

**ADDRESS BY THE HONOURABLE CHIEF JUSTICE P.S.  
SHIVUTE AT THE SOCIETY FOR LAW TEACHERS OF  
SOUTHERN AFRICA CONFERENCE, 18 JANUARY 2017,  
SWAKOPMUND.**

Director of Ceremonies, Professor John Baloro;

Professor Lazarus Hangula, Vice Chancellor, University of  
Namibia;

Her Worship Pauline Nashilundo, Mayor of Swakopmund;

Ms. Lineekela Usebiu, Deputy Dean, University of Namibia;

Professor Tshepo Mongalo, President of the Society for Law  
Teachers of Southern Africa;

Distinguished Members of the Society for Law Teachers of  
Southern Africa;

Esteemed Guests;

Ladies and Gentlemen

I am honoured by the invitation to attend the opening and more  
so to have been asked to make some remarks as a prelude to our

proceedings at this prestigious conference whose theme is 'Land Reform: Lessons of Law, Good governance and Legal Education.'

Namibia is a secular, democratic and unitary state founded upon the principles of democracy, the rule of law and justice for all. The Namibian Constitution, being the supreme law, the rule of law includes the principle of separation of powers between the three branches of the State, namely the Executive, the Legislature and the Judiciary. These three branches are guarantors in their respective spheres of the rule of law, the promotion and protection of the fundamental human rights and the entrenchment of good governance.

Our Constitution provides in Article 16 for the right to all persons in Namibia to have a sense of security by acquiring land or immovable property which they can own individually or in association with others and which they can bequeath to their heirs as part of their legacies. Ownership of land is an enhancement of the quality of life; it represents a high degree of accomplishment. Our law further goes to protect property rights specifically for Namibian citizens and gives Parliament the power

to prohibit or regulate the right to acquire property by persons who are not Namibian citizens. Article 16 is thus an integral component in the fabric of society and contributes substantially to social development.

Director of Ceremonies,

The biggest threat to our land in Southern Africa and elsewhere is the environmental impact caused by Climate change. This is a global phenomenon, and has hit Southern Africa very hard, with the already dry climate. Climate change here at home has brought about a devastating drought which has resulted in the declaration of a State of emergency in June 2016. Regionally due to the draught, the Southern African Development Community (SADC) has declared a Regional Drought Disaster. The drought affects approximately 39 million people in the SADC region. This state of affairs severely affects the agricultural output and means of sustenance for both our people and livestock. The need for survival becomes an even greater objective. As we are aware, the fight for survival on land has created numerous disputes, either in the form of livestock owners seeking pasture, or farmers



looking for fertile land for crop production. This situation threatens stability. The best course of action is for the laws to awaken to the changing times; so that we strengthen the enforcement of the environmental laws that seek to preserve our land, one of our greatest treasures. Our policy goals should be directed to preserve the natural heritage, biodiversity and life supporting ecosystems in Southern Africa. I urge you to champion the cause to protect our environment, our land, so that this precious treasure has defenders for posterity. Institutions such as the faculties of law through teaching, publication, running change projects and organising conferences such as this, have the power to influence policy, law and strategy, and to generally ensure good governance. At the judiciary level we will continue to host sensitization programmes on environmental law in Namibia for judges and magistrates.

Our historical background dating back to the colonial years has created an uneven distribution of land, characterised mainly by large tracks of commercial farming land, state owned land and the land held by local communities under customary land rights, often referred to as communal areas. The biggest challenge we are facing now is the provision of accessible and affordable land

to all sectors in our communities. The challenge of landlessness is further interconnected with low income. Urbanisation has created high population densities which are placing greater demand on cities and towns for the provision of basic amenities. Consequently land is now earmarked for city and town expansions coupled with infrastructure development, which is a costly exercise that drives the cost of land to exorbitant prices. This expansion often involves taking land held by customary land rights for hundreds of years by local communities.

The growing interest in land investments by local or foreign investors increases the value of land, out of reach of the locals who fall under middle income to poor communities, and let us not forget that these people make up the majority of our populations. This drive for land creates diminished plot sizes, high rental and purchase prices. As teachers of law with a wealth of knowledge, it is time that you assist our governments by advising on policy formulation that is equitable and creating inroads towards accessible and affordable land for our communities.



There is a need to inform our people of their rights concerning the registration of land they occupy and the security that lies in that registration. It is also important as scholars that you take up the task of educating our people on the processes of registration whether it is the registration of customary land rights or by way of title deeds.

#### Distinguished delegates

It is true that education still remains the greatest equaliser. For our people in the region to fully understand and appreciate the basic workings of our State Institutions, especially our judiciaries and the effect they have on our citizens here and in many countries, it is important that our curricula include basic legal education for all fields of studies at our universities. This is important for citizens not only to know their rights but also to enforce them, so that we start building a wider reservoir of public opinion. Doubtless, public opinion sways government policies. This in turn paves the way for good governance. Governments are more responsive to the needs of the people if there is an environment of scrutiny, free opinion and accountability.

An educated society is highly productive and elevates both the social and economic development of a country. It further generates innovative and critical thinkers who become the driving force of a country, which is what our countries need. One sees a greater transfer of knowledge as it is passed on from generation to generation in curricula. The retention of the wealth of the knowledge also increases. I am therefore grateful that the University of Namibia's Faculty of Law was able to convene and host the Society of Law Teachers of Southern Africa Conference 2017, bringing together many universities in Southern Africa – where teachers of law can discuss land reform: the lessons of law, good governance and legal education. Law is the backbone of a government and its country. The legal system of a country greatly influences policy, the basic principles by which our governments are guided.

Law regulates all aspects of our lives even the most basic of aspects. If we can have legal education widely spread amongst our people, we will begin to unlock the successes of many great governments and institutions, part of the secret lies in having



legally trained persons at the helm or forming part of the team of decision makers. As Nelson Mandela once said:

*“Education is the most powerful weapon which you can use to change the world.”*

I therefore implore all teachers of law to continue earnestly, the work of moulding legal professionals. Over the years I have interacted with law graduates here at home and beyond, I must frankly say the standards of some of these graduates leaves much to be desired. This is not a good state of affairs for the legal profession. We must endeavour to enhance the standard of education and continuously innovate our curricula, so that the graduates that we send out into the world are first class; products that we can be proud of and say, this indeed is the cream of our nations.

Ethics and good conduct are what depict law as a noble profession. Legal work is an undertaking of selfless service to create social order and balance within our societies. Sadly, the legal profession has been over-commercialised, it is a way of simply earning money and it is sometimes characterised by professionals with bad conduct. Often exemplified by multi-



disciplinary hearings that are brought to the Law Societies; many professionals are unwilling to follow the rules of conduct as expected in our jurisdictions in the course of practice; by disciplinary hearings involving students at law faculties at universities. Unpalatable cases of plagiarism regularly reported at our institutions of high learning; students unwilling to listen, to be taught and counselled the right way. Ethics and good conduct are the backbone of the legal profession. The ethical code of conduct should be taught with vigour so that it is embedded in the graduates from our universities. Graduates should be associated with honesty, fairness, honour, and not over-reaching, a bad attitude towards the court, law enforcement agencies and other colleagues. It should be engraved in our graduates that even if the other person is wrong, there is no room for discourteous behaviour towards the other person. Law is an old and noble profession and it should continue to be guarded as such.

We are training future law teachers, judicial officers, prosecutors, court administrators, and legal officers. Let us ensure that we are effective in that duty and let us give the best legal education possible. We are all educators, teachers of law, be it a judicial

officer such as myself. We must use the abilities and opportunities we have to make an impact and impart the knowledge that will ensure the protection of our land, good governance and effective legal education systems.

Director of ceremonies, distinguished delegates

I have recognised that there are challenges to which we cannot turn a blind eye, however times are critical, we are therefore required to be leaders in our fields. I cannot help but say, this must have been evident to the University of Namibia's Faculty of Law, along with the members of the Society of Law Teachers of Southern Africa. The theme was well chosen and this is the time to discuss issues surrounding land reform, good governance and legal education.

Distinguished delegates

I found that there was no exhaustive definition of good governance. It is an elusive concept and it can have a myriad of meanings depending on the context under which it is being



discussed. However, what is of importance is the participation of civil society in governance, by lobbying governments about matters of interest affecting members of society. This promotes and enhances democratic governance. We need to develop civil societies within our countries that are independent from government to push governments towards processes that are transparent, and to cultivate an attitude of accountability. This is especially essential at a time when reports of corruption are rife in Southern Africa. I therefore urge teachers of law to assist in the training of the civil society, this training should be offered from a legal perspective, as this will assist the civil society in understanding the processes that underpin our governments and institutions. We should all commit to the education of our people.

On a light note, I am pleased that the organisers chose Swakopmund as the venue of the conference. Swakopmund is our premier and pristine holiday destination, a place where the desert meets the shoreline. If you have not already done so, I implore you to extend your stay and visit the country side to appreciate the natural beauty of Namibia and to experience for

yourself why this country is called the land of contrasts and open spaces.

I wish you fruitful deliberations and a successful conference.

I thank you.