

**OFFICIAL OPENING ADDRESS BY HIS EXCELLENCY  
THE PRESIDENT OF THE REPUBLIC OF BOTSWANA AT  
THE CONFERENCE OF SOUTHERN AFRICAN CHIEF  
JUSTICES HELD AT MOWANA SAFARI LODGE-KASANE  
FROM 7<sup>TH</sup>-8<sup>TH</sup> AUGUST 2009**

**Honourable Julian Nganunu, Chief Justice of the  
Republic of Botswana,**

**Your Lordships Honourable Chief Justices and Judges  
from Southern and Eastern Africa;**

**Honourable Judge President of the International  
Criminal Court (ICC);**

**The District Commissioner, Chairman of the Chobe  
District Council, Chairman of the Chobe Land Board,  
and Senior Government Officials;**

**Distinguished delegates from civil society in  
Botswana and other countries;**

**Ladies and Gentlemen**

I am pleased to be with you this morning and to deliver the opening address at this regional conference of Chief Justices, Judges and other eminent jurists. Let me also join our Chief Justice, Honourable Julian Nganunu, in welcoming

all visitors to this beautiful and unique corner of our country.

For those who are coming here for the first time, I have no doubt that these surroundings will remain in your memories long after you have left the conference. The choice of this location to convene a regional conference could not have been more appropriate, as it marks the point where four countries meet, at the confluence of two great rivers, the Chobe and the Zambezi.

Moreover, the area is rich in bio diversity, especially wildlife, which includes one of the largest populations of elephants in this part of the world. Kindly be informed therefore that wildlife is in the majority here, and that the elephants and buffalos in particular have no regard for the ***rule of law*** because they do not recognise international borders. I wish to encourage you to find time in between your sessions to venture out and have a taste of the wide variety of tourist products that are on offer. I am therefore pleased to note that your programme includes some game viewing on both

land and water, and promise you that you will be treated to a truly unforgettable experience.

The participation of 17 countries at this conference, that is held under the auspices of Southern African Chief Justices Forum, demonstrates the importance you attach to the subjects that will be discussed. Your chosen theme, **Sustaining the Rule of Law to Promote Socio-economic Development in the Eastern and Southern Region** is testimony to your commitment to searching for solutions to the challenges we face.

This type of interaction between the region's top legal personalities, and the sharing of experiences that will take place, will no doubt contribute to the development of our judicial systems, and will help to improve their efficiency. For socio economic development can only take place in the context of a robust, transparent, predictable and enforceable legal framework. Experience has shown that where justice and the rule of law are absent, the result is usually stagnation, poverty and general discontent.

In this respect, I need not remind you that your conference is taking place at a particularly challenging time, when the world is reeling under a recession that has crippled efforts by governments to improve their economies and the lives of their people. This problem has however, brought the world economies together to search for common solutions.

I know that that all the economies in Southern and Eastern Africa are going through similar challenges, and that they are addressing them with resolve. It is my sincere hope that these concerted efforts will see the world emerging sooner rather than later from the recession. I am also confident that this experience provides us with an opportunity to learn useful lessons, to be more creative and devise new ways of dealing with unexpected changes in our economic fortunes.

To link this to the theme of your conference, the critical question now becomes how the legal fraternity and the judicial system can work together with other sectors of the economy to make a positive contribution to economic development.

This conference provides you with an opportunity to seek collective answers to this question. I am informed that five years ago, a similar conference, albeit attended only by delegates from Southern Africa, was held here at this very venue, to deliberate on the Rule of Law, Independence of the Judiciary and Administrative Law. I am also informed that this year's conference is meant to take stock of how far the various countries have gone in implementing the resolutions of the 2004 conference. This should enable delegates to assess areas of progress, and where this has been limited, identify obstacles and solutions. The inclusion of your colleagues from beyond the SADC region should allow a broader perspective on what are no doubt issues of continental and global significance.

I note that like in 2004, the rule of law and independence of the Judiciary will again be part of your discussions at this conference. This clearly demonstrates the importance and over-arching nature of these fundamental principles. The rule of law is a critical value for every nation that is democratic, respects law and aspires to be successful in this competitive world. It is when governments and the general

population respect the rule of law that socio economic development can be a reality.

Put simply, this means that those who govern, as well as those who are governed must obey the law of the land. It also means that the legality of their actions must be open to review by the courts. On its part the judiciary should, like the executive and legislature, recognize the principle of separation of powers by respecting the legitimate territory of the other arms of the state. I mention this to underscore the fact that the upholding of the rule of law is not the sole responsibility of the executive arm of the state, but a function of all the arms of state.

Ultimately the survival of the rule of law depends upon the maintenance of this balance, and the consensus that is inherent in a democracy.

You will all agree therefore that we all have a stake in preserving the rule of law, and that this is not always an easy task. Naturally, there will be occasional disagreements, suspicions and tensions between the three branches of

government, and among stakeholders. Our experience in Botswana during the past 43 years since independence has taught us that these can be managed through consultation, cooperation and mutual respect. We like to remind our friends that for us, democracy is not a concept that was imported from outside, or an accident of history.

Democracy is embedded in our Setswana culture which emphasizes consultation in the kgotla and consensus in the decision making processes. It has also resulted from the respect we have had for our constitution and our adherence to the rule of law.

It is now accepted the world over that an independent, informed and impartial judiciary holds a central place in the realization of a just, honest, open and accountable government.

It is when the judiciary is independent, fair and efficient that the public will freely bring cases to the courts and hope for justice. I know I am preaching to the converted, but I consider it appropriate to repeat the qualities which the

public attaches to good judges. They expect their judges to have wisdom, integrity, patience, independence of mind, knowledge of the law, an awareness of practical realities, fairness, balance, and a passionate desire to ensure that justice is administered according to law.

This will ensure that the public remains loyal to the decisions of the judiciary no matter how popular or unpopular they may be. It is also when the judiciary exudes these qualities that it will earn the respect of the other arms of government, particularly in the field of judicial review of administrative decisions.

It is for this reason that I am pleased to learn that at its recent annual retreat, the Judiciary of Botswana agreed on a code of conduct and ethics encompassing most of the qualities to which I have referred. I am informed that the code also establishes a complaints tribunal for handling all complaints against Judicial Officers. We hope that this code of conduct and ethics will strengthen the judiciary, promote judicial accountability and further enhance public confidence.

Needless to say, the Judiciary of the twenty first century is required to maintain very high standards of performance to complement the other arms of the state in their endeavour to move the country forward. In this regard the Botswana Judiciary has introduced reforms which are intended at improving the delivery of the courts at all levels. The Court Records Management System and Judicial Case Management are some of the reforms that have been put in place.

Since their introduction, these reforms have significantly improved the speed and quality of justice delivery. I am sure that your colleagues from the Botswana judiciary will share these initiatives with you and the benefits they are reaping from them.

Another matter which I hope will form an important part of your discussions is the role of international law especially international criminal justice, in ensuring observance of the rule of law. As a state party to the Rome Statute of the ICC, and member of the United Nations, Botswana is highly conscious of, and deeply committed to its obligations under international law. We attach great importance to the letter

and spirit of the Rome Statute, and fully support the work of the international criminal court.

African countries constitute the largest block of states parties to the Rome Statute, and must demonstrate an unflinching commitment to combating impunity, promoting democracy, the rule of law and good governance throughout the entire continent.

This is why Botswana does not associate itself with the position taken by the African Union regarding the process issued against certain African personalities. We cannot accuse the ICC of applying selective justice when the majority of cases before that court were taken by African countries themselves. Botswana therefore intends to cooperate fully with the ICC in bringing any perpetrators of international crimes to justice.

I wish to conclude by once again welcoming the convening of this conference in Botswana, and expressing the hope that it will benefit all our countries. I expect that your deliberations will also enrich the cross pollination of ideas on

the broad critical legal issues that have a bearing on the efficient operations of our judiciaries, and strengthen their relationships with the other organs of the state. To this end, I encourage you to explore concrete areas of cooperation where combined efforts could lead to the evolution of common values, systems and institutions where appropriate.

I wish you fruitful deliberations and success in implementing the outcomes of your conference, which I now declare officially open.

Thank you for your attention.

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