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CREAKING UNDER ITS OWN WEIGHT:

How backlogs, bottlenecks and capacity constraints undermine the criminal justice system's contribution to Namibian anti-corruption efforts

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IPPR ANTI-CORRUPTION RESEARCH PROGRAMME

1. OVERVIEW OF CONCERNS

Almost two decades ago now, in September 2000, then Namibian Chief Justice Johan Strydom, voiced his concerns with two issues which were starting to undermine the delivery of justice in Namibia. Justice Strydom said: "There are, however two aspects which caused me great concern. These are delays involved in the hearing and finalisation of both civil and criminal matters and the ever-increasing upward spiral of cost. In certain instances there is a direct relationship between delay and the increase in cost. There is no doubt in my mind that if either of these factors is allowed to get out of hand, that by itself would erode the rule of law and the high ideals set by our Constitution. It is poor consolation for a person to know that his rights are enshrined in the Constitution, but he or she cannot afford to enforce those rights or that he or she has to wait two years or more to get a hearing or to give evidence in a criminal trial [...]."[1]

Since then, especially the issue of delays in justice delivery has become an issue of increasing concern not only affecting the courts, but the entire criminal justice system. That said, the concerns affecting the justice system and related criminal justice authorities can be summarised as follows:

- Despite claims to the contrary, bottlenecks and backlogs continue to plague and undermine the delivery of justice and fuels negative perceptions of the rule of law and the criminal justice sector in Namibia;
- While judicial authorities have instituted measures to improve justice delivery they are still struggling to come to grips with system-wide institutional weaknesses;
- There can be no doubt that the shortcomings within the courts system are contributing to negative perceptions of the state's and specifically the criminal justice system's handling of especially corruption cases;
- On top of that, there appears to be widespread negative perceptions of the ethics of judicial officials;
- Such negative perceptions have cast a cloud of distrust over the judicial system and fuel perceptions of widespread corruption within judicial processes and the courts of law;
- In response, the judiciary has instituted ethical codes of conduct in line with the Bangalore Principles of Judicial Conduct in order to enhance ethical conduct and counter negative perceptions;
- Even so, it appears not much is being done to create awareness within public about the judicial codes of conduct of the judiciary;
- Institutional and capacity weaknesses and deficits within law enforcement and prosecutorial agencies and authorities are also significantly contributing to exacerbating inefficiencies throughout the Namibian criminal justice system;
- Namibian law enforcement and prosecutorial services are struggling to overcome entrenched skills and capacity shortcomings and do not appear to have made significant headway in this regard over the years, while corrupt practices have become more complex and sophisticated, both legally and technically.

1. Taken from: https://www.ombudsman.org.na/wp-content/uploads/2016/09/Delay_in_Appeals.pdf

2. INTRODUCTION

By the time, on 11 May 2018, that the judgement was delivered in what had become known as the Avid-SSC corruption trial, the case had been trundling through the courts for about 10 years, while the matter, as a criminal justice sector concern, dated from 2004/05.

The Avid-SSC case was something of an eye-opener about corruption in Namibia and arguably truly lifted the lid for the first time for the public to see how corruption was being perpetrated at the highest levels within government. In a case that had it all – high profile political figures, name-dropping and influence peddling, fraud and misrepresentation, abuse of office and state assets, and a sense of brazen entitlement – no less than two senior ruling party politicians, a former senior military official and members of the legal fraternity were snagged, all of whom were accused of involvement in defrauding the state welfare agency, the Social Security Commission, of N$30 million. On 11 May 2018[2], most of the seven accused were found guilty on a number of charges related to the fraudulent transaction dating from late 2004 to late 2005.

Incidentally, at the time the Avid-SSC saga dramatically unfolded and aroused immense public interest in late 2005 to early 2006, the Anti-Corruption Commission (ACC) was also in the final stages of being established, following the passing of the Anti-Corruption Act in 2003. The ACC was ultimately birthed in 2006, and it can be reasonably argued that the Avid-SSC case provided some final impetus for the setting up of the anti-graft agency as public opinion at the time appeared roundly critical of the state's handling of corruption.

What had turned the Avid-SSC case into a seemingly endless marathon since 2008 was the numerous postponements and trials-within-trials over the years that had become the hallmarks of criminal defences in such matters.

However, it's not just corruption cases that have become bogged down in the criminal justice system, and especially in the courts. The longest running court matter in Namibian history, what is known as the 'Caprivi treason trial', which started in the High Court in 2003, has devolved into three different trials over the years and at the time of writing this paper the Caprivi treason matter had still not been settled, 15 years after the start of the main trial and almost 20 years after the treason incident in 1999.

Against this backdrop and despite the Namibian judiciary still predominantly being considered independent (coming in 59th out of more than 180 countries on the World Bank's Doing Business rankings[3]), the image of the country's criminal justice sector – which includes the police and other law enforcement and investigatory bodies (such as the ACC), as well as prosecutorial authorities – has still suffered over the years, as the slow pace of proceedings, long postponements and delays, trials-within-trials and concerns around judicial integrity have come to colour the public's perceptions of the justice system.

To illustrate, in the seventh round of the Afrobarometer survey[4], from 2017, it was found that only 30% of surveyed Namibians had a lot of trust in the courts of law. At the same time, 74% of Namibians interviewed perceived all, most or some judges and magistrates as being corrupt, with only 13% saying no judges or magistrates were corrupt. These figures are alarming in their depiction of nationwide perceptions of judicial integrity.

It can be argued that a major contributor to such overwhelmingly negative perceptions of the judicial system is the handling of corruption matters, most of which have become drawn out affairs in the courts, with the complicity of judges, magistrates, prosecutors and defence lawyers, all involved in a predictable court process of "delay and draw out, pounce on technicalities, suggest impropriety, allude to coercion, suggest incompetence"[5], which deep-pocketed defendants can afford to finance nearly or seemingly indefinitely.

Over the years justice authorities have admitted that the justice system has become characterised and hamstrung by severe and entrenched challenges, which authorities have been struggling to overcome, despite having introduced phases of systemic reforms aimed at making the delivery of justice more efficient.

In spite of this, confronted with all the circumstantial evidence, it seems clear that the Namibian justice sytem is in a state of protracted undermining by its own long-standing challenges, which in the context of this particular discussion, does not bode well for the system's prospects in playing an effective role in fighting corruption in Namibia.

"What had turned the Avid-SSC case into a seemingly endless marathon since 2008 was the numerous postponements and trials-within-trials over the years that had become the hallmarks of criminal defences in such matters."

2. https://www.namibian.com.na/177260/archive-read/Five-convicted-in-N$30m-SSC-fraud-trial
3. http://www.doingbusiness.org/rankings
4. http://www.ippr.org.na/wp-content/uploads/2018/05/NAM_R7.SOR_18May18_final.pdf
5. Quote taken from Heist!: South Africa's cash-in-transit epidemic uncovered by Anneliese Burgess

3. BACKLOGS, BOTTLENECKS AND DELAYS

> "The Committee is concerned that the State party is not fully complying with the obligation to ensure the right to be tried without undue delay as consecrated in article 14 paragraph 3(c) of the Covenant, especially taking into account the backlog of cases that remain pending. The state party should undertake urgent steps to guarantee that trials take place within a reasonable period of time...."

As already indicated, arguably one of the biggest concerns dogging the criminal justice sector, and particularly the courts system, is how long trials take to process and finalise, as many court proceedings become bogged down in all sorts of delays and postponements, giving rise to the impression that the country's "judicial process is very slow [...], which has led some to question the rule of law in Namibia"[6].

The seriousness of this situation cannot be emphasised enough as since about the turn of the century, bottlenecks and backlogs in the delivery of justice have become of increasing concern within the justice sector and over the last two decades a range of stakeholders have been critical of the lack of progress in addressing these issues, and as the above quoted statement illustrates, it is being warned that these issues have already damaged the image and undermined the credibility of the entire judicial edifice. This is borne out by public sentiment, for as earlier mentioned, only about 30% of Namibians had a lot of trust in the courts of law.[7]

That said, when spotlighting the issues of bottlenecks and backlogs within justice delivery it should be noted that these concern not just delays of trial proceedings, but also other factors in the criminal justice pipeline, such as the conduct and activities of law enforcement and prosecutorial authorities.

However, in especially the courts system, bottlenecks, backlogs and undue delays are or have been significant longstanding frustrations, specifically in: a) how long it takes to bring cases to trail and how long trials take to finalise; b) how long it takes magistrates and judges to deliver their judgements; and, c) how long it takes appeals to be set-down and heard.

In illustration of the seriousness of the issues of backlogs, bottlenecks and delays in the criminal justice sector, consider the following statement regarding these issues in Namibia by the UN Human Rights Committee already way back in 2004:

"The Committee is concerned that the State party is not fully complying with the obligation to ensure the right to be tried without undue delay as consecrated in article 14 paragraph 3(c) of the Covenant, especially taking into account the backlog of cases that remain pending. The state party should undertake urgent steps to guarantee that trials take place within a reasonable period of time...."[8]

The Covenant being referred to here is the International Covenant on Civil and Political Rights (ICCPR), to which Namibia is a signatory (See Box 2).

The bottlenecks, backlogs and undue delays in the system first truly reared their heads in public about a decade ago when the issue of how long it took judges to deliver their judgements boiled to the surface as a significant concern amongst trial lawyers. For instance, and taking this issue as broadly symbolising the systemic issues, the graveness of the judgement delivery situation prompted the Law Society of Namibia (LSN), representing more than 600 admitted lawyers, in 2008 to write a scathing letter to the Judicial Service Commission, calling on it to institute misconduct charges against judges and magistrates who consistently and continually failed to deliver their judgements within a reasonable period. In its complaint letter the LSN stated that "the failure to hand down judgment within a reasonable time has a deleterious effect on the rule of law and human rights in Namibia, not to mention the risk of international embarrassment and the erosion of public confidence in the judiciary as well as the judicial process".

In response to the LSN call, Judge President (and now also Deputy Chief Justice since 2015) Petrus Damaseb, who was also implicated as one of the judges taking long to deliver judgements, in unveiling the Judicial Service Commission guidelines for delivery of reserved judgements in the High Court, noted[9] in 2009 that: "a) Concern is being expressed with increasing regularity by members of the public and the organised legal profession about what is perceived as inordinate delays by High Court judges in delivering reserved judgments; and b) Any perception that judges are not accountable and lack self-discipline erodes public confidence in the senior judiciary. It has therefore become necessary to lay down some guidelines for judges against which to measure complaints against judges for undelivered judgments." The guidelines Damaseb re-

6. https://www.business-anti-corruption.com/country-profiles/namibia/
7. http://www.ippr.org.na/wp-content/uploads/2018/05/NAM_R7.SOR_18May18_final.pdf
8. Concluding observations of the Human Rights Committee: Namibia, 30/07/2004, para 17
9. See: JSC Guidelines For Delivery Of Judgments - High Court

ferred to are again mentioned later on in this section and are viewable in Annex 1.

The introduction of these guidelines formed the first steps in a process of reform, which was preceeded by an investigation in 2009 and 2010 spearheaded by Judge President Damaseb to get to the bottom of what was causing backlogs and undue delays in especially the higher courts. The inquiry found the following hurdles: "1) Not all cases ripe for hearing are set down; 2) delay in delivery of reserved judgements; 3) postponements are granted too easily; 4) part-heard matters clog the roll and crowd out new matters; 5) certain processes such as interlocutories, requests for further particulars, irregular proceedings etc., cause delay due to the inherent nature of the process; 6) inadequate number of available "instructed cousel"; 7) inadequate administrative support system; 8) lay litigants; 9) improper use of the rule 37 procedure[10]; and 10) "deadwood" cases."[11]

At the same time, Judge President Damaseb warned that the collective consequences of these factors, if not addressed, would be dire for the entire judicial system and the rule of law. Just to re-emphasise the point, Damaseb stated that:

"The inexorable consequence of the present case backlog and our inability to work it down is loss of public confidence in the administration of justice as the system does not guarantee a speedy and cost-effective trial process. Because the roll is always overloaded, judges feel they are being overburdened. The consequence of long delays and incessant postponements is a costly litigation process"; and "Because of delay in obtaining early trial dates in criminal cases, accused persons are often detained for very long periods while awaiting trial – a circumstance that is particularly unfair if the person is acquitted at the end of the day".

Following this, to deal with long outstanding judgements in the higher courts, the "Guidelines for the delivery of reserved judgements in the Supreme Court of Namibia issued by the Chief Justice in consultation with the Judicial Service Commission of 1 March 2010" and, secondly, the "Practice Direction 61 of the High Court Practice Directions: Rules of High Court of Namibia" (an earlier version of which was what Damaseb was refering to in 2009 and 2010) from 2014 were introduced. And by all accounts these measures have reduced the reserved judgement backlog in the higher courts.

In October 2017, Namibian Chief Justice Peter Shivute underscored the significance of these measures at the Global Judicial Integrity Network (GJIN) conference, which took place at Swakopmund on the Namibian coast, when he stated[12]: "As a measure to keep the public and legal fraternity's faith and confidence in the courts' exercise of our duties, the courts in consultation with the JSC adopted Practice Directions or Guidelines in terms of the Rules of Court providing for time limits within which judges are expected to deliver reserved judgements."

Aside from these directions on the delivery of judgements, other measures were apparently also introduced to attempt to speed up trial processes and tackle backlogs and delays in other areas of the courts system. Some of these measures, such as the implementation of a case management system post-2011 (see Box 1), to better manage court proceedings, and especially the length of time it took to finalise a matter, have supposedly already started having an impact. The stated purpose of case management is to remove the power to determine the length and direction of trials from litigants and their lawyers and place that power in the hands of magistrates and judges, in order to speed up and maintain control in judicial processes.

Also, the creation of the Office of the Judiciary post-2015[13], to oversee and manage the workings of the courts system as well as case management processes, has been touted by judicial authorities as amongst the most significant developments in independent Namibia's judicial history to date, and the most important measure in dealing with all judicial sector challenges.

Even so, at the time of writing, there were still criminal cases from 2010, 2011 and 2012 on the criminal court roll, which had yet to be finalised. And according to the Anti-Corruption Commission (ACC), in response to a recent information request for this

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10. Rule 37: Curtailment of Proceedings
(1). An attorney desirous of obtaining a date for the hearing of an action shall as soon as possible after the close of pleadings and before requesting such date in writing request the attorneys acting for all other parties to such action to attend a conference at a mutually convenient time with the object of reaching agreement as to possible ways of curtailing the duration of such trial..."
11. See: Promoting Access to Justice in the High Court of Namibia: First Report – The Case for Judicial Case Management 2010)
12. http://www.judiciary.na/wp-content/uploads/2017/10/Namibia.pdf
13 Through the Judiciary Act 11 of 2015.

paper, corruption cases from 2007 have still not been completed. This suggests that reforms are yet to make a substantial difference, easpecially in the lower courts.

This lack of progress prompted former Justice Minister Utoni Nujoma to remark in 2015 that: "Unreasonable delays are the enemy of justice and peace in the community. The inordinate delays, the increased costs, the almost certain frustration and cynicism, and the emotional strain for the participants and litigants which accompany such backlogs are undeniable. They must be addressed and eliminated as part of the overall plan for restructuring the criminal justice system."[14]

Furthermore, despite claims of judicial service delivery interventions starting to bear fruit and supposed progress on making systems and processes more efficient, the public continues to complain about systemic inefficiencies. Consider this SMS published in *The Namibian* newspaper in early June 2018: "Ministry of Justice, we, the trial-awaiting inmates are disappointed with the Omaruru Magistrate's Court. They are not serving justice as it is supposed to be. The so-called court personnel are not doing anything to bring these long trials to an end. People are just going to court and back to the police cells, without the cases being concluded."[15]

A day later the following SMS appeared in the same newspaper: "What is happening at the Outapi Magistrate's Court? The prosecutor general and the judiciary are failing us. There is only one magistrate doing the work of two magistrates, resulting in cases being delayed. There is only one prosecutor who cannot cope with the work because after two prosecutors resigned, the PG never replaced them. Regional court cases are now suffering because no magistrate was appointed to replace the magistrate that left. Is this really justice?"[16]

Incidentally, 'Is This Justice?' was the title of a 2013 report[17] by Namibian Ombudsman John Walters, that detailed systemic failures throughout the lower courts system, causing bottlenecks in the higher courts, which the Ombudsman described as systemic human rights violations.

The Ombudsman's report painted a dire picture of the inordinate amounts of time taken to finalise criminal appeals, and found that the "systemic delays in the preparation of appeal and review records of proceedings as well as the delays in the reconstruction of lost or incomplete records of proceedings by clerks of the courts, may be due to a lack of knowledge of national and international human rights law and/or a lack of understanding thereof".

The report goes on to state that "training and continued education of clerks of courts, prosecutors, magistrates, judges and law enforcements officials in national and international human rights law, is now of vital necessity to assist in reducing non-compliance with mandatory statutory provisions and individual failings resulting in human rights violations".

Ombudsman Walters also found that the situation "I have outlined above provides sufficient proof of a lack of organisation of the judicial system". In 2015, Ombudsman Walters indicated that the issues he had outlined in the 2013 report had yet to be satisfactorily addressed.

Considering these charges, the issue of judicial sector capacity constraints appears to tower as an issue of significance and appears to stand at the core of all the criminal justice sector's troubles. In this respect, at the start of 2018 the Office of the Judiciary was quoted listing a "staff shortage in terms of judicial officers, prosecutors and administrative support personnel"[18] as among the reasons for the continued bottlenecks and undue delays in especially the lower courts system.

And the systemic problems spotlighted by the Ombudsman back in 2013 as creating delays and backlogs in the criminal appeals system appear to continue to bedevil much of the judiciary, since as of January 2018 "challenges such as insufficient number of courtrooms, an unresponsive case management system and a shortage of digital court recording equipment are the reasons behind the backlog of criminal cases in the lower courts".

Added to that, and specifically in the context of the impact of these matters on combating corruption, in late 2016 Chief Justice Peter Shivute was quoted saying that the "current legal system is no longer suited to the new and complex nature of organised crime".[19]

"Considering these charges, the issue of judicial sector capacity constraints appears to tower as an issue of significance and appears to stand at the core of all the criminal justice sector's troubles."

14. https://www.namibian.com.na/index.php?id=133315&page=archive-read
15. https://www.namibian.com.na/SMSes/0/2018-06-14
16. https://www.namibian.com.na/SMSes/0/2018-06-15
17. https://www.ombudsman.org.na/wp-content/uploads/2016/09/Delay_in_Appeals.pdf
18. https://www.newera.com.na/2018/01/10/judiciary-prioritizes-clearing-criminal-cases/
19. https://www.newera.com.na/2016/09/26/legal-system-unprepared-organised-crime-chief-justice/

Against this backdrop, in late November 2018, at a media briefing, Office of the Judiciary permanent secretary, Rolanda van Wyk, said that a "Criminal Justice Task Force (CJTF)" had been created, led by Deputy Chief Justice Petrus Damaseb to address the following: "1. Legislative reform that could ease the challenges faced by the criminal justice sector specifically pertaining the administration of justice for all; 2. Efficiency and Effectiveness with all aspects of criminal justice, be it at the courts, in prison, police holding cells etc.; 3. Improved Discipline in the performance of duties of court officials and law enforcement officers; 4. Improved access to justice and access to information within the justice system."

This statement suggests that despite a decade of reforms, the courts remain stretched and struggling in their justice delivery function.

In light of all this, and in the context of the criminal justice sector playing a centrally critical role in combating corruption, it should be noted that a possible indicator of corruption in the judicial system has been identified as "unusual administrative processes, such as the unnecessary prolongation or shortening of court proceedings".[20] This certainly should give all involved pause seeing that already perceptions of corruption in the courts are high.

"This statement suggests that despite a decade of reforms, the courts remain stretched and struggling in their justice delivery function."

KEY CONSIDERATIONS:

Against this backdrop, the following considerations deserve emphasising:

- Bottlenecks and backlogs continue to undermine the delivery of justice and fuels negative perceptions of the rule of law and criminal justice sector in Namibia;
- Judicial authorities are struggling to come to grips with system-wide institutional weaknesses;
- There can thus be no doubt that the shortcomings of the justice system are contributing to negative perceptions of the state's and especially the whole criminal justice system's handling of corruption cases.

BOX 1

Objectives of case management [21]

(1) The objectives of case management of an action or application in these rules are -

(a) to ensure the speedy disposal of any action or application;
(b) to promote the prompt and economic disposal of any action or application;
(c) to use efficiently the available judicial, legal and administrative resources;
(d) to provide for a court-controlled process in litigation;
(e) to identify issues in dispute at an early stage;
(f) to determine the course of the proceedings so that the parties are aware of succeeding events and stages and the likely time and costs involved;
(g) to curtail proceedings;
(h) to reduce the delay and expense of interlocutory processes;
(i) to separate the adjudication of interlocutory motions from that of the merits to be heard at the trial;
(j) to provide for the better and more practical and more timely production of evidence by expert witnesses;
(k) to provide for the production or discovery of documents at a more convenient, practical and earlier time;
(l) to ensure the involvement of the parties before the initial case management conference by the preparation of a case management report; and
(m) to identify as soon as practicable firm dates for particular steps as well as for the trial of an action or hearing of an opposed motion.

20. https://knowledgehub.transparency.org/helpdesk/enforcement-of-judicial-codes-of-conduct
21. http://www.lac.org.na/laws/2011/4709.pdf

BOX 2

The case for solving backlogs, bottlenecks and delays in the criminal justice system

There are a number of local, regional and international instruments which speak to the issue of, and obligates, a criminal trial happening within a 'reasonable time' in the interest of justice and the maintenance of the intergity of judicial systems and processes.

In the local context, chief amongst these is the Constitution of the Republic of Namibia, which states in Article 12(1)(b), in relation to criminal trials, that: "A trial referred to in sub-article (a) hereof shall take place within a reasonable time ..."

In this sense, according to Ombudsman John Walters, "time begins to run under article 12(1)(b) when a person is charged; this may stretch back to arrest rather than formal charge and ends when the proceedings are over, including any appeal".[22]

Aside from the Namibian Constitution, the country's National Anti-corruption Strategy and Action Plan 2016-2019 also specifically addresses strengthening the role of the criminal justice system in countering or dealing with corruption.

The anti-corruption strategy, under Specific Objective 2.4 (Strengthening the integrity and transparency of the Judiciary) states that "Namibia's Judiciary is widely regarded as independent, however, the Judiciary system should be supported to expedite the finalisation of cases of corruption [...]."[23]

As a broad intervention, it is proposed that "Adequate resources be availed to the Judiciary to ensure that the courts have sufficient and well-trained staff, as well as the necessary infrastructural resources and facilities sufficient and necessary for the effective and efficient operation of the courts."

At continental level the pre-eminent instrument speaking to the issue is the African Charter on Human and Peoples' Rights (ACHPR), which states in its Article 7 that all Africans have "The right to be tried within a reasonable time by an impartial court or tribunal."[24]

Through Article 7, the ACHPR gave birth to the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, in 2003, which in sections call for criminal trials to be conducted "without undue delay" and "within a reasonable time".

Under the African fair trial principles' Provisions Applicable to Proceedings Relating to Criminal Charges, it states that everyone has the "Right to trial without undue delay: [25]

(a) Every person charged with a criminal offence has the right to a trial with out undue delay.

(b) The right to a trial without undue delay means the right to a trial which produces a final judgement and, if appropriate a sentence without undue delay."

At international level, the International Covenenat on Civil and Political Rights (ICCPR), provides universal guidance and states under Article 9 the following:[26]

"3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release.

"4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful."

Also at international level, since late 2015, the Namibian government has signed up to the United Nations' Agenda 2030, or the Sustainable Development Goals framework. Under Goal 16 (Peace, Justice and Strong Institutions), one of the targets listed is the promotion of "the rule of law at the national and interna-

22 https://www.ombudsman.org.na/wp-content/uploads/2016/09/Delay_in_Appeals.pdf
23. https://www.accnamibia.org/wp-content/uploads/2016/07/National-Anti-Corruption-Strategy-and-Action-Plan-2016-2019.pdf
24. http://www.achpr.org/instruments/achpr/#a3
25. http://www.achpr.org/instruments/principles-guidelines-right-fair-trial/
26. https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx

tional levels and ensure equal access to justice for all The is read to imply that challenges within justice delivery be ironed out by 2030.

Similarly, a complementary declaration to the United Nations Convention on Corruption (UNCAC), the Doha Declaration on crime prevention and criminal justice of April 2015, also articulates the message of overcoming challenges and delays affecting the criminal justice system, declaring that states should "ensure the right of everyone to a fair trial without undue delay by a competent, independent and impartial tribunal established by law, to equal access to justice with due process safeguards [...]".[28]

These by no means are the only instruments addressing the issue of bottlenecks and backlogs in the criminal courts system, but they are referenced here to illustrate the extent to which the issue is of international concern.

BOX 3

PRINCIPLES AND GUIDELINES ON THE RIGHT TO A FAIR TRIAL AND LEGAL ASSISTANCE IN AFRICA [29]

The African Fair Trial Principles and Guidelines of the African Commission on Human and People's Rights recognises that delays affect accused persons' right to justice and thus extensively provides for requirements for a fair trial. The following sections of the principles and guidlines speak explicitly to the issue of criminal courts system delays.

GENERAL PRINCIPLES APPLICABLE TO ALL LEGAL PROCEEDINGS:

The essential elements of a fair hearing include:

(i) an entitlement to a determination of their rights and obligations without undue delay and with adequate notice of and reasons for the decisions; and

PROVISIONS APPLICABLE TO ARREST AND DETENTION:

Right to be brought promptly before a judicial officer:

a) Anyone who is arrested or detained on a criminal charge shall be brought before a judicial officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release.

Right of arrested or detained person to take proceedings before a judicial body:

Anyone who is deprived of his or her liberty by arrest or detention shall be entitled to take proceedings before a judicial body, in order that that judicial body may decide without delay on the lawfulness of his or her detention and order release if the detention is not lawful.

PROVISIONS APPLICABLE TO PROCEEDINGS RELATING TO CRIMINAL CHARGES:

Right to trial without undue delay:

(a) Every person charged with a criminal offence has the right to a trial without undue delay.

(b) The right to a trial without undue delay means the right to a trial which produces a final judgement and, if appropriate a sentence without undue delay.

(c) Factors relevant to what constitutes undue delay include the complexity of the case, the conduct of the parties, the conduct of other relevant authorities, whether an accused is detained pending proceedings, and the interest of the person at stake in the proceedings.

27. http://www.undp.org/content/undp/en/home/sustainable-development-goals/goal-16-peace-justice-and-strong-institutions/targets/
28. https://www.unodc.org/documents/congress//Documentation/ACONF222_L6_e_V1502120.pdf
29. http://www.achpr.org/instruments/principles-guidelines-right-fair-trial/

4. JUDICIAL INTEGRITY

While bottlenecks and delays in justice delivery deserve the sharpest spotlighting, when talking about the role of the criminal justice system in combating corruption, the issue of judicial integrity also arises, because as Transparency International puts it, the "criminal justice chain is potentially the most vulnerable to corruption due to the sensitivity of the cases and the need to maintain confidentiality". [30]

According to Transparency International, its 2015 Global Corruption Barometer for Africa[31] "ranked the courts as the public service where users most frequently had to pay bribes". That widespread perceptions of corruption attach to the courts and judicial officials has been reflected in continent-wide Afrobarometer findings over the years. For Namibia, in the 7th round of the Afrobarometer survey, conducted in 2017, and the findings[32] of which were released in May 2018, 74% of Namibians interviewed perceived all, most or some judges and magistrates as being corrupt, with only 13% saying no judges or magistrates were corrupt.

To quote Transparency International again: "Both corruption and negative perceptions of integrity undermine the effective functioning of the judicial system as well as public confidence in the institution. These issues have far-reaching implications, as a 2012 special report prepared by the United Nations Special Rapporteur surmised: "Judicial corruption erodes the principles of independence, impartiality and integrity of the judiciary; infringes on the right to a fair trial; creates obstacles to the effective and efficient administration of justice; and undermines the credibility of the entire justice system."

> "Both corruption and negative perceptions of integrity undermine the effective functioning of the judicial system as well as public confidence in the institution."

Namibia has over the years seen its fair share of corruption within the judiciary, with magistrates[33] and court officials[34] having been arrested and tried for graft.

That said, Namibia is a signatory to the United Nations Convention Against Corruption (UNCAC), and has since 2010 been under assessment on its implementation of the convention's provisions. UNCAC explicitly deals with the issue of judicial integrity in Article 11, which states: "Bearing in mind the independence of the judiciary and its crucial role in combatting corruption, each State Party shall, in accordance with the fundamental principles of its legal system and without prejudice to judicial independence, take measures to strengthen integrity and to prevent opportunities for corruption among members of the judiciary. Such measures may include rules with respect to the conduct of members of the judiciary".[35]

This provision of UNCAC speaks to encouraging states to align their judicial codes of conduct with the Bangalore Principles of Judicial Conduct of 2002 (See Box 5). The Bangalore Principles "presuppose that judges are accountable for their conduct to appropriate institutions established to maintain judicial standards, which are themselves independent and impartial, and are intended to supplement and not to derogate from existing rules of law and conduct which bind the judge".[36]

In light of this, according to Chief Justice Peter Shivute, in an October 2017 presentation at a Global Judiciary Intergrity Network (GJIN) conference in Namibia, the Namibian judiciary has already aligned its judicial integrity standards with the Bangalore Principles. Shivute stated: "The Guidelines for Ethical Judicial Conduct in Namibia and the Code of Conduct for Magistrates, inspired by the Bangalore Principles of Judicial Conduct of 2002 expect judicial officers to conduct themselves at a high standard of conduct in both professional and personal capacities (in and out of court).[37]

The Chief Justice also said that the creation of the Office of the Judiciary, through the Judiciary Act (No. 11 of 2015), would "strengthen the independence of the Judiciary in line with Article 78 (5) of the Namibian Constitution", which was an important step to further enhance the integrity of the justice system and judicial officials.

Against this backdrop, under UNCAC, state authorities are also required to make an effort to educate the public on judicial integrity measures, such as codes of conduct, but in the Namibian case it is unclear whether such campaigns are being conducted effectively. It should be noted here that questions related to judicial integrity were forwarded to the Office of the Judiciary in mid-May 2018, but have remained unanswered.

30. Document can be downloaded here: https://knowledgehub.transparency.org/helpdesk/enforcement-of-judicial-codes-of-conduct
31. https://www.transparency.org/whatwedo/publication/people_and_corruption_africa_survey_2015
32. http://www.ippr.org.na/wp-content/uploads/2018/05/NAM_R7.SOR_18May18_final.pdf
33. https://www.namibian.com.na/162614/archive-read/Ex-magistrate-in-dock-on-corruption-charges
34. https://webcache.googleusercontent.com/search?q=cache:bbei-xry-5EJ:https://www.namibiansun.com/news/court-officials-nabbed-for-corruption+&cd=1&hl=en&ct=clnk&gl=na&client=firefox-b
35. https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf
36. https://www.unodc.org/pdf/crime/corruption/judicial_group/Bangalore_principles.pdf
37. http://www.judiciary.na/wp-content/uploads/2017/10/Namibia.pdf

KEY CONSIDERATIONS:

There appears to be widespread negative perceptions of the ethics of judicial officials, including magistrates and judges;

- Such negative perceptions have cast a cloud of distrust over the judicial system and fuel perceptions of widespread corruption within judicial processes and the courts of law;
- The judiciary has instituted ethical codes of conduct in line with the Bangalore Principles of Judicial Conduct in order to enhance ethical conduct and counter negative perceptions;
- It is unclear whether much is being done to create awareness within public about these codes of conduct of the judiciary.

BOX 4

There are a number of potential benefits for states in issuing a code of conduct, namely it can:

- help judges resolve questions of professional ethics, giving them autonomy in decision-taking and guaranteeing their independence;
- inform the public about standards of conduct that judges can be expected to uphold;
- provide the judiciary with standards against which it can measure its performance;
- provide protection to judges against charges of misconduct that are arbitrary and capricious;
- signal the serious commitment of a concerned judiciary to meet its responsibilities in this regard.

Taken from: Enforcement of Judicial Codes of Conduct at: https://knowledgehub.transparency.org/helpdesk/enforcement-of-judicial-codes-of-conduct

BOX 5

The Bangalore Principles for Judicial Conduct

Judicial codes of conduct commonly have as their basis the Bangalore Principles of Judicial Conduct, the primary international reference document regarding standards of integrity in the judiciary. Drafted by a group of chief justices using 24 existing codes of conduct and adopted in 2002 under the auspices of the Judicial Integrity Group (JIG), the document put forward six core principles as a foundation for ethical standards in the judiciary. These are:

- **Independence:** a judge must be independent from the executive and legislative branches of government, as well as the parties to a dispute over which the judge presides. The principles further emphasise that the appearance of independence from such parties is as important as practice in maintaining public confidence.
- **Impartiality:** a judge must "perform her or his duties judicial duties without favour, bias or prejudice", and disqualify themselves from proceedings where they may not be able to act impartially or could be perceived as acting partially.
- **Integrity:** a judge must "ensure that her or his conduct is above reproach in the view of a reasonable observer".
- **Propriety:** to avoid impropriety or the appearance of impropriety, judges must "accept personal restrictions that might be considered burdensome to an ordinary citizen" as they are subject to constant public scrutiny. Examples provided include taking care regarding the expression of personal views which might compromise the perception of a judge's independence; not using their authority to promote the interests of family; and not knowingly permitting those working under their influence to accept gifts or payments to carry out their functions.
- **Equality:** a judge must ensure equality of treatment for all individuals who come before the court.

> Concerning corruption within the police and the force's role in state-led anti-corruption activities, the United Nations Office on Drugs and Crime (UNODC) states that a robustly functional law enforcement environment is a prerequisite for anti-corruption efforts to bear significant fruit.

- **Competence and diligence:** a judge must exercise their duties with professionalism and take all reasonable steps to enhance their ability to discharge their functions effectively (United Nations Economic and Social Council 2006).

Taken from: Enforcement of Judicial Codes of Conduct at: https://knowledgehub.transparency.org/helpdesk/enforcement-of-judicial-codes-of-conduct

5. LAW ENFORCEMENT AND PROSECUTORIAL FACTORS

While the courts are at the heart of the criminal justice system and clearly face serious challenges in justice delivery, systemic weaknesses in the other elements of the criminal justice chain certainly also need spotlighting, as they often significantly contribute to clogging the courts and causing undue delays which lead to bottlenecks and backlogs, and consequently a loss of trust in the entire system amongst the public.

These elements include law enforcement and prosecutorial agencies and authorities, which in the Namibian context have also long been problematic in making sure justice is served in a relatively timely manner. Often times police or prosecutorial negligence or incompetence are factors in criminal proceedings being unduly delayed, withdrawn or dismissed completely or verdicts being overturned on appeal.

Aside from law enforcement and prosecutorial authorities' professional shortcomings reverberating through the criminal justice chain, corruption within these agencies is also a factor complicating justice delivery in Namibia.

In this regard, at the National Anti-Corruption Conference, organised by the Anti-Corruption Commission (ACC) in June 2015, the Inspector General of the Namibian Police, Sebastian Ndeitunga, stated that "since 2012 up to 2014 a total of 84 members of the Force were charged for alleged involvement in crimes that bear an element of dishonesty, of whom 15 are still on suspension, while 1 was discharged after being found guilty. Altogether 3 members whose cases date back before the period under review were discharged during 2014".[38] Figures for the period since 2014 have not been made publicly available, but it seems clear that there are serious integrity and disciplinary issues, compounded by capacity constraints, in the force that undermine both its fulfilling of its manadate and fuelling negative public perceptions of corruption within the police, both of which impact on the effectiveness of the force to fight crime and specifically corruption.

Concerning corruption within the police and the force's role in state-led anti-corruption activities, the United Nations Office on Drugs and Crime (UNODC) states that a robustly functional law enforcement environment is a prerequisite for anti-corruption efforts to bear significant fruit. The UNODC states: "Whether operating under the direction of national institutions or ministerial authority, or in a more independent capacity, the police rely on the development of the trust of the people and communities they serve in order to be effective. To achieve and maintain this trust, a national police force must be free of corruption and uphold the highest standards of integrity and accountability." [39]

To illustrate just how immensely serious the issue of police corruption is, in the Namibian context, on a daily basis during the work week internal whistleblower or public complaints and allegations of police corruption, misconduct or maladministration can be read on the SMS pages of newspapers.

As for prosecutorial authorities, Namibian Prosecutor General Martha Imalwa (while also lamenting bottlenecks and backlogs ithroughout the criminal justice system over the years) has long complained of capacity constraints within her office as undermining its effectiveness.

Added to that, and in the context of fighting corruption, she stated at the National Anti-Corruption Conference in June 2015, that: "Criminal prosecution of corrupt

38. In the NACC Conference Proceedings (FINAL - email).pdf
39. https://www.unodc.org/unodc/en/corruption/police.html

practices should continue to be used, coupled with other methods, such as administrative sanctions as well as civil processes. The reason why I am saying so is because offences of corrupt practices are not always easy to prosecute. These offences sometimes have no complainants and they are not always committed in the open. Most people involved in these cases are people with a lot of money at their disposal and are able to hire the most experienced and expensive legal practitioners in the country or elsewhere in the world. These people are also capable of frustrating court proceedings by bringing up challenges after one another, especially during pre-trial proceedings, witnesses get frustrated by these prolonged processes until they are no longer willing to testify because of threats that might come their way or they might die before they give their testimonies.

"In some of these corruption cases the accused persons have also been criminally charged and the criminal trials have not commenced or been finalised due either to outstanding evidence awaited from other jurisdictions or suspects abscond from their criminal trials or due to the backlog of criminal cases experienced in our court system."

She concluded here remarks by stating: "If we have to fight corruption tooth and nail, we should examine all the loopholes we have in the system and at the same time we should not allow ourselves to be contributors in creating an environment for corruption and other unlawful activities for non-compliance or enforcement of existing statutes and policies."[40]

Concerning the "loopholes", from 2010 to 2015 Namibia was one of 35 first phase countries assessed for compliance with the UNCAC by the UNODC. In the first phase of assessments, the review team looked at states' performance on the implemention of provisions of chapters III (Criminalisation and law enforcement) and IV (International cooperation) of UNCAC. The chapter III assessments dealt specifically with the capability and preparedness of law enforcement and prosecutorial authorities in dealing with corrupt acts and practices.

On the whole, the review [41] found that Namibian law enforcement and prosecutorial authorities were underprepared and under-capacitated to deal with complex corruption investigations and prosecutions, echoing some of the remarks of Prosecutor General Imalwa quoted earlier. Broadly, the review found a situation characterised by a lack of "inter-agency co-ordination", "limited awareness of state-of-the-art special investigative techniques" and "shortage of investigative and expert capacity within law enforcement and regulatory sectors".[42]

More specifically, UNCAC states under Article 36 (Specialised authorities): "Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies or persons specialised in combating corruption through law enforcement. Such body or bodies or persons shall be granted the necessary independence, in accordance with the fundamental principles of the legal system of the State Party, to be able to carry out their functions effectively and without any undue influence. Such persons or staff of such body or bodies should have the appropriate training and resources to carry out their tasks."

Even though it is clear that what is referred to in this section of UNCAC is the creation of something like the Anti-Corruption Commission, it could also speak to specific units being created within the police and other law enforcement agencies to deal with corruption related matters and investigations.

However, what the UNODC review found was: "Limited capacity: Namibia would require capacity-building and training for its law enforcement personnel, in particular staff in the Anti-Corruption Commission, the Namibian Police, Prosecutor General's office, Financial Intelligence Centre in the Bank of Namibia, the Customs and Excise Department and immigration officials on the full implementation of the Financial Intelligence Act and Anti-Corruption Act, including handling and investigating corruption cases, depriving offenders of the proceeds of corruption, and sensitising staff to international best practices. Specifically, the Namibian police force indicated that it requires technical assistance in the specialist training of detectives in the following fields of investigation: money-laundering, cybercrime, tracing proceeds of unlawful activities, and tax evasion investigations."

> "If we have to fight corruption tooth and nail, we should examine all the loopholes we have in the system and at the same time we should not allow ourselves to be contributors in creating an environment for corruption and other unlawful activities for non-compliance or enforcement of existing statutes and policies."

40. In the NACC Conference Proceedings (FINAL - email).pdf
41. The UNODC report is downlowdable at: https://www.unodc.org/documents/treaties/UNCAC CountryVisitFinalReports/2016_01_29_Namibia_Final_Country_Report_.pdf
42. http://ippr.org.na/wp-content/uploads/2017/01/IPPR_Corruption_UNCAC.pdf

In the same vein, under Article 50 (Special Investigative Techniques) the convention states: "In order to combat corruption effectively, each State Party shall, to the extent permitted by the basic principles of its domestic legal system and in accordance with the conditions prescribed by its domestic law, take such measures as may be necessary, within its means, to allow for the appropriate use by its competent authorities of controlled delivery and, where it deems appropriate, other special investigative techniques, such as electronic or other forms of surveillance and undercover operations, within its territory, and to allow for the admissibility in court of evidence derived therefrom."

However, once again, the review found: "Limited awareness of state-of-the-art special investigative techniques."

Against this backdrop and given that all these statements and assessments are fairly recent, it is hard to imagine that these issues have been significantly addressed or resolved between January 2016 and late 2018.

KEY CONSIDERATIONS:

- Institutional and capacity weaknesses and deficits within law enforcement and prosecutorial agencies and authorities are contributing to inefficiencies throughout the Namibian criminal justice system;
- Namibian law enforcement and prosecutorial agencies are struggling to overcome entrenched skills and capacity shortcomings and do not appear to have made significant headway in this regard over the years, while corrupt practices have become more complex and sophisticated, both legally and technically.

BOX 6

What's become of the special corruption court idea?

Since about 2010 the idea of setting up a special corruption court to handle corruption cases has been mooted by various authorities, most notably the Director General of the Anti-Corruption Commission (ACC), Paulus Noa.

According to media reports, it appears that an attempt was made to set up such a court in 2016, but that attempt ultimately fell flat seemingly because of bureaucratic and administrative confusion.

The special corruption court would have been a branch of the High Court of Namibia mandated to "fast-track corruption cases" and "to look into other aspects of the law including procedural reforms such as further narrowing its jurisdiction, limiting postponements and improving case management".[43]

However, it seems the court, apparently at some stage operating from a Windhoek city centre building, quickly became "plagued by delays and inefficiency".

The situation apparently prompted Prosecutor General Martha Imalwa to write to responsible judicial authorities, cautioning that: "It has been noted with grave concern that some prosecutors are referring Regional Court cases, where accused have been charged with corruption related offences to the Special Corruption Court for trial."

Imalwa was further reported writing that: "Indubitably, the Special Corruption Court is correctly constituted to deal with corruption offences, however it must be noted that the Magistrate designated to the said court is not a duly appointed Regional Court Magistrate."

And it appears as if the initiative faltered some time after that, and has not been spoken of in a while.

BOX 7

The Anti-Corruption Commission and the justice system

Since the Anti-Corruption Commission (ACC) started functioning properly in 2007, basically 11 years ago, by end-May 2018 it had submitted 587 case to the Office of the Prosecutor General to consider for prosecution.

According to information provided by ACC permanent secretary, Hannu Shipena, "240 cases were in court, some dating back to 2007. Furthermore, ACC

43. https://thepatriot.com.na/index.php/2016/12/23/namibias-special-anti-corruption-court/

investigations had contributed to the state securing 118 convictions in corruption cases by May 2018, while 60 resulted in acquittals.

Over the years the Prosecutor General has declined to prosecute 86 cases, while nine case have been withdrawn. At the time of writing there were 50 cases waiting for a decision by the Prosecutor General. The ACC has also transferred five cases to the police, while five investigations had to be dropped because the accused had died.

Table: Anti-Corruption Commission case figures for the last three financial years

Financial Year	Number of cases investigated by ACC	Number of Cases referred to PG	Number of Cases in Court
2015/2016	172	29	13
2016/2017	168	48	30
2017/2018	158	62	33

6. CONCLUSIONS

When considering the state of the Namibian criminal justice system, the following broad issues bear spotlighting:

- Despite claims to the contrary, bottlenecks and backlogs continue to plague and undermine the delivery of justice and fuels negative perceptions of the rule of law and the criminal justice sector in Namibia;
- While judicial authorities have instituted measures to improve justice delivery they are still struggling to come to grips with system-wide institutional weaknesses;
- There can be no doubt that the shortcomings within the courts system are contributing to negative perceptions of the state's and specifically the criminal justice system's handling of especially corruption cases;
- On top of that, there appears to be widespread negative perceptions of the ethics of judicial officials;
- Such negative perceptions have cast a cloud of distrust over the judicial system and fuel perceptions of widespread corruption within judicial processes and the courts of law;
- In response, the judiciary has instituted ethical codes of conduct in line with the Bangalore Principles of Judicial Conduct in order to enhance ethical conduct and counter negative perceptions;
- Even so, it appears not much is being done to create awareness within public about the judicial codes of conduct of the judiciary.
- Institutional and capacity weaknesses and deficits within law enforcement and prosecutorial agencies and authorities are also significantly contributing to inefficiencies throughout the Namibian criminal justice system;
- Namibian law enforcement and prosecutorial agencies are struggling to overcome entrenched skills and capacity shortcomings and do not appear to have made significant headway in this regard over the years, while corrupt practices have become more complex and sophisticated, both legally and technically.

ANNEX 1

THE JUDICIAL SERVICE COMMISSION'S GUIDELINES FOR DELIVERY OF RESERVED JUDGMENTS IN THE HIGH COURT OF NAMIBIA, ADOPTED BY THE JUDGE-PRESIDENT OF THE HIGH COURT IN CONSULTATION WITH THE JUDICIAL SERVICE COMMISSION

NO	NATURE OF CASE	TIME FOR DELIVERY
1.	Opposed Motions: involving declaration of unconstitutionality of legislation, common law or other conduct	8 Months
	Review Applications	8 Months
2.	Other Opposed Motions	6 Months
3.	Urgent Applications	3 Weeks
4.	Simple Trial Actions (Civil)	4 Months
5.	Complex Trial Actions (Civil)	8 Months
6.	Bail Appeals	4 Weeks
7.	Simple Criminal Trials	4 Months
8.	Complex Criminal Trials	12 Months
9.	Civil, Criminal and Labour Appeals	6 Months
10.	Rule 6(11)[Interlocutory] and Rule 43 Applications	2 Weeks: Ordinarily only an order to be made, unless reasons requested in writing in which event reasons to be provided within 4 weeks from the date of such request.
11.	Application for Leave to Appeal	2 Weeks
	Criminal Sentence	2 weeks
	Special Pleas	4 weeks
	Trial Within A Trial	4 weeks
	Reasons	4 weeks
	Exception	2 weeks
	Rescission	2 weeks
	Bail application	1 week
12.	Exceptionally, on account of the special complexity of the matter or circumstances warranting different consideration, a matter will, in consultation between the presiding Judge and the Judge-President, be treated differently from what is stated in the guidelines.	

Note to Guidelines

- Concern is being expressed with increasing regularity by members of the public and the organized legal profession about what is perceived as inordinate delays by High Court judges in delivering reserved judgments; and

- Any perception that judges are not accountable and lack self-discipline erodes public confidence in the senior judiciary. It has therefore become necessary to lay down some guidelines for judges against which to measure complaints against judges for undelivered judgments.

- Should a judge, for any reason, not be in position to keep to the suggested deadline in a particular case, it is expected that such judge will take the initiative of discussing the matter with the Judge-President so that an objective assessment is made of when it would be most reasonable for the judgment to be delivered beyond the present guidelines, so that the parties are informed about the delay.

- The guidelines take effect on 1st December 2009.

ANNEX 2

DIRECTORATE SUPREME & HIGH COURT

HIGH COURT – MAIN DIVISION: 2016 / 2017 COMPARISON

Criminal Trials

	2016	2017
N brought forward from previous Legal Year (LY)	61	62
New Registrations	20	22
Cases Finalised	19	20
% of Cases Finalised	23.4%	23.8%

Criminal Reviews

	2016	2017
N brought forward from previous Legal Year (LY)	135	165
New Registrations	1782	1871
Cases Finalised	1752	1894
% of Cases Finalised	91%	93%

Criminal Appeals

	2016	2017
N brought forward from previous Legal Year (LY)	213	241
New Registrations	100	89
Cases Finalised	72	87
% of Cases Finalised	23%	26%

HIGH COURT – NORTHERN LOCAL DIVISION: 2016 / 2017 COMPARISON

Criminal Trials

	2016	2017
N brought forward from previous Legal Year (LY)	0	0
New Registrations	14	11
Cases Finalised	9	8
% of Cases Finalised	64.20%	72.70%

Criminal Reviews

	2016	2017
N brought forward from previous Legal Year (LY)	0	0
New Registrations	437	429
Cases Finalised	431	403
% of Cases Finalised	98%	94%

Criminal Appeals

	2016	2017
N brought forward from previous Legal Year (LY)	0	0
New Registrations	66	60
Cases Finalised	unkown	85
% of Cases Finalised	unkown	142%

PERMANENCE OF THE MAGISTRACY WITH STATISTICAL DATA: CRIMINAL CASES – LOWER COURTS
CALENDAR YEAR: 2017

January – March, 2017

N of old cases brought forward	20,871
New Cases Registered	5,983
Cases Finalised	6,918
Outstanding cases carried forward	19,936

April – June, 2017

N of old cases brought forward	19,936
New Cases Registered	5,635
Cases Finalised	5,501
Outstanding cases carried forward	20,070

July – September, 2017

N of old cases brought forward	20,070
New Cases Registered	6,371
Cases Finalised	7,299
Outstanding cases carried forward	19,142

October – December, 2017

N of old cases brought forward	19,142
New Cases Registered	6,805
Cases Finalised	5,684
Outstanding cases carried forward	20,263

New Cases Registered, 2017: 24,794
Cases Finalised, 2017: 25,402 (1608 reduction in pending cases)

CENTRAL ADMINISTRATION

CENTRAL ADMINISTRATION: VITAL STATISTICS
TOTAL ESTABLISHMENT
PERMANENT

Judges	35
Supreme Court	5
Acting	3
High Court	16
Acting	1
Magistrates	104
Staff members	761
TOTAL	**925**

TEMPORARY / ADDITIONAL TO ESTABLISHMENT

Judges	N/A
Magistrates	6
Staff members	78
TOTAL	**84**

COURT HOUSES

Supreme court	1
High Courts	2

MAGISTRATE COURTS

Permanent Courts	34
Periodical Courts	37

SOURCE OF FIGURES: OFFICE OF THE JUDICIARY

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ABOUT OPEN SOCIETY INITIATIVE OF SOUTHERN AFRICA (OSISA)

The Open Society Initiative for Southern Africa (OSISA) is a growing African institu- tion committed to deepening democracy, protecting human rights and enhancing good governance in the region. OSISA's vision is to promote and sustain the ideals, values, institutions and practices of open society, with the aim of establishing vibrant and tolerant southern African democracies in which people, free from material and other deprivation, understand their rights and responsibilities, and participate actively in all spheres of life. OSISA's mission is to initiate and support programmes working towards open society ideals and to advocate for these in southern Africa. Established in 1997, OSISA is part of a network of autonomous Open Society Foundations established by George Soros, located in Eastern and Central Europe, the former Soviet Union, Africa, Latin America, the Caribbean, the Middle East, Southeast Asia and the US. OSISA operates in ten southern African countries: Angola, Botswana, DRC, Lesotho, Malawi, Mozambique, Namibia, Swaziland, Zambia and Zimbabwe.

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The Institute for Public Policy Research was established in 2001 as a not-for-profit organisation with a mission to deliver independent, analytical, critical yet constructive research on social, political and economic issues that affect development in Namibia.

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