

**Mr. Attorney and Mr. President,**

I am grateful for the kind sentiments expressed.

It is unusual, to say the least, for a ceremonial sitting to be held more than three months after the appointments, and after nearly a term has passed since my sisters and brother Judges have commenced sittings. But we live in unusual times; turbulent times; unprecedented times. Never before has the entire world been brought to a standstill. Never before have we faced such protracted strife capable of stifling life in ways not imagined previously – and those of us in this island are no strangers to strife.

I assumed office as President at a time when proceedings of the Court of Appeal had been suspended owing to the second lockdown. It was also a time where there had been a dramatic but a welcome increase in the number of judges of this Court – the numbers almost being doubled. Fourteen out of the twenty judges were new members, although they had a wealth of experience and knowledge. Quite apart from the challenges due to the pandemic, logistical and infrastructural support was urgently needed to accommodate the new judges. It was indeed a challenging time.

When I was elevated to this Court in 2018, I emphasized the fact that the judiciary, the official bar and the unofficial bar are partners in administering justice. As President of the Court of Appeal, the importance of proper administration in the process of administering justice, has been most evident to me. Co-operation between the Bench and the Bar is the foundation for administering justice, and I can say without hesitation that the co-operation between these two arms of the judicial system is indeed strong.

The significant lapse of time since my appointment, then, also provides me the opportunity to share with you, our partners in this venture of administering justice, an interim report, so to speak, explaining the progress made thus far. Instead of merely making an *aspirational* address, I felt it would be more

appropriate if, instead, I make myself *accountable*; instead of merely extolling the virtues of my future plans and visions of justice, I think it best to set before you a progress report, so that we could review it and improve upon it – together. Pardon me then, if I forsake complex legal formulations of abstract justice in favour of practical considerations and solutions for the needs of the hour.

Whilst we should no doubt be sympathetic to the litigants and lawyers who have languished due to the pandemic, I believe the correct approach should be to view the circumstances as an opportunity to put in place procedures and infrastructure to modernise our approach.

My first task was to ensure that all their Lordships and Ladyships of this Court had a fully equipped chamber. The second was to ensure that we had 10 Court houses to commence sittings. The task of finding chambers and Courts was successfully carried out by Mr. U.R. De Silva, P.C, who together with the Secretary of the Ministry of Justice, Mr. Mayadunne, ensured that all chambers were properly equipped and that they were ready by the scheduled date of 18<sup>th</sup> January 2021.

The only Bench sitting on 30<sup>th</sup> November 2020, the day before my appointment as President, was that comprising the then President His Lordship Justice AHMD Nawaz and my brother Justice Rajakaruna, who were taking up urgent cases. I continued with this practice until the end of the Third Term of 2020, the *Annus Horribilis*.

Not knowing whether we could start in Term 1 of 2021, I reached out to Mr. Navin Marapana, P.C who was heading the Digitisation Committee appointed by the Minister of Justice, to explore the possibility of having virtual proceedings. In a matter of few days, his Committee had made all arrangements and we had a demonstration of a virtual court hearing the day before Christmas. I was happy that, we were now ready to face the challenge if the lockdown was to continue in January.

Fortunately, the lockdown imposed on Hulftsdorp was removed in early January and regular proceedings commenced in January 2021. However, systems are now in place so that virtual proceedings could be carried out in the event of any exceptional circumstances in the future.

We still had a problem, however, vis-à-vis the appeals filed by those convicted by the High Court and who were languishing in Prison. Due to the Covid-19 precautionary measures, prisoners were not being brought to Court. Although attempts had been made in 2020 to get the Appellants to provide their consent to the appeals being heard in their absence, such consent was not forthcoming. We had nearly 900 appeals and unless measures were taken to hear these appeals, we were only allowing a pile up of cases, in addition to creating frustration among the Appellants.

We once again reached out to Mr. Navin Marapana, P.C and Mr. U.R. De Silva, P.C, who had so readily provided assistance in putting in place the logistical support for the new judges. They provided us with a solution where facilities were made available in four Prisons, for Appellants to watch live Court proceedings in the three Courts of Criminal Appeal sitting in Court Nos. 107, 110 and 205. These Court houses were in turn equipped with the necessary hardware and the stenographers were trained to operate the live proceedings. All this was done in less than 15 days and virtual proceedings commenced on a trial basis in late January. The Rules of the Court of Appeal enabling virtual hearings were introduced by his Lordship the Chief Justice in late February and I am happy to say that the three Courts hearing criminal appeals are back on track. I must thank the rest of the members of the Digitisation Committee, Mr. Ruwantha Cooray, Mr. Thanuja Meegahawatte and Mr. Tenny Fernando, Attorneys-at-Law for their untiring efforts to make this exercise a success.

We are now in the process of introducing several new features to the website of the Court of Appeal. By the end of April, lawyers and litigants will be able to access the daily court list which will contain several options to search their

case by Court, case number, time of hearing or by purpose – i.e. whether it is fixed for support, mention, argument etc. One would also be able to search Judgments by keywords, case number, topic or date, and access journal entries of all cases after 15<sup>th</sup> February 2021. Any person would also be able to see the numbers and names of parties in all new cases that have been filed in 2021. In addition, lawyers and litigants would be able to make a request via email for certified copies and have them posted to their address, thereby negating the need to call over at the Registry. We also plan to introduce a Mobile Application so that lawyers can access the above while on the move.

It is important to bear in mind that these changes would not have been in place within such a short period of time, if not for the stresses brought upon the system by the pandemic. The challenge before us was enormous but we were able to achieve it due to the dedication of the personnel involved. I must thank Justice Dr. Ruwan Fernando, who is in charge of the web site development initiative, the Deputy Registrar Mr. Kindelpitiya, our IT Registrars, Mr. Jeevaka Kapurubandara and Mr. Thilina Ratnayake and the two web designers from Bell Vantage, Mr. Pathum Samaraweera and Ms. Amanda Abeywardena for their untiring efforts. I have sought and received the ideas of the Bar Association of Sri Lanka in the development of the above new features and I must thank you, Mr. President and Mr. Rajeev Amarasuriya, Secretary of the Bar Association for the unstinted support extended to me at all times.

A constant complaint that we receive is that the Registry is understaffed and therefore inefficient. Having discussed the issue of staffing with the Secretary of the Judicial Service Commission, Mr. Sanjeeva Somaratne, we are now in the process of re-appraising our staffing requirements and carrying out a restructuring of the Registry, to ensure that the Registry is efficient, transparent and is able to forge ahead in a digital world. I have asked Justice Neil Iddawela to be in charge of this initiative, so that we would benefit from his vast experience in this area. I thank Justice Iddawela for undertaking this onerous task.

My brother Justice Priyantha Fernando has been most supportive with his assistance and guidance in the above ventures. I have also consulted my sister, Justice Devika Abeyratne and my brothers, Justices Bandula Karunaratne and Sobhitha Rajakaruna in the management of the affairs of the Court of Appeal. The unstinted support I have received from them has been immense, and I thank each one of them.

Having now been provided with reinforcements, the twenty judges of this Court are well aware that the onus is now on us to ensure speedy and effective delivery of justice. I can say with great confidence and pride that every judge of this Court is acutely aware of his or her responsibility towards you and litigants. We only seek that the exceptional co-operation extended by the Bar be extended further.

At the point of my elevation to the Court of Appeal, I stated that I favoured the fixing of specific timeslots for cases. This practice has now been implemented in Court No. 301 and I am pleased to note that there has been a significant improvement in the disposal of cases. I would only request that you be more mindful of time constraints. I recall appearing many years ago before Mr. Ian Glick, QC in an international arbitration, where strict timelines were in place even for cross-examination, something which as Counsel I was not used to. He was sympathetic towards us, and explained that even in the United Kingdom, the Bar took some time to adjust to working within timeframes, and that it was only a matter of time before counsel are able to train themselves to elicit the necessary information within a pre-agreed time frame. The key is greater preparation prior to the trial or hearing. I am confident that in the appellate courts the learning curve would be much faster and that we would be able to usher in a professional era in our legal system.

The praise for the Ceylonese judicial service by Chief Justice Abrahams is oft repeated by those who are nostalgic for the glorious years of our judiciary. I propose that we each resolve that we will do our part in forging a modern,

efficient system that rivals our rich legal heritage. I trust that I can count on all of you as partners in this endeavour.

I would like to thank the Registrar, Mr. Sanath Pinnaduwa, the Marshall Major General Wickremasinghe and their entire staff, my Research Assistant, Ms. Rashmi Dias, Attorney-at-Law, Secretary, Mrs. Helen Samarasinghe, Arachchi Asela Peiris and the security staff for their unstinted support on a daily basis without which it would not have been possible for me to discharge my duties during the last three years.

It is customary on occasions such as this to remember those who have assisted you through this long journey. Therefore, please bear with me, as I touch a brief personal note, to remember with gratitude all those who helped me over the years. I remember all my teachers at S Thomas Preparatory School, Kollupitiya and S Thomas' College, Mount Lavinia.

I also remember with gratitude the late Mr. GF Sethukavalar, PC and Mr. Harsha Soza, PC in whose chambers I had the opportunity of serving my period of apprenticeship, Mr. C.L. Wikramanayake, Attorney-at-Law and the late Mr ALM Fernando Retired Judge of the High Court, who were my referees when I applied to join the Attorney General's Department and Mr. Tilak Marapana PC and the late Mr. Upawansa Yapa, PC who were my referees, when I applied for admission for a Masters Programme.

Mr. Attorney, Mr. President, as you are aware, the Attorney General's Department has been the training centre par excellence for hundreds of lawyers, since its inception in 1884 and I consider it my good fortune to have spent over 25 years at that hallowed institution.

I would also like to thank the late Justices P. Wijayaratne and PHK Kulatilake, and Justice D. Jayawikrama, before whom I had the privilege of prosecuting in the High Court. Those were the foundational days in my life as a counsel and

the guidance and discipline instilled by those judges have been of immense help in my career.

Pervading my thoughts today is my late Father and my late Uncle Anil Obeyesekere, P.C. I would like to thank my mother, who is here today, and my Aunt, Mrs Sriyani Pimanda, Attorney-at-Law. I would also like to thank my three brothers, who have been a tower of strength to me and my wife, Anoja. She has been the steadfast supporter and partner in my life, who has always encouraged me to pursue my career.

May I thank each and every one of you for your presence here today and for all the good wishes that you have extended to me. I look forward to your continued co-operation in this journey.