

DAILY
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YOUR VOICE IN PARLIAMENT



THE SECOND MEETING OF THE THIRD SESSION
THE ELEVENTH PARLIAMENT

WEDNESDAY 8 MARCH 2017

ENGLISH VERSION

HANSARD NO. 187



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Hon. Dr. A. Madigele, MP. (Mmathethe - Molapowabojang)	- Minister of Tertiary Education, Research, Science and Technology
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Hon. G. B. Butale, MP (Tati West)	- Assistant Minister, Investment, Trade and Industry

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Names	Constituency
RULING PARTY (Botswana Democratic Party)	
Hon. S. M. Guma, MP	Tati East
Hon. C. De Graaff, MP	Ghanzi South
Hon. L. Kablay, MP	Letlhakeng - Lephephe
Hon. M. N. Ngaka, MP	Takatokwane
Hon. S. Lelatisitswe, MP	Boteti East
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(Umbrella for Democratic Change)	
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Hon. G. S. M. Mangole, MP	Mochudi West
Hon. W. B. Mmolotsi, MP	Francistown South
Hon. A. S. Kesupile, MP	Kanye South
Hon. N. S. L. M. Salakae, MP	Ghanzi North
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Hon. Dr. T. O. M. Mmatli, MP	Molepolole South
Hon. S. Ntlhaile, MP	Jwaneng -Mabutsane
Hon. M. I. Khan, MP	Molepolole North
Hon. H. G. Nkaigwa, MP	Gaborone North
Hon. I. J. Davids, MP	Mochudi East
Vacant	Tlokweng
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Hon. D. L. Keorapetse, MP	Selebi Phikwe West
Hon. S. O. S. Rantuana, MP	Ramotswa
(Independent Member of Parliament)	
Hon. T. Moremi, MP	Maun West

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Wednesday 8th March, 2017

THE ASSEMBLY met at 2:00 p.m.

(THE SPEAKER in the Chair)

P R A Y E R S

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SPEAKER'S ANNOUNCEMENTS

MR SPEAKER (MR MOLATLHEGI): Good afternoon Honourable Members. I have two announcements today. The first one is that there will be no General Assembly tomorrow. The second one is that the Chairperson of the Parliamentary Caucus on Women Committee, is inviting you to the commemoration of the International Women's Day which will be held at Parliament grounds tomorrow at 9 o'clock. All men are encouraged to come and support women. Men's day will be celebrated once you have planned for it. So tomorrow let us go and support our women. Let us continue with the business today by doing questions.

HONOURABLE MEMBER: Clarification!

MR SPEAKER: No, for announcements there is no clarification Honourable Spuna.

HONOURABLE MEMBER: Procedure Mr Speaker!

HONOURABLE MEMBER: Elucidation!

MR SPEAKER: No, there is no elucidation, procedure or point of order; straight forward announcements, take them as they are.

HONOURABLE MEMBER: Procedure Mr Speaker, the Order Paper is irregular.

MR SPEAKER: No, there is no irregularity in the Order Paper. Let us go to questions.

QUESTIONS FOR ORAL ANSWER

TOTAL NUMBER OF DIAMOND SIGHTS HELD ANNUALLY SINCE RELOCATION TO BOTSWANA

MR S. NTLHAILE (JWANENG-MABUTSANE): asked the Minister of Mineral Resources, Green Technology and Energy Security to brief this Honourable House on the total number of diamond sights held annually since the relocation of the Diamond Trading Company to Botswana and to further state:-

- (i) The total number of sight-holders at each sight;
- (ii) The length of their stay in the country; and
- (iii) The total amount of money deposited with Botswana banks.

ACTING MINISTER OF MINERAL RESOURCES, GREEN TECHNOLOGY AND ENERGY SECURITY (MR MOLEFHI): Mr Speaker, De Beers Global Sightholder Sales (DBGSS) hosts sales ten

(10) times a year, taking place every five (5) weeks. These selling events are known as Sights. Since the establishment of Diamond Trading Company Botswana, (relocation of De Beers from London) to date, a total of thirty-four (34) Sights have been held in Botswana.

- (i) De Beers Global Sightholder Sales has in their books, ninety-four (94) customers who attend Sights as and when they have an allocation. Each Sight takes five (5) days on average. Plus or minus ninety per cent (90) of the De Beers customers attend the Sight. Further, each customer is represented by plus or minus three (3) people who will carry out the valuation of diamonds being sold. This means that a total of 250 plus or minus, attend the Sight on behalf of their respective companies.
- (ii) Sight holders spend, on average, one (1) night in Botswana. The length of their stay however is influenced by other commitments they may have in the country.
- (iii) Sight holders settle all their diamond sales from DBGSS through Botswana local banks and the amount transacted depends on the size of the Sight. Since relocation of the Diamond Trading Company to Botswana, that is up to the end of 2016, a total of approximately US\$15 billion has been settled through Botswana banks.

I thank you Mr Speaker.

MR NTLHAILE: Supplementary. Minister, please explain to us how we are can be able to know the type of diamonds the buyers have bought, do you maybe have a register where you record the number of diamonds that were sold?

MR MOLEFHI: Thank you Mr Speaker. All diamonds that are sold have a certificate of Kimberly process to certify their origin and price. Thank you.



MR NTLHAILE: Further supplementary. The other question Minister is for you to tell us why during this diamond sale, we are now seeing members of the BDP executive Committee? Some of them are also part of the Debswana Executive Committee. Can this make Batswana to trust that all the proceeds from the diamond sale went to the Government or part of it is taken to the BDP fund?

MR MOLEFHI: Madam Speaker, in this country, everyone is free to venture into any business that they have the interest and the capability of doing. Secondly, there are no boundaries that segregate people because of their political affiliations. Everybody has a right to join a political party of their choice.

Like I explained, there is a diamond buying process whether they are bought through De Beers or any other company that buys during the sales. The purchasing process is controlled by companies and their businesses. Like I indicated, there are companies that buy from De Beers, from what they said there are ninety-four (94) customers who have registered lawfully.

After the companies buy the diamonds, the buying process does not determine which small companies these diamonds can then be sold to. So I cannot say there is anybody who is not doing things right. As far as I know, there is no diamond sale from Debswana whose proceeds were diverted to BDP.

MR NTLHAILE: Further supplementary. Minister since Debeers sells diamonds for Batswana, can you tell us why it is so difficult for the financial statements for De Beers and Debswana to be open and accessible to the public just like other companies are doing because it is Botswana's heritage?

ACTING MINISTER OF MINERAL RESOURCES, GREEN TECHNOLOGY AND ENERGY SECURITY (MR MOLEFHI): I do believe that we receive annual reports from public companies and if there is a gap that the Honourable Member has noticed, there are Parliamentary committees that can be called so that the reports can be presented to them. I believe that since De Beers is a non-governmental organisation, books of accounts and financial statements are given to shareholders. Since Debswana is a public company, if there is something that needs to be clarified from their financial reports then the relevant Parliamentary Committee can call the Chief Executive Officer of Debswana to come and give the report.

SALE OR AUCTION OF BOTSWANA DIAMONDS IN FOREIGN COUNTRIES

MR S. NTLHAILE (JWANENG-MABUTSANE): asked the Minister of Mineral Resources, Green Technology and Energy Security if he is aware of any diamonds originating from Botswana sold or auctioned in foreign countries since 2014; if so, to state:-

- (i) the total number and value of such diamonds by category, including exceptional ones; and
- (ii) who represented Botswana in such sales or deals.

ACTING MINISTER OF MINERAL RESOURCES, GREEN TECHNOLOGY AND ENERGY SECURITY (MR MOLEFHI):

Mr Speaker, De Beers Global Sight holder Sales aggregates productions from Botswana that is from Debswana, Canada, Namibia and South Africa. The aggregated diamonds are then sold to international diamondaires through the De Beers offices located in Botswana (De Beers Global Sight holder Sales), Namibia (Namibia Diamond Trading Company), Singapore (De Beers Auction Sales) and South Africa (De Beers Global Sight holder Sales). In view of the fact that Botswana diamonds are aggregated into De Beers mixture, indeed the diamonds originating from Botswana have been sold or auctioned in foreign countries.

- (i) In view of the foregoing, I am unable to quantify the total number and value of diamonds sold or auctioned in foreign countries since 2014.
- (ii) De Beers has two (2) shareholders, Anglo American (85 per cent) and the Government of the Republic of Botswana (15 per cent). Through the De Beers Global Sight holder Sales network, aggregated diamonds are sold globally by De Beers, representing both Anglo American and the Government of Botswana.

Mr Speaker, let me also mention that all diamond sales conducted by Okavango Diamond Company have taken place in Botswana. Sales of diamonds by other entities are through channels approved by the Minister responsible for minerals and Government is not represented at such sales or auctions.

I thank you.

MR NTLHAILE: Supplementary. Minister, if the government is not able to give the quantity and the value of the diamonds sold to foreign countries, how



do we ascertain as Batswana that, these diamonds do not slip through our fingers and that the profits are not channelled to somebody else who is in this House? We need clarity on that...

HONOURABLE MEMBER: Procedure.

MR SPEAKER: Honourable Ntlhaile, what you are doing is not right. I said ask a supplementary question and now you are imputing improper motives. Please stand and withdraw that statement, and ask a proper supplementary question.

MR NTLHAILE: Mr Speaker, I did not impute improper motives, I did not mention any names.

MR SPEAKER: Honourable Member, do as I ordered you.

MR NTLHAILE: Okay, what I wanted to understand Mr Speaker is...

MR SPEAKER: Honourable Ntlhaile, withdraw that statement and ask a proper question.

MR NTLHAILE: I want to understand is that, since the Minister is unable to tell us the value of the diamonds sold to foreign countries, how will Batswana know that the proceeds from those diamonds return to Botswana?

MR MOLEFHI: Mr Speaker, I have explained that all diamonds that are in Botswana are from Canada, Republic of South Africa and Namibia, and after they are being collected here, the aggregation that I talked about earlier on, those Sight Holders traders buy these diamonds, from the same group, the sale takes place here in Botswana. When they trade outside the country, then we would have done our part in selling to them, we do not control how they trade with these diamonds because we would have sold the diamonds to them. Therefore this is why we cannot account for every diamond which is being auctioned in those countries because we would have sold those diamonds to them and whatever happens after the sale, we do not have control over. That is what I was saying.

MR NKAIGWA: Supplementary. Thank you Mr Speaker. You are not telling us the truth. Please explain in detail so that Batswana should know that Okavango Diamond Company as it represents the Government of Botswana at 15 per cent of the sales for diamonds in Botswana, De Beers representing 85 per cent of the sales...

MR SPEAKER: Honourable Member, short question, we do not have time.

MR NKAIGWA: I just need him to clarify.

MR SPEAKER: Short question, ask a question.

MR NKAIGWA: Mr Speaker, it is important that...

MR SPEAKER: Honourable Nkaigwa...

MR NKAIGWA: The Honourable Minister has not been responding well.

MR SPEAKER: Honourable Nkaigwa, ask your short supplementary question, do not debate.

MR NKAIGWA: What I am trying to say is, how can you account for the 85 percent of the sales made from diamonds in Botswana because Okavango Diamond Company operates from here while De Beers Company is not run here in Botswana. That is why De Beers has been reluctant to sell diamonds since 2014 to date.

MR MOLEFHI: The Honourable Member will have to ask a new question and the process will be explained to him regarding the Okavango Diamond Company. I had explained that the Okavango Diamond company trades on the diamonds it gets here in Botswana. De Beers would have taken their share as well, like I have explained in my response. Then from there, these aggregated diamonds are being bought by other countries. The De Beers customers buy them and decide what they do with them as such, we cannot know what really happens after that. That is all that I was explaining.

HONOURABLE MEMBER: Supplementary.

MR SPEAKER: No, I had said it was the last one.

MR MAJAGA: Thank you Mr Speaker. This question was dealt with before Parliament. Thank you.

MALFUNCTION OF INTERNAL STREET LIGHTS AT GHANZI SENIOR SECONDARY SCHOOL

MR N. S. L. M. SALAKAE (GHANZI NORTH): asked the Minister of Basic Education:-

- (i) if she is aware that the internal street lights at Ghanzi Senior Secondary School have not been working in a long time and therefore exposes the school to a serious risk of crime;
- (ii) whether they are budgeted for under the 2017/2018 Financial Year; and



(iii) how much is the budget.

MINISTER OF BASIC EDUCATION (DR DOW):
Thank you Mr Speaker.

- (i) Mr Speaker, I am aware of the condition of the Ghanzi Senior Secondary School street lights.
- (ii) Ghanzi Senior Secondary School is due for refurbishment in 2017/18 financial year during which the street lights will be attended.
- (iii) The budget for refurbishment is P55.6 million. I thank you.

HONOURABLE MEMBERS: ...(Murmurs)...

MR SPEAKER: Honourable Members there is some noise from my right. Honourable Tshireletso, Honourable Molao, Honourable Shamukuni, Honourable Ralotsia, Honourable Mabeo and Honourable Madigele, it is noisy. I am surprised that even when I say it is noisy, you continue chatting. It means that you are not paying any attention to me today. There will be trouble in this Parliament.

MR SALAKAE: Supplementary. Thank you Mr Speaker. Honourable Minister, financial year is a long period, can you not explain to this Parliament the exact time this budgeted project will commence; is it the middle of April to March next year, when exactly, tentative date?

DR DOW: Thank you very much Honourable Member. Thank you very much Mr Speaker. Mr Speaker, I am unable to say exactly when because I am sure you are aware that in terms of Government budgeting, you do not commit until you have the money. So the money will come as in the project plan. From the 1st April 2017, only then can we legally issue a tender or an Invitation To Tender (ITT). But certainly it is within the Economic Stimulus Programme (ESP) projects of 2017/2018. This process will commence on the 1st of April 2017 onwards.

**UPDATE ON THE POLICY OF GOVERNMENT
ON COMMUNITY RADIO STATIONS AND
THEIR LICENSING**

MR D. L. KEORAPETSE (SELEBI PHIKWE WEST): asked the Minister for Presidential Affairs, Governance and Public Administration to update this Honourable House on the policy of Government on community radio stations and their licensing and specifically to state:-

- (i) the number of applications received for community radio stations;
- (ii) the communities or geographical areas applicants sought to operate at; and
- (iii) the number of successful, failed or deferred applications respectively.

Question 10 - Later Date.

BURIALS IN UNGAZETTED AREAS

MR H. B. BILLY (FRANCISTOWN EAST): asked the Minister of Local Government and Rural Development what his Ministry is doing to stop burials in ungazetted areas.

ASSISTANT MINISTER OF LOCAL GOVERNMENT AND RURAL DEVELOPMENT (MR VAN DER WESTHUIZEN): Mr Speaker, Section 44.1 of the Local Government Act, 2012, empowers Councils to make bye laws for maintenance of health, environment, safety and wellbeing of the inhabitants of an area.

To control and regulate burials, Councils establish, designate and identify areas within the jurisdiction as cemeteries. They have thus developed Cemetery Bye Laws to ensure that no person buries or cause to be buried a body in a place other than a cemetery.

A number of Councils have developed Cemetery Bye Laws to guard against burials in ungazetted areas. These Councils include; Central District Council, Francistown City Council, Gaborone City Council, Lobatse Town Council, Kgatleng District Council, Jwaneng Town Council and Selebi Phikwe Town Council.

I would like to underscore that not many cases or incidences of burials in ungazetted areas have been reported. Nonetheless, my Ministry will continue to encourage Councils to be more vigilant and enforce the bye laws to guard against this happening in the future. Thank you.

MR LELATISITWE: Supplementary. Thank you Minister. I am not sure what this other Council is called but what do the bye laws say?

HONOURABLE MEMBER: South East District.

MR LELATISITWE: South East District, because they bury in their homes. What do their bye laws say about that?



The other one is that, are you aware that in areas such as Boteti there are people who are under the care of Government and some of them bury their dead at the cattle posts? The vehicles that are commissioned by Council to carry the coffins go to these cattle posts for burial.

MR VAN DER WESTHUIZEN: Mr Speaker, the first question I did not get it very clearly.

MR LELATISITSWE: Okay, I was asking if Tlokweng homes are gazetted cemeteries.

MR VAN DER WESTHUIZEN: Mr Speaker, let me choose not to answer that one today because maybe I would need more information as to justify why burials are taking place the way they are in Tlokweng.

Burials taking place in ungazetted cattle posts or farms, I think that is not regulated. The people still have the right to bury their beloved ones maybe on private property.

MR MMOLOTSI: Further supplementary. Following on your last answer Minister, did I hear you well saying that people still can bury their loved ones in their private properties?

MR VAN DER WESTHUIZEN: Well, if I have to answer honestly, then I will have to refer to the bye laws as to what is officially allowed. I can accept that is the practice that is happening. But one will have to go into what is defined within the bye laws.

COMMENCEMENT OF THE ECONOMIC STIMULUS PROGRAMME (ESP) PROJECTS AT GHANZI SENIOR SECONDARY SCHOOL

MR N. S. L. M. SALAKAE (GHANZI NORTH): asked the Minister of Basic Education why the Economic Stimulus Programme (ESP) projects that were promised to have started in September 2016 at Ghanzi Senior Secondary School have not commenced yet.

MINISTER OF BASIC EDUCATION (DR DOW): Thank you Honourable Member. Thank you Mr Speaker. I believe this question has really been answered in part. First of all to say that, I am not aware of any Economic Stimulus Programme (ESP) project at Ghanzi Senior Secondary School scheduled to start in September 2016. What I know is that, that particular project was in Phase 2 of ESP projects. Indeed in February 2017, my Ministry initiated the process of scoping the work for Ghanzi Senior Secondary School to ensure that during this coming financial year, 2017/2018, the sum of P55.6

million is set aside for refurbishment of Ghanzi. Thank you very much sir.

APPOINTMENT OF HIS LORDSHIP THE CHIEF JUSTICE AS HEAD OF ALL COURTS

MR H. B. BILLY (FRANCISTOWN EAST): asked the Minister of Defence, Justice and Security whether it is not time for his Lordship the Chief Justice to be made head of all courts and to sit at the Court of Appeal.

MINISTER OF DEFENCE, JUSTICE AND SECURITY (MR KGATHI): Thank you Mr Speaker. Mr Speaker, in accordance with Section 95 of the Constitution, which provides for the jurisdiction and composition of the High Court, the Honourable Chief Justice is the Head of all Courts by virtue of him being the Head of the Judiciary. Furthermore, in accordance with Section 99 (2)(c) of the Constitution, the Honourable Chief Justice is a Justice of the Court of Appeal and therefore sits on the Court of the Appeal Bench from time to time as he may determine, on the basis of the volume of work. I thank you Mr Speaker.

IMPLEMENTATION OF THE 1994 REVISED NATIONAL EDUCATION POLICY

MR N. S. L. M. SALAKAE (GHANZI NORTH): asked the Minister of Basic Education:-

- (i) why her Ministry has reneged on implementing the 1994 Revised National Education Policy with respect to the recommended number of children per class as well as the recommendation against automatic progression;
- (ii) whether she is aware that classes at Itekeng Junior Secondary School in Ghanzi are full to the extent that two (2) classes use the school hall which is not partitioned, with no blackboards hence making learning and teaching very difficult and complex;
- (iii) what measures have been put in place to control this anomaly; and
- (iv) how much is the budget.

MINISTER OF BASIC EDUCATION (DR DOW): Mr Speaker, my Ministry has not reneged on implementing the 1994 Revised National Policy on Education (RNPE) with respect to the recommended number of children per class. The reality on the ground is that sometimes because of pressure of the population in that area classes do exceed the recommended forty



(40) pupils per class, but in many cases the class sizes are much less than 40, and in small communities they are even smaller than twenty (20). The point I am making Mr Speaker is that there is no policy change, but the on the ground sometimes reality demands that we allow more children in a classroom than 40.

On the issue of the repeats, with reference to Recommendation 234 on automatic promotions, my Ministry adheres to the recommended repetition of up to 12.5 per cent in each class. The reality again on the ground is that sometimes parents are not willing to allow their children to repeat because in terms of our policy, there must be a communication on agreement between parents and teachers on that, and sometimes because of pressure again of the demands on the ground, this particular policy is not always adhered to.

- (ii) Mr Speaker, I am aware of the overcrowding at Itekeng Junior Secondary School which is operating with twenty six (26) classes and eighteen (18) classrooms. Currently one (1) class uses the hall for lessons.
- (iii) As the class follows the timetable, the students of the class rotate to other rooms as they attend optional subjects. There is a movable chalkboard used by the class in the hall.
- (iv) Under the Economic Stimulus Programme (ESP) there is an additional science laboratory to be constructed in the school this year at an estimated cost of P480,000; that should also reduce the pressure on the classroom. Thank you very much.

MR SALAKAE: Supplementary. Honourable Minister, I thank you very much for that response, but I think with respect to (i) you and me know that you are being a bit dishonest on that one, with respect to the fact that, you believe that the reason why the classrooms are full occurs in certain instances. Is there any school in Botswana which you can confirm to be fully implementing the Revised National Policy on Education with respect to the teacher ratio? Thank you very much.

DR DOW: Thank you. Mr Speaker, I take exception to the suggestion that I am being dishonest, and I think that is an insult, but I am sure you can know someone by the way they talk to you not learning from what they say. In terms of the class list, I will bring your class list tomorrow...

HONOURABLE MEMBER: ... (Inaudible)...

DR DOW: What are you saying? I am not talking to you, but the person who has been listening to me.

HONOURABLE MEMBERS: ... (Laughter!)...

DR DOW: In terms of the class list...

MR SPEAKER: Stop fighting.

HONOURABLE MEMBERS: ... (Murmurs)...

DR DOW: Since you are asking for numbers, I will bring you a list because I did not know that you will render me dishonest. Do you hear me? Do not ever say I am dishonest, that is not a very nice word.

HONOURABLE MEMBER: Supplementary.

MR SPEAKER: Last one Mr Ntlhaile.

MR NTLHAILE: Supplementary. Thank you Mr Speaker, I think the Minister is not clear on this issue because the way the question is framed, it falls under the Minister's portfolio and it was her duty to establish the percentage of the classes that are beyond the recommended ratio and those that are within. It is a very basic and simple ratio which should be easy to establish. So, answer the question and stop being cagey.

MR SPEAKER: You do not need to fight, just ask your question calmly and you will get your answer.

DR DOW: What does ratio mean...

HONOURABLE MEMBERS: ... (Murmurs)...

MR SPEAKER: Order! There is too much noise.

DR DOW: No, that was not the question; the question was about recommended number of children per class, there is a difference between teacher/student ratio and the number per class. Do you understand? As a matter of fact, in some schools especially those in the major villages including Ghanzi Township, the class sizes are within the recommended number. So, tomorrow I will furnish you with the numbers.

PROVISION OF TRANSPORT TO EMPLOYEES BY CHAIN STORES

MR H. B. BILLY (FRANCISTOWN EAST): asked the Minister of Employment, Labour Productivity and Skills Development if his Ministry does not consider it prudent to come up with a law that will compel chain stores to provide transport for their employees:-



- (i) who start work in the early hours of the morning; and
- (ii) those who knock off late at night as they fall prey to criminals who way lay them to rob them of their valuables and sometimes murder them.

MINISTER OF EMPLOYMENT, LABOUR PRODUCTIVITY AND SKILLS DEVELOPMENT

(MR MABEO): Mr Speaker, my Ministry does not have immediate plans to come up with a law that will compel chain stores...

HONOURABLE MEMBERS: ...(Murmurs)...

MR SPEAKER: Wait a minute Honourable Mabeo. Honourable Members do I have to continue reprimanding you for making noise more than once? That is not necessary. Please pay attention. Honourable Mabeo proceed.

MR MABEO: Mr Speaker, my Ministry does not have immediate plans to come up with a law that will compel chain stores to provide transport for their employees who start work in the early hours of the morning and those who knock off late at night.

Mr Speaker, our employment laws do not compel employers to provide transport for their employees who start work in the early hours of the morning and those who knock off late at night; however employers have a moral duty to take keen interest in the welfare of their employees. In this regard, they should at their own will, consider providing transport to their employees who go to work during early hours or those who knock off late at night.

Mr Speaker, provision of transport is a condition of service and therefore a negotiable item. Employees may also negotiate with their employers to provide transport to and from work during specified hours of the day. Once the employees and employers agree on this issue, it will be stipulated in the collective labour agreement or contract of work, and will be binding on the employer.

In conclusion, I encourage all employers to be considerate and safeguard the welfare of their employees by ensuring that their safety is not compromised. I thank you Mr Speaker.

MR KGOROBA: Supplementary. Thank you Mr Speaker. Honourable Mabeo, it is a moral obligation on the side of the employer, but they are not doing that. I have people in my constituency, who have lost their lives because they knocked off late and they did not have transport. Do you not consider it necessary to

have a provision in the law that binds these companies to provide transport for their employees who knock off late?

MR MABEO: Mr Speaker, I have noted what the Honourable Member has said, I will continue engaging the relevant stakeholders. I thank you Mr Speaker.

HONOURABLE MEMBER: Supplementary.

MR SPEAKER: Yes, last one.

MR LELATISITSWE: Supplementary. Thank you so much, can the Honourable Minister enlighten us on the last review of the laws that he is referring to? Looking at the one on the table, and the number of the companies that have employees knocking off late, is it not time for the Ministry maybe to come up with either a policy or something?

MR SPEAKER: You are asking new questions altogether, I am not sure if the answers are readily available?

MR MABEO: Thank you Mr Speaker, and Honourable Member. I am not in a position to confirm when these laws were last reviewed. I think I can find out for you and bring the answer tomorrow.

Secondly, I was saying that we are aware of that challenge and that is why in my response to the Mogoditshane MP's question, I said we will continue to converse with those affected but we do not know how many companies are doing that. We depend on people when they come to lodge complaints with us. Thank you Mr Speaker.

HONOURABLE MEMBER: Further supplementary.

MR SPEAKER: I said that was the last one.

TABLING OF PAPERS

The following papers were tabled:

SUPPLEMENTARY ESTIMATES OF EXPENDITURE FROM THE CONSOLIDATED FUND – FINANCIAL PAPER NO. 4 OF 2015/2016

(Minister of Finance and Economic Development)

SUPPLEMENTARY ESTIMATES OF EXPENDITURE FROM THE CONSOLIDATED FUND – FINANCIAL PAPER NO. 3 OF 2016/2017

(Minister of Finance and Economic Development)



HONOURABLE MEMBER: Procedure.

MR SPEAKER: Wait Honourable Member, I have not finished what I am doing here. Honourable Ntlhaile, what is your point of procedure?

MR NTLHAILE: On a point of procedure. Mr Speaker, how come that you are talking about supplementary while we are still debating the Budget?

MR SPEAKER: Honourable Member, look at those years. Those are the past years and you will understand as you read them. There are notes there where it is explained what these supplementary funds are requested for. You will understand Honourable Member, do not worry.

HONOURABLE MEMBER: Procedure.

MR SPEAKER: Are we going to spend more time on procedures? And I am standing. It can never be allowed while I am standing. It is unheard of.

MINISTER OF HEALTH AND WELLNESS (MS MAKGATO): Mr Speaker, is it procedural that an Honourable Member who has been here for three years does not know how the supplementary for the previous year and the upcoming Budget are related? Is that procedural?

MR SPEAKER: The reason why I was reluctant is that I suspected that you want to provoke others. So let us proceed. It is never too late to learn. We learn every day even in our old age.

**STATEMENT BY THE CHAIRPERSON OF THE
PARLIAMENTARY CAUCUS ON WOMEN**

CHAIRPERSON OF THE PARLIAMENTARY CAUCUS ON WOMEN (MS TSHIRELETSO): Thank you Mr Speaker. Mr Speaker, it is that time of the year when the world takes a moment to celebrate women around the world by commemorating International Women's Day. The 8th of March is a significant day for all women globally. It is a day that we as women take time to appreciate ourselves and each other, focus on the extraordinary and encouraging stories of women and recognise the strides we have made in working towards gender equality. On this day, we celebrate women who have and will continue to motivate the world for generations to come.

The commemoration of this day serves to create awareness on the origins of the International Women's

Day and celebrate the achievements, contributions and efforts made by women in their societies and highlights the struggles they experience in the entire development process. It seeks to open discussions on women's past challenges and successes, with a view to finding solutions to remove current constraints they experience. The day further aims to educate and sensitise the public on matters relating to the status of women and discuss the extent to which gender balance has been achieved over the years.

The theme for this year's commemoration, "**Be Bold for Change**" calls on the masses to create a greater, more gender inclusive world.

HONOURABLE MEMBERS: ... (Murmurs)...

MS TSHIRELETSO: I want to repeat this one Mr Speaker. The theme for this year's commemoration is, "**Be Bold for Change**". Though the world economic forum has predicted that the gender gap will only close around the year 2186, the commemoration of International Women's Day can play an important role in bringing change into the lives of women and moving closer to the gender equality we so earnestly seek.

The Government of Botswana has put tremendous effort into uplifting women and girls especially those in vulnerable situations and those affected by discriminatory socio-cultural practices and the patriarchal system. Though strong cultural dimensions still hinder the progress of women in areas such as political representation, progress has been made in the areas of education, health, human rights, poverty and economic empowerment.

Botswana has over time made progress in increasing the number of women in leadership positions in the public and private sectors and has also made significant strides in areas such as early child education and nursing care where core functions are closely linked with the roles of women and girls. Economic factors, especially poverty, play a key role in gender relations in Botswana. The Department of Gender Affairs is spearheading on going gender mainstreaming efforts to specifically target the promotion of equal opportunities in all sectors across the gender divide. Thus gender analysis will be used as a tool to identify barriers experienced by all genders and reduce gaps which prevent balance.

This year the Department held the commemoration of this day, yesterday 7th March, 2017 at Ditshegwane village.



Mr Speaker, on this day the Parliamentary Caucus on Women calls on all of us to take bold action to do all in our power to bring about change for women. If we work together we can make decisions and take actions that unleash the limitless potential held by women around the world.

The Parliamentary Caucus on Women would also like to invite all Members of Parliament to join us and other women in commemorating this day tomorrow at 9 a.m. on the Parliament grounds. I thank you Mr Speaker.

HONOURABLE MEMBERS: ... (Applause!)...

MR SPEAKER: Thank you Honourable Chairperson. Order! Honourable Members, in accordance with our Standing Order 41.3, I will allow short questions and interventions.

MINISTER OF INTERNATIONAL AFFAIRS AND COOPERATION (DR VENSON-MOITOI): I thank you Mr Speaker; I want us to thank our Chairperson Honourable Tshireletso. She has never demotivated us at any day, every year she does this job marvellously. I therefore want to take this time to remind men of this House that there is nothing that they could do without the help of women because we too understand that things are done exceptionally well if there is teamwork.

The farmers cannot do their work when there is no one who is preparing food for them. In short that is how we work. The only thing that we are still failing to achieve is the number of women in this House. We request for your support Honourable Members that in the next general elections numbers of women candidates should increase through your support.

MR SPEAKER: Short questions and very short interventions.

MINISTER OF HEALTH AND WELLNESS (MS MAKGATO): Thank you very much Honourable Speaker. First of all let me congratulate our Chairperson for a wonderful presentation to the House. I just want to align myself with the theme that says, “**Be Bold for Change.**” When we say we must be bold for change...

MR SPEAKER: Honourable Makgato, please do not be tempted to debate.

MS MAKGATO: I will not debate. I will just add on what was presented, that is my comment. I want to stress this theme “**Be Bold for Change**” and we cannot be bold for change without the help of these Honourable

Members that are here, neither can we be bold if we are scared, because if you look at what is happening now, we are behind when it comes to numbers. It is my sincere belief that it is the boldness that is going to take us to the next level. So, I congratulate my Chairperson and I am just saying as women together with men here, we will be assisting her to achieve this milestone. Thank you Chairperson.

MAJ. GEN. MOKGWARE: Thank you Mr Speaker. I want to appreciate the theme “**Be Bold for Change.**” I want to state that women have got a larger population and like we were saying the other time in Parliament, we feel that the budget that has been reserved for women empowerment is very low. Let us start as the government and support other women. We were still asking the Minister if he is planning to transport the workers to work. Most workers who have been killed, beaten and robbed were coming from work or going to work in the morning per the statistics. We need laws to protect these people, not policies that are just for temporary purposes. So I want to say it is up to you to implement such ideas.

MR SPEAKER: Order! You are not listening to what I said. I said short questions or very short interventions. If you are going to debate then I will stop here and then we proceed.

MINISTER OF DEFENCE, JUSTICE AND SECURITY (MR KGATHI): I thank you Mr Speaker...

MR KGOROBA: Point of order. Honourable Speaker, the procedure of this House is that no one should stand up while you are holding the floor. I wonder why Honourable Kgathi is standing while you are still on the floor and then you choose him to comment, do you now realise that you are not following the procedure of this House?

MR SPEAKER: Honourable Kgoroba, you should reprimand him.

MR KGATHI: Mr Speaker, what is out of order is the bottle over there, I request that it be taken out from there because I am not able to ... (laughter)... Mr Speaker, I stand to pledge support to the women of this country and women at large, I want to say as men we do not recognise the role that women play. It is significant in our lives as men and we cannot make it in a lot of things if you are not there, I am therefore saying we will support you.



We want to thank the governing party for implementing various programmes that empower women. When we look at the statistics in terms of women in leadership positions, that is a good effort. We should continue supporting it and say women we are behind you, we thank you for supporting us as men.

MR SPEAKER: I am taking the last two.

MINISTER OF BASIC EDUCATION (DR DOW): Thank you very much Mr Speaker. I also stand to support my Chairperson, and to congratulate her to say if we say somebody has actually been bold for change we mean her. In the past two years she has been raising issues that sometimes are very uncomfortable to raise. She has been raising issues to demonstrate that she is already bold and therefore under her leadership and with your support of course we expect that things will change. The major thing...

HONOURABLE MEMBER: Honourable Mangole is here.

DR DOW: What are you saying? *Mokhurutshe* keep quiet.

HONOURABLE MEMBER: Honourable Mangole, is here.

DR DOW: Honourable Mangole, I am not afraid of him at all.

MR SPEAKER: Honourable Dow.

HONOURABLE MEMBERS: ... (Laughter!)...

DR DOW: He is derailing me. He is afraid of Honourable Mangole and using me as an excuse Mr Chairperson...

HONOURABLE MEMBERS: ... (Laughter!)...

DR DOW: The truth is we wish that next year, since this country is for us all; Mr Chairperson let me go back to English, I must keep with one language. First of all, what does change mean? Change means that I can walk at night without fear of being raped by a man, is that not so? That is what I am asking for. We are also asking that the culture of this House, of politics and of everything accommodates the women's special needs. That is what we are talking about. At the end of the day the implementation of policies that could change all these starts here. I am including Honourable Mmolotsi, who is interfering with my contribution when I am trying to be bold for change. I request that you talk to this man

because we need silence when women are talking today. Thank you Mr Speaker.

MR BOKO: Mr Speaker, thank you very much. Miss T, let me congratulate you personally for the efforts that you have made throughout your life, as a female politician and as a special breed of politician who has had some independence of thought and action. Having done that, let me also sound a word of caution to our women folk; women have very special attributes, some of them natural because of their biology and other attributes, but some of them from the socialization. One of the things that they fail to appreciate is this and I want to caution...

MR SPEAKER: Twenty (20) seconds left.

MR BOKO: Please, do not try become men. Do not try to outcompete men at being men. Bring those attributes of care and compassion to the table. Do not subject them to attributes of aggression and intolerance that we see in so many women trying to outshine men at being men.

MR SPEAKER: Finish sir!

MR BOKO: That is what I want to advice and caution on. Thank you very much.

HONOURABLE MEMBERS: ... (Murmurs)...

MR SPEAKER: Order! Order!

HONOURABLE MEMBERS: ... (Murmurs)...

MR SPEAKER: Let us go to the next item.

APPROPRIATION (2017/2018) BILL, 2017 (NO. 2 OF 2017)

ASSEMBLY IN COMMITTEE

(CHAIRPERSON in the Chair)

(Resumed debate)

ORGANIZATION 1100-MINISTRY OF HEALTH AND WELLNESS

MR CHAIRPERSON (MR MOLATLHEGI): Order! Order! Honourable Members. We are back at the Committee of Supply, Ministry of Health and Wellness, Organization 1100. Let me remind you Honourable Members that I shall call upon the Minister to reply to the debate at 15:10 hours.

HONOURABLE MEMBERS: ... (Murmurs)...



MR CHAIRPERSON: Oh! Let me correct my time here. It should be 15:25 hours. Members, my apologies for that short...

HONOURABLE MEMBER: ... (Inaudible)...

MR CHAIRPERSON: Honourable Boko, I will fall on top of you.

HONOURABLE MEMBERS: ... (Laughter!)...

MR CHAIRPERSON: Honourable Members, the Minister will reply at 15:15 hours, that is eight (8) minutes from now and the question will be put at 15:45 hours. When we adjourned yesterday, Honourable Ngaka was on the floor and he was left with five (5) minutes. He is not here. The floor is open. Eight (8) minutes.

ASSISTANT MINISTER OF LAND MANAGEMENT, WATER AND SANITATION SERVICES (MR MOIPISI): Thank you Mr Chairperson. I am also grateful that...

MR NTLHAILE: On a point of order. Mr Chairperson, it seems like there is something which is not being done right. The agreement was that the floor will be given to two (2) members on the other side of the aisle and two (2) on this side. Yesterday when we adjourned, the Speaker had given the floor to three (3) members on the other side of the aisle, then she promised me that today I will get the chance to speak after Honourable Ngaka.

HONOURABLE MEMBERS: ... (Laughter!)...

MR CHAIRPERSON: You are out of order Honourable Ntlhaile. Continue Honourable Moipisi.

MR MOIPISI: Honourable you are eating on my time. I will include Jwaneng-Mabutsane in my issue, so do not worry. I am even grateful that I get the chance to speak in the presence of the Honourable Member for Gaborone Bonnington North so that he can learn how one advocates for their constituency because he is failing to do so for his constituency.

Let me commend you Honourable Minister, you have brought us...

MR NTLHAILE: On a point of order. Ah! Mr Chairperson, it seems like this House is getting out of control. I think the Minister over there is imputing improper motive on the President of the Umbrella for Democratic Change (UDC) and Leader of the

Opposition. I do not know why he is meddling in Gaborone Bonnington North issues that do not concern him. Ah!

MR CHAIRPERSON: No, you are just angry Honourable Member, yet the one who brought this up has long finished talking about it, let go of their issues.

MR MOIPISI: Thank you Mr Chairman. The Honourable Member does not know that Honourable Boko and I come from far, there are some issues which we only discuss between the two of us.

Honourable Minister, let me thank you for having brought us a physiotherapist at the Hukuntsi Hospital because people in that district used to cry so much without a physiotherapist who would assist them when they needed such services. Now they are saying...

MR MARKUS: On a point of order. Mr Chairman, I think I am lost. Our timetable did not include women on the agenda. Now women issues have eaten from the time we were supposed to use. Do you not see it fit to increase our time so that we are able to debate rather than to cut us off, yet we knew that the time allocated to us granted us an opportunity to be given the floor?

MR CHAIRPERSON: No, I have increased your time Honourable Members.

HONOURABLE MEMBER: ... (Inaudible)...

MR CHAIRPERSON: I have adjusted the time to where it is supposed to be. Continue Honourable Moipisi.

HONOURABLE MEMBERS: ... (Murmurs)...

MR MOIPISI: ... (Laughter!)... Thank you Mr Chairperson. Honourable Minister, let me also thank you for you mentioned in your report that you will build 23 houses for nurses in the Kgalagadi North. My constituents said that I should commend you for that, even though the construction of those houses is still behind schedule.

Let me move on to Emergency Medical Services. During the State of the Nation Address (SONA) in 2015, I had highlighted that there are no emergency stops along the Trans Kalahari road. I see you have mentioned in your report that you have increased emergency stops along that road. Maybe this is the right time to assess whether an emergency facility cannot be built along the Trans Kalahari road, considering the importance of this road



which is used by tourists and business people. We need such a facility.

Hukuntsi Primary Hospital; I recently paid it a visit in January 2017 and when I got there I found the theatre equipment, x-ray equipment and lab equipment down. I hope that you will address these issues more so that your Permanent Secretary visited Hukuntsi last month and is aware of them.

Staff; we only have five doctors in Hukuntsi Primary Hospital out of the establishment of 13. The poor staff is in trouble; in fact all five of them are new. There is no experienced doctor. Midwives, we only have ten out of 24 so kindly address that. We do not have an eye doctor, so people who have eye problems have to travel from Kgalagadi to Molepolole and that is a long distance. There is shortage of transport, my constituency is broad and conditions of roads are bad. When you take an ambulance there it is not the same as taking it to other areas because its lifespan is very little. There is a need Minister so kindly take it into consideration.

Procurement of services; they informed me that at Hukuntsi Hospital they do not authorise any services exceeding P50 000. Therefore they seek assistance from Tsabong and that causes delays. It would be better if there was an officer at Hukuntsi Sub-District who could authorise the procurement of these services. Minister, we have been awaiting the upgrade of Hukuntsi and Lehututu clinic since 2015, they are still waiting and were asking how long it was going to take. During the State of the Nation Address 2015, I talked about the district hospital again; the whole of the western region, Kgalagadi and Ghanzi, probably it is time to upgrade one of the primary hospitals and turn it into a district hospital so that people of the constituency can get assistance and avoid coming to Gaborone and so on. I conclude accordingly Mr Chairperson.

ASSISTANT MINISTER FOR PRESIDENTIAL AFFAIRS, GOVERNANCE AND PUBLIC ADMINISTRATION (MR KWEREPE): Thank you for giving me the opportunity Honourable. Let me thank the Minister of Health and Wellness for the tremendous efforts she is undertaking at my constituency. Let me thank her for including Gumare hospital which was savaged by fire in the plan. Although it took a long time, I humbly request that those who will be awarded the tender to construct it should be proactive. It should not be an impassive company which delays the project. Minister I would like to thank you for addressing our

concerns, you even paid us a visit. It is not just everyone who can travel such a long distance...

MR CHAIRPERSON: Order! Honourable Kwerepe, we do not have a quorum.

MR KWEREPE: Can I just debate Sir?

MR CHAIRPERSON: Honourable Kwerepe, call them. We are left with four Members. Sit down, let us proceed, you are 21. Order! The time allocated for Honourable Kwerepe has been wasted by shortage of quorum. Honourable Minister, please reply to the debate, yours has also reduced.

MINISTER OF HEALTH AND WELLNESS (MS MAKGATO): Thank you Mr Chairperson. I just want to confirm, does that mean mine has also been tampered with?

MR CHAIRPERSON: Yes madam.

MS MAKGATO: Okay. Well, let me start by thanking all the Honourable Members, those of you that spoke and responded. Thank you for your generous comments. I am sure as the Ministry of Health and Wellness, we will take on board a number of suggestions you have made as we continue to deal with matters pertaining to health and wellness. Also Mr Chairperson, I give an assurance to my Honourable colleagues that I practise an open door policy. The fact that they might not have had sufficient time to respond to what I was saying here, does not necessarily deny them the chance of coming to my office to discuss issues that concern them in their constituencies. They must engage me to see how best we can both work towards ensuring a healthy nation. At the end of the day, what I do is also equally dependent on them.

I would respond at a very general level because of the constraints of time. I would start with the issues that were raised by Honourable Tsogwane. I heard you about the issues of concern at Boteti. I can promise you now that I will visit your constituency, then we would be able to sit down and work hand in hand and see what happens. I still experience concerns at Ministry level of transfers. When I do transfers from towns or cities to rural areas, generally I have a problem because those ones who are in towns and cities are a little bit reluctant to go to rural areas. Sometimes it is not very easy for us to be able to replace immediately, but it is a concern that we are addressing and we are trying to find innovative ways of ensuring that everyone who works for the Ministry



of Health and Wellness has a chance to go and work at a rural area.

I have noted the issue of referrals that was raised by a couple of you, to say that we refer to district hospitals that are very far from your constituencies and then we are unable to provide transport to go back. In terms of the procedure, if you have been referred by us and we transport you with an ambulance to a facility, normally we would take you back. Sometimes that does not happen. Even though that is our policy, hey! I am overburdened. I think I must be honest with you. The workload is too much because sometimes I think we must help the Government. Government can only do that much. When I talk about responsibility, I would strongly encourage you that sometimes when we have referred a patient, and has relatives, children and have the means to transport themselves rather than waiting for the ambulance to transport them. Maybe the ambulance was still at Central Transport Organisation (CTO), he/she should assume responsibility and work together with relatives because at the end of the day, I want them to be able to engage with me when they are healthy and alive, than to engage with me when they are not.

MR NKAIGWA: On a point of clarification. Thank you Mr Chairperson, thank you Minister. Whilst on the hospital issue, I want to understand that for a hospital to be built in an area, what are you looking at? For example, the hospital which is planned to be built at Moshupa while there is one at Thamaga. Is it not better to extend Thamaga hospital because Moshupa and Thamaga are close, Gaborone is also in the vicinity?

MS MAKGATO: I am not going to respond because you are practically talking to yourself. I respond to questions asked during debates. In fact I fully believe that you are aware of what we consider when we build a hospital anywhere else. When I build a hospital to educate you, I consider the volumes of patients, the wellness portfolio, the number of patients, the skills that are needed in that area, I look everywhere. After evaluating I make a decision that I can build a hospital in this area. One other thing I consider is the government's plan. The government once said that I am going to build a hospital, does that means I am going to build the hospital at such an area through National Development Plan (NDP) 5 or NDP 6. When I now deal with my NDPs, I have to make reference to those that were deferred before my time. For your information because you are seriously questioning the Moshupa hospital for motives known

to yourself, Moshupa has always been in the National Development Plans (NDPs) even before I was born just like all the other hospitals. I am not going to waste my time with you. I go to Honourable Molefhi...

HONOURABLE MEMBER: Clarification.

MS MAKGATO: No, I am no longer clarifying, I do not have time.

Honourable Molefhi, you talked about an area of passion for me that being a doctor or a nurse does not necessarily mean that you are a manager or you are an administrator. It is an issue that we are confronting head on. It is important that when we now take you out of your comfort zone and give you another job that requires a different set of skill mix, we need to be able to give you the necessary skill mix to capacitate you, for you to be able to deliver that. It is still an area of challenge. It is an area that we are aware of, it is an area that we are addressing through capacity programmes that we have within the Ministry.

You also raised another area that I think we have to tackle head on with the boldness that it deserves, an area of social determinants of health. I appreciate the fact that you are aware that health will be affected by the quality of availability of water. I will take it further than that and say, health will also be affected by poverty and by the cleanliness of air. It then means that we as a Ministry of Health alone cannot deal with this matter. We need to have a multi-sectoral approach with other relevant ministries. I think it is something that we should put on our agenda to say how best we engage others to ensure that we deal with all elements of Health and Wellness.

You talked in general about conditions of service and shortage of staff; it goes across to everyone who also raised those. I have come here, I am not going to lie to you, I do have an acute shortage of staff. I am doing the best that I can through training, through incentives that I have put in place that were particularly for midwives because I have a shortage of midwives. I have sent others to school as we speak. I have tried to absorb everybody that came out of the university, but I still have a challenge because as I replace them, others leave. They leave because of my non-comparative conditions of service. We have engaged with the Directorate of Public Service Management (DPSM) and in my speech I have said it is going to require me to be innovative, to start thinking of different ways of addressing it, rather than talk about it there and here.



MR CHAIRPERSON: Order! Honourable Makgato, wait a moment; there seems to be some side conferences that are happening. There is a tripartite between Honourable Ralotsia and his colleagues and there is another tripartite between Honourable Kgathi and colleagues. Please stop disturbing.

MS MAKGATO: Donation of bodies; to say that we must include it in the Public Service Act to allow those that want to donate their bodies, I wish I could have in there, the power to donate some bodies, I will not say who. But we have already provided for that in the Public Service. The only thing that we have not done is coming up with the necessary regulations to be able to implement or enforce. It is something that we will do very quickly.

Honourable Gaolathe, you were very generous in your comments and when you speak because I take it very seriously and I know that you never lie, what you say is what you mean. I am very, very thankful. I shared with my team, especially that I was stressing them about this document. I sent it back a few times and I said to them, “we survived because we are able to look at what we are saying and we verify it. If it is bad, we must have it here. If it is good, we must have it here. We must also track the improvements that we have had and be able to say, here we have achieved and here we have not achieved, so, this is what we are going to do about it”. I am still waiting for you to come to my office for coffee because some of the issues that we have talked about, we can discuss them further in a relaxed environment without any worries of time running out; we could impart knowledge on each other because I think you are amenable to that. We would be very happy to host you so that we can take your comments on board and I say this with the sincerity that it deserves.

Some of the areas that you were talking about are progressive and are areas that we have to think in the long term, especially decentralisation. I have to give my hospitals the total autonomy. I think we have to be prepared for it. Some of it might require legislative changes for me to be able to achieve that; so, I will take it on board and see how best we can do that.

University Hospital; an area that I know you are very passionate about, I agree with you and I concede we have taken long on it. I can certainly tell you that we are not sitting; it is just that we have had a few challenges. I had hoped that by now in this first quarter, we will be opening the doors of the University Hospital;

unfortunately we have not been able to do that. I am still hopeful that in the second quarter which starts in April, we should be able to do certain things. There is a lot that is happening within the hospital. I am sure you have seen the tenders that were out. We connected the Information Technology (IT). There is a lot of readiness. In fact, I have a team that is working permanently on that, that I have drawn in from my other facilities and they are working on making sure that we open the hospital fulltime.

What I do not have is probably the level of funding, but I am sure you know the intricacies of funding. If I have not started, I cannot get the quantum that I am looking for. The little bit that I have got for the hospital; I will be able to do something with it.

You talked about universal coverage that we have to explore to see what other models are. One of my greatest concern and it will continue to be, is our ability to sustain the level of service or healthcare that we are giving to the nation. I have deliberately, consistently, year in, year out said that we need to look at sustainability. We need to look at sustainability because if we do not, somewhere down the line, we will not be able to sustain that which our people are accustomed to and they will not be able to understand if we have not started this narrative right now. It is very sad that even the level of service that we provide; I think the nation at large is not even aware of how much it costs.

I certainly would like to engage the nation just like I told you Honourable Molefhi. If you are going to come to Marina, and I give you a treatment worth P300 000.00, cancer for instance, surely if I ask you to pay P40.00 to get yourself back home and I having spent P300 000.00 on you, I expect your relatives to help you. If you are a farmer, I expect you to sell a watermelon and use the money for transport. You should be thankful to God for the P300 000.00 treatment. I think we must have those difficult conversations because if we do not, we will be lying to ourselves. If you look at how much this Parliament gave me; you gave me P5.2 billion when I came into this Ministry, today I am requesting about P6.8 billion. If you look at it year in, year out, how far are you going to be able to give me that amount of money when we have got a cash base that is coming in, that is not equally available? Therefore, please help me have this narrative and that is why I am trying to show where the money is and it has gone towards wellness.



Your wellness aspect is going to be depleting the coffers, and that is why our focus is on that.

You then mentioned a few pieces of legislation that you are happy about, I agree with you that technology is the way to go. In fact, if we use technology, we can even bring down the costs of provision of services that we have.

A number of you are not happy with my emergency services and I think you are right in saying that. I have always maintained that it can only work if I have the right number of vehicles. When I have a shortage of ambulances, it is the shortage of ambulances that is making you not to like the emergency services that we are providing. I would push, I think this year alone, we managed to get about 180 vehicles, 120 being ambulances. We have tried to the best of our ability to give to the various constituencies. As this next financial year starts, we should be able to get a few more, but we will go and revisit, where we verify on the ground to say, "does it work, does it not work."

A number of you and Honourable Majaga for instance, talked about the geographical impossibilities of Emergency Medical Services (EMS) in his constituency. I would visit you as well to go and see, so that I can be aware and make sure that whatever I come up with here is relevant.

Honourable Molao, you talked about a number of upgrades that you expect in your constituency. You talked about Chadibe, I have noted that. You talked about Matsitama, I have noted that and it is in line with what I have just said.

Honourable Olopeng you were thankful that your hospital was included in the National Development Plan (NDP) 11. So I want to thank you most sincerely for your National Fitness Programme. The reason I want to thank you is I can easily look at it as an uptake of the call by the Ministry of Health for healthy lifestyles. Your Ministry and my Ministry are working hand in hand. You are saying you are going to move the nation towards this achievement; you are going to make sure that they are physically fit. So, you are up taking. A number of all of us here in your constituencies what are the initiatives that you are doing? Have initiatives that are your own at constituency level so that we can walk the talk together.

Malaria is a concern. In fact this week I will be making a statement about Malaria. We have done exceptionally

well to an extent that this year we were number one (1) in Africa, we got an award, but because of the recent rains, we have gone back a little bit. One of my concerns is we are experiencing Malaria in non-traditional Malaria areas. It brings to me a couple of problems. I have staff that ordinarily are not used to seeing Malaria cases on a daily basis. I have people that ordinarily are not used to knowing about Malaria. If you take a person who lives in a Malaria area, they can see the symptoms and tell that they might have contracted Malaria and they rush to the hospital. Where they will find a doctor or nurse who can easily spot the symptoms. But when you are in an area like Radisele where people are clueless about the symptoms, one might think it is just a mere headache and buy Compral and stay home. Sometimes by the time you get to the hospital, it is already late, there is nothing much that we can do for you. As a result of that, we have experienced, I will give statistics, I think so far we have got about five (5) people that have died as a result of Malaria, and it is something that we have to attend do.

What am I doing about it? I have dispatched my team to all these areas because we are aware of each area because we keep the statistics, to go and reinforce. We will have to come with stronger campaigns for Malaria in non-traditional Malaria areas. I know that you have talked about even changing our paradigm of only spraying in Malaria areas and also spraying these mosquitoes in non-Malaria areas. It is something that my team and I will sit down and see how best to address this scourge.

Honourable Mmolotsi talked about Francistown. He forgot to talk about the private hospital that we recently started in the north. I agree with him, Nyangabwe is a concern because of overcrowding that occurs there but there is a lot that we have done in Francistown to try and deal specifically with the overcrowding.

I have said to my team, we must go back to the drawing board. I want to explain, we thought that the best way to address our health is to establish centres of excellence; have Sekgoma as a centre for eyes, have Mahalapye as the centre for bones, I will use terminology, is it called Shenaaz?

HONOURABLE MEMBER: Orthopaedic.

MS MAKGATO: Orthopaedic; meaning bones (*marapo*). Let me say it in Setswana. I think conceptually, it is correct.

HONOURABLE MEMBER: ... (Inaudible) ...



MS MAKGATO: Are you saying Block 6 Clinic? They say you did not speak about your constituency, you only spoke about biology of women. I am still holding a grudge against you. I still want you to tell me what you mean by biology of women.

It is okay because what you do is you consolidate and you bring in all your skills at the same area and then it becomes easier, you achieve synergies and you achieve all that. When you now look at our geographical landscape, I think we need to revisit that and establish the minimum levels that we can still have within the facilities, minimum levels, and say the cut off is here, when you get to this level of specialisation that you need, then go to the centre of excellence. It is something that my team will look at, including looking at other districts...

MR KGOROBA: You are quite clever hey!

MR CHAIRPERSON: Honourable Kgoroba, you are out of order. Continue Honourable Member.

MS MAKGATO: ... (Laughter!)... Honourable Lelatisitswe, the other concern that we have that was raised also by Honourable Mmolotsi is waiting period. He talked about Cancer but for me it is not just waiting period for Cancer; let us just say it is a concern about waiting periods for all the different specialist treatments that we have got. It is something that we are trying to manage. Where we can see that you have been referred for this specialist treatment, it is how many days, some of it is communication because the doctor must be able to look at the condition and determine whether they put that on the waiting list or they talk doctor to doctor so that you can skip the list. So, these are some of the dynamics that we are looking at from within.

Honourable Reatile talked to us. You talked about Sese maternity clinic, and you raised an area of controversy that I must train my people. I agree with you entirely that I must train my people, but my people must also know that after training, they must work. I do not want to be sending people to the University of Botswana, they finish and come back, when he/she arrives, he/she applies for specialisation right there and then. No, let them work first and gain experience, after gaining experience, and returning public funds by servicing the public, then they can specialise. So the major challenge that I have, those with qualifications, and I am being very very honest because I counsel them and I tell them the truth as it is, whether they want to hear it or not, the fact is once you finish school, my expectation is

for you to work first then you can further your studies. So, sometimes there is lack of patience and they will say, "I have already been offered a place." Those you mentioned, those who have already been offered a place to study further, it is when a person now has gone to look for a space and is offered a space that they come to me to say "take me for further training I have been offered a space." The world does not work that way. I think it has to be planned because if I do not plan it, I am not going to be able to provide the services that all of you are complaining about, I am not able to do that. It makes business sense and it is logical for the Ministry of Health and Wellness to train its people because then it becomes cheaper when you are using your own than having to import expertise. So, there is no way I can work against that.

MR KGOROBA: On a point of clarification Mr Chairperson. Honourable Minister, I do not think there can be impatience having to work to gain experience before they go for further specialisation, but maybe create a more transparent process because sometimes the Government says if you could work for at least five (5) years, and then someone arrives with three (3) years working experience and they are sent for specialisation, with others having long waited for the opportunity. I think they fear the process. So, maybe if you can be more transparent on the process, they will have trust in it.

MS MAKGATO: Alright, I can try and be more transparent and I can certainly refine it, but it is not a question of saying 1 plus 1 equals 2 because it will depend on what specialisation you are going to do. It will have to match with what my needs are. So, it is possible that somebody could have asked for this particular specialisation and then it is something that I do not need as much as the other one, so, it means I only take the other one. Certainly if there is that perception that is out there, we would have to manage it better than we are currently doing.

I am looking at the time, can I before I move assure Honourable Members that have raised areas of concern...

HONOURABLE MEMBER: You did not talk about me.

MS MAKGATO: Honourable Kgathi, it was largely a thank you. You should be quite because you were thankful and making requests at the same time.



You asked me to go to Bobonong. I will go to Bobonong, but it is important that I move Honourable Chair, but to the Honourable Colleagues that I did not respond to, I will respond in writing to you and then we can take it from there. The invitation to engage me; just come, I keep on saying let us have coffee, come to my office, do not wait for this moment. Even if you can write to me to say Minister, in my constituency I need this and that, I will respond. When you visit the constituency you will say, I did write to the Minister saying this and that and this was her response, we did not agree on this and that rather than waiting for next year's budget presentation by Ministry of Health and Wellness.

I therefore move, Mr Chairperson if you allow me, that the Recurrent Budget in the sum of Six Billion, Five Hundred and Eighty-Six Million, Nine Hundred and Seventy-Five Thousand, Six Hundred and Forty Pula (P6, 586, 975, 640.00) under the Recurrent Budget for Organisation 1100 be approved and stand part of the schedule of the Appropriation (2017/2018) Bill, 2017 (No. 2 of 2017) and that the Development Budget in the sum of P639, 030, 800 be approved and stand part of those Estimates for financial year 2017/2018. I thank you for your kind audience and I move accordingly.

Question put and **agreed to.**

ORGANISATION 1200: ADMINISTRATION OF JUSTICE

MR CHAIRPERSON: Order! Order! Honourable Members, please note that 2 hours has been allocated to this Organisation. I shall call upon the Honourable Minister to reply to the debate at 17:15 hours today and the question will be put at 17:45 hours.

MINISTER OF DEFENCE, JUSTICE AND SECURITY (MR KGATHI): Thank you Mr Chairperson. Please allow me to present for the consideration of this Honourable House, the budget proposal for financial year 2017/2018 for the Administration of Justice. My presentation will briefly highlight achievements and challenges during the 2016/17 financial year.

Mr Chairperson, the Judiciary in Botswana is established under Section 95 of the Constitution of the Republic as an independent arm of the Government with the responsibility to administer justice in accordance with the Constitution and other laws of the country. Therefore its functionality and efficiency is important in the maintenance of peace and good governance in

this Republic. I believe you are all aware that global international rating agencies in particular, the World Justice Project and the Ibrahim Governance Index continue to place Botswana among countries with the best judiciary system characterised, among others, by timely and effective adjudication, accessibility, impartially, free from corruption, and free from improper Government influence, in both civil and criminal justice. Overall, the World Peace Project has ranked Botswana number 1 in Africa and number 36 globally in civil justice. For criminal justice, Botswana is ranked number 2 in Africa and number 47 globally and with respect to the rule of law, Botswana is ranked number 45 globally. The only countries ahead of us in many of the indices in the Sub-Saharan Africa and/or middle income countries are Mauritius, Ghana and South Africa.

Mr Chairperson, it is also noteworthy that the Ibrahim Index of African Governance, which is Africa's leading assessment of governance, has consistently rated Botswana as a leading country in the practice of democracy and prevalence of the rule of law. This case is yet another example that demonstrates existence of judicial independence in Botswana and further, the extent to which the courts in Botswana can interpret and review norms and pursue their own reasoning, free from the influence of rulers or powerful groups and individuals. We believe as Government that these good ratings are earned largely from our respect of the rule of law and general implementation of the court orders.

Mr Chairperson, against this background, the Administration of Justice will continue to initiate a number of strategies aimed at educating and sustaining the existing local and international confidence in the Botswana Judiciary. These strategies include the implementation of customer service strategy, customer satisfaction surveys, conducting public education on court systems' procedures and etiquette through various media, including the use of telephone voice prompts. It is envisaged that such basic things as minimum understanding and/or knowledge of the court systems, will sustain and enhance public confidence in the efficiency of our court systems at all levels, and in transforming all negative perceptions into positives.

Other initiatives entail building the capacity of the judicial staff by training them on court administration, legal interpretation, translation as well as usage of stenographs for real time reporting. The Administration of Justice will also sensitise Clerks of Courts, Bench Clerks and Court Reporters on the Rules of Court to



improve their individual efficiency and accuracy in the reporting/recording of the proceedings. All these initiatives are intended for effective facilitation and recording of proceedings across all the courts, thereby improving the turnaround time in service delivery, including judgements.

Similarly, focus would be placed on promoting among the staff of the Administration of Justice high level work ethics using the Smart Work Ethics Programme, and to instil the culture of excellence in service delivery through the roll out of the reward and recognition based programme known as Performance Based Reward System (PBRs), as well as the introduction of Employee of the Month recognition as benchmarked from the general civil service effective 1st April 2017.

Achievements

A number of achievements have been recorded in the Administration of Justice during the 2016/17 financial year. These include the adoption of a strategic plan, disbursement of child maintenance and guardian fund, construction and establishment of courts in several locations, deployment of mobile courts and many others that I will not exhaust here.

Strategic Plan

Since my last submission to the Committee of Supply, the Administration of Justice adopted its 2017-2022 Strategic Plan which will be implemented in the National Development Plan (NDP) 11. In summary, the Plan aims to, (i) initiate the amendment of Court of Appeal First Schedule Fees; (ii) develop a plan for the benchmarking exercise in relation to court of appeal processes; (iii) amend the Rules of Court to incorporate the principles of Court Annexed Mediation; (iv) establish libraries in Broadhurst, Kanye and Jwaneng Magistrate Courts, (v) facilitate the amendment of the Administration of Estates Act (to address the number of challenges identified, as well as on the basis of the customer feedback); (vi) pilot the use of the Real Time Reporting Equipment in the High Court Division of Gaborone and thereafter roll it out to other High Court Divisions and to the Magistrate Courts; (vii) enhance the uptake of Information and Communications Technology (ICT) in delivery of justice in order to continually increase accessibility to case information and case disposal; (viii) introduce e-filing and improvement of the Court Records Management System (CRMS) (ix) introduce a module on traffic cases in the CRMS,

which will be piloted in Gaborone Extension 2 and Francistown Magistrate Courts, and thereafter rolled out to other courts. These initiatives will be with a view to address the delays and backlogs experienced in the whole continuum of delivery of justice.

Disbursement of Child Maintenance

The disbursement of child maintenance funds to the beneficiaries through Government Revenue Offices was piloted in Ramotswa, Goodhope, Letlhakeng and Molepolole. In the interest of customer service feedback, the Magistrate Courts have been requested to carry out analysis in their respective stations of the efficiency of the usage of revenue offices, with a view to determine the number of beneficiaries per station. The setbacks identified at each station will be used to revitalise the new strategies for the expansion of the coverage. We are currently consulting the Ministry of Finance and Economic Development on possible strategies for using other payment/disbursements methods, including the banks and/or electronic payment methods depending on affordability and sustainability.

Establishment of Additional Magistrates Courts

In pursuit of improving the accessibility to justice delivery facilities, the Administration of Justice (AOJ) established Magistrate Courts in Shakawe, Nata and Kang in 2016/17. It has also refurbished and relocated the Kasane Magistrate Court to a new site away from its previous location, which was under extensive infestation by termites.

Mobile Courts

The caravans and mobile courts procured in 2016/17 were deployed to Maun, Francistown, Extension 2, Kanye and Palapye Magistrates Courts. The mobile courts are used specifically for stock theft, traffic, small claims and child maintenance cases. They have so far travelled to various places in the delivery of their service such as Kanye, Palapye, Metsimotlhabe, Gabane, Mogoditshane, Broadhurst, Gweta, Sehitwa, Komana, Tonota, Nata and surrounding areas.

Refurbishment of Broadhurst and Kanye Magistrate Courts

The extension of Broadhurst Magistrates Court and the Kanye Magistrate Court are due for completion by quarter two and quarter three of the 2017/18 financial year respectively. Four (4) Maun staff houses have



been completed with sufficient security features like boundary walls and electric fences. However these projects took longer than planned due to the fact that the Administration of Justice is still facing challenges relating to project implementation capacity and lack of requisite skills in their Ministerial Technical Unit.

Development Expenditure Levels

In terms of development expenditure, the Administration of Justice spent seventy-five point two per cent (75.2 per cent) of its 2016/17 Development Budget which was for the construction of Kanye Magistrate Court; extension to the Broadhurst Magistrate Court; establishment of a gym facility and procurement of gym equipment for Judges at the High Court Divisions in Lobatse and Francistown; upgrading of Court Records Management System (CRMS); procurement of Law Books; procurement of vehicles; improvement of Magistrates houses; improvement of library; maintenance of court facilities and Judges' houses.

Recurrent Expenditure Levels

The actual recurrent expenditure of the 2016/17 Budget allocations is eighty-five per cent (85 per cent) which covered largely payment of salaries, utilities, service charges and the needful domestic procurement and individual expenses.

Challenges

The biggest challenge the Administration of Justice is facing relates to the inadequate support staff to the Courts in the form of Court Reporters, Court Clerks, Interpreters, etcetera. The desired growth is hampered by the ceilings set in terms of the general growth of the civil service. Notwithstanding the Administration of Justice is in the process of filling its vacant posts across the Judiciary including the Magistracy.

2017/18 Request

Mr Chairperson, it is now my pleasure to request budgetary provisions for the financial year 2017/18 for both Recurrent and Development Budget.

Mr Chairperson, for Recurrent Budget I request authorisation of Two Hundred and Sixty-Four Million, Seven Hundred and Ninety-Five Thousand, Nine Hundred and Sixty Pula only (P264 795 960). This represents an increase of four per cent (4 per cent) over last year's approved budget of Two Hundred and Fifty-Four Million, Five Hundred and Seventy-Five Thousand

and Sixty Pula only (P254, 575, 060). The four per cent (4 per cent) increase over last year's budget is mainly attributed to increase in service charges.

Mr Chairperson, for Development Budget, I request Fifty-Seven Million, Four Hundred and Fifty-Five Thousand and Ninety- Seven Pula (P57, 455,097) for the 2017/18 financial year. This presents a decrease of Forty-Three Million, Eight Hundred and Seventy-Seven Thousand Six Hundred and Forty-Seven Pula (P43, 877,647) or forty- three point three per cent (43.3 per cent) below the 2016/17 budget. The budget covers the completion of Kanye and Broadhurst Magistrate Courts; maintenance of court facilities; maintenance of Judges' houses; purchase of Law Books; procurement of vehicles; improvements to court security; and the improvements to houses for Magistrates. These infrastructure projects represent ninety- two point three per cent (92.3 per cent) of the total budget. The remaining seven point seven per cent (7.7 per cent) of the budget will cover computerisation projects such as e-filing and implementation of the traffic module within the Court Records Management System (CRMS); Real Time Reporting equipment, computerisation of Administration of Justice and the improvements to the libraries.

Madam Chairperson, this concludes my presentation of the 2017/18 Budget estimates for the Administration of Justice. I therefore move that the sum of Two Hundred and Sixty-Four Million, Seven Hundred and Ninety-Five Thousand, Nine Hundred and Sixty Pula only (P264 795 960.00) under the Recurrent Budget for Organisation 1200 be approved and stand part of the Schedule of the Appropriation (2017/18) Bill and that the sum of Fifty-Seven Million, Four Hundred and Fifty-Five Thousand and Ninety-Seven Pula (P57, 455, 097) under the Development Budget for Organisation 1200 be approved and stand part of the Estimates for the financial year 2017/18. I move accordingly. Thank you.

EXCHANGE OF SPEAKERSHIP

MR KGOROBA: On a point of procedure. Good afternoon Madam Chairperson because you have just arrived. Madam Chairperson, you and your Deputy are one. Apparently when you left yesterday you had given two opportunities to the other side of the aisle and then it was supposed to be our turn, but it seems like the Deputy Speaker was not aware of that. When he took over this afternoon, he continued to give more debaters to the other side instead of this side. So, can you kindly



collaborate accordingly with the Deputy so that this thing does not reoccur?

MADAM CHAIRPERSON: We will work on it my dear, sit down.

MR BOKO (GABORONE BONNINGTON NORTH): Thank you very much Madam Chairperson. They are saying there is no quorum.

HONOURABLE MEMBER: Check the quorum Madam Chairperson.

...Silence...

MADAM CHAIRPERSON: The Whips are not in the House. Honourable Mmolotsi and Honourable Kablay, should have done their job. You are waiting your time and we will not increase it. That means we will have limited time.

MR MARKUS: Point of order Madam Chairperson. Pardon me Madam Chairperson even though I am out of order. We are always in the House to form the quorum, while others are outside drinking tea. We are always here and we are tired. We will also collapse the quorum intentionally. Sorry, Madam Chairperson.

MADAM CHAIRPERSON: No, just bury the hatchet, sorry.

MR BOKO: Let me focus on one (1) or two (2) very simple and straight forward issues because if I deal with the more serious ones, I might lose the audience. Let me start by indicating that the biggest priority in relation to the Administration of Justice should be the ease and efficiency of the production of court records and records of proceedings of trials that have taken place before the courts. This is because those who have either been unsuccessful and have to serve sentences of whatever duration, need to advise themselves in time regarding any appeals or any further steps that they may take and for that, it is absolutely essential that they have records of the proceedings of their cases. The biggest challenge to the Administration of Justice in this country despite all these ratings that you have referred to, is the failure to timeously or at all produce records of proceedings. A lot of accused persons who have been sentenced, end up serving substantial portions of their sentences or the entirety of the sentences without having received their court records in order to file appeals. This is totally unacceptable and it is a result of the gross inefficiency of the Court Reporting Clerks and the Stenographers

that operate, especially at the lower levels of the Magistrate Courts. So, it is important to address this as a matter of urgency because as Hayfron Benjamin, that fine constitutional scholar and Judge who once graced our shores said, "it is absolutely calamitous when the doors of justice are bolted from within." They are bolted from within when the records of proceedings cannot be produced in time for people to pursue their legal remedies. It is important for this to be appreciated.

It is also important to appreciate that lately and in fact over a long period of time, we have had experiences of members of the Executive and civil servants, not taking advice from the Government legal representatives or advisors. We have had experiences in the courts, where Attorneys representing Government have had to be asked, "did you advise this Director, did you advise this Permanent Secretary?" and they say, "yes, we did." The Judge then asks, "how did you find your way here when this is a matter that you should have settled because you are liable?" They explain, "well, we advise them but they refuse." So, you must advise these people that when they receive legal advice from the Attorney General's Chambers, they must take it, they are not lawyers and experts. So, if they are told to settle cases, they must do exactly that. That is why Government is continuing to lose a lot of money in heavy legal costs as you are going to pay in relation to the Foot and Mouth case that was decided last Friday by the High Court sitting in Francistown, when it pronounced that...

MADAM CHAIRPERSON: The quorum has collapsed Honourable Boko. There is no quorum. Others are coming in...

HONOURABLE MEMBERS: ... (Murmurs)...

MADAM CHAIRPERSON: The quorum is okay.

MR BOKO: I was pointing out that there is a disturbing trend in terms of which public officers defy court orders with the result that some of them have had to be threatened with imprisonment. I remember the Permanent Secretary in the Ministry of Finance and also the Commander of the Botswana Defence Force (BDF). It is extremely untidy when public officers disrespect pronouncements of the courts. It is also disrespectful of the professionals employed by Government when public officers disregard the legal advice that they have been given by these officers and cases end up in court which they should have settled. Government incurs heavy costs as they did last week Friday in Francistown,



when the High Court pronounced that the Presidential Directive that ordered the slaughter of cattle in Zone 6 was unconstitutional and unlawful. The compensation of P1700.00 offered for each beast slaughtered in terms of Section 14 of the Diseases of Animals Act is also unconstitutional and unlawful. These are matters over which the Attorney General should and I suspect did advise and that advice was disregarded. It is important for us to make these points so that from now on, they must appreciate that when they do so, they run the risks of incurring costs personally and we want to advise them accordingly.

We want to also indicate that the Judiciary, Administration of Justice is in a serious crisis because when Judges took certain administrative issues and complained, they were victimised, suspended and the long drawn process is currently underway which is discriminatory to the extent that it excludes some of the Judges who have signed that petition which is a subject of the proceedings and also some who had received allowances were not included in the list of those to be punished if there is any punishment due.

This is a conduct which undermines the integrity of the Judiciary and we want to point this out so that you know that the Administration of Justice, must as it asks for all these funds do the most important thing which is to try and get its house in order and to also appreciate that when Judges have reached retirement age as one already has, the extension by law available is to the extent that such Judge must deal only with matters that are pending before him or her. He or she cannot take any fresh matters. If that happens and you must make sure that whoever has attained retirement age has had an extension, that extension is understood to be limited, to having that particular Judge complete whatever cases were incomplete before him and nothing more. If any attempt is made to have that Judge deal with any fresh matters, that would be a violation of the Constitution and there is ample authority for that and if you go that route or the Administration of Justice or whoever goes that route, then they will be rendering themselves liable to not only incurring costs but also suffering serious embarrassment.

I want to conclude by re-emphasizing the need to prioritize the timely preparation of records of proceedings in relation to matters. These have been the sorest point in relation to the Administration of Justice in our jurisdiction.

Lastly, please tell your Magistrates wherever they may be that they are not the law unto themselves. Accused persons are not supposed to appear in the courts in chains and leg irons and sit in the dock and go through a trail in that state. That is gross violation of people's constitutional rights. It has happened and when lawyers have challenged this, one lawyer was in fact, detained and I had to make overnight applications to get the lawyer out who was trying to caution a Magistrate against hearing an accused person who was chained in leg irons and handcuffs. Advise these people that they must abide by the laws and the Constitution. That is the Administration of Justice. Thank you very much.

MINISTER OF INTERNATIONAL AFFAIRS AND COOPERATION (DR VENSON-MOITOD): I thank you Madam Chairperson. I stand to support the Minister and in doing so Madam Chairperson, I would like to ask the Minister to consider two (2) small requests that I have.

The first one is to look at the Administration of Justice particularly in the far-off rural areas, where most of our people and voters are; people who do not have the means to access justice but who need justice; people who may have wrong done unto them but who may not have the means to reach justice, first because the courts may be too far but also because they may not have the means near them. I appreciate that you have the Small Claims Court and the mobile one; we should congratulate you for that. My worry is this Honourable Minister; we have left the Courts of Arbitration to Local Government and Rural Development to manage alone, I think for a bit too long. The role that Headmen of Arbitration do may seem to be far removed from the role that the courts are doing. Nonetheless, it is Administration of Justice when they caution people against exchanging insults, stopping the neighbor's cattle from straying into the neighbour's field and against little offences that appeared domestic.

Much as I may not agree with a lot of what Honourable Boko was saying, even the documentation of a minor offense way back in a rural village about what happened a long time ago about a cow that strayed into a field, that offense may escalate into an axe being picked up and a limb being chopped off and a case ending up in the High Court. Now, if the Courts of Arbitration were allowed or trained or assisted to record these cases, to be given the power and wherewithal to do something about basic...

ASSISTANT MINISTER OF LOCAL GOVERNMENT AND RURAL DEVELOPMENT (MS TSHIRELETSO): Clarification. I would not



waste time. I have always thought that a Headman of Arbitration deals with domestic issues and not criminal issues like stock theft because Bogosi is already looking into that. So are you saying this Bogosana should be done away with; the one that reconciles or deals with domestic transgressions? I do not know. I do not understand it well.

DR VENSON-MOITOI: Let me go on. What I am saying is that, Honourable Kgathi's department should begin to pay attention to work with you. If we do not pay attention to assisting Dikgosi there by even giving them a hardcover on which they can note that they have cautioned so and so to stop insulting other people, just for record keeping because if the next day that same person takes an axe to chop someone else, part of the evidence has been lost in a case that ends up in court. It might appear irrelevant as I stand here, but it is a matter to be reckoned with in evidence in a murder case that ends up in court. This is what I am saying. It is the Administration of Justice, it is reconciliation. It is justice. Those people are part of our justice system, they have a serious role. They are very important, they need to be assisted and I am not condemning Local Government and Rural Development at all. I appreciate the role they do and I think we have to begin to focus in our effort Minister Tsogwane, the role that you are doing to support Dikgosi. There is one area where we have to move closer to Honourable Kgathi to strengthen that which we are doing and Honourable Kgathi should listen to us. He cannot deal with justice in the absence of the basic things in the Administration of Justice.

The second portion is this, we do not have...

HONOURABLE MEMBER: Clarification.

DR VENSON-MOITOI: Let me just do this second point.

We do not have sign language as a matter of course in our courts. Sign language does not exist in all our courts as a matter of course. We should begin to do this. I am talking about things that do not exist and I am not criticizing anyone that they do not exist. I am saying, let us think about them. Let us go and worry about them. Let us include them. Let us plan for them because they are making justice unreachable for a lot of our people. If a woman has been raped in a remote village and the only thing they have access to is a Chief of Arbitration, in the middle of nowhere and they are a person without speech or hearing, the only thing they have is their hands to

demonstrate the crime and to plead for help, and that middleman is not there, that person is lost.

They have no access to justice because he would not be able to complain, there will be no one who will report the case where he is. This is what I am saying Madam Chairperson.

I am saying to my colleagues; let us think about these things now. Today is Women's Day and I am hitting at the core of the things that plague the average women in the rural villages where we come from. The things that we should worry about to make sure that as we deal with women that get raped in Gaborone where they can call a police officer, let us worry about a woman without speech, a woman without sight or hearing in the middle of a cattle post, where there is no one, where she cannot find a Headman, or find justice. I thank you Madam Chairperson.

ASSISTANT MINISTER OF LOCAL GOVERNMENT AND RURAL DEVELOPMENT

(MS TSHIRELETSO): I thank you Honourable Member with those touching words on Women's day. It is touching because I did not say anything on the health of women. I am going to feel bad for a long time about it because I should have said something on that.

HONOURABLE MEMBER: ... (Inaudible)...

MS TSHIRELETSO: Yes, I am saying this because I am always present in this House. Somebody is saying "hello" to me whereas he only comes here to debate and leave immediately thereafter only to then hear him talking on the radio. He dominates radio the whole week but he is never available here. I will proceed and talk about the matter at hand.

I propose that this department be given more funds. I appreciate that our courts of law are doing a hectic job; the magistrates go through a lot when they have to make judgements. They spend sleepless nights, researching and wondering if the decision that they are going to make is the right one. It is clear that sometimes they judge looking at what the law is saying; but from there their judgement is challenged. The problem is normally that the investigations were not properly done. The magistrates would have worked hard to reach that decision, I therefore want to commend them for the good work that they are doing.

They have challenges because their lives are at risk. Some of them are at risk of being killed and I feel



their security is not enough. They need police security; currently they are using government security guards who stay at the door holding sticks. If a convict knows that his judgment is the following day and decides to attack the Judge or Magistrate, there is not much that can be done unless if they have a different form of security. I want to commend them because most of their cases are investigated and they end up passing the test.

I want to take this time and talk about the pilot project on how maintenance payments could be done. I am not comfortable with the fact that the payments are made at the magistrate's office because the places are always full of people queuing for the money. In Mahalapye a day was once set for people to come and collect the money, only to find that the person who had the keys to where the money was, absent. This piloting that was started in Ramotswa and other areas should continue.

Women did not make a mistake by having children, so for them to stand on the sun waiting for the child's maintenance is not right. They do not go there to collect the money that they can use for their personal usage. I am now happy that the money can be collected at the revenue offices; maybe it could be paid through Electronic Funds Transfer (EFT), or even transferred to their cell phones. I am also pleased that you are also thinking that they could collect it from the banks. This issue is long overdue Minister. It is coming at a time when women have long suffered; they were forced to spend two months checking with the magistrate more regularly. Some of them once came to me complaining that the magistrate's officers are saying they do not have the keys to the safe even though the money was paid. I am therefore saying the money should not be paid at the magistrate's offices because they are not banks. Money cannot be kept there, if they have made a judgement that the person must pay maintenance money, it should not be their responsibility to collect the money. This piloting should not take too long because women are continue to suffer.

I do not see a lot of men wanting maintenance money, but I am aware that there are some who need it. There are some women who are not taking care of their children; they have left them with their fathers. According to the law, these women have to maintain these children too. So most of the people who line-up for this maintenance money are women. It is long overdue; I do not know why we took so long because this has long been implemented in other courts of law in Botswana. The people would be queuing there and you would not know if they are there

because they have cases to attend or they are there to collect maintenance money.

The other point that I wanted to talk about is the Mobile Courts. Currently the stock theft cases take too long. In my constituency in areas of Kudumatse and Dovedale everytime when I hold kgotla meetings, there is a man who tells me that his cattle were taken to Machaneng. Even upto now, those cattle are still in Machaneng. He does not know if they have bred or what, apparently they are still waiting to be used as evidence Minister. I therefore request that the Mobile Court should be used even in rural areas. We should not choose certain areas only, it should go to areas such as Shoshong Mookane and Mahalapye because the cases there take too long and the livestock ends up dying as they are kept in the kraals. Stock theft is rampant and last time the Police officers flew around Mahalapye farms where they found kraals with stolen cattle. If they are found and put in kraals for too long, the thieves steal them. Some thieves were caught after stealing them.

Extend the reach of Mobile Courts Honourable Kgathi. We have been praising this Ministry saying they own vehicles that do have air conditioners and everything inside. In our area there is high rate of stock theft. If you see a person transporting the big Jojo tanks you should not assume that they are carrying water. They transport beef to the butcheries in Gaborone. They were caught in Dibete, they probably used to pass there without getting caught. Someone just borrowed another person's car with the claim of going to fetch water when in fact they were going to transport stolen cattle. The car owner only heard about it when he received the report that his car was caught in Dibete, and when he arrived there, he found that it was caught full of cattle meat; cold rooms in Mahalapye were also full of stolen meat which was then brought to Gaborone, later on the meat goes bad. Prosecutions for stolen cattle should be done quickly more especially that in our districts people are complaining of livestock theft. I have talked about livestock but all these cases take too long to be prosecuted.

The last issue which I will talk about is the issue of rape cases which also take too long to be tried, then the victim becomes traumatised and depressed all the time remembering what transpired. When a case has been concluded, the victim forgets about what they experienced and it is then up to them to say the issue is over, the truth has come to light, then she goes for



counselling or gives up depending on the judgement. That is all I wanted to say today. Thank you.

MR KEORAPETSE (SELEBI PHIKWE WEST): Thank you Madam Chairperson. I think it is appropriate at this time to take this opportunity to congratulate Honourable Boko for his admission as Advocate of the High Court of Botswana and other courts. It is befitting for an esteemed scholar of law and an Advocate of Human Rights.

Madam Chairperson, I wish in deliberating on this point, seek your protection in terms of Section 12 (1) of the Constitution of Botswana to freely express my views. My view is that we are dealing with a crisis on Administration of Justice. Madam Chairperson, the Judiciary thrives on independence, it thrives on integrity, it also thrives in public confidence, and as far as I am concerned Madam Chairperson, the independence of the Judiciary has diminished. The Judiciary has no integrity, and it lacks public confidence and I will say why. What I am saying; these sentiments are shared by the Law Society of Botswana. We have been singing this song “improve the system of appointment of Justices of the High Court, Justices of the Court of Appeal and Justices of the Industrial court”. I know they do not fall under your jurisdiction, but it is high time they are also appointed on the recommendation of the Judicial Service Commission (JSC). We have complained about the composition of the Judicial Service Commission which consists of the Judge President appointed by the President to his position as Judge President, Chief Justice is also a Presidential appointee, Attorney General, Chairman of the Public Service Commission and other person preferred by the President and one member who represents the Law Society, five (5) out of six (6) are people who owe the allegiance to the Head of State.

Let us look at what is happening in other countries Madam Chairperson, look at South Africa, Deans of Faculty of Law are represented in the JSC, Parliament is represented in the JSC, Advocates are represented in the JSC, Attorneys are represented in the JSC and the Executive which appoints only three (3) people to the Judicial Service Commission in terms of the Presidential appointee. Madam Chairperson, this makes us not to trust the system of appointment of Judges especially that it is done under so much secrecy.

Not long ago we were in Kenya with a few Honourable Members including Honourable Moswaane. We have

had the opportunity to watch on television the search for a Chief Justice of the Republic of Kenya. In this day and age we still have Judges appointed in a manner that people cannot be really sure how these Judges are appointed. It is even worse for the Court of Appeal that with the Court of Appeal we never even see advertisements, we do not know whether these people are head-hunted, who head-hunts them, and by coincidence, I do not know whether it is by coincidence or it is by design, we have 5 or 6 Court of Appeal Judges as white old male: no females and very few Batswana. The bench at the Court of Appeal is not localised, why is that the case when we have so many Batswana who can be Judges of the Court of Appeal? Even in this very House, I can at least think of two (2) Honourable Members who qualify to be Judges of the Court of Appeal but we still have a court as if we are in apartheid South Africa. I do not understand the situation where we see only white, old male faces in the Court of Appeal. We need to talk about these things Madam Chairperson because we are very much concerned.

Our view this side is that the Judiciary has been captured by the President of this Republic. He is the reason why we are having this mess at the Judiciary; it has never happened in the history of this country that a President has refused four (4) names recommended by the JSC. The name of Gabriel Rwelengera, Gabriel Komboni, Lizo Ngcongco, the name of Motumise; all these men were rejected, notwithstanding the recommendation by the Judicial Service Commission. It has never happened, it is the first time.

It has never happened that four (4) Judges were suspended over some flimsy, frivolous and vexatious charges that they have received overpayments. Who has not received overpayment? Even some Ministers in this House have received overpayments. Go to the Attorney General, find out which Minister has agreed with the Attorney General on the overpayment they received, on a house that they resided in, vacated it and continued to get housing allowance whilst at that time there was a relative who was staying in that house. You go there and single out 4 Judges when even in the Court of Appeal, there are some Judges who are so affected with receiving overpayments from Government. Even in the Industrial Court, the answer was provided by Honourable Batshu in this very House that even at the Industrial Court there are Judges who have received overpayments. Even some Members of Parliament have received overpayments including myself, I had received an overpayment and



had to pay back. I was never reported to the police, I have paid because I was supposed to go for a trip, my relative got sick and I had been paid the per diem, so I had to pay it back. That is how we deal with overpayments in this Republic. What is different about these 4 Judges? They have signed a petition, twelve (12) of them and you single out 4 what about the eight (8)? What is all this? President Ian Khama has captured the Judiciary; let us say it here and now, the mess at the Court of Appeal is because of President Ian Khama.

Madam Chairperson, there was a determination by the Court of Appeal, and the Judge President happened to have been sitting in that panel, that it is okay for Batswana to be dismissed from their jobs without being given reasons. It is a judgement of the Court of Appeal. Parliament never rushed to protect Batswana against this unjust and unreasonable judgement, but now look at what is happening. Parliament is busy, the Minister of Justice, Defence and Security is busy trying to protect 5 white, old men to continue to be Justices of the Court of Appeal when we fail to protect our own citizens, we now protect ...

MADAM CHAIRPERSON: Order! You are noisy.

MINISTER OF HEALTH AND WELLNESS (MS MAKGATO): Point of order Madam Chairperson. Are we being fair when we talk like that? I think that it is okay for us to highlight that the people in the Court of Appeal's ages but there is a way and manner in which you say it. For us to be standing here and referring to it as racist, five old men when they are not even here to defend themselves, are we being fair? You will also get old. We are not calling you rowdy youth. There is a way and manner in which you refer to others in reference to age. We cannot just talk in an uncivilised manner Madam Chair.

MADAM CHAIRPERSON: No, it is not a point of order, you were simply correcting...

HONOURABLE MEMBERS: ... (Inaudible)...

MADAM CHAIRPERSON: No, we discussed this at the General Assembly recently that we should address each other appropriately, choose words. We are not at the Botswana National Front Party Honourable Boko. Hey! Do not speak while I am talking! Select your words. You are stating valid points, I am listening attentively. I was so interested in your debate; the problem is that you are using wrong words.

MR KEORAPETSE: Thank you Madam Chair. I am very much concerned that we failed to protect our own citizens. Parliament never rose and we never even called the General Assembly to say let us amend the law so that Batswana are protected. They cannot be fired without giving them reasons. You want to protect some foreigners because they are employed as Judges of the Court of Appeal in our country and they are white, old and they are male.

There is no single female at the Court of Appeal, after 50 years, Oh people! When we can have Madam Chair, a Motswana lady, well educated, experienced being employed by the International Criminal Court (ICC) but here in our jurisdiction we say they do not qualify. They should rather go and apply for posts elsewhere. Let us correct this situation and let us be honest about it that these problems have been caused by His Excellency the President. Thank you.

MINISTER OF BASIC EDUCATION (DR DOW):

Thank you Madam Chairperson. Let me take this opportunity to contribute to the debates on the budget for the Administration of Justice. In doing so, I will make five points. The first point is an obvious one that there is nothing more important in a democracy than the independence of the Judiciary. When we talk about the independence of the Judiciary Madam Chairperson, we can separate personal independence from institutional independence. I am sure the last speaker was speaking to the issue of institutional independence and I guess a bit about personal.

Let me talk about personal independence and also say that I think I am qualified, to actually assure this nation that when it comes to the personal independence of our Judiciary we can say...

HONOURABLE MEMBER: ... (Inaudible)...

DR DOW: Mr Boko, I do not know what kind of leader you are, who constantly interrupts when people talk. We were listening to you. Did you hear me make side remarks? No! Behave yourself and be an adult. This is an adult forum. Just keep quiet and behave yourself.

I was making the point Madam Chairperson that when we talk about personal independence we are saying that a Judge does not feel obligated to judge in accordance with what his or her colleague says, what the Chief Justice says, or any other third person. I think one of the reasons we have such high ratings is because in this particular Republic, Judges are able to make the kind



of decisions that we do not see in other jurisdictions. Whether anybody says anything to the contrary or not, that is a fact. We have personal independence. I think I can attest in terms of when we talk about our Magistrates and our Judges. I have no doubt at all that they make their decisions knowing that they have the freedom to do so.

That point Madam Chairperson leads to another comment that I want to make. I said I am going to make five points. The second point relates to my call to you that perhaps it is time that after 50 years of independence, you consider consolidating all aspects of the Judiciary under one roof. I do not think 50 years after independence we should still be having Justices, because an officer of the Customary Court is a Judge that makes decisions about the freedom of other people, they make decisions about whether or not somebody can be fined, and that we should actually be allowing that to fall outside the ambit of the Judiciary. I think it is high time that we actually have those officers under one roof. I also want to suggest that even the Industrial Court should be under one roof. You know they make far reaching decisions and they should be independent and also under one roof.

In fact, I want to make a comment that perhaps in some way is related to the comment made by the last contributor, again relating to personal independence, if you consider a Customary Court, I know it is a sensitive matter, I know some people would not like me making this comment but you have to ask yourself the extent to which somebody can be independent if the other Judges that make that particular court are actually related to him by blood and the only reason that they are there is because they are male and born of certain people. If you have the mandate or job to determine whether somebody can go to jail or not, somebody should be fined or not, then it is important that you reach that after proper training, you reach that because of personal competence as opposed to who your father is...

MINISTER OF HEALTH AND WELLNESS (MS MAKGATO): On a point of elucidation Madam Chairperson. I want to elucidate that you did well by calling Honourable Boko to order, we can clearly hear your debate now, so continue calling them to order.

DR DOW: Thank you Madam Chairperson. As a woman, especially today on International Women's Day, that is not a court that I could possibly even aspire to because first of all I am disqualified because I am

female and because of who my parents are. I really think that it is high time we change that Madam Chairperson.

The third point I want to make relates to what you raised when you were presenting Mr Minister, you were talking about the child maintenance reports...

HONOURABLE MEMBER: Correction.

DR DOW: I am not taking any corrections. I have four minutes left and I have got three points to make. You were talking about child maintenance. I think it is indeed high time that you decentralise these courts and make sure that there is one such court in every village and in every district. I think every lawyer knows, half the country I am sure knows that if there is one useless court order in this country is a child maintenance order. It does not give women what they seek. If I owe the bank today, I can tell you by tomorrow I will be having a Deputy Sheriff at my door. But with a child maintenance order there is no process of ensuring that people actually comply with it. I think since the High Court is the upper guardian of all children, by now they must have in place a process by which to make sure that people respect these orders.

This leads me to the fourth point which is the Guardian Fund. Mr Minister, I really think that it is high time you look at this Fund. It is overflowing and there are many reasons why the money is not claimed.

I am sure one of the reasons is that, sometimes the amounts are so small; it is not even worth the woman going to collect it at all. If you have got P100 maintenance order in Shakawe, while you live in Maun, obviously you are not going to collect and as a result the money continues to grow. So I really think that we must make a decision about this. First of all you must have a project locating the beneficiaries and where you cannot making other law or policy to make sure that this money is ploughed back maybe for the benefit of underprivileged children or children as a whole, but allowing it to continue to grow like this, I do not think is a good thing.

My last point relates to the role of police officers as prosecutors. I really think 50 years of independence is high time that prosecution really is moved to Directorate of Public Prosecution (DPP) completely and the police are allowed to do their work; which is really to police and indeed collect evidence and that we do not fuse these two particular duties. With those words, I want to say again thank you very much Madam Chairperson.



MR MAJAGA (NATA-GWETA): Thank you Madam Chairperson. Let me start off by appreciating women who are also our mothers in this house; they are looking so beautiful, it is quite clear that something special is going on. Madam Chairperson, you will not find me here next week just like Honourable Tawana; I will be going to ask for a tent from Red Cross and going to my constituency of Gweta that is experiencing floods that I could declare if I could as state of emergency. I keep checking on them then coming back here because they have sent me here to represent them but I believe that God is on our side and one day everything will be fine. Moving on Madam Chairperson, I would like to support the budget proposal from the Administration of Justice. These proposals are troublesome to Honourable Kgathi; I feel it would have been appropriate if it came from the Attorney General (AG) because we talk about the three Arms of Government. It is very similar to the one of Parliamentary Service that comes from the Honourable Minister instead of The Speaker of the National Assembly. That is just my suggestion; maybe one day the intellectuals will rectify this as well as our Constitution that is getting our country into trouble every single day. We have people that are educated in this country yet we are failing to use them to amend our constitution. There is nothing wrong with amending something; if it is way behind time, what is so scary about amending it?

If certain sections of the Constitution are constantly amended, why do we not just amend it so that it becomes relevant to our present lives so that we become a country that gets ratings that are factual? Madam Chairperson, we need to stay alert to these situations because when we talk about these three Arms of Government including Judiciary; the department of Administration of Justice needs to have all the resources. If that is not the case, one of these three Arms of Government could bring chaos to the country. Chaos is not solely brought about by University of Botswana students striking; it can also be brought about by inappropriate use of the law by the leaders. There are people who believe that the military officers and strikes are the only things that can bring chaos to the country; we need to look at things in connection with the current time. Madam Chairperson, it is high time we amend this Constitution; people have brought forward some motions on this regard. We need to update it just like the Constitutions of Namibia and South Africa in which everyone is taken on board at the rule of law. I will be the happiest man ever. Then the salaries of this Ministry will also need to be reviewed

as well as their working conditions so that they do not leave for greener pastures. If we do not do that, they are not going to do their work to the best of their abilities of making sure that the rule of law is well implemented. Some will receive bribes like we usually hear about the police officers who receive bribe in order to dismiss some cases due to being underpaid. If none of this would be done, we will never experience any fairness and justice in this Republic. We are going to end up doing these ratings that are usually done by international bodies that are not aware of what is really happening on the ground. I want a local ratings agency or board that could also come up with these kinds of ratings. These are some Batswana who are well educated and very intelligent like Dr Madigele and Honourable Maele who could be on this board.

HONOURABLE MEMBERS: ... (Murmurs)...

MR MAJAGA :...(Laughter!)...doing this work so that when we celebrate those international ratings; we would on the other hand have our local bodies that will be doing the same locally. I was saying...

HONOURABLE MEMBER: ... (Inaudible)...

MR MAJAGA: No, it depends on how it would be done Father, we have intellectuals. The Judges and the Magistrates are still not doing well after 50 years of independence; I do not understand why we still have this situation whilst we have children who are still unemployed in the streets. The Magistrates and the High Courts have shortage of Judges. It is high time we give these positions to the people that qualify; just like we recently witnessed the mother of the House standing for that position so that she can get to a higher level and leave Parliament. We have got a lot of Batswana who are capable, after fifty (50) years of independence some billions are still going towards education. What are we teaching these kids in tertiary if we are still complaining about having shortage of magistrates and Judges and using foreigners? This is unacceptable. Let us look into this because we are educating these kids and they remain unemployed after tertiary yet when we go to different courts, you find cases that have been pending for ten (10) or even eleven (11) years due to shortage of Magistrates. A person will have to travel from a place like Tshokatshaa to Francistown; not that I am singling them out but such people are Kalanga and Basarwa. Some struggle to find money for transport yet when they arrive they find that the Magistrate is not around and this is treated as if it is okay. On the other hand, if they do



not show up to a court hearing, all sorts of warrants will be made. You cannot help but wonder where justice and fairness are. These are issues of concern that should be addressed urgently without fear.

I am thankful for some courts that were established maybe in the last financial years in Tsabong, Nata etc. You should increase the courts in areas like Tutume and also increase prisons. Even if you can build small prisons because at the end of the day, you will have a prisoner coming from Phikwe to be tried in Maun. Such things logistically do not make sense, because it is better for someone in Maun to go for trial in Maun to avoid expenses on police officers who escort these prisoners. During trials, witchcraft is always prevalent, sometimes our officers lose lives because of the long distances they have to travel. Let us look at these things.

When I move on to talk about maintenance, it seems it is now a business venture, many marriages fail because of this maintenance issue. It seems as if money is being given freely. Let us keep a close eye on the matter.

MAJ. GEN. MOKGWARE (GABANE-MMANKGODI): Thank you Chairperson. Let me take this opportunity to comment on the request laid before us by Honourable Kgathi. I believe that our justice structure is flawed. When we talk about justice, we mean when someone is being tried at a Kgotla or any other court. But they have to be structured like their appeals because when you appeal, when you were charged at a Kgotla, you end up going to the High Court.

What is worrying is that some people who are supposed to be investigating at Dikgotla are not trained. They pass judgements which end up with some people in prison. Sometimes when you read through the cases, you will realise that in passing judgement, it seems Kgosi had no clue of what he/she was doing. I think justice should come under one roof, they should be under one person who will look at their resources and training be it Customary Court of Appeal or any other. If we could do that, things will be better.

If you take a look at the Industrial Court, it is currently a standalone, it is under Trade and Disputes Act. What is it doing there? Why is it not brought together with other courts so that it comes up with something like the Industrial Court Act just like there is the Customary Court Act and Court of Appeal Act, which we know their functions? If we do not do that, we will keep experiencing the same problems because right now we do not know how the Judges of the Industrial Court are

appointed. They do not go through the process that is already there. We do not know if they are appointed or whether they apply or whether they are called. Where do they get them from? I believe Minister you have to discuss this issue with the relevant authorities. They should be under the Administration of Justice. It is the same justice. Why do we want to separate it from the others?

MR BOKO: On a point of clarification. Thank you. Please comment on what the Minister is suggesting that the retirement age for those at Court of Appeal should be 80 when one is nearing death, what is your take on that one?

MAJ. GEN. MOKGWARE: I talked about it to say that would be so inappropriate. We cannot have people who are claiming old age pension three times as Judges. I believe that also is not a good thing.

Another issue that bothers me is one on lawyers who work for Government and parastatals, I hear they are not supposed to register with the Law Society. The Law Society complains about this every year. I think this is discrimination. Let Government lawyers also register and pay legal fees just like other lawyers. If we do that, all lawyers will be happy. It will show that there is no discrimination.

Another thing is that our lawyers who have already registered at the Registrar of High Court, it takes a long time for them to receive their certificates. That is not a good thing because it might dampen their spirits.

Another complaint from Batswana is that it takes a long time for cases to be tried. There was some woman at the Kgotla who said she has delinquent children but she keeps seeing them being released on bail. They were arrested for housebreaking and other crimes but ended up being granted bail. So this delays the process because sometimes they are told to go and wait for trial outside for 4 crimes. This means that...

MINISTER OF INTERNATIONAL AFFAIRS AND COOPERATION (DR VENSON-MOITOI): On a point of procedure. It is not in order that the record may reflect wrongly when it is being read in years to come. Honourable Mokgware says he was staying with a certain woman, in Setswana it is going to be misinterpreted Honourable Colleague.

MADAM CHAIRPERSON: He was staying with someone?



DR VENSON- MOITOI: Yes madam, he said “I stayed with a certain woman” in Setswana we know where it is leading. He should clarify it...

MADAM CHAIRPERSON: Correct your Setswana Sir.

MAJ. GEN. MOKGWARE: I said there was a certain woman at the Kgotla in Mmankgodi, who was complaining that she has children who have been arrested many times for different crimes but without being tried. Every time police officers take them to court then bring them back. Now she thinks they may kill her in the end because she sometimes reports their criminal activities herself.

MADAM CHAIRPERSON: I now call the Minister of Defence, Justice and Security to reply to the debate.

MINISTER OF DEFENCE, JUSTICE AND SECURITY (MR KGATHI): Thank you Madam Chairperson. I will be very brief in my response because most of your comments were advises on things which we are already doing for improvement. Issues like making notes after passing judgements.

The department of Administration of Justice is busy ensuring that the technology that we will be using will be passed on to other courts. That is why I am saying some issues raised here are things that we are already doing. Things like issues mentioned by Honourable Boko most of them are advises. We are also concerned by the delay of cases after trial.

We have a consultative meeting that we conduct at the Ministry to investigate where there are delays. We even know which courts are experiencing delays more from which Magistrates. The

Chief Justice is at liberty to take decisions or to caution those who have to do that job to do so. There is an issue which was raised earlier on regarding suspension of some judges, Honourable Members, I cannot comment on that issue because it is still a matter before the courts and therefore according to the law that we both know, we cannot comment on it. The Judicial Service Commission provides for the appointment of Judges, under Section 103. We get your concerns as the community and as Members of Parliament, we are a democratic government and as such we will find a way to improve these, it is a process. I do believe that at independence, the procedure to appoint Judges was different from the current practice and there was

a process to follow these developments. Honourable Venson was talking about Court of Arbitration. We are free and we are working hand in hand with them at all times, but what we can share is for us to come up with ways to improve the working conditions and we are ready for that. We will consult with Honourable Tsogwane, and get suggestions as to what could be done. Mobile courts are also addressing issues of stock theft. We are still trying to balance the scales across board, and the responsible office is Directorate of Public Prosecutions, Administration of Justice and the Police. We want them to have all the equipment when they go across the country. Currently we have buses used by the Administration of Justice, but the objective is for us to keep developing and attending to the issues which were raised in the house. We are in the process of improving the services. With that Madam Chairperson, I beg to move that the sum of P264 795 960.00, for Organisation 1200 stand part of the Recurrent budget under the Schedule of Appropriation of 2017/2018. I also move that fifty seven million, four hundred and fifty five thousand and ninety seven pula (P57 455 097.00), to be used for development budget stand part of the Schedule. I so move Madam Chairperson. Listen attentively, I thank you.

Question put and **agreed to.**

ORGANISATION 1300 – ATTORNEY GENERAL'S CHAMBERS

MADAM CHAIRPERSON: You are asked to note that two (2) hours has been allocated to this organisation and I shall call upon the Honourable Minister to reply to the debate at 15:40 hours tomorrow and the question will be put at 16:10 hours.

MINISTER OF DEFENCE, JUSTICE AND SECURITY (MR KGATHI): Madam Chairperson, the mandate of the Attorney General's Chambers is to provide quality legal services to the Government. This is done through its five (5) main functional areas, that is the Directorate of Public Prosecutions, Civil Litigation Division, Legislative Drafting Division, International and Commercial Division and Corporate Services Division.

Madam Chairperson, allow me to start by recognizing and congratulating the Attorney General's Chambers for having defended a number of civil suits brought against Government, and also for having drafted a number of legal instruments aimed at facilitating other ministries. I



would also like, in particular, to recognize their having facilitated this Honourable House through a number of Bills, Statutory Instruments and Regulations which were considered and passed by the House in 2016/17. This was made possible by their level of commitment, professionalism and expertise.

Madam Chairperson, it is a matter of concern that the Attorney General's Chambers still faces the problem of attraction and retention of legal officers at middle and senior levels, due to the attraction of the private sector, and sometimes as a result of lucrative offers from other Commonwealth countries, especially in legislative drafting. It is however, encouraging that despite these challenges, there still exists a cohort of hardworking and dedicated officers with long term commitment and passion to the public service. By way of motivating them to stay, the Chambers have come up with some rewards to deserving individuals, which include being given levels of responsibility and accountability commensurate with the potential of an individual; competency based promotions and performance based reward systems. Other low cost benefits offers to officers as a motivation, have been cell phones, airtime and laptops so as to facilitate hassle-free communication in pursuit of their work.

Against this background, let me now take this opportunity to highlight the performance and challenges pertaining to these five (5) divisions of the Chambers. I take it, this document has been read and I will just skim through it.

Legislation Drafting

One hundred and forty seven (147) Statutory Instruments and eight hundred and ninety nine (899) Government Notices, and twenty (20) Bills were tabled in Parliament and sixteen (16) were enacted into law. Eight Bills (8) were tabled during the February – April 2016 Meeting, and three (3) were enacted into law. Thirteen (13) Bills were tabled during the July-August 2016 Meeting, and all the 13 Bills were enacted into law. One (1) Bill was tabled during the November-December 2016 Meeting, but not enacted into law. The Attorney General's Chambers continues to promote the development of Botswana through ensuring that the laws drafted meet the needs of our growing economy and international standards, as provided for in the various conventions, protocols and agreements adopted at the international level.

Madam Chairperson, one of the functions of the Legislative Drafting Division is the updating of the Laws of Botswana books. This service had to be outsourced to Lexis Nexis (Pty) Ltd, a company based in Durban, South Africa, as there is still lack of this expertise in Botswana. A contract for the services was signed on 19th October, 2015 thus the work of updating the Laws of Botswana books up to 31st December, 2014 was completed on the 28th October, 2016. It is expected that the up-dating of the laws up to 31st December, 2015 will be completed by the end of March, 2017. The updating of the laws up to 31st December, 2016 will also be completed in the course of 2017/2018 Financial year. Thereafter, the revision of the entire Statute Book will commence.

International and Commercial Division

Madam Chairperson, the Attorney General's Chambers continues to provide legal advice on the negotiation and drafting of agreements relating to bilateral and multilateral cooperation for various ministries as well as those relating to funding and execution of agreements for projects which are critical to the Botswana economy. During the period under review, the Division provided legal services in the drafting and negotiation of several commercial and international agreements including in the areas of energy, mining, trade, military and defence cooperation.

Since April 2016, twenty (20) international agreements (bilateral and multilateral); and ninety one (91) commercial agreements were drafted on instruction of various ministries. The most notable agreements being the conclusion of the Economic Partnership Agreement (EPA); negotiation of the Tripartite Free Trade Area; procurement of Kazungula Bridge; procurement of Morupule B Phase II, Unit 5 and 6 (Brown Field); and the transfer of Government of Botswana mineral investments to Mineral Development Company Botswana (MDCB).

The Civil Litigation Division

This Division has maintained the momentum from previous years of effectively litigating on behalf of Government, including many cases that raise issues of national interest, some of which are currently being handled before the courts. The determination of these cases will define and strengthen our public institutions inter-relationship as well as the separation of powers.



Madam Chairperson, as part of improving the turnaround time in the provision of legal advice to Ministries, the Attorney General has through this Division been able to sustain its strategy of seconding legal officers to ministries from grade D1 to E1, depending on the complexity and volume of work per Ministry. However, there have been challenges of retention of officers, and the availability of positions to respond to the needs identified in all Ministries. In the same vein, the Civil Litigation Division has become a fulltime member of the Criminal Justice Forum established in the Ministry of Defence, Justice and Security to deal with criminal and civil cases backlog. The primary task of the Forum is to comprehensively identify administrative and legal challenges resulting in the backlog at all stages of continuum of justice delivery system, and to come up with effective resolutions to the problem including undertaking data auditing, alignment of processes and collaboration between all stakeholders.

The Directorate of Public Prosecutions (DPP) has a constitutional mandate to prosecute cases without fear or favour, once the Director of Public Prosecutions has made a determination to that effect. However the fulfilment of this mandate has been hampered by limited human resource capacity which has not been helped by challenges of staff retention, and the huge case load ratios per prosecutor. In my 2016/17 submission to the Committee of Supply, I indicated that the Directorate has a backlog of cases. In addressing this, the Directorate has undertaken extensive audit of the cases, which in the end resulted in the classification of the backlog on the basis of age, which also led to the redistribution of case load. The other challenges facing the DPP relate to the staff being over stretched in the performance of their prosecutorial duties at the magistrates and higher courts; incidents of reported fatigue and burnout due to heavy case load and shortage of transport.

Madam Chairperson, these numerous challenges faced by the DPP require both short and long term intervention measures, especially in relation to tackling the backlog of cases in all the five (5) DPP offices in Gaborone, Lobatse, Palapye, Francistown and Maun. In Gaborone alone, there are one thousand three hundred and ten (1310) cases that have been pending before the courts in excess of eighteen (18) months, which is a benchmark used by the Administration of Justice in its definition of a backlog. In addition, a total of three thousand three hundred and twenty nine (3329) dockets obtained from crime investigation agencies have been pending with the DPP in excess of eighteen (18) months.

Madam Chairperson, to address these challenges, the DPP, in collaboration with the Criminal Justice Forum, has drawn up an action plan to address the backlog of cases while taking into account related processes of the Botswana Police Service and the Administration of Justice. The immediate implementable actions derived from the action plan was the appointment of a Backlog Eradication Task Team led by a Deputy Director of Public Prosecutions; and the appointment of a nine (9) member special team of prosecutors focused on eradicating the backlog.

At the Government level, a decision has been made to transfer all prosecutorial functions from the Botswana Police Service (BPS) to the Directorate of Public Prosecutions (DPP) as a way of consolidating the function under one authority, and as a way of building capacity within the DPP in the long term.

Madam Chairperson, by way of improving overall efficiency in the justice delivery continuum, the Criminal Justice Forum will be reviewed to ensure effective, joint and/or aligned planning, and deployment of resources between the Botswana Police Service, the Directorate of Public Prosecutions, the Administration of Justice and the Department of Prisons and Rehabilitation. This will be for purposes of avoiding situations where the Departments' respective facilities may be situated so further away from each other that it creates challenges in terms of transport and communication between these Departments.

The envisaged alignment will also eliminate instances where one agency can grow exponentially at the expense of others, which may affect the turnaround time for justice delivery as a continuum. This is because the four institutions have a systemic influence and impact on the efficiency of one, or all others in the delivery of justice. In summary it will be value-adding and cost effective, if in the long term, the spread and capacity of the DPP could be expanded across the country, such that they are as nearest as possible to all courts, and other relational facilities.

Madam Chairperson, allow me to take this opportunity to express my gratitude to our sponsors who continue to contribute to our capacity building efforts within the DPP. During the period under review, we obtained financial support from the United Nations Office on Drugs and Crime (UNODC) for training of DPP staff in the investigation and prosecution of wildlife crimes and trafficking in persons. Such capacity building



has led, among others, to the increased number of prosecutions for human trafficking offences. Their support also enhanced the prosecutors' capacity in areas such as sexual offences against children, gender based violence, and the execution of extradition and mutual legal assistance.

Before I turn to my request, allow me Madam Chairperson, to once again assure Batswana at large, that any setback with respect to the Court of Appeal will be rectified within the provisions of the law which will, in effect, demonstrate beyond reasonable doubt our commitment as Botswana, to good governance and rule of law in accordance with Constitution of the Republic.

Madam Chairperson, let me now present the 2017/2018 Budget Estimates for the Attorney General's Chambers. In doing so, I will highlight those Accounts that have experienced increase or decrease.

I request a total amount of Two Hundred and Six Million, Sixty Nine Thousand, Six Hundred and Eighty Pula (P206, 069, 680.00) for Attorney General's Recurrent Budget. From this proposal, the Personal Emoluments account constitutes more than sixty two per cent (62 per cent) of the total Recurrent Budget and the remaining balance goes to Add Back and Other Charges accounts.

This Budget proposal represents an increase of Seven Million, Nine Hundred and Eleven Thousand and Four Hundred Pula (P7, 911, 400.00) which is four per cent (4 per cent) increase above the 2016/2017.

PARENT ACCOUNT – 00110 SALARIES AND ALLOWANCES

Madam Chairperson, a total amount of One Hundred and Twenty Eight Million, Two Hundred and Twenty Six Thousand, Five Hundred and Ten Pula (P128, 226, 510.00) has been allocated to Salaries and Allowances. There has been an increase of Six Million, One Hundred and Thirteen Thousand, Three Hundred and Twenty Pula (P6 113, 320.00) under this Parent Account, which is five per cent (5 per cent) above the 2016/2017 provision. The increase is due to annual increments and new posts for opening of Selebi Phikwe office for the Directorate of Public Prosecutions.

PARENT ACCOUNT – 00400 GENERAL EXPENSES AND SUPPLIES

Madam Chairperson, an amount of Forty Three Million, Eight Hundred and Eighteen Thousand and Nine Hundred and Fifty Pula (P43, 818, 950.00) has

been allocated to this Parent Account. There has been a decrease of Two Million, Eight Hundred and Seventy Two Thousand One Hundred and Ten Pula (P2, 872, 110.00) under this Parent Account which is six per cent (6 per cent) below the 2016/2017 provision. A significant decrease occurred under the Legal Costs Account and Compensation (General Expenses). The decrease was due to reprioritization of the budget.

PARENT ACCOUNT – 00500 DEPARTMENTAL SERVICES

This Parent Account has been allocated Three Million, Forty Nine Thousand, and Eighty Pula (P3, 049, 080.00) reflecting a decrease of One Hundred and Ninety Three Thousand Two Hundred and Ten Pula (P193, 210.00), which is six per cent (6 per cent) below the 2016/2017 provision. This decrease is reflected under the Library Books Account due to reprioritization of the budget.

PARENT ACCOUNT – 00700 MAINTENANCE AND RUNNING (EQUIPMENT)

A total amount of Three Million Six Hundred and Forty One Thousand Eight Hundred and Ten Pula (P3, 641,810.00) reflecting a significant increase of One Million Five Hundred and Thirty Eight Thousand Two Hundred and Eighty Pula (P1, 538, 280.00), which is seventy three per cent (73 per cent) over the 2016/2017 provision. Following a special appreciation that Attorney General's Chambers has challenges in maintenance of electrical equipment; a special account was created for better and proper accounting. The increase is also attributable to the growth and sub-contracted repairs account for maintenance of vehicles.

PARENT ACCOUNT – 00800 MAINTENANCE AND RUNNING EXPENSES (OTHER)

This Parent Account has been allocated Two Million, Two Hundred and Fifty Two Thousand Pula (P2, 252, 000.00). This represents a decrease of Nine Hundred and Sixty One Thousand Seven Hundred and Seventy Pula (P961, 770.00) which is thirty per cent (30 per cent) below the 2016/2017 provision due to reprioritization of the budget.

PARENT ACCOUNT – 04300 SPECIAL EXPENDITURE

A total amount of Two Million, Seven Hundred and Forty Thousand, Two Hundred and Ninety Pula (P2, 740, 290.00) has been allocated to this Parent Account. This reflects a decrease of One Million, Four Hundred



and Twenty Four Thousand, Nine Hundred and Sixty Pula (P1, 424,960.00) or thirty four per cent (34 per cent) below the 2016/2017 provision. The significant decrease occurred under the Vehicle Account 04333.

PARENT ACCOUNT – 01300 COUNCILS, CONFERENCES AND EXHIBITIONS

A total amount of One Million, Six Hundred and Ninety Four Thousand, Seven Hundred and Ninety Pula (P1, 694, 790.00) has been allocated to this Parent Account. This reflects an increase of Five Hundred and Eight Four Thousand, Two Hundred and Seventy Pula (P584, 270.00) or fifty three per cent (53 per cent) above the 2016/2017 provision. This increase is due to mandatory annual local and external conferences on legal matters.

Madam Chairperson, under the Development Budget, I request the sum of Forty One Million Seven Hundred and Seventy Seven Thousand and Nineteen Pula (P41, 777, 019.00) for the Attorney General's Chambers. The budget requested is as follows:

The Expansion of the Directorate of Public Prosecutions to districts has been allocated Nineteen Million Six Hundred and Thirty Five Thousand Pula (P19, 635,000.00) to facilitate the start of decentralisation of the functions of the Attorney General's Chambers and the Directorate of Public Prosecutions and thereby improve access to justice by local communities and to achieve alignment to Mobile Courts run by the Administration of Justice.

Two Million Pula (P2, 000, 000.00) will be spent on the restructuring of the Attorney General's Chambers following a Consultancy that was commenced in the 2016/2017 financial year.

The Construction of the Maun and Palapye DPP offices and Staff Houses has been allocated a total of Twelve Million Three Hundred and Sixty Five Thousand Pula (P12, 365, 000.00) for the review of the architectural designs which were developed in 2008/2009 financial year. This will be to accommodate co-location with the Directorate on Corruption and Economic Crime and thereby achieve cost efficiency in terms of land acquisition, provision of utilities and construction, mobilisation and supervision.

One Million Pula (P1, 000, 000.00) is for development and implementation of quality management system and adoption of e-services at the Attorney General's Chambers.

The remaining Six Million Seven Hundred and Seventy Seven Thousand and Nineteen Pula (P6, 777, 019.00) is for procurement of Vehicles for DPP expansion projects and also to meet the demands occasioned by the Mobile Courts under the Administration of Justice.

CONCLUSION

Madam Chairperson, this concludes my budget proposal for Organisation 1300-Attorney General's Chambers. I therefore, request that the sums of Two Hundred and Six Million, Sixty Nine Thousand, Six Hundred and Eighty Pula (P206, 069, 680.00) under Recurrent Head and Forty One Million Seven Hundred and Seventy Seven Thousand and Nineteen Pula (P41, 777, 019.00) under Development Head be approved and stand as part of the estimates for the financial year 2017/2018. I move accordingly. I thank you.

MADAM CHAIRPERSON: The floor is open.

MR BOKO (GABORONE BONNINGTON NORTH): Thank you very much Madam Chairperson. Let me start by indicating that it is important for the Office of Attorney General to be capacitated properly and fully. That it must have people with requisite skills and experience to undertake the work that they have to and that they must be able to do so without fear and without favour. This means that the practice that we have seen before, of a shuttling back and forth between the Attorney Generals Chambers and the Judiciary; where a person becomes Deputy Attorney General, moves the next time to become a Judge of the High Court, comes back to become Attorney General, goes back to the High Court to become a Judge and ends up at the Court of Appeal. That arrangement is untidy, it is unacceptable. It does not matter who the person is.

The second issue that we need to appreciate is that the Attorney General is responsible among other things for ensuring that those that it advises, in this case the Executive, are compliant with the law in every respect. I gave examples earlier of instances where pieces of legislation have been brought to Parliament, for Parliament to pass which pieces of legislation were cognisably unconstitutional. On the face of it, just looking at it without even thinking, you could see that it was unconstitutional. One of the most glaring and embarrassing examples is they attempted amendment of the Court of Appeal Act that was brought under some so-called Certificate of Urgency just this week. It was evident that the Attorney Generals Chambers had failed to apply its mind properly or at all, to all the issues, and



they were prepared to advise Government to violate the Constitution of the Republic. Such things are a terrible embarrassment and they must not be allowed to happen. It is important to ensure that; 1) before any piece of legislation is brought to Parliament or any Statutory Instrument, it has been carefully scrutinised by an experienced team of lawyers for compliance with the Constitution to ensure it passed Constitutional muster. In the absence of any such procedure, it should not come before Parliament.

MR KGATHI: On a point of procedure. Madam Chairperson, I appreciate the critique by the Honourable Member. What I request to be reconsidered is the manner in which the Honourable Member on the floor is casting aspersions on the AG's Chambers staff in the manner in which he is presenting his debate. As per the decorum of this Parliament, as you know it very well Madam Chairperson, they are not here to defend themselves in the manner in which the criticism is directed to them.

MADAM CHAIRPERSON: Honourable Boko, we have discussed this issue the other day that you should refrain from attacking Attorney Generals (AGs). Just state your issue because we have agreed that this issue shall not be discussed because it is under consideration. Do not point fingers because it is an attack on them.

MR BOKO: It is not an attack.

MADAM CHAIRPERSON: No, do not talk back when I am on the floor. Hey!

MR BOKO: The Constitution of this Republic enjoins us as we stand here in Parliament to speak freely and truthfully, and to disagree where we can, but not to be muzzled in the expression of our ideas. I am saying that the Office of Attorney General, not any individual, not concerned about personalities. The Office of Attorney General must ensure that before any act, any Bill is presented to Parliament for its consideration, it has been carefully scrutinised and examined to ensure that it passes Constitutional muster. Where it is glaringly offensive to the Constitution, then it defied logic why it should even have been submitted in the first place, and that is not casting any aspersions on anybody. It is perfectly within my rights as a Member of Parliament to speak these truths out. My point is, capacitate the Attorney Generals Chambers fully and properly so that they can do a thorough job of scrutinising Bills of advising, and ensuring; and I gave another example earlier that the court has held in Francistown, in a most

embarrassing fashion, saying that when the President passed a directive, he was not properly advised, and that directive was unconstitutional. That is an Act of Parliament that vests in the Minister, the power unilaterally to determine the quantum of compensation in relation to somebody's property having been expropriated that that was unconstitutional, that Section of the Disease of Animals Act is unconditional and it was passed by this Parliament. It does not take any serious examination to realise that that should not have been the case. I am saying; from now on let us ensure that this office is capacitated to carry out its functions. This is the point.

The second issue that I want to indicate is this; we have been told since the days when the Director of Public Prosecutions was a certain Mrs Dambe, that the duties of prosecution were being taken entirely from the police and would now be carried out by the Director of Public Prosecutions. That has not taken place. It has been years now, and each time the assurances are given, and the Minister has just been giving these assurances here yet again. It is no longer a question of just giving assurances now; it is a question of acting and ensuring that these assurances are given concrete expression in ensuring that the police stop prosecuting. That is a very, very important consideration.

The second issue that we need to deal with is the very function of the Office of the Director of Public Prosecution. In terms of Section 51 (a) of the Constitution, this is an independent office. The Director takes decisions without dictation by anybody. Now let us look at a few examples; there is a case involving the Director of Intelligence, investigated by the Directorate on Corruption and Economic Crime (DCEC), long finished in terms of its investigation, referred to the Director of Public Prosecutions. The then Director has since passed on, a current Director is still seized with the matter. There is absolutely no movement, but let the accused person be a certain Polson Majaga, accused of stock theft in some frivolous and vexatious manner, then there is a prosecution. Then the Director of Public Prosecutions is on the game, yet when it is the Director of Intelligence, when the investigation has long been completed, nothing is moving. We want to see action, we want to see equal treatment of cases that have long been investigated and that now require prosecution. It is unconscionable for this office to have failed to act on a case long investigated, and then to be pursuing small time cases involving cases that should not even



be before the courts in the first place. The Office of Director of Public Prosecutions must do its job and do that job without fear and without favour and without dictation by the Executive.

We also must indicate that we have seen some reliance by this office. There are a lot of senior litigators there. The current Acting Attorney General was in the civil division for a very long time. He is an experienced litigator, yet cases are now being often given to some South African advocates. Is it because there are no skills to do a simple case involving a dispute between the Leader of the Opposition and the Speaker of Parliament? You want to go and bring us a young South African advocate with no experience to come and do that? It is a searing indictment on the seriousness of the Office of Attorney General for them to be doing exactly that. It must stop because first it is a siphoning off of resources and sending them across the board but also again it is a vote of no confidence on themselves if that is what they are doing willingly. If they are forced to do it then whoever forces them must be called to order. I want these things to be pointed out and in the ultimate instance for that office to appreciate the seriousness of the job that they have to do and lastly they must advise the executive. When the Judiciary is involved, embroiled in turmoil, they must let the Judiciary find its legal advisor. When Parliament is involved in litigation, they must let Parliament find its own legal advisor because for them to be playing all these roles, advising here and there and all over the show creates a conflict that in the ultimate instance borders on the unethical. These are the serious issues that need to be addressed in relation to the Office of the Attorney General (AG), the Directorate of Public Prosecutions (DPP) and indeed ultimately the entire Administration of Justice. Thank you.

ASSISTANT MINISTER OF TERTIARY EDUCATION, RESEARCH, SCIENCE AND TECHNOLOGY (MR MOLAO): I thank you Madam Chairperson. Minister I do support your request. To submit that the Office of the Attorney General is very central to any operations of any Government or any state to the extent that as a country we need to adequately resource the Office of the Attorney General, for it to be able to train, for it to be able to retain talent, for it to be able to be attractive and not be a training ground for private practice if you like. There has been an outcry that lawyers come through the Attorney General just for training and they leave to go for greener pastures. We are forever saddled with backlog of cases because we

have got shortage of well trained, well-grounded staff or advisors and or prosecutors. To staff this department (AG), inclusive of the DPP, it is incumbent upon us as Parliament and indeed as the Ministry responsible to ensure that we resource this department with the necessary resources, be it monetary resources and otherwise for them to train and retain experienced people so that they can be able to adequately advise Government on any transaction that Government undertakes. A lot of Ministries and/or Government departments do not have resident attorneys. For me it should be a matter of course that every Ministry has resident Attorneys, one or two to advise on a day to day basis on what happens, on what decisions they make for us. To be referring everything to headquarters, to AGs to offer advice causes a lot of delays. If each Ministry were to be staffed with at least one or two experienced lawyers, it will make our lives very easy and it will avoid every day litigations that are as a result of probably ill advice or decisions that are made without the requisite legal advice. It is important that we take this department with the seriousness it deserves, if we are to avoid these litigations that ultimately cause Government to lose a lot of money, monies that would have been used in other areas had we taken the right decisions with legal advice to avoid legal litigation.

Central to this is that Government especially in our Republic is the biggest employer, has the biggest budget and any decisions that we make whether it is decision to expend money, or any decision that you can think of, the nation is always on the lookout if it is the right decision. As we develop as a country, our people become highly litigious, they go to court every day to challenge each and every single decision that they deem offensive. It is not like in the olden days where people say “what will we say if Government has decided?” It is very important that as we request monies for this department we also have interventions Minister, of procuring and retaining well-grounded professionals in this department, well paid if you like so that we avoid a situation where people will be tempted. This is one aspect that we need to look at very seriously. The earlier on Administration of Justice is intertwined with the ages, they work hand in hand so we should not be talking about Administration of Justice and leaving out the AG as if they are not one and the same people, they work hand in hand. We cannot talk of the other independent of the other one so I just ought to buttress this aspect that when cases go on and on without being prosecuted, the nation loses confidence in the DPP especially, and if the nation loses



confidence in the DPP or the prosecution department then the whole justice system becomes a mockery as they say justice delayed is justice denied. We should not be having a backlog of cases going to or even five years, ultimately people go to court to challenge that the case has been pending for too long and some are acquitted on the technicality that it has taken too long for them to be brought before our courts but this is a resultant of the lack of capacity so this song of lawyers who come in and go every day must become a thing of the past. We must make their job easier; we must make their job attractive if we are to enhance the confidence that the nation ought to have in our justice system. That is one aspect that I wanted to underscore.

As I have already said, I do support the budget but next time around look at all these aspects and ensure that these people are adequately resourced so that we can move forward as a nation. As the Leader of Opposition already said, the department to the extent possible should be using our local people to prosecute. Going across the borders is an indictment on our system as to whether we do not have confidence in our people. We will lack confidence in our people if within the department we do not have the requisite experience that is necessary, hence we go out and outsource across the borders. We need to be looking at various ways and means of attracting those who have gained experience and left, bring them back where possible. That is one area that we need to look at very seriously.

Minister, let us also look at staffing all the ministries with lawyers who can advise on a day- to-day basis, on the serious decisions that are taken by ministries and not move everything to Headquarters for advice. Thank you Madam Chairperson.

MR MOSWAANE (FRANCISTOWN WEST): Madam Chairperson, thank you very much for according me this opportunity. Let me also address those issues that trouble us. Before I get into those that worry me, let me praise Advocate Boko for having made it and his achievement of being an advocate. May God shine his face upon you and shower you with blessings. You are a Motswana and you made us proud Sir. For that, we congratulate you. You highly commended me last year when you indicated that I as *Motswapong*, was worthy to be counted amongst the top 5 productive/excelling Members of Parliament. Thank you Sir.

In our system, I have realised that after graduating from Colleges of Education our legal experts go straight

for practice then claim to be more knowledgeable and hardly comply with our set legal procedures. These are issues that when you listen to what they are saying, it is widespread in Botswana that lawyers view the Government in a bad light. Is it not time for us to assess ourselves and find out what could possibly be the cause of all this because I take it that the knowledge that they acquired in their studies ought to be our light and guide us in the processes of law and order. .

I am surprised that there is the Law Society, they are elected and work in unison and still maintain the position of their predecessors, that it seems as if we are sailing in a storm in our legal procedures. The issue then is who must listen and what is it that they must do...

MOTION

ADJOURNMENT

LEADER OF THE HOUSE (MR MASISI): Madam Speaker, it is my enormous pleasure to beg to move that this House do now adjourn, since the young man became an Advocate.

Question put and **agreed to.**

The Assembly accordingly adjourned at 6:00 p.m. until Thursday 9th March, 2017 at 2:00 p.m.



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