

**IN THE SUPREME COURT OF THE DEMOCRATIC  
SOCIALIST REPUBLIC OF SRI LANKA  
CEREMONIAL SITTING - 15<sup>TH</sup> MAY 2019**

Attorney-General, Mr. Dappula De Livera, President's Counsel, President of the Bar Association, Mr Kalinga Indatissa, President's Counsel;

I am honoured and humbled by the warm welcome and kind sentiments expressed at this solemn occasion. The confidence reposed on me, as well as the unreserved and unqualified pledge of support extended to me, is of great strength and significant encouragement to me. I wish to thank the both of you. Words you have spoken this morning will continue to echo in my conscience reminding me of the onerous responsibilities I have undertaken with the change of course in my professional career, upon the completion of a three and a half decade long tenure in public service.

During the three-year period of my service as Attorney-General I enjoyed the privilege of welcoming two new Chief Justices and eight new Supreme Court Judges. All those occasions gave me the opportunity to consider and appreciate more and more closely the onerous duties and responsibilities that need to be performed and discharged as a Judge. It also made me take into account the deep commitment and the strong interest required to be developed within oneself to ensure that their conduct would not only

protect and preserve but would further enhance the public confidence in the entire system of justice. It is customary in occasions of this nature to share our views with a wider audience for the ultimate benefit to the society.

Mr Attorney, Mr. Indatissa, we all hold all these positions in trust. Members of all three branches of the system of administration of justice - the Judiciary, the Official Bar and the Unofficial Bar – have a shared responsibility to perform their respective roles to the ultimate satisfaction of the public at large. Mutual understanding of the boundaries within which each limb has to perform their duties will further enrich the overall quality of service, delivered to the society.

Through the Charter of 18<sup>th</sup> April 1801, the Supreme Court of Judicature consisting of a Chief Justice and one Puisne Judge was established, in our motherland. This Court has now evolved into its current form consisting of the Chief Justice and of not less than six and not more than ten other Judges. The Supreme Court as the highest judicial organ of the island having jurisdiction, among other things, to adjudicate upon alleged violations of Fundamental Rights, Constitutional Jurisdiction in the Interpretation of the Constitution and Consultative Jurisdiction, carries a heavy burden to ensure that justice is dispensed to the parties who initiates proceedings, irrespective of their social status or the social status of the party against whom relief is sought, including the State.

It is of significant importance to note that concepts such as fair trial and *audi alteram partem* had guided the judicial mechanisms that existed in our society which pre-date colonial regimes too. A well structured hierarchical court structure consisting of several organs including *gam sabhas* and *dasa gam* dispensed justice under supervision of the King's Officers.

As Justices of the Supreme Court, who are exercising its judicial power at present, we have an obligation to preserve the dignity of this great institution and hand it over to the future generations when we relinquish our duties. We all have an obligation to discharge those duties without breaching the trust and confidence of its true owners – members of the society. **A.M.Gleeson QC** observed

“Whether they are conscious of it or not, the people repose enormous trust and confidence in the judges”.

It has further been observed,

“Public confidence in and respect for the judiciary are essential to an effective judicial system and, ultimately, to democracy founded on the rule of law. A factor which is capable of undermining public respect and confidence is, any conduct of judges, in and out of court, demonstrating a lack of integrity. Judges should,

therefore, strive to conduct themselves in a way that will sustain and contribute to public respect and confidence in their integrity, impartiality and good judgment”;

and

“When public confidence in one judge is shaken, public confidence in the judiciary as a whole is affected”

I am fully aware and mindful of the nature and the gravity of the duties, responsibilities, trust and confidence reposed on me. I am deeply honoured to have been the sixth serving Attorney-General who is reposed with such confidence and trust over the one hundred and thirty five year long history of the Attorney-General’s Department. I wish to take this opportunity to thank all those who believed in me and showered on me this great honour. It is my firm commitment to ensure that my conduct henceforth will prove the accuracy of their decision.

I strongly recognize the dedication of each of the officers and the collective contribution made by the officers of the Attorney-General’s Department in discharging their duties. This great achievement is a further recognition of the positive results of the collective commitment. The team spirit and the deep sense of responsibility with which all officers walked with me during my tenure as Attorney-General irrespective of the nature of the challenges, is recognized and acknowledged.

I wish to take this opportunity to remember all eleven Attorneys-General under whom I had the privilege and honour to grow over three decades of my public service, as well as all the seniors whose guidance on professional and personal matters moulded me, to reach higher levels of achievements. The collegial atmosphere in this great institution – The Attorney-General’s Department – contributed heavily to a working environment that enhanced the efficiency and efficacy. It is this guidance, training, kind advice blended with shared responsibilities that has taken me to these heights. Thank you all.

Mr Attorney, Mr Indatissa,

In addition to the personal conduct of the judges, the efficiency and efficacy of the system of administration of justice plays an important factor fashioning the public confidence. Examples or illustrations to demonstrate the adverse impact caused on a person’s life due to ‘delayed justice’ are too numerous to discuss in detail on an occasion of this nature. Yet, it is timely for all of us as trustees who are entrusted with responsibilities in different capacities within the legal frame work, whether one represents the Judiciary, the Official Bar or the Unofficial Bar, to think how best we could contribute to improve the existing system and enhance the quality of the final out-come provided to the society. None of us can ignore the reality - that we are

expected to hold all these positions in trust and play different roles, to the benefit of society.

When we celebrate our personal gains and achievements within this system, it is also important to review our conduct and re think as to how we could contribute towards the betterment of the society who is the legitimate beneficiary of all these mechanisms. A genuine effort blended with a strong will of all stakeholders, including judges and members of the bar, will be the sole avenue that would pave way for a change; A change that would lead to the benefit of the real owners on this entire system – members of the society. It is necessary to examine current practices, procedures as well as rules; objectively, leaving aside personal interests of individuals or groups, and take decisions on how best we could improve the existing system. My firm belief is that a collective effort with a strong commitment will pave the way to achieve this goal. It is my desire to embark on this journey with the participation of all sectors.

Impact of delayed justice is not solely confined to the litigants or their families. Areas such as Economic development, Investor confidence, improvements in the financial sector and International relations will also be fashioned based on the efficiency and efficacy of the judicial sector.

A well-disciplined mind with a strong commitment to efficiency and efficacy, working within a facilitative legal frame-work would bring in the desired results to overcome this obstructive hurdle.

When speaking of the development of an efficient, efficacious and disciplined mind and framework of thought, one must reminisce of the importance and impact of one's early years, on oneself.

The strong and firm foundation that was laid during thirteen years at my *alma mater* – Maliyadewa College, Kurunegala – stood firm enabling me to build my professional career. It is with a deep sense of gratitude I remember all the teachers and principals who showed me the path to success. Care and guidance received was not confined to text-book activities but spanned over to activities outside class room such as scouting, music and badminton. It is with deep sorrow I observe that some of those great teachers are not among us for me to show my gratitude in person. Great friendships developed over this period were an added comfort to step into the next phase in life, having successfully completed this important chapter. It brings me great joy to see a few you here within these sacred walls, this morning.

The wonderful atmosphere I enjoyed at Sri Lanka Law College during the next three-year period gave me the opportunity to commence my long journey with much

enthusiasm and courage. Learning a series of subjects covering an area completely different to what I was exposed to during school days did not become a serious challenge due to the guidance received from all the lecturers and the warm friendships developed among us – the batch of '79. I take this opportunity to pay my gratitude to all of them. On a personal note it is with much happiness and joy I occupy this seat today, along with my brother Judges, Justice Buwaneka Aluvihare, Justice Vijith Malalgoda and Justice Sisira De Abrew with whom I had the privilege of continuing a warm and close association with great affection, for over a period of four decades.

At this juncture it is timely for me to acknowledge the pivotal guidance I received from few personalities in the legal fraternity. The path of my professional journey would not have reached these heights, if not for their kind guidance and advice. Late Mr Justice P. Ramanathan, Late Mr S.Pullenayagam, Late Mr Daya Perera, President's Counsel and late Mr C. Vicknarajah instilled in me an interest, which cleared the pathway of the professional career; the interest to join this great institution, the Attorney-General's Department. Unhesitant acceptance into the chambers as an apprentice and thereafter as a junior counsel by Mr. Ariya Rekawa President's Counsel and Mrs. Elsie Shantha Rekawa marks the beginning of this long journey. I appreciate the guidance and affection extended to me by all these great personalities. The professional competency, dedication and

commitment of the judges of the High Court before whom I had the privilege to conduct prosecutions during my formative years as a State Counsel and the Justices of the Court of Appeal and the Supreme Court before whom I appeared thereafter, and the keen interest and enthusiasm with which they guided me without any hesitation or reservations was of immense help to build confidence in me. Regrettably, a long list of them paired with the time constraints does not permit me to name them individually.

Mr Attorney, Mr Indatissa,

Freedom, peace, order and good governance - the essentials of the society we treasure – depend on the ultimate analysis, on the faithful performance of judicial duty. It is only when the community has confidence in the integrity and capacity of the judiciary that the community is governed by the rule of law.

A judge is described as "*the pillar of the entire justice system*".

**The Canadian Supreme Court** had recognized that the public has a right to demand "*virtually irreproachable conduct from anyone performing a judicial function.*"

Maintaining Highest Standards of integrity in both their professional and personal lives is a '*sine quo non*' of the qualities of a Judge. Their Knowledge about the law, the

ability to analyse legal issues and to take decisions based on the context of different factual scenarios, deliver their decisions in a cogent and clear manner are a few of the qualities Judges should be equipped with, for them to deliver justice to the great expectations of the litigants who come before them.

Impartiality must be an attribute of each individual judge and also of the judiciary as a whole. Impartiality and the appearance of impartiality are necessary for the maintenance of public confidence in the judicial system

The duty of a judge, is to do right by all manner of people, according to law, without fear or favour, affection or ill will. These words can be traced to the promise King John made in 1215 to his barons when he put his seal on the ***Magna Carta – the Great Charter***

*“We will sell to no man, we will not deny or delay to any man either justice or right”*

Judges should be fair and open-minded, and should appear to be fair and open-minded. They should be good listeners but should be able, when required, to ask questions that get to the heart of the issue before the court. They should be courteous in the courtroom but firm when it is necessary to rein in a rambling lawyer, a disrespectful litigant or an unruly spectator.

**Lord Devlin** in his book *“The Judge”* explained the inter-relationship of some of the concepts referred to above as follows;

*“This is why impartiality and the appearance of it are the supreme judicial virtues. It is the verdict that matters, and if it is incorrupt, it is acceptable. To be incorrupt it must bear the stamp of a fair trial.”*

To most, private and professional lives remain independent of each other, being separated by a fine line. However, this may not be the case for a judge. The duty of a judge in discharging justice lies entirely on what is known as his or her moral compass. I stand here today because my own moral compass was deemed worthy enough to be considered within the sacred walls of the court of Law. Yet, my moral compass is not in fact mine alone. My parents, my seven siblings, my loving wife, her parents, eight siblings and our lovely children; you’ve all contributed to this moment. You’ve been a vital part of my life and the principles I’ve come to govern myself by, and thus here I stand.

Memories of a childhood filled with love, care and joy shared along with seven siblings is more than a treasure to preserve and cherish in. The wonderful home created by Pappa, Dr. J.A.Buddhadasa and our beloved Amma, having made so many sacrifices with the sole aim of guiding us in the right direction was of immense strength in my forward

march. We are unfortunate that one of the pillars of strength and support – my beloved mother late Mrs. Eugene Weerakone Buddhadasa - left us two and a half decades ago, leaving a deep void in us. I am eternally indebted to my parents.

I am deeply grateful to my beloved wife Kalyanapriya who always walked with me side by side and gave me the courage and strength to meet all challenges, be it in my professional life or my personal life. Being a lawyer yourself, once our family expanded you sacrificed your professional career and took care of everything at home, leaving me nothing to worry about and allowing me to focus on my professional career and the finer parts of being a husband and father. You did not walk into my life alone; but with eight lovely siblings. All of us were blessed with the love, care and guidance of late amma, Mrs. Soma Weerasundara, and thaththa, Ayurvedic Dr. W. I. Fernando, – better known as “*konda wedamahathmaya*” – together whose wisdom and kind heart healed many thousands of people giving them the greatest gift – good health. They would have rejoiced with us, if we were lucky to be with them today.

The wide understanding our children Pulina and Nishalya developed regarding the life of a public servant, the strong will to enjoy and grow up in such an environment and the unhesitant acceptance of the values we inculcated in them, gave me extra strength to continue with my career

without any reservations or regrets. The continued love, affection and the understanding all three of you share with me will provide me the strength and courage to discharge all duties and responsibilities while holding this hallowed position in the temple of justice.

I have been incredibly fortunate with the people who have been a part of my life, be it my parents, siblings, my wife, my parents-in-law, my children, teachers, friends or colleagues. Taking into consideration all the incidents that had to happen for me to have met all of you, I am compelled to believe that fate played its hand and you are in fact a part of my destiny. You have laid the stepping-stones for my journey to this seat. To the destiny that brought me these people, I acknowledge you and I salute you. To the destiny that is the people in my life, I bow my head.

**Justice Shirley S. Abrahamson** said

“The essence of being a good judge is, after all, the ability to decide the case on the facts and the law without any extraneous influences and without fear that a reviewing court, the siblings on the bench, the neighbours, the electorate, or the media are going to dislike the decision”.

It is my firm commitment that I would take all possible measures within my reach to ensure that the quality of

justice dispensed during my tenure would meet all these high standards.

Today marks the beginning of what is going to be the pinnacle of my career. At this time, I'm reminded of the *Maha Sangha Rathnaya* who have showered me with their blessings throughout, as well as the other religious leaders I had the pleasure of meeting in the recent past. I'm extremely appreciative of your blessings and am thankful for including me in your prayers.

It is indeed an honour and a privilege for me to have received this great opportunity to join hands with my sister judge and nine brother judges, all of whom have tirelessly worked through this journey taking different paths and coming together at the pinnacle of our judicial hierarchy. Walking with them this journey of commitment and dedication will provide me with added strength and courage to meet all challenges and ensure that the outcome of the proceedings in this temple of justice will serve justice to all equally and will contribute to further strengthen democracy and the rule of law in our motherland.

It is also pertinent to remind this august assembly that we all are passing through a gloomy season where the importance and significance of one noble teaching is brightly shining above us in this universe - the rule of impermanence. The need to dwell upon this rule at this juncture is not to shy

away from the discharge of the responsibilities that we have taken upon ourselves in trust or to make it an excuse to ignore the heavy burden placed upon our shoulders, but to ensure that such responsibilities and duties are discharged without any delay and ensure the ultimate benefits of this system will reach the society, before it is too late.

Mr Attorney, Mr Indatissa, I thank you once again for the warm welcome and wish to extend my sincere thanks to all of you who had taken time off your busy schedules. Your presence this morning made this a memorable occasion; memories of which I would treasure jealously.

May the blessings of the triple gem be with all of us forever and ever!

Thank You!

Jayantha Jayasuriya PC  
The Chief Justice.