

THE OLD HAS GONE. THE NEW IS HERE.¹

[Speech by Chief Justice Fredrick Egonda-Ntende on the occasion of the Re opening of the Supreme Court of Seychelles on 16th September 2013 at the Palais De Justice, Ile Du Port, Seychelles]

It is a singular honour and privilege for me to welcome you all, our distinguished guests this morning, to this re opening of the Supreme Court in the 110th year of the existence of the Supreme Court of Seychelles. I am particularly grateful to Bishop James Wong, Bishop of the Anglican Diocese of Seychelles and St. Paul's Cathedral for organising this morning's mass/service which was so edifying. I thank the Cathedral choir for taking time off their secular duties to lend their voice and music to the service. I thank the Bishop Dennis who delivered the homily this morning. I am sure his message touched everyone present and will continue to resonate with us through out this year as we grapple with what is on 'our plates' in the court system. I wish to thank the Police Force Band and the men and women who mounted a guard of honour for adding dignity, colour and honour to the ceremonial part of this occasion. I thank you all for honouring us with your presence. I wish to thank our team responsible for organising this function for a job well done.

4 years ago I had the privilege and honour for the first time to address you on a similar occasion. On that day I set out my perception of the situation in which I had found the Judiciary of Seychelles. I sketched out what I was going to do in order to address the challenges that were buffeting the Judiciary. Ever since then I have done so in more or less similar manner concentrating on the exploring the workload and what had been achieved in the previous year and what remains to be done. On this occasion, my fifth and last opportunity to address you and the nation, I will depart from the precedent that I had set over the last 4 occasions. As you know early this year we published the first annual report of the Judiciary, the first in the memory of our organisation in which we undertook a critical analysis of the work in the Judiciary from 2010 to 2012. Early next year we intend to publish the 2013 report. It will not therefore be necessary for me to go over the statistics of the courts and other traditional aspects of my previous addresses. That accountability will be evident henceforth in the annual reports.

Today presents a temptation to me to offer a balance sheet of my time at the helm of this organisation. I have decided to resist the temptation. I must leave the question of assessment of my stewardship to independent hands and minds. You will be the judges! What I propose to do this morning is share with you some of my thoughts on what I hope to concentrate on in the next 9

¹ 'Therefore, if anyone is in Christ, the new creation has come. The old has gone, the new is here.'
2 Corinthians, Chapter 5 verse 17, New International Version Bible.

months, the remainder of my tenure. Before I do so let me take this opportunity to welcome publicly my colleague, the Honourable Mr Justice Crawford Mckee, the new Judge of the Supreme Court of Seychelles. You are welcome to our jurisdiction and trust that you will make your contribution to the on going efforts to transform the Judiciary of Seychelles. Judge we have work to do.

Our theme this year is simple. 'The old has gone and the new is here.' It doubles as the title of my address this morning. It is true at different levels. This is the first time that this ceremony is being held at Ile Du Port. This is new. This ceremony will no longer be held at the corner of Independence Avenue/Albert Rachel Street, in the shadow of the clock tower in Victoria. The old has gone. In celebrating the new we are however carrying on an old tradition, following what was started long ago, for we are confident that the old has morphed into the new.

Streamlining listing, processing and hearing of cases

As we renew ourselves it is important that we are selective in what we preserve and what we discard of the old. In this regard there are a number of areas I intend to concentrate upon. One of these areas is the development of new rules. Mediation Rules are in the offing. I am reviewing court fees payable to the Government and costs payable between parties both in the Magistrates and Supreme Courts with a view to update them and make them simpler. This may involve initiating the legislative process involving the Executive and the National Assembly. The rules relating to payment of witnesses expenses seem to be out of date and I shall work on revising the same.

In addition I intend to develop rules to make it easier and clearer as to how to proceed with contentious matters under the Proceeds of Crime (Civil Confiscation) Act, [POCA] and Habeas Corpus applications. A few areas in the Seychelles Code of Civil Procedure which cannot await the major overhaul of the SCCP will have to be attended to. This is in regard to the efficient use of courts' time and other resources as well as counsel time. As a precursor to changes in this area I have recently issued a Practice Direction No. 1 of 2013 [3 September 2013] which has adjusted the time for commencement of hearings in civil matters in the Supreme Court. This will allow some attorneys attend to some business in the Magistrates Court first. Secondly it has set out a particular day of the week for the hearing of short causes in the Supreme Court, in order to free both the time of the courts and counsel to concentrate on the hearing of substantive matters on the other days of the week. New rules will have to be made under the SCCP to minimise the need for physical appearance of counsel and parties in court and allowing for certain steps to be taken by filing necessary papers instead of appearing in court. Default in compliance with those rules may result in

default judgment against a party in breach or the dismissal of his or her pleadings/case, as the case may be.

Perhaps the time has come to re visit the Constitutional Court (Application, Contravention, Enforcement and Interpretation of the Constitution) Rules, Rule 4 in particular, that purports to provide a prescription period for constitutional actions to be 3 months and put it at par with ordinary actions at 5 years. Much as it is important that a constitutional action be brought as soon as possible so that the matter is clarified at the earliest nevertheless it is equally objectionable that hiccups should be placed in the way for actions that coalesce around our fundamental law and source of all authority in our jurisdiction.

Improving Court Administration

We have on board two court administration experts assisting us review our current court cases processing with a view to reform and improvement of the administrative mechanism that supports case and other products' processing. One expert, Ms Linda Dalton, is supported by the Commonwealth Secretariat on a short term consultancy [80 working days] while the other Ms Agatha Bouten, supported by the European Union is on a lengthier assignment [one year]. Skills gaps are being identified and attended to. Processes that can be automated are being identified and attended to.

It has become evident that some of the most time consuming tasks carried out by our staff manually need not detain them at all with such information now available in our Computerised Case Administration System of Seychelles. There are others tasks that are needless and laboriously written out in hard copy only to be in put in the CCASS by some other person. It would suffice for one person to enter the information directly in the computerised system saving significant amounts of time.

Supervision of staff members continues to be challenge and perhaps is one area holding back the unleashing of our full potential. This is compounded by the failure to fill the position of the Registrar who is the Chief Administrator of the all the Courts in Seychelles. The Chief Supervisor for our staff is absent. Nevertheless efforts will continue to strengthen supervision at all levels of our organisation.

The on going work with our court administration experts will assist us to be more efficient than we have been in the use of our resources taking full advantage of automation of processes and providing for a reporting and evaluation mechanisms and instruments that ensure that we get the

best output from the inputs at our disposal. It will also provide the foundation eventually for moving to the next stage of automation and access to some of the case information in our hands by attorneys and members of the public and ultimately e-filing should you and my successor choose to travel that route.

Judicial College of Seychelles [JUCOS]

One of the challenges I have struggled with for sometime is to come up with an appropriate concept and design of an institution that would deliver to the Seychelles Judiciary continuing professional development programmes that are relevant to their needs and the needs of the country. Many Judiciaries of the world have created Judicial Education Institutes with physical facilities and manned by full time staff. While Seychelles definitely has the need for similar institutions regardless of its size, due to the size of the Judiciary of Seychelles and legal profession it is not feasible to go the same way. However, in my view, neither is the status quo desirable though we have been able to deliver some training for judicial officers and staff. I have in the last 4 years developed ad hoc programmes with the support of partners like the United States Government or UNODC or support of sister of Judiciaries who are able to arrange their own programmes. We need to move from this ad hoc situation to a programmatic one with some body responsible for planning, and delivery of continuing professional programmes for the Judiciary of Seychelles as well as the legal profession. It cannot simply be left to the office of the Chief Justice alone.

I have decided to establish a virtual college known as the Judicial College of Seychelles [JUCOS]. It need not have buildings or full time staff but will have an Advisory Board which will be responsible for its policy and programmatic development and delivery. It will be chaired by a Judge of either the Supreme Court or the Court of Appeal. We shall request a budget line for it in the Judiciary budget to able to develop and carry out its programmes. It will be responsible for determining the training needs of all the Judiciary including judges and staff and how those training needs will be met. Its proposals will have to be approved by the Chief Justice and in that regard it will work closely with the Chief Justice to ensure the success of its work.

JUCOS need not have full time staff as we can task our staff members to provide part time support to it. It need not have physical offices as assigned tasks can be carried out effectively in current offices of those who will be associated with it, sharing other facilities in the judiciary like meeting or conference rooms etc. Its existence will be virtual just as we have the Seychelles Legal Information Institute an online portal for the law of Seychelles. So do not hasten to dismiss JUCOS. It can follow in the footsteps of Seylii and do us all proud.

In setting up JUCOS I am not doing something novel though it may no doubt be a first in Seychelles. The concept has been used for many years in some small jurisdictions in the United States of America,[Judicial College of Vermont for the State of Vermont] United Kingdom, [Judicial Studies Board] and near home, Uganda [Judicial Training Committee] to mention only a few.

Keeping in Touch with the Community that we serve

Often it has been suggested that the Judiciary is way out of touch with the Community it serves and has not kept abreast of the issues that are of the greatest concern to the communities around us. In order to ensure that there is a structural set up that will allow the judiciary interact and obtain a feed back from the communities that we serve I have decided to form a **National Justice Consultative Council** that will be broadly representative of our society. It will meet probably annually. It will have representation from the Government, including all criminal and civil justice agencies, Civil Society including the Seychelles Chamber of Commerce, National Association of Consumers, the Legal Profession represented by the Bar Association of Seychelles, Friends of Prison Societies and our different Courts. This body will provide a platform for the different interest groups to contribute the development agenda and social awareness programmes for the Judiciary. It will provide to the Judiciary an opportunity of receiving a feed back from the community which in effect is the best form of inspectorate over court services. It will provide to the Judiciary too an opportunity to interact with different groups to inform them of the particular challenges facing the judiciary and what those different groups can do to help with the administration of the Justice in the country.

Mobile Law Or E-Grey Book

We intend to deliver to the Judges and Magistrates in this new law year [2013/2014] the most commonly referred to laws of Seychelles dubbed the Electronic Grey Book on mobile media to enable them move with ease with the most essential of the laws of Seychelles. We shall make this portal available on Seylii web site for any users of the same to download and install on their devices. In due course the whole portal of Seychelles primary and secondary legislation will be similarly made available. .

Supreme Court Annex

A stone's throw away from here is the Proposed Supreme Court Annex being developed with the support of UNODC, The Governments of Great Britain and the Netherlands. It is a 2 court room structure intended to be devoted to maritime security issues. The Concept for the same arose at the height of the Piracy Activity in the Somali Basis with its corrosive impact on the Seychelles. And

the idea was to have dedicated facilities for a Piracy Chamber of the Criminal Division of the Supreme Court of Seychelles. We are grateful to our foreign partners for their support. The laying of the foundation stone ceremony was done on 30 August 2013 and it is hoped that the building will be completed by June 2014.

New Subordinate Courts & Tribunals Building

There was a delay in commencing of the consultancy services associated with the new Subordinate Courts / Tribunals building but we are now on course with the Ministry of Lands providing those services to us. Architectural design is ongoing and it is my estimation that this will be completed including structural design by the end of this year, allowing us to seek approval of plans and commence construction sometime next year. It is estimated that this will be a 2 year project. One of the things that we intend to achieve with this building is to provide both the collection of rain water and provision of solar power that in due course will eliminate the need to rely on the main grid for power and PUC for water supply. Not only does it present real savings in terms of rupees over the long run, it also ensures that we mindful of our pristine environment and are intent on using renewable resources lessening the need to rely on carbon emitting processes. It is our hope that it will truly be a green court house.

Palais De Justice, Ile Du Port

We have sought and received offers for the harnessing of solar power in this building. The indication is that the investment would pay off in about 4 years vis a vis the savings made from not consuming power from the main grid. There is thus an economic incentive to turn to solar harvesting for our power needs. We are proposing to Government to include this in our budget for 2014.

Though this building is indeed majestic we need to consider beautification of the same both on the inside and outside of it. We need to acquire local art and artefacts to enhance the beauty of the premises and inspire both those who daily work here and the visitors as to the main purpose for the existence of this palace. It is the seat of Justice in this country and we need it to be adorned with reminders to all what this means for as you know it is possible for an organisation to loose its way! I undertake to consult widely and find the most practical approach to fulfil our objective.

The auditorium presents us with a facility that provides a venue and focal point for local and international training events for both the judiciary and other sectors. Since we opened it has seen a number of local events including one with foreign facilitators. It is hosting the day after tomorrow a

4 day conference for East African Judges on Maritime Security.

Seychelles Law Reports

Seychelles Law Reports 1995 to 2012 are with the printers but for some reasons which are as yet unclear the printers have not been able to complete publication of these law reports. While I shall continue to make every effort that this is done I have decided that all Seychelles Law Reports which are already in electronic format with us will be published on Seychelles Legal Information Web Site so as to add value to the content on Seylii and make them available to anyone with an internet connection. You may note that with effect from 2010 the Seychelles Law Reports have been unified to carry reports of cases from the Court of Appeal, Constitutional Court and the Supreme Court of Seychelles.

Strategic Plan 2010 to 2014

Our current strategic plan expires towards the end of next year and I trust that it is useful to review our performance over the life of the current plan and determine whether new strategic imperatives are required for next 5 or so years or whatever cycle of planning may be agreed upon. We shall have an end of plan review conference/workshop some time next year with all our stake holders and a stakeholder conference will review the implementation of this plan and determine whether or not it met its objectives. And I suppose the curtain must come down on that plan upon its expiry!

Conclusion

Before I end my speech I wish to express my gratitude to both our staff and the court users that had to endure some discomfort and feeling of dislocation as we moved from the centre of Victoria to Ile Du Port. Your patience and support enabled us complete the transition with the minimal disruption to the public services that we offer.

An organisation's best asset is its people. And potentially its worst enemies! In our case it is our staff, my colleagues and the other stakeholders in the administration of justice in the Executive, Legislature, Civil Society and the Profession. I would like to express my gratitude to those who have risen to the occasion and raised their game. The cooperation and support you have extended to me has brought us thus far. To those who have remained on the sidelines or been the source of friendly fire, it is not too late to join the team, the winning team I mean.

From the foregoing list of matters to be attended to it is clear that the next 9 months will continue to

be demanding as the last 4 years have been. I invite all stake holders to walk with me these remaining steps; to work with me these remaining months, and together, achieve what we now know we can. The vision for the Judiciary of Seychelles to be a centre of judicial excellence in the region, independent and inspiring public confidence in and out of Seychelles, has never been closer as it is now. Dear friends the old has gone. The new has come.

. May God Bless you All.

Mersi..

POEM

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