



Chief Justice's Chambers High Court of Kiribati

Annual Address delivered at the Formal Opening of the Court Commencing the 2015 Legal Year of the High Court of Kiribati on 6 February 2015 by the Honourable Chief Justice Sir (Gilbert) John Baptist Muria Kt

Introduction:

In the usual judicial tradition, we gather once again on this special ceremonial occasion to mark the Annual Legal Opening of the Court in Kiribati. It is also an occasion during which the Chief Justice informs the nation about the work of the Judiciary and its needs. We, in the Judiciary are truly and profoundly grateful for gracing this occasion by your presence.

Apart from its Annual Report which we are about to launch one shortly for the first time, the Judiciary uses this such occasion, through the Chief Justice, to inform the nation of the progress, needs and concerns of the Judiciary.

Judicial Appointments

The Constitution of the Republic of Kiribati provides for appointments of Judges of the High Court and Court of Appeal of Kiribati.

i. Judges of the Court of Appeal

Presently there are five Judges appointed to the Court of Appeal of Kiribati. They are: Mr Justice Barry Paterson, Justice Sir Ian Barker, Justice

Sir Peter Blanchard, Mr Justice Tim Fisher and Mr Justice Ken Handley. The Court sits in a Panel of three.

ii. Judges of the High Court

a. Chief Justice

The Chief Justice is the Head of the Judiciary in Kiribati. For many years, the one and only Judge of the High Court was the Chief Justice. It is an honour and privilege for me to be appointed and to serve in the Office of Chief Justice of this beautiful country since March 2011. However, the territorial boundary of Kiribati spans over 1.3 million square miles or 3.5 million square kilometres which presents a daunting task for one Judge to provide the necessary service required of the High Court to the people of this country. This necessitates the immediate appointment of additional judges to the High Court.

b. Additional Judge of the High Court

Since May 2014, **Mr Justice Vincent Zehurikize**, was appointed to the High Court of Kiribati under the auspices of the Commonwealth Fund for Technical Cooperation (CFTC). Mr Justice Zehurikize hails from Uganda and retired from the High Court Bench of his country.

Mr Justice Zehurikize's Commonwealth assignment to the Judiciary in Kiribati could not have come at a better time, as the Judiciary is in need of additional manpower resources to deal with a backlog and an increasing number of cases. The addition of Mr Justice Zehurikize to the High Court Bench is of immense help to the judicial development programme now being undertaken by the Judiciary.

I, on behalf of the Judiciary and the people of Kiribati, express our sincere thanks and appreciation to the Commonwealth Secretariat for approving and facilitating the judicial assistance to the Judiciary, through the appointment of Mr Justice Vincent Zehurikize to the High Court of Kiribati.

In this regard, I, on behalf of the Judiciary and the people of Kiribati thank you Mr Justice Zehurikize for accepting to come to Kiribati to serve the people in this country. Thank You.

c. **Commissioners of High Court**

Section 84 of the Constitution provides for the appointment of Commissioner High Court, **Mrs Tetiro Maate Semilota**, Chief Registrar, and **Sr Bernadette Eberi**, Chief Registrar (Ag) who are both qualified lawyers, have both been appointed Commissioners of the High Court. Mrs Semilota is presently on study leave undergoing a Master of Laws (LLM) in New Zealand. The appointments are essential, as the judicial task demanded of the High Court of Kiribati is beyond the vigour of just two persons. I must record my gratitude to Sr Bernadette Eberi for undertaking this challenging responsibility throughout 2014, in addition to her duties as Acting Chief Registrar.

Both Commissioners of the High Court are legally qualified female lawyers.

Other Officers and Staff of the High Court

Chief Registrar

Sr Bernadette Eberi has been appointed Chief Registrar (Ag) while the substantive holder is away on study leave. Sr Bernadette sits as Commissioner of High Court on matters assigned to her. In addition to her duties as Acting

Chief Registrar, has other tasks also under her responsibility, including coordinating Pacific Judicial Development Programme (PJDP) for Kiribati, coordinating and facilitating in-country training for judicial and court officers, and overseeing the administration of the Magistrates Courts. Sr Bernadette has been instrumental in many of the developmental changes in the Judiciary.

Deputy Chief Registrar

The post of Deputy Chief Registrar is substantively held by **Sr Bernadette Eberi** while holding the post of Chief Registrar (Ag).

Senior Registrar

The Post of Senior Registrar has been filled by **Mr Abuera Uruaaba** who is also a qualified lawyer. This is the first time the Post has been fittingly filled by a qualified lawyer. In addition to Senior Registrar duties, Mr Uruaaba has also been appointed Single Magistrate discharging judicial functions in the Magistrates Court.

Registrar

The Post of Registrar is currently filled by **Ms Agnes Tiim** who has been holding that position for a number of years.

The other positions on the Staff of the High Court remain unchanged.

iii. Magistrates Courts

The Magistrates' Courts are the front line in the justice system in Kiribati. There are **23 Judicial Districts** of the Magistrates' Courts in Kiribati. The Magistrates' Courts in each of the Judicial districts is served by a panel of **Lay Magistrates**. Only South Tarawa is served by **Single Magistrates**, two of whom are legally

qualified. In all, there are currently **145 Magistrates**, all of whom are Lay, except two, serving in the Magistrates' Courts in Kiribati.

Of the 145 Magistrates, 32 are females.

Training and Conferences both Overseas and Internally

There were a number of Conferences, Workshops and Trainings in which the Judiciary participated and benefitted from, both outside and within Kiribati in 2014. These include the Pacific Judicial Conference (PJC) in March 2014 in Auckland, the Pacific Judicial Development Programme (PJDP) Chief Justices Workshop, also in Auckland in March 2014, the South Pacific Council of Youth Court Conference (SPCYCC) in Apia, Samoa in April 2014, and the PJDP National Coordinators Workshop in October 2014.

Internally, the Judiciary successfully held its Second National Judicial Conference in August 2014 here in South Tarawa. The Conference was attended by more than 140 judicial officers, court clerks and staff of both the High Court and Magistrates' Courts. The participation by the SPC, through their experts, in human rights topics presentations at the Conference, was highly appreciated.

The magistrates from the Phoenix and Line Islands were not able to be part of the Tarawa Conference. However, a separate Conference and Workshop were organised and conducted for them in Kiritimati Island in November 2014.

Workshops and trainings on Enabling Rights were also conducted in-country for judicial and court officers by PJDP Consultant and Expert (Dr Livingston Armytage) in May and November 2014. Workshops and trainings were also conducted in-country by PJDP consultant and expert

(Jennifer Ehmann) in November on Judicial Administration focusing on Delay Reduction. These workshops and trainings are respectively designed to assist the Courts in dealing with self-represented litigants and reduce delay in the administration of justice.

In addition to the workshops and trainings mentioned above, our Judiciary in-country Training Team conducted workshops and trainings for Magistrates, Court Clerks and Court Staff in 2014.

These workshops and trainings were of great benefit to those who attended in the enhancement of the performance of their duties and responsibilities. I encourage the continuation of these training and learning opportunities by our court officers and staff.

Since 2011 the focus on the conferences, workshops trainings, seminars and meetings organised and conducted by the Judiciary has been on the Theme: *Bridging Justice among and between the 33 islands in Kiribati*. Building bridges of justice among and between the different islands in Kiribati is a tall goal, but with determined effort and commitment, it is achievable.

Some statistics of Cases before the Courts

i. High Court

Like 2013, the High Court continued to be busy in its criminal, civil and land jurisdictions in 2014. The number of cases filed in the High Court Registry in 2014 alone were 362 (393 in 2013). This represents the total number of cases filed in criminal, civil (including criminal and civil appeals from the Magistrates' Courts), land appeals and divorce appeals and reviews.

Apart from those cases filed in 2014, there are over 300 cases from previous years still being kept alive in the Court Registry dating back to 1991. This year the Court will be taking a 'weeding out' approach on the inactive case files.

The Court, however, disposed of a total of 200 cases in the course of 2014. This represents 55% disposal rate which is doubled that of 2013 (25%). It also shows that the additional judicial manpower resources of the High Court secured in 2014 is paying off with an increased case disposal rate.

ii. Kiribati Court of Appeal

Under the present arrangement, the Court of Appeal only sits once a year, since the number of appeals filed do not justify the expenses of having more than one sitting of the Court in a year.

In 2014 there were 14 appeal cases filed in the Kiribati Court of Appeal, seven (7) of which were disposed of. The other seven were either withdrawn or struck out.

iii. Magistrates' Courts

Outer Islands (Makin to Arorae, Line Islands and Banaba)

The bulk of the cases coming before the Courts are those dealt with by the Magistrates' Courts. While it is not easy at the present to accurately extract the record of the number of cases dealt with by the Magistrates' Courts in the remote outer islands, the figures at hand shows that our judicial officers in those islands were once again kept busy in 2014.

In the course of 2014, the number of cases filed in the Magistrates' Courts in the outer islands (Makin to Arorae, Line Islands and Banaba) were 3009 (criminal 1129, civil 2013, land 642 and boundary 215). Out of the 3009 cases, 2458 cases (criminal 988, civil 873, land 486 and boundary 111) were disposed of. There were also 44 Divorce cases filed, of which 7 were disposed of. There were 22 children's cases, of which 18 were disposed of.

South Tarawa

For South Tarawa, a total of 5349 cases (criminal 1258, civil 2056, land 1731, boundary 238, divorce 44, and children's cases 22) were filed in the Magistrates' Courts in 2014. Of the 5349 cases, 2827 (criminal 886, civil 957, land 907, boundary 52, divorce 44, and 18 children's cases) were disposed of.

From the combined figures in criminal, civil and land cases for the outer islands and South Tarawa Magistrates' Courts in 2014 they show that the total disposal rate for cases filed and disposed of is about 53%, a drop from 69% in 2013. However, although the figures demonstrate a picture of the Courts' activities, they do not present an accurate assessment of the Courts' performances for the year. The absence of Court performance statistics from the Outer Islands and lack of accurate statistical data collection, generally, still hampers the task of presenting an accurate court performance statistics.

Our frontline judicial officers in the Magistrates' Courts must be commended for their great efforts in dispensing justice to the people in Kiribati. It is not an easy task to shoulder, but our judicial officers in the Magistrates' Courts have shown that they are loyal to their judicial oaths to providing invaluable services to the people of Kiribati through the Judiciary.

The statistical details of the cases and the Courts performance data will be included in the Courts' Annual Report to be published shortly.

Approach to litigation

Our aim is for high standard in the way we conduct cases through the courts. I urge all legal practitioners to continue to strive to be good lawyers, to be professional in conducting cases, and to observe the rules and ethical norms required of them as legal practitioners.

A further factor to good litigation is being able to ensure that cases put through the Courts are speedily dealt with. Both the Legal Practitioners and the Courts have the obligation to ensure that once a case is filed in Court, the rules of Court and directions must be followed so that the case is disposed of within a given period. In this regard, the Courts will be vigilant to ensure that cases filed in the Courts adhere to the time goals set for each type of cases. Legal practitioners are urged to come on board and observe these time goals in the interest of their clients as well.

In this connection, I must add a word or two on the need to be particularly more vigilant in criminal litigation. We have recently done an assessment of all cases filed in the Court Registry. It has been revealed that there are criminal cases filed but the charges have not been served on the accused. If such cases are not served and the accused are not produced before the Court, there is very little the Court can do to progress the cases further. A number of the criminal files show that the charges were preferred more than a year after the accused have been arrested. The obligation is on the prosecution to promptly charge the accused, serve the charges on the accused and bring the accused before the Court.

There are also civil cases filed in the Court Registry, but have not been served on the defendants by the plaintiffs. Such cases will also be subjected to the 'weeding out' process this year.

I must, however, record the Court's appreciation for the assistance rendered by members of the Legal profession to the Courts.

There are now more than 50 I-Kiribati lawyers admitted to practice in this Court and more to come. We are partners in this quest for justice to the people of this country.

Vision and Mission of the Judiciary in Kiribati

The Vision and Mission of the Judiciary in Kiribati remain the same as I suggested on this occasion last year. **The Vision:** To establish and maintain a strong, healthy and efficient Judiciary. **The Mission:** To provide effective services to the people of Kiribati through the Judicial system, in particular, through the Courts.

This is a lofty, but achievable task. We have taken the First Step and we must continue.

Development Strategies of the Judiciary

We have put in place specific development strategies in order to realise these Vision and Mission of the Judiciary. Among other things, these strategies and steps include Consultation and Identification of priorities, some of which are (in the order of priority):

- (i) Training for judicial officers with emphasis on the Magistrates – This is ongoing.
- (ii) Additional appointments to the High Court Bench – Thanks to the Commonwealth, we now have the addition of Mr Justice Vincent Zehurikize to the High Court.
- (iii) Modernising the Rules of Court – The plan is now in place to have the new Rules of Court produced.
- (iv) Modernising the Court’s IT – this actively being pursued.
- (v) Construction of new High Court Building and a Magistrates’ Court House at Bonriki or Temaiku – actively pursued.

We in the Judiciary cannot do these alone. The administrative machinery of the executive Government, the legislative machinery of the Legislature, the backing of the Legal Profession, and the commitment of the Judiciary all play important roles in this development stride. Assistance from our friends from outside are welcome. But we have to take steps to show that we are genuine in our efforts for change, then others can feel the need to help us, and hopefully be convinced to lend a helping hand.

At the expense of repetition, as I mentioned in my previous annual address, one of the ultimate aims of the emphasis on training for Magistrates is to eventually have a professional Magistracy, manned by fully qualified Magistrates. Experience has shown that professional development within the Judiciary, not only enhances the work of judicial officers but it help in building and retaining such officers in the Judiciary. In many jurisdictions, professionally qualified and experienced Magistrates is a stepping-stone to the High Court Bench.

In these day and age, Court technology is essential in our work in the Courts. It is one of the tools needed to enhance the effectiveness of the work of the Courts. An added element in this area of Court development is the training of IT personnel. We are grateful for any help.

Once again I take this opportunity to implore on all, including the Government, our friends from abroad and the public, for your support in this drive to achieve a strong, fair, just and effective administration of justice in Kiribati.

Other Development Needs of the Judiciary

1. Financial and manpower resources

Perennial needs of the Judiciary, the third arm of the State. Like the other two arms of the State, the Judiciary must also effectively fulfil its role and functions as the third arm of the State. It is therefore essential that the Judiciary is adequately resourced to carry, both in terms of finance and manpower.

Last year, 2014, had been a busy year for the Courts. With financial and manpower resources at its disposal, the Judiciary has been able to meet many of its needs and programme. The Judiciary is most grateful. However, there are still major areas of development in the Judiciary that still require attention and which I will mention later in this address.

The concerns mentioned are perennial, the constitutional mandate and obligations of the Judiciary are so lofty to justify re-echoing them again here today. Lest it may be forgotten, an adequately resourced judiciary enhances, secures and strengthens the independence of the Judiciary, and promotes confidence in national economic development.

The demand to provide adequate service expected of the Judiciary today is very different to that existed 20 years ago.

2. Court Rooms and Office Spaces

There is a pressing need for more Court rooms in the Magistrates' Courts, a separate office to house the High Court Registry, space for storage of goods seized by the sheriff, adequate space for a proper establishment of the High Court Law Library, and additional office space for an additional judge of the High Court. At least three more additional court rooms are needed for the Magistrates' Courts in South Tarawa – one in Bikenibeu and two in Betio.

The suggested expansion, require additional space/land to the existing Court premises. I urge all those, who are in positions to assist, in particular, the Government, to lend their attention to the Court's need for expansion and development.

3. Renovation of High Court Building

The High Court building itself was last renovated and done up, I am told, in 1986 (29 years ago). As you can see for yourselves, the building is in need of renovation and expansion or better still, a new High Court Building. We are not seeking to have a grand palace for the Judiciary, but at least a reasonable Court Building that befits the status of the Judiciary, the third arm of the State.

The Judiciary is the Third Arm of the State. The demands expected from it to provide services to the people of Kiribati are as onerous as those demanded of the other Arms of the State. It must therefore be equipped with necessary facilities and infrastructure to carry out its functions and obligations.

I strongly recommend that work be done to plan for the improvement of this existing High Court Building with the view to extending it horizontally or vertically or construct a new purpose-built court house. The Judiciary would be most grateful for any assistance to achieve this development suggestion. In particular, the Judiciary seeks assurance from the responsible authorities that the lands in and around the court premises be secured for the further expansion and development of the Judiciary.

4. Law Reporting

Law Reports are part of the tools of trade for judicial officers and legal practitioners. Kiribati has not had Law Reports published since 1979. We need to revive our Law Reporting service and I would welcome assistance from the lawyers, especially.

5. New Civil Procedure Rules

Kiribati is probably the only country in the Region that still uses the 1964 Western Pacific High Court (Civil Procedure) Rules. Everybody else have moved on and have their Court Rules updated. We are determined that by the year end we should be able to produce a new Court Rules or at least a draft of it.

The Rules Working Committee (RWC) will hold its meeting on 11th of this month. I am pleased to advise that the Commonwealth Secretariat will be assisting the Judiciary in its endeavour to produce the new Civil Procedure Rules. I ask all who have a stake in making the new Court Rules to come on board and lend helping hands.

6. Toolkits

With the assistance of PJDP, Kiribati has piloted two Toolkits. The first Toolkit piloted and launched by the Judiciary of Kiribati is the **Time Goal and Delay Reduction Toolkit**. This Toolkit is aimed at setting time standards within which cases should be dealt with, in order to avoid delay in disposing of cases by the Courts. The second Toolkit piloted and produced by the Judiciary of Kiribati, and made available for use by the other jurisdictions in the Region, is the **Unrepresented/Self Represented Litigant Toolkit**. We are very proud to do so and to be part of the judicial development in the Region under the auspices of the PJDP.

7. Separate Administration for the Magistrates' Courts

With the aim of a better and enhanced development of the Magistrates' Courts in Kiribati, I am also pleased to announce that the administration of the Magistrates' Courts will be under a separate supervision. Up until now, the Chief Registrar oversees the administrative and supervisory businesses of both the High Court and Magistrates' Courts. Not only that such dual roles and responsibilities on one person is burdensome, but it is also a hindrance to the effective and proper administration, management and development of the Magistrates' Courts.

The plan now is to have a Chief Magistrate appointed to head the administration of the Magistrates' Courts in Kiribati. This is the practice adopted in many other jurisdictions in the Region. It is also the aim of this proposed change that the status and standard of the Magistracy in Kiribati will be uplifted.

Appreciation and Conclusion

Before I conclude, let me take the opportunity to express the Judiciary's appreciation to all those who have given assistance to the Judiciary and the administration of justice as a whole. I express our gratitude to the Government of Kiribati, all Governments from other countries represented here in Kiribati by their High Commissioners and Ambassadors – New Zealand, Australia, Republic of China, Cuba; thank you for our generous help and support to the Judiciary; the Commonwealth for providing an additional Judge to the High Court, as well as, assistance on the revision of the High Court (Civil Procedure) Rules and judicial training; other international and regional organisations, especially PJDP which has continuously provided assistance to the Judiciary through its judicial development programme; UNICEF, SPC, UNWOMEN, and many others who have helped the work of the Judiciary in Kiribati.

A word of thanks and gratitude to the public, in general, for their continuing support to the work of the Courts throughout Kiribati. The 'Public' is the best litmus test that we can count on, to gauge our success or failure.

Thank you Rev Maleta Tenten of the Kiribati Uniting Church (KUC) for the wonderful Church Service at Tatirerei, Betio, the message and the blessings to mark the opening of this legal year. We have been blessed by God with the talents, skills and knowledge that we have. Let us use them to justly serve our people and for the greater Glory of God. And let us love justice, and walk humbly in the ways of the Lord as we strive to do justice to our people.

Thanks and appreciation to the Commissioner of Police for the Police Band and Guard of Honour mounted for the occasion. We greatly appreciate it.

I thank you all, especially the Acting Chief Registrar and your team of staff members and all those who in one way or another helped, organised, facilitated and made this occasion a success. I also extend appreciation to the Director and staff of the Ministry of Works for ensuring the ground in front of the Court house is done up for the occasion.

Finally I thank you all for your presence. It is an honour for us in the Courts and the Legal fraternity that you graced this occasion by your presence. Thank you.

God bless you all:

6 February 2015
Betio, Tarawa, Kiribati