**WELCOME REMARKS AND OFFICIAL OPENING SPEECH**

**BY**

**HON. CHIEF JUSTICE MR. MARUPING DIBOTELO**

**THEME:**

“**JUDICIAL REFORMS 2008–2017:**

**ACHIEVEMENTS AND CHALLENGES”**

**VENUE:** MAJESTIC FIVE HOTEL – PALAPYE

**DATE**: 27 – 28 JULY 2017

**SALUTATIONS**

Honourable Judges of the High Court,

Honourable Acting Attorney General – Ms Stella Moroka

President of the Customary Court of Appeal

Dikgosi

The Registrar and Master and your Deputies

The Director of Public Prosecutions – Mr. Abram Keetshabe

Director General – Directorate on Corruption and Economic Crime – Ms. Rose Seretse

The Commissioner of Prison and Rehabilitation Services –

Mr. Silas Motlalekgosi

Deputy Permanent Secretary, Ministry of Defence Justice and Security – Mr Bagopi.

Representative of the Commissioner of Police Mr Mosetse

Your Worships of the Magisterial Bench

Executive Secretary of the Law Society – Mr. Moipolai

Distinguished Guests,

Ladies and Gentlemen,

1. It is my pleasure to welcome you all to this year’s Judicial Conference. I wish to convey at the onset apologies from the Minister of Defence, Justice and Security, Mr. Shaw Kgathi, who was scheduled to officially open this Conference but is unable to do so owing to an emergency national assignment out of the Country. I also wish to welcome our key Stakeholders as represented here for accepting our invitation to this conference.
2. **Director of Ceremonies**, please allow me to congratulate Honourable Justice Dr. Zein Kebonang on his recent appointment as a substantive Judge of the High Court in place of Professor Solo. I also congratulate Hon. Abram Keetshabe on his appointment as Attorney General, Mr Stephen Tiroyakgosi as Director of Public Prosecutions, Mr Bafi Nlanda as the Receiver in the Ministry of Defence Justice and Security and all those who have recently joined the Registrarship and the Magistracy.
3. **Director of Ceremonies,** we have been convening annual Conferences of this nature for many years. Consequently, I urge all of us, to note the significance and importance of this gathering by giving our conference deliberations the importance and attention that they deserve.
4. In this conference, we aim to reflect on our judicial reforms during the period 2008-2017, the achievements and challenges as well as the future ahead, hence the Conference theme “Judicial Reforms 2008-2017: Achievements and Challenges.” There is a need to change the culture of being always pessimistic and to develop a positive outlook and attitude in view of the identified challenges for the purpose of taking the judiciary to the level we would want it to be.
5. **Ladies and Gentlemen,** I therefore wish to encourage you to

use this occasion to engage in fruitful discussions that would transform the Administration of Justice and support the implementation of its reforms programme. The impact of your discussions will hopefully lead to further improvement in the manner in which we discharge our duties and therefore enhance service delivery in the Administration of Justice to enable us to better serve the inhabitants of this country.

1. We introduced and adopted Court Records Management System, commonly referred to as CRMS, in 2005 in our quest to improve the delivery of justice in the country. CRMS, as a Computerised Case Management System, was in 2008 reconfigured to effectively facilitate Judicial Case Management (JCM). I wish to state at this juncture that we are exploring the introduction of E-Filing to further enhance access to justice as part of CRMS application. We will continue to engage Government and Stakeholders on this critical initiative which has stalled for a while.
2. **Ladies and Gentlemen,** the introduction of JCM in the High Court and Magistrates Courts in 2008 and 2011 respectively fundamentally changed the conduct of litigation in our courts as it vested the pace of litigation on judicial officers instead of litigants or legal representatives as had hitherto been the case.

Prior to JCM we were struggling with a huge backlog of mostly dead and unburied cases such that litigants with hopeless cases had the power to delay or frustrate the progression of the cases. This state of affairs undermined public confidence in the Judiciary.

1. The JCM reform has therefore from inception steadily and gradually expedited service delivery, resulting in quick and increased case disposal rate. The success of this Reform is rooted in its acceptance and embriasal by the Stakeholders and the public at large as its fruits are tangible For example, during the period 1st February 2017 to 31st May 2017, 2480 civil cases and 419 criminal cases were registered at the three High Court Divisions in Francistown, Gaborone and Lobatse. During the same period, a total of 2757 civil cases and 328 criminal cases were completed, including cases brought forward. In percentage terms, this translates into 111.2% and 78.3% completion rate for civil cases and criminal cases respectively in the three High Court Divisions.
2. At the Magistrates Courts, 4218 civil cases and 2209 criminal cases were registered during the period 1st February 2017 to 31st May 2017. Still in the same period, our Magistrates Courts completed a total of 6993 civil cases and 1697 criminal cases including cases brought forward which translates into 165.7% and 76.8% completion rates respectively in percentage terms. Again, during the same period, 1418 maintenance cases were registered at the Magistrates Courts out of which 2448 were completed including cases brought forward. This translated into the disposal rate of 172.6% of the maintenance cases by the Magistrates Courts.
3. These disposal rates by the standards of well-functioning judiciaries in democratic countries are very impressive. Ladies and Gentlemen. I commend all Judicial Officers, Stakeholders and staff for a job well done.

However, we are not to bask in this glory and rest on our laurels as more work still need to be done. One is here considering the introduction of Court Annexed Mediation to take JCM to another plain and further expedite the turnaround times and the litigation costs thereof.

1. The other reforms introduced during the period under review include the setting up of Special Stock Theft Courts, Special Mobile Traffic Courts, Special Maintenance Courts and the Court dedicated to dealing with corruption cases in response to public concerns about particular offences. We have also in addition set up new fully operational Magistrates Courts at Hukuntsi, Kang, Gumare, Shakawe, Nata, Bobonong and Kasane in our endeavour to make justice easily accessible to our people.
2. **Director of Ceremonies,** the theme for this year´s conference calls on us to introspect and allude to the judicial reforms we have introduced and to interrogate the challenges we are facing and to proffer the corresponding practical solution and strategies as we go into the future.
3. The major challenge we face, in my view, is the under resourcing of the judiciary. I have pronounced publicly my deep seated conviction to devote what remains of my tenure as Chief Justice to advocating and ensuring that the funding of the Judiciary especially and its Stakeholders takes centre stage. Whilst we appreciate the support the Government has extended to the Judiciary to ameliorate the situation such as the provision of vehicles and caravans for special stock theft courts as well as buses for the Special Traffic Courts, much more still needs to be done. For example, equipment such as tents, boots and special clothing for those who man the special stock theft courts need to be purchased and funds for that purpose are urgently required. The same applies to the replacement of old vehicles for Judges. The shortage of registry clerks both at the Magistrates Courts and High Court is adversely affecting our performance at both levels. This state of affairs has impacted negatively on our reforms of CRMS and JCM.
4. The Small Claims Court has proved to be a highly successful initiative and operates in Francistown and Gaborone. The success of this court is evidenced by the high volume of registered cases and the efficient disposal rate. Litigants commend the Administration of Justice on the simplified court process, the speed and efficiency of this court.
5. As a result of its success, people come from far away places to access the small claims court in Francistown and Gaborone. Whilst we want to roll out the Small Claims Court to other areas around the country, we are constrained by the lack of human and financial resources which in turn cripples our efforts to provide access to justice to the people of this country.
6. In some places such as Kang, Ghanzi, Nata, Bobonong, and Serowe, Magistrates have to share one courtroom and this has impacted negatively on the performance of the courts. The time has come to unfreeze the projects for the construction of Magistrates Courts in places like Ghanzi and Serowe. Funds must be made available by the government to build court facilities in these and other areas.
7. We have in the past, as we continue to do, done our very best with the little made available to us to deliver quality justice to the inhabitants of our country. However, the truth is that even with our greatest efforts at re-engineering our processes and the incremental use of technology, the shortage of human and financial resources continue to cripple our best plans. These reforms still need people to drive them.
8. The Corruption Court continues to be hindered by the fact that corruption cases by their very nature tend to have many interlocutory applications often resulting in a painstakingly slow disposal rate of its cases. An audit of each corruption case is underway to determine the status and hopefully move the cases forward in collaboration with the Key Stakeholders.
9. I have on many occasions reiterated our commitment in working with and supporting the Law Society of Botswana which is a very important partner in driving the reforms we have put in place as well as identifying and finding solutions arising out of such reforms.
10. Our door is always open to the Society to discuss issues of mutual benefit to all of us, including the possible ways to deal with and resolve the backlog of the many complaints by members of the public against members of the Law Society by applying the principles of Judicial Case Management to fast track the resolution of such complaints.
11. It is common cause that the Judiciary has set time frames for the disposal of various case types in both the Magistrates Courts and High Court. The time frames are generally being adhered to by the judicial officers. I hereby call upon our Stakeholders, as I did at the 2016 Stakeholders Resourcing Conference, not be timid or hesitant to take responsibilities for what they do. Instead, they should formulate and adopt time frames for the accomplishment of particular activities within a cycle of a case in order to enhance their accountability to the public.
12. I implore you to share your ideas and the experiences both in the plenary for the development and taking our judicial system into the future.

1. Esteemed delegates, please allow me to update and share with you the following critical issues for your earnest consideration which, in my view, also constitute some of the challenges as we move into the future:
2. You will recall that two years ago, in 2015, we gathered in Mahalapye under the theme “A well-resourced Judiciary is fundamental to the expeditious delivery of quality justice.” It was noted at that Judicial Conference that the independence of the Judiciary is affected when it is not well funded. That Conference identified the need to urgently convene the Conference on the resourcing of the Judiciary and its Key Stakeholders, and went on to adopt

a resolution that a Stakeholders Conference be convened by the Ministry of Defence, Justice and Security to deal specifically with issues of resources for the Judiciary and its Key Stakeholders.

1. We are grateful to the Hon. Minister that in implementation of this resolution, a Stakeholders Conference was held in Gaborone on the 31st October 2016 to 1st November 2016. At the Stakeholders Conference, resolutions which were all encompassing of the various stakeholders in justice system were adopted.
2. The resolutions aim at taking us all forward in the delivery of the various stakeholders mandates as they address many of our resource challenges. They have since been forwarded to the Ministry for consideration by the Government.
3. The Stakeholders Conference recognised that the budget allocation to the Judiciary was inadequate which in turn hampered the Judiciary´s financial and institutional independence. The Conference, therefore, resolved that the Government should amend the necessary legislative frame work to ensure that a specified percentage of the national budget was allocated to the Judiciary. The Conference further resolved that the Key Stakeholders to the Judiciary must be adequately resourced to enhance effective justice delivery.
4. We look forward to the Government acceptance of the modest request that a specified percentage of the national budget be allocated to the Judiciary.
5. On the issue of human resources, the Stakeholders Conference resolved that there should be an increase in manpower in the entire justice system, including, inter alia, the urgent recognition of the Court of Appeal as a separate court with its own staff, and the speeding of the takeover of the prosecutoral service from the Police and DCEC by the DPP.
6. The acute shortage of Court Reporters at the Magistrates Courts and High Court resulting in some appellants having their appeals heard after they have served their sentences did not escape attention of the Stakeholders Conference. To address this problem, the Conference urged for the resources to train more Court Reporters, and for the purchase and installation of Real Time Reporting Equipment in our courts. Such equipment, Ladies and Gentlemen, makes court proceedings available within hours of the conclusion of court hearings.
7. This year, we will install and pilot the use of Real Time Reporting Equipment in one of our courts at the High Court in Gaborone. The need for Government to give us funds to purchase and install such equipment in our courts has become more urgent.
8. Ladies and Gentlemen, a critical review of our strategic plan will be undertaken during the conference deliberations, and a way forward will be mapped in line with Vision 2036, as our Strategic Plan (2010-2016) has run its course.
9. Finally, I want to announce that we have designed and put in place the reward and recognition system for staff of the Judiciary in order to motivate them. The reward system is based on our core business as the Judiciary, especially the reforms we have introduced. The first ceremony to reward our staff will be held in Gaborone on 22 September 2017.
10. In conclusion, I wish you a pleasant and fruitful two day conference and expect the introverts amongst us to find their voices and present solutions to the noted challenges for the Conference to emerge with structured outcomes for implementation.
11. Director of Ceremonies Distinguished Guests, Ladies and Gentlemen, it is now my honour and privilege to declare this Conference Officially Open.

**P U L A**