



Chief Justice's Chambers High Court of Kiribati

Annual Address delivered at the Formal opening of the Court Commencing the 2013 Legal Year of the High Court of Kiribati on 1 February 2013 by the Honourable Chief Justice Sir (Gilbert) John Baptist Muria Kt

Introduction:

The Honourable Teima Onorio, Vice President, The Honourable Ministers, Honourable Leader of the Opposition, Honourable Members of Parliament, Honourable Attorney General, Distinguished members of the Diplomatic Corps, Chief Registrar and Commissioner of the High Court, Commissioner of the Police, Deputy Chief Registrar, Members of the Clergy, President of the Kiribati Law Society, and Members of the Legal Profession, Your Worships Magistrates, other Distinguished Guests, Staff of the Judiciary, Friends, Ladies and Gentlemen:

Kam Na Bane Ni Mauri

It appears that we are always standing in the cusp of time. Kiribati, like any other earthly nation, is no exception. However, Kiribati represents a land, people and culture of homogeneous ethnicity, demonstrated by their history, cultural traditions, values and language. With these unique values, culture and traditions, the people of this country can and will, as did their ancestors, stand at the cross-road of time, with hope and determination, to meet the challenges of the future, economically, politically, socially and more profoundly, the impact of climate change.

The ceremonial occasion which you are now witnessing is an aged-old deep tradition of the Judiciary in the common law jurisdiction. Apart from its tradition, the Annual Legal Opening of the Court is an occasion also at which the Chief Justice informs the nation about the health, progress and needs of the Judiciary, bearing in mind that it is one of the three arms of the Government. So in the best of tradition, we are gathered here to mark the annual opening of the High Court of Kiribati for 2013. We, in the Judiciary are truly and profoundly grateful for gracing this occasion by your presence.

The need for adequate resources.

The Judiciary is the arm of the State that very seldom complains about its needs and wants, in the ways other institutions do. This occasion is very much the only public opportunity during which the Judiciary, through the Chief Justice, highlights the needs of the Judiciary.

Like the other two branches of the Government, the Judiciary must also perform its functions and responsibilities conferred on it by the Constitution. In order for the Judiciary to perform such functions and responsibilities, it must be adequately resourced and supported with financial and manpower resources.

Last year, 2012, had been a busy year for the Courts. The Judiciary has been able to meet many of its needs and programme with financial and manpower resources at its disposal. The Judiciary is most grateful. There are major areas in the development of the Judiciary that still require attention and which I will mention later in this address.

This is perennial, but as a matter of principle, both traditionally and constitutionally to echo the call for the need for the Judiciary to be adequately resourced. An adequately resourced judiciary enhances, secures and strengthens the independence of the Judiciary.

Judicial appointments

Presently, the one and only Judge of the High Court of Kiribati is 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. However, it goes without saying, though, that for a country that consists of 32 atolls and one (1) raised coral island, and spanning over 1.3 million square miles or 3.5 million square kilometres, it is a daunting task for one Judge to provide the necessary service required of the High Court. As I will be highlighting later, this necessitates the immediate appointment of additional judges to the High Court.

On 6 April 2011, the Chief Registrar, Mrs Tetiro Maate Semilota, was appointed a Commissioner of the High Court. Her appointment is general, “to perform all or any of the functions of a judge of the High Court.” The appointment is essential, as the judicial task demanded of the High Court of Kiribati is beyond the vigour of one person. I must record my gratitude to Mrs Tetiro Semilota for undertaking this challenging responsibility, in addition to her duties as Chief Registrar.

Number of Cases before the Courts

(i) High Court

As usual, the High Court continues to be busy in its criminal, civil and land jurisdictions. The number of cases filed in the High Court Registry in 2012 were 470 (421 in 2011). 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. Of the 470 cases filed, 164 were disposed of in 2012, that is, 35%.

(ii) Kiribati Court of Appeal

In 2012 there were 13 (25 in 2011) appeal cases filed in the Kiribati Court of Appeal. Of the 13 appeals filed, 9 were disposed of, with one (1) withdrawn and one (1) stood over to the next sitting of the Court. The one withdrawn, has been restored and will also be dealt with at the coming sitting of the Court.

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.

(iii) Magistrates Courts.

The Magistrates' Courts are the front line in the justice system in Kiribati. There are 24 Magistrates' Courts in Kiribati. All are manned by lay Magistrates. Presently, we have 155 Magistrates throughout Kiribati, of which 17 are females.

The Single Magistrates, who are also lay Magistrates, sit singularly. Presently we have 9 Single Magistrates in Kiribati. We have 8 who are in active duties, while one (1) is pursuing the completion of his Bachelor's Degree studies.

At the heart of our efforts now, is the drive to professionalise the Magistracy, beginning with the Single Magistrates.

The bulk of the cases coming before the Courts are those dealt with by the Magistrates Courts. In the course of 2012 there were 5,695 (3,187) cases lodged in the Magistrates' Courts. These comprise of criminal 1783 (1182), civil 2047 (583), land 1865 (1254) including boundary determination. Of the 5695 cases, 4318 (700) had been disposed of. This is 75.8% disposal rate as compared to 2011 disposal rate of 22%. Our aim is 90 - 100% case disposal rate. However, 75.8% represents a high and commendable achievement by the Magistrates Courts in Kiribati.

There are many cases not brought before the Court. If they are not put before the Court, they cannot be dealt with. It may take time to deal with them, but at least they are put through the system. Cases, especially criminal cases, once reported and investigated, should be brought before the Court without delay.

Our Magistrates must be commended for their great efforts in dispensing justice to our people in Kiribati. I must say that I am very grateful to our Magistrates for providing invaluable functions and services to the people of Kiribati.

Approach to litigation

Since I last spoke on this occasion, on the need to change the approach to litigation in our Courts here, I am pleased to say that efforts have indeed been made by legal practitioners to improve the approach to litigation in our Courts. There is undoubtedly, however, still a need to do more to achieve high standards in the conduct of litigation. This entails properly conducting cases under the Rules of Court and observing ethical norms as required of the parties, particularly of legal practitioners.

Non-compliance with the rules disrupts the flow of cases, causes delays and multiplies expenses in conducting cases. Litigants, and more particularly, legal practitioners should be mindful of these pitfalls. I urge legal practitioners to be more astute and incisive in their approach to litigation this year, so that justice can be effectively and swiftly delivered to those who come to the Courts seeking justice.

Both 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.

That being said, I must record the Court's appreciation for the assistance rendered by the Legal profession to the Courts. We now have more than 45 local I-Kiribati lawyers admitted to practise in this Court. More to come. We are partners in this quest for justice to our people.

If I may respectfully suggest, our young lawyers who are raw in the practice of the law, will benefit greatly from the learning and emulation of senior experienced legal practitioners.

Overseas and Internal Conferences and Workshops.

In 2012, the judiciary benefitted from a number of conferences, workshops and trainings, both outside and within Kiribati. These include the South Pacific Council of Youth Court Conference (SPCYCC) in Brisbane, in August 2012 and the Pacific Judicial Conference (PJC) in Honiara, in November 2012.

In addition, judicial officers and other members of the court staff attended workshops and training programme conducted by the Pacific Judicial Development Programme (PJDP) at various venues in New Zealand and in the other Pacific Islands countries - Vanuatu, Cook Islands, Samoa and Solomon Islands. The PJDP workshops and training have also been conducted here in Kiribati with the assistance of PJDP Experts.

An off-shoot of these judicial and court administration training obtained from abroad, local staff who have been trained under those programme have been able to organise and conducted in-country workshops and trainings for our court officers and staff. The most recent one was facilitated and conducted by the Deputy Chief Registrar Sr. Bernadette who is one of our local trainers experts in Kiribati.

I congratulate the local Training Team and participants in the Seminar and Workshop. I encourage the continuation of these training and learning opportunities by our court officers and staff.

On a sad note, though, we have not been able to conduct the follow on Conference from the First National Judicial Conference we had in December 2011 for our court officers and staff in the Phoenix and Line Islands, and in Arorae and Tamana Islands.

This was due to resource and logistical difficulties. I can assure all that we have not yet given up the quest to reach out to our men and women in the courts in those Islands, with our training programme. The Theme for judicial development and progress in Kiribati is the one set in the December Judicial Conference in 2011, namely: *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 it is achievable. It may not be 100%, but it is achievable. Appropriately, therefore, I shall now turn to the driving objective of the Judiciary in Kiribati.

Vision and Mission of the Judiciary.

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 tall task and it is not going to be achieved overnight. But a start has been made through these training initiatives. Now that we have taken the First Step, we must continue.

Development Strategies of the Judiciary

In order to realise the Vision and Mission of the Judiciary, specific development strategies need to be put in place and implement. 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
- (ii) Additional appointments to the High Court Bench.
- (iii) Modernising the Rules of Court
- (iv) Modernising the Court's IT

We in the Judiciary cannot do it alone. The administrative machinery of the executive Government, the legislative machinery of the Legislative, the backing of the legal Profession, and the commitment of the Judiciary all play important roles in this

development stride. Consultation and discussions with outside bodies have also been undertaken. 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.

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. It has also been demonstrated in many jurisdictions that professionally qualified and experienced Magistrates is a stepping - stone to the High Court Bench.

Our Court Rules are the 1964 WPHC Civil Procedure Rules. Everybody else has moved on. We should also move on. I shall be needing all the assistance from Legal Practitioners, both in public office and private practice, to modernise our Civil Procedure Rules. In the same way, Court technology is essential in our work in the Courts. We only just started. We are grateful for any help.

I take this opportunity to implore on all, including the public, your support in this drive to achieve a strong, fair, just and effective administration of justice in Kiribati.

Development Needs of the Judiciary

1. Financial and manpower resources

As I mentioned at the beginning of this address, the perennial needs of the Judiciary are adequate financial and manpower resources. This is essential in order for the Judiciary to effectively perform its constitutional duties and functions. The demand to provide adequate service expected of the Judiciary today is very different to that existed 20 years ago.

The Courts need to be proactive and reach out to the people, rather than the people reaching out to the Courts. This requires adequate financial and manpower provisions.

There is now a dire need to have additional appointments made to the High Court Bench. It is respectfully suggested that at least two (2) Puisne Judges are needed, apart from the Chief Justice, in order to adequately serve the people of Kiribati and to provide them with adequate access to justice.

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.

Many of the suggestions, 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 (27 years ago). As you can see for yourselves, the building is in need of renovation and expansion.

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. The

Judiciary would be most grateful for any assistance to achieve this development suggestion.

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 - Cuba, New Zealand, Australia, Republic of China; thank you for your generous help to the Judiciary; international and regional organisations - UNICEF, UNWOMEN, PJDP, both within the Commonwealth and outside the Commonwealth, 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.

To Reverend Moderator and KPC Church at Tatirerei for the Church Service to mark this legal year opening. Thank you Moderator for your words of encouragement from the word of God. Moderator's exhortation is very much relevant to us in the Courts and legal profession. We have to strive to be just, truthful and honest in our work. 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.

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 of 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:

1 February 2013

Betio, Tarawa, Kiribati