

**TRIBUTE BY THE HON. CHIEF JUSTICE M. DIBOTELO**  
**AT THE MEMORIAL SERVICE HELD IN HONOUR OF**  
**FORMER CHIEF JUSTICE MR JULIAN MUKWESU**  
**NGANUNU ON 7 AUGUST 2014 -**  
**HIGH COURT, GABORONE**

- The Judge President of the Court of Appeal, Mr. Justice Kirby and Mrs Kirby
- Court of Appeal Justices and your spouses
- Your Lordships and Ladyships Judges of the High Court and your spouses
- Judge President of the Industrial Court
- Your Lordships Judges of the Industrial Court
- The Attorney General
- Permanent Secretaries
- Registrar and Master of the High Court and his Deputies
- Your Worships of the Magisterial Bench
- Chairperson of the Law Society of Botswana Mr. Lawrence Lecha
- Attorneys at Law
- Ladies and Gentlemen

## **1. INTRODUCTION.**

On 25 June 2010, as a Judiciary we hosted a farewell reception in honour of the late former Chief Justice Mr Nganunu. His introductory remarks in his farewell speech are apt and worth restating:

**“...It had been my intention last year (2009) to retire from my position as Chief Justice and take pension, after an agreed period of notice which would enable an appropriate handover to my successor. That however did not happen, because as the biblical adage states I planned, but God disposed of my plans as he saw fit, forcing me to apply for immediate retirement....”**

We have today gathered on this solemn occasion, gripped by shock and sorrow at the passing of Honourable Former Chief Justice Mr Julian Mukwesu Nganunu.

No amount of words can fully describe the father, son, Attorney, brother and distinguished Jurist that the Honourable former Chief Justice Mukwesu Nganunu was. The passing of Honourable Chief Justice Nganunu has not been a loss only to his family, the Nation and Judiciary of

Botswana but has been a greater loss to other judiciaries in the region where he was active participant.

With death we hurt because we part with our loved ones, we grieve because of the change death imposes on our lives. Death uproots us from our comfort zones and throws us into unknown terrains.

Death confounds all of us – young and the old. It is a mystery which we cannot fully comprehend yet we must come to terms with it.

## **2. PROFESSIONAL CAREER**

I knew former Chief Justice Mr Nganunu very well, both at personal and professional level.

He was born on 23 September 1941 in Mapoka. He was a man who cherished education and continuous training and this is how he eventually became an attorney.

In his own words **“those of us who started their education under trees and drank water at the same water pools that livestock and wildlife drank from, appreciate very keenly that such poverty was only ridden from our lives because of the improvement in the education of our people.”**

He joined the Attorney General's Chambers in September 1969 as an Assistant State Counsel and left in 1976 as Deputy Attorney General.

He was Permanent Secretary in the Ministry of Mineral Resources and Water Affairs from February 1977 to December 1978.

He was a partner at Richard Lyons Attorneys from 1979 to 1981 and from 1981 to 1992 ran his own legal practice under the style J M Nganunu & Co.

He was appointed Puisne Judge of the High Court on 24 February 1992 and on 23 July 1997 was appointed Chief Justice following the death of Chief Justice Mr Moleleki Mokama.

On 1 February 2010 he retired as Chief Justice due to ill health. It was during his tenure in office that the construction of this magnificent and state of the art building in which we have today gathered was started. It pains me that he never had the opportunity to enjoy the fruits of his labour by working in this building the construction of which he pursued with earnest. The holding of this memorial service here today in his honour could not have been more befitting.

### **3. IMPACT DURING HIS TENURE**

#### **1. Independence and Impartiality of the Judiciary**

He always emphasised on the concept of the independence and impartiality of the Judiciary at each and every legal year opening and high profile occasions **“so that the public should be clear and have no fear or suspicion that the courts do their work under instruction or through fear or that they could be bought.”**

The independence of the Judiciary is not for the benefit of the Judicial Officers but a fundamental essential for the operation of the Rule of Law and for the protection of all litigants.

#### **2. Efficient and Effective Judiciary**

He cherished an efficient and effective judicial system wherein Judicial Officers would give their all to ensure that the wheels of justice do not grind to a halt. To that end this is what he said:

**“...Courts must equally be efficient and effective so that litigants and the country can see a speedy disposal of their cases.**

**Courts are institutions with enormous power under the Constitution. Huge public resources have been invested in the Administration of Justice in the form of court buildings, motor vehicles and equipment, salaries and other perquisites of Court Officials.**

**But these powers and resources are bestowed on the Courts for the public good and our Judiciary should always be conscious that they owe the nation a duty to do all within their power and ingenuity to give the country a good judicial system.”**

As Judicial Officers we owe it to the late former Chief Justice Mr Nganunu that a good judicial system obtains now and in the future.

### **3. Clean Judiciary**

He was for a corrupt free judiciary to the extent that he was opined:

**“Nothing will cost any Judiciary more dearly than the perception by the public that the Judiciary is not clean and it can be bought....”**

We have a Code of Conduct and Judicial Ethics to ensure that our Judiciary remains clean.

#### 4. REFORMS

##### (i) Court Records Management System (CRMS)

Under his stewardship we introduced the Court Records Management System in 2005, now spread throughout all our Courts. CRMS is an electronic system for keeping our files under proper record and proper management and to enable us to inter-alia, know how many cases we have, their age profile and address the issue of missing or lost files. CRMS is a tool upon which all our reforms are now anchored.

Whilst reflecting on this system, former Chief Justice Nganunu had this to say at his farewell reception:

**“...when we introduced the computer system and chose that some, amongst the computer trainees, will be the super users and leaders in the spread of computer utilisation in the Judiciary, there was great doubt about the ability and willingness of our young trainees to take that responsibility. But training and encouragement brought out hidden talents in them, and conquered for them the heights of Mount Kilimanjaro.’**

(ii) **Judicial Case Management (JCM) System**

It was during his tenure that Judicial Case Management was explored and introduced informally and thereafter through legislation after thorough consultations.

I must hasten to add that there was a lot of pessimism within the Judiciary and Stakeholders but he had a leap of faith and pronounced that the “die was cast”.

He appointed me to chair the Steering Committee to ensure that we realise our milestones. He demonstrated brave, bold and visionary leadership.

Judicial Case Management has taken root and we are the envy of the Region in our case disposal rate. It comes as no surprise that our Judiciary has become a model against which other judiciaries in the region and beyond, including those older and considered mature, seek to and are keen to benchmark against.

Judicial Case Management is the legacy the former Chief Justice Honourable Mr. Justice Nganunu has bequeathed on our Judiciary. Our Judicial officers are now in charge of the litigation process and the results are visible in the reduction of the case backlog. When I



unexpectedly took over office from him in February 2010, I had no doubt in my mind that it would not be an easy task for me or anyone at the time to effortlessly fit into his shoes.

## **5. INFRASTRUCTURE DEVELOPMENT**

When Former Chief Justice Nganunu took over the reins of the judiciary, only few proper court structures existed throughout the country. He had a genuine commitment to the vision and mission of the Administration of Justice by ensuring that court buildings were constructed throughout the country in order to ensure that there was access to justice by all inhabitants of this Republic. When he left office most major villages and towns had properly constructed buildings befitting the status and integrity of courts of law.

*In his memory and honour, I have decided to name Conference Room No. D2 144 on the second floor of this building after him like we did at the High Court in Francistown when we named a Hall after former Chief Justice Moleleki Mokama. Conference Room No. D2 144 on the second floor in this building will from today be called Chief Justice Julian Mukwesu Nganunu Conference Room.*

## **6. SOUTHERN AFRICAN CHIEF JUSTICE'S FORUM**

Chief Justice Nganunu was one of the founding members of the Southern African Chief Justices' Forum which consists of South Africa, Zimbabwe, Zambia, Malawi, Seychelles, Lesotho, Botswana, Namibia, Kenya, Tanzania, Uganda, Mozambique, Angola, Mauritius and Swaziland.

The objects of the forum are to promote Democracy and Judicial Independence, Rule of Law, Efficiency of Courts, Judicial Education, and Human Rights amongst member countries as well as benchmarking on each other.

During his Chief Justiceship the Forum managed to resolve thorny issues bedeviling Swaziland and other Judiciaries as part of its mandate in promoting and protecting the welfare and dignity of Judges in member countries.

Honourable Chief Justice Nganunu was dedicated to the development of local jurisprudence and made significant contribution to its growth. He made landmark and watershed decisions in some of the most celebrated cases. Fellow colleagues, brothers and sisters on the bench, Hon. Chief Justice Julian Mukwesu Nganunu has run his race and written his chapter in the history books of our judiciary. His passing is now an indictment on us to continue the race

without materially departing from the course he had charted or reducing the pace he had set.

## 7. CONCLUSION

It will be remiss of me not to mention how erudite and well researched and written his judgments were. He had his own unique style and flowery language. He has left a legacy of jurisprudence and leadership which shall forever be a permanent imprint in our Judiciary and beyond.

May his family draw solace from his immense contribution to the development of the Judiciary and this country. In mourning his loss we must also celebrate his rich and eventful life which has enriched our lives.

**May His Soul Rest In Eternal Peace!**