



Speech of Chief Justice Rony J. Govinden for the occasion of the opening of the Supreme Court, the 10th January 2024

THEME: “LEARN FROM THE PAST TO BUILD TOMORROW”

Greetings (Welcome)

Head of State of the Republic of Seychelles, Mr. Wavel Ramkalawan; First Lady, Mrs. Linda Ramkalawan; Vice President of the Republic of Seychelles, Mr. Ahmed Affif; Speaker of the National Assembly, Mr. Roger Mancienne; President of the Court of Appeal, Justice Anthony Fernando; Judges of the Court of Appeal; fellow colleague Judges of the Supreme Court; Honourable Attorney General; Excellences of the diplomatic corps, Father Harel; Bishop Wong; Registrar of the Supreme Court; Master of the Supreme Court; Chief Magistrate; Magistrates; Lawyers; Judiciary staffs; members of the media; excellences; ladies and gentlemen, good morning.

Preliminary Remarks

Today, we are once again marking the opening of the legal year of the Supreme Court following the recess that began in mid-December last year. Traditionally, on this occasion, the Chief Justice of the Supreme Court makes a public address to inform the people of the challenges and accomplishments of the preceding year and to announce their vision for the new legal year. This is a tradition that exists in many countries. This is primarily done to maintain the relevance of this crucial pillar of our democracy. As judges, we do not often have the opportunity to discuss our challenges and successes due to the nature of our profession. Therefore, on this occasion, I would like to take the opportunity to showcase our successes, challenges, and plans for the upcoming year and provide our perspective on certain issues that are in the public domain, besides the Judiciary.

Separation of Power

In the Seychelles, we have an Executive system created by our Constitution since 1993 where the President of the Republic has three principal roles: Head of State, Executive Head/Chief, and Commander in Chief of the Seychelles Defence Forces. As Head of State, the President, under Article 66(2) of the Constitution, ensures that the Constitution and laws are being applied correctly in the Seychelles.

As Head of State, he needs to interact with all branches of the government, including independent institutions, to ensure that things work well. It is in that manner that we, the judges, went to see the Head of state late last year to discuss the subjects that we saw were pertinent

and that can affect our conditions of service. We appreciate the welcome we received and the frank discussion that took place. This meeting had nothing to do with the cases in front of us but simply on the administrative problems that we are facing. The Head of State proposed ways that we can move forward from these issues, and we hope to make progress on them this year.

This process does not affect the separation of powers between the three branches of government because, as the Head of State, the President has the right to oversee the country as a whole. This presidential function is executed above the three other branches of government. Therefore, the Constitution will always remain, and the Judiciary will continue to consult with the Head of State of the Republic of Seychelles when necessary with the aim to resolve its challenges, as demanded by the Constitution.

This is the only constitutional avenue available to the Judiciary when it comes to discussions on its conditions of service.

The Media and the Judiciary

This year, the Media Commission held its Editor's Forum in collaboration with the Judiciary. During this event, we had some interactive sessions where we talked about some of the rules that are in place that have to do with media access in our various courtrooms. On their side, they explained the challenges that they face, and we tried to find solutions to those challenges. We recognise that we need to ensure that the media receive timely, up-to-date, and accurate judicial information. This year, we will double our efforts to ensure that these objectives are met. Let me once again express my appreciation for your help in this part of ensuring that all citizens have full access to judicial and legal information, thereby helping them to better exercise their rights and obligations.

Public Perception/ Opinion

The Judiciary and the courts occupy an ambivalent position in relation to the public. As a branch of government, the Judiciary is subject to criticism, comments, and opinions in the public sphere and on various media platforms. Although this is the case, the ability of the Court and the Judiciary to respond to or influence public opinion on these issues is limited due to the nature of our role as judges. The separation of powers gives the Executive and the Legislature the constitutional responsibility to engage with the electorate, not the Judiciary. Our role is to decide cases brought before us by the parties and to do so impartially, applying the law based on the facts.

The complexity of the Judiciary's position in relation to the attitude of the public and the media can pose challenges for certain judicial officers and for the Court as an institution. Although we are aware of the personal or institutional sacrifices that we have to make in this regard, last year we launched a program to inform the public about the workings of our institution with the aim to reduce speculation, which is often unfounded.

A central concept in the relationship between the Judiciary and the public in a democracy is the concept of public trust, which to me is what gives legitimacy to a good judicial system. Even if we cannot engage in a debate or dialogue with the public at a political level, I believe that there is much that we as judges can do to increase the public's trust in us. That is why, this year, I will continue to ensure that the four strategic pillars are maintained:

1. Ensuring a high standard of conduct and integrity of judges and judicial staff.

2. To hold accountable judges and judicial staff who attempt to commit disciplinary offences.
3. Improve the dissemination of information to the public on the functioning of the justice system.
4. Continue to provide training to judicial officers with the aim of strengthening their knowledge of our Rules of Ethics.

Statistics

The past year has been marked by many positive developments in the Seychelles Judiciary. The clearing of the backlog in the Court of Appeal and the Supreme Court is becoming a reality. The Court of Appeal has managed to clear 90% of its backlog and the Supreme Court has managed to clear 78% of its backlog. These figures are not just numbers; they represent an increase in our efficiency and this allows us to provide better service to our citizens and give them access to justice in a short period of time.

New Tribunal

The establishment last year of two new judicial tribunals, the Fair Trading Tribunal and the Mental Health Care Tribunal, came with double objectives. One is to ensure that all decisions and their impact on the rights of individual citizens are made in an impartial and judicious manner. The second is to ensure that all tribunals are placed under the judicial system, as required by the Constitution. Our organisation is in constant dialogue with other branches of government on the question of whether there is a need to bring other of these institutions under the Judiciary because of the nature of their decisions or whether there is a need to create new ones.

New Rules and Regulations

As part of our steps to increase efficiency, we have made some changes to the regulations that have to do with legal procedures. This includes increasing the power of the Master of the Supreme Court by implementation of mediation that was previously done by judges and also for them to be able to do inquests. We have amended the Civil Procedure Rules of the Magistrate's Court to give the court a similar procedure as the Supreme Court with the aim of increasing efficiency. In line with these rules, the Rent Board procedure and the fees for the jury were changed. This project, to change the judicial process, needs to go further. We have realised that the Seychelles Code of Civil Procedure and the Criminal Procedure Code, which form the basis of our civil and criminal legal procedures, need to be fundamentally reformed to bring them in line with today's reality. This needs to be done through a legislative project and it is for this reason that we will be proposing this reform to the government.

Legal Aid

To increase the efficiency of our legal aid, we submitted a proposal to the Attorney General last year to consider changes to the legal aid system. This is to ensure that people who really need a lawyer and who do not have the means to pay for the services of a lawyer are the ones who get legal aid. This change will ensure that the constitutional right is exercised without abuse and that the resources go to those who deserve them.

Bar Council

The governance of the legal profession also remains a challenge, and many people still feel that the level of discipline of some lawyers needs to improve. In order to address this situation, we have submitted a Law Society Bill to the Attorney General's Office with the aim of establishing an independent council to oversee the professional activities of lawyers. This legislative project will create an independent council to regulate and discipline lawyers. This is a system that exists in various countries around the world, and I hope that progress can be made on this issue this year.

Lawyers Admission

Last year, six Seychellois were admitted to the Bar. One was appointed as a Notary and three as State Counsels. Eight graduate candidates sat for the BAR final examinations organised by the Supreme Court to qualify as lawyers. One senior lawyer announced their intention to stop practising. When I look at the statistics, I see that many more women than men are entering the legal profession and it is really possible that, if it has not already happened, we will see a gender imbalance in our legal system. So I call on both sexes who have the motivation and intelligence to put in the same effort to study and pass all the exams to become a lawyer.

E-Filing

Our institution must embrace digitalisation in order to adapt to this rapidly evolving world. Many jurisdictions are implementing the concept of e-Justice, where legal procedures are conducted online. This will increase the efficiency of the justice system and reduce the costs involved. With the aim of making this a reality, early this year we will be introducing e-filing for submissions that are currently made in physical form. This project will be followed by a major change to the electronic filing of all legal documents, which we will need to include in the amendments to the legislation that does not currently accept e-filing. We want our online case management system to form the basis of this new e-filing system. In the meantime, we have also started to digitise the Judicial Library and its archive to reduce the number of old paper documents.

Continuous education

In terms of implementing continuous education for our Judicial Officers, last year was quite an eventful year. A delegation from the Tanzanian Judiciary made an official visit and during their stay we shared best practices from both our jurisdictions. The EU Global Facility organised a workshop on "Turning intelligence into evidence". We also participated in and facilitated a seminar organised by EUNAVFOR and RCOC on the legal aspect of counter-piracy and narcotics. As we are receiving more and more cases involving cryptocurrencies, we attended a workshop organised by the FSA, which gave us a better insight into the technicalities of cryptocurrencies, and late last year, a delegation from the Seychelles Judiciary attended the Southern African Chief Justice Forum. Our new judicial officers have also had the opportunity to receive training on various topics organised outside the Seychelles, including human trafficking, intellectual property, money laundering and asset recovery, amongst others. As a small island jurisdiction, this type of experience is important for our professional development.

We continue to make available more in depth knowledge to our technical and administrative staff by supporting their training in many subjects last year. It is also clear that training in law is essential if our support staff is going to be more efficient. Therefore, where it is possible we allow them to do their law degree. But we do not intend to stop here. With the aim of further

enhancing their legal competence I am about to sign a Memorandum of Understanding with the UNISEY that will enable 8 of our staff members to do an *Advanced Course dan Paralegal Studies program*. We intend to renew this MOU every year so that annually the Judiciary gets a minimum cohort of 8 graduates under this programme.

Pragmatism

As I have said before, when we look at our statistics, we continue to see a reduction in the number of cases on our register before the courts and tribunals. My appeal is that we continue to implement our 'first come, first served' policy to manage our caseload. This helps us to hear the older cases in the system before new ones to ensure that this constitutional obligation of 'trial within a reasonable time' continues to be met. In doing so, we will also have to look at cases where their particularity or specificity means that we need to prioritise them because their time in the case is not in the interests of justice. This makes me think of cases in the Employment Tribunal where there are foreigners in Seychelles who are waiting for the decision of the tribunal, who are not in employment nor do they have a place of residence and the taxpayers have to support them. Another example is sexual assault of minors, these cases, the more time passes, the more vulnerable the victims become and their ability to testify diminishes. I ask all those involved in investigations, the prosecution and my colleagues, to double their efforts to ensure that, on a case-by-case basis, those cases that justice requires them to work on are expedited.

New Appointments

Two judges of the Court of Appeal, one judge of the Supreme Court, two legal researchers and a Chief Magistrate were appointed last year. This has helped us to carry out our duties more adequately. However, I am not satisfied with the turnover of staff in certain sections, such as the interpreting section, where it is difficult to attract and retain qualified staff. I am therefore appealing to those involved in the administration of the Judiciary to create more incentives to retain staff in these sections.

2024 Theme

As we move forward this year, the Judiciary is guided by the new theme "Zidisyer aprann lo le pase e batir demen" ("Judiciary: learning from the past and building for the future"). A theme that resonates well with our quest for a justice system that reflects and learns from its experiences in order to always do better. Under this theme, the Supreme Court has analysed our 120-year history, what was good and what was bad, with a view to building a better tomorrow. Our focus is to build on the wisdom that our long history has given us and set goals to deliver justice in a more ideal time by implementing new procedures and technologies while respecting the constitutional parameters. We remain committed to continuing to strengthen our training programmes with the aim of addressing the weaknesses of all our staff: Judicial Officers; Researchers, to ensure that we strengthen our professional development and increase our efficiency. In the same line, measures will be taken to improve procedures and to repair our infrastructure, which experience has shown is not conducive to an efficient justice system accessible to all.

Two infrastructural issues that have been on my mind and that we need to prioritise this year are, firstly, a new location for the Anse Royale Magistrate Court. This court, which was built during the colonial era, has almost reached the end of its life. Space is limited and the building

is deteriorating. The safety and working capacity of our staff is compromised, as is that of the users of the court. For this reason, I will be initiating discussions with the government to obtain a more suitable location for the administration of justice in Anse Royale. Secondly, the amount of controlled drugs that needs to be destroyed on a regular basis has increased more than tenfold and the space to leave them after cases are closed is limited. And the way we have been doing it, knocking on the doors of other agencies every time we need an incinerator, has to stop. That is why I will be appealing to the relevant authorities to provide us with our own capacity to carry out this destruction ourselves this year.

Vote of thanks

I would like to thank the Head of State and the Vice President for joining us for the opening ceremony of the Court, and I wish you all the best for this year. I would also like to thank the Speaker of the National Assembly and all the other distinguished guests. Your presence among us shows the depth of your commitment to our democratic process and the value you place on our judicial system.

To my colleagues, the Judges of the Court of Appeal, the Judges of the Supreme Court, the Magistrates, Chairman, and the Members of the Tribunal, thank you for your professionalism over the past year. Serving your country as a judge is a job that makes you feel alone, and because of the legal complexities involved, it is not a job that inspires much admiration. But our camaraderie and collegiality between us make a difference. I appreciate the current good atmosphere between the Supreme Court and the Court of Appeal. Yes, we are two different courts that must function independently if we are to fulfil our constitutional role. But it is clear that there are many things that we can do together to ensure that our administration becomes more effective, our service conditions are improved, and the people benefit as a result.

I would like to thank the members of senior management and other staff for their great contribution, without which our justice system would not be able to deliver. Every decision we make; it is with your assistance that we are able to make it. We value all of you, no matter what section you are in, and I am sure that this year you will continue to deliver in the same spirit as last year. A special thank you goes to the organising committee for the opening of the court, presided over by Judge Carolus, the Judiciary Choir and the Seychelles Police Brass Band who made our ceremony a success.

To all partners in the administration of justice, Honourable Attorney General and members of your office, Commissioner of Police and members of the police force, lawyers, Commissioner of the Anti-Corruption Commission and members of the ACCS, all their lawyers, Superintendent of Prison and members of the prison services, probation services, social services, etcetera, we appreciate your respect for the rule of law and the special attention you give to serve the people of the Seychelles and again with the Constitution.

A special thank you to all the different media houses for your coverage of what goes on in court, we will continue to work in continuous partnership, and for the support you have given us today.

Finally, I would like to thank our citizens, who make up a large part of our clientele, for their continued trust in us, which, as I have said before, is the basis of our legitimacy and our judicial system in a democratic country. I assure you that we will continue to serve you in a just, fair, and impartial manner in accordance with the oaths we have taken.

We have suffered calamities and disasters in the past and the way that nature is behaving, probably will also do in the future. However, despite that we have survived and prospered. This has been the case because we are strong and resolute people. For all those who are still suffering from the effects of the 7th of December events, including members of our staff, you are in our thoughts and prayers. The Judiciary within its Constitutional limits will assist you in the most expeditious way possible.

Let me close my speech with those few words of reflection on those recent unfortunate events that has befall our nation last month. Our country has suffered many calamities and disasters in the past, man- made and natural. But we have been able to overcome all of them, survived and prospered as a nation. This is because we are strong and resilient people with a common sense of destiny. Let us face the future with the same spirit. Let us strengthen and restore the *lespri solider* and lift our friends, family and neighbours that have fallen, both with our actions and prayers. As for us the Judiciary, the fountain of justice, our doors will remain open to address any issues which you feel can only be resolved through the judicial pathway.

I wish you all a good judicial year in 2024, I pray that it may pass in peace and tranquillity. May God continue to bless the Republic and the people of Seychelles.

Thank you.

R J Govinden

Chief Justice

10/1/24