

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

**DELIVERED BY HER LADYSHIP THE HONOURABLE MADAM
CHIEF JUSTICE NTHOMENG 'MATHOLOANA MAJARA, MONDAY
02ND FEBRUARY, 2015**

**HIS MAJESTY KING LETSIE THE 3RD
THE RIGHT HONOURABLE THE PRIME MINISTER
DR THOMAS MOTSOAHAE THABANE
HONOURABLE PRESIDENT OF THE SENATE
HONOURABLE SPEAKER OF THE NATIONAL ASSEMBLY
HONOURABLE DEPUTY PRIME MINISTER
HONOURABLE MINISTERS
HONOURAE PRESIDENT OF THE COURT OF APPEAL
HONOURABLE JUDGES OF THE SUPERIOR COURTS
THEIR EXCELLENCIES HEADS OF DIPLOMATIC MISSSIONS
THE HONOURABLE ATTORNEY GENERAL
THE DIRECTOR OF PUBLIC PROSECTIONS
BARUTI BA MOSHOESHOE
PRINCIPAL SECRETARIES
THE CLERK OF THE NATIONAL ASSEMBLY
THE REGISTRAR OF THE HIGH COURT AND COURT OF APPEAL
CHIEF MAGISTRATES AND ALL JUDICIAL OFFICERS
DEPUTIES AND ASSISTANT REGISTRARS
JUDGES CLERKS
THE PRESIDENT OF THE LAW SOCIETY**

MEMBERS OF THE BAR AND SIDE BAR
THE DOYEN OF THE LEGAL PROFESSION
NTATE 'MOLOTSI KOLISANG
MEMBERS OF THE MEDIA
DISTINGUISHED LADIES AND GENTLEMEN

Good morning,

On behalf of the Judiciary and on my own behalf, it gives me great pleasure to welcome you all to the annual ceremonial opening of the Court. May I express my heartfelt gratitude to all of you for having set aside your busy and demanding schedules in order to come and share with us this very important occasion which marks the beginning of our judicial year.

OBITUARIES

As death is very much a part of our lives, the past year has been no exception for we lost some of the esteemed members of our legal profession. During this period we bade final farewell to the following legal practitioners:

- ❖ A former Minister of his Majesty's Government and Advocate of these courts, Mr. Refiloe Moses Masemene who passed away on the 28th April, 2014.
- ❖ An Attorney of the Courts of Lesotho Mr. Thabo Mpopo who passed away on the 16th August, 2014 and
- ❖ Advocate Jomo Uhuru Kambule who passed away on the 06th November, 2014.
- ❖ Advocate Molemane Mapeshoane who passed away in December 2014

The court held befitting separate memorial services for all distinguished jurists with the exception of Advocate Mapeshoane whose memorial service is going to be held very soon. May we all take comfort in the fact that they have all joined their Maker in paradise.

May we all rise to observe a minute's silence in honour of their memories – Thank you.

JUDICIAL RESTRUCTURING AND STRATEGIC PLANNING

A couple of years back the Honourable Chief Justice set-up about seven committees chaired by individual Judges, tasked with various mandates to guide and assist the Judiciary in the execution of its constitutional mandate.

One of these committees is the combined Restructuring and Strategic Planning Committees whose primary responsibility was to produce a Strategic Plan for the Judiciary. The plan is now complete as informed by the new Judicial Structure which as reported by its Chairperson Hon. Madam Justice Hlajoane is also nearing completion. It is thus our earnest hope that it will be approved by all the relevant authorities including, the Ministry of Public Service, Cabinet and Parliament in the near future as it will necessitate some constitutional amendments.

I need not inform you that an exercise of this magnitude requires great expertise, time and energy and in order to expedite its coming to fruition, we enlisted the assistance of the Ministry of Public Service and the European Union through its consultant, Mr. Litsebe Jimson all to whom we wish to extend our heartfelt gratitude for their continued support and commitment.

MIGRATION FROM ANOLOGUE TO DIGITAL COURT RECORDING

In keeping with the ever-changing demands of modern times, the judiciary could not afford to lag behind and remain impervious to the need for a modernized justice system. It therefore gives me great pleasure to announce that we have since successfully migrated from analogue to digital recording and this was made possible with the technical and financial assistance of our key development partners, the EU and MCA. This development has as a pilot project, been implemented in the main High Court, its Commercial Division and the Maseru Magistrate's Court. We hope that funds permitting, we will be able to roll-out this new technology to other magisterial districts throughout this kingdom in the near future. I might mention the entire exercise involved a lot of training of key personnel and at times, disruptions to smooth court operations.

However, its benefits cannot be over-emphasized such as reduction of the number of missing case dockets, better efficient case management and tracking, elimination of the monster called forum-shopping by some legal practitioners, that is, manipulation of case allocation due to personal preference of particular judicial officers over others and perhaps equally critical, reduction of case

backlog and speedier transcription of records of proceedings to mention but a few.

THE RULES COMMITTEE

Another pivotal committee is the Rules Committee which is made up of various stakeholders in the dispensation of justice. The Committee has been working tirelessly to revise our old rules and draft new ones for both the Subordinate and High Courts under the Chairmanship of Honourable Justice Semapo Peete assisted by Honourable Justice Molefi Makara. The new rules are designed to accommodate amongst others modern procedures and techniques of litigation such as E-filing, court-annexed mediation, speedy disposal of cases. The draft is now complete and in this regard we have to thank the European Union under the auspices of the SOFRECO project, for having funded the exercise which was initially funded by the Millenium Challenge Account. Owing to time constraints we cannot mention all the various stakeholders who make up the membership of the Rules Committee. Suffice it for me to say we sincerely thank all of them for their continued support.

We hope that in the not so distant future we will be able to present the final products of both committees to the relevant authorities for their stamp of approval.

TOWARDS LEGAL SCHOLARSHIP, PUPILAGE, IN-SERVICE TRAINING AND LESOTHO JUDICIAL EDUCATION INSTITUTE BILL

It is the hallmark of any judiciary to strive to achieve legal excellence and Lesotho is no exception. The Faculty of Law at the National University of Lesotho in conjunction with the Judiciary held Legal Aid Clinics and Lekhotla during the year in an effort to familiarise law students at NUL with the procedures and techniques in modern litigation. Some lecturers and Judges took part in these activities that are designed to improve and sharpen the court-craft skills of law students so that when they join the profession they are conversant with the basic rigours of real court environment.

It is also worth mentioning that both the Judiciary and NUL took part in celebrations marking the 20th anniversary of the Constitution of the Kingdom of Lesotho.

Again, as part of the in-service training, judicial officers and professional staff underwent training in various aspects of administration of justice within

Lesotho and outside our borders. Training was also extended to Deputy Sheriffs and court messengers as well as civil and criminal registry staff. These noble efforts are necessary for the development of our judiciary in its efforts to improve deliver in the execution of our constitutional mandate. Once again all these and international conferences were funded by our development partners, the EU, the MCA as well as the Government of Lesotho. Once again I wish to express our sincere gratitude to all of them for they have given to us one of the greatest gifts of life, the skills and know how to do things for ourselves for indeed as one of the Confucius' greatest proverbs goes; *"Give a bowl of rice to a man and you will feed him for a day. Teach him how to grow his own rice and you will save his life."*

The Right Honourable the Prime Minister, distinguished ladies and gentlemen, it is indisputable that for the courts to attain legal excellence and provide effective service delivery there is a need for its personnel to be provided with continuous education and training towards whose end the Judiciary has already established a Judiciary Training Committee under the chairmanship of Honourable Justice Lebohang Molete.

However, it is regrettable that the proposed Lesotho Judiciary Education Institute Bill has been awaiting enactment into law since 2004 i.e. for a period spanning ten (10) years. It is our fervent hope that this important piece of legislation that is designed to provide for the establishment of the Lesotho Judicial Education Institute will be passed during the life of the country's upcoming 9th Parliament. Indeed such Institutes are no longer regarded as options globally, but are a must if we are to attain legal excellence and possess modern litigation techniques, skills and procedures hence their existence in most jurisdictions.

STATISTICS

The Right Honourable the Prime Minister, distinguished guests, ladies and gentlemen statistical data of the status of cases in any court is certainly a good yardstick to measure the performance of the Courts as they give a picture of how the Judiciary has fared each year with respect to the number of cases that were registered, those that are still pending and those that have been completed.

These therefore are the statistics of the various strata of the judiciary in the 2014 judicial year.

THE COURT OF APPEAL 2014 (TWO SESSIONS)

APRIL SESSION

Criminal cases filed	-	7
Completed	-	5
Civil matters	-	66
Completed	-	52
Finished Total	-	57 out of 73

OCTOBER SESSION

Criminal matters	-	7
Completed	-	2
Civil Matters	-	72
Completed	-	54
Finished Total	-	56 out 79 thus bringing the overall total number of cases that were filed in the Court of Appeal in 2014 to 142 with 113 of them completed.

THE MAIN HIGH COURT

The main High Court has seven (7) judges on its permanent establishment who deal with all the mainstream cases. There is also the Land Court which until recently has been a one woman show in that all the land disputes were being handled solely by Madam Justice Maseforo Mahase until the recent addition of the two (2) Acting Judges Messers Sakoane and Moahlodi. Ideally, all three of them Judges should be dealing exclusively with Land cases. However, due to a serious shortage of Judges when taken against the extremely high rate new cases

are filed, every now and again circumstances demand that they lend a helping hand and assist with the mainstream cases not to mention that all High Court Judges also deal with Constitutional matters which take up three Judges at a time.

As matters stand now, our current complement of Judges needs to be augmented to meet the huge workload, as is the case with other jurisdictions of similar sizes. For instance, Botswana has a total complement of 27 High Court Judges that serve almost the same population size as us. It is however pleasing for me to announce that the government has since promised to increase the current number by at least five (5) more judges. We await this with bated breath for although this will not be enough, it is sure to bring much needed relief.

In the past year, 2378 new cases were filed and registered in both the Criminal and Civil Registries. Cases filed in the Criminal Registry are as follows:-

Criminal Trials	:	94
Criminal Applications	:	654
Criminal Review	:	54
Criminal Sentences	:	5
Criminal Appeals	:	22

All come up to a total of 829 criminal cases out of which 494 were completed. This shows the average disposal rate of 59% in respect of criminal cases.

In the Civil Registry, a total number of 1549 cases were filed and registered and these are made up as follows:-

Civil Trials	:	758
Civil Applications	:	526
Constitutional Cases	:	13
Land Court Cases	:	214
Civil Appeals	:	38

Thus the total number of civil cases that were registered in 2014 is 1549 out of which 564 were disposed of. This brings the average disposal of all civil cases registered in 2014 to 36%. This means the entire total number of all cases that were filed in the High Court in 2014 is 2378 of which 1058 were completed. However, the number is less than that of cases that were completed by one of the Acting Judges due to serious shortage of support staff. This factor necessitated that he be assisted by staff from outside the judiciary. We were unfortunately unable to get the statistics from them on time, as they had other pressing engagements in their respective institutions.

THE COMMERCIAL DIVISION OF THE HIGH COURT

The Commercial Division of the High Court has a complement of two Judges. This is how they performed in the 2014 judicial year:

CASES	REGISTERED	PENDING	COMPLETED
APPLICATIONS	173	83	90
TRIALS	515	304	211
TOTAL	688	387	301

While at first blush the disposal rate falls just below 50%, when account is taken of the fact that the number of cases that are filed are almost double the number of days in a given year, and all of them are the responsibility of two Judges it is indisputable that the Commercial Division has been consistently performing excellently.

Some of the reasons for its high disposal rate can be attributed but not limited to the following factors:

(1) The simplicity of the Rules and procedures tailored for this division to respond to the dictates of the business community and to contribute to ensuring a conducive economic environment in order to attract investors amongst other things.

(2) In addition, reports that have been brought to the office of the Chief Justice is that the two Commercial Court Judges i.e. Madam Justice Chaka-Makhooane and Mr. Justice Molete have been performing exceptionally well and have been

effectively utilizing the new case management system whose intended benefits I have already alluded to.

- Automatic allocation of cases;
- Fair distribution of work between the Judges;
- Elimination of forum – shopping;
- Improved file/docket tracking
- Reduction of the number of files that go missing.

(3) Effective utilisation of the Court-Annexed mediation, as a alternative dispute resolution mechanism.

SUBORDINATE COURTS

Unfortunately we only managed to compile statistics of cases in the Maseru Magistrate’s court for reasons that I will elaborate upon shortly. Out of a total of 2987 criminal cases registered in this court, 1694 were completed. Whereas out of a total of 2630 civil cases registered in this court, 1896 were completed thus bringing the total number of all cases registered in 2014 to 5619. Out of these 3790 were completed. The cases range from:

- Criminal trials
 - Civil trials and applications
 - Road Traffic offences
 - Cases brought under the Children and Welfare Protection Act
- and
- Small claims, that is, those that fall below the monetary ceiling of M10,000.00

THE LABOUR COURT

During the reporting period, the Labour Court enrolled 98 trials for hearing 54 of them were disposed of while 44 were either postponed or were partly heard. Aside from trials, the law empowers the Labour Court to also deal with applications for reviews of arbitration awards of the Directorate on Dispute prevention and Resolution (DDPR), applications for enforcements of Arbitral Awards of the DDPR, and Appeals from decisions of the Public Service Tribunal.

Reviews of Arbitration Awards of the DDPR

In the reporting period, the court scheduled a total of 135 review applications for hearing and completed 89 of them while 49 are still pending with some having been either postponed or heard partly.

Enforcement of Arbitral Awards of the DDPR

During this period, the court enrolled a total of 286 enforcement applications. 201 applications were finalized while 85 were partly heard.

Appeals from decisions of the Public Service Tribunal

During the period under review, four (4) appeals from the Public Service Tribunal were filed. Three (3) were completed while one (1) was partly heard.

THE LABOUR APPEAL COURT (LAC)

Following the appointment of Honourable Acting Justice Moahloli AJ as the judge of the LAC, the Labour Appeal Court scheduled a total of 50 cases for hearing of which 37 were finalized while 13 were partly heard.

The Right Honourable the Prime Minister, invited guests, ladies and gentlemen, admittedly these statistics do not adequately reflect the true picture of the average of number of cases dealt with by each individual Judge or Magistrate owing to a variety of factors chief among them being that we are still piloting automated case management and tracking system in the courts. We however hope that in the future more comprehensive and detailed statistics will be reported once the system is fully operational then you will be able to judge each individual Judge's performance in any given year.

LESOTHO LEGAL INFORMATION INSTITUTE (LesLII)

The last statistics are from the Lesotho Legal Information Institute (LesLII). This is a structure that is currently placed within the Judiciary. Its broad objective is to improving access to justice through free access to legal information in Lesotho. It is a platform that plays a role in the development and dissemination of information regarding our jurisprudence. This it does by uploading amongst others, judgments on its website which the public can download in the comfort of their homes and/or offices and also from the freedom toasters that are currently located within the High Court premises and in the Butha-Buthe Magistrate Court.

Of the judgments delivered in 2014 a total of 244 were uploaded namely 50 from the Court of Appeal, 111 from the High Court, 58 from the Labour Court, and 55 from the Labour Appeal Court.

CONFERMENT OF KING'S COUNSEL (KC)

During the year 2014 two paragons of the legal profession were conferred the honour of King's Counsel (KC) in terms of the Legal Practitioners Act, 1967, by His Majesty on the recommendation of the Honourable Chief Justice. They thus joined the category of the most senior lawyers in the country.

Advocate Molefi Ntlhoki (KC) is a distinguished Mosotho lawyer who for many years was this country's Attorney General at a very tender age. He later ventured into private legal practice which is still thriving to-this day and has also been nurturing many young lawyers who later set-up their own private legal firms.

Ditto! Advocate Vuyelwa Kotelo, one of the senior lawyers and trailblazers in the field of private legal practice where aside from serving their fellow citizens by representing them in Court, has also taken many young lawyers under her wing to help them gain the requisite experience in preparation of opening their own law firms.

It is unquestionable that not only have the two esteemed legal eagles contributed immensely to our jurisprudence but they have also served the profession in various capacities. This includes being active members of the Law Society of Lesotho Council as indeed as recently as two years ago, Advocate Ntlhoki (KC) was the vice-president of the Society. We can only wish them more success in continuing to serve the nation and to groom and mentor many more future lawyers.

It is also our fervent hope that young up-and-coming lawyers will take a leaf out of their books and serve this profession with equal dedication, distinction and industry in the years that lie ahead.

JUDICIAL APPOINTMENTS

Due to recent retirements our already small bench has shrunk even further thus, necessitating an increase over and above the fact that the High Court bench is already too small as evinced by the highly uneven ratio of the number of cases that are filed and allocated per judge. Thus, the appointment of two (2) Acting

Judges by His Majesty the King on the advice of the Judicial Service Commission has brought much needed reprieve as it has brought up the complement of our judges from nine (9) to eleven (11). I have already expressed my sincere hope that as promised, the Government of Lesotho will increase this number to help address the huge case backlog during this judicial year, 2015. This of course necessitates recruitment of more support staff, infrastructure and other resources.

The two Acting Judges were appointed to mostly handle land court cases as I already alluded to earlier. However, due to a shortage of Judges, their mandate is not limited exclusively to those cases but extend to other run-of-the-mill High Court cases.

The Hon. Acting Justice Sakoane Peter Sakoane (KC) was born on 10th January, 1960, in Teyateyaneng, Berea. He holds the following educational qualifications – Bachelor of Arts in Law (BA Law) and Bachelor of Laws (LLB) degrees from the National University of Lesotho. He also holds a Master of Laws (LLM) degree from the University of Sussex, United Kingdom. He is a distinguished member of the following professional bodies; the Law Society of Lesotho, the Free State Bar, Lesotho Lawyers for Human Rights and Women and Law in Southern Africa Educational and Research Trust (Wilsa). The Honourable Acting Judge is also an accomplished and prolific writer having published two (2) books, sixteen (16) articles and eight reports. Undoubtedly, his footprints in the development of our jurisprudence are legendary.

Honourable Acting Judge Keketso Lesihla Moahloli was admitted as an advocate of the Lesotho Courts in 1977 and also admitted as an advocate of the Supreme Court of South Africa in June, 1999.

After completing his Bachelor of Laws degree (LLB) from Edinburgh Scotland in 1977, he never rested but pursued and completed several post-graduate training programmes in the School for Legal Practice and Legal Education and Development at the University of Cape Town. He is currently reading towards a Master of Laws degree (LLM) in Labour Law with the University of the Free State.

In his long distinguished career, Acting Justice Moahloli was employed at the Free State Development Corporation as the Corporate Secretary and later as General Manager. He also worked at the Commission for Conciliation, Mediation and Arbitration (CCMA) as a Senior Commissioner for five (5) years. He has also been with the academia having been a Lecturer at the then University of the North. He is an Ad-hoc Member of the Qwa-Qwa Industrial

Court, Additional Member of the Industrial Court of South Africa, Legal Advisor to the Department of Labour in Lesotho and was an Advocate at Mohaleroe, Sello and company legal firm. He also worked in the Law Office as Crown Counsel.

We are therefore grateful to the Government for having added to our bench such distinguished, disciplined and hard-working luminaries.

APPOINTMENT OF THE PRESIDENT OF THE COURT OF APPEAL OF LESOTHO

Barely a fortnight ago, on the 15th January 2015, the nation witnessed yet another important judicial appointment namely that of Honourable Dr. Justice Kananelo Everitt Mosito KC an outstanding jurist, scholar and teacher of law to the esteemed office of President of the Court of Appeal.

He was sworn in as such on the 27th of January and although this event took place few days ago, I will not say much about the Honourable President as in terms of our judicial custom, the fact of his appointment and resume belong in the next judicial year's official opening speech.

However, I wish to take this opportunity to once again congratulate Dr. Justice Mosito KC and wish him the best in his new appointment. I hope he will continue to selflessly serve this nation with the excellence and industry he is renowned for.

APPOINTMENT OF THE NEW CHIEF JUSTICE

During the same judicial Lesotho reached another incredible milestone by being one of the pioneer States in breaking the glass ceiling with respect to appointment of women to senior positions at the leadership level. On the 28th August 2014, and acting on the advice of the Right Honourable the Prime Minister, His Majesty the King appointed Lesotho's first female Chief Justice who was later sworn in as such on the 10th of September 2014.

Briefly, Madam Chief Justice Nthomeng Justina Majara is a Lesotho national who comes from Maqhaka in the district of Berea. Having undergone all her basic and tertiary training in Lesotho starting from the tender age of four (4) years at Pontmain Kindergarten boarding school in Pitseng, Leribe and finishing her high school education at Holy Names High School in Bela-Bela, she went on to enrol with the University of Lesotho (NUL) where she obtained both her

Bachelor of Arts In Law (BA Law) and Bachelor of Laws (LLB) degrees respectively. She later enrolled with the University of London at King's College where she obtained a Master of Laws degree (LLM).

The new incumbent started her career as a Magistrate and steadily rose through the ranks, until she was poached from the Magistracy by the then Dean of the Faculty of Law and Head of Procedural and Adjectival Law respectively, Messrs, Kulundu-Bitonye and Moses Owori to join the University Teaching and Research staff where she became a Lecturer in the Faculty of Law.

She later joined Women and Law in Southern Africa Research and Educational Trust where she did activist work until she joined the Lesotho Revenue Authority. She had a brief stint there before she was appointed Acting Puisne Judge of the High Court of Lesotho in 2004 and was sworn in as a substantive Judge in 2005.

She has also consistently served in the Court of Appeal of Lesotho as an ex officio member in terms of the Constitution of Lesotho. A more detailed account of her academic and professional background was read at her swearing in ceremony at the Royal Palace a copy of which is available in the office of the Registrar of the High Court and Court of Appeal.

The Right Honourable the Prime Minister, distinguished guests, ladies and gentlemen, allow me to say that in this regard, congratulatory messages of support and goodwill were received here at home, in the region and abroad on for my elevation to the highest judicial office, for we are told that it made history not only in the SADAC region, the African continent but globally as there are reportedly no more than ten (10) female Chief Justices.

At this juncture it would be remiss of me not to pause for a moment to express my heartfelt gratitude and humility for having been entrusted with such a mammoth task. It is indeed a huge vote of confidence in me as a person and as a servant of the peoples of Lesotho. It indeed signifies utmost faith not only in me as a Mosotho woman but to all the womenfolk out there and shows that in its own way Lesotho can be a shining example and a beacon of hope for women.

I therefore wish to take this opportunity to pledge to his Majesty the King, the Government of Lesotho, the Judiciary, all members of the legal fraternity, all the relevant stakeholders as well as the entire nation that I will not lose sight of the fact that this is a position not to be taken for granted or in vain. It is not to be taken lightly, toyed around with or abused. It requires amongst others,

utmost commitment, compassion, courtesy, dedication, diligence, fairness, genteelness, good counsel, hard work, humaneness, humility, industry, integrity, impartiality, patience, and professionalism, but above all, absolute faith in the Lord.

I can only hope that I will not let this nation down. I have accepted the challenge and have picked up the baton. I hope that I will not disappoint but will strive to leave a good legacy not only for the betterment of this nation in the administration and dispensation of justice but also to leave the doors wide open for the appointment of many more female Chief Justices in future and in other positions of leadership.

MAINTENANCE OF PUBLIC ASSETS

Efficient delivery of justice does not only entail augmentation of staff and other resources but also includes maintenance of existing structures and erection of new ones so that we can better execute our mandate. In this regard the Palace of Justice and the Court of Appeal buildings, the flagships and headquarters of the judiciary, which are more than ten (10) years old, have been leaking to such an extent that they have become unsafe for human habitation and for storage of equipment, books, records and dockets. During the rainy season, the leaking roofs have caused damage worth of hundreds of thousands of Maloti to the structure of the building, furniture, legal reading material (our basic tools of trade) and other valuable property in the offices and courtrooms. Basic resources like stationary, photocopying machines, printers and heaters have had to be sourced from our development partners for which we are grateful. With the meagre funds that we have in the recurrent budget, we are sadly unable to meet the entire costs of laying-out a new roof to the Palace of Justice. We have so far raised only M250 000.00 of the entire M1, 000, 000.00 we need for the full payment of the entire project. To make matters worse these payments and repairs are done in phases.

The adjacent Court of Appeal building also has a similar problem of a leaking roof, for which also more than M1, 000, 000.00 is needed to lay-out a new roof.

We however remain hopeful that the Government of Lesotho through the Hon. Minister of Finance will kindly give us financial support to restore these buildings to their former glory even as we are aware of the ever-shrinking budget due to various constraints.

The Maseru Magistrate's Court buildings are also in an awful state of disrepair owing to lack of funds for maintenance. In a similar vein, it becomes a nightmare to render services to the deserving public. This is also a relatively new public building which needs to be properly maintained.

The Local and Central Courts, in the outlying and far-flung areas of the country also lie in a terrible state of disrepair and in some areas we have been forced to operate from rented private homes that double-up as courtrooms, holding cells, offices and residences for court officials.

Unfortunately in areas like Koro-Koro, Kolo and Fika-le-Mohala Local Courts, where the courts have to operate from rented premises, this arrangement continues to take a huge chunk of our meagre budget for payment of rentals. Needless to mention, this is not the most conducive and/or appropriate arrangement for it places our Court Presidents and staff in close proximity with the public they must serve with impartiality which in turn is bound to create a perception of a justice system that is compromised and partial.

Further, in places like Ha Rampai, Seapala and Mashai Local Courts the courts, staff housing, offices and court rooms are also in a complete state of disrepair thereby compromising and hampering effective delivery of justice to those communities. With respect to Rampai Local Court, a report was made to the Hon. Minister of Justice that the Court has ceased its operations as aside from its poor uninhabitable state, it also did not have a Court President and Clerk of Court.

However, having re-inspected the building, Her Worship, the Chief Magistrate Central has diverted some funds in order to renovate part of the building and the project is expected to be completed with part of the 2015/ 2016 budget. Contractors are ready to start work so that by mid-February, a Clerk of Court will be able to start work and the Court President in March. The area Chieftainess has already been informed of these developments and requested to help convey the message to other chiefs in that jurisdiction.

It is thus our fervent hope that the government as our major funder and our development partners will heed our clarion call and assist in uplifting our plight so that these communities can enjoy the benefits of our democracy, and justice system irrespective of where they are located. After all, it is in our strategic plan, vision and mission statement that justice will be accessible to all people throughout Lesotho.

THE LABOUR AND CHILDREN'S COURTS

Although the Labour Court was initially set-up pursuant to the advice and efforts of the International Labour Organization, Organized Labour, Employers' Organization and the government, the Administration of the Judiciary Act of 2011 provides that it shall fall under the Judiciary. The Labour Court is currently housed on the premises of the old High Court building. However, the accommodation is insufficient in that the;

- Labour Court staff have to share the building with the Probation Unit.
- Office Assistants and Assessors have no office accommodation.
- Case files and/or dockets have to be kept in an office one can hardly call a registry.
- The Human Resources and Accounts Departments are accommodated at the Ministry of Labour, not on the court premises.

The Court also needs to install the Electronic Case Management System similar to the one at the High Court and Maseru Magistrate's Court, and to migrate from manual to digital operation. This system would help improve management of case backlog in that it would reflect proper statistics of the cases and also help the court to determine recruitment needs.

The Children's Court's which was set up to protect the interests of children that are the subject of or are involved in litigation in terms of the Children's Protection and Welfare Act, 2011 operates from a prefabricated structure. Our meagre budget also means we are unable to purchase requisite equipment such as closed-circuit televisions to respond to children's peculiar needs so that they can enjoy maximum protection of the law. The Magistrates therefore have to improvise whenever they deal with trials involving young children.

THE OFFICE OF THE MASTER OF THE HIGH COURT

In terms of the Administration of the Judiciary Act, 2011, the office of the Master of the High Court has now been transferred to the judiciary under the auspices of the High Court where it rightfully belongs. Likewise, the office is also fraught with serious challenges with respect to adequate staffing, accommodation, transport, and other resources both in the capital, Maseru, and in the other districts with the result that they also had to be housed in costly rented premises even at headquarters. In some districts Assistant Masters double as office Assistants.

On the positive side the Accountant General has agreed to create an interest-bearing separate account for the hitherto poorly-administered and non-transparent Guardian's fund, as enjoined by law.

Further, a consultant has been engaged in consultation with the office of the Master to look into the now-obsolete Insolvency Proclamation, 1953 so that it can be amended to address these challenges and to respond to the demands of their work.

This state of affairs means that there is a need for the government to re look into and increase the annual budget allocated to the judiciary if we are to effectively and efficiently execute our constitutional mandate.

FINANCIAL AND OTHER ASSISTANCE

THE EUROPEAN UNION- SOFRECO PROJECT

Your excellencies, distinguished guests, ladies and gentlemen lest you start thinking it's all doom and gloom, it is my pleasure to report that the Judiciary has been one of the beneficiaries of the Strengthening the Lesotho Justice Sector Project (SLJS) which is a two-year long Project worth of 4 Million Euro (roughly 52 Million Maloti). The project is funded by the European Union (EU) which co-manages it with the National Authorising Office (NAO) in the Ministry of Finance under the auspices of SOFRECO. The project began in February 2013 and finishes at the end of February 2015.

The EU mostly picked up the tab from where the MCA left-off. The SLJS's overall objective is to strengthen the Rule of Law in Lesotho while its specific objective is to enhance a professional, accessible and impartial Lesotho Justice Sector to ensure fair, timely and efficient delivery of justice and effectively combat corruption.

Its beneficiaries are the High Court and its Commercial Division, Magistrate Court, Lesotho Legal Information Institute, Ministry of Justice, Ministry of Law, Office of the Ombudsman, the Law Society, the Faculty of Law and the Directorate against Corruption and Economic Offences (DCEO).

To achieve these objectives the SLJS has funded dozens of retreats, trainings, workshops and study tours for its beneficiaries on Information technology, substantive law, and human resource management.

It has also assisted the beneficiaries to develop strategic plans to achieve their long term objectives as well as to set up websites for better communication with the public in consonance with today's modern demands.

It has further funded equipment, furniture and vehicles worth of 1.3 Million Euros (roughly 17 Million Maloti) for the beneficiaries.

The SLJS has also funded the date entry of old criminal cases into the Courts' new Automated Case Management System and retained an expert on backlog reduction to assist in developing a plan to reduce the backlog of criminal cases in our courts.

It is also funding this week's Judicial Conference the first we have had in many years due to budgetary constraints, as well as the Chief's Justice's upcoming study tour on Leadership and Change management in the United Kingdom.

I therefore wish to express our heartfelt gratitude to the European Union (EU) for their generous support and hope that His Excellency Mr. Doyle will be pleased to convey same on my behalf and on behalf of the Judiciary and all the beneficiaries of the project.

COURT MESSENGERS AND DEPUTY SHERIFFS

In December 2013 Commercial Banks, particularly the First National Bank, Post Bank and Nedbank funded the inaugural deputy sheriffs conference where elections for a new Executive Committee were held and the committee unveiled. These are but some of the tangible efforts we are trying to implement to wean-off these services from the judiciary to make them more transparent, accountable, independent and efficient.

A hearty, hearty thank you to these institutions for their generosity.

In addition, having heard our humble and pathetic plea for assistance, His Excellency, Mr. Hu Dingxian the Chinese Ambassador donated to the High Court the amount of M100, 000.00 out of which we were able to purchase equipment in the form of 125 heaters and 40 fans some of whose cool air we are benefitting from today as we sit in this court-room as our air-conditioning system has not been operational for many years now. I therefore wish to extend my heartfelt gratitude for this act of generosity.

JUDICIAL INDEPENDENCE

The Right Honourable the Prime Minister, distinguished guests, ladies and gentlemen it would be remiss of me, indeed I would be failing in my duty if I would sign off without reminding the nation of the importance of preserving, respecting, protecting and promoting Judicial Independence as one of the cornerstones or main pillars of democracy.

I wish to remind Basotho that it behoves all of us to jealously guard and protect the integrity, dignity and authority of our Courts starting with the leadership in government and that of all political parties. Politicians, supporters and fanatics, the media, legal practitioners, judicial officers, all law enforcement agencies, security forces and every member of the public are all under the Constitutional duty to respect, strengthen and protect the rule of law for without it, the consequences are too ghastly to contemplate. Indeed should we let the Rule of law go, we betide the weak against the strong, the poor against the rich, the vulnerable against the privileged and the Davids against the Goliaths of this world.

As an institution, the judiciary is not and should never be beholden to anyone but the Constitution. Judgements and decisions of the Courts must be apolitical and free from bias at all times and they must be accepted, understood and perceived as such.

Judicial officers are not in this office to pursue anyone's agenda. They are certainly not here to make populist decisions. Our role as is aptly encapsulated in our Judicial Oath of Office is to uphold the law and dispense justice to all persons alike without fear, favour or prejudice.

Abusing and insulting the judiciary, calling them names and claiming or ascribing them to any political party or formation is very wrong not to mention dangerous and must never be countenanced let alone normalised.

If anyone is unhappy or dissatisfied with a decision or judgment of the court they must follow due process because that is exactly the reason why the Courts are hierarchical in nature. Ours is a self-correcting institution where judicial decisions are subject to scrutiny and correction from the lowest to the most superior court of the land. It is therefore very mischievous for anyone to try and tarnish the image of the Courts and bring it into disrepute through unfair, biased and oftentimes unenlightened criticism simply because they happen to not like particular decisions.

On its part the Government is enjoined by the Constitution (Section 118 (3)) to accord the Courts with such assistance as they may require to enable them to protect their independence, dignity and effectiveness, subject to the Constitution and any other law.

This important provision casts a sacred duty upon the Government of Lesotho which should never be sacrificed at the altar of politics or any other cause. Presently, the Judiciary in Lesotho needs more judicial officers, additional courts throughout the country especially in the peri-urban areas, support staff and all other resources that go with it.

With all due cognisance and consideration of the financial constraints Lesotho is presently facing, I still wish to appeal to and beseech the Right Honourable the Prime Minister, the Executive and Parliament to always remember that the budget ceiling for the judiciary should not be decided solely upon or constrained by the fact that the institution does not generate revenue aside from the meagre fines, revenue stamp collection and other fees. Justice is so lofty, noble and ideal in a democracy that its value should not be measured in monetary terms or its needs gauged in material terms. Justice brings peace and stability which are the bedrock of safety and prosperity amongst others. Then the rest will follow.

Legal Practitioners are also under a legal duty to assist the Courts through inter alia, maintaining the highest standards of professionalism, showing utmost respect for the Courts and its staff at all times, following Court rules and procedures, preparing properly for the prosecution or defence of their cases, presenting well-researched and articulated arguments, giving proper guidance but above all proper counsel to their respective clients to accept and respect decisions and judgments of the Courts and to take appropriate steps whenever they are dissatisfied with them. This new and worrisome phenomenon of insulting the Courts and individual judicial officers and accusing them of all manner of misdemeanour must be a thing of the past.

Our media practitioners - while it is inarguable that the media must at all times be accorded their fundamental freedom of expression and not be stifled or gagged from properly executing their mandate to inform, educate, and entertain the public, they must be wary not to abuse that freedom but to exercise it responsibly, truthfully, fairly and professionally according to their training and code of ethics.

It is a fact that the media can make or break hence if they sacrifice their professionalism and fail to report or publish truthfully, fairly and honestly they can be part of if not the root causes of national, regional or international

catastrophes. In this regard one has to look at the history of the Rwandan Genocide and the role the media played in that horrific event which is well-documented. Should a similar thing happen to a small nation such as ours we would all be wiped out in a matter of days with very few if any surviving to tell the story.

Likewise, members of the public have the responsibility to learn and appreciate how the law and the courts function. Populism and bias do not form part of an effective, fair, impartial and independent judiciary. People must always do their research first before peddling unfounded allegations and distorting judicial decisions in pursuance or satisfaction of their respective private and often selfish agenda.

On their part, Judicial Officers have a constitutional duty to serve this nation as competently, diligently, fairly, professionally and speedily as is humanly possible all things considered. As the famous cliché goes, *there are no sacred cows* and that includes the judiciary. Judicial officers are public servants whose salaries and other entitlements are paid by this nation whose majority live in abject poverty.

Judicial independence goes hand in hand with accountability. We are subject to criticism because it is through it that we are able to correct our faults and shortcomings and provide better service to the public. Our conduct must therefore be professional and above reproach at all times. Judicial officers must earn the trust, respect and confidence of the nation they serve. In this regard I wish to quote in parts, the wise words of Lord Justice R. C. Lahoti a Judge of the esteemed Supreme Court of India when he was addressing newly appointed judicial officers where he had this to say:-

“Dispensation of justice is an attribute of God. Blessed are those on whom that Godly assignment has befallen. Still blessed are those who acquit themselves of such assignment with pride, dignity and honour.... Even God, who has created the human being does not sit in judgment over his deeds until the human’s death whence he determines whether he deserves hell or heaven. You have been given the authority to sit in judgment over the deeds of a man in his lifetime. Your pen has the power to grant freedom of living or the sentence of death to an accused. You can take away his liberty for a number of days, months or years (subject to the limitations of the law). Your mighty pen can turn riches into rags and a pauper into a millionaire. The more power you have, the more humility, rationality and balance must be among your possessions.”

I therefore wish to appeal to all judicial officers throughout the court structures to always remember that theirs is a power to be exercised with utmost fairness, to be peppered with the right amount of mercy and to be executed as speedily as possible. They must not only dispense justice but must be seen to be doing so. They must be chary not to actively associate themselves with active politics or to openly declare their preferred political parties and or formations. Their involvement in politics must be limited to exercising their constitutional right to participate in the elections by casting their votes.

The Right Honourable the Prime Minister, distinguished guests, ladies and gentlemen, it is my pleasure to announce that this year, judicial officers have recommitted themselves to working very hard and to the best of their ability cognizant of the demands of their high office. Indeed the same goes to all professional and other support staff. They therefore need to be supported, encouraged and given proper incentives.

I can only reiterate my appeal to His Majesty's Government and development partners that without their requisite financial and material support it will otherwise be difficult for us to fully honour this, our sincere pledge.

ACKNOWLEDGEMENTS

In equal measure, we wish to thank other development partners such as a Millenium Development Account, technical supporters, Synergy International, Ministry of the Public Service, the Central Bank of Lesotho, the United States and South African Governments, through the Memorandum of Understanding in the technical assistance of Judges but above all else, His Majesty's Government for their immense assistance in the various ways extended to the Judiciary this past year and all the preceding years. All of you have contributed hugely towards the successful execution of our constitutional mandate to this nation.

I would also like to thank all Judicial Officers, professional and other court staff in their various capacities for all the efforts they have put in during the past year and for the preparations for this annual ceremonial opening of our judicial year.

I also wish to extend my gratitude to the Parade Commander and all his officers as well as the Military Band Master and the band for providing us with the tuneful music this morning.

My thanks also go to the Acting Commissioner of Police and his officers for directing the heavy traffic and providing security; to the Chief of Protocol for ushering-in our distinguished guests; to the Acting Commissioner of

Correctional Services for providing all that was necessary for keeping the grounds clean and setting up the venue for today's events.

Last but not least, it would be remiss of me not to wish this nation and all political leaders a peaceful, free and fair election at the end of this month. May the best- supported leader(s) assume the reins of power and may those who will not win this time around please graciously accept the results and congratulate the winners for the larger good of this nation.

Alas, I regret to announce that owing to serious financial constraints during this fiscal year as I have already alluded to, we will not be able to holding our traditional sherry party and side feast. But be that as it may, on behalf of the judiciary I wish you all well on this day, which marks the beginning of the New judicial year.

Khotso! Pula! Nala !

THE COURT ADJOURNS !