**SPEECH BY THE HONOURABLE CHIEF JUSTICE SAKOANE SAKOANE AT THE INAUGURAL SITTING OF THE HIGH**

**COURT (NORTHERN DIVISION)**

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**16 MAY 2022**

The Right Honourable the Prime Minister

Speaker of the National Assembly

Deputy Prime Minister, Ministers and Members of the Houses of Parliament

Honourable Judges

The Attorney General

Director of Public Prosecutions

Kings’ Counsel

Registrar

Your Worships Chief Magistrates and the Magistrates

President of the Law Society

Chief Legal Aid Counsel

Crown Counsel

Members of the Bar and Side-Bar

Deputy Registrars, Assistant Registrars and all Court Staff

1. Good Morning. I welcome you all to this auspicious occasion of the first sitting of the Northern Division of the High Court. This is an achievement of the first milestone of my vision of bringing the High Court closer to communities who live furthest away from Maseru, the capital city.

2. The centralization of the High Court in Maseru is a colonial legacy bequeathed by annexation of Lesotho to Britain in 1868 per **Proclamation No.14 of 1868**. The Annexation Proclamation was published on 12 March 1868 and reads as follows:

“From and after the publication hereof, the said Tribes of the Basutos shall be, and shall be taken to be, for all interests and purposes, British subjects; and the Territory of the Tribe shall be, and shall be taken to be, British Territory.”

3. From then on, a dual legal system was created per **Proclamation 2B of 1884**. By this dualism, two streams of justice were birthed. The first stream operates the received Roman Dutch common law. The second preserves the traditional customary law system. A court architecture was put in place to operationalise the two streams. The High Court operationalised the Roman Dutch common law for the benefit of colonial settlers and those Basotho who were judged to have abandoned their customary way of life by adopting a European Mode of living and married under European law. (See the **Administration of Estates Proclamation** 19 of 1935. The so-called Basotho Courts (i.e. Central and Local Courts) operated the customary law. On the inception of annexation, The High Court was headed by the Resident Commissioner and called a Resident Commissioner’s Court while the Basotho courts’ structure was administered by chiefs.

4. In 1938, two changes were made to the court structure. Firstly, the Resident Commissioner’s Court was abolished and re-constituted as the High Court. A single judge of the High Court was shared with the High Courts of Bechuanaland and Swaziland. Secondly, the magistrates’ court were created to deal with cases deemed less important to be handled by the High Court.

5. In 1954, **Proclamation No.18 of 1954** was promulgated to streamline the judicial structure by introducing the appointment of the Registrar and Assistant Registrars as the High Court’s administrative staff.

6. In 1967, shortly after Lesotho attained independence, Parliament re-established the High Court in terms of the **High Court Act No.4 of 1967**. Twelve years later in 1978, it was re-established in terms of the **High Court Act No.5 of 1978**. Section 10 of this Act empowers the Chief Justice to determine places of sitting of the High Court. It is pursuant to my powers under this section that the Northern Division is today being inaugurated as a seat of the High Court to serve the three districts of Leribe, Butha Buthe and Mokhotlong.

7. This Division is a practical realization of the constitutional imperative of access to justice provided for in section 12(1) and (8) of the **Constitution of Lesotho, 1993**. The two sub-sections guarantee accused persons and civil litigants the right to fair hearings within a reasonable time by independent and impartial courts. Independence of courts if multi-dimensional. Of relevance today is financial independence which casts a duty of Parliament and the Executive under section 118 of the Constitution to provide the Judiciary with the necessary resources. This Division is in dire need of statutes, law reports and computers.

8. It is axiomatic that confining the sitting of the High Court to Maseru is a vestige of annexation that has for long burdened our people with heavy travel expenses to access justice in superior courts. It is time that Basotho must feel the near presence of their institutions. Justice must be less costly and inexpensive in terms of time, travel and fees. Only then will the mantra of rule of law make meaningful sense during their trials and tribulations. Victims of crime and injustice should find shelter and peace in the Palace of Justice.

9. The judicial system of this Kingdom came of age way back. We have a wealth of experience in the Bar and Side-Bar to shoulder the responsibility of administering justice. For this reason, it is no longer necessary to import judicial officers from other countries. We have to wean ourselves from the syndrome of judicial dependency. Our superior courts should be manned fully by our own home-grown lawyers. They are the only ones who understand and master the dual legal system in this country. They are the ones who feel the pain and hear the heart-beat of this Nation. They witness the impact of their judgments from close range and not afar.

10. It is an honour for me now to introduce to you some of the talented sons and daughters of this Nation who have recently availed their talents in the service of delivery of justice. They are Justice Hopolang Nathane, Justice Gugu Mokhoro, Justice Nkoya Hlaele, Justice Tšeliso Joachim Mokoko, Justice Stephen Kopo, Justice ‘Mafelile Patricia Ralebese and Justice ‘Maliepollo Makhetha.

11. Justice Nathane and Justice Mokhoro have been assigned the duty to run this Northern Division. I desire that another Division be created soon in the South of the Kingdom that will serve the districts of Mafeteng, Mohale’s Hoek, Quthing and Qacha’s Nek. Feasibility studies for the necessary court buildings have been completed. But my intention is to have a building soon that will temporarily house the envisaged Division while the building of a court is in progress.

12. I thank you all for your attendance. Special thanks to the Right Honourable the Prime Minister and his team for gracing this special sitting by their attendance as heads of the Executive and Parliament.