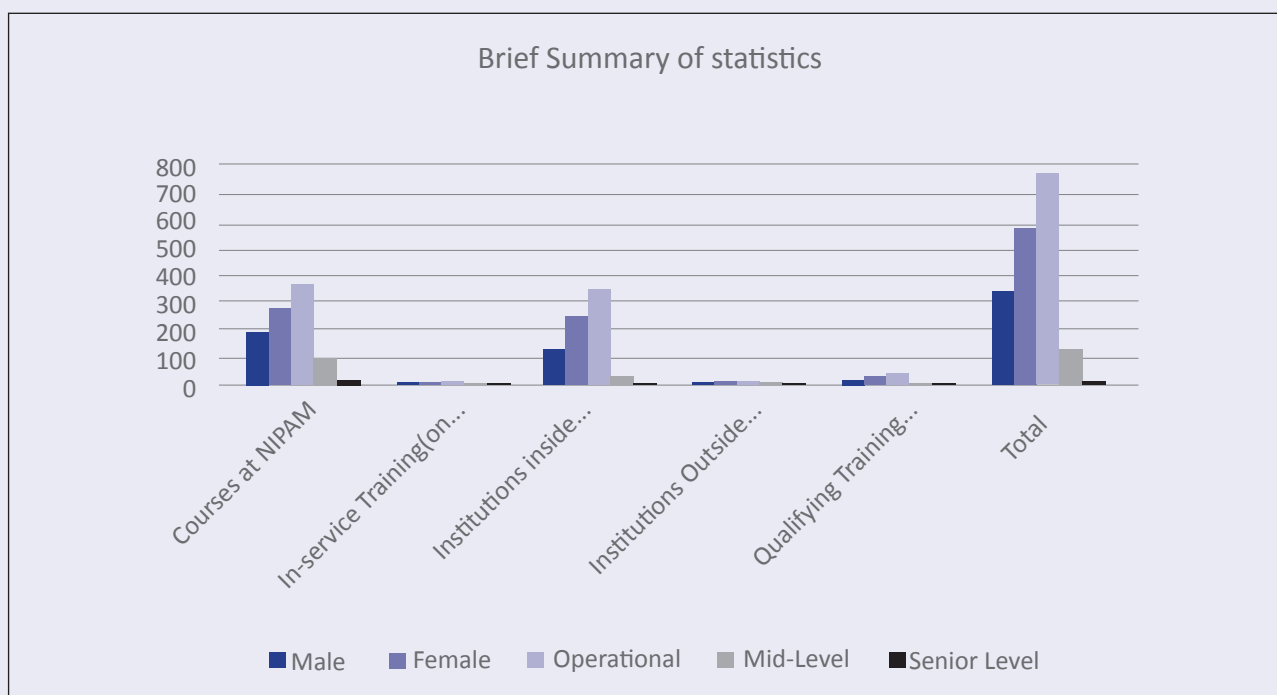




### 3.4 Training and Development statistics for 2015/16

#### 3.4.1 Brief Summary of statistics

Training Institution And Training Programme/Event	Male	Female	Operational	Mid-Level	Senior Level
Courses at NIPAM	186	268	359	86	9
In-service Training(on the job training)	3	7	9	1	0
Other institutions in Namibia	123	244	340	27	0
Institutions Outside Namibia	5	10	10	5	0
Qualifying Training, etc. UNAM, Polytechnic*	13	28	37	4	0
<b>Total</b>	<b>330</b>	<b>557</b>	<b>755</b>	<b>123</b>	<b>9</b>



### 3.4.2 Detailed Statistics

Office Ministry Agency/Regional Council											
Statistics on Training and Development											
Name of the course	Training Provider	Types of Training							2015/2016	Gender	
		Mandatory Training	NIPAM Courses	Professional and Functional Courses	Workshops	Symposiums	Conferences	Qualifying		Male	Female
BPR training	NIPAM	NO	YES	YES	X			X	X	2	3
FIDIC,NEC,JBCC CONTRACTS	WEIMAN LEGAL CONSULTING	NO	NO	YES	X			X	X	1	3
HRM AND HRD CONFERENCE	HR SUMMIT AND EXPO AFRICA	NO	NO	YES			X	X	X	3	4
HR EDUCATIONAL AWARENESS	MOJ	NO	NO	YES	X			X	X	41	56
INHOUSE CLIENT EDUCATION	LEGISLATIVE DRAFTING	NO	NO	YES	X			X	X	2	5
INTERMEDIATE/ ADVANCE TRIAL ADVOCACY	LAW SOCIETY NAMIBIA	NO	NO	YES	X			X	X	15	13
LEGAL SECRETARY TRAINING	RED LEAF & ASSOCIATES	NO	NO	YES	X			X	X	1	47
MS EXCEL TRAINING	IIT NAMIBIA	NO	NO	YES	X			X	X	12	24
PERFORMANCE MANAGEMENT TRAINING	NIPAM	NO	YES	YES	X			X	X	184	265
PUBLIC SECTOR INNOVATION MANAGEMENT	XYNERGISTIX	NO	NO	YES	X			X	X	1	0
STOCKTAKING	MOF	NO	NO	YES	X					6	12
SUPERVISORS WORKSHOP AND TEAM BUILDING	COURT SERVICES	NO	NO	YES	X			X	X	19	70
TENDER ADJUDICATION TRAINING	LOGISTICS 2000	NO	NO	YES	X			X	X	16	19
TRANSPORT AND FLEET MANAGEMENT	ACHIEVERS AFRICA	NO	NO	YES	X			X	X	1	1
ADVANCE DEFENSIVE DRIVING	CONSTANCY	NO	NO	YES	X					7	0
	INTERNATIONAL UNIVERSITY OF MANAGEMENT	NO	NO	YES				X		2	5
	POLYTECH OF NAMIBIA	NO	NO	YES				X		2	8

	UNIVERSITY OF NAMIBIA	NO	NO	YES				X		4	4
	UNISA	NO	NO	YES				X		3	3
	SOUTHERN BUSINESS SCHOOL	NO	NO	YES				X		3	7
	UNIVERSITY OF JOHANNESBURG	NO	NO	YES				X		0	1
	LINGUA TRAINING COLLEGE	NO	NO	YES				X		1	1
	KATUTURA COMMUNITY COLLEGE	NO	NO	YES				X		0	1
	MANCOSA	NO	NO	YES				X		0	1
	UNIVERSITY OF FREE STATE	NO	NO	YES				X		0	1
	GOETHE ZENTRUM	NO	NO	YES				X		0	1
	CAVENDISH UNIVERSITY OF ZAMBIA	NO	NO	YES				X		4	0
	UNIVERSITY OF PRETORIA	NO	NO	YES				X		0	1
	UNIVERSITY OF LONDON	NO	NO	YES				X		0	1
Number of Staff Members										330	557
Total											887

### 3.5 Breakdown of budget division and utilization 2015/2016

**Please Note:** These are not the final figures due to the closure of the financial year only at 30 September 2016

#### Expenditure outturn of Operational and Development Budget

Programme	Budget allocation	Expenditure	% variance
<b>Administration of Justice</b>			
Lower courts adjudication of criminal and civil cases	66,841,323	66,626,682	99,68
Management of deceased estates, insolvencies, trusts and Guardian Fund	15,987,345	15,976,975	99,94
Rendering support to Magistracy	148,753,869	148,573,306	99,88
Prosecution of crime	8,254,298	8,168,607	98,96
Superior Courts adjudication	129,776,280	128,414,890	98,95

Legal representation of indigent persons	52,511,185	51,656,000	98,37
<b>Provision of legal services</b>			
Legal services and International Cooperation	14,043,272	13,859,915	98,69
Represent Government in civil and labour matters	2,385,169	2,385,152	100,00
Render legal advice to the President and Government	2,771,518	2,727,235	98,04
Scrutinizing and drafting of legislation	11,448,428	11,419,610	99,75
Reform and development of the law	12,405,501	12,191,470	98,27
<b>Promotion of good governance</b>			
Investigation of complaints	22,137,959	20,615,084	93,12
<b>Supervision and support services</b>			
Policies Supervision	3,307,342	3,210,000	97,06
Coordination and Support	127,039,176	125,772,481.63	99,00
<b>Total</b>	<b>618,298,000</b>	<b>612,772,037</b>	<b>99,11</b>

### 3.6 Objectives of the Division Information Technology

Provision of accessible and reliable ICT Infrastructure and services to the Ministry of Justice country wide

#### Application support

During the 2015/16 financial year, the following systems are being developed and are close to implementation of the first phase:

#### (a) Integrated Case Management Systems (ICMS) for the Master of the High Court

The Ministry entered into an agreement with a Chinese software development company called Beijing CS&S-CA Software Technology Ltd, who is in the process of developing and implementing an Integrated Case Management Systems at the Directorate: Master of the High Court. The envisaged go-live date is end of 2016. The IT Division is responsible for the infrastructure readiness and implementation and will be the first line support for all applications.

#### Infrastructure

#### (a) IP/MPLS VPN Solution

The Ministry has signed a five (5) year contract with Telecom Namibia with effect from 04th July 2011 until 03rd July 2016 to provide an IP/MPLS VPN solution that will link all Magistrates Offices to a central point via digicon lines. The exercise with Telecom Namibia is still ongoing to upgrade all lines to a better speed (2mbps (megabytes per seconds)) or higher. A total of 10 offices are completed to date.

#### (b) Network Infrastructure:

This involves the installation of the physical network at all offices and buildings, such as re-wiring, upgrades of network infrastructure and equipment.

- **Small alterations were done (additional network points and trunking):**

- Head office in Windhoek,
- Windhoek Magistrate's Court,
- Office of the Attorney General (Sanlam Building),
- Master of the High Court (Master building),
- Various Magistrates Offices: (Tsumeb, Otavi, Gobabis, Okahandja, Ondangwa, Karibib and Usakos).

- **New Sites/Offices Connection: (10MBps)**

This involves the establishment of the new sites connections which were added to the MPLS network.

- Master of High Court (Frans Indongo Building),
- Office of the Judiciary (SADC Tribunal and Diamond Square Buildings)

**c) UPS installations done at the following Offices:**

A UPS is an Uninterrupted Power Supply that allows the server to shutdown properly when there is a power failure to avoid crashing and data loss. The following 26 Magistrates Offices' servers are connected to a UPS (Windhoek (Mungunda street and Luderitz Street), Okahandja, Otjiwarongo, Otavi, Outjo, Tsumeb, Grootfontein, Ondangwa, Oshakati, Opuwo, Khorixas, Omaruru, Okakarara, Usakos, Karibib, Swakopmund, Walvis bay, Rehoboth, Mariental, Aranos, Maltahohe, Keetmanshoop, Karasburg, Luderitz and Oranjemund Magistrates Offices).

**d) Network Security:**

The Ministry has upgraded its core firewall services from the TMG Firewall to a modern and better supported Firewall known as Next Generation Firewall (NGFW) with Unified Threat Management (UTM) technologies. This enables secure network access across remote locations and having control of the internet services, ensuring it is properly censored against malicious attacks and any kind of threats. This too has enabled segregation and monitoring of traffic from internal and external locations for better security such as application inspection, web filtering, anti-spam and traffic shaping for better bandwidth utilization.

### **3.7 Capital Project Report for 2015/2016 Financial Year**

#### **3.7.1 Alterations and Additions to the High Court**

- i) Construction and upgrading activities are currently underway at the High Court in Windhoek. The project is aimed at addressing a severe shortage of office space for the Registrar and staff members, which the Ministry experienced for some years.

The current upgrading works, which started in September 2014, are for Phase1, and so far the following main project components were attended to under the mentioned upgrading and renovation works:

- The Judge President's chamber has been upgraded and renovated, where three (3) new offices with a reception area and a boardroom were constructed.
- The Registrar's section was upgraded and renovated, where three (3) new offices were constructed for the Chief Registrar, Deputy Chief Registrar and Chief Legal Officer respectively. A new Server room and



- Switchboard room were also constructed, including a strong room with a Cash office.
- A new Criminal Case Section with two (2) strong rooms was also constructed.
- A number of more new offices and archives will be constructed under this phase.

The above discussed phase is estimated to cost the Ministry a total amount of N\$ 35.4 million.

ii) The following main components of the project are earmarked for construction and upgrading under Phase 2:

- Seven (7) existing courtrooms will be upgraded and renovated, where two existing courtrooms will be partitioned into two new courtrooms, with another three new courtrooms added.
- Six (6) existing Judges' chambers will be upgraded and renovated, and ten (10) new chambers will be added.

Phase (two) 2 is estimated to cost the Ministry a total amount of N\$ 50 million, and is projected to commence after practical completion of Phase (one) 1. A total number of 45 temporary job opportunities were created.

### **3.7.2 Katima Mulilo Magistrate's Court Construction**

The site for the construction of a new Magistrate's Court at Katima Mulilo in the Zambezi region was handed over to the contractor in April 2015.

The new court building will comprise the following main components:

- Two (2) courtrooms, which are envisaged to be increased to four (4) during phase 2.
- The building will also have a cash-hall, to enable members of the public to make their revenue payments on a daily basis.
- Four (4) offices for Magistrates, which might be increased to eight (8) during phase 2.
- Four (5) offices for Prosecutors, which might be increased to eight (9) during phase 2, two consultation offices, a victim-friendly room, a boardroom, three (3) offices for Legal Clerks, two (2) offices for Interpreters, parking and ablution facilities for staff and the public.

The contract amount for this project is N\$ 45.7 million, and the estimation for phase (two) 2 is still to be finalized. A total number of 54 temporary job opportunities were created in respect of this project.



*Dr Albert Kawana, Minister of Justice visiting the construction site of the Katima Mulilo Magistrate Court*

## DIRECTORATE: LEGISLATIVE DRAFTING



### 1. Mandate

The Directorate: Legislative Drafting is responsible for scrutinising and drafting Bills for Parliament, Proclamations of the President, Regulations and Government Notices from Ministries, Offices and Agencies (including Regulations, Rules and General Notices from local authorities and parastatals that are subject to approval or consultation with Ministers), Rules of the Supreme Court, High Court and Magistrates Courts.

The Directorate frequently advises Ministries, Offices and Agencies, at their request, on the drafting of legislation and subsidiary legislation and particulars of legislation in force.

The Directorate is further responsible for the maintenance and management of a legal library which serves not only the Ministry, but also provides an information service to all government ministries, offices and agencies.

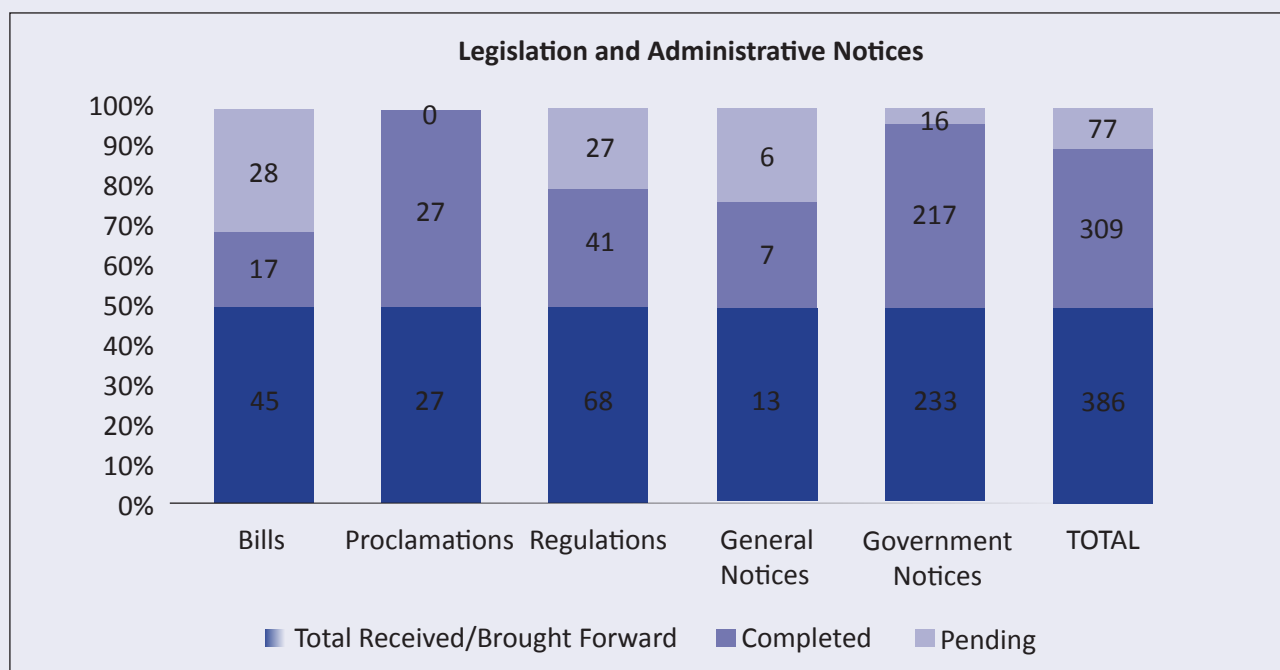
### 2. Overview of activities

During the reporting period, the Directorate scrutinised and finalised Bills for Parliament, Proclamations for the President, Regulations and Government Notices (Administrative Acts) and General Notices (mostly Rules and Regulations for local authorities) as enumerated in the table below:

**Table 1**

## Legislation and Administrative Notices:

Legislation and Administrative Notices	Received plus Brought Forward	Completed	Completed on Time as per Performance Std	Pending
Bills	35 plus 10 =45	17	16	28
Proclamations	27	27	20	0
Regulations	50 plus 18 =68	41	28	27
General Notices	9 plus 4 =13	7	4	6
Government Notices	225 plus 8 =233	217	149	16
<b>TOTAL</b>	<b>386</b>	<b>309</b>	<b>217</b>	<b>77</b>

**Table 2****Bills and Status**

The table below illustrates the nature and type of bills, as well as the status of progress made in respect of each of the bills.

Bills	Status
1. Access to Genetic Resources and Associated Traditional Knowledge Bill (brought forward)	Completed
2. Appropriation Bill	Completed
3. Appropriation Amendment Bill	Completed
4. Agronomic Industry Bill	Pending
5. Arms and Ammunition Amendment Bill	Pending
6. Business and Intellectual Property Authority Bill;	Pending
7. Combating of Abuse of Drugs Bill	Pending



8. Credit Amendment Bill	Completed
9. Customs and Excise Amendment Bill	Pending
10. Deeds Registries Bill	Completed
11. Education Amendment Bill	Pending
12. Electronic Transactions Bill (brought forward)	Pending
13. Export Levy Bill	Pending
14. Financial Institutions and Markets Bill (brought forward)	Pending
15. Gaming and Entertainment Control Bill (brought forward)	Pending
16. Income Tax Amendment Bill	Completed
17. Investment Promotion Bill	Pending
18. Judiciary Bill	Completed
19. Land Bill	Pending
20. Liquor Amendment Bill	Pending
21. Local Authorities Amendment Bill	Completed
22. Lotteries Bill	Pending
23. Magistrates' Courts Amendment Bill (Draft)	Completed
24. Namibia Meat Company Bill	Pending
25. Namibia Financial Institutions Supervisory Authority Bill (brought forward)	Pending
26. Marine Resources Amendment Bill	Completed
27. Namibia Industrial Development Agency Bill	Pending
28. Namibian Special Risk Association Bill	Pending
29. Namibia University of Science and Technology Amendment Bill	Completed
30. National Fishing Corporation of Namibia Amendment Bill	Completed
31. Nature Conservation Amendment Bill	Completed
32. Plant Breeders' and Farmers' Rights Bill (brought forward);	Pending
33. Presidential Remuneration and Other Benefits Bill	Completed
34. Property Valuers Profession Amendment Bill (Draft)	Completed
35. Public Procurement Bill (brought forward)	Completed
36. Regional Council Amendment Bill	Completed
37. Real Estate Agent and Property Developers Bill	Pending
38. Seed and Seed Varieties Bill (brought forward);	Pending
39. State-owned Enterprises Governance Amendment Bill	Completed
40. Standards Amendment Bill	Pending
41. Trafficking in Persons Bill	Pending
42. Transfer Duty Amendment Bill	Pending
43. Urban and Regional Planning Bill	Pending
44. Value Added Tax Amendment Bill	Completed
45. Veteran Affairs Amendment Bill (draft)	Completed

### 3. Training:

In fulfilling its responsibility to build capacity and equip staff with drafting, administrative and leadership skills, staff members attended the following training interventions:

**Table 3****Training, Workshops and Symposiums**

Training activity	No of staff who attended	Gender		No of days	Country
		Male	Female		
Annual in-house practical training	8	2	6	10	Namibia
Client Education Legislative drafting training	1	0	1	1	Namibia
Diploma in Legislative Drafting	1		1	4 months	Zamibia
Stock control training	1	0	1	10	Namibia

**4. Challenges**

- The directorate faces a severe shortage of experienced and skilled legislative drafters. Currently only four out of the sixteen legislative drafters can draft independently with confidence;
- There appears to be inadequate incentives to attract and retain experienced and skilled legislative drafters. A Deputy Chief: Legislative Drafting position was repeatedly advertised internally as well as externally but no suitable applications were received;
- While we were fortunate enough to recruit eight junior drafters, three more joined and the total number of junior legislative drafters who have not yet been sent for training to obtain a certificate or diploma in legislative drafting now stands at eleven. Our current training budget will not be adequate to cater for all the training needs;
- Some legal officers who have not yet decided on which career path to follow within the Ministry find themselves misplaced, a situation which cannot be corrected easily due to the lack of a rotating system of exposing legal officers to different disciplines;
- It takes up to six months to recruit one candidate and this long recruitment process often poses a risk as prospective candidates may have found other employment by the time that a recommendation is received from the Public Service Commission;
- The Directorate is inundated with requests by Ministries, Offices and Agencies to assist them in preparing their layperson draft bills due to lack of policy formulators in the ministries, offices and agencies. There is a great need for a sufficient number of legislative drafters to help prepare layperson drafts for ministries, offices and agencies in order to fast track the law making process.

## DIRECTORATE: CIVIL LITIGATION



### 1. Mandate

The mandate of the Directorate Civil Litigation (Government Attorney's Office) derives from the Government Attorney Proclamation of No. R. 161 of 3rd September, 1982. In terms of the said Proclamation the Government Attorney's office performs the functions as provided in the Proclamation. The main mandated functions of the Government Attorney's office is the provision of legal representation in Courts for Government Offices, Agencies and Ministries and other entities engaged in Government administration such as public commissions and boards, the Master of the High Court, the Speaker of the National Assembly, the Prosecutor General, Magistrates, the Motor Vehicle Accident Fund, Regional Councils and recognized traditional authorities.

### 2. Overview of activities

The Government Attorney performs activities similar to those performed in accordance with the law, practice or custom by legal practitioners, notaries or conveyancers, on behalf of Government or entities connected with Government.

It is important to note that the work of the Government Attorney is determined by, and dependent on, instructions from its clients (as indicated above) either to initiate a claim for, or to defend action against, Government or a Government entity. These mainly relate to cases where government ministries are sued by persons or companies aggrieved by actions or decisions of Government. On the other hand, Government

or any entity connected with Government, may instruct the Government Attorney to institute action on its behalf against a person or a legal entity.

The Directorate: Civil Litigation is mainly responsible to represent Government in litigation in Courts in all civil or constitutional matters, as well as the Magistrates' Courts, the Labour Court, the High Court and the Supreme Court. The Directorate employs legal practitioners qualified to appear in all Namibian Courts. The Directorate does not per se engage in policy formulation or implementation, but adheres to the directives and policies pertaining to the administration of justice in the State, including policies on professional, managerial and general training of personnel.

### 3. Training

During the period under review, staff members of the Directorate participated in the following training interventions which were organised to enhance the capacity of staff to be better equipped for their respective roles.

Training activity	Duration	No. of staff who attended
Trial advocacy	1 week	8
Fraud II : Preventing internal control	1/2 day	5
Emotional Intelligence	1 week	4
Admin chap	1 week	4
Advanced Secretarial Course	1 week	4

### 4. Successes

- Comments on introduction of ICMS and its impact also on Legal Suit and its impact
- The Directorate have been successful in defending and instituting of claims of OMA's. No default judgement or sanctions have been ordered by the Courts against Government Attorney's office during the period under review.
- During the period under review 1487 new cases were handled by the Directorate, of which 511 cases were finalized and 976 cases are still outstanding. A total of 178 older Cases were closed during the period under review, which brings the total number of finalised cases to 689 (see Table D).
- During the financial year, a total amount of N\$9 936 253.83 (nine million nine hundred and thirty six thousand two hundred and fifty three Namibian dollars and eighty three cents) was paid in legal costs (see Table C), including the instructed counsels and legal costs awarded against OMAs
- During the financial year 2015/2016 an amount of N\$1 127 437.83 (one million one hundred and twenty seven thousand and four hundred and thirty seven Namibian dollars eighty three cents) was paid in legal fees to instructed lawyers and counsel in respect of old Caprivi cases.
- Legal fees collected amounted to N\$1 178 967.43 (one million one hundred and seventy eight thousand



nine and sixty seven Namibian dollars and forty three cents) (see Table A).

- Collection paid to this Directorate on behalf of O/M/As amounted to N\$3 139 866.16 (three million one hundred and thirty nine thousand eight hundred and sixty six Namibian dollars and sixteen cents) (see Table B).

#### 4.1 Key cases highlights for 2015/2016

- Namsov vs Minister of Fisheries & Marine Resources case no. A59/2016, in the High Court. The Directorate got an order of costs against Namsov that was settled by each party withdrawing claims against each other.
- Karinamina Tjipepa vs Minister of Safety & Security case No. 1271/2013. A claim of unlawful arrest was instituted against the Ministry arising from arrest relating to stock theft. The claim was successfully defended in the High Court and was dismissed with costs.
- Evgeny Demenkov vs Minister of Home Affairs & Immigration in the High Court. Two applications were instituted against the Ministry. The first application was dismissed by the High Court and the second was withdrawn by the applicants. An amount of N\$100 000.00 in legal costs was successfully collected on behalf of Government from the applicant.
- Ministry of Finance vs Amazing Kids Private School. A claim was instituted by the Ministry to collect money owed in Tax returns. An amount of N\$1.8 million was collected on behalf of the Ministry of Finance.
- The Namibian Police settled 7 Caprivi cases in the amount of N\$375 716.71 (three hundred and seventy five thousand and seven hundred and sixteen Namibian dollars and seventy one cents).

## 5. Challenges

- The Directorate does not have office space at the Northern Local Division of the High Court of Namibia at Oshakati.
- Staff members are not adequately trained for their duties;
- The integrated case management system is not yet fully functional due to network problems, despite the fact that payments and procurement of equipment were done. As a result, it is difficult to keep proper statistics.

## 6. Statistics

The table below marked TABLE A shows the legal fees collected by the Directorate:

**Table A**

COLLECTION FEES COLLECTED													
YEAR	APR	MAY	JUN	JULY	AUG	SEPT	OCT	NOV	DEC	JAN	FEB	MAR	TOTAL
2015/2016	N\$1169.50	N\$23833.38	N\$820.00	N\$1469.50	N\$2269.88	N\$60326.64	N\$897.24	N\$900757.50	N\$14723.87	N\$29862.96	N\$10183.50	N\$132653.46	N\$1178967.43

Table B below shows collections made by the Directorate on behalf of Ministries.

**Table B**

<b>Collections On Behalf Of Offices, Ministries &amp; Agencies</b>		
	Year	Amount
President	2015/2016	N\$270.00
Auditor General	2015/2016	0.00
Prime Minister	2015/2016	0.00
Gender Equality & Child Welfare	2015/2016	0.00
National Planning Comm	2015/2016	N\$53000.00
Agriculture, Water & Forestry	2015/2016	N\$1350.00
NSFAF	2015/2016	N\$12095.00
Defence	2015/2016	N\$53636.44
Environment & Tourism	2015/2016	0.00
Finance	2015/2016	N\$699127.77
Receiver Of Revenue	2015/2016	N\$2069782.32
Fisheries & Marine Resources	2015/2016	0.00
International Relations & Cooperation	2015/2016	N\$495.00
Health & Social Services	2015/2016	N\$127716.68
Home Affairs & Immigration	2015/2016	0.00
Information & Communication Technology	2015/2016	0.00
Justice	2015/2016	N\$13098.91
Labour, Industrial Relations & Employment Creation	2015/2016	0.00
Land Reform	2015/2016	0.00
Mines & Energy	2015/2016	0.00
Urban & Rural Development	2015/2016	N\$360.00
Safety & Security	2015/2016	N\$55432.95
Industrialisation, Trade & Sme Development	2015/2016	0.00
Works & Transport	2015/2016	N\$8190.00
Government Garage	2015/2016	N\$1620.00
Youth & Sport	2015/2016	N\$19882.14
Education	2015/2016	0.00
National Council	2015/2016	N\$540.00
The Prosecutor General	2015/2016	0.00
Anti Corruption Commission	2015/2016	0.00
Omusati Reg. Council	2015/2016	N\$4268.95
Nam Correctional Services	2015/2016	N\$9000.00
Criminal Assets Recovery Fund	2015/2016	N\$10000.00
<b>Totals</b>		<b>N\$3139866.16</b>

Table C below shows legal costs paid out to companies for services rendered to the Government Attorney during the period under review.

**Table C**

Legal costs paid to instructed legal Practitioners and costs awarded against OMAs													
Year	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	March	Total
2015/2016	743805.38	1274983.36	2046770.60	1140092.99	451839.90	417582.26	683643.46	325019.12	386493.80	338116.52	811015.69	1316890.75	<b>9936253.83</b>

Table D below shows a monthly breakdown of the number and type of cases handled during the period under review. Matters handled are classified in the following categories:

**Table D**

2015/2016	POCA MATTERS	FAMILY LAW	WILLS & ESTATES	ADMINISTRATIVE LAW MATTER	COLLECTIONS	CONSTITUTIONAL MATTER	CONTRACT	CONVEANCING	CRIMINAL MATTER	EVICTON	IMMIGRATION/CITIZENSHIP/ REFUGEE MATTER	LABOUR MATTER	LOSS OF/DAMAGE TO/THEFT OF GRN PROPERTY	MOTOR VEHICLE ACCIDENT CLAIM	MOTOR VEHICLE ACCIDENT OPINION	MEDICAL NEGLIGENCE	DEFAMATION	UNLAWFUL ARREST AND DETENTION	UNLAWFUL ASSAULT	MALICIOUS PROSECUTION	OTHER DELICTUAL CLAIM	OTHER		TOTAL FOR MONTH	CLOSED	TOTAL STILL ACTIVE
APR	0	0	1	0	1	0	3	1	0	2	1	6	8	1	62	0	0	4	0	0	0	11	0	<b>101</b>		
MAY	1	0	1	1	6	1	0	0	1	1	3	6	9	0	32	0	0	4	1	0	0	10	0	<b>77</b>		
JUN	0	0	0	1	6	0	2	2	0	0	0	10	6	3	68	0	0	1	1	0	0	21	0	<b>121</b>		
JUL	0	0	1	3	10	0	2	1	0	0	1	7	6	4	74	1	0	3	0	2	0	8	0	<b>123</b>		
AUG	4	0	2	2	2	0	0	1	0	5	2	5	8	3	104	2	0	0	1	0	0	12	0	<b>153</b>		
SEP	1	0	2	3	10	0	1	1	1	1	0	10	3	6	58	0	0	2	1	0	1	5	0	<b>106</b>		
OCT	0	0	1	7	32	1	1	1	2	1	1	8	4	6	48	1	0	1	0	0	1	6	0	<b>122</b>		
NOV	1	0	0	2	0	1	1	2	1	0	0	8	5	2	46	2	0	3	0	0	0	20	0	<b>94</b>		
DEC	3	1	0	1	15	0	0	1	0	1	3	7	18	2	146	1	0	8	0	0	0	13	1	<b>221</b>		
JAN	1	0	0	1	4	0	0	3	0	2	2	8	3	1	51	0	1	9	0	0	0	4	1	<b>91</b>		
FEB	3	0	1	2	3	1	2	5	0	3	1	5	3	6	78	3	0	4	0	0	0	24	3	<b>147</b>		
MAR	0	0	1	1	8	5	2	2	0	4	1	12	14	3	55	0	0	3	0	0	0	15	5	<b>131</b>		
<b>TOTAL</b>	<b>14</b>	<b>1</b>	<b>10</b>	<b>24</b>	<b>97</b>	<b>9</b>	<b>14</b>	<b>20</b>	<b>5</b>	<b>20</b>	<b>15</b>	<b>92</b>	<b>87</b>	<b>37</b>	<b>822</b>	<b>10</b>	<b>1</b>	<b>42</b>	<b>4</b>	<b>2</b>	<b>2</b>	<b>149</b>	<b>10</b>	<b>1487</b>	<b>511</b>	<b>976</b>

1.	POCA matters	14
2.	Family law	1
3.	Wills and Estates	10
4.	Collections	97
5.	Constitutional matters	9
6.	Contracts	14
7.	Conveyancing	20
8.	Criminal matters	5
9.	Evictions	20
10.	Immigrations/Citizenship/Refugee matters	15
11.	Labour matters	92
12.	Loss of damage to theft of GRN property	87
13.	Motor Vehicle Accidents claims	37
14.	Medical negligence	10
15.	Defamation	1
16.	Unlawful arrest and detention	42
17.	Unlawful assault	4
18.	Malicious prosecution	2
19.	Other delictual claims	2
20.	Other	14
21.	Administrative law matters	24



## DIRECTORATE: LEGAL ADVICE



### 1. Mandate

The Directorate Legal Advice derives its mandate from the functions of the Attorney-General, who is appointed in accordance with the provisions of Article 32(3) (1) (cc) of the Constitution of the Republic of Namibia. The powers and functions of the Attorney- General are enshrined in Article 87 of the Namibian Constitution, which are as follows:

- a) to exercise the final responsibility for the Office of the Prosecutor- General;
- b) to be the principal legal adviser to the President and Government ;
- c) to take all actions necessary for the protection and upholding of the Constitution;
- d) to perform all such functions and duties as may be assigned to the Attorney- General by Act of Parliament.

The Directorate therefore exists to assist the Attorney-General in executing his/her constitutional functions, particularly the provision of legal advice to the President and Government.

### 2. Overview of activities

#### 2.1 The clients of AG are the President and the Government

#### 2.2 The Activities of the Directorate include:

- (a) The provision of legal advice and opinions;

- (b) Consultations with clients and drafting of Agreements;
- (c) Scrutinizing of Bills and Proclamations for constitutionality and possible conflict with existing laws;
- (d) Negotiates and represents Government on National and International Fora, this involves research, drafting and advising Government;
- (e) Represent the President and Government on Commissions of Enquiry and OMAs in disciplinary hearings as Presiding officers, investigators and initiators;
- (f) Train, coach and mentor Staff as a measure to build capacity.

### 3. Successes

#### 3.1. High profile cases.

3.1.1. The successes of the Directorate: Legal Advice is reflected by the output achieved during the year under review as illustrated by the statistics and graphs contained in the report.

3.1.2. Some of the high profile cases this Office has handled during the financial year under review are:

- (a) Conclusion of the SADC-EPA Agreement
- (b) Completion of Offshore Phosphate mining opinion
- (c) Provision of Legal Opinion on the Ombudsman Financial Independence
- (d) GRN/NHE Mass Housing: Re-negotiated and re-entered into contracts for completion of phase 1
- (e) Opinion on the Local Authorities Bill
- (f) Purchase of helicopter for the Ministry of Environment and Tourism
- (g) Final Inspection, sea trials, training and delivery of the Fast Patrol Vessels for NAMPOL at Walvis Bay
- (h) Opinion on the Draft Maritime Authority Bill ;
- (i) Namibian Multilateral Investment Guarantee Agreement (MIGA) on the use of local currency;
- (j) Namibian Multilateral Investment Agreement (MIGA) on the legal protection in the use of local currency in Multilateral Investment Guarantees
- (k) SADC TRIPARTITE Negotiations;
- (l) GRN-De Beers Negotiations;
- (m) DBSA/DBN, NEF Oil Storage Facility Negotiations;
- (n) WTO Tribunal on the Prohibition of Seal Products on the European Market;
- (o) AU Position regarding the membership of the ICC.

### 3.2. DETAILS AND STATISTICS ON LEGAL ADVICE PROVIDED TO CLIENTS (OPINIONS, AGREEMENTS AND BILLS)

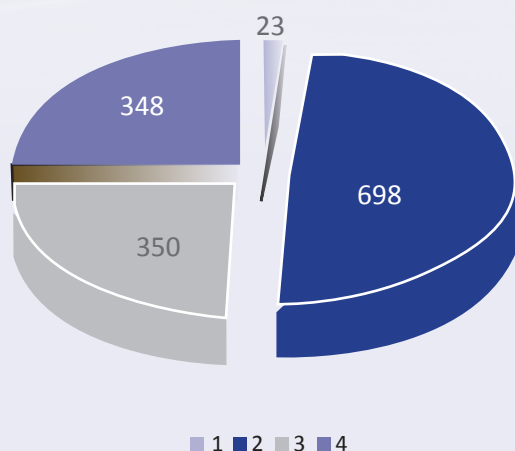
Directorate: Legal Advice										
FILES RECEIVED PER MINISTRY FOR THE 2015/2016 FINANCIAL YEAR										
No	OMA	Reconc- ilitations for 2015/ 2016	TOTAL			TYPES OF LEGAL CASES			FILES OF PREVIOUS YEARS ALSO CLOSED DURING 2015/ 2016	
		Duplicate files	RECEIVED (Opened)	CLOSED	PENDING	Opinions	Agreements	Bills	2013	2014
1	Anti-Corruption Commission		2	0	2	2				
2	Auditor-General		2	2	0	2				1
3	Electoral Commission of Namibia		6	1	5	2	4			2
4	Magistrates Commission		1	1	0	1				
5	Ministry of Urban and Rural Development		1	0	1	1				
6	Ministry of Agriculture, Water and Forestry	1	32	16	16	17	15			5
7	Ministry of Defence		22	12	10	14	8			1
8	Ministry of Education, Arts and Culture	2	17	10	7	10	7			2
9	Ministry of Environment and Tourism		26	16	10	13	13			6
10	Ministry of Finance	4	50	20	30	21	27	2		3
11	Ministry of Fisheries and Marine Resources	2	17	6	11	9	6	2		7
12	Ministry of Foreign Affairs	1	3	3	0		3			1
13	Ministry of Gender Equality and Child Welfare		6	4	2	4	2		1	1
14	Ministry of Health and Social Services		31	23	8	18	12	1	1	
15	Ministry of Higher Education, Training and Innovation		9	6	3	3	6			
16	Ministry of Home Affairs and Immigration		6	2	4	3	2	1		1
17	Ministry of Industrialisation, Trade and SME Development		23	9	14	11	11	1		5
18	Ministry of Information and Communication Technology		10	5	5	7	3			4
19	Ministry of International Relations and Cooperations	1	62	20	42	29	33			
20	Ministry of Justice	1	43	19	24	13	28	2		3
21	Ministry of Labour and Social Welfare		1	0	1	1				4
22	Ministry of Labour, Industrial Relations and Employ. Creation		6	4	2	5	1			

23	Ministry of Land Reform		34	15	19	24	10			
24	Ministry of Lands and Resettlement	4	20	10	10	9	11		1	5
25	Ministry of Mines and Energy		14	7	7	10	4			6
26	Ministry of Poverty Eradication and Social Welfare		2	1	1	2				
27	Ministry of Presidential Affairs		1	1	0	1				
28	Ministry of Public Enterprises		6	4	2	5		1		
29	Ministry of Regional & Local Govts, Housing and Rural dev.		3	1	2	3			2	6
30	Ministry of Sport, Youth and National Service		2	1	1	2				2
31	Ministry of Urban and Rural Development	2	38	19	19	25	11	2		
32	Ministry of Works & Transports	4	73	34	39	50	23		3	14
33	Ministry of Youth, National Service, Sport & Culture		2	1	1	2				
34	Namibia Central Intelligence Service		4	2	2	4				
35	National Planning Commission		3	1	2	3				
36	Office of the Judiciary		2	1	1	2				
37	Attorney-General		11	8	3	8		3		
38	Office of the President		21	14	7	14	1	6		3
39	Office of the Prime Minister	1	37	27	10	34	2	1		5
40	Public Service Commission		7	4	3	7				
41	Others	1	42	18	24	41	1			2
	<b>Total files received</b>	<b>23</b>	<b>698</b>	<b>348</b>	<b>350</b>	<b>432</b>	<b>244</b>	<b>22</b>	<b>8</b>	<b>81</b>
	<b>Total Percentage</b>	<b>3,19%</b>	<b>96,81%</b>	<b>48,27%</b>	<b>48,54%</b>					

#### Notes:

1. Data as on 31/03/2016
2. Data includes reconciliations for 2015/ 2016
3. Reconciliations includes duplicate files & documents for registration purposes only
4. Total of files closed for the 2015/ 2016 Financial Year = 437 (348 + 8 + 81)
5. OMA's in Italic: Files received before name changes in 2015, files were therefore recorded on previous (outfaced) names.

### Total of cases handled during the 2015 / 2016 financial year



1. Represents duplicate files
2. The total of files opened
3. Total of files Pending
4. Total of files Closed

#### Important information:

- It is inevitable that a large number of files especially Agreements and Bills cannot be finalized within one financial year due to the ongoing nature of the matters on which advice is sought.
- After the opening of files on Agreements, there is often a need for consultations with the clients and negotiations between the Client and other Parties to the Agreement, which cause delays, before such Agreements can be finally drafted and scrutinized by the Directorate.
- The files on Bills also very often take more than one financial year to finalize due to the lengthy process involved (as a result of consultations, information gathering and clearing of policy directives).

## 4. Challenges

The main challenges the Directorate encountered during the financial year under review, were:

- Annual increase in requests for legal advice & opinions to clients and stakeholders, which was partially overcome by the appointment of more lawyers (Filling of the posts);
- Insufficient co-operation from Clients in their provision of essential outstanding information needed by the Directorate to be able to provide timeous and quality legal advice to them. The problem encountered is that clients delay the submission of information as well as provide incomplete or selective information. The problem is partially overcome by having more consultative meetings with clients;
- The high demand by O/M/A's, Regional Councils and Local Authorities for Legal Officers to serve on Committees and Boards (which entails negotiations, investigations and the attendance of several meetings) vis a vis the number of lawyers in the Directorate. The problem was partially overcome by the appointment of more lawyers by filling of vacant posts;
- Inevitable demand for staff to travel as an intrinsic part of the work performed by the Directorate in contrast to the insufficient budget vote for subsistence & travel allowance. This remains a problem



## 5. Training

### **5.1 Training attended by staff members:**

A total of fifteen (15) Staff members were trained.

### **5.2 Number of staff members attending workshops and conferences, including nominations to represent O/M/As):**

Thirty (30) staff members attended Conferences and six (6) staff members attended Workshops, whereas seventy two (72) were nominated for representation

## DIRECTORATE: LEGAL SERVICES



### 1. Mandate

The Directorate: Legal Services is responsible for legal matters on national, regional and international level relating to mutual legal assistance; extraditions; human rights and humanitarian law; bilateral and multilateral legal matters; policy and research; providing administrative support to the board for legal education, disciplinary committee for legal practitioners; and inter-ministerial committee for human rights and Humanitarian Law; and issuing of Apostille in terms of the Apostille Convention.

### 2. Overview of activities

- 2.1 central authority for extradition and mutual legal assistance in criminal,
- 2.2 reciprocal enforcement of maintenance orders;
- 2.3 human rights reporting in terms of various human rights conventions;
- 2.4 issuing of Apostiles in terms of the Apostile Convention;
- 2.5 service of civil process;
- 2.6 reciprocal enforcement of foreign judgments;
- 2.7 issues apostilles in terms of the Hague Convention;
- 2.8 and provides secretarial services to:
  - 2.8.1 the Board for Legal Education;
  - 2.8.2 the Disciplinary Committee; and
  - 2.8.3 the Inter-Ministerial Committee for Human Rights and International Humanitarian Law.

### 3. Activities

#### 3.1 Extradition requests:

Namibia co-operates with other countries in extradition matters in terms of the Extradition Act of 1996 on the basis of extradition agreements signed with foreign countries or on the basis that the country has been designated by Namibia as a country with which Namibia wishes to co-operate. Namibia did not make any requests, for the extradition of fugitives from other countries but received four (4) extradition requests during the period under review.

Country from which request was received	Current status of request
Zimbabwe	Pending
South Africa	1 finalised and 1 pending
Botswana	1 pending

### 3.2 Mutual Legal Assistance in criminal and civil matters:

Namibia co-operates with foreign countries on the basis of International Co-operation in Criminal Matters Act 2000. The Act ensures co-operation on the basis of the conclusion of agreements/treaties or resignation of a foreign country by Namibia. The above mentioned Act provides for cooperation in securing of foreign witnesses to testify in Namibian courts; mutual sentences and compensatory orders; confiscation and transfer of proceed of crimes. Namibia has concluded agreements on co-operations in criminal matters with the following States:

#### 3.2.1 Bilateral Agreements

- I. Angola
- II. China
- III. Nigeria
- IV. Zimbabwe

#### 3.2.2 Multilateral Agreements

- a) Southern African Development Community (SADC)
  - I. SADC Protocol on Extradition
  - II. SADC Protocol on Mutual Legal Assistance in Criminal Matters
- b) United Nation (UN)
  - I. UN Convention against Corruption (UNCAC)
  - II. UN Convention against Transnational Organized Crime and the Protocols thereto

### Statistics on Mutual Legal Assistance in criminal matters

Period	MLA	Status
January – March 2015	6	3 – finalised 3 – in progress
April – June 2015	6	3-finalised 3 – in progress
July – September 2015	16	6 – finalised 10 – in progress
October – December 2015	8	4 – finalised 4 – in progress

January – March 2016	14	1 - Pending 9- In progress 4- Finalized
----------------------	----	---

### 3.3 Reciprocal Service of civil process

During the period under review, a total of five requests in civil matters were received in terms of the Reciprocal Civil Service Process Act. The Directorate receives or transmits requests for service of civil process from or to foreign country. Thereafter it transmits a request for service of process from a foreign country to the appropriate court in Namibia.

Statistics for the reporting period are as follows:

Country	No received by Namibia	No of request from Namibia	Status
South Africa	2	NONE	1 finalised
1 sent			
United Kingdom	1	1	2 finalised
Spain	2	NONE	2 finalised
Sweden	1	NONE	1 in progress
Finland	NONE	1	1 in progress

### 3.4 Reciprocal Enforcement of Maintenance Orders

The Reciprocal Enforcement of Maintenance Orders Act provides for enforcement of maintenance orders emanating from a foreign country for enforcement in Namibia by our courts. The Directorate receives or transmits requests for enforcement of maintenance orders from or to a foreign country. Thereafter it transmits a request for reciprocal enforcement of maintenance orders from a foreign country to the appropriate court in Namibia.

Statistics for the reporting period are as follows:

Country	No received BY NAMIBIA	No of requests by Namibia	Status
South Africa	4	1	1 In progress
Scotland	1	NONE	1 In progress

### 3.5 Disciplinary Committee for Legal Practitioners

The Directorate provides administrative services for the Disciplinary Committee established in terms of section 34 of the Legal Practitioners Act, 1995. The Committee consists of four members drawn from the legal profession and the Directorate provides a secretary to the Committee who also serves as full member of the Committee. The functions of the Disciplinary Committee are to exercise disciplinary control over the conduct of Legal Practitioners and candidate Legal Practitioners on allegations of unprofessional, dishonorable or unworthy conducts.

Statistics for the reporting period are as follows:

Complaints received	3
No. of prima facie cases established	9
Referred to hearing	4
Pending	4
Total cases handled	20

### **3.6 Board for Legal Education:**

The Directorate provides administrative services to the Board for Legal Education pursuant to Section 14 of the Legal Practitioners Act, 1995. The role or function of the Board of Legal Education is to deal with Legal Education for candidate Legal Practitioners enrolled at the Justice Training Center.

During the period under review, the Board held thirteen (13) meetings to deliberate on diverse matters relating to the registration and certification of students admitted to the Legal Practitioners Qualifying Examination. During the period under review, a total of hundred and ten (110) students registered in 2015 whereas eight four (84) students passed their exams and twenty four (24) students failed. In 2016, a total of one hundred and twenty (120) students registered and the results are not yet available.

### **3.7 Human Rights and Others**

#### **3.7.1 The Universal Periodic Review (UPR) process and Namibia's involvement:**

The Universal Periodic Review is a major innovative development of the United Nations Human Rights system created in 2006, with the purpose of reviewing the human rights situation in all United Nations member States and to assess the implementation of international norms and treaties in the respective countries. Namibia participated in the first UPR cycle in 2011 when she rendered an account of the state of human rights in Namibia and the extent to which the country co-operated with other human rights mechanisms and treaty bodies whose work the Human Rights Council also reviews. Namibia submitted its second cycle UPR report during the year 2015.

#### **3.7.2 Membership to the Human Rights Council (HRC) 2014-2016**

In 2014, Namibia was elected as a Council member of the HRC in Geneva and will hold this position until December 31 2016. As a member of the HRC, Namibia serves as a permanent mission and troika during the UPR review of other UN member States. A Legal attaché was seconded to the embassy of Namibia to the United Nations Office in Geneva, Switzerland and other International Organizations. Namibia's second cycle UPR report was reviewed by the HRC in January 2016.

#### **3.7.3 Number of human rights reports required in terms of different instruments submitted to treaty bodies**

In 2014, three human rights reports were submitted to treaty bodies, namely: International Covenants on Economic, Social and Cultural Rights (ICESCR); International Covenants on Civil and political Rights (ICCPR); International Convention on the Elimination of all forms of Racial Discrimination (ICERD); and another three



(3) reports in 2015 namely the African Charter on Human and Peoples' Rights (ACHPR), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

#### **3.7.4 Namibia's co-operation in the suppression of transnational organized crime, corruption and terrorism.**

Namibia participates in the work of the Commission on Crime Prevention and Criminal Justice, the deliberative body of the United Nations (UN) on the development of policies in the field of crime prevention and criminal justice.

Namibia signed and ratified the UN Convention against Transnational Organized Crime (UNTOC) and two of its supplementary protocols relating to trafficking in persons and smuggling of migrants. However, it did not ratify the Firearm Protocol to UNTOC. Namibia has established a regulatory administrative framework to facilitate implementation of the UNTOC in order to suppress money laundering.

Namibia has established a regulatory administrative framework to facilitate implementation of the UNTOC in order to suppress money laundering. In this regard, Parliament enacted the Prevention of Organised Crime Act, 2004 (POCA) and the Financial Intelligence Act (FIC) Act, 2012 to facilitate, detect suspicious financial transactions and impose reporting obligations on accountable institutions. The prosecution of money laundering activities and to seize proceeds of crimes. The Bank of Namibia which hosts the Financial Intelligence Centre (FIC) oversees the work of an inter-ministerial and stakeholder council known as the Anti-Money Laundering Council to which the FIC reports on Namibia's obligations to curb money laundering and suppression of the financing of terrorism council which consists of heads of institutions charged with policy on these matters.

In the framework of the Crime Commission, the UN developed binding legal instruments on transnational organized crimes, corruption and terrorism. These efforts culminated in the adoption of UNTOC, United Nations Convention Against Corruption (UNCAC) and numerous terrorism conventions. The Commission reviews implementation of these instruments during its annual sessions.

### **3.8 Meetings**

Namibia is a member to a number of international organizations i.e the United Nations (UN), African Union (AU), Southern Africa Development Community (SADC), The Common Wealth, etc... Therefore these organizations have meetings on different subject matters under different sub-organizations which requires Namibia's contribution and presence at such meetings.

#### **3.8.1 Inter-Ministerial Committee on Child Justice**

During the reporting period, seven Inter-Ministerial Committee meetings were held to discuss the Child Justice Bill and draft State reports referred to above.

#### **3.8.2 Human Rights Council**

The Directorate also attended four Human Rights Council meetings in Geneva and five meetings on Humanitarian law

### 3.8.3 IHL meetings and Seminar for the year 2015

- a) Sub-regional roundtable on the Cluster Munitions Convention 17-18 June 2015, Lusaka, Zambia.  
Between 17 and 18 June 2015, the ICRC and the Government of Zambia co-hosted a sub-regional roundtable on adherence to the Convention on Cluster Munitions (“CCM”) and its proper implementation. Representatives of 9 governments in the region participated and discussed the principal obligations of the CCM, the actions required to implement its provisions and the treaty’s relevance for African states.
- b) International Humanitarian Law, Canberra. 20-23 July 2015
  - i. The Conference seeks to use the framework of the Commonwealth to discuss IHL issues of particular interest to Commonwealth Member States, as well as new developments and current issues in the law
  - ii. Share information and experiences in the national implementation of IHL;
  - iii. Serve as an informal preparatory meeting for the 32nd International Conference of the Red Cross and Red Crescent, which shall take place in Geneva, Switzerland, from 08-10 December 2015; and
  - iv. Encourage the special partnership between Commonwealth States and Commonwealth National Red Cross and Red Crescent Societies, in particular’ with respect to IHL promotion.

### 3.8.4 The Annual Regional IHL seminar

The IHL seminar is held annually in Pretoria, South Africa.

The outcomes from the seminar are as follows (to name a few):

- i. To recognize the value participation of representatives from the African Union Commission (AUC), the Pan African Parliament (PAP) and the SADC Secretariat at the annual regional IHL Seminar;
- ii. To increase engagement with and within regional and continental fora like the AUC and SADC on the implementation of the IHL inline with agenda 2063’s vision of “The Africa We Want”; and
- iii. To consider the organization by the ICRC and SADC Secretariat of a high level event on the margins of the SADC Summit on the importance of IHL in the region.

### 3.8.5 International Conference of the Red Cross and Red Crescent of December 2015

The 32nd International Conference, held in Geneva from 8-10 December, brought together representatives from 169 Governments, 185 National Red Cross and Red Crescent Societies, the International Federation of Red Cross and Red Crescent Societies (IFRC), the International Committee of the Red Cross

### 3.9 Training:

Training activity	Duration	Number of staff who attended
Terrorism and Human Rights	24-26 March 2015	1
People with disabilities	9-11 March 2014	1
Coaching and Mentoring	4-8 August 2014	1

Conference on death penalty	2-4 July 2014	1
Protection of the sea-legal, economic and natural science	27 July – 22 Aug 2014	1
Role of recommending UPR	27 Oct – 07 Nov 2014	1
Implementation of the United Nations Convention against corruption (UNCAC)	24 – 26 June 2014	2
International Law seminar, Geneva	7-25 July 2014	1
Technical committee meeting (STC) on justice and legal affairs, Addis Ababa	6-14 May 2014	1
Course on “international law” in Singapore	24-28 March 2014	1
25th session of the human rights council, Geneva	3-14 March 2014	1
United Nations international law fellowship programme, the Hague, the Netherlands	24 June – 2 August 2013	1

### 3.10. Success and Challenges

#### 3.10.1 Success

- i. All outstanding Human Rights reports were finalised and submitted to treaty bodies;
- ii. The Directorate processed and issued two thousand (2000) Apostilles;
- iii. The Directorate Legal Services participated in all the major Human Rights and Humanitarian Law sessions (including Namibia’s membership to the Human Rights Council);
- iv. Dialogue with Non-Governmental Organizations on UPR; and
- v. Hosted UPR Info-group (UPR Info-Group is a non-profit, non-governmental organization based in Geneva, Switzerland. It aims at raising awareness on the UPR and providing capacity building to different actors of the UPR process).

#### 3.10.2 Challenges

- i. There are no dedicated administrative staff to perform administrative function of the Board for Legal Education and the Disciplinary Committee;
- ii. Services of process, Civil or criminal is transmitted through diplomatic channels which delays transmission and service of subpoenas or summons; and
- iii. Foreign Maintenance Orders are not enforced by our courts, in most cases.

## DIRECTORATE: LEGAL AID



### 1. Mandate

The Directorate: Legal Aid is charged with the responsibility of providing legal aid, i.e. legal advice and legal representation at Government expense to all eligible Namibians meeting the qualifying criteria, at government expense. The regulatory framework for the provision of legal aid can be found in Articles 12 and 95 of the Namibian Constitution as well as the Legal Aid Act 29 of 1990, as amended. The scheme is intended to ensure access to justice by providing legal representations to persons who have insufficient means to afford the services of private legal practitioners to represent them in proceedings before the courts, in accordance to a means test threshold defined in regulations promulgated under the Legal Aid Act.

### 2. Overview of Activities

The core activities of the Directorate of Legal Aid are: receiving, determining whether to grant or refuse (as per prescribed criteria) and issuing instructions to legal practitioners (private and legal aid counsel).

Statistics for the Financial Year 2015/2016



	Number Of Applications	Granted				Refused			Pending			Finalised
		Private Practitioners	In-house Counsel	Contribution from applicant	Total granted	High Income	Others	Total refused	Outstanding info	Decision	Total Pending	
Appeals	225	66	9	0	75	0	59	59	60	31	91	1
Divorce	501	104	8	0	112	7	11	18	1	370	371	0
Civil	838	318	17	1	336	70	157	227	270	5	275	10

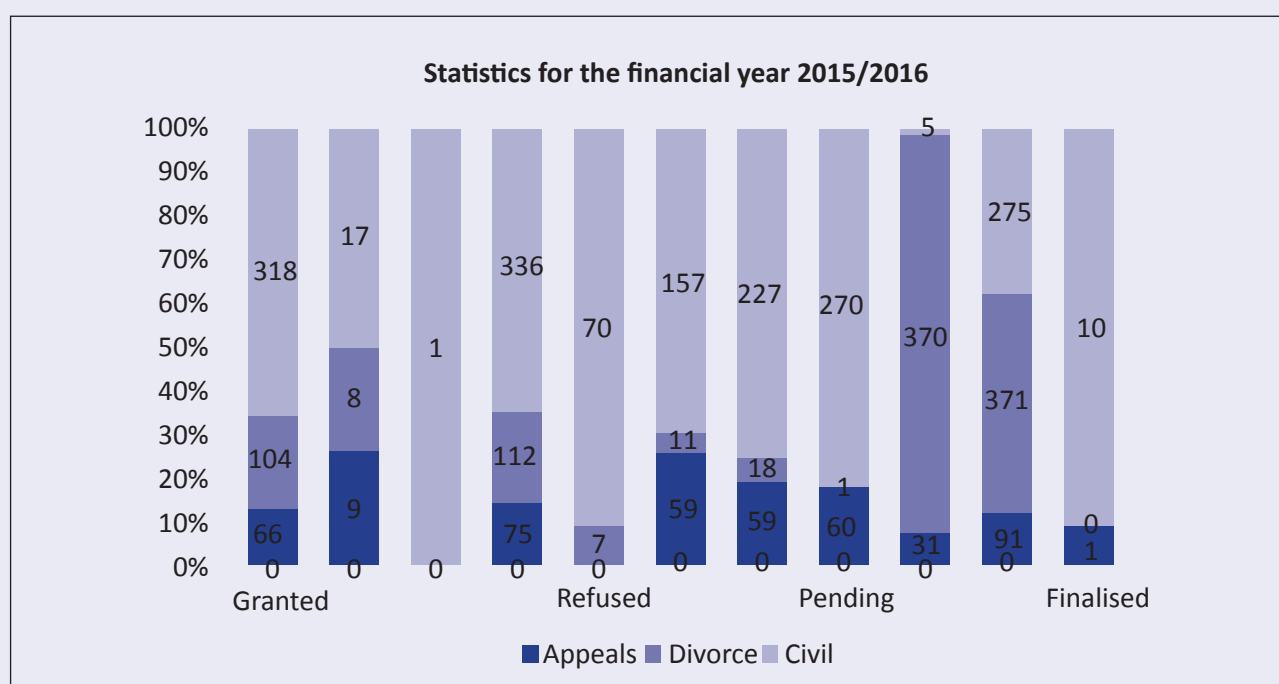


Fig. 1

Fig. 1 above depicts the total number of criminal appeals, divorce and civil (including labour matters) applications received during the reporting period. The total number received in this category is 1564. This represents about 17.5% of the grand total applications (8943) received.

The total applications granted in this category are 523 which translates into about 8.57% of the total applications granted.

It is worth noting that out of the 523 granted applications, 488 (95%) of the instructions went to private practitioners. Only a mere 5% were handled by Legal aid counsel or in-house. The primary reason for this skewed state is the fact that cases in these categories are tried in the High Court. High Court cases are complex and require experience which in-house lawyers do not have. In addition, these processes take a lot time.

Human resources permitting, it is the long term goal of the Directorate to create a pool of expertise in these areas. Towards that end, two legal aid counsel are dedicated to civil litigation only during the reporting period. This is necessary for both cost reduction, and quality assurance purposes.



## Criminal Matters

TOWN	NUMBER OF APPLICATIONS	Granted				Refused			Pending			Finalised
		<i>Private Practitioners</i>	<i>In-house Counsel</i>	<i>Contribution from applicant</i>	<b>Total granted</b>	<i>High Income</i>	<i>Others</i>	<b>Total refused</b>	<i>Outstanding info</i>	<i>Decision</i>	<b>Total Pending</b>	
Aranos	94	3	79	0	82	0	11	11	0	1	1	16
Karibib	55	0	48	0	48	0	6	6	0	1	1	0
Keetmanshoop	399	176	120	0	296	6	83	89	6	8	14	13
Khorixas	162	0	114	1	115	1	29	30	1	16	17	0
Maltahohe	67	6	53	0	59	0	6	6	2	0	2	16
Okahandja	127	78	21	0	99	3	16	19	1	8	9	3
Okakarara	139	0	103	0	103	3	30	33	2	1	3	15
Omaruru	159	21	111	0	132	5	15	20	0	7	7	0
Otavi	91	0	67	0	67	3	17	20	4	0	4	0
Otjiwarongo	240	0	176	0	176	2	40	42	2	20	22	0
Outjo	184	0	134	0	134	4	19	23	6	21	27	0
Windhoek	1392	620	289	10	919	75	349	424	26	23	49	9
Bethanie	42	12	25	0	37	0	4	4	0	1	1	0
Karasburg	119	4	88	0	92	2	25	27	0	0	0	20
Luderitz	120	8	79	0	87	4	27	31	0	2	2	0
Mariental	541	102	311	0	413	5	119	124	4	0	4	115
Oranjemund	19	0	8	3	11	3	4	7	0	1	1	0
Oshakati	369	80	185	0	265	7	87	94	9	1	10	4
Rehoboth	225	96	107	0	203	2	18	20	0	2	2	28
Rundu	301	0	227	2	229	7	55	62	2	8	10	10
Tsumeb	341	39	227	0	266	10	59	69	4	2	6	5
Eenhana	226	42	151	0	193	4	27	31	1	1	2	0
Gobabis	218	101	73	0	174	1	21	22	0	22	22	3
Grootfontein	186	7	137	0	144	5	32	37	5	0	5	2
Katima Mulilo	376	0	315	0	315	7	52	59	0	2	2	41
Ondangwa	362	30	247	1	278	8	67	75	8	1	9	6
Opuwo	127	2	88	0	90	0	37	37	0	0	0	0
Outapi	239	80	112	0	192	5	35	40	7	0	7	0
Swakopmund	208	8	163	1	172	1	26	27	3	7	10	6
Usakos	98	12	55	0	67	2	11	13	1	17	18	0
Walvisbay	105	2	75	0	77	10	17	27	0	1	1	0
Tsumkwe	48	2	44	0	46	0	2	2	0	0	0	0
<b>Grand Total</b>	<b>7379</b>	<b>1531</b>	<b>4032</b>	<b>18</b>	<b>5581</b>	<b>185</b>	<b>1349</b>	<b>1534</b>	<b>94</b>	<b>170</b>	<b>264</b>	<b>313</b>

Fig.2

Fig. 2 depicts the total number of criminal related applications received country-wide during the reporting period. A total of 7379 applications were received on this category. This represents about 82.5% of the grand total applications (8943) received. Of the total 7379 applications in this category, 5562 applications were approved. This translates into 75.4% of the category. It represents 91.12% of the granted total of approved applications (6104).

The 6104 approved applications represent 100% of the eligible (those who met the statutory criteria) out of the total 8943 received during the reporting period.

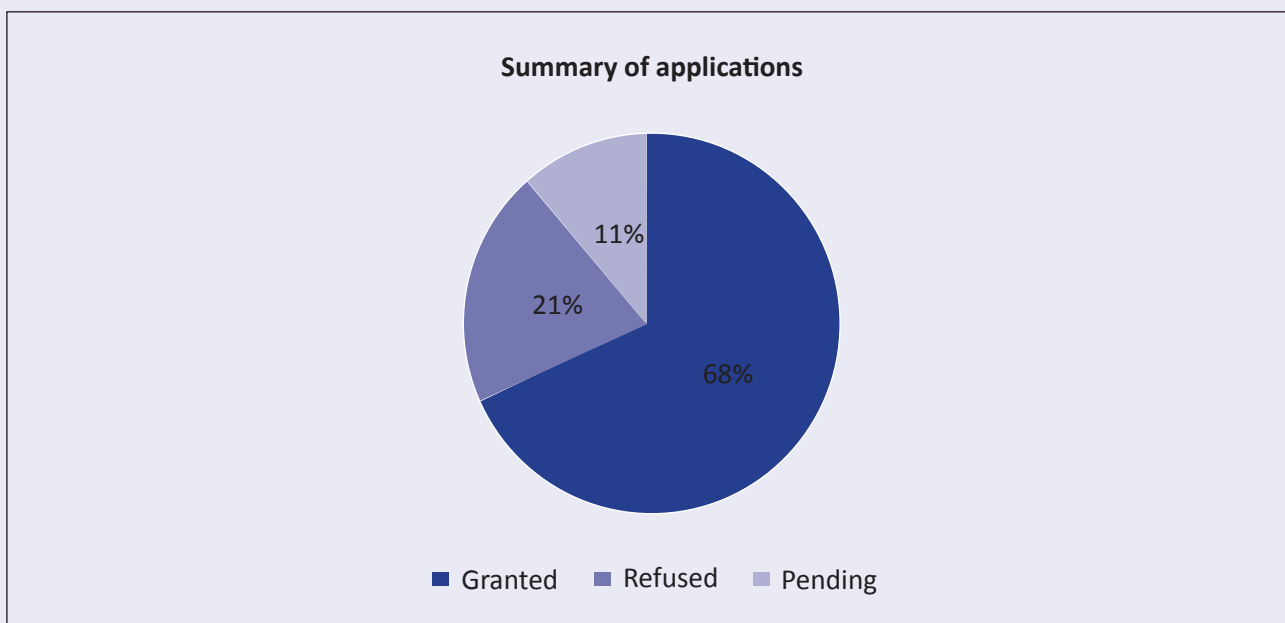
The ratio of case distribution between in-house counsel and private practitioners is 4032:1531. This translates into 72.5: 27.5% in favour of the in-house counsel. On face value, this is a remarkable state of affairs. This would have been an ideal situation under normal circumstances; for both cost reduction and quality assurance monitoring.

However, the status quo, that is, the imbalance in the number of legal aid counsel on the one hand and, prosecutors and magistrates on the other hand, distorts the principle of equality of arms.

This means, in medium-size towns such as Katima Mulilo, Rundu, Outapi, Eehanana, Opuwo, Ohangwena, Grootfontein and many others which have no law firms, legal aided accused have to rely on one legal aid counsel. The one legal aid counsel is also expected to attend to periodical courts under the district concerned. The result of this state of affairs is an overburdened legal aid counsel which may lead to ineffective legal representation or perceptions to that effect.

#### Summary of applications

<b>Total applications received</b>	<b>7379 (100%)</b>
Total applications granted	6104 (68%)
Total applications refused	1838 (21%)
Total applications pending	1001 (11%)



### 3. Successes

- The Directorate has dedicated two legal aid counsel to civil litigation with the view of setting up a civil litigation unit in the Directorate; and
- During the period under review, the Directorate reduced the ratio of criminal instructions to private practitioners in favour of in-house legal aid counsel to 27.5:72.5; albeit with potential overburdening of the small number of legal aid counsel and potential compromise on the quality representation.

### 4. Challenges

- The Caprivi trial remain the highest single cost driver and its finality is not in sight because of appeals and cross-appeals as well as civil actions;
- Staff shortage remains unresolved and it is beginning to impact on the quality of representation offered by legal aid counsel; and
- Lack of office, and residential accommodation for legal aid counsel at majority stations.

## DIRECTORATE: MASTER OF THE HIGH COURT



### 1. Mandate

The Directorate: Master of the High Court 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.

The Master supervises insolvencies and curatorship the administration of deceased estates, the purpose being to ensure an orderly winding up of the financial affairs of the deceased, and the protection of the financial interests of the rightful heirs and creditors that have claims against estates.

All liquidations and insolvencies fall under the jurisdiction of the Master of the High Court and as such the Master must ensure that the rights of creditors and the business world are protected. The administrative process supervised by the Master includes the following duties:

- By application to Court the Master must advise the Court through a report on whether or not insolvency will be to the advantage of the creditors;
- appoints and removes trustees and liquidators;
- advertise Court orders and first meetings of creditors;
- preside at all meetings and interrogations;
- decide on the validity of creditor's claims;
- issue orders for payment of contribution by the insolvent;
- approve trustee's/liquidator's liquidation and distribution account;
- with an application for rehabilitation to Court, the Master must advise the Court through a report on whether or not the applicant should be rehabilitated.



### **The functions of the Guardian's Fund are as follows:**

- To receive and disburse funds;
- to invest funds and calculate interest thereon;
- to safe keep and control hypothecation and security deeds for money accruing to minors;
- to compile and publish annual lists of unclaimed sums exceeding N\$500 000,00.

## **2. Overview of Activities**

### **Trusts, Deceased Estates**

2.1 The Master must ensure that trusts are administered in terms of the provision of the Trust Deed and the Trust Monies Protection Act (Act No 34 of 1934).

### **Guardian Fund**

2.2 The Master of the High Court administers the Guardian Fund, which is created to administer funds which are paid over to the Master on behalf of various persons known or unknown, such as minors, persons incapable of managing their own affairs, unborn heirs, missing or absent persons or persons having an interest in the moneys held in the fund. Funds may be claimed by guardians of minors for maintenance and education of such minors. Funds not needed for the needs of minors must be invested and earn interest.

## **3. Successes**

The primary achievement of the Directorate is the progress in the development of the integrated financial and case management system. Phase one of the system will be completed during the 2016/2017 financial year.

The Guardian's Fund investments showed a growth of 5.67% despite very volatile markets.

## **4. Challenges**

The winding up of deceased estates is delayed by disputes amongst beneficiaries and lack of understanding of the administration process.

The lack of uniform legislation governing deceased's estates of different groups in the country is a major course for concern in the country.

The lack of a uniform matrimonial regime in the country (e.g marriages below and above the Red Line). Customary laws of inheritance in the country are not uniform, which cause confusion as to the governing custom in cross cultural marriages.

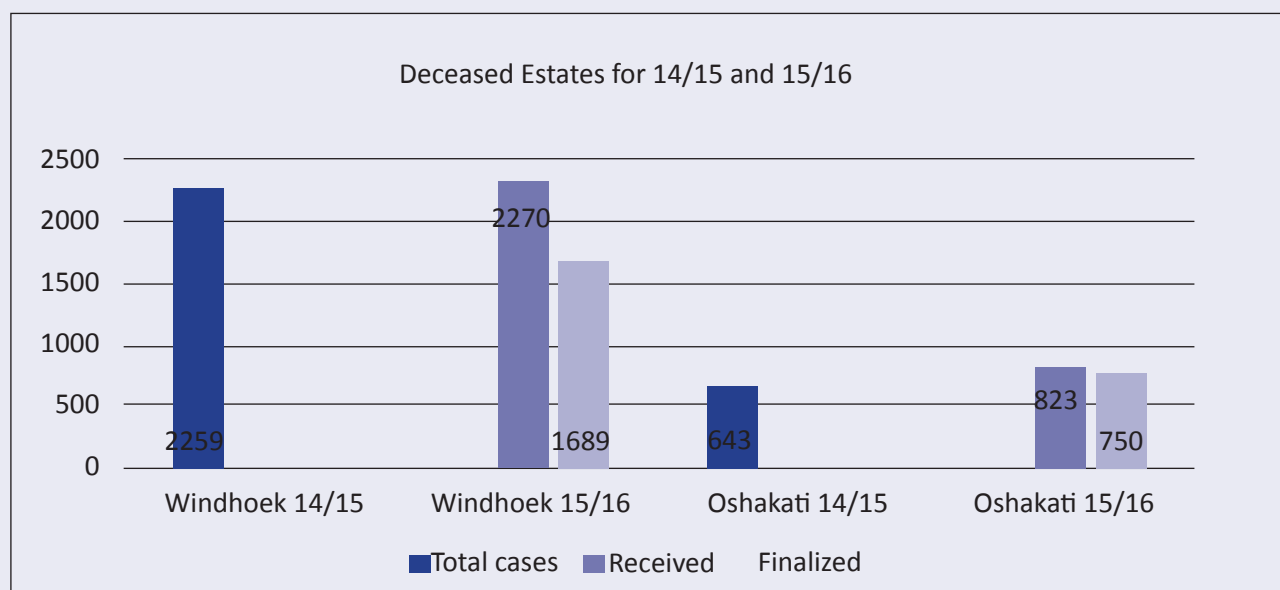
## **5. Statistics**

During the 2015/2016 financial year, 2270 estates were reported to Master of the High Court offices in

Windhoek while 823 estates were reported to the office at Oshakati.

#### Deceased Estates that were reported during 2014/15 and 2015/16:

Windhoek	Windhoek		Oshakati	Oshakati	
2014/2015	2015/2016		2014/2015	2015/2016	
	Received	Finalized		Received	Finalized
2559	2270	1689	643	823	750



Insolvencies and liquidations that were reported during 2015/2016 financial year:

2015/2016
17

Trusts registered during 2015/2016 financial year:

2015/2016
483

Activities of the Guardian's Fund during 2014/15 and 2015/16:

Description	2014/2015	2015/2016
Interest rate	7.5%	7.5%
New accounts opened for beneficiaries	8901	7854
Monies paid to beneficiaries	123,665,012.55	122,484,569.35
Value of the fund	1,322,814,609.51	1,389,788,082.57

The Guardian's Fund held the following investments during the financial year:

Description	Opening balance 1/4/2015	Balance at 31/03/2016	Interest Amount	Interest %
<b>Sanlam Cautious 1</b>				
1536663	36,743,131.32	39,012,500.85	2,269,369.53	5.82%
1833250	34,899,106.98	37,053,841.77	2,154,734.79	5.82%
1542380	26,818,534.34	28,473,563.91	1,655,029.57	5.81%
1500255	24,559,785.37	26,074,989.67	1,515,204.30	5.81%
1807064	24,208,956.91	25,702,187.74	1,493,230.83	5.81%
1558972	24,205,000.33	25,697,989.10	1,492,988.77	5.81%
1777580	17,848,649.90	18,947,919.74	1,099,269.84	5.80%
1750397	15,923,378.27	16,903,563.70	980,185.43	5.80%
2259752	15,409,950.84	16,358,272.72	948,321.88	5.80%
1698646	11,547,987.65	12,257,382.26	709,394.61	5.79%
1767706	11,220,493.59	11,909,384.74	688,891.15	5.78%
2025690	10,165,505.58	10,789,417.48	623,911.90	5.78%
2220283	9,539,017.48	10,124,057.85	585,040.37	5.78%
1946425	8,453,558.07	8,971,308.11	517,750.04	5.77%
<b>Sanlam Cautious 2</b>				
1841931	47,826,544.97	50,782,683.93	2,956,138.96	5.82%
1400779	30,002,191.94	31,854,433.73	1,852,241.79	5.81%
1412782	28,289,151.00	30,035,294.81	1,746,143.81	5.81%
1285915	27,288,382.51	28,972,226.81	1,683,844.30	5.81%
1345339	26,566,446.08	28,205,844.26	1,639,398.18	5.81%
1361898	26,497,638.88	28,132,634.30	1,634,995.42	5.81%
2166023	20,533,247.81	21,799,066.18	1,265,818.37	5.81%
1424431	17,763,373.41	18,857,660.30	1,094,286.89	5.80%
1881655	15,492,204.69	16,445,900.04	953,695.35	5.80%
1391010	13,143,852.61	13,952,025.79	808,173.18	5.79%
1910975	10,684,135.26	11,340,128.67	655,993.41	5.78%
2055333	10,086,321.66	10,705,170.56	618,848.90	5.78%
2010809	8,233,345.47	8,737,661.47	504,316.00	5.77%
<b>Sanlam Aggressive 1</b>				
1227826	51,149,136.58	53,571,006.56	2,421,869.98	4.52%
1247345	40,148,157.59	42,038,808.04	1,890,650.45	4.50%
1216886	38,586,538.98	40,414,228.72	1,827,689.74	4.52%
1187657	19,279,010.88	20,189,303.75	910,292.87	4.51%
988659	18,198,171.28	19,052,535.65	854,364.37	4.48%
1199520	15,896,067.81	16,645,381.67	749,313.86	4.50%
1227461	15,549,852.99	16,283,010.84	733,157.85	4.50%
<b>Sanlam Aggressive 2</b>				
2789006	58,656,389.04	61,439,504.04	2,783,115.00	4.53%

1444132	22,730,586.18	23,804,236.51	1,073,650.33	4.51%
1484336	16,775,519.86	17,565,981.82	790,461.96	4.50%
1518638	16,574,732.39	17,352,679.12	777,946.73	4.48%
1616135	16,284,901.89	17,051,964.11	767,062.22	4.50%
1644780	13,201,133.17	13,822,074.60	620,941.43	4.49%
<b>Sanlam Aggressive 3</b>				
1341734	61,234,664.91	64,122,249.82	2,887,584.91	4.50%
1271238	58,481,628.90	61,239,585.98	2,757,957.08	4.50%
1330992	51,334,323.19	53,765,835.13	2,431,511.94	4.52%
1256379	41,447,946.34	43,409,904.13	1,961,957.79	4.52%
1298611	33,510,825.73	35,088,047.49	1,577,221.76	4.50%
1322262	27,178,208.11	28,463,585.40	1,285,377.29	4.52%
<b>Simonis Storm Portfolio</b>				
Bank of Namibia	2,000,000.00	2,189,999.96	189,999.96	8.68%
Standard Bank Bond	10,000,000.00	11,049,000.04	1,049,000.04	9.49%
Bank of Namibia	1,600,000.00	1,752,000.04	152,000.04	8.68%
Bank of Namibia	3,500,000.00	3,832,499.96	332,499.96	8.68%
<b>NEB Portfolio</b>				
Bond GC17	1,170,000.00	1,246,050.00	76,050.00	6.50%
Bond GC17	10,000,000.00	10,700,000.00	700,000.00	7.00%
Bond GC18	14,760,000.00	15,744,492.00	984,492.00	6.67%
Bond GC18	15,960,000.00	17,468,220.00	1,508,220.00	9.45%
Bond GC18	3,000,000.00	3,258,000.00	258,000.00	8.60%
Bond GC21	600,000.00	651,900.00	51,900.00	8.65%
Bond GC21	20,000,000.00	21,572,000.00	1,572,000.00	7.86%
Bond GC21	3,010,000.00	3,231,235.00	221,235.00	7.35%
Fixed 16/	940,000.00	1,003,826.00	63,826.00	6.79%
Fixed Deposit	1,200,000.00	1,268,400.00	68,400.00	5.70%
Fixed Deposit	937,290.00	991,652.82	54,362.82	5.80%
Fixed Deposit	2,450,000.00	2,623,950.00	173,950.00	7.10%
FL Rate BWHK NCD	1,900,000.00	2,026,920.00	126,920.00	6.68%
<b>Advance Wealth</b>				
Advance Standard Bank	1,146,137.89	1,216,004.40	69,866.51	5.75%
Advance Pointbreak	3,717,847.80	3,989,394.41	271,546.61	6.81%
Bank Windhoek	6,807,569.02	7,190,607.94	383,038.92	5.33%
First National Bank	5,994,637.73	6,224,476.95	229,839.22	3.69%
Platinum/Old Mutual	27,756,283.54	30,028,024.17	2,271,740.63	7.57%
Standard Bank	6,932,395.01	7,112,395.01	180,000.00	2.53%
Bank Windhoek Cheque			400,000.00	
	1,315,549,849.73	1,389,788,082.57	74,638,232.84	5.67%





### 1. Mandate

The Law Reform and Development Commission Act, 1991 (Act No. 29 of 1991) establishes the Law Reform and Development Commission which came into operation on 15 July 1992. The core mandate of the Commission is to undertake research in connection with and to examine all branches of the Namibian Law and to make recommendations for reform and development of the said law. The key activities of the Commission to support this broad mandate are provided for in terms of section 6 of the enabling legislation and include:

- the repeal of obsolete or unnecessary enactments;
- the consolidation or the codification of any branch of the law or introduction of other measures aimed at making the law more readily accessible;
- the integration or harmonization of the customary law with the common and statutory law;
- new or more effective procedures for the administration of the law and the dispensing of justice; and
- the enactment of laws to enhance respect for human rights enshrined in the Namibian Constitution or to ensure compliance with international legal obligations.

### 2. Overview of Activities

The Commission has been working on the following projects:

#### **Project Title: The Review of the Insolvency Act, 1936 (Act No. 24 of 1936)**

The project was initiated by the Bank of Namibia in 2012 with a limited scope of what needed to be amended in the Insolvency Act.

Apart from the sections 35 and 46 of the Insolvency Act, 1936, the LRDC sought to review the adequacy of the antiquated Insolvency Act, 1936 as a whole in order to determine whether or not its current provisions, which have been in force for over 70 years, still play a relevant role in the facilitation of credit and particularly, with Namibia's international trade obligations under international law.

The current status of the project is that a Discussion Paper on Issues Relating to the Insolvency Act, 1936 has been compiled outlining the key the issues gathered from the consultative stakeholder meetings conducted in July 2013.

However, a consultant has now been engaged to a draft proposals to the issues identified.

Once draft proposals are received from the consultant, the project officer(s) will conduct further consultations, including a final workshop scheduled for June 2016 which would culminate in a final report to the LRDC. The project is anticipated to be completed in November 2016.

#### **Project Title: Namibia Legal Resources and Information Institute (NaLRII)**

The LRDC is mandated to undertake research in connection with all branches of the law of Namibia and to make recommendations for the reform and development thereof under the Law Reform and Development Commission Act, 1991 (Act 29 of 1991). Section 6(b) in particular, directs the LRDC to "consolidate or codify any branch of the law and introduce measures aimed at making the law more readily accessible".

The Ministry of Justice entered into a contract with Namibia Legal Information and Institute (NamLII), a company incorporated in terms of Section 21 of the Companies Act, 1973 (Act No. 63 of 1973), represented by Mr Samson Muhapi in his capacity as Executive Director of NamLII, on March 2009 for the development and implementation of an E-Laws Portal for the Ministry of Justice in order to provide online access to Namibia's legal information such as case law, legislation, government gazettes, international agreements to which Namibia is a party and parliament Hansards. NamLII failed to deliver certain services as provided for in terms of the contract and the agreement was therefore not renewed from April 2011.

AfricanLII is a project of the Democratic Governance and Rights Unit (DGRU) at the Department of Public Law, Faculty of Law, University of Cape Town with the main goal to promote Free Access to Law and Open Justice in Africa

In support of this main goal, AfricanLII also identifies potential new LIIs in Africa; assists and supports new and existing LIIs in Africa; provides a centralized source of pan-African primary and secondary legal material; provides legal information on regional and continental legal institutions; and coordinates and supports a collaborative resource pool for LIIs across Africa.

NaLRII does not follow the normal procedures for the law reform process. At present, AfricanLII has offered to provide NaLRII with a "LII – in – a – box" which has been developed to enable countries to develop their own online legal publication platforms.

This option would require a commitment from NaLRII to provide the capacity to upload the content on a regular basis, but AfricanLII will be able to provide ongoing technical support and training at no cost to NaLRII.

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

The review of Administrative Justice in Namibia project was initiated by the LRDC and has been on the LRDC work program since 2008 and has been carried over to the Work Programs of subsequent Commissions including the current Commission.

The project has been approved by the current Commission and therefore forms part of the current Commissions three year Work Program. The Project was initiated by the LRDC as part of its theme of "Access to Justice" adopted back in 2008. At the time, it was realised that there was a need for establishing an administrative justice legal framework and this was copiously recommended at a Conference on Administrative Law held in August 2008.

### **The law aims to achieve two broad objectives**

To give greater detail to the requirements of Article 18 of the Namibian constitution and to some extent codification of common law administrative justice principles.

Establish tribunals to adjudicate on administrative law cases and thereby increase access to justice  
The project is currently at the report preparation stage before submission to the Minister of Justice in terms of section 9(1) of the Law Reform and Development Commission Act, 1991 (Act no. 29 of 1991).  
This project is now in the stage of compilation of all reports and draft bill into final report. The anticipated date of finalization of the project is 28 February 2016.

**Project Title: Report on Uniform Default Matrimonial Property Consequences of Common Law Marriages. The project was introduced by the LRDC and commenced in 2003.**

The current project has been approved by the Commission which forms part of the family three year project programme.

The LRDC has since its establishment in 1992 given considerable attention in general to issues concerning family law and customary law and the need to repeal or amend some of these discriminatory laws. The new law aims to achieve the following.

To provide for remedies to persons who entered into marriages in terms of section 17(6) of the Native Proclamation 15 of 1928 and who are adversely affected by the administration of that provision.

To create a default matrimonial property regime for the country. To prepare the prepare a final report on the Uniform Default Matrimonial property Consequences of Common Law Marriages

The Commissioners assigned to the project have made comments to the Uniform Default Marital Regimes Bill.

The expected final product is the compilation of a final report incorporating the amended draft bill for submission to the Minister of Justice.

### **Project title: The Domestication of the United Nations Convention against Torture (UNCAT)**

The LRDC approved the Torture project in their official work programme premised on statutory obligations



in section 6 of the Law Reform and Development Act, 1991 (Act No. 29 of 1991). Section 6 mandates the LRDC to make recommendations with regard to enactment of legislation that promotes and enhances respect and protection of human rights in line with the Namibian Constitution as well as the augmentation of international instruments by ensuring compliance with international obligations. The Ministry of Justice remains the primary custodian of the Prevention and Combating of Torture Bill 2016.

The constitutional dispensation adopted with Namibia's independence demanded a criminal justice system that advanced the protection of fundamental human rights. Ergo, Namibia ratified the UNCAT on 28 November 1994. In terms of Article 144 of the Constitution, international agreements are binding upon Namibia unless otherwise provided by the Constitution or an Act of Parliament. Article 2 and 4 of the UNCAT requires Namibia to implement and enforce legislative, judicial and administrative measures in purport of preventing abusive conduct that amounts to torture or cruel, inhuman and degrading treatment. The UNCAT further provides for specific criminalisation of torture into domestic legislation, the necessity to exclude evidence obtained by the use of torture or other forms of cruel, inhuman and degrading treatment in all proceedings and to enact legislation for the investigation of any substantiated allegations of torture inter alia.

The LRDC prepared a Draft Prevention and Combating of Torture bill and Working Paper. The Working Paper is a comprehensive research document that informs the content of the bill. During August 2015 the LRDC hosted a stakeholder consultative workshop on these working documents to solicit comments and consensus on pertinent issues presented within the working paper. The workshop was successful in attendance as the majority of invited stakeholders were represented. The LRDC is in the process of incorporating stakeholder input into the final report, inclusive of recommendations and the draft bill. The LRDC anticipates to host regional consultations in key areas where the reports of acts of torture are more prominent.

Upon final approval of the LRDC, the official handing over of the final report and draft Prevention and Combating of Torture bill to the Minister of Justice is scheduled to take place during the course of 2016.

#### **Project Title: National Economic Equity Empowerment Framework (NEEEF)**

In 2014 the Office of the Prime Minister approached the then Minister of Justice, Hon. Min. Utoni Nujoma, about the passing into law of a framework that, that office had developed to regulate economic equity empowerment in the country.

The framework had finally come about after several delays with previous BEE policies. The OPM pressed that it was urgent that a draft Bill be developed to echo the core sentiments of the framework, it was at this point that the project was then brought over to the LRDC to facilitate. The LRDC's involvement is in line with its legislative mandate to undertake research in connection with and examine all branches of the law of Namibia and to make recommendations for the reform and development thereof.

The justification of the NEEEF project is to facilitate the passing into law of the National Equitable Economic Empowerment Framework. Once the NEEEF is passed into law, it will serve as the official national programme for economic transformation and empowerment, economic empowerment standards and transformation charters. The quintessential justification for this project is to distribute wealth across a broad spectrum of previously disadvantaged Namibians.

The aim of the NEEEF is to provide a clear overarching policy framework into which all other policies will slot. The NEEEF will supersede all other transformation and empowerment policies of Government as well as



provide the framework within which all private sector initiatives, past and future will be expected to conform to. Government will ensure its other policies are consistent and mutually reinforcing with the NEEEF.

NEEEF is based on the understanding that years of systemic colonialism and apartheid have contributed to contemporary economic woes in the country, and that government intervention can curtail the results of past racist regimes.

Currently, the LRDC and Office of the Prime Minister are preparing to host a Consultative Stakeholders Workshop on Thursday, 11 February 2016. The Workshop is intended to gauge stakeholder perspectives on the NEEEF Draft Bill whilst facilitating open dialogue.

After the workshop has been completed, Stakeholders as well as the general public will have an opportunity to submit their comments, inputs and queries to the Bill via an online submission form on the OPM website. This facility will be made available for 14 days after the Workshop. Inputs received will then be collated and reviewed by the collaborating institutions.

After consultative work-shopping the draft Bill will be forwarded to the Minister of Justice who must then present it to CCL before it is taken for presentation and passing with Cabinet and then the National Council.

It is hoped that NEEEF will be finalized before the end of the 2016/2017 financial year.

### 3. Successes

#### **Capacity Building:**

Law Reform received formal endorsement of the proposed structure for the Directorate. As a result Law Reform was able to appoint five new staff members under the Directorate. The additional staff increased momentum of progress on meeting operational objectives.

In addition, in purport of empowering human resource in the office, Law Reform has ensured that staff members attend training in various areas that required skills and knowledge development.

#### **Stakeholder Assistance:**

The Directorate of Law Reform serves on numerous committees providing technical assistance to various stakeholders. In particular projects that require legislative and policy reform. The Law Reform has also facilitated the finalization and success of certain projects, such as, i.e. 'The transition of The Polytechnic of Namibia into Namibia University of Science and Technology'.

Due to Law Reform's commitment to each project and task at hand, Law Reform maintains strong relations with all its stakeholders, on a national, regional and international level.

### 4. Challenges

Law reform is a very slow process because it inherently involves in-depth and extensive consultation with stakeholders and can take a long time before projects are finalized.

In addition, the following particular concerns cannot be overlooked:

- Staffing shortage continues to be a big impediment to the functions of the Directorate, as can be observed, the work ratio is 1x researcher to an average of 3 projects.
- The lack of sufficient financing. It is understood that the total budget allocated to the Directorate is mainly utilized for Salaries & Conditions of Service (including that of the Chairperson). The Commission often seeks external funding for projects, which carries the threat of external partners dictating which projects are undertaken by the Commission.

The Directorate of Law Reform was able to successfully motivate the approval of a new structure by the Public Service Commission during the period under review. The new structure makes provision for a total of 67 ('sixty seven') posts:

The Budget of the Directorate of Law Reform is provided for under the budget of the Ministry of Justice. The Directorate and the Commission have one budget because the Commission functions through the Directorate. During the period under review, the government has implemented serious budget cuts and as a result a number of activities as planned by the Directorate and the Commission could not be carried through especially in the areas of filling vacant positions and training.

#### Statistics

The Directorate and the LRDC as a conjunctively provide technical support to external stakeholders by serving on various committees. The LRDC served on the following committees during the period under review:

- Cabinet Committee on Legislation;
- Inter-ministerial Committee on Human Rights and International Humanitarian Law;
- Mass Land Servicing Project (Legal Sub-Committee);
- Consumer Protection Technical Committee;
- E-Government Legal and Policy Working Committee;
- Committee on the Translation of the Constitution; and
- Technical Committee for the Namibian National Deaf Association.

## 5. Training, Workshops and Conferences

Since the introduction of the Performance Management System ('PMS'), the directorate has sent staff members to undertake/participate in training programmes as part of their Performance Agreement personal development objectives. The Directorate therefore places great emphasis on staff capacity building and during the period under review, a number of staff members were allowed to undergo short and long term courses to capacitate them in order to enhance performance.

Training		Place		Date		Staff Members
Legislative drafting		Otavi		13 – 24 July		1
Magistrates Training		Swakopmund		3 August		1
Diplomacy, Protocol		Swakopmund		10 – 21 August		1
Tender Adjudication		Windhoek		7 – 10 September		2

The Directorate of Law Reform and the LRDC held and participated in various workshops during the period under review. All these workshops relate to the mandate and function of the Directorate and the Commission, its strategic plan and to the various law reform projects currently under the consideration of the LRDC.

**The Directorate conducted the following workshops as part of its projects:**

Workshop	Place	Date
Domestication of the UN Convention against Torture	Windhoek	07 August 2015
Administrative Justice Draft Bill	Windhoek	18-19 August 2015
NEEEF Draft Bill	Windhoek	11 February 2016
Unified Matrimonial Property Regime Bill	Sesfontein	23 February 2016
	Gam	25 February 2016
	Tsumkwe	26 February 2016
<p>The Directorate held the following internal workshops during the period under review:</p> <p>The following workshops were cardinal in the strategic planning of the Directorate to ensure that all strategic objectives of the Directorate are met.</p>		
Strategic Review of the Directorate	Swakopmund	February 2016
Legal Drafting	Windhoek	March 2016
The Directorate participated in the following management workshops of the Ministry of Justice:		
Strategic Planning	Midgard	27 - 29 August 2015
Strategic Planning 2nd review	Gross Barmen	21 - 23 October 2015

**The Directorate was invited to attend a number of workshops as a stakeholder, partner or to present its institutional perspective on various topics.**

Workshop	Place	Date	Staff Members
UN review on Consumer Protection guidelines	Geneva, Switzerland	30 May – 03 June 15	1
UNCITRAL working group	New York, USA	30 April – 08 May 15	1
ALRAESA	Maseru, Lesotho	23 – 26 November 15	2
Workshop	Dar-es-Salaam, Tanzania	18 – 23 November 15	1
Symposium: Customary Law	Pretoria	26 – 28 August 15	2
Insolvency	Cape Town	12 – 14 October 15	1
SAHRC	Johannesburg	3 - 5 March 15	2
Review of Education Act	Mariental	3 – 14 August 15	2
	Rehoboth		
	Gobabis		
	Omaruru		
	Walvis Bay		
	Swakopmund		

Education Symposium	Otjiwaronog	10 – 14 August 15	
	Grootfontein		
National Land use planning	Daan Viljoen	24 September 15	
Translation on the constitution	Windhoek	16 October 15	
Facilitation of workshop on visually impaired	Swakopmund	25 – 26 May 15	1
Facilitate workshop	Ondangwa	11 14 April 15	1
Consultations on the Magistrates' Act of 1944, (Act no. 32 of 1944)	Swakopmund	14 – 18 March 15	1

Workshop	Place	Date	Staff Members
<b>International</b>			
UN Review on Consumer Protection Guidelines	Geneva, Switzerland	30 May – 03 June	1
UNCITRAL Working Group	New York, USA	30 April – 08 May	1
<b>Regional</b>			
ALRAESA	Maseru, Lesotho	23 – 26 November	2
Workshop	Dar-es-Salaam	18 – 23 November	1
Symposium: Customary Law	Pretoria	26 – 28 August	2
	Gaborone		
Insolvency	Cape Town	12 – 14 October	1
SAHRC	Johannesburg	3 - 5 March 2016	2
<b>National</b>			
Review of Education Act	Mariental	3 – 14 August	2
	Rehoboth		
	Gobabis		
	Omaruru		
	Walvisbay		
	Swakopmund		
Education Symposium	Otjiwarongo	10 – 14 August	
	Grootfontein		
National Land Use Planning	Daan Viljoen	24 September	1
Translation on the Constitution	Windhoek	16 October	1
Facilitation of Workshop on Visually Impaired	Swakopmund	25 – 26 May	1
Facilitate Workshop	Ondangwa	11 – 14 April	1
	Oshakati		
Consultations on the Magistrates' Act of 1944,	Swakopmund	14 – 18 March	1





Legal year opening



## DIRECTORATE: COURT SERVICES



### 1. Mandate

The Directorate Court Services provides administrative support to the judicial and quasi-judicial work of the Magistrate Courts and the Community Courts.

In terms of Article 78 of the Constitution of the Republic of Namibia, the Lower Courts form part of the Judiciary, one of the three branches of the State. In terms of Article 83 of the Constitution, Lower Courts are established by an Act of Parliament. The enabling legislation for lower courts are the Magistrates' Court Act (Act No. 32 of 1944) the Magistrates Act 2003 and the Community Courts Act (Act No. 10 of 2003). The Community Courts Act 2003 was enacted to empower recognised traditional authorities to adjudicate non criminal disputes within their respective communities. The Act defines and delineates the jurisdictional remit of the community courts.

### 2. Overview of activities

The Directorate Court Services comprises three (3) divisions i.e. Secretariat to the Magistrates Commission, Community Courts and Court Administration for Lower Courts.

## **2.1 Secretariat to the Magistrate Commission**

The Secretariat to the Magistrates Commission is responsible to provide secretarial services to the Commission in terms of taking minutes, facilitating the appointment and transfer of Magistrates and implementation of the resolutions of the Commission.

## **2.2 Community Courts division**

The division Community Courts administers the Community Courts Act. No. 10 of 2003. The Act provide for the recognition and establishment of community courts, appointment of Justices, Assessors, Messengers and Clerks of Community Courts.

## **2.3 Court Administration division**

The main function of the division Court Administration for Lower Courts at Magistrate Offices is to provide administrative support services such as to processing the receipt and payment of bail, court fines, witness fees, maintenance, liquor licenses, domestic violence, inquires agency services for various Offices Ministries and Agencies processing applications for remittal of forfeited bail money and preparation and submission of appeals and reviews to High Court and submission and preparation of appeals and reviews to the High Court. The division also operates at the headquarters in Windhoek where the following dties are performed:

- ✓ Processing the requisition for material and services required by the 34 Magistrate offices,
- ✓ Conduct office inspections and investigations of maladministration,
- ✓ Receiving application for the appointment of commissioner of oaths and sworn appraisers,
- ✓ Application for the refund of forfeited bail money,
- ✓ Provide relief duties at certain Magistrate offices,
- ✓ Managing the annual stocktaking at Magistrate offices,
- ✓ Arranging for the training of the staff members,
- ✓ Conduct interviews for the Directorate,
- ✓ Develop annual targets of the Directorate,
- ✓ Recording of non-tax revenue fines from all Magistrates Offices,
- ✓ Processing requests for performance of remunerative overtime from all Magistrates offices.

## **3. Successes**

- The major highlight of the Directorate is the installation of NAMCIS at Mungunda street and Oshakati Magistrate office,
- Implementation of the cash- in transit security for Luderitz and Mungunda streets where the security company namely G4S, transports money from these offices to Bank of Namibia,
- Renewal of 53 temporary posts of Legal Clerk to alleviate staff shortages,
- Installation of digital recordings system at the following Magistrate offices: Windhoek Mungunda Street, Windhoek Luderitz Street, Walvis Bay, Swakopmund, Usakos, Karibib, Omaruru, Khorixas, Opuwo, Otjiwarongo, Otavi,Tsumeb, Outjo, Okakarara, Tsumkwe Ondangwa, Grootfontein, Rundu, Katima Mulilo, Eenhana, Oshakati and Outapi
- Annual inspections of 34 Magistrate offices were conducted,

- Training of staff members on handling state money, exhibits, witness and messenger fees,
- Training of Community Court Justices and Clerks of the Community Courts.

#### 4. Challenges

- Lack of computer servers has delayed NAMCIS data capturing at Ondangwa, Outapi and Eenhana,
- The allowances paid to the Justices and Assessors at Community Courts are inadequate and need to be increased.
- Lack of Community Courts office and courtrooms as they currently gather or meet under trees.
- NAMCIS server crashed at Outjo and Tsumeb Magistrate office.
- The separation of Otjinene court cases from Gobabis so that Otjinene can have its own NAMCIS is still outstanding

#### 5. Training

- 49 staff members were trained on handling state money, exhibits, witness and messenger fees,
- 43 staff members were trained on stocktaking,
- 40 Administrative officers ( formerly Typists) were trained

#### 6. Statistics

- N\$67,552,764.52 non-tax revenue fines were collected at all Magistrates Offices
- Digital recording system for court proceedings was installed at 22 magistrate offices,
- Types of offences of the finalized cases: Claim of compensation with regard to common assault; assault with grievous bodily harm; loss of body part; assault by threat; adultery; pregnancy out of wedlock; purchasing of animals without permits; customary law divorce; indebtedness; witchcraft; inheritance; theft, stock theft; dog bite; insults; false allegations and gossip.

During the period under review, the Directorate handled applications on forfeited bail money, appointment of Commissioners of Oath and applications on the appointment of Sworn Appraisers as depicted in the tables below:

##### Application for the refund of forfeited bail money

Received	Approved	Rejected
33	32	1

##### Application of the appointment of Commissioners of Oath

Received	Approved	Rejected
5	4	1

##### Application of the appointment of Sworn Appraisers

Received	Approved	Rejected
3	3	0



## DIVISION: MAGISTRATES COMMISSION SECRETARIAT

### 1. Mandate

The Division is headed by a Deputy Director who is also the secretary to the Magistrates Commission. The Division provides secretarial services to the meetings of the Magistrates Commission including taking and distribution of minutes at meetings, facilitating the appointment and transfer of magistrates and otherwise seeing to the implementation of the resolutions of the Commission. In terms of Article 78 of the Constitution of the Republic of Namibia, the Magistracy form part of the Judiciary, one of the three branches of the State. Magistrates' Courts are established in terms of Section 2(1) of the Magistrates' Courts Act. In 2003 the Magistracy, Act 2003 was enacted to establish the Magistracy as an autonomous statutory body to separate the Magistrates from the Public Service and provide a legal framework for the appointment, deployment and discipline and remunerations of magistrates.



*Members of the Magistrates Commission*

### **1.1 The Magistrates Commission's functions are:**

- To recommend appointment of judicial officers.
- To recommend promotion, transfer and removal of magistrates.
- To make recommendations on review of conditions of service of magistrates.
- To institute disciplinary measures against magistrates.
- To generally see to the welfare of magistrates.
- To develop and administer human resource management policies for the magistrates.

### **1.2 The Magistracy adjudicates the following matters:**

- Criminal cases
- Civil cases
- Children's Court matters
- Domestic violence matters
- Liquor licences as Agency work for Ministry of Industrialisation, Trade, and SME Development.
- Collection of Revenue as Agency work for the Ministry of Finance
- Admission of Guilt fines (eg traffic tickets and minor criminal offences)

## **2. Overview of activities**

During February 2015 the Magistrate's Commission held a conference with all the stakeholders in the criminal justice sector at Gross Barmen Resort outside Okahandja, aimed at finding a solution to the criminal case backlog in the Lower Courts. The unanimous sentiment expressed at the conference was that the backlog needed urgent attention. The conference established a committee tasked with proposing a national strategy to tackle the backlog, focussing on the most affected regions.

The committee proposed the following medium term and short term strategies to tackle the backlog:

- The medium term strategy is aimed at ensuring that the good lessons learnt over time in the process will translate into long term positive outcomes if a service delivery culture is promoted.
- The short term strategy is aimed at eliminating unproductive practices and to give rise to new practices of accountability among role players in the criminal justice system. The committee shall determine the number of magistrates, prosecutors, interpreters and legal aid counsel and draw up a budget solely for the backlog as well as for the acquisition of Mobile Courts.
- The committee also recommended that mobile court units be acquired to address the backlog by availing dedicated court staff to work down the backlog over a certain period.

## **3. Successes**

- During the period under review, 18 Magistrates attended aspirant judges training in Windhoek for two weeks. This is an achievement because they were empowered with knowledge of civil work as a stepping stone for consideration for appointment as judges in future.
- Digital recording systems were installed in most of the Magistrates courts.



## 4 Challenges

- Backlog of cases that need to be cleared.
- Insufficient court rooms and office accommodation. For instance when a Regional Court sits in some District Courts, the District Magistrate will not be able to attend to trials for the rest of that week which results in District Magistrates postponing all cases during that week
- Insufficient funds for continuous training of magistrates to ensure high level of competency in order to render excellent judicial services to the public.
- A shortage of prosecutors.

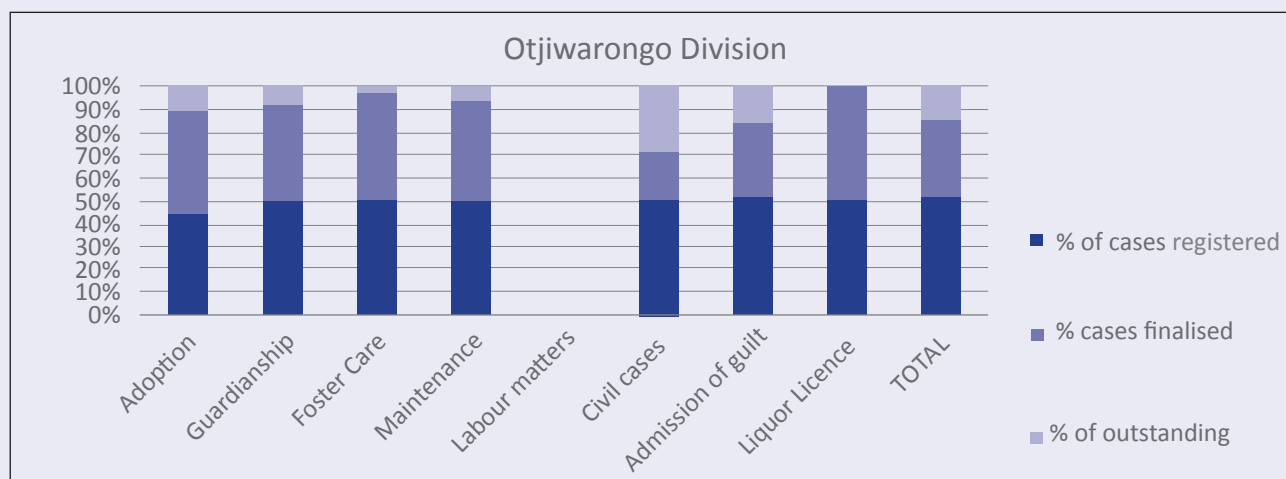
## 5. Statistics

During the third quarter, Lower Courts handled 25084 cases out of which only 5807 cases were finalized which translates to 23%. The baseline of criminal cases to be finalised was 26%. Lower Courts finalization of criminal cases in the first quarter was 26%, second quarter was 27%, third quarter was 29% and fourth quarter was 31%. Lower Courts managed to finalize 5346 cases during its first quarter, which is 21% out of 25186 cases. About 19840 cases were carried forward to the second quarter. During the second quarter, Lower Courts finalized 6491 cases out of 25186 cases handled during that period which translates to 26% of cases finalised. 18926 cases remained outstanding and were carried forward to the third quarter.

### CIVIL CASES

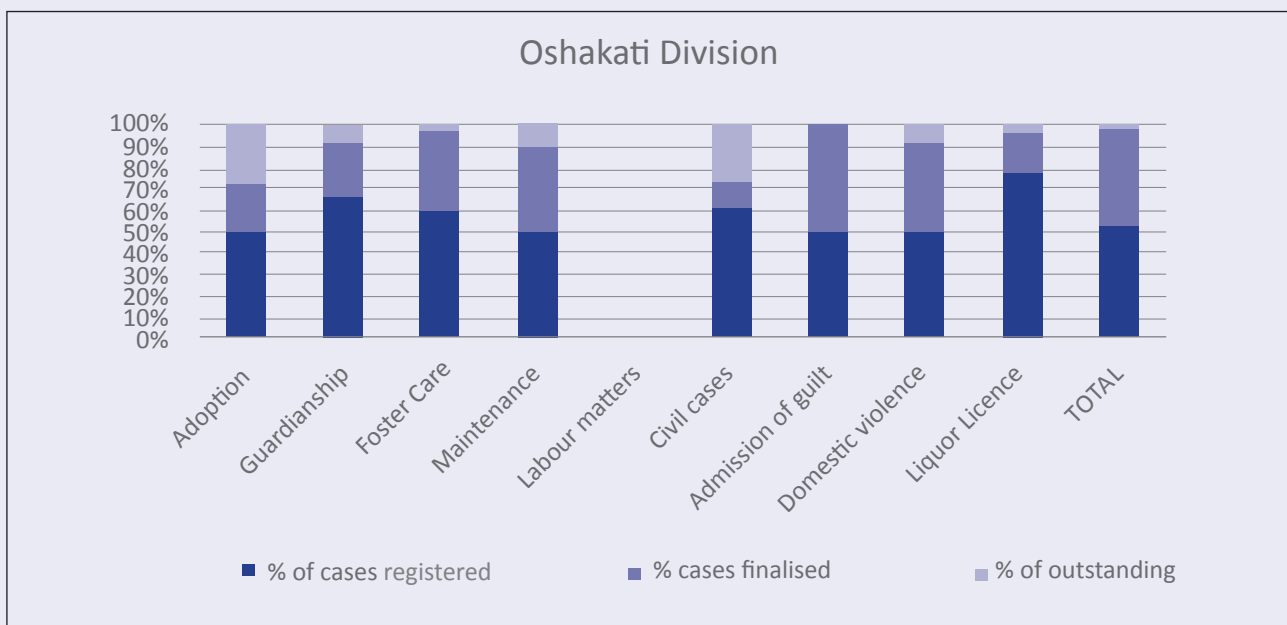
#### Otjiwarongo Division

	No. of cases registered	No. of cases finalised	No. of outstanding
Adoption	4	4	1
Guardianship	42	35	7
Foster Care	40	38	2
Maintenance	538	470	68
Labour matters	0	0	0
Civil cases	215	91	124
Admission of guilt	6507	4050	2007
Liquor Licence	222	221	1
<b>TOTAL</b>	<b>7568</b>	<b>4909</b>	<b>2210</b>



## Oshakati Division

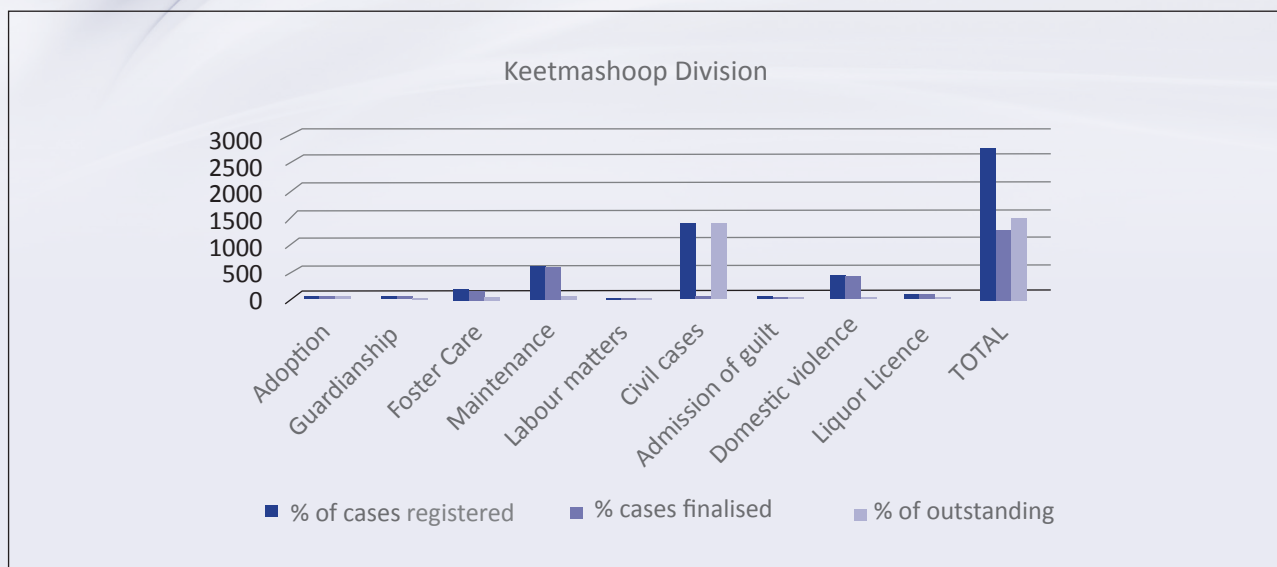
	No. of cases registered	No. of cases finalised	No. of outstanding
Adoption	11	5	6
Guardianship	726	283	84
Foster Care	613	396	19
Maintenance	345	276	69
Labour matters	0	0	0
Civil cases	708	142	302
Admission of guilt	13480	13480	0
Domestic violence	244	205	39
Liquor Licence	1731	403	91
<b>TOTAL</b>	<b>17858</b>	<b>15190</b>	<b>610</b>



## Keetmashoop Division

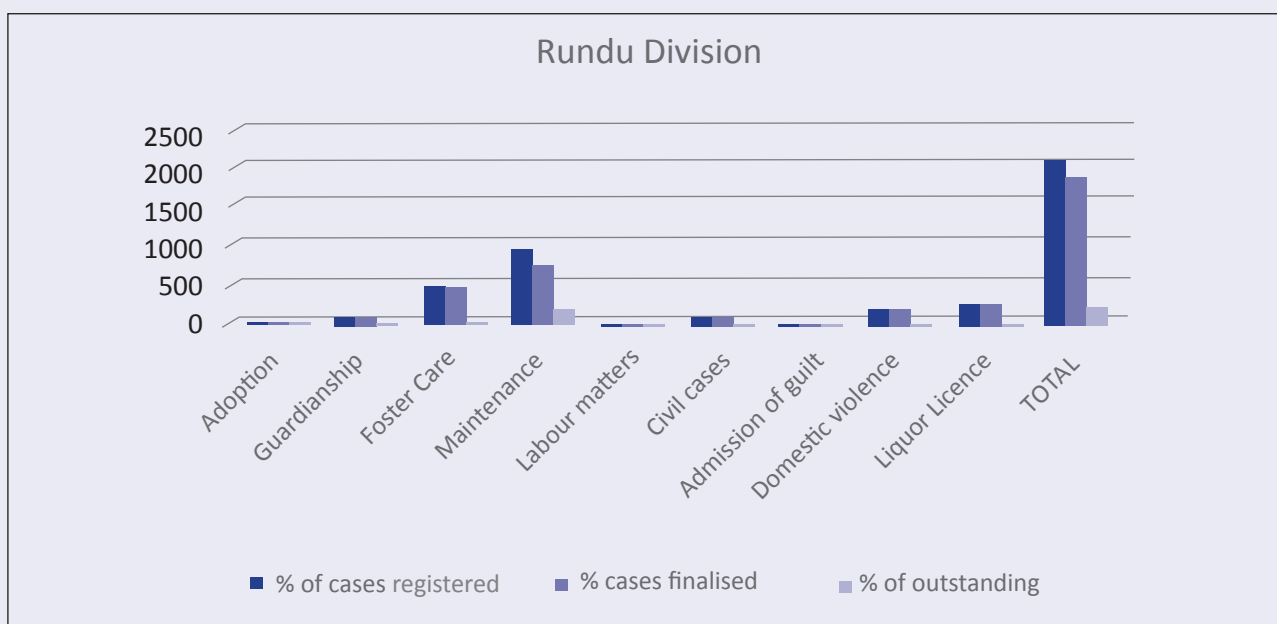
	No. of cases registered	No. of cases finalised	No. of outstanding
Adoption	15	5	10
Guardianship	7	6	1
Foster Care	187	156	33
Maintenance	603	567	36
Labour matters	0	0	0
Civil cases	1387	0	1387
Admission of guilt	-	-	-
Domestic violence	450	436	14
Liquor Licence	100	100	0
<b>TOTAL</b>	<b>2749</b>	<b>1270</b>	<b>1481</b>





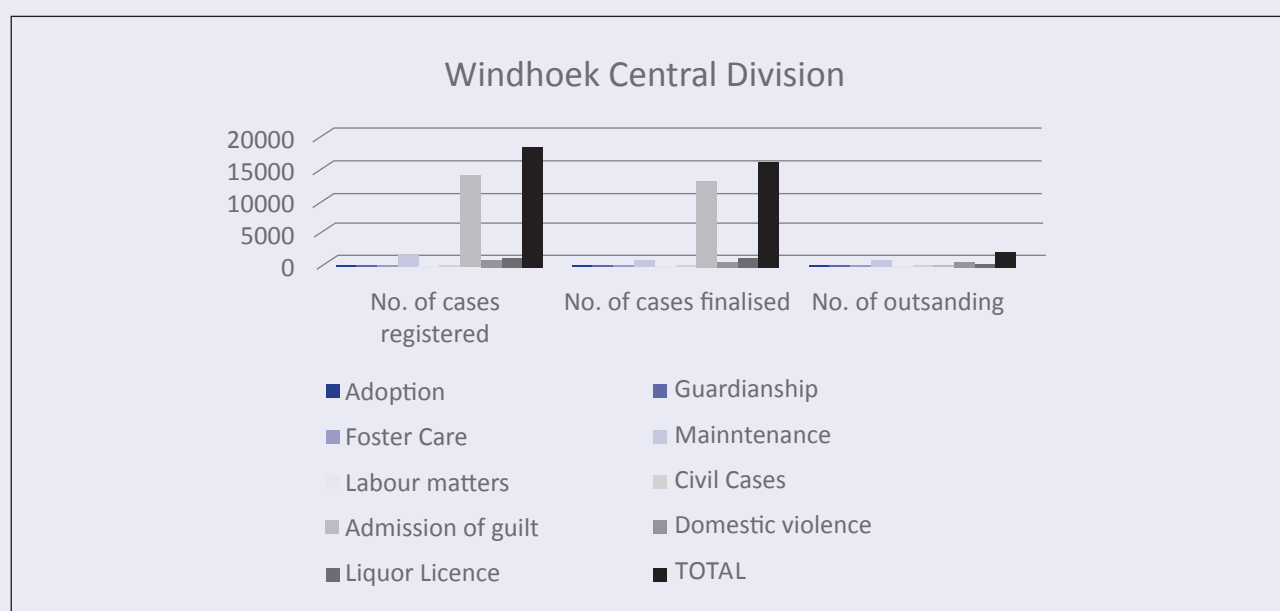
### Rundu Division

	No. of cases registered	No. of cases finalised	No. of outstanding
Adoption	3	3	0
Guardianship	111	102	9
Foster Care	496	486	10
Maintenance	966	764	202
Labour matters	0	0	0
Civil cases	90	90	0
Admission of guilt	-	-	-
Domestic violence	199	193	6
Liquor Licence	263	263	0
<b>Total</b>	<b>2128</b>	<b>1901</b>	<b>227</b>



## Windhoek Central Division

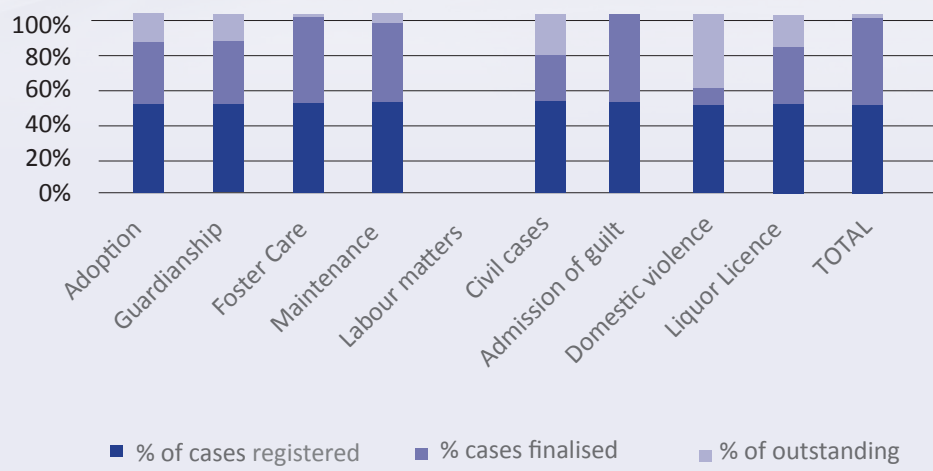
	No. of cases registered	No. of cases finalised	No. of outstanding
Adoption	30	9	21
Guardianship	115	55	60
Foster Care	127	79	48
Maintenance	1866	984	882
Labour matters	19	4	15
Civil case	-	-	-
Admission of guilt	14445	13542	90
Domestic violence	730	642	673
Liquor Licence	1352	1333	19
<b>TOTAL</b>	<b>18684</b>	<b>16648</b>	<b>2036</b>



## Windhoek Rural Division

	No. of cases registered	No. of cases finalised	No. of outstanding
Adoption	42	29	13
Guardianship	86	61	25
Foster Care	119	116	3
Maintenance	834	767	67
Labour matters	0	0	0
Civil case	2523	1414	1109
Admission of guilt	27325	27325	0
Domestic violence	162	28	134
Liquor Licence	106	68	38
<b>TOTAL</b>	<b>31197</b>	<b>29808</b>	<b>1389</b>

### Windhoek Rural Division



## DIRECTORATE: PUBLIC PROSECUTION



### 1. Mandate

This Directorate's mandate is to prosecute crime in all Courts in Namibia, as well as to defend and institute appeals in criminal matters in the High Court and Supreme Court.



## 2. Overview of Activities

### District Courts Criminal cases

During the reporting period, the Directorate handled a cases of different nature as stipulated in the table below:

ANNUAL STATISTICS : MAGISTRATE'S COURTS																	
PERIOD: 01 APRIL 2015 TO 31 MARCH 2016																	
Court	Number of cases on the roll			Number of cases finalized											TOTAL		
				Convictions		Acquittals		Withdrawals		S174 Discharge		Transfer to other courts		Total		Cases carried forward from the previous year	
	New	Old	Total	New	Old	New	Old	New	Old	New	Old	New	Old	New	Old	New	Old
OSHAKATI DIVISION																	
Oshakati A	606	1001	1607	6	70	0	8	0	56	0	3	0	7	6	144	600	857
Oshakati B	488	1605	2093	52	50	3	3	30	35	4	5	3	7	92	100	396	1505
Oshakati C	793	602	1395	8	110	0	1	2	68	0	16	0	0	10	195	783	407
Omungwelume	103	664	767	0	29	0	2	0	26	0	8	0	9	0	74	103	590
Ondangwa A	354	2404	2758	25	124	0	0	7	102	0	8	15	29	47	263	307	2141
Ondangwa B	677	2418	3095	50	177	0	0	0	117	0	8	2	10	52	312	625	2106
Outapi - A	427	2370	2797	6	52	0	6	5	200	0	12	2	15	13	285	414	2085
Outapi - B	186	247	433	0	78	0	12	0	55	0	12	0	13	0	170	186	77
Okahao	487	4201	4688	0	182	0	16	0	193	0	34	0	61	0	486	487	3715
Ruacana	191	254	445	1	77	0	13	0	55	0	14	0	15	1	174	190	80
Eenhana - A	33	165	198	0	17	0	0	0	14	0	4	0	0	0	35	33	165
Eenhana - B	53	136	189	0	19	0	0	0	12	0	0	0	0	0	31	53	105
Ohangwena	155	918	1073	25	161	0	4	15	126	2	17	6	9	48	317	107	601
Okongo	36	110	146	0	9	0	0	0	12	0	0	0	0	0	21	36	89
Opuwo	373	476	849	21	84	0	4	1	34	0	7	1	7	23	136	350	340
SUB-TOTAL	4962	17571	22533	194	1239	3	69	60	1105	6	148	29	182	292	2743	4670	14863
RUNDU DIVISION																	

Rundu A-Court	237	202	439	36	38	1	0	57	76	8	7	4	2	106	123	131	79
Rundu B-Court	62	106	168	35	58	1	4	8	19	0	12	0	0	44	93	18	13
Rundu C-Court	390	329	719	79	47	1	4	55	57	0	2	40	33	175	143	215	186
Ndiyona Court	71	85	156	33	28	0	2	15	13	0	7	0	0	48	50	23	35
Mukwe	40	100	140	9	22	0	0	1	16	0	1	0	0	10	39	30	61
Kahenge	45	134	179	35	91	0	2	6	12	3	3	0	0	44	108	1	26
Katima Mulilo A-Court	398	189	587	280	58	0	2	63	19	7	8	0	15	350	102	48	87
Katima Mulilo B-Court	499	207	706	251	61	0	4	77	55	2	10	5	8	335	138	164	69
Ngoma	118	74	192	79	29	0	1	7	15	3	8	3	5	92	58	26	16
Omega	24	14	38	15	8	0	0	6	2	0	0	0	1	21	11	3	3
Tsumeb	356	1153	1509	116	196	0	14	3	256	0	26	13	30	132	522	224	631
Grootfontein	409	365	774	60	65	5	3	44	120	0	70	1	11	110	269	299	96
Tsumkwe	57	35	92	9	11	0	0	12	8	0	4	0	1	21	24	36	11
<b>SUB-TOTAL</b>	<b>2706</b>	<b>2993</b>	<b>5699</b>	<b>1037</b>	<b>712</b>	<b>8</b>	<b>36</b>	<b>354</b>	<b>668</b>	<b>15</b>	<b>151</b>	<b>62</b>	<b>104</b>	<b>1382</b>	<b>1557</b>	<b>1087</b>	<b>1234</b>

#### Otiwarongo Division

Otiwarongo	328	2454	2782	16	28	0	10	0	30	2	38	0	13	18	119	310	2335
Okakarara	263	142	405	53	25	0	4	44	68	1	16	0	4	98	117	165	25
Outjo	341	210	551	27	11	0	0	9	11	0	1	0	4	36	27	305	183
Kamanjab	539	508	1047	120	61	1	1	24	21	1	2	0	6	146	91	393	417
Khorixas	252	817	1069	58	63	5	5	6	54	2	12	0	0	71	134	181	683
Otavi	131	60	191	33	24	0	7	37	23	2	3	0	3	72	60	59	0
Omaruru	133	989	1122	31	474	0	3	0	47	0	5	0	8	31	537	102	452
Uis	40	327	367	16	40	0	0	0	35	0	6	0	2	16	83	24	244
<b>SUB-TOTAL</b>	<b>2027</b>	<b>5507</b>	<b>7534</b>	<b>354</b>	<b>726</b>	<b>6</b>	<b>30</b>	<b>120</b>	<b>289</b>	<b>8</b>	<b>83</b>	<b>0</b>	<b>40</b>	<b>488</b>	<b>1168</b>	<b>1539</b>	<b>4339</b>

#### Swakopmund Division

Swakopmund A-Court	90	447	537	45	153	0	6	6	75	0	6	0	18	51	258	39	189
Swakopmund B-Court	275	348	623	42	139	4	3	5	17	0	1	2	5	53	165	222	183

Walvisbay A-Court	627	124	751	402	53	2	2	53	10	7	4	6	20	470	89	157	35
Walvisbay B-Court	486	113	599	236	41	2	4	45	12	10	5	8	1	301	63	185	50
Arandis	30	47	77	12	25	0	1	2	8	0	2	0	0	14	36	16	11
Henties Bay	28	142	170	13	62	0	4	0	11	0	0	0	0	1	13	78	15
Karibib	154	221	375	17	24	5	13	7	29	0	0	0	0	2	29	68	125
Usakos	112	598	710	35	56	3	0	0	17	0	4	0	0	0	38	77	74
<b>SUB-TOTAL</b>	<b>1802</b>	<b>2040</b>	<b>3842</b>	<b>802</b>	<b>553</b>	<b>16</b>	<b>33</b>	<b>118</b>	<b>179</b>	<b>17</b>	<b>22</b>	<b>16</b>	<b>47</b>	<b>969</b>	<b>834</b>	<b>833</b>	<b>1206</b>
KATUTURA DIVISION																	
Katutura A-Court	2504	3465	5969	43	20	0	0	54	600	0	0	0	54	97	674	2407	2791
Katutura B-Court	344	867	1211	16	54	0	4	35	302	0	0	0	8	51	368	293	499
Katutura C-Court	342	962	1304	7	25	0	3	198	91	0	0	0	0	205	119	137	843
Katutura D-court	315	1104	1419	17	50	0	4	0	350	0	6	0	11	17	421	298	683
Dordabis	136	212	348	4	17	0	0	10	27	0	0	0	0	14	44	122	168
Hosea Kutako Airport	65	129	194	8	22	0	4	3	14	0	0	0	0	11	40	54	89
Okahandja	329	229	558	85	27	1	0	75	17	11	1	2	5	174	50	155	179
Hochfeld	46	52	98	16	0	0	0	2	5	0	0	0	1	18	14	28	38
<b>SUB-TOTAL</b>	<b>4081</b>	<b>7020</b>	<b>11101</b>	<b>196</b>	<b>215</b>	<b>1</b>	<b>15</b>	<b>377</b>	<b>1406</b>	<b>11</b>	<b>7</b>	<b>2</b>	<b>79</b>	<b>587</b>	<b>1730</b>	<b>3494</b>	<b>5290</b>
Windhoek Division																	
Windhoek A-Court	278	335	613	11	36	0	3	59	109	0	5	4	7	74	160	204	175
Windhoek B-Court	257	557	814	15	57	0	1	2	117	0	9	5	14	22	198	235	359
Windhoek C-Court	220	313	533	22	42	0	7	7	119	1	17	0	10	30	195	190	118
Windhoek D-Court	331	376	707	75	0	4	0	170	0	10	0	10	0	269	0	62	376
Rehoboth/Groot-Aub/KleinAub	374	131	505	166	25	3	4	13	14	6	3	13	20	201	66	173	65
<b>SUB-TOTAL</b>	<b>1460</b>	<b>1712</b>	<b>3172</b>	<b>289</b>	<b>160</b>	<b>7</b>	<b>15</b>	<b>251</b>	<b>359</b>	<b>17</b>	<b>34</b>	<b>32</b>	<b>51</b>	<b>596</b>	<b>619</b>	<b>864</b>	<b>1093</b>

Gobabis Division																	
Gobabis A	332	698	1030	74	289	2	7	5	11	1	14	0	0	82	321	250	377
Gobabis B	352	544	896	93	107	5	13	16	43	1	11	2	2	117	176	235	368
Du Plessis & Epukiro	18	72	90	5	26	0	4	0	4	0	1	0	0	5	35	13	37
Leonardville	27	311	338	7	38	0	4	0	8	0	3	0	0	7	53	20	258
Otjinene	168	283	451	32	59	2	9	1	11	2	5	0	0	37	84	131	199
Witvlei	66	224	290	23	37	0	3	0	18	0	3	0	0	23	61	43	163
Tallismanus	43	67	110	8	15	0	1	0	1	0	2	0	0	8	19	35	48
SUB-TOTAL	1006	2199	3205	242	571	9	41	22	96	4	39	2	2	279	749	727	1450
MARiental Division																	
Mariental	612	292	904	183	189	4	7	55	63	5	6	11	12	258	277	354	15
Malthahöhe	117	91	208	32	21	0	0	18	23	2	1	1	2	53	47	64	44
Gibeon	133	135	268	32	20	2	0	28	34	2	2	0	6	64	62	69	73
Aranos	217	97	314	55	30	0	0	43	18	0	0	0	0	98	48	119	49
Stampriet	117	56	173	49	25	0	0	15	21	0	0	0	0	64	46	53	10
Kalkrand	101	79	180	20	29	0	0	16	23	0	0	0	0	36	52	65	27
Schlip	44	54	98	12	14	0	0	9	15	0	0	0	0	21	29	23	25
Gochas	88	41	129	50	24	0	0	1	1	0	0	0	0	51	31	37	10
Derm	87	37	124	43	19	0	2	3	7	0	3	0	0	46	31	41	6
SUB-TOTAL	1516	882	2398	476	371	6	9	188	205	9	12	12	20	691	623	825	259
Keetmanshoop Division																	
Keetmanshoop A-Court	92	404	496	22	110	1	11	15	108	0	14	0	0	38	243	54	161
Keetmanshoop B-Court	96	315	411	32	85	0	3	16	104	0	2	0	0	48	194	48	121
Bethanie	20	108	128	6	30	0	2	0	20	0	0	0	0	6	52	14	56
Aroab	13	111	124	0	23	0	0	3	13	0	0	0	0	3	36	10	75
Koes	10	56	66	1	15	0	0	1	12	0	0	0	0	2	27	8	29
Karasburg	40	233	273	18	118	0	1	4	58	0	0	0	0	22	177	18	56
Ariamsvlei	26	80	106	21	61	0	1	0	10	0	0	0	0	21	72	5	8
Noordoewer	27	134	161	14	91	0	3	2	20	0	1	0	0	16	115	11	19
Luderitz	32	131	163	7	6	1	1	4	14	0	1	0	0	12	22	20	109
Roshpinah	25	95	120	6	20	0	0	2	13	0	0	0	0	8	33	17	62



Aus	9	42	51	2	0	0	0	0	1	0	0	0	0	0	3	0	6	42
Oranjemund	10	92	102	2	29	0	0	0	1	25	0	0	0	0	3	54	7	38
SUB-TOTAL	400	1801	2201	131	588	2	22	49	397	0	18	0	0	182	1025	218	776	
TOTAL (Old & New)	19960	41725	61685	3721	5135	58	270	1539	4704	87	514	155	525	5466	11034	14257	30489	
PERCENTAGE (old & new)	32%	68%					2%	27%	42%	2%	5%	3%	5%	28%	27%	72%	73%	
TOTAL	61685		8856	328	6243	601	680	16500	44746									
PERCENTAGE	32%	68%		53%	2%	37%	4%	4%	27%	73%								

During the period under review, the Directorate handled the following cases in the Regional Courts:

ANNUAL STATISTICS: REGIONAL COURTS PERIOD: 01 APRIL 2015 TO 30 MARCH 2016																	
Court	Number of cases			Number of cases finalized												Not finalized (Cases removed from the roll, warrants of arrest issued and cases carried forward to the following year)	
	Cases on the roll			Convictions		Acquittals		Withdrawals		s174 Discharge		Transfer to other courts		Total			
	New	Old	Total	New	Old	New	Old	New	Old	New	Old	New	Old	New	Old	New	Old
Katutura 1	40	114	154	0	8	0	2	0	10	0	2	0	0	0	22	40	92
Katutura 2	14	60	74	3	6	0	0	1	4	0	0	0	0	4	10	10	50
Rehoboth	3	73	76	0	3	0	2	0	3	0	0	0	0	0	8	3	65
Katima Mulilo	42	93	135	2	28	1	5	2	8	0	6	0	0	5	47	37	46
Keetmanshoop	27	88	115	5	22	0	0	1	1	1	5	0	0	7	28	20	60
Mariental	29	41	70	1	5	0	0	1	3	1	1	0	0	3	9	26	32
Oshakati	16	91	107	0	6	0	1	0	9	0	2	0	0	0	18	16	73
Ondangwa	39	385	424	1	26	0	0	0	15	0	0	0	0	1	41	38	344
Eenhana	6	123	129	1	22	0	2	0	3	0	2	0	0	1	29	5	94
Outapi	50	115	165	1	22	0	2	0	14	0	8	0	0	1	46	49	69
Opuwo	16	17	33	1	8	0	0	0	3	0	1	0	0	1	12	15	5
Otiwarongo	21	62	83	11	30	4	8	0	3	2	5	0	0	17	46	4	16
Rundu	11	118	129	3	11	0	6	0	18	0	12	0	0	3	48	8	70
Swakopmund	41	52	93	3	16	0	1	2	4	0	4	0	0	5	25	36	27
Tsumeb	8	55	63	0	1	0	0	0	8	0	1	0	0	0	10	8	45
Gobabis	28	84	112	5	13	0	1	0	0	0	0	0	0	5	14	23	61
TOTAL	391	1571	1962	37	227	5	30	7	106	4	49	0	0	53	413	338	1149
PERCENTAGE	20%	80%		70%	55%	9%	7%	13%	26%	8%	12%	0%	0%	14%	26%	86%	59%
TOTAL	1962			264		35		113		53		0		466		1487	
PERCENTAGE	20%	80%		57%		8%		24%		11%		0%		24%		76%	

#### Dockets for Prosecutor General's Decision

- During the reporting period, 549 dockets were received for decisions.
- In 381 cases (of which 95 cases related to corruption cases referred by the ACC and Nampol;), decisions were taken whether to prosecute or not, while in 168 cases the dockets were sent back with instructions for further investigations.
- In 75 of the corruption cases the people involved previously worked or were still working in public offices.

#### Applications for preservation and asset forfeiture orders

- During the period under review, the Prosecutor General instituted applications for preservation and forfeiture orders in respect of assets suspected to be the proceeds of crime as contemplated in section 50 and 51 of the Prevention of Organised Crime Act, 2004.
- Regarding asset forfeiture cases, the balance in the Criminal Assets Recovery Fund currently stands at N\$2 768 698,65; in addition, 6 sedan cars, 1 Toyota bakkie and a house valued at approximately N\$2million were forfeited to the State.
- All these properties await the decision of the Criminal Assets Recovery Committee to decide on how the money and assets should be applied towards activities contemplated in section 76 of the Act.
- The Criminal Assets Recovery Fund is established in terms of section 74 of the Prevention of Organized Crime Act, 2004

### 3. Successes

3.1 The performance of the Asset Forfeiture Unit in the Office of the Prosecutor General is generally assessed on the number of forfeiture and confiscation orders obtained. In addition to the number of orders obtained the general success of the unit is also measured by the value of the orders in the form of the amount of money paid into Fund, the assets delivered to the Criminal Assets Recovery Fund or money paid back to the victims of crime.

#### 3.2 Activities of the unit.

Year	Preservation Order applications	Forfeiture orders	Confiscation Orders	Value Confiscation Order obtained	Value Forfeiture order not obtained
April 2015 to March 2016	7	7	3	N\$1519757.9	N\$4 460 543,75
Total	7	7	3	N\$1519757.9	N\$4 460 543,75

### 4. Challenges

4.1 The implementation of POCA is mostly hindered by a shortage of financial investigators, resulting in a large backlog of cases waiting for investigations to be completed. While there are currently only 3 prosecutors in the Asset Forfeiture Unit, the volume of work demands that at least 10 more admitted prosecutors are needed in this Unit if POCA is to be implemented effectively and efficiently.

4.2 During the year under review there was an increase in the number of new cases registered on the court rolls countrywide especially housebreaking with intent to steal and theft, dealing or possessing of drugs, murder and rape cases that involve gender based violence, corruption and in dealing or possession of elephant tusks or rhino horns, etc. During the year under review 25 cases of dealing in or possession of elephants or rhino horns in the Zambezi Region were received. This state of affairs requires the nation to take urgent steps to protect elephants and rhinos. In murder cases about 96% of these cases involve a bond between a man and woman e.g a past romantic relationship which ended, or a current relationship which is on the brink of ending. Normally, it is the woman who wants to end the relationship.

4.3 The directorate faces a huge staff shortage of prosecutors. There are 113 Prosecutors for all the Courts. There are two High Court divisions in Namibia, namely Windhoek and Oshakati. For instance the Supreme Court of Namibia hears criminal appeals from the High Court. 18 State advocates deal with all the work, whereas in reality they are supposed to be 45. Furthermore, there are currently no legal officers in the Prosecutor General's office to assist the State advocates with legal research in complex criminal cases.

4.4 There are 34 District Courts, 44 Periodical Courts and 8 Regional Courts in Namibia; the 8 Regional Courts are also sitting at every District Court in Namibia.

From the aforementioned it is clear that the 113 prosecutors in the country are totally inadequate.

4.5 As a result of the shortage and turnover of prosecutors, newly recruited prosecutors have to fill positions left by those who resigned and they have to face experienced private lawyers in Courts, a situation that often compromises our mission to provide quality legal and judicial services.

- 4.6 Although the budget allocated for prosecution function has increased over the last few years, the increase has not been commensurate with the demand for prosecution services looking at the budgets allocated to the Office of the Prosecutor General over the last four years. The administration of justice needs be given high priority by government and must rank closer to what is provided to health, education, defence and agriculture.
- 4.7 The Prosecutor-General fully appreciates the challenges experienced across Government with regard to human and financial resources. The message conveyed by the Ministry of Finance that we should do more with less has been noted and we have done so for years now. However, it has now become unbearable to the prosecution office. This has resulted in prosecutors being unable to deliver their best and they leave the prosecution service in large numbers.



## DIRECTORATE: REGISTRAR OF THE SUPREME AND HIGH COURT



### 1. Mandate:

The mandate of the Directorate Registrar of the Supreme and High Courts of Namibia derives from Articles 78(1)(a) & (b), 79 and 80 of the Constitution of the Republic of Namibia supplemented by a number of statutory legislation, namely adjudication of cases falling within the jurisdiction of High and the Supreme Courts of Namibia and rendering the necessary support to the Superior Court's Judiciary enabling the Judiciary to exercise the mandate of adjudication.

### 2. Overview of activities:

#### 2.1 Judges of the Supreme Court

As the highest judicial authority in the Republic of Namibia, the main function of the Supreme Court Bench is to preside in Appeal and Review Matters, Supreme Court Applications and Petitions to the Chief Justice serving in this forum.

#### 2.2 Judges of the High Court

The functions of the High Court bench mainly consist of adjudication of Criminal, Civil, Labour, Admiralty and Prevention of Organised Crime matters which serves in the High Court of Namibia. Apart from being a court

of first instance, the High Court is also a court of appeal and a review bench pertaining to inter alia criminal, civil, labour matters and statutory administrative bodies.

### **2.3 Registrar of the Supreme & High Courts**

The Registrar is a creature of Statute appointed in terms of Section 26 of the Supreme Court Act and Section 30 of the High Court Act. The majority of the functionalities and responsibilities pertaining to the Registrar of the High & Supreme Court and appointed staff members are contained in the relevant Acts as supplemented by the regulations, Practice Directives and Ministerial Codes. The core statutory functionalities vests in the court management of, both the High and the Supreme Courts, as well as the statutory quasi-judicial functions. Quasi-Judicial Functions performed are inter alia taxations, Issuing of Writs and Issuing of Summons and other process of court such as, subpoenas, warrants of arrest, Mental Observation orders in terms of the Criminal Procedure Act and Admiralty Court Process.

The Registrar in his/her capacity as duly appointed Taxing Master is responsible for the taxing of all bills of costs in Civil and Labour matters in both the High & the Supreme Court as well as Legal Aid Bills of Costs in criminal matters.

The Registrar of the High and Supreme Court also bears the statutory appointment of Sheriff of Namibia with the responsibility of supervising, monitoring, training and investigating all Deputy Sheriffs and acts performed by them.

The Directorate Registrar of the High and Supreme Court is furthermore mandated to provide the necessary administrative and logistical support to the Judiciary and the Ministry of Justice in as far as the said establishment is concerned.

## **3. Successes:**

The Directorate Registrar of the Supreme & High Courts of Namibia in addition to executing its mandate, embarked upon a number of projects during the financial year 2015/16

### **3.1 Appointment of Judges**

The following permanent appointments were made during the 2015/2016 financial year  
3 Judges were appointed to the Supreme Court and 10 Judges were appointed to the High Court respectively.

### **3.2 Regulations Relating to Conditions of Service of Judges**

On 23 September 2015 the Regulations Relating to Conditions of Service of Judges was gazetted as Proclamation 28/2015; this amendment of the previous regulations, in particular Regulation 12 is welcomed by the Courts. Regulation 12 provides that each judge, in both the High and the Supreme Court, is entitled to his or her own judges' clerk (research assistant);

The Office of the Judiciary is currently in the process of recruiting suitable candidates and admitted legal practitioners and law graduates are invited to consider this honourable and most responsible position as career option.



### 3.3 eJUSTICE

We are pleased to announce that the eJustice first development phase came to an end on 22 December 2015 and the verification testing was done during January 2016 with sign off on 28 January 2016. This first implementation phase includes the procedure from electronic case initiation until execution and taxation of civil matters in the High Court.

eJustice is a web-based electronic filing and case management system developed according to the Namibian Civil Procedure, meeting Namibian requirements and standards. The Namibian eJustice system stands in contrast to other electronic case management systems implemented in the courts of neighbouring African countries, in that it is web based, thereby providing access to court files by practitioners and litigants anywhere, anytime and it is a hybrid between form and document upload. This feature provides for automatic population of information repeated in various forms and documents. The introduction of an electronic filing system of Court documents will result in a marked change in the justice delivery system of Namibia. For too long now, our Courts have been mired by interminable delays occasioned by 19th century manual documentation systems and procedures which have proved inadequate to cope with modern-day litigation. We are fortunate to enjoy an enviable reputation on the African continent and beyond for our judicial standards. But when cases take a few years to be resolved, such standards can be seriously compromised. Justice delayed is indeed Justice denied.







### ***High Court of Namibia***

eJustice Namibia is one of the most advanced electronic filing systems in the world. Based on the well-established Electronic Filing System used in Singapore Courts, eJustice Namibia features numerous improvements which have been tailored to specifically meet our needs. The efficiencies of our new e-filing system will not only significantly speed up the Court processes, but they will also enable our legal practitioners to handle greater caseloads more effectively and more rapidly.

Network installation with wi-fi access to court users commenced in 2015 and will be completed towards April 2016. The current renovations at the High Court is a challenge in this respect; user registration and training of High Court Judges, Court Staff and admitted practitioners practicing in the High Court will commence on 8 April 2016, aiming at registering and training approximately 350 admitted legal practitioners, 50 staff members and 20 judges of the High Court over a period of two months.

An additional agreement with the developers was signed for inter alia:

- Further user requirement development;
- Onsite support (technical and system); and
- Service Bureau support
- Implementation is aimed for 27 June 2016.

### **3.4 Supreme Court of Namibia**

The Supreme Court is pleased to announce that a total of 28 judgments were delivered during the 2015 legal



year; Thirty Six (36) appeal matters were enrolled during 2015 of which thirty (32) were finalised.

### **3.5 High Court: Criminal Division**

With the appointment of the Honourable Justice Usiku on 1 May 2015, the High Court of Namibia now has 7 dedicated judges assigned to the Criminal Division i.e. two judges in the Northern Local Division and 5 judges in the Main Division.

The number of available court rooms however remained a problem. As a result the area at the Windhoek Central Prison previously used for the matter *State v Mwilima and Others* was as a consequence converted into two dedicated criminal court rooms now known as the Ohangwena and the Otjozondjupa court rooms. Operations in these two court rooms commenced on 16 January 2016;

The High Court of Namibia is pleased to announce that a total number of 28 Criminal trial matters, 175 criminal appeals and 2092 criminal reviews were finalised during the 2015 legal year.

The average finalization figure for the 2015 legal year in respect of all criminal related matters amounted to 58,7%, which figure is inclusive of matters brought forward from previous legal years, new matters registered during 2015 and all matters finalised during 2015.

### **3.6 High Court: Civil Division**

Since 2011 the Civil Division underwent a number of changes. Statistics reveal a gradual increase in finalization of cases as time progresses.

The Civil Division underwent the following changes:

May 2011: Partial implementation of Judicial Case Management;

April 2014: Full implementation of Judicial Case Management;

June 2014: Inclusion of mediation in the civil procedure as alternative dispute resolution option

July 2015: Introduction of the following sub-divisions in the civil division:

Actions;

Applications; and

Matrimonial and Labour

Each of the newly introduced sub-divisions has dedicated judges and staff attending to cases forming part of the particular sub-division. Dividing civil cases in different sub-divisions with dedicated judges and staff assigned to it is an internationally accepted concept in matured jurisdictions where judicial case management is practiced. The sub-divisions enable judges and staff to specialize in their respective fields which ultimately results in speedy finalization of matters.

The average finalization figure for the 2015 legal year in respect of all civil related matters amounted to 121,3%, which figure is inclusive of new matters registered during 2015 as well as all matters finalised during 2015. This is the first time in the history of the High Court that a finalization figure in excess of 100% has been achieved and therefore proof that the backlog is being addressed.

### **3.7 Mediation**

The inclusion of court-connected mediation as part of the civil litigation procedure in the High Court is a major

contributor to the success story of the High Court.

Court Accredited Mediation as an option for alternative dispute resolution, was introduced in the High Court of Namibia with the coming into operation of the High Court Rules Published on 16 April 2014.

The aim of alternative dispute resolution in the High Court is two-fold, namely:

- It creates an opportunity for litigants to reduce litigation costs in a controlled environment; and
- It frees up judicial time for the hearing of only those matters which are not susceptible to amicable resolution.

During the period May – June 2014 a total number of 103 court-accredited mediators were trained. During May 2015, three additional training courses were presented during which 74 persons were trained of which 68 persons were accredited.

We currently have 165 court-accredited mediators, after 6 mediators recently resigned as court-accredited mediators. All accredited court mediators need to undergo our customized training which is a three day course consisting of theory and practical. Accredited court mediators are all bound to a Code of Ethics, signed by the mediator before being accredited. Mediators are closely monitored and accreditation is renewed annually. Re-accreditation is based on performance, personal growth and general compliance with the Code of Ethics and the Rules and Policies of the Court and the Mediation Programme in general. The majority of our mediators are qualified legal practitioners, but we also have architects, psychologists, judges, magistrates and other professions who are amongst the group.

To determine the success or failure of mediation one needs to test the result against the initial aim, namely reduction in litigation costs in a controlled environment; and freeing judicial time for the hearing of only those matters which are not susceptible to amicable resolution. The average litigation costs in respect of the trial only, in defended High Court actions amounts to approximately N\$50000 – N\$100000 per litigant, if represented. With at least two parties in every defended trial, it would thus be a fair assumption to say that the total trial fees to be paid in respect of the average defended High Court action will amount to approximately N\$100 000 – N\$200 000.

During the 2015 legal year a total number of 1102 court connected mediations took place of which 649 (59%) were successful. The 649 successful mediations amounts to a minimum saving in the hands of the public (litigants) of approximately N\$64 900 000. The revenue expenditure incurred by the State to conduct 1102 court-connected mediations during the period January – December 2015 amounted to N\$2 119 882.

The average High Court action needs approximately 3 court days on trial. It is thus a fair assumption to say that the 649 successful mediations in the High Court, saved at least 1 947 trial days. In addition to the trial days saved, a considerable amount of court time is saved which would otherwise have been taken up by judicial case management hearings, general court administration, preparation, research and judgment writing.

What does this mean?

What does 1947 trial days mean?

Each year has approximately 185 court days

1947 means 10 years, 5 months for one judge at 185 court days per year; or

195 trial days for each of our ten trial judges (1 year)

We may therefore conclude to say that court connected mediation is successful in respect of both aims, in that during the past year, it amounted to an approximate saving to litigants in the amount N\$ N\$64 900 000 and it provided at least 1 947 trial days to other cases not being susceptible to amicable resolution.

## 4. Challenges

### 4.1 Supreme Court of Namibia

- Reasons for major variances
- Target exceeded
- Registry embarked upon an administrative exercise in identifying all appeals lapsed and/or deemed withdrawn, subsequently closing them in terms of the Rules of Court
- Judges concentrated on speedy delivery of recently reserved judgments
- Interventions Required (way forward)
- Appointment of more research assistants (support staff to judges) to attend to research in respect of older judgments

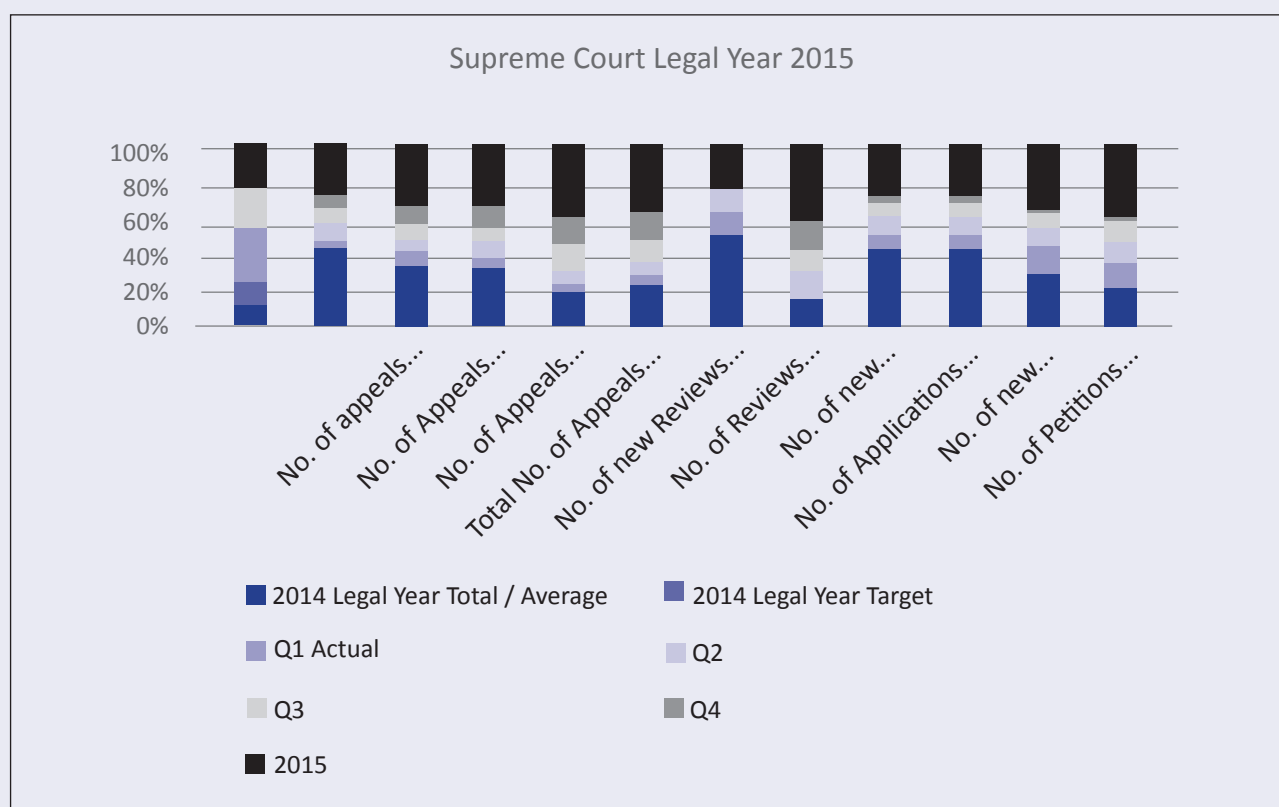
## 5. Statistics:

During the period under review, the Directorate handled various matters as indicated in the annexures below.

1. Supreme Court Legal Year 2015
2. High Court: Criminal Legal Year 2015
3. High Court: Civil Legal Year 2015
4. Labour Court: Legal Year 2015
5. Civil and Labour Cases under Judicial Case Management

## Supreme Court Legal Year 2015

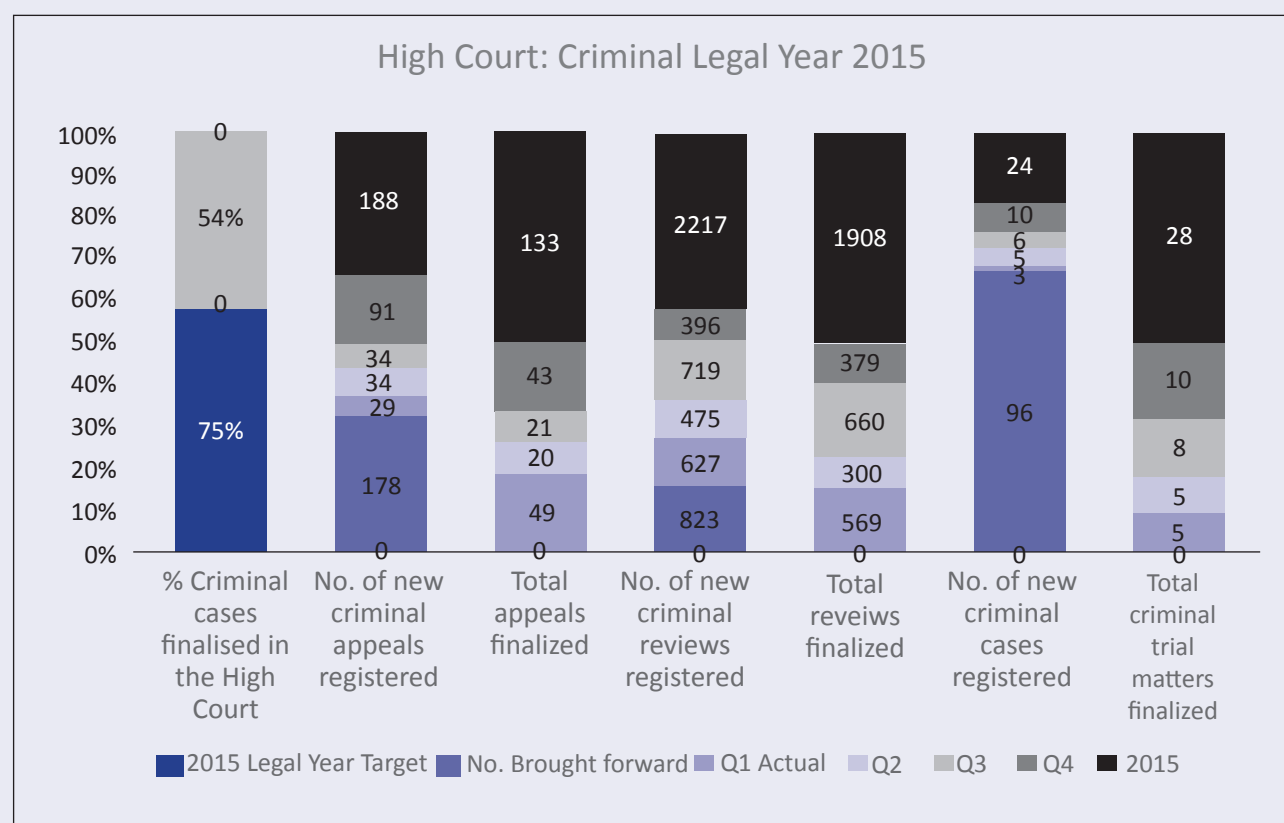
	2014 Legal Year Total / Average	2015 Legal Year Target	Q1 Actual	Q2	Q3	Q4	2015
				Actual	Actual	Actual	Legal Year
							Total / Average
% Supreme Court Appeals Finalised (finalised / new)	69%	69%	155%	66,6%	140%	217,6%	133%
No. of new Appeals registered	118	---	9	27	25	17	78
No. of appeals enrolled	34	---	10	5	10	11	36
No. of Appeals finalised by Court	29	---	6	7	7	12	32
No. of Appeals procedurally finalised by Registrar	31	---	8	11	28	25	72
Total No. of Appeals finalised	60	---	14	18	35	37	104
No. of new Reviews registered	4	---	1	1	0	0	2
No. of Reviews Finalised	1	---	0	1	1	1	3
No. of New Applications registered	58	---	11	13	11	5	40
No. of Applications finalised	58	---	11	13	11	5	40
No. of new Petitions registered	14	---	8	5	4	1	18
No. of Petitions finalised	8	---	6	4	5	1	16





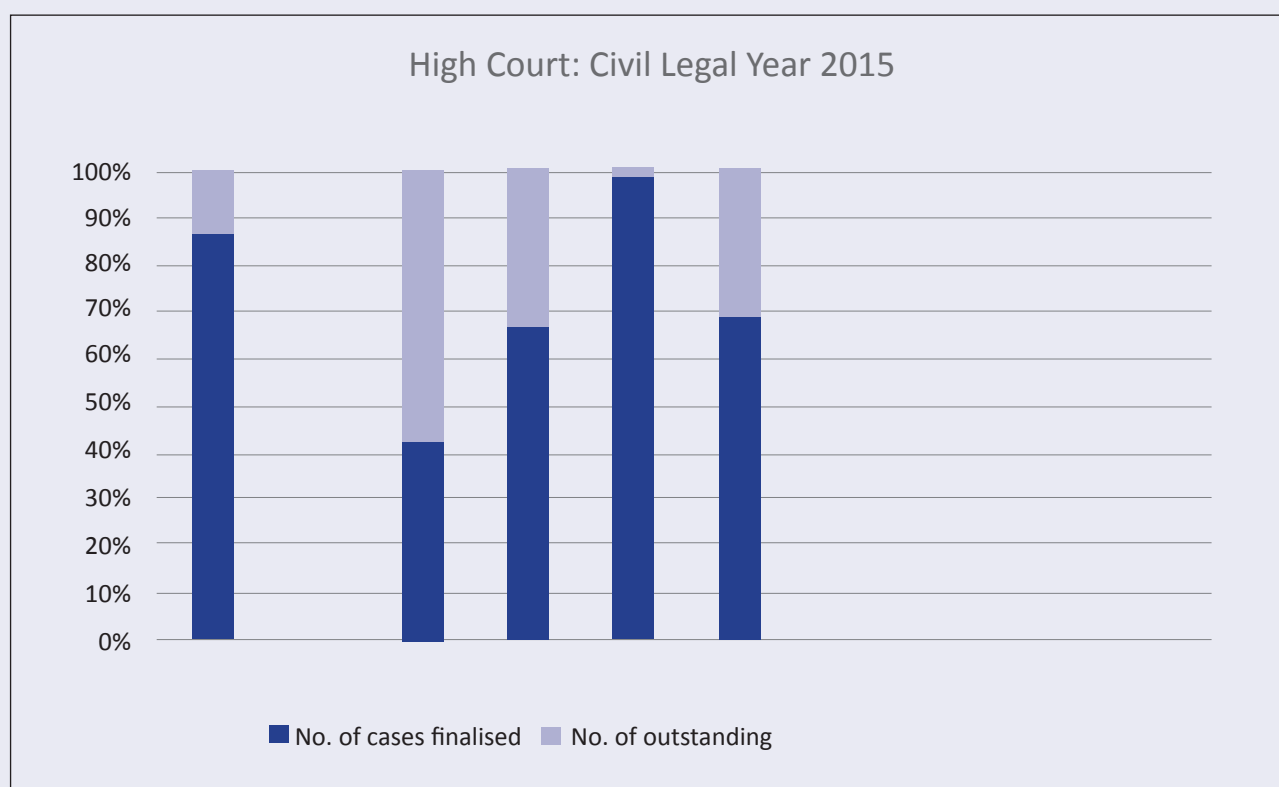
## High Court: Criminal Legal Year 2015

	2015 Legal Year Target	Nr Brought forward	Q1 Actual	Q2 Actual	Q3 Actual	Q4 Actual	2015 Legal Year Total / Average
% CRIMINAL CASES FINALISED IN THE HIGH COURT	75%	---	35,5%	41,8%	54%	58,7%	58,7%
No. NEW CRIMINAL APPEALS REGISTERED	---	178	29	34	34	91	188
TOTAL APPEALS FINALIZED	---		49	20	21	43	133
No. NEW CRIMINAL REVIEWS REGISTERED	---	823	627	475	719	396	2217
TOTAL REVIEWS FINALIZED	---		569	300	660	379	1908
No. NEW CRIMINAL CASES REGISTERED	---	96	3	5	6	10	24
TOTAL CRIMINAL TRIAL MATTERS FINALIZED	---		5	5	8	10	28



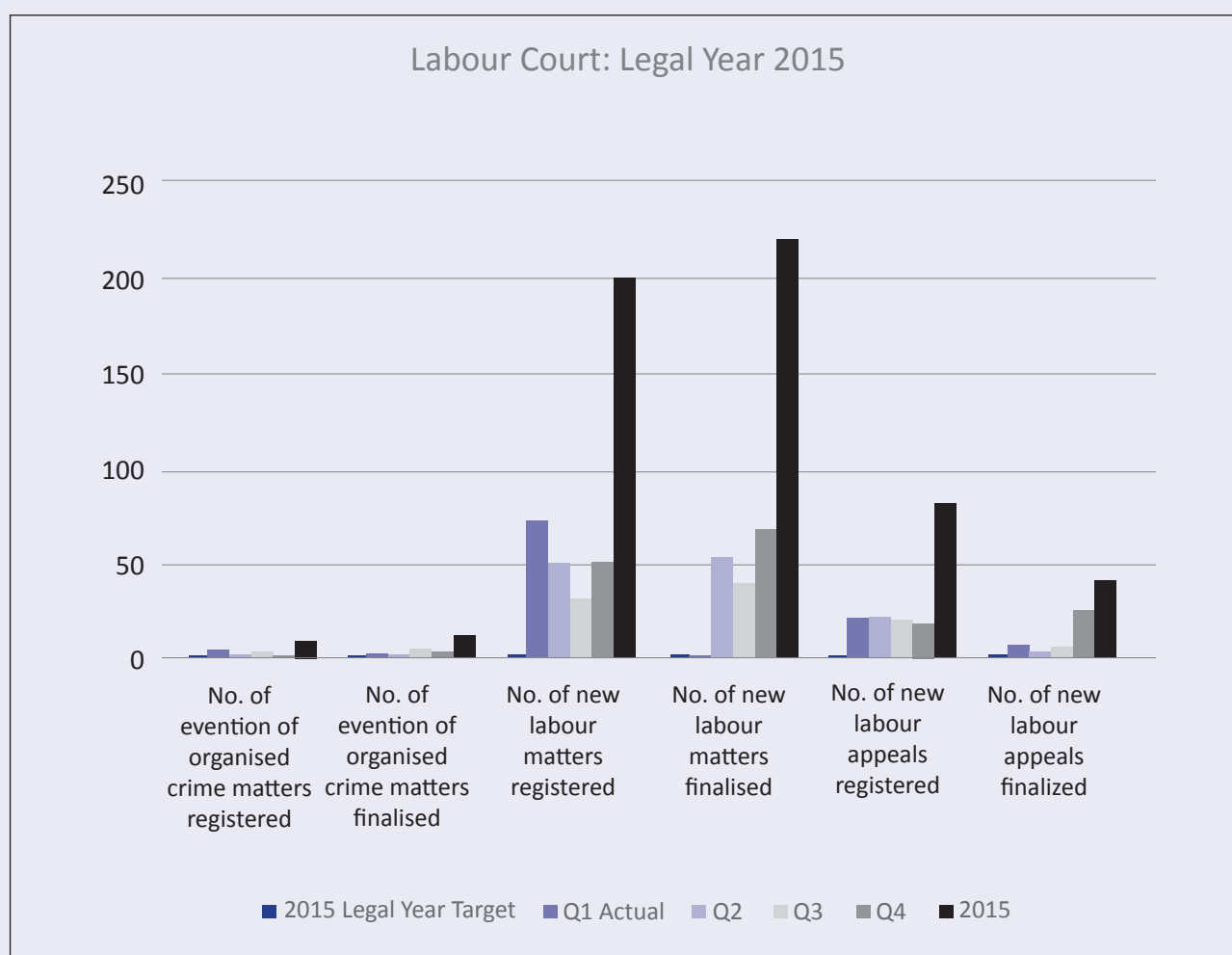
## High Court: Civil Legal Year 2015

	2015 Legal Year Target	Q1 Actual	Q2 Actual	Q3 Actual	Q4 Actual	2015 Legal Year Total / Average
% CIVIL CASES FINALISED IN THE HIGH COURT	75%	119,2%	99,2%	116,6%	121,3%	
No. OF NEW ADMIRALTY CASES REGISTERED	---	6	0	7	5	18
No. OF ADMIRALTY CASES FINALIZED	---	6	0	7	5	18
No. OF NEW CIVIL APPEALS REGISTERED	---	1	3	1	0	5
No. OF CIVIL APPEALS FINALIZED	---	0	1	1	0	2
No. OF NEW CIVIL ACTIONS REGISTERED	---	1124	1240	732	583	3679
No. OF CIVIL ACTIONS FINALIZED BY COURT	---	1366	964	1306	834	4470
No. OF SUBSTANTIVE CIVIL APPLICATIONS CASES REGISTERED	---	79	115	90	94	378
No. OF CIVIL APPLICATIONS FINALIZED	---	121	140	98	150	509
No. OF PREEVENTION OF ORGANISED CRIME MATTERS REGISTERED	---	4	2	3	0	9
No. OF PREVENTION OF ORGANISED CRIME MATTERS FINALIZED	---	2	2	5	3	12



## Labour Court: Legal Year 2015

	2015 Legal Year Target	Q1 Actual	Q2 Actual	Q3 Actual	Q4 Actual	2015 Legal Year Total / Average
No. OF EVENTION OF ORGANISED CRIME MATTERS REGISTERED	---	4	2	3	0	9
No. OF EVENTION OF ORGANISED CRIME MATTERS FINALIZED	---	2	2	5	3	12
No. OF NEW LABOUR MATTERS REGISTERED	---	72	50	31	50	203
No. OF LABOUR MATTERS FINALIZED	---	61	53	39	67	220
No. OF LABOUR APPEALS REGISTERED	---	21	22	20	18	81
No. OF LABOUR APPEALS FINALIZED	---	7	3	6	25	41



**Civil And Labour Cases Under Judicial Case Management: Legal Year 2015**

	Total NR of actions / applications	NR matrimonial matters	Settled during 2015	Withdrawn during 2015	Judgment during 2015	Finalised (other) during 2015	Total finalised during 2015
Actions under judicial case management brought forward	1582	421	558	65	127	4	754
No. of actions assigned to managing judges during 2015	1119	337	279	50	71	7	407
Total nr of actions under jcm	2701	758	837	115	198	11	1161
Applications under judicial case management brought forward	162	---	12	10	23	1	46
No. of applications assigned to managing judges during 2015	191	---	23	8	35	1	67
Total nr of applications under jcm final	353	---	35	18	78	2	113
Labour applications under judicial case management brought forward	39	---	3	0	6	0	9
No. of labour applications assigned to managing judges during 2015	36	---	3	4	15	0	22
Total No. of labour applications under JCM	75	---	6	4	21	0	31

***Lawyer consulting with clients***







