

**SPEECH BY THE HONOURABLE CHIEF JUSTICE OF LESOTHO TO
MARK THE CEREMONIAL OPENING OF THE HIGH COURT SESSION**

**DELIVERED BY HER LADYSHIP THE HONOURABLE MADAM CHIEF
JUSTICE NTHOMENG 'MATHOLOANA MAJARA
WEDNESDAY, 1STFEBRUARY 2017**

HIS MAJESTY KING LETSIE THE III;

**THE RIGHT HONOURABLE THE PRIME MINISTER DR. BETHUEL
PAKALITHA MOSISILI;**

THE HONOURABLE PRESIDENT OF THE SENATE;

THE HONOURABLE SPEAKER OF THE NATIONAL ASSEMBLY;

THE HONOURABLE DEPUTY PRIME MINISTER;

HONOURABLE MINISTERS;

**THEIR LORDSHIPS AND LADYSHIPS, HONOURABLE JUDGES OF
THE SUPERIOR COURTS;**

THEIR EXCELLENCIES HEADS OF DIPLOMATIC MISSIONS;

HONOURABLE MEMBERS OF THE TWO HOUSES OF PARLIAMENT;

THE HONOURABLE ATTORNEY GENERAL;

THE DIRECTOR OF PUBLIC PROSECUTIONS;

THE GOVERNMENT SECRETARY;

BARUTI BA MOSHOESHOE;

PRINCIPAL SECRETARIES;

THE CLERK OF THE NATIONAL ASSEMBLY;

HER HONOUR THE PRESIDENT OF THE LABOUR COURT;

**THE VICE CHANCELLOR OF THE NATIONAL UNIVERSITY OF
LESOTHO;**

THE REGISTRAR OF THE HIGH COURT AND COURT OF APPEAL;

**YOUR WORSHIPS THE CHIEF MAGISTRATES;
DEPUTY REGISTRARS;
YOUR WORSHIPS THE MAGISTRATES;
ASSISTANT REGISTRARS AND JUDGES CLERKS;
ALL JUDICIAL OFFICERS;
THE PRESIDENT OF THE LAW SOCIETY;
MEMBERS OF THE BAR AND SIDE BAR;
THE DOYEN OF THE LEGAL PROFESSION, NTATE ‘MOLOTSI
KOLISANG;
GENTLEMEN AND LADY ASSESSORS;
CHIEF EXECUTIVE OFFICERS AND CAPTAINS OF INDUSTRIES;
MEMBERS OF THE MEDIA;
DISTINGUISHED LADIES AND GENTLEMEN;**

Good morning. Once again, it is a great honour for me to welcome you all to the Palace of Justice as we mark the beginning of our calendar year for 2017. May I without ado also express my and the entire Judiciary’s heartfelt gratitude to you for having spared some time off your busy schedules to come and celebrate this very important event with us.

ORBITUARIES

It is a fact of life that death touches us all and the past year was no exception as we lost two of our fellow members in the legal profession namely, **Mr. Kahlolo Petlane** an Attorney of these Courts and a former Commissioner of Police, as well as **Mr. Nchakha Mphalane** also an Attorney and one of the first Basotho pioneers who mustered the courage to open their own law firms. As believers in the Higher

Power, we take comfort in the knowledge that they, like others who have passed on before them, have joined their Maker in eternal glory.

May we all rise to observe a moment's silence in their honour.

STATISTICS FOR THE YEAR 2016

Your Excellencies, distinguished guests, ladies and gentlemen, the judiciary accounts to the public through its judgments and providing it with statistical data for any given year so that you can judge for yourselves how the courts have performed. However, it is apposite to mention that the methodology that was used in collating the data differs from region to region mainly because we do not have a centralized statistical data collection and analysis department. We remain hopeful that we will be able to acquire sufficient resources to establish such a department in the near future. For purposes of this report and in the interests of time, I will only give a summary of the total number of cases that were filed and the number that were completed per court. More detailed statistics for each Court are readily available and can be accessed from the office of the Registrar. Following therefore are the respective statistics for the year under review.

SUBORDINATE COURTS

THE CENTRAL REGION ; MASERU

In the year 2016, the Maseru Magistrate Court saw a total number of **3, 347** registered *criminal* cases, and **1765** were completed. The Court also opened a total of **2536 civil** cases out of which **1836** were completed at the end of the year.

THABA-TSEKA MAGISTRATE'S COURT

A total of **388** *criminal* cases were registered in Thaba-Tseka and **179** were completed, while **859** were brought forward.

THE SOUTHERN REGION; MAFETENG MAGISTRATE COURT;

The Mafeteng Magistrate Court had **614** *criminal* cases registered in 2016, **330** were completed, **59** were partly-heard thus leaving **234** pending. **175** *civil* cases were filed and **91** were completed.

MOHALE'S HOEK MAGISTRATE COURT

A total of **372** *criminal* cases were registered in Mohale's Hoek and **99** were completed, **14** were partly heard, **113** were struck-off the roll leaving a total of **160** pending. **116** *civil* cases were filed and **105** were completed.

QUTHING MAGISTRATE COURT

In the Quthing Magistrate Court, **180** *criminal* cases were opened and **151** of them were completed in 2016. **209** *civil* cases were also filed and **188** of them were completed.

QACHA'S NEK MAGISTRATE COURT

A total of **241** *criminal* cases were registered in the Qacha's Nek Magistrate Court, **155** were completed. **131** *civil* cases were registered and **73** were finalized by the end of 2016.

THE NORTHERN REGION; BEREA MAGISTRATE COURT

357 *criminal* cases were brought forward from the previous year(s) and **413** were registered in 2016 bringing them to a total to **770** of which **240** were completed. **161** *civil* cases were brought forward and **405** were registered in 2016 and the total came to **566** of which **197** were completed.

BUTHA-BUTHE MAGISTRATE COURT

251 criminal cases were brought forward from the previous year(s) whereas **301** were registered in 2016 with the total coming to **552** of which **192** were completed, **308** were struck off the roll and the total of those disposed of is **500**. **189** civil cases were brought forward from the previous year(s), **177** were registered in 2016 and the total came to **366** of which **135** were completed.

LERIBE MAGISTRATE COURT

The Leribe Magistrate Court had **485 criminal** cases brought forward and **878** registered in 2016 and the total was **1363** with **325** completed. **89 civil** cases were brought forward and **952** were registered in 2016 which came up to **1041** out of which **687** were disposed of. Leribe currently has a shortage of two Magistrates but have nevertheless performed very well. They should keep up the good work.

MOKHOTLONG MAGISTRATE COURT

Mokhotlong which has been operating with one Magistrate for two successive years had **438 criminal** cases brought forward and **310** registered in 2016 and the total came to **748** of which **117** were completed. **121 civil** cases were brought forward and **155** were registered in 2016. The total number disposed of was **45**. Without any doubt, this Magistrate has performed excellently and deserves a big thank you indeed.

THE NORTHERN REGION; CENTRAL AND LOCAL COURTS

The Central and Local Courts of the Northern region, exclusive of Phahameng and Rampai Local Courts which have been without Court Presidents for the whole of 2016, as well as the Sefikeng Local which burnt down along with all its records

last year, registered a total of **1,039 criminal** cases inclusive of **101** that were brought forward from the previous year(s). Out of all these **795** were completed.

A total of **2, 144 civil** cases were opened with **514** brought forward from the previous year(s) and **1, 641** of them were completed in 2016.

JUDICIAL COMMISSIONER'S COURT

The Judicial Commissioner's Court is based in Maseru only and holds roving fortnightly sessions in all the other districts in order to reach all litigants. The court held the following sessions in the year 2016: Mokhotlong from the 23rd May to the 3rd of June. The number of cases on the roll was **58** out of which **46** were disposed of and **12** postponed thus bringing the disposal rate to **79.0%**. The Butha-Buthe session was held from the 25th to 29th July with **34** cases enrolled and **31** disposed of and **3** postponed bringing the disposal rate to **91.1%** in this district. The session for Mafeteng was held from the 5th to 16th September with **40** cases enrolled, **19** completed and **16** postponed and the disposal rate was **47.0%**. In Qacha's Nek, the session was held from the 28th November to the 2nd December where **15** cases were enrolled, **11** were completed and **4** were postponed translating into **73.0%** disposal rate. The Court also held a session in Quthing where **26** cases were on the roll of which **17** were completed and **16** postponed, thus bringing the disposal rate to **55.0%**. The last session for the year was held in Mohale's Hoek from the 12th to 16th December with **27** cases enrolled, **10** completed and **17** postponed and the disposal rate in this district stands at **37.0%**

THE LABOUR COURT

Most regrettably, not only is the Labour Court based in Maseru only but it currently has 1 Judicial Officer who is also its President, Mrs. Mamojela Khabo.

She is charged with the unenviable and onerous responsibility of serving the entire country in all matters that are brought before her court, not to mention being in charge of the court administration. This is an untenable and crisis situation of epic proportions and I fervently hope the Honourable Minister of Labour and Employment will heed our desperate plea and address this mammoth problem soonest. The important function that this Court plays in dispensing justice for people in the work place and the challenges that besiege it as a result of this serious understaffing cannot be overemphasized. It does not help matters that the court has no proper registry, court rooms, human resources, accounts or procurement offices to name but a few. However, despite these various challenges, it still managed to stoically carry out its functions.

THE LABOUR COURT STATISTICS

During the year under review, the Labour Court registered a total of **94 trials**, heard **78** in part and completed **16**.

A total of **122 reviews** from the DIRECTORATE OF DISPUTE PREVENTION AND RESOLUTIONS (DDPR) were enrolled in the Labour Court, **101** were heard in part and **21** were disposed of. The Court also heard **43** interlocutory applications and completed all of them. **143** enforcement applications were scheduled for hearing, **88** were completed and **55** were partly-heard. Two (2) Appeals from the Public Service were postponed. It is only in order for me to congratulate Her Honour the Labour Court President for having managed to do so much despite the myriad challenges that she is currently facing as I have already mentioned.

THE LABOUR APPEALS COURT

The Labour Appeals Court is also served by one High Court Judge, Honourable Justice Keketso Moahloli AJ. During the 2016 judicial year, **45** appeals were enrolled for hearing, **21** were completed and **10** were partly-heard and/or postponed. **14** judgments were reserved.

THE HIGH COURT

In terms of the Constitution, the High Court is vested with jurisdictional powers to deal with constitutional cases as well as elections and other petitions. It is important to mention that all these cases require a minimum of three Judges per sitting. With the era of human rights awareness and democracy, and our highly charged political landscape, more cases are being registered in recent times. This means that oftentimes, other cases take the back bench while most, if not all the Judges are dealing with these cases.

CONSTITUTIONAL CASES STATISTICS

During the period under review, the number of registered constitutional cases, inclusive of those carried forward from the previous year(s) stood at **18**. 5 petitions were also registered and this brought the total number to **23**. **9** of these were completed, **4** were partly heard, **1** was withdrawn and **9** are pending.

CRIMINAL CASES

During the year under review a total of **871** Cases were filed in the Criminal Registry. These were made up of **123** Criminal Trials, **737** Criminal Applications and Reviews, **9** Criminal Appeals, and **2** Criminal Sentences. Out of the **123** Criminal Trials filed **51** were completed, of the **737** Criminal Applications **665** were completed, of the **9** Criminal Appeals, **4** were completed. While only **2** *Criminal* Sentences were filed a total of **34** were completed **32** having been

brought forward from the previous year(s). This brings the total number of *criminal* cases that were completed to **754** out of total of **871**.

CIVIL CASES

In the Civil Registry, a total of **1410** files were opened in 2016. These **766** trials out of which **553** cases were completed, **467** applications of which **257** were finalized, **34** appeals and **4** were completed. A total of **27** Adoptions were moved and all were completed. A total of **51** Admissions were filed and all of them were also completed. Thus, the grand total came to **997** completed *civil* cases out of the **1410** that were filed.

THE COMMERCIAL DIVISION

In the Commercial Division of the High Court a total of **492** trials were filed for during the year and **245** were disposed of. **125** applications were filed and **69** of them were completed. It is worth mentioning that despite the high output of completed cases in the Commercial Court, it is still run with only two (2) Judges and this number is far from adequate considering the huge workload that keeps increasing at an alarming rate.

THE LAND COURT

The Land Court division of the High Court is similarly run with only two Judges. In 2016, **65** cases were filed in this Court and **64** were finalized which makes up almost **100%** disposal rate by this division. Hon. Justices Mahase and Sakoane, keep up the sterling work.

In total, out of the **2898** cases that were filed in the main High Court and the Commercial and Land Divisions, a total of **2039** cases have been finalized while **859** remain pending from the year 2016. This translates to **70.3%** disposal rate.

THE COURT ANNEXED MEDIATION

Mediation is a process that facilitates communication between litigants with the aim of reaching an amicable out of court settlement thus reducing amongst others, the case backlog, lawyers' fees, time and other related costs. It is a compulsory process that is provided for by the court rules. Unfortunately, although the proposed structure of the Judiciary has introduced amongst others, positions of mediators, it has still not been approved due to cited financial and other constraints on the part of the government.

As a result, the Court's professional staff, namely Assistant Registrars and Judges' Clerks have hitherto soldiered on in dabbling between doing mediation and executing their other very demanding duties. I remain forever indebted to these well-meaning servants of the public and sincerely hope that the proposed structure will be approved sooner rather than later to ease this burden. I should however mention that thankfully, the Honourable Minister of the Public Service and his team of experts are already addressing the issue and has promised to give this cadre priority as the structure can only be approved in parts due to those constraints as mentioned above.

MEDIATION STATISTICS

During 2016, **192** cases were allocated for mediation. **95** of them were heard, **32** were settled, **57** did not succeed and had to be transferred back for litigation, while in **49** of them the parties did not show up and **1** was postponed.

THE COURT OF APPEAL

In the Court of Appeal, a total number of **64** cases were filed for both the April and October sessions of 2016 and all **64** were disposed of. It has now become the norm for Judges of the High Court to sit in these sessions in accordance with Section 123 1(c) of the Constitution of Lesotho in terms of which they and the Chief Justice are *ex officio* Judges.

Their Lordships and Ladyships, in my view, the fact that you are able to do so much work with such a small number bears testimony that you are not sitting on your laurels doing nothing contrary to popular belief. Their Worships the Magistrates, all Judicial Officers, as well as the professional staff, you all deserve a big hand for the hard work that you have done in the past year despite having to work under pathetic circumstances with virtually no resources. Le ka moso!!!

THE OFFICE OF THE MASTER OF THE HIGH COURT

During 2016, the office of the Master of the High Court through the assistance of the World Bank (Private Sector Competitiveness Project) has been committed to carrying out reforms of the Insolvency Proclamation 1957 which had long been in serious need of review and overhauling. I am therefore pleased to announce that after all the hard work a new Insolvency Bill will be tabled in Parliament shortly after the Parliament reopens. Kudos to the Office for this huge achievement

THE STATE OF THE BUDGET

The Right Honourable Prime Minister, distinguished guests, ladies and gentlemen, our severe lack of resources, both human, financial and otherwise, is legendary and

well-documented. For some imperceptible reasons the Judiciary is forever short-changed in terms of budget allocation by successive Parliaments. What needs to be noted most importantly is that unlike all government ministries, the Judiciary is an arm of government just like the Executive and the Legislature, and therefore deserves not necessarily a preferential share of the budget, but a sustainable and realistic one regard being had to its huge size, not to mention the number of its very senior judicial officers, that are by law entitled to certain benefits commensurate with their position and huge constitutional mandate.

The Honourable Minister of Finance will surely agree with me in my assertion that we are probably the only arm of government, along with a few other ministries, that operate on a shoestring budget. This disadvantaged and vulnerable position inevitably impedes negatively on us in a big way in the delivery of our constitutional mandate. As a result we have had to periodically ask for supplementary and contingency budget from the Minister every quarter of the year which has unfortunately often not been approved.

While I do admit that the Judiciary and its various departments is not necessarily a revenue-generating arm, it is a fact that our contribution to engendering economic growth, attracting investor confidence, stability, ensuring the existence of the rule of law and good governance and therefore fostering international integrity not to mention providing critical service to the poor and marginalized, cannot be underestimated. Thus, more public funding has to be channeled to this institution to make it efficient, transparent and user-friendly.

To demonstrate political will, in some countries, the Judiciary is by operation of law allocated a reserved percentage of the annual national budget and there are

legislative safeguards to ascertain that it is not unfairly discriminated against. Most unfortunately, the Chief Justice has had to literally ask for handouts with a begging bowl from well-meaning philanthropists who have thankfully heeded our clarion call and assisted us accordingly.

In this regard, suffice it for me to mention that professional court gowns for all the eleven Honourable Judges, with a set each worth about **M20, 000**, as well as other resources such as fans, heaters, crockery and cutlery for the individual chambers, courtrooms and other offices were donated by one of these well-meaning institutions through its Managing Director. To him and his team I wish to say, thank you very much from the bottom of our hearts and May God Bless you always.

Needless to say, this situation is far from ideal as it might create the wrong perception in the eyes of some, that by so doing these good Samaritans will be looked upon favourably should they ever be involved in litigation before our courts although I hasten to assure you that Judicial Officers are responsible professionals and are fully conscious of their sacred oath of office hence their unsurprising unpopularity for dispensing justice without fear or favour in accordance with that oath.

PERENNIAL SHORTAGE OF JUDGES

Despite the skyrocketing statistics of cases and the creation of the Specialized Commercial and Land divisions of this Court as independent establishments, the existing number of Judges has remained the same for many years. I have in the past cited Botswana as a good example with a High Court that has a sound strength

of about 26 judges despite its smaller population and a far lesser number of cases than Lesotho. It has also been regionally decentralized.

On our side, we have a complement of 12 Judges. The suggested structural and systematic reforms for the enhancement of efficiency in judicial administration and the administration of justice, in particular a relative quick disposal of cases towards achieving a permanent reduction of backlog hitherto remain to be approved and adequately financed.

While Judicial Officers are committed to dispense justice to their fellow citizens, they can only do so within reasonable limits. It is thus sad to realize that it continues to be expected to do miracles and is often unfairly compared with other jurisdictions where this has long been addressed. Thus oftentimes the courts are blamed even for problems beyond our capabilities. A typical example is in blaming the courts for delays especially in the hearing of criminal cases without recognition that we only hear matters after the conclusion of investigations and readiness of the prosecution.

There is a serious misconception that whenever a criminal case is brought before the court for the first time, it is necessarily ready for hearing but the courts for selfish or corrupt reasons simply postpone them. It would therefore be wise for the skeptics to attend the remand sessions at any Magistrate Court to see that, a overwhelming majority of serious criminal cases are pending completion of investigations, arrests or securing of witnesses. It is indeed unfortunate that the general tendency is to blame the courts for such problems.

NEED FOR A UNIVERSAL AUTOMATED RECORDS MANAGEMENT

The Automated Case Management system has, through the assistance of our development partners, been launched at the High Court and Maseru Magistrate's

Court for some time now as a pilot project. However, we are currently experiencing serious financial problems in terms of sustaining this hugely beneficial system which would go a long way towards easing the burden of manual filing and record keeping for the entire Judiciary inclusive of the Labour Court and the office of the Master of the High Court. The current global trend is the migration from manual record-keeping to automated digital systems. The other departments surely cannot be left behind in embracing digital technology. We also continue to experience continuous disruptions to our internet as we still rely on the main government server per the government's policy and this negatively impacts on the reliability and accuracy of our system.

Your Excellencies, the obvious advantages of automated records keeping are too numerous to enumerate, save to re-iterate that it fosters and ensures access and accurate storage of records. This is particularly the case with the office of the Master of the High Court which *inter alia*, administers huge sums of money under the Guardian's Fund for thousands of orphaned children that unfortunately fall between the cracks as a result of the manual records keeping.

DEPUTY SHERIFFS AND SERVICE OF CRIMINAL PROCESSES

No Judiciary can pride itself to being a beacon of hope for its stakeholders unless it has an efficient end result, i.e. the enforcement and execution of its decisions which task is carried out by Deputy Sheriffs and Court Messengers. For those who may not be aware, execution of judgments is one of the most hazardous jobs as it often involves real threat to life and property by litigants against whom the court orders have to be executed. There is therefore a need for us, the police service, chiefs and other stakeholders to come together and map-out a mutually beneficial

policy and legislation on how best to ease the risk and make this cadre safer and more effective.

I also wish to appeal to private litigants, through their lawyers to adequately and timely pay these court officers their due commission so they may execute their mandate efficiently as they are not on government's payroll. It is indeed unfortunate that the Deputy Sheriffs and Court Messengers have not always received the treatment they deserve, yet they play such a critical role in the administration of justice.

RECOMMENDATIONS ON JUDICIAL REFORMS

The government's coalition agreement on constitutional and judicial reforms which has also been recommended by SADC have as a corollary, ensured that the Judiciary is involved and represented and its inputs taken into consideration when recommendations are being debated and considered for implementation. It goes without saying that one of the key role players in the judicial reforms in Lesotho, is the Judiciary itself, as it is us more than other key stakeholders and government, who know from experience and being on the ground, what needs to be done in order for us to become more independent, accountable and efficient. Thus, the invitation the government extended to the Judiciary in this regard is hugely welcome and came at the most opportune time for us as we had been aware for quite some time that there is a serious of our need for judicial restructuring and reforms.

Your Excellencies, allow me therefore to assure you that our contribution to this long-term sustainable exercise which is headed by the Hon. Justice S. Peete, will prove invaluable to this nation. We dearly hope that the reforms will pass muster

as we believe they will ascertain a truly independent and better functioning judiciary as well as add to the blueprint for other judiciaries across the democratic world on how judiciaries should be restructured and reformed. Indeed for some of these we need constitutional and legislative amendments and enactments. However, the details of these, Your Excellencies, belong to other forums.

CONTINGENCY/SUPPLEMENTARY BUDGET FOR HIGH PROFILE AND COMPLEX CASES

The Right Honourable Prime Minister, distinguished guests, ladies and gentlemen, in recent years we have seen a steady increase in high profile and complex cases some of which are as a matter of public policy and law urgent and have to be disposed off within a reasonably short time while others by their very nature, render the local Judges conflicted or to reasonably be so perceived thus necessitating requesting assistance by foreign judges. Since such cases are not easily budgeted for, they inevitably take a huge chunk from our already meagre budget as we have to cater for amongst other things, the judges' transport, accommodation and meals, security, *pro deo* fees as well as incidental expenses.

It is against this background that we request government through Parliament to make adequate budgetary allocations and additional funds for these inevitable developments. It would also be easier and less cumbersome for us if the Treasury could demand less stringent procedural requirements in those instances where we have to seek supplementary or contingency budget. The judiciary requests special dispensation in this regard so that justice can be served as seamlessly as possible and to save us the embarrassment of having to be chased by service providers and lawyers appointed **pro deo**.

JUDICIAL INDEPENDENCE AND RECENT ATTACKS ON THE JUDICIARY

Judicial independence is one of the cornerstone principles of true democracy which is aimed at ensuring that the judiciary is kept away from the other branches of government and that the courts are not subjected to improper influence from them, or from private or partisan interests. It also entails the notion that judges are free to make impartial decisions based solely on fact and law.

In Lesotho, this internationally-recognized concept is enshrined in the Constitution under section 118 (2) which provides; *“The courts shall, in the performance of their functions under this Constitution or any other law, be independent and free from interference and subject only to this Constitution and any other law.”*

I recognize the constitutional right of every citizen to relatively criticize the judiciary and to test the correctness of its judgments through due processes. A precedent condition is however that, this must be done appropriately, constructively, respectfully and in good faith. This renders it imperative that the critic must have an accurate understanding of the facts, the issues involved and the applicable law. Moreover, this should be done in full realization of the existing constitutional mechanisms of a right to appeal or review. As I have said before, the judicial system is a self-correcting one so that a litigant that is dissatisfied with a decision of the court is free to approach the next stratum for appeal or review.

I wish to acknowledge that an overwhelming majority of litigants continue to respect the judiciary and to use the legally provided mechanisms in seeking appropriate redress. I should also highlight that many do so without insulting the presiding officers concerned or fabricating reasons to attack their decisions. However, the latest attacks which have virtually placed the Judiciary under siege

cannot go unchallenged. Thus, on an exceptional dimension, I seek for inspiration from a biblical teaching found in the Ecclesiasts Chapter 3, verse 1- 11 that:

There is time for everything, particularly that there is time to be silent and time to speak.

It has at this moment become imperative for me as the Chief Justice and head of the judiciary in the Kingdom of Lesotho to break the long silence and Godly patience expected of the Judiciary, to directly and resolutely confront the current unfounded criticism leveled against the decisions of the High Court by detractors who could be best described as political activists. This destructive campaign is usually punctuated with utterances which character assassinate individual Judges including myself. The assaults are especially triggered by the decisions of the court in cases which could simply be classified as of a political nature.

It is well known that political cases are invariably brought for the intervention of the Court in consequence of the failure by the politicians to manage their own conflicts through their own internal mechanisms. There is abundance of empirical testimony that such matters land in the courts when a conflict has reached irreconcilable crescendo often after several but failed attempts at intervention by other respectable and well-meaning institutions.

To my utter despair, it has now become a culture for some politicians and/or their supporters to hurl insults at the individual judges for their decisions. I should remind us all that the duty of the courts is to dispense justice in accordance with the law and without fear or favour. At the end, one party will have to triumph leaving the unsuccessful one with the option of an appeal. Unfortunately the centrality of the insults by the few activists is primarily anchored in what appears to be a stereotyped understanding that the only just verdict is the one which will

advance certain political interests or maintain them. It is irresistible to also attribute this to the serious limitations which these detractors exhibit in their propaganda campaign as they purport to traverse legal terms and concepts and in the process misleading a huge majority of the public.

This unorthodox behavior is unprecedented and represents a rare exception in the history of our judiciary as their obvious strategy is to effectively land the administration of justice into disrepute by presenting a false picture that whenever their side loses a case, it is because judges were bribed, threatened or politically manipulated. All these unfortunate accusations are made without any credible evidence to support them.

Intriguingly, most of the decisions which they publicly complain about have been upheld by the Court of Appeal having sought reliance from similar judgments from other jurisdictions. Perhaps, the only misfortune is that our judges are local and known citizens.

Sadly, there is empirical evidence that the culprits act in collaboration with some media houses and lawyers in their dangerous misrepresentations against the rule of law and the authority of the Judiciary. This transcends the print, radio and social media. Lack of good faith here is demonstrated by the distortion of written judgments or creation of imaginary contents therein to suit individually preferred political agenda. No wonder a substantial number of publications are done without the ascertainment of their correctness by the Court officials.

I once again wish to draw to the attention of every responsible citizen in this Kingdom that the genesis of the Rwandan genocide which led to the death of almost its 1 million citizens within 3 months, culminated from historically deeply rooted political parties differences which were promoted by the media with some

lawyers in the background. Typical of our African political parties, each party expected to win every case brought before the court and each entertained a conviction that it should win the case otherwise, there would be no justice and thus it would not respect such a judgment.

In that scenario, some misguided party alarmists blamed the courts for corruption or political manipulation whenever they lost a case especially at their political rallies. As a result, almost all the judges and magistrates were spontaneously assassinated within the first few days of the genocide. Unfortunately and inevitably, the carnage did not stop there but a huge majority of ordinary citizens also lost their lives.

Perhaps, the Rwandan catastrophe presents a lesson about the potential danger of opportunistic demagoguery which instigates people to lose confidence in the courts thereby encouraging resort to extra judicial means for resolving political disputes and attacking the courts. This I have also said in the past, it may one day be too late for some of our media people to regret the consequences of what they shall have sown for years.

Maybe I should remind you ladies and gentlemen that the judgments of this Court in politically related cases do not show any pattern in favour of the government or opposition parties to warrant a conclusion of bias against any sphere of our national politics. Instead, the pendulum of success appears to be coincidentally balanced. This is because there is no party which can always be right and vice versa.

It is my fervent belief that unless these unreasonable and despicable political statements are denounced by the political authorities and/or leadership, the irresponsible attacks will not abate as by their silence they may be perceived to be

either in agreement with and/or the instigators behind the scenes. Some utterances are actually symptomatic of an ill thought, pre - planned onslaught against the Judiciary for its capture and politicization by some politicians. In turn, this would technically turn judges into political appointees to be continuously changed with the changing fortunes in the political landscape and thus ending the era of judicial independence. That shall be a sad day for this kingdom.

It is worthwhile for us as a country to learn from constructive initiatives from some of our sister African countries which in good faith adopted genuine policies to address structural and systemic problems besetting the Judiciary without making opportunistic reforms aimed at politicizing the Judiciary and patronizing the appointment of judicial officers so that in line with the latest local political nomenclature, *“They have their own people on the bench.”* Judges do not and should never belong to anyone but should remain beholden to the Constitution.

As the Chief Justice I remain conscientious of my judicial oath of office to which I am fully committed namely, to simply execute the duties of my office independently and in good faith. Unfortunately for me, some of the criticisms leveled against me are effectively intended to compromise that cardinal obligation of a Chief Justice. The irony is that all sides coincidentally sing the same song but for different reasons, misconceptions and purposes.

I will throughout my tenure as Chief Justice, maintain my judicial independence and do everything within my powers to protect the Judiciary from undue political influence. No amount of mudslinging, name calling or fabrication of downright falsities leveled against me by anonymous and faceless sources will dissuade or derail me from this path. In the end, the truth always prevails. Indeed no single Judge must ever allow him/herself to act in contravention of his/her judicial oath of office.

In the meanwhile, I want to assure the nation that the Judiciary will, despite the current storm continue to dispense justice without fear or favour and in accordance with the law regardless of populist narratives or, the status and power of any litigant. It behooves all of us to always remember that politicians and governments come and go whereas the precepts of justice must be and have always been bigger than all manner of worldly power and the trappings that come with it.

ACKNOWLEDGEMENTS

The Right Honourable Prime Minister, distinguished guests, ladies and gentlemen, let me on behalf of the entire Judiciary finish-off by expressing my profound gratitude to the following, in no particular order, for their continued assistance;

- His Majesty's Government, in particular the Ministries of the Public Service, Planning and Finance;
- The Government of South Africa;
- The United States Government through the International Law Enforcement Academy (ILEA) and other agencies;
- The European Union (EU);
- The Chinese Embassy;
- Some Members of the Business Community, for their financial and other assistance;
- The Parade Commander and the Military Band Master and their officers for providing us with the beautiful music during the march;
- The Commissioner of Police and his Officers for directing traffic and providing security;
- The Commissioner of Correctional Services and her officers for helping keep our grounds clean;

- The Chief of Protocol for providing excellent ushering services to our distinguished guests.
- Last but certainly not least, my dedicated staff for their selfless service in making this event the success it is.

Let me in no small manner, wish our motherland, Lesotho, a prosperous, secure and stable next fifty years as we continue to celebrate our golden jubilee of independence. In line with our unifying motto: “Kaofela re chabana sa khomo,” as was commanded by His Majesty the King, let us all remember that as Basotho what holds us together far outweighs our differences.

Lastly, I wish you all well in this New Year. May it usher in for us, lasting peace and true unity in our diversity and continue to bring us good rains and of course, world peace!

Khotso! Pula! Nala!

THE COURT ADJOURNS!