

40th ANNIVERSARY MESSAGE

Forty years of successful service is a significant milestone for any organization. The Eastern Caribbean Supreme Court can undoubtedly boast that over its lifetime, it has maintained a proud record of service to the Member States and Territories of the Eastern Caribbean, from Anguilla and the British Virgin Islands in the north to Grenada in the south.

The life and history of the Court has coincided with the transition of the Eastern Caribbean States from colonies to States in Association with Britain (The Associated States) to independence for the majority of the former colonies in the sub region, and to enhanced levels of responsibility for internal affairs for the remaining Overseas Territories.

Of course, our Court was not the first regional Court serving the islands now known as the Eastern Caribbean States. The immediate predecessors of our Court were the Supreme Court of the Windward Islands and Leeward Islands, and the Court of Appeal of the Windward Islands and Leeward Islands, both established by the Courts Order of 1959. The Supreme Court and the Court of Appeal were superior courts of record, as is our Supreme Court. The Court of Appeal was generally constituted by the Chief Justice sitting with two Puisne Judges. There were no separate Justices of Appeal.

The Eastern Caribbean Supreme Court, originally styled the West Indies Associated States Supreme Court, was, upon Grenada achieving independence in 1974, in relation to the exercise of its jurisdiction in that country, restyled the Supreme Court of Grenada and the West Indies Associated States. In all other States and Territories over which the Court exercises jurisdiction, it is styled the

Eastern Caribbean Supreme Court, an evolution which has coincided with the achievement of independence by most of the former Associated States. The first Chief Justice was the very distinguished Sir Allen Montgomery Lewis of St. Lucia. He has been succeeded by a long line of distinguished jurists from within the OECS and in one case from Jamaica, with the latest holder of the office being the Rt. Hon. Sir Dennis Byron, K.B., P.C.

The Eastern Caribbean Supreme Court can justifiably claim to have served as a bastion for the protection and promotion of the fundamental rights and freedoms of persons within its jurisdiction, developing the jurisprudence relating to our Constitutions in line with the evolving awareness of the universality of fundamental human rights and the growing maturity of our legal institutions and civil society generally. Of course there have been hiccups along the way, most notably the Grenada revolution of 1979 to 1983, and the resulting temporary suspension of the jurisdiction of our Court in that country. Nevertheless, throughout its history, the Court has exercised its jurisdiction independently, fearlessly and with a high level of competence, notwithstanding the many obstacles in terms of resource limitations, including inadequate accommodation, library facilities and resources, trained personnel, geographic dispersion, and other factors. Not least of the challenges is the fact that the Court serves six independent Constitutional democracies and three Overseas Territories, and thus has to relate with nine separate governments in relation to its administration, composition, financial resources, accountability and judicial establishment. The difficulties are considerably eased by the existence of the Organisation of Eastern Caribbean States (OECS) and Authority, through which the Court relates with the several constituent States and Territories. The ECSC has ensured the continued upholding of the rule of law, and public respect, both locally and internationally, for its role as the principal arbiter in serious criminal,

major civil and all constitutional disputes, with limited rights of appeal to the Privy Council from decisions of the Court of Appeal.

With the passage of time and the growth of litigation, both in terms of volume and complexity, including what one might term an explosion in public law and judicial review litigation, significant challenges faced the Court, with growing delays and backlogs in the processing of the business of the Court. These issues demanded, and continue to demand, creative, effective and urgent responses, and led to a period of intense reform beginning in the latter half of the 1990's and continuing to the present. These reforms were and continue to be supported by our constituent Governments as well as by international funding agencies, including in particular the Canadian International Development Agency (CIDA) and the United States Agency for International Development (USAID). Without this support, the reform programme would not have got off the ground.

To date the most significant impact of the reform programme has been felt in the area of the processing of civil litigation. The introduction of the Civil Procedure Rules 2000, while attracting initial resistance from some members of the Bar, has had the effect of greatly accelerating the disposition of civil litigation, reducing the time elapsed from date of filing to disposition significantly. Also of considerable impact in that regard has been the introduction of mediation into the system of civil litigation. Unfortunately, the culture of mediation has not yet received widespread application, but we are encouraging judges and attorneys to make more use of this device, which has the potential of speeding up disposition, saving costs and yielding greater client satisfaction.

In any institution with a long term existence, transition and development is a constant, and the demand for continuing reform is forever evident. While the impact of the new Civil Procedure Rules on the expeditious processing of civil

litigation continues to be significant, it is evident that after five years, there is need for review and updating of these Rules. More importantly, the continuing growth in the volume and complexity of civil litigation, the importance of speedy disposition of those disputes, as well as the explosion in the volume of crime in some of our countries, demand ongoing review of the allocation of judicial resources between civil and criminal litigation, as well as periodic review of the judicial establishment, in terms of the number of judges on the court, in general, and the number assigned to the various States and Territories.

On the criminal side, the pilot project based in St. Lucia, which is expected to impact significantly on the speed and efficiency with which criminal matters can be processed, has not progressed as quickly as planned because of issues concerning the administrative arrangements and human resource allocation to the project, as well as delays in the bringing into effect of the enabling legislation. This has severely affected progress on the pilot itself, as well as the possibility of replicating the reforms in other States which are anxious to move forward. Efforts are under way to resolve these issues. Attention is also being focused on the establishment of a Civil Division and a Family Division.

Significant progress has been made recently in relation to the proposal to establish a Commercial Division of the Court in the British Virgin Islands, following the decision of the Government of that Territory to move forward with that initiative. A planning meeting between a team from the Court, and the offices of the Governor and the Deputy Governor as well as the Attorney-General of the British Virgin Islands, agreed on an outline 'roadmap' designed to guide the development of this admittedly complex project, which will demand the full commitment not only of the ECSC and the Government of the BVI, but also of the Governments of the other members of the Organisation of Eastern Caribbean States through the Authority. We expect that the Authority will

respond favourably to our proposals, which have already been foreshadowed to that institution, and which is expected, over time, to benefit the entire jurisdiction of the Court.

The Court continues to respond to the changes in our societies, and to seek to evolve in keeping with the ever-changing needs and demands of the justice system. We recognize that to a large extent the continuing social and economic development of the islands over which we exercise jurisdiction depend on the existence of a stable, independent, responsive, competent, effective and efficient judicial system, including not least the Magistracy, to which over 90% of all legal disputes are referred. The system must deliver impartial justice in a timely fashion, if the public is to continue to have confidence in the judicial process and not resort to some form of 'self-help justice'.

The average citizen is impacted by the work of the Magistracy to a far greater extent than by the functioning of the 'higher' judiciary, and we see it as our responsibility to ensure that judicial services are delivered to our citizenry in an impartial, efficient, effective and timely manner by competent judicial officers and institutions at all levels of the judicial system. In that regard, with the support of and responding to the mandate of the Heads of Government through the Authority, we are embarking on a project to integrate the several national Magistracies into the administrative and judicial structures of the Supreme Court, for the more efficient and effective administration of justice and to attain a greater level of judicial independence and accountability in the Magistracies, both in perception and in reality.

The task ahead will not be an easy one. The issues of judicial administration and development are complex, and becoming increasingly so as our societies transition in response to historical forces and influences and the demands of an

increasingly globalised world. I am confident that the demonstrated commitment of the Court to the preservation of the rule of law and the independence of the judiciary over the last 40 years of dynamic social, economic and political change will continue in the future to characterise the response of the Court to continuing evolutionary change. Our societies demand, and are entitled to expect nothing less from us. We look forward with confidence to a future in which, as in the past, the Court can assert with pride that it has done its duty and has served our sub-region with integrity. The past 40 years are just the beginning; the foundation on which to base our commitment to a long-term future of service with integrity, sensitivity, independence and competence in the delivery of judicial services to our several communities within the countries of the Organisation of Eastern Caribbean States.