

# **SPEAK TRUTH TO POWER**

**By Sir Brian George Keith Alleyne, SC**

Delivered at the OECS Bar Dinner, Law Fair, Dominica, 12<sup>th</sup> September 2009.

I know that there is a convention that dinner speeches should be light-hearted and brief. I intend to respect the second leg of that convention, but pray leave and ask your forgiveness in advance for departing from the first leg. If I abuse your kind invitation and address an issue which I consider important to this gathering of regional lawyers, it is in light of the audience and the important responsibilities of the members of the Bar, alongside the judiciary, as the guardians of the democratic rights of our citizenry, and in particular the minorities and underprivileged in our societies.

At our session this morning we had a very dynamic discussion on judicial activism, in which both bench and bar participated, expressing independent and divergent views. It is this independence of thought that has sustained public confidence in the legal system despite occasional failings and even scandals that occasionally affect us. The solutions to legal issues with which the court has to deal are not always easy, and it is the ingenuity of both the bar and the bench in the search to achieve a just solution within the law that inspires us who love the law as a tool of social engineering.

The theme of this talk is inspired by the title of a book by Kerry Kennedy; *Speak Truth To Power*. In that light, perhaps you are the power to whom I am called tonight to speak truth. It is for you, each one, to identify the power to whom, and the occasions on which, you are challenged to speak truth, even, or especially, when it will cost you. Notwithstanding our democratic constitutions, we in this region are not encouraged, and often do not have the courage, to speak truth to power, especially in the political sphere. But tonight I am not

addressing the political sphere, but the responsibilities of the honourable, although often dishonoured, legal profession to which we belong.

As long ago as 1887 Lord Acton said *“Power tends to corrupt, and absolute power corrupts absolutely.”* We often postulate that dictatorial regimes are oppressive, and that is a fact, but oppression exists also, perhaps to a lesser extent but equally harmful to its victims, in democratic societies, and we would do well to take note of the comment by Martin O’Brien in one of the chapters of that book that *“The worst thing is apathy – to sit idly by in the face of injustice and to do nothing about it. There is a real responsibility to challenge things that are wrong.”*

Above all others, lawyers are trained and commissioned to challenge things that are wrong, specifically injustice to citizens arising from abuse of power or privilege. Anthony Gifford Q.C., well-known to Grenada, wrote in his book *‘The Passionate Advocate’*, that *“The practice of law involves the responsibility to confront the injustices which are suffered by the poorest in our society”*, and further that *“the practice of law should be directed towards the prevention and remedying of injustice”*. It follows, and we know it to be the case, that it is not only the poor who suffer injustice in our societies, but it is the poor who are most vulnerable to injustice, and who find it most difficult to find champions to defend their cause. Members of the legal profession are enjoined to be the champions of all who suffer injustice.

In our democracies, absolute power is presumed not to exist, (and here my context is not only the government, but includes the workplace and even the home, where spousal abuse and the abuse of powerless children are rampant). But unless the people and the institutions, including the members of the legal profession, who have the resources, the skills and the countervailing power (at any rate potentially) to impose limits on the powers of the power structures, there will inevitably be a gradual encroachment on and erosion of the rights of the people, leading to an increasing corruption through the exercise of power. Anthony Gifford Q.C., the English and Jamaican silk to whom I referred earlier,

makes the point in his book that *“the practice of law involves a responsibility to confront the injustices which are suffered by the poorest in our society”* and that *“the practice of law should be directed towards the prevention and remedying of injustice.”* Of course it is not only the poorest in our society who suffer injustice. However, while others may have the means and the connections to secure the best legal support of their cause, there are those, most vulnerable to personal as well as official oppression, who have neither the financial means nor the social contacts which might enable them to access legal representation. Those, like the rest of us, are also entitled to the protection of the law and to effective access to the mechanisms of the law which exist to secure that protection. It is those who are most in need of the protection which is provided by committed attorneys through legal aid schemes and other such institutions. Those institutions need to be supported, not only by the few lawyers sufficiently committed to the principle of *justice for all* to devote their time and other resources to the cause, but by all lawyers committed to the principles stated earlier, by the government, and by other privileged sectors of society. Regrettably, legal aid institutions are virtually non-existent, or are barely surviving, in most of our jurisdictions. The OECS Bar must continue to accept the responsibility to take the lead in establishing, supporting and sustaining legal aid services in every member country of the OECS. If nothing else, this will help to reverse or at least mitigate the very negative opinion held by many in our societies that lawyers are nothing but greedy, selfish liars and crooks, who help the wealthy and privileged oppress the poor and helpless; who secure wealth and privilege for themselves at the expense of the poor, the vulnerable and the helpless. I am sure that this description does not apply to most of us in the profession, but unfortunately, as it is said; one bad orange will spoil the whole barrel.

Of course the obligation to support legal aid institutions extends beyond the legal profession, to private sector institutions in their own self-interest, and above all to government, as a vital and inescapable part of their obligation to secure equal access to justice for all regardless of social or economic status. It is

**a challenge that all who wish to see justice and peace prevail in our societies should adopt as a crusade and, in relation to those of us in the profession, as a professional obligation.**

**I thank the President of the OECS Bar Association, the Coordinator of the Annual Law Fair, and all of you for giving me the opportunity to issue this challenge, and also the privilege and pleasure of participating in this year's Law Fair in this the Nature Island of the World, my beloved Dominica, and I invite all of you, especially those of you who are first time visitors, to bask in the beauty and joys of this magnificent island during your short stay.**