



# **EASTERN CARIBBEAN SUPREME COURT LAW YEAR ADDRESS 2020**

## **A New Era for the ECSC: The Road to Achieving Court Excellence**



### **ADDRESS BY**

**Her Ladyship, The Hon. Dame Janice Pereira, DBE, Chief Justice**

**DATE: Monday 13th January 2020**

**LOCATION: St. John's, Antigua and Barbuda**

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- Justices of Appeal, Judges and Masters of the Eastern Caribbean Supreme Court;
- His Excellency, Sir Rodney Williams, Governor General of Antigua and Barbuda and Their Excellencies, Heads of State of each of the OECS Member States and Territories;
- Honourable Gaston Browne, Prime Minister of Antigua and Barbuda and Honourable Heads of Government of each of the OECS Member States and Territories;
- Retired Judges of the Eastern Caribbean Supreme Court;
- Honourable Steadroy Benjamin, Attorney General of Antigua and Barbuda, and Honourable Attorneys General of each of the OECS Member States and Territories;
- Honourable Ministers of Government of Antigua and Barbuda and of each of the OECS Member States and Territories;
- Chief and Senior Magistrates and Magistrates of each of the OECS Member States and Territories;
- Honourable Speakers of the Houses of Assembly and Presidents of the Senate of each of the OECS Member States and Territories;
- Honourable Leaders of the Opposition of each of the OECS Member States and Territories;
- Members of Parliament of each of the OECS Member States and Territories;
- Dr. Didicus Jules, Director General, OECS Commission;
- Mr. Anthony Armstrong, Director of Public Prosecutions of Antigua and Barbuda and Directors of Public Prosecutions of each of the OECS Member States and Territories;
- Solicitors General of each of the OECS Member States and Territories;
- Mrs. Michelle John-Theobalds, Chief Registrar of the Eastern Caribbean Supreme Court;
- Mrs. Cecile Hill, Registrar of the High Court, Ms. Tracy Samuel and Mr. Kayode O'Marde, Deputy Registrars of the High Court of Antigua and Barbuda and Registrars and Deputy and Assistant Registrars of the High Court of Each of the OECS Member States and Territories;
- Mr. Gregory Girard, Court Administrator of the Court's Headquarters and Mr.

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Francis Letang, Deputy Court Administrator of the Court's Headquarters; and Court Administrators of Each of the High Court Offices of the OECS Member States and Territories;

- Mr. Thaddeus Antoine, President of the OECS Bar Association;
- President of the Bar Association of Antigua and Barbuda and Presidents of the constituent Bar Associations of each of the OECS Member States and Territories;
- Learned Members of the Inner Bar and Utter Bar of each of the OECS Member States and Territories;
- Members of the Clergy;
- Members of the Diplomatic Corps;
- Commissioner of Police of Antigua and Barbuda and Commissioners of Police of each of the OECS Member States and Territories; Police Officers in Antigua Barbuda and in each of the OECS Member States and Territories;
- Superintendent of Prisons in Antigua and Barbuda and other Directors/Heads of Correctional Facilities in each of the OECS Member States and Territories;
- Staff of the Court's Headquarters and Court Offices in each of the OECS Member States and Territories;
- Distinguished Guests;
- Students;
- Citizens and residents of the Eastern Caribbean;

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Good Morning.

It is a pleasure to address you once again for the official opening of a new law year of the Eastern Caribbean Supreme Court. I continue to be deeply honoured and humbled to serve as your Chief Justice. This is always a special occasion for me as it is one of the few opportunities on which I get to speak directly to all the people whom I serve. Permit me to take this opportunity to wish each one of you a Happy New Year! I pray that as we embark upon this new year that God will bestow his richest blessings upon us all and upon our island States and Territories.

This year, we mark the opening of the law year at a Special Sitting of the Court on the island nation of Antigua and Barbuda. To those of you not here with us, I encourage you to visit soon. Antigua and Barbuda, like all our Member States and Territories, is a beautiful country with a rich culture and warm people.

As is customary, this address is being streamed live via simulcast to the other 8 Member States and Territories which comprise the Court and which are all holding their own Special Sittings. What is not customary is that we are gathered here today in the month of January, and not September, as has been the tradition throughout the existence of this Court. Therefore, the last time I would have addressed you was in September 2018 from the twin island State of St. Kitts and Nevis. The Court has broken with tradition out of practicality. As you know from experience, the month of September happens to be the peak of the hurricane season and the increasing frequency and intensity of hurricanes and other adverse weather systems affecting our region cannot be denied. In 2017, the ceremonial opening of the law year was cancelled as the State of Dominica was ravaged by Hurricane Maria, a mere two weeks after Antigua's sister island of Barbuda, and the Territories of Anguilla, and the Virgin Islands were devastated by Hurricane Irma. Last year as the Justices of Appeal and I were preparing to join the OECS Bar Association at the Regional Law Conference in St. Kitts and Nevis ahead of the ceremonial opening of the law year there, Tropical Storm Isaac threatened to disrupt plans and caused a logistical nightmare for the conference organizers

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and the staff of the St. Kitts High Court.

We certainly cannot prevent hurricanes – they are very much a part of our lives in this region – however, we can adjust to lessen their impact. The Court therefore made the decision to have the law year follow the calendar year and mark the official opening in January. The Court’s vacation periods remain unchanged and effectively, the only noticeable impact of the change in the law year is the new date of the ceremonial opening.

As is often said, change is the only constant. The world we live in is not static; it is always in flux and constantly evolving. For one thing, advancements in technology are taking place at a rapid pace and people expect processes to be completed in a much shorter timeframe than we had even envisaged at the start of the last decade. This Court must therefore reform existing processes and procedures where necessary and implement new measures to ensure that it continues to fulfill its mission. In line with this vision, the theme for the opening of this law year is “A New Era for the ECSC: The Road to Achieving Court Excellence.”

Underlying the theme is a sense of movement. As the ECSC enters this new year and indeed this new decade, we are moving forward. We are moving towards Court Excellence. Excellence is not a destination in and of itself but is a continuous process of evaluation to ensure we meet and exceed the requirements of the people we serve. As Her Majesty Queen Elizabeth II said in her 2019 Christmas address, “small steps, and not giant leaps bring about the most lasting change”. Over the last year, the Court has taken many steps which, in the grand scheme of things, are small steps on the road to Court excellence. We continue to strive to be a court that is not only reactive to changes in society, but also proactive in seeking out new initiatives to improve the administration of justice for the people of the Eastern Caribbean.

I often refer to this annual address as “the state of the Courts” because in reality it is our report to you on the work of the ECSC over the last year and the direction being pursued for its future – all with a singular objective in mind: To improve on the delivery of justice

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to the people it serves. Over the last year, the Court has taken several steps on the road to becoming a modern, accessible, efficient and resilient judiciary. As we enter a new year, a new decade and indeed a new era for the ECSC, the steps which I am about to report on, are designed to keep the ship on course – on the road towards Court excellence.

To place matters in perspective, I first wish to give just a snapshot of the volume of work that the Court deals with on a yearly basis. At the Court of Appeal, there were 513 appeals filed in 2018, a 14.22% increase over 2017. In 2018, a total of 1,228 appeal matters were heard via full court sittings, chamber hearings and video/teleconferences. The Court of Appeal delivered 56 written judgments and 686 oral decisions, making a total of 742 decisions delivered by the Court of Appeal in 2018. Oral decisions accounted for 92% of total decisions by the Court. This is undeniably a mammoth effort as the complement of judges on the Court of Appeal currently stands at only 6. Out of necessity we often engage acting judges just to enable sufficiency of panels to hear appeals, particularly in jurisdictions such as the Territory of the Virgin Islands, Saint Lucia, and Antigua and Barbuda.

At the High Court level throughout the Court's jurisdiction, a total of 6,791 cases were filed in 2018 and 4,133 matters were disposed of, marking a clearance rate of 60.86%, a 7% dip from 2017. Saint Lucia, Grenada and Antigua and Barbuda remain the busiest jurisdictions in terms of cases filed with each having over 1,000 cases filed. In Saint Lucia there were over 1,500. The clearance rates of the various High Courts were mostly below 100% in 2018 indicating an accumulation of case backlog. In 2018 only Antigua and Barbuda achieved a clearance rate above 100%, indicating a reduction in the case backlog. In that same year, the clearance rates in some of the High Courts were below 50% (Grenada, St. Kitts and Nevis, Commonwealth of Dominica). The Commonwealth of Dominica in particular, recorded the lowest overall clearance rate of 22.45%. This Member State was one of those adversely affected by Hurricanes in 2017 which in turn negatively affected court sittings and consequently the disposal of cases into 2018.

The Court therefore continues to deal with an extremely heavy case load and has the

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challenge of factors outside its control which feed into the creation of backlogs. It is in these circumstances that we have sought to devise and implement new measures where we can toease the way of doing business with the Court, in order to provide for a more efficient court system and better delivery of our services.

### **ICT Enhancements**

Over the last year, the Court has once again embraced the use of technology to advance access to justice, this timeby the introduction of electronic filing and the upgrading of court room digital technology.

In my last Law Year Address, I discussed the imminent launch of the ECSC E-Litigation Portal. The E-Litigation Portal is a platform providing for the electronic filing of court documents, electronic case management and document workflow. The Portal has the benefit of allowing legal practitioners to file documents via a secure online loginat anytime, anywhere and on any device with internet access. Special provisions have been made at the Court Offices to assist litigants in person to file their documents electronically. The electronic filing of the court documentsreducesthe need for voluminous paper bundles to be printed, sorted and boundwhich, particularly in the case of the Court of Appeal, must then be air-lifted around on LIAT and then by way of ground transportation as the Court follows its itinerant schedule. We at the Eastern Caribbean Supreme Court truly believed that the E-Litigation Portal could revolutionize the operations of the Court and the way legal practitioners and the public interact with the Court. I am pleased to announce that this has becomea reality and one which is already making a positive and visible difference in our daily operations.

The implementation of the ECSC E-Litigation Portal is following a phased approach. Over the period November 2018 to January 2020, the E-litigation portal has gone live in Saint Lucia, Anguilla, St. Kitts and Nevis and Antigua and Barbuda for the filing of new High Court Civil and Court of Appeal matters and in the Territory of the Virgin Islands for new Commercial Division and Court of Appeal matters.

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Plans are well on their way for the launch of the portal this year in the remaining 4 Member States and Territories: the Commonwealth of Dominica, St. Vincent and the Grenadines, Montserrat and Grenada and for the expansion of the portal in the Member States and Territories where it has already been implemented to include the filing of criminal and family proceedings.

By the end of 2019, 331 law firms, 713 legal practitioners and 381 law firm secretaries had been registered on the portal and almost 900 matters had been filed.

Prior to the launch of the E-Litigation Portal, a team comprising personnel from the developers of the Portal and from the Court's Headquarters, conducted an intensive and vigorous training programme in each of the 5 Member States and Territories where the portal has gone live. By the end of 2019, over 800 persons had been trained for the current implementation period.

I place on record my thanks to the team from the Court's Headquarters, and the Registrars and Staff of the various High Court Offices for their hard work in ensuring that the training was a success and for providing for a smooth transition to the E-Litigation Portal. The excitement of court staff right here in Antigua at being able to prepare online and send out their notices of hearing with a click was highly satisfying and proof positive that our Electronic Portal was reaping rewards for the Court in terms of time and money. I would also like to thank all the participants in the training for their willingness to embrace the E-Litigation Portal. As we begin to bank data on the portal, further details on its impact will be released by the Information Technology and Information Services departments of the Court.

Still on the ICT front, over the last year, the Court continued its work on improving the IT infrastructure and technological capabilities of courtrooms throughout the ECSC's Member States and Territories. The Court has also been collaborating with Attorneys General in many of our Member States for the implementation of the legal framework which will enable the use of an audio transcript as an official record of court proceedings. This is in an



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effort to reduce reliance on typed transcripts which accounts for systemic delays in hearing many matters at the appellate level.

A major initiative benefitting from enhanced ICT was the launch on 21st January 2019 of the Model Sexual Offences Court here at the High Court in Antigua and Barbuda. The Model Sexual Offences Court was established as a special project spearheaded by the Judicial Reform and Institutional Strengthening (JURIST) Project. A key initiative under the Project was the development of model guidelines for treating with sexual offence cases and being sensitised to complainants of sexual assault, including cases involving children. The aim of the initiative is to improve the ability of courts to provide more gender responsive services and to be more focused and understanding of the sensitivity of cases involving victims of sexual offences.

From an IT perspective, the implementation of the Model Courtroom for conducting sexual offence matters involved retrofitting one of the Criminal courtrooms at the High Court in Antigua and Barbuda and a victim's room, located outside the High Court Registry linked by a web-based conferencing system. This enables complainants and witnesses in sexual offences cases to give evidence from a remote site using this technology. I would like to recognize the tremendous contribution of the team from JURIST and the hard work and assistance provided by the Registrar and in particular the Deputy Registrar of the Criminal Division of the High Court in Antigua and Barbuda in making the Model Sexual Offences Court a success. It is our hope that this model court can be replicated in other Member States and Territories in the coming years.

Last year, the ECSC also managed the implementation of digital court technology in the Commonwealth of Dominica. The JURIST Project provided funding for equipping the Criminal courtroom at the High Court. That courtroom was officially unveiled at a ceremony held on 12th February 2019. The aim of the refurbishment of the criminal courtroom in Dominica was not only to help restore the courtroom to the state it was before Hurricane Maria struck in 2017, but also to modernize the courtroom in making it even better to meet

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the demands of this era of technology. We have been making good use of this technology from the day it was implemented. It was this technology coupled with the use of electronic documents which enabled the Court of Appeal to sit in Saint Lucia well into the night to hear an extremely urgent appeal filed only a day earlier on the eve of an impending General Election and deliver a decision immediately thereafter.

These initiatives have all been part of the ECSC's Courtroom Technology Enhancement Project launched in 2017, the objective of which is to have at least one digitally and electronically enhanced court room in every Member State and Territory. To this end, courtrooms in St. Kitts and Saint Lucia were also outfitted. Work is ongoing to accomplish a similar status in the other Member States and Territories until all are so equipped. Again, step by step, with the collaboration of Member Governments and Donor partners which share in our vision, we continue our march toward Court excellence.

### **Sentencing Guidelines Project**

Beyond ICT, in my last Law Year Address I had made mention of the work which was being undertaken to introduce sentencing guidelines in our effort to improve efficiency, transparency, consistency and accountability within the criminal justice system both at the Supreme Court level and the Magistracy. This Project started in 2016 with the assistance of our donor partner under the joint arrangement of the United States Embassy and the British High Commission under its criminal justice reform portfolio covering Barbados and the Eastern Caribbean. After much discussion, research, consultation with stakeholders and many, many hours of hard work by committed judicial officers representing every level of the judiciary from across our region and beyond, as well as carrying out training programs aimed at ensuring a full understanding of the application of the Guidelines by judicial officers across the board, we were able to launch our first set of ECSC Sentencing Guidelines for drug offences, offences of dishonesty and sexual offences. The launch took place right here in Antigua and Barbuda on Tuesday, 17th September 2019 and was broadcasted live via simulcast to the other 8 Member States and Territories of the Court. To date we have been encouraged by the buy-in from lawyers across the region. In some

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islands, legal practitioners as well as judicial officers, had already started being guided by them in their approach to sentencing before their formal implementation on 1st October 2019. We are therefore satisfied that this step was also one in the right direction on the road to Court excellence.

This is just the beginning, as the Sentencing Advisory Committee, under the able chairmanship of Justice Iain Morley, a resident High Court judge of Antigua and Barbuda and Montserrat, is already again hard at work for roll out of the next tranche of sentencing guidelines.

### CPR Review

At the start of the 21st Century we saw the introduction of the Civil Procedure Rules 2000. Criminal Procedure Rules were later introduced in Saint Lucia and work is underway to implement Criminal Procedure Rules in other Member States and Territories. I think it is fair to say that work toward this end is farthest advanced in the Territory of the Virgin Islands. In 2017, the Court also implemented a new suite of probate rules. These are in operation in all States and Territories save for the State of Grenada. It is my hope that Grenada will follow shortly.

The Civil Procedure Rules have now been in operation for almost 20 years. During the period, small and incremental amendments were made basically on a 'needs basis' as various omissions or ambiguities became apparent. The time has come for a full-scale review. Consequently, last year the Court established a Civil Procedure Rules Review Committee comprising former and current judicial officers and legal practitioners representing the constituent Bars of each State and Territory. The Committee's mandate is to undertake a thorough review of CPR 2000 and to make recommendations for amendments to more effectively deal with civil proceedings in a changing court system in a globally connected world. The Rules Review Committee, under the joint chairmanship of Justice of Appeal Paul Webster and Justice Eddy Ventose, a resident High Court Judge of St. Kitts and Nevis, had its first meeting in November 2019 in Saint Lucia. There was 100 % attendance - all eager to

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get down to work - and work they did. By all accounts, it was highly successful and the tone was set for further fruitful discussions. I am grateful to the Committee for their commitment and hard work to date.

I must mention here that the ability to meet face to face in one location was made possible by the assistance provided by the Impact Justice Project, the sister project of JURIST under the joint funding collaboration with Global Affairs, Canada. I place on record our appreciation for this assistance and their promised assistance in seeing this initiative through to completion which, we hope, will be in this year.

### **The Ethics Review Committee**

Quite apart from the establishment of the Civil Procedure Rules Committee, coming out of our Annual Judicial Conference held in St. Kitts in May last year, in our training and discussions around the topics of judicial independence and the Code of Ethics governing judicial conduct, it was apparent that the ECSC Code of Ethics which has been in place for many years, is now in need of an overhaul with a view to strengthening the principles already captured therein with the object of providing a clearer and more meaningful expression of the principle of equality before the law as enshrined in our Caribbean Constitutions. It was also considered that this revamped code should embrace judicial officers at all levels. To this end, I am also pleased to report that an Ethics Review Committee was also established around the same time as the Rules Review Committee. The Ethics Committee is composed of judicial officers of the Supreme Court as well as the Magistracy and is ably chaired by Justice Kimberly Cenac-Phulgence, a resident High Court Judge of Saint Lucia. That Committee is also hard at work. I express my deep appreciation to its Members for undertaking this task. It is expected that this review and the Committee's recommendations will also be completed this year.

### **Training for Judicial Officers and High Court Staff**

I made mention earlier of the training undertaken for judicial officers in respect of the Sentencing Guidelines. Additionally, the Court held its Annual Judicial Conference (AJC) to

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which I just alluded, in St. Kitts and Nevis. A wide range of issues and topics of importance to the judiciary – at the higher and lower levels – ranging from effective case management to judicial ethics, and independence were addressed. Of great significance was the training aimed at sensitising our approach to matters before the Court to ensure that, as judicial officers, we are achieving true equality of treatment before the courts as guaranteed by our Constitutions.

Judicial education and training over the year did not stop there. The Court has long recognized that although our judicial officers may be the final decision makers in court matters, it is the various court offices comprising our court staff that represent the engine room of the judicial process in the Eastern Caribbean. Court staff are therefore relied upon by the public as well as judicial officers to ensure the smooth progression of matters through the system. Their role, often unrecognized, is critical to the judicial process and if we are to better serve our people and move further along the road to achieving Court excellence, sensitisation and training was essential for court staff.

We therefore decided to build capacity from the ground up and so, from the latter part of 2018 and throughout 2019, the ECSC Judicial Education Institute carried out a number of training programmes throughout our Member States and Territories to empower court staff, address deficiencies, provide guidance and training, and adopt best practices, all in an effort to improve service delivery and to build confidence in the justice system.

In November 2018, the JEI hosted a conference for Registrars and Court Administrators in Saint Lucia. The conference focused on providing training to the court officers in some of their key duties with a view to refining court processes and procedures. This was the first conference of Registrars held after 5 years. The event also provided the Registrars, some quite new to their posts, with the opportunity to discuss issues and concerns and to network with their peers.

Last year, judicial officers, staff of the Court's Headquarters and other facilitators also took

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the training to the court offices across the OECS. This allowed for intensive training of all staff at all levels at their home base. Thus far, such training has taken place in Saint Lucia, St. Kitts and Nevis, Antigua and Barbuda, Dominica, St. Vincent and the Grenadines, and Grenada and will continue until all Court Offices in all islands have received it. This approach has been paying dividends as we have already been experiencing higher levels of efficiency and better communication among court registries and their interaction with the public. A Registrar's Manual initiated by the former Registrar of Saint Lucia has been produced and serves as a useful guide to court staff across our region in respect of the functions to be performed by the Court Office. Here, I must also make mention of the initiative of the court staff in the Territory of the Virgin Islands for developing a Commercial Court Users Guide which, once finalised, will be published. These are all initiatives driven by Registrars and court staff themselves and without seeking any extra remuneration for so doing but driven solely out of a desire to provide better service to the public. They are all to be commended for their efforts.

I must of course recognize the support of the JURIST Project for the financial assistance which they provided to the ECSC to conduct this training. It is through their assistance that the court was eased from providing the costs of air travel, transportation, accommodation and the like, for our travelling team of educators and trainers. We are grateful to them for supporting us in this endeavour.

In April 2019, a specialised training program was also developed and delivered to Judicial Research Assistants (JRAs) employed with the Court's Headquarters and with the High Court Offices in Antigua and Barbuda, Grenada and Saint Lucia. The JRAs, who provide a critical support role to judges, received training on judgment writing, preparation of case digests and transcripts at a workshop held in Saint Lucia. The training was facilitated in-house by Justices of the Court of Appeal as well as former and current staff of the Court's Headquarters. The benefits of this training are being experienced by judges of the Court at both levels. Here again, this was accomplished with minimal financial impact on the Court's Budget or allocations from the Executive branches of Government.

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### **Focus on Court-Connected Mediation**

In 2019, the Court renewed its efforts to promote the use of mediation in the resolution of disputes and to re-kindle its court-connected mediation programme in Member States and Territories where the number of matters being referred and resolved through mediation appeared to be waning. Apart from conducting mediation training, the Court, with the assistance of JURIST, launched a Mediation Public Education Campaign aimed at getting the word out to all corners of the public of the real and enduring benefits of mediation as a more timely and cost-effective alternative to the courts for resolution of disputes.

Since its implementation in the mid-2000s, Court-connected mediation has proven to be a resounding success in some States, but we wish to see more successes in other States and Territories as a means of delivering real and timely benefits to parties while at the same time easing the burden on an overloaded court system across our jurisdiction. The biggest challenge for the ECSC has been sensitizing the public as well as some legal practitioners to the benefits of mediation, the continued training of existing mediators and increasing the number of available mediators. To address these challenges, training workshops were held in many of our Member States and Territories over the past year and the “Court-Connected Mediation Public Education 2019 and Beyond Programme” as we have called it, is well under way. The Mediation Public Education campaign has now been launched in the Commonwealth of Dominica, St. Vincent and the Grenadines, Grenada, St. Kitts and Nevis, and Saint Lucia. To bolster efforts in Saint Lucia where mediation has been active and successful, a 5-day Mediation Training Workshop is being planned to train additional Mediators there. Similar training programmes are also planned for other Member States and Territories this year to increase the pool of trained Court-Connected Mediators. It is only fitting that I recognise the great and dedicated service of Mr. Francis Compton, who recently retired from the Post of Regional Mediation Coordinator. He is a quiet man with an affable smile but the one who was truly the powerhouse behind the Court’s mediation efforts. The name Francis Compton and the word “mediation” became virtually synonymous over the years. I place on record our thanks and gratitude for his unstinting service to the Court.

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I take this opportunity to urge legal practitioners to embrace mediation for the benefit of their clients. You are duty-bound to assist the court in dealing with cases justly. Actively encouraging a party to mediate his/her dispute is all part and parcel of doing just that – assisting the court in allocating appropriate use of its resources by facilitating early resolution of disputes. The early and amicable resolution of conflicts brings about a greater sense of overall wellbeing and promotes peace and stability within society. Legal practitioners therefore play a vital role in achieving this.

That said, we are all aware that the court will always have a critical role to play as all disputes are not amenable to resolution by mediation. And so, our courts, manned by competent judicial officers will always be necessary and integral to any democratic society. The Courts are a constant fixture in times of disaster -manmade or natural – during times of turmoil or in times of peace. The Court as an institution is the bulwark for the protection and vindication of human rights and therefore the sentinel of the Rule of law. Judges therefore perform a vital role. The independence of judges and the independence of the judiciary is necessary to safeguarding, maintaining and promoting the rule of law. In recent times, with the advent of social media and blogs coupled with the shield of anonymity provided by this medium, judges and by extension the judiciary has come under attack. We must guard against going down this path, and the ill-advised desire largely driven by emotion rather than rational and objective thought, to tear down this institution. Many of us look on with dismay at events unfolding in other countries. We must make every effort not to follow suit. No good can come of it. By the same token, judges must be vigilant to guard against efforts, no matter how attractively packaged, to encroach upon the domain of the judiciary, the result of which can only undermine the independence of the judiciary. Just a few weeks ago, we commemorated the 10th anniversary of the Commercial Division of the Court in the Virgin Islands. It was enlightening to hear the sentiments and concerns which led to the establishment of the Commercial Division and to appreciate how that Court had grown from strength to strength over the last ten years to where it is now recognised as a vital economic pillar of the Territory of the Virgin Islands. A former Lord Chancellor of the United Kingdom made clear that part of the attraction of that court is not only the quality



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of work produced but importantly, the knowledge that there is non-interference by the executive arm of the Government. We - the judges, legal practitioners, officials of the State and you the people - must all do everything within our power to keep it that way.

I take this opportunity to place on record our sincere thanks and gratitude to our Chair of the Judicial Education Institute, Justice of Appeal Gertel Thom and her team for the continued hard work in organising judicial education programmes and workshops for members at all levels of our judiciary. We are also grateful for the worthy collaborations with our external donors who make our training programs possible. We could not take these steps, building bit by bit, without their assistance. On behalf of the entire judiciary I express sincere thanks to the JURIST team, the IMPACT Justice team, the Office of the Criminal Justice Adviser to Barbados and the Eastern Caribbean, the Foreign and Commonwealth Office, UNICEF, USAID, PANCAP, UNDP, and all those not specifically mentioned for supporting us along the way on the road to court excellence. We know that there is quite a lot more road left to travel. With your continued support we are confident that we will travel many more miles along that road. We have been trying to do a lot with a little.

At this point, I would like to welcome our new judicial appointees to the ECSC. But before I do so, permit me first to recognize those High Court Judges who retired from the Court last year: Justice Cheryl Mathurin, Justice Clare Henry, Justice Keith Thom and Justice Francis Belle. I wish them the very best in their future endeavours. On 31st March 2020, Justice Wilkinson, here with us today, will also be bidding us farewell. Justice Wilkinson has given yeoman's service to the court and I express on behalf of the entire judiciary and on my own behalf sincere thanks and gratitude for your dedicated and selfless service to the people of the Eastern Caribbean.

Sadly, last year we bade a final farewell to one of our beloved judges, Justice Albert Redhead who passed away on 4th March 2019 at the age of 80. His judicial career was legendary. The Court and all those who knew him will always cherish the memory of his enthusiasm, hard work, and discipline.

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Several judicial appointments were made at the Court over the last year. I welcome Justice Marissa Robertson, High Court Judge assigned to Antigua and Barbuda; Justice Shawn Innocent, High Court Judge assigned to Anguilla; Justice Agnes Actie, High Court Judge assigned to Grenada; and Justice Ermin Moise, High Court Judge assigned to St. Kitts and Nevis (Nevis Circuit). Justices Actie and Moise previously served as High Court Masters before being elevated to the position of High Court Judge. I also welcome Justice Angelica Teelucksingh, acting High Court Judge assigned to St. Vincent and the Grenadines, and Justices Gerhard Wallbank and Adrian Jack, acting High Court Judges assigned to the Commercial Division in the Territory of the Virgin Islands. I also welcome acting Master Ricardo Sandcroft, and I recognise the assistance given to the Court of acting Masters Rickie Burnett and Tamara Gill. Master Gill continues to assist over this new term.

The volume of work carried by the Court over the last year and moving forward into this year could not be accomplished without the assistance of several persons undertaking short appointments on the Court of Appeal and the High Court. I wish to thank all our acting judicial officers for serving this Court to ensure that the wheels of justice keep on turning. Meaning no disrespect to the several distinguished persons who assisted the Court, I do wish to recognize Justice Stanley John, who served as a High Court Judge in the Criminal Division here in Antigua and Barbuda for the better part of last year and who greatly assisted the court in reducing the criminal case backlog.

From all that I have said, it must be readily apparent that the Court is under-resourced both in terms of human and financial capital. In respect of human capital, I put the call out to those of our legal practitioners who are eminently qualified to step up to the plate and serve, not on a part-time basis, but full-time. It has been said that “some of our finest work comes through service to others.”

### **Court Finances and Facilities**

Speaking now of financial capital, I once more call on the Executives of our Governments across the region to do more than provide lip service support to the courts. The Court

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has been made to operate for several months now without an approved budget and with promises made not kept. The fact that a little time - just once in the space of a year-to address funding for the Court seems elusive, speaks volumes about where the judiciary is pegged - somewhere on the bottom rung of the ladder. The continued chronic failure to adequately fund the Court prevents the court from putting strategic plans into action. The reforms and enhancements to current court processes and procedures and the addition of new ones coupled with capacity building among our judicial officers and court staff can only go so far. If we fail to appreciate our human resources and, if the doors of our courts are closed or, if physical court facilities cannot support an optimized scheduling of matters or where basic facilities fail to be provided at all, then all the reforms no matter how well-intended, come to naught.

As we enter a new decade, we still face the crippling problem of inadequate physical Court facilities in this region. Judicial Officers and Court staff are expected to work and the public is expected to conduct court business in buildings that have not been designed to accommodate a court; buildings with air quality issues; buildings in ill-suited locations; and buildings without proper accessibility. Courts, like hospitals and airports are special-purpose buildings, but when it comes to the courts, this fact seems to be lost on those tasked with providing them. Every year since I have been Chief Justice, and I have had the opportunity to address you in a forum such as this, I have sung the same refrain. Indeed, Chief Justices before me have done the same. I have implored our Governments to do their part to provide suitable and adequate court facilities and to fulfil their mandates to the judicial branch of Government. It is time to stop making promises but rather to fulfil them. It is time that attention be paid to the courts and the indispensable function they perform rather than the treatment endured year after year as if the Courts are a nuisance afterthought.

I am heartened that discussions and some introductory work towards the establishment of a Trust Fund for the Court has begun. But, it is time that the Governments set about constructing proper Halls of Justice. You the people deserve proper court facilities which are accessible to all – the rich, the poor, the old, the young, the able and the disabled. The

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Courts in Grenada were unusable for most of the last year, so too were the criminal courts in Saint Lucia for most of 2018. Whilst these court facilities have now re-opened, they are certainly only another bandage upon a festering wound. As I speak, this ceremonial opening of the Law Year in Saint Lucia is taking place in a building outside of the court facilities due to a lack of physical accommodation. The costs of constructing proper facilities is often lamented, but the fact is that delays won't make it cheaper, just more costly as the years roll by. All governments and we all, must face the fact that we are living in societies at a time when persons, given the ease of communication and information, have become much more aware of their rights and liberties and are increasingly coming to the doors of the Court to exercise and seek vindication of those rights. So too, do the Governments of our Member States and Territories for the resolution of pressing issues of great general and public importance. Can the court be heard to say we have no facilities for hearing the matter and turn the parties away? Would that not cause a loud and immediate outcry? Why then does the plight of the courts year after year seem to fall on deaf ears? No one should treat this situation as normal. It is not. We would be merely setting up ourselves to pay a much greater price down the road.

We will continue to look for ways to make the court more efficient and to train our judicial officers to manage cases and deliver timely decisions, but where facilities are non-existent or where working conditions are not suitable, or unsafe for human habitation, it is a denial of justice to all and in every respect an undermining of the independence of the judiciary.

At this juncture though, I must mention one ray of hope. It emanates from the Territory of the Virgin Islands. Following the devastation by Hurricanes Irma and Maria, the Government there is making every effort to outfit new temporary facilities to a level befitting of court offices and court rooms complete with adequate furnishings and state of the art equipment. I have also been reliably informed that construction should soon start on the first phase of their Halls of Justice. Another ray of hope beckons if the State of Dominica fulfils its promise to start construction of its Halls of Justice this year. Let us make this New Year 2020 a year of action in all our Member States and Territories, so we can truly progress on all fronts along

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the road to achieving Court excellence.

As I often do at the end of these addresses, I want to say thank you to all who have contributed to the Court's functioning and its success: our judicial officers at all levels, Court staff, Members of the Public Bar, Members of the Private Bar who have spoken up for us at times when we have been unable to speak for ourselves, Members of the Executive, the Police, and you the people of the Eastern Caribbean. Without you there would be no need for courts. We are here to serve you and we try our best to do so. I encourage you to continue to support the Court on the road to excellence. With God's blessings, I look forward to addressing you next year from St. Vincent and the Grenadines.

Thank you.

**Dame Janice M. Pereira, DBE, LL.D**  
**Chief Justice**

13th January 2020  
High Court of Justice, Antigua and Barbuda