

SPEECH TO THE JUDICIARY OF THE REPUBLIC OF RWANDA

“Judicial Leadership: From Adjudication to the Administration of Justice”

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Supreme Court of Singapore

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Justice Rukundakuvuga Francois Regis, President of the Court of Appeal

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Justice Ndahayo Xavier, President of the High Court

Justice Mukamurera Clotilde, President of the Commercial High Court

Fellow Judges

Distinguished guests

Ladies and gentlemen

1. Warm greetings to all of you. It is a great pleasure to have been invited to speak to you this morning. In purely geographic terms our two countries may seem half a world apart, but there is, I think, much we share in common. For one, Rwanda and Singapore are both relatively small states which aspire towards punching above their weight regionally, if not even beyond that, and this has, I think, given us a drive to pursue excellence in all that we do, which is reflected in our respective judiciaries' pursuit of *judicial* excellence. Today, I wish to speak about the essential part that *judicial leadership* can play in that endeavour.

2. Our courts operate within a dynamic and ever-changing social, economic and technological context. We live in an increasingly globalised and interconnected world, and those connections – whether between states, communities or individuals – serve as conduits for the exchange of ideas, information and resources and have therefore been powerful catalysts of change. At the same time, advances in technology have opened the doors to new and better ways of delivering justice and connecting with the public. As the frontiers of our capabilities continue to expand, so too will the expectations and the needs of the communities we serve. To stay effective, our courts must be able to change and adapt in response. And in a world marked by rapid and constant change, it is essential that we develop leaders able to *identify* opportunities for change, *initiate* suitable changes, and *inspire* others to follow through with them.

3. My address today is structured in three parts, each focused on a single question:

- (a) First, *why* is it important that *judges* take the lead in matters of court and judicial reform?
- (b) Second, *what* might a culture of judicial leadership look like and what values would a judicial leader embody?
- (c) Third, *how* might we begin to cultivate a culture of judicial leadership?

I. Why is judicial leadership important?

4. Let me begin by discussing *why* it is important that judges take the lead in matters of court and judicial reform. After all, one might argue that the role of the judge is to do precisely that – to *judge*, or to adjudicate disputes – and that judges need not concern themselves with the making of policy, even *judicial* policy. This view might have been held in a bygone era when the comparatively glacial pace of change permitted a far more passive approach to court reform, which entailed waiting for practice to crystallise into precedent, and for precedent to be fossilised into law. That passive posture is simply untenable in the current era characterised by rapid and sweeping change. To be passive in the face of change is to surrender our chance to shape that change. We should not treat change simply as a set of circumstances to be *managed*, when it is in fact an endeavour that must be actively *led*. And I suggest that there are at least three reasons why *judges* should take the lead when it comes to judicial policy.

5. First and foremost, we are *duty-bound* to do so. The institutions, processes and procedures by which justice is actualised and delivered are critical to our ability as judges to properly administer justice. It has been said that a workman is only as good as his tools; even the best amongst us would not be able to do justice if, for example, the processes by which justice is done are in truth inaccessible to those who need them most. It follows that it is our solemn duty not only to *operate* the justice system but to ensure that it remains fit for operation and for purpose and is in good repair. As judges, we are called to be more than

just competent *adjudicators*; we must also be effective *administrators* of the justice system, and that means that the work of reviewing, reimagining and rebuilding our legal infrastructure must be seen as a core and integral part of the judicial role and mission.

6. This leads to my second point. As the operators of our justice systems, we are also often the ones best placed to identify problems and issues and to generate and evaluate potential solutions. It would, in my respectful view, be a mistake for judges to focus *exclusively* on the work of adjudication and to leave matters of court and judicial reform entirely to a bureaucracy of administrators. Every judge – regardless of her rank or appointment – is a source of invaluable experience and insight as to what the pain points in a given system are, and where there might be room for improvement. As the persons best placed to diagnose and then troubleshoot problems, it is crucial that judges not only *participate* in the process of court reform, but that they *lead* it.

7. Of course, this does not mean that reform can be accomplished by judicial leadership alone. Any process of reform will likely require us to work together with teams of other subject-matter experts each with different domains of expertise, such as technologists, coders and, in the family justice context, social workers and family mental health practitioners. This is, in fact, yet another reason why judicial leadership will be key – as a multidisciplinary endeavour, the success of court reform will increasingly depend on leaders able to interface effectively between and coordinate efforts across multiple fields and disciplines.

8. Third and finally, court and judicial reform should be judge-led because it affects judges and the way judges work. There are two sides to this. From the individual judge's perspective, there is surely a compelling interest in being an active participant rather than a mere passenger in matters that will affect one's professional work and career. And from the institution's perspective, getting judges to participate in reform is important because the success of any reform effort will depend on securing buy-in from the judges who must operationalise it. Radical change is often resisted. The difficulty of overcoming institutional and individual inertia and committing stakeholders to abandon old and familiar ways of doing things should not be underestimated. Stakeholders who have *participated in* and *contributed to* a process of change are far more likely to commit to it.

9. In sum, there seem at least three reasons why judges *must* take the lead in court reform: first, because it is our duty; second, as a matter of practical necessity; and third, because it is in our and in the judicial institution's best interests that we do so.

II. What is judicial leadership?

10. If we accept that judges *must* lead, the next question is: what might that culture of *judicial* leadership look like? Of course, leadership is a broad and multifaceted concept and manifests in more ways than I can cover in this short address, but for present purposes, I wish to highlight just three values that the *judicial* leader might aspire to.

A. Vision

11. The first involves having a sense of *vision* and perspective. Leadership is fundamentally about orienting oneself to others; to serving others, to improving their lot, and to bringing out the best in them. The *judicial* leader is she who looks beyond her own docket, and views court operations from a system-wide perspective rather than from the viewpoint of the individual case. She is constantly on the lookout for new and better ways of doing things. She is concerned not just with *self*-improvement, though that remains important, but, more fundamentally, with how the *system and its processes as a whole* may be improved for the benefit of all.

12. I should stress that this does not mean that the only ideas worthy of pursuit are those which are grand, or complex, or revolutionary. On the contrary, it is often the simplest and humblest of suggestions that can make the most meaningful difference. The establishment of what we called “Zoom Rooms” during the early days of the pandemic is a case in point. At the time, we had just made the switch from physical, in-person hearings to remote hearings conducted by videoconferencing, and while the use of videoconferencing was critical to our ability to continue functioning during the pandemic, there was a very real danger that those without access to that technology could be left behind. The problem was particularly acute in our Family Justice Courts (“FJC”), which see a higher proportion of self-represented litigants. The eventual solution was as simple as it was effective. Zoom Rooms, as the name suggests, were rooms set up within our

court premises that were equipped with videoconferencing facilities, where litigants who lacked the technical skills or the infrastructure to dial in to remote hearings could go to get assistance. They proved immensely successful. At least 30% of the FJC's users attended hearings from these Zoom Rooms at the height of the pandemic, and this was crucial to enable the FJC to hear about a third of its normal caseload – more than 2,400 cases – notwithstanding that Singapore as a whole was, at the time, in what was effectively a nationwide lockdown.¹

13. The establishment of these Zoom Rooms was the brainchild of a judicial officer at the FJC, and is, I think, a powerful demonstration of how the best ideas can also sometimes be the simplest ones. And it is precisely that blend of effectiveness, simplicity and clarity of vision that we should strive to establish as hallmarks of our culture of judicial leadership.

B. Initiative

14. Of course, vision, on its own, is worthless if nobody acts on it. That brings me to the second value that judicial leaders might cultivate – and that is *initiative*. This is in many ways the essence of leadership – to lead, after all, is to *act* and to get *others* to *act*. In the context of court reform, this might involve identifying the problem and recognising the need for change; determining possible solutions and marshalling the resources required to bring about the change happen; and,

¹ Sundaresh Menon CJ, “Justice in Times of COVID-19” speech at the Judicial Integrity Network in ASEAN Webinar (28 May 2020) at para 15.

perhaps most importantly, inspiring others to see the need for change and to participate in finding a solution and implementing it.

15. The crucial point is that anyone can initiate change, and therefore, anyone can be a leader. We must abandon the notion that leadership is an appointment or an office. Leadership, I suggest, is better understood as *action*, and not as a position; it is a posture that one adopts to everything one does. And if *anyone* can be a leader, then *everyone* should be empowered to lead.

16. The spotlight is often focused on judges and judicial officers, but *court administrators* too play an integral role in the administration of justice and they are important *judicial* leaders in their own right. Some of the best ideas for improvement have come from our corps of case management officers. One such idea involved improving our processes for the scheduling of appellate court hearings. Such matters only become ready for hearing *after* the parties have filed their respective written cases and appeal documents pursuant to certain fixed timelines. As a result, the process of scheduling requires a computation of these timelines to derive the earliest possible date for a hearing to be fixed. The computation of timelines was for a long time done manually, and this meant that the process was prone to fixing errors, apart from being tedious. Driven by a desire to improve the process, one officer realised that the requisite calculations could easily be automated using an everyday program – Microsoft Excel – and got to work developing a prototype calculator for the computation of timelines. She created the prototype, shared it with colleagues across departments,

consolidated the feedback and further refined the prototype. The calculator was launched just over a year ago, and not only has it eased the burden on her colleagues who would otherwise have had to manually compute the timelines, it has also completely eliminated fixing errors. This is, I think, leadership in its most raw and basic form – to act and thereby effect meaningful change for the betterment of others.

C. Courage

17. The third value I suggest is *courage*. It takes courage not just to make the call to depart from established practice, but also to stay the course in the face of protest or resistance or even indifference. As leaders, we must be prepared that we will sometimes be called to act against the tide of what might at the time be regarded as conventional wisdom. Henry Kissinger, the American diplomat, said: “[i]t is, after all, the responsibility of the expert to operate the familiar and that of the leader to transcend it.”²

18. Our transition to an electronic filing system some 20 years ago was met with considerable resistance. The initial feedback was discouraging; lawyers complained that the system had in fact increased the time spent preparing and

² Walter Goodman, The New York Times, “Somebody Always Knows Best” (10 February 1991): <<https://www.nytimes.com/1991/02/10/books/somebody-always-knows-best.html>>. Speaking the need sometimes for leaders to act against the advice of experts, Mr Kissinger wrote that “*Most foreign policies that history has marked highly, in whatever country, have been originated by leaders who were opposed by experts. It is, after all, the responsibility of the expert to operate the familiar and that of the leader to transcend it.*”

filing documents and so *increased* the costs of litigation,³ and even judicial officers balked at having to refer to electronic copies of documents, which they felt had slowed the conduct of proceedings due to the “instability and intermittent slowness of the system”.⁴ Despite these initial teething issues, we recognised the system’s potential and saw it as an investment for the future. A thorough review of the system was initiated and technological and process changes were implemented to address the various problems that came up.⁵ Today, having enjoyed the innumerable conveniences of electronic filing, a return to a manual, paper-based filing system would simply be unthinkable. Yet, at the time, the perceived costs of change were much higher, and its merits were not quite as clear. It took *vision* to see the merits of electronic filing, and *initiative* to get the project rolling, but without *courage* to stay the course and to persevere through those initial waves of criticism and doubt, the system of electronic filing which is now a cornerstone of our justice system might never have materialised.

III. How can we build a culture of judicial leadership?

19. This brings me to the third and final part of my address: *how* might we cultivate a culture of leadership in the Judiciary? This is still very much a work in

³ Sundaresh Menon CJ, “The Singapore Academy of Law: An Essential Dedication to Honour and Service”, speech delivered as the Singapore Academy of Law Annual Lecture 2018 (11 October 2018) (“An Essential Dedication to Honour and Service”) at paras 31-33.

⁴ Elaine Goh, National Archives of Singapore, “Case Study 21 Final Report: Electronic Filing System (EFS) of the Supreme Court of Singapore”: <www.interpres.org/display_file.cfm?doc=ip2_cs21_final_report.pdf> (“Elaine Goh”) at p 5.

⁵ Elaine Goh at p 5; see also An Essential Dedication to Honour and Service at para 33.

progress for us, but there are three lessons I can share from our own experience thus far.

A. Judge-led operations and reform

20. The first point is the importance of appointing judges to oversee various aspects of court operations and reform. In the 1990s, our courts underwent a period of significant reform to address what was then a serious problem of backlogs and delay.⁶ The reforms were spearheaded by the then-Chief Justice Yong Pung How, who insisted that his judicial colleagues lead from the front; judges kept to strict timelines for the disposal of cases and the issuance of their written grounds of decision, and judicial officers ensured that our judges' calendars were kept full.⁷

21. Today, our courts are no longer mired in backlogs but ensuring that justice remains accessible to all is still a critical challenge. Access to justice is a multifaceted concept that entails far more than just the proper adjudication of disputes, and engages other goals such as improving the efficiency of court proceedings and building public confidence in the judicial process. To meet those challenges, our Judiciary has developed capabilities in-house to serve certain dedicated functions including public communications, technology and innovation,

⁶ For a detailed summary of the reforms and the situation of Singapore's backlogged courts in the 1990s, see Sundaresh Menon CJ, "On the Journey to Court Excellence", speech at the launch of the Commission of Senior Judges of the Parish Courts ("On the Journey to Court Excellence") at paras 7-16.

⁷ Waleed Haider Malik, *Judiciary-Led Reforms in Singapore: Framework, Strategies, and Lessons* (The World Bank, 2007) ("Malik") at p 31.

and judicial training. In each of these areas we are supported by an able corps of court administrators led by the Chief Executive of the Office of the Chief Justice (a position equivalent to the Secretary General of the Supreme Court of Rwanda), with judges-in-charge appointed to provide strategic direction in certain areas of focus. Let me briefly outline three such areas.

- (a) The first is court communications and public outreach, which is overseen by the Office of Public Affairs. Our success rests on the key elements of trust and excellence, and one critical aspect of cultivating and developing public trust in the Judiciary is a dedicated communications function. I work directly with the Chief Executive as well as our recently appointed Chief Communications Officer, who leads our public communications efforts.
- (b) Second is the element of technology enablement, which already underlies much of what we do, from connecting with our users to making justice more accessible. The Office of Transformation and Innovation works on initiatives to improve the user experience as well as better support the work of our judges and staff, and it is led by a Judge of the Supreme Court, who is assisted by a Chief Transformation and Innovation Officer for the Judiciary.
- (c) And the third area of focus is judicial training. The thinking that great judges are *appointed*, not trained, has been displaced, and we regard training as a necessity throughout the course of a judicial career. The Singapore Judicial College (“SJC”) was established in the firm belief that judicial training must be judge-led. To that end,

the SJC is overseen by a board comprising judges and academics;⁸ its faculty includes members from both the senior and junior judiciary,⁹ and the College is run by its Dean, currently a former Judicial Commissioner of the Supreme Court,¹⁰ and its Executive Director, currently a former District Judge.¹¹

22. These three areas are critical to our vision of being a leading, trusted Judiciary, and the appointment of judges to lead on those fronts is both a driver and a signal of our commitment to developing our capabilities in those areas.

B. Developing a culture of leadership at all levels

23. My second point concerns the need to develop a culture of leadership at *all levels* of the Judiciary.

24. Innovation and thought leadership cannot be seen as the preserve of the senior judiciary. The lower courts are the place where most who encounter the justice system do so for the first time, and often they have particular and specific needs and focuses. So, we have Small Claims Tribunals,¹² which focus on low-

⁸ Singapore Judicial College, “Board of Governors”: <<https://www.judiciary.gov.sg/singapore-judicial-college/board-of-governors>>.

⁹ Singapore Judicial College, “Faculty”: <<https://www.judiciary.gov.sg/singapore-judicial-college/facul>>.

¹⁰ Singapore Judicial College, “About Dean Foo Chee Hock SC”: <<https://www.judiciary.gov.sg/singapore-judicial-college/dean>>.

¹¹ Singapore Judicial College, “About Executive Director Paul Quan”: <<https://www.judiciary.gov.sg/singapore-judicial-college/executive-director>>.

¹² See Singapore Courts, “Cases eligible for a small claim”: <<https://www.judiciary.gov.sg/civil/cases-eligible-small-claim>>.

value civil claims, and our Family Justice Courts¹³ are specialist courts for matrimonial and family disputes. The lower courts – led by the *junior* judiciary – must develop their own strategic objectives and design their own initiatives to achieve those goals, and in Singapore, the junior judiciary does so in the form of developing annual workplans which are submitted to the Chief Justice for approval.¹⁴ For example, the Family Justice Courts have, in their workplans of the past years, focused on the aim of actualising a framework for the delivery of a *therapeutic* approach to family justice.¹⁵

25. In a similar vein, the senior judiciary deliberates its strategic plans at an annual forum called the Council of Judges. This is a statutorily-mandated review of our procedures and the state of the administration of justice in all our courts. These strategic plans and objectives are then presented publicly at the formal opening of each legal year.¹⁶

26. At more regular intervals a smaller management team – comprising the Chief Justice, the Chief Executive of the Office of the Chief Justice, the Registrar of the Supreme Court, the judges-in-charge of specific portfolios, and the management teams of our lower courts – meets at least quarterly to discuss the progress of the implementation of longer-term plans, as well as to address any

¹³ See Singapore Courts, “Family”: <<https://www.judiciary.gov.sg/family>>.

¹⁴ On the Journey to Court Excellence at para 33.

¹⁵ Debbie Ong J, “Today is a New Day”, Family Justice Courts Workplan 2020 (21 May 2020). See also, for an overview of what a therapeutic approach to family justice might entail, see Sundaresh Menon CJ, “Through the Eyes of a Child”, speech at the 8th Family Law & Children’s Rights Conference: World Congress 2021 (12 July 2021).

¹⁶ On the Journey to Court Excellence at para 33.

issues or concerns that arise along the way. These meetings bring together not just the senior and junior judiciaries, but also court administrators and registrars who play a critical role in supporting and resourcing our operations and our reform initiatives.

27. In this way, we encourage judicial leadership at *all levels* of our courts.

C. *Empowering every individual to lead*

28. Yet, besides encouraging our people to lead, we must also ensure that they are *empowered and equipped* to do so. This entails *training* our people to lead and innovate in a Digital Age.

29. The SJC is a vital part of our efforts on this front. I earlier alluded to the fact that the judicial leader will, in leading reform, have to interface between persons of various types of expertise. And so, aside from developing judicial and adjudicative competencies, another priority will be to equip judges with multidisciplinary skillsets that will enable them to be effective interlocutors in multidisciplinary teams. This does not necessarily mean that judges will need to be, say, computer scientists or coders. But they must be aware of what the technology is, how it works, and most importantly *what it can do*, so that they can effectively identify areas or processes to which that technology might be meaningfully applied, and may then work with technologists and coders on developing and finetuning the appropriate solutions.

30. Besides judges and judicial officers, our court administrators too must be empowered and equipped to lead. Last year, we held the inaugural Court Administrators' Conference, which serves as a platform for sharing and learning best practices, and to foster a culture of innovation and a drive for professionalism amongst our court administrators. The work of court administrators is instrumental to improving the efficiency of our courts and to our efforts at enhancing access to justice for court users, and I fully expect that their role will continue to grow in significance as the Judiciary evolves to meet the challenges that lie ahead.

IV. Conclusion

31. All of this calls for a sustained, *systematic* effort to build a judicial ecosystem in which a genuine culture of leadership can thrive. The International Framework for Court Excellence ("IFCE") might provide some useful guidance in this regard.¹⁷ The IFCE is a tool designed to help courts improve their performance through a process of self-assessment and self-improvement. It is a holistic framework which encompasses various facets of court excellence – not just judicial leadership, but also other aspects such as efficient administration and the effective use of technology. The IFCE is published by the International Consortium for Court Excellence ("ICCE"), of which the State Courts of Singapore is a founding member. Our State Courts have undergone the IFCE process a

¹⁷ International Consortium for Court Excellence, "The International Framework for Court Excellence": <<https://www.courtexcellence.com>>.

number of times and have found it an excellent resource, and many other judiciaries have adapted the IFCE to suit their own particular needs.

32. I have always believed that as judges, we are all members of a global fraternity united by a shared mission – the fair and efficient administration of justice. We are all travellers on that same road, and within that context it is critical that we continue to engage with and learn from each other’s experiences, which can be a rich source of inspiration, ideas and best practices.

33. It has been a pleasure and a privilege to share some of the lessons we in Singapore have learnt. On behalf of the Singapore Judiciary, I wish you all the very best for your journey ahead. Thank you very much.