

**REMARKS BY THE HONOURABLE YVONNE DAUSAB, MINISTER OF JUSTICE  
ON THE OCCASION OF THE LAUNCH OF LAWYERUP NAMIBIA, ON 3 JUNE  
2022 AT JACOB MORENGA CHAMBERS, ROBERT MUGABE AVENUE,  
WINDHOEK**

Good afternoon everyone, thank you very much for being here today.

It is my absolute pleasure to be here at this event and happy to share in a moment that recognises the importance of *pro bono* work.

As lawyers, we are uniquely positioned in society to understand and interact with the legal system. The law is a highly skilled profession, it is dense, confusing, complicated. For nearly all members of society, who have not dedicated years of study to the practice of law, it is completely inaccessible.

But despite the many barriers most people face in accessing the law, its effects affect everyone. From the drawing up of a will, to the sale of a home, to a divorce, to a criminal defence, the law affects everyone to a great degree.

It is thus absolutely crucial that everyone have access to a legal professional, especially trained to assist them in navigating the dense and complicated world of the law.

Unfortunately, the practical realities of the situation in Namibia today are such that many who could seriously benefit from the counsel of a lawyer are unable to afford access to one. Legal services are expensive, and fees have increased exponentially in the last decade, to the point that many Namibians cannot access justice. Depending on the years of experience post admission, a lawyer can charge anything between N\$1, 500 and 5,000 to charge for a first and subsequent consultations. Like I say on many platforms when getting an opportunity to talk about the prohibitive nature of our fee structure, even I will not be able to afford a lawyer should I be sued in my personal capacity. While visiting, courts around the country since April 2021, and more recently in the Khomas region, a member of the public got up in a public gallery, where the Chief Justice and I were present, and asked, is law designed to protect or enhance the lives of poor people. And we were unable to answer the question in the affirmative. What does this tell me, the legal profession as we knew it when some of us were in law school in 1993, may have lost its nobility, and this I find quite disheartening.

Y Dausab, Minister of Justice

In a 1984 Address to an Inquiry into Poverty and Development in Southern Africa, Ismail Mahomed, Namibia's first Chief Justice, noted that:

*The poor are often the victims of perfectly fair laws, unfairly exploited, and an inability to protect and assert their rights through the processes of the law. Thousands of such victims have neither the education nor the financial means to pursue their lawful rights in courts of law, otherwise quite ready and willing to assist them. Access to the law is a vital ingredient of justice.*

The government has a role to play in this. In the same speech from 1984, Justice Mohammed expressed that "Legal Aid needs to be elevated into a national priority, subsidised and funded by the state on a massive and visible scale."

Since the foundation of this country, the government has prided itself on our robust Legal Aid system, which is enshrined in the Constitutional guarantee of "a legal system seeking to promote justice on the basis of equal opportunity by providing free legal aid in defined cases with due regard to the resources of the State;" (art. 95.8). In cases like *Mwilima*, Namibian courts have specified that in the interests of justice, the government has an obligation to provide legal representation to those who cannot afford it and would otherwise be denied a fair process.

Legal Aid is crucial, and we have made significant strides to expand Legal Aid, particularly with the introduction of a civil unit, to address a wider variety of cases. Over the past 10 years, the Ministry has spent a cumulative total of N\$302,755,729.42 on the provision of Legal Aid. Out of 10669 requests for Legal Aid received just in the past year, the Directorate was able to grant 7193. However, financial and logistical constraints mean that Legal Aid today is simply unable to represent every party that cannot afford paid legal advice. In fact, many of the 7193 cases were outsourced by Legal Aid to private practitioners, distributed over 145 law firms and advocates practising in that capacity respectively. Which means the Legal Aid resources are contributing towards employment creation and providing financial support to particularly emerging legal practitioners and firms.

In order to fill the gap, our society continues to depend on private legal practitioners. The reality is that as lawyers, we occupy a place of tremendous privilege. The specialised and important nature of our work accords us a place of societal importance for which we are well respected and well compensated. But as the gatekeepers to the entire legal system, we as legal practitioners have an obligation to use our expansive knowledge of the legal system to advance the interests of justice.

Y Dausab, Minister of Justice

We have a moral duty to ensure that legal services are accessible to all who require them, because the foundational principle of our system of justice, as guaranteed by the Constitution, is that everyone is treated equally under the law, and has the same legal rights. If a lack of financial means is a barrier to accessing justice, and only the well-off and the lucky have access to legal services, our justice system is not just at all.

Lawyers and policy makers have long recognised this, hence the long history of *pro bono* work in the legal profession. The idea that lawyers have an obligation to the public has existed since the very beginnings of the legal profession in England over 1000 years ago. The term "*pro bono*" itself is from the Latin 'for good', and lawyers over the last 1000 years have continued the tradition of providing representation free of charge to those who need it, for the good of society.

In a country like ours, in which the pervasive legacy of colonialism and apartheid have created rampant inequality and disproportionate poverty, equal access to justice is even more essential, and we privileged members of the legal profession have an even greater duty to provide it.

However, despite efforts over the past decades to eliminate economic and social inequality, lawyers in Namibia have thus far had the prerogative to determine how much *pro bono* work they will do. I would like to thank the members of this network for their dedication to the principles of equal access to justice and for your use of the law to enhance social justice and to lift everyone up, regardless of their means. The dedication of your own time and resources to this project at your own volition is truly admirable, and I applaud you.

Of course, the reason we are here today is the launch of LawyerUp's exciting new online platform. The network is the first of its kind in the country, and brings Namibia into line with many other jurisdictions in creating a convenient way for people with legal needs but lacking financial means to access justice. Through communicative digital technology, LawyerUp is upholding the fundamental values of *pro bono* work, and advancing the cause of justice by connecting people with needs ranging from corporate law, to family law, to criminal defence law, with a lawyer who can advise and represent them. In connecting those in need with those able to help, LawyerUp is making a measurable contribution to the cause of justice.

I would also like to particularly recognise the admirable decision to offer services free of charge to victims of gender-based violence. It demonstrates a commendable social conscience, and is a model I hope will be followed by legal practitioners and organisations across the country.

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LawyerUp Namibia is truly an innovative platform, and one for which I hope many more legal practitioners if not all in this country will sign up to and embrace. It certainly reflects the values espoused by the American Bar Association, which argues that “when society confers the privilege to practice law on an individual, he or she accepts the responsibility to promote justice and to make justice equally accessible to all people. Thus, all lawyers should aspire to render some legal services without fee or expectation of fee for the good of the public.”

We share this sentiment. Thus, while we applaud the creation of the LawyerUp network and the motivation of its participating practitioners, our vision for the future of pro bono representation in Namibia goes further.

In addition to plans to introduce a small claims court and improve the capacity of community courts, we want to bring Namibia into line with some other forward-thinking jurisdictions like Uganda, Indonesia, and the Philippines, and implement mandatory pro bono work requirements, obliging all lawyers in Namibia dedicate a certain number of hours to working in the interest of the public, with no expectation of receiving any fee.

In so doing, we hope to eliminate the barriers to justice that continue to deny people their basic rights and perpetuate political, racial, and social injustice.

The pursuit of a more just and equitable society is an interminable struggle, but the law can be both an instrument of oppression or a be a powerful tool for progress.

The way lawyers conduct themselves can have a tremendous impact both the perception of the justice system, and on its very nature. Our society is only as just as those who uphold the justice system. We must as lawyers remember that the decisions we make have very real impacts.

Our decisions can be the difference between justice served, and justice denied. If our legal practice perpetuates the unequal access to justice that the privileged enjoy, we are complicit in the systemic injustice faced by all others.

On the other hand, by choosing to provide service *pro bono*, lawyers can combat the outsized role financial resources play in the recourse of justice.

By acting pro bono, lawyers can provide access to the legal system to those who might otherwise have their inalienable constitutional rights denied. In so doing, lawyers contribute not only to the interests of the clients they serve, but to justness of our society at large.

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But until each and every Namibian has unimpeded access to legal representation, more must still be done.

Until the legal system is used as a tool to achieve justice, not to evade justice, more must still be done.

Until one's wealth has no impact on her ability to seek recourse for an injustice, more must still be done.

And while the government certainly has a role to play in this ongoing struggle, so too do all members of the legal profession. It is our collective duty as gatekeepers to the justice system to ensure that the interests of justice are served.

For all that you have already done by being here today and participating in the LawyerUp network, I thank you. Representing client's *pro bono* is of the utmost importance and it certainly is the right thing to do, so consider this a call to action.

Thank you.