

Chapter 10

The Management of Magistrate Courts Records in Namibia

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ABSTRACT

This chapter is based on a study prompted by concerns about delayed cases in Namibian magistrate courts. The purpose was to examine the prevailing records management practices. The study was conducted in seven regions which were purposively selected based on location or population. Data was collected by means of observations and face-to-face interviews. The study revealed that: some magistrate courts did not adhere to records management standards resulting in an absence of a records management policy, classification schemes, retention schedules, shortage of storage space, lack of physical security and untrained record staff. The study recommends employment of trained records personnel; staff awareness in the management of the Namibia Case Information System (NAMCIS); install CCTV and maintain air conditioners in records storage facilities; ensure that the National Archives of Namibia fast tracks the process of approving requests for transfer or destruction of magistrate courts' records; and uphold records management standards.

INTRODUCTION

Good records management boards on issues of accountability, transparency, efficiency, effectiveness and cost reduction and it contributes to effective court administration. It is believed that “without accurate and reliable records, and effective systems to manage them, governments cannot be held accountable for their decisions and actions, and the rights and obligations of citizens and corporate bodies cannot be upheld” (World Bank/IRMT, Partnership Project, 2002, p. 1). Every step in case processing results in a recordkeeping activity either through the creation of a record or a file, the maintenance, updating, retrieval or review of a record, or the disposition of a record” (Dibble, 1986, p.3). This is why it is argued that case processing is an important aspect of a court’s responsibilities (Dibble, 1986). A large part of

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a court's operations evolve around processing cases. There is, therefore, a need for magistrate courts, police and other institutions responsible for the administration of justice to have proper records keeping systems in place. It is important that organizations manage their records in accordance with internationally recognized records management standards such as ISO, 15489-2016. The standardization of records management policies and procedures ensures that appropriate attention and protection is given to all records, and that the evidence and information they contain can be retrieved more efficiently and effectively, using standard practices and procedures.

Given some concerns regarding missing police dockets and delayed court cases, this study sought to determine the records management processes and procedures in place at various magistrate courts in Namibia. It was prompted by concerns about constantly missing police dockets and cases taking too long to be completed (de Klerk, 2014). In 2014, this problem drew the attention of the Minister of Safety and Security, Honourable Immanuel Ngatjizeko who expressed fears that if the problem of missing police dockets, which lead to delayed court cases is not addressed, Namibia as a nation will “conclude that those who are supposed to investigate cases are corrupt” (de Klerk, 2014, p. 2). Moreover, the minister indicated that he personally wanted to look into the matter of court cases taking so long to be completed (de Klerk, 2014). These concerns prompted a study of this nature in an attempt to address the minister's concerns about court cases taking too long to be completed.

The study was guided by the following specific objectives:

1. To determine recordkeeping systems in place,
2. To determine if magistrate courts are guided by records management policies,
3. To examine security measures in place,
4. To identify the skills of recordkeeping staff,
5. Make recommendations on ways in which recordkeeping methods and procedures at magistrate courts in Namibia can be improved.

The rest of the chapter is organized into the following sections: background to court record keeping in Namibia, issues, controversies and problems related to the management of court records. The chapter ends with a section on solutions and recommendations to address the problem of poor records management in magistrate courts of Namibia.

BACKGROUND

Namibia is a former German colony which was also colonized by South Africa after the German colonialists left in 1919 (Wallace & Kinahan, 2011). Following the defeat of the Germans, the League of Nations placed South West Africa as Namibia was then called under British mandate with the administration of the territory entrusted to South Africa. The South Africans colonized Namibia until 1989, just before Namibia got its independence in 1990 (Wallace & Kinahan, 2011). Although Namibia is a commonwealth country, it is governed by the Roman Dutch common law (Amoo, 2008) and it is bound to face similar problems of managing legal records as countries such as Ghana and Kenya (Twining, 1994). Roper and Millar (1999a, p., 6) noted that “regardless of the specific legal system in place, records document activities and may serve as admissible evidence in a court of law,” hence the argument that

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