

**JUDICIAL MANAGEMENT REFORMS IN THE OECS**  
**By: Sir Dennis Byron**  
**Chief Justice**  
**Eastern Caribbean Supreme Court**

**INTERNATIONAL SEMINAR ON EXPERIENCES OF JUDICIAL  
MANAGEMENT REFORM: PROJECTS AND RESULTS  
SANTIAGO, CHILE: 21<sup>st</sup> – 22<sup>nd</sup> AUGUST, 2002**

**The OECS Court Structure**

The OECS is a grouping of states in the Eastern Caribbean. The grouping comprises nine constitutional democratic nations. Six of these are independent sovereign states and three are British Dependent Territories. None of these states has a population in excess of 200,000. The OECS provides unique challenges in Judicial Reform.

The court structure in the OECS is comprised of national or domestic summary courts and a regional court system of unlimited jurisdiction. The domestic courts called Magistrates or District courts are created by statute and financed and managed by each individual national government.

Judicial independence is assured in the Magistracy by a variety of institutional measures. For example, the selection and appointment process for the judicial officers in those courts is handled not by each national government but by a regional Judicial and Legal Services Commission.

In some States, there is an Industrial Court with a specialized jurisdiction and arrangements for local management and financing and regional involvement in the selection, appointment and discipline process.

The regional court is the Eastern Caribbean Supreme Court, established in 1967. It is a court of unlimited civil and criminal jurisdiction consisting of a trial division and an appellate division. It is constituted by treaty and is an organ of the Organization of Eastern Caribbean States [OECS]. The Court is financed by the Member States who are obligated to pay proportionately to its budget, which is prepared by the court and approved annually by the Authority, the Conference of the Heads of Government of Member States.

The constitution provides for the Court to be administered by the Chief Justice with the concurrence of the Authority on particular matters. Constitutional imperatives of impartiality are provided for by the Judicial and Legal Services Commission, which is independent of the political establishment. Judges, other than the Chief Justice, are selected, appointed and subject to the discipline of the Commission.

**Judicial Management Prior to Reform**

Prior to 1990, the concept of central administration was not addressed in the court system. There were no administrative or professional management officers in the structure of the judiciary and technology was not used to support the judicial process. The management of the court was performed by the Chief Justice through the bureaucracies of the public service in each Member State.

The first step major step occurred with the establishment of the office of the Chief Registrar in 1991. The primary task of this office was to coordinate and manage the appellate functions of the Court of Appeal, an itinerant court, which travels to each Member State to perform its adjudicative functions. This new office provided an organized administrative office for

the Chief Justice for the first time, although the only professional officer was the Chief Registrar, whose professional competence was legal.

Throughout the latter half of the 1990's the regional court embarked upon a series of reform measures to address the many shortcomings that were readily apparent in the court system. What were these shortcomings? We had horrendous delays in the disposition of cases. In many instances antiquated court rules and court forms contributed to these delays. This state of affairs had produced a culture, among judges and lawyers alike, that, among other things, tolerated delays. Our methods of court administration were inefficient and not consciously geared to satisfying the needs of the public served by the courts. Litigants complained of high costs of litigation and of inability to understand the process and to gain information about the status of their matters. Both the administrators and the public were unable to access information about the performance of the court to inform management decisions and public discussion. A comprehensive reform programme was therefore embarked upon to address many of these problems.

### **Contents of the Reform**

The reform programme had five basic components:

- [1] Procedural reforms
- [2] Administrative reforms
- [3] The introduction of technology
- [4] The improvement of the quality of judges
- [5] Court structures

### **Procedural Reforms**

The concept was the introduction of simpler, fairer, faster, more cost effective procedural processes. These were characterized by the introduction of increased judicial management of the trial process and of ADR (Alternative Dispute Resolution) measures.

Procedural reforms in the civil process in the Supreme Court was implemented through the Eastern Caribbean Supreme Court Civil Procedure Rules 2000 [CPR 2000] and ancillary legislation. Accompanying these measures was the creation of the new judicial office of Master. A Master possesses all the powers of a Judge in Chambers, except the power to conduct trials. The rationale was that the Masters would relieve the Judges of much of the latter's work done in Chambers thereby allowing the Judge to concentrate on disposing of trials.

Procedural reforms in the area of Family Law are in progress. A Family Law and Domestic Violence Committee was established in 2000. The first phase has been completed with the compilation of research papers and draft rules, which will lead to consultation on issues of harmonized legislation, rules of procedure and the structure of the Family Court.

The criminal justice procedural reform process is still in the design stage but is geared largely to the simplification of procedures and the improvement of the jury management processes. Currently, in each State the court in its criminal jurisdiction sits periodically as distinct from continuously. The reform process is also aimed at correcting this so as to increase the rate of disposition of criminal cases.

In the summary or domestic courts, case management practices are also being introduced so as to expedite the hearing of cases.

## **Administrative Reforms**

Administrative reforms have been characterized by the development of the concept of a dedicated court administration department at the Headquarters of the Supreme Court and the introduction of court administrators in court offices in each Member State.

Administrative reforms have been characterized by the development of the concept of a dedicated Court Administration Department at the Headquarters of the Supreme Court and the introduction of Court Administrators in Court Offices in each Member State.

The department of Court Administration now has a number of departments headed by Professional Administrators with the following technical competence as Librarian, Accountant, Office Manager, Human Resources Administrator and Information Technology Manager.

The administrative management is required to function through a Court Administrator as a Chief Executive Officer responsible for the management of all professional staff and administrative functions.

Initially, Library Services had been set up under a Professional Librarian. This concept has been expanded to introduce a Department of Information, which would bring under its umbrella the gamut of information services, including statistics. We are presently working on the development of this department.

## ***Information Technology***

The need for the use of information technology in the court offices and court processes was identified early in the reform process. This commenced with the routine use of computers and that of office automation tools primarily word processing, spreadsheet application, and accounting software. This was followed by the provision of laptop computers to the Chief Justice, the Justices of Appeal, and the High Court Judges.

Attempts were made to develop software products using local experts, to capture the results of cases, and for the management of cases. Eventually decisions were taken to purchase case management software off the shelf and to embark on a full computerization of the litigation process.

## ***Implementation of Case Management Software***

The computerization exercise commenced with the training of persons from all the islands in the installation and use of the software. This took place in the British Virgin Islands in November 2000.

After the training was completed we set about finalizing the contract arrangements with the software and hardware vendors.

The installation process for the case management software took place between March 2001 and October 2001.

A special Data-entry project was designed to enter all cases filed in the Court from January 1980 to December 2000. Once all of this information has been entered on to the case management software it will allow analysis and assist in determining the most efficient utilization of court resources.

### ***Automation of ECSC Headquarters***

The automation of the ECSC Headquarters commenced around 1997. Initially the efforts were geared at using computers to perform the accounts function in the office and the commencement of the development of a local area network to allow others to access and share information. The office embarked upon measures to utilize the computers as office tools.

These measures included:

- ◆ Upgrading the office internal network by purchasing appropriate hardware
- ◆ Implementing of a dedicated internet connection using ADSL in the court
- ◆ Development of a web-site for the posting of cause lists or dockets, the court's newsletter, judgments both at the trial and appellate levels, and other information about the court
- ◆ Installation of suitable equipment for the various functions to be supported
- ◆ Implementation of a document tracking software package specialized for the Headquarters
- ◆ Development of internal mail communications in the office through the intranet.

### ***Court Reporting***

A major use for technology has been the introduction of court reporting systems. Pilot projects in the use of Computer Aided Transcription (CAT) have commenced in some Member States. Court personnel were trained as part of a special program in the British Virgin Islands in 1999 and necessary equipment was donated by USAID.

In July this year, a program was commenced at the BVI Academy of Court Reporting to train court personnel from all Member States, so that the court reporting program could be rolled out throughout the entire jurisdiction.

### ***Audio Recording***

In March 2001, the High Court in St. Lucia implemented a special four-track tape recorder for use in one of the courtrooms as a pilot project. This has produced positive feedback to the court in terms of the appropriateness of the technology.

More recently, another pilot project was commenced in the Magistrates Court in Saint Lucia and it is intended that the roll out of this technology will be utilized throughout the Magistrates' courts in each Member State.

### ***The Improvement of the Quality of Judges***

One of the consequences of the sweeping reforms that have been and are being introduced is that there has to be a new approach by judges to their work. New methods of work have to be adopted. If the reform programme is not to be significantly retarded it is important to ensure that greater attention is paid to the quality of the judges who are appointed. The Judicial and Legal Services Commission has therefore introduced new transparent selection processes for judicial officers. Vacancies in all judicial offices are advertised in the media and all appointments are made on published criteria that reflect a competitive, merit based and transparent selection process. The Judges have also adopted a Code of Ethics, which has also been published.

### ***Court Structures***

The integration of the management of the summary courts is well advanced. A Study on the Regionalization of the Magistracy as part of an OECS Unified Judicial Service is currently being considered.

The Family Law project is currently considering the structure of a Family Court, and in particular, whether to recommend a stand-alone court or a Family Division of the High [Trial] Court. Similarly a decision as to whether the Small Claims division will be accommodated by an increased jurisdiction in the summary courts or the development of a division at the High Court level, remains to be taken.

### **Primary Sources of Stimulus**

The reform program started within our own judiciary with the development of a vision through speeches, position papers, workshops and seminars. This was supplemented by the discovery that the Judiciary of Trinidad and Tobago had embarked upon the same process and had already established a Department of Court Administration headed by a professional Court Administrator. A program of functional cooperation was developed and we were able to utilize their professional personnel, and study the steps they had taken and implement lessons learnt. This sharing of experiences in judicial reform has been a valuable stimulus.

The regional conferences for judicial reform in Latin America and the Caribbean over the last decade, have produced an invaluable source of reference material in the philosophy and practice of judicial reform and our judiciary had benefited from their study. This use of reference material has included the World Bank programs and literature including the Report – *“Challenges of Capacity Development: Towards sustainable reforms of Caribbean Justice Sectors -Volume I Policy Document”*, a sensitive and valuable study which succeeded in its stated objective of providing a framework to guide efforts aimed at making the justice sector more effective, efficient and reliable.

The Report has also had the value of providing a sound documentary reference for those who will try to mobilize public opinion to support prioritizing justice sector investments in Caribbean economies. The report in my view helps to provide a persuasive rationale.

The use of the research and development of judicial reform programs in other jurisdictions must include the work done in the UK by Lord Woolf’s *Access to Justice*. I must also include the invaluable work of the CJEI under the presidency of Judge Sandra Oxner, which set new standards for Judicial Education in the Commonwealth and provided inspiration and stimulus for judicial reform.

This work has been supported by the International conferences on many aspects of judicial education and reform. Sponsored participation in these programs has also provided stimulation to participants from our jurisdiction and quickened exposure to new ideas and techniques.

### **The Role of International Cooperation**

There have been at least 2 aspects to this. One has been a sharing of technical expertise and the other, the much needed financial support for weak domestic economies. The existence of a cadre of international agencies and Governments willing to share expertise and invest in judicial reform has been an essential component in the reform process. I should mention in particular, USAID, CIDA, the British Government and the Australian Government.

### **The Strategy for Implementing Changes: How Technical and Cultural Aspects were Handled**

The implementation strategy has been a combination of a consultative and educational approach. The underlying theories and principles of the reform programme were concluded from consultative activities with the system stakeholders, including, the Judiciary, the judiciary support staff, the political establishment, the legal profession and the private sector. In addition, a number of research papers were circulated throughout the jurisdiction.

Position papers were prepared and circulated to the political establishment supported by presentation to the Conference of Heads of Government by personnel in the Office of the Chief Justice.

Different strategies were used for different categories of stakeholders. At an early stage it was obvious that the court would have to invest heavily in judicial training. A Judicial Education Institute was therefore constituted as a body designed to oversee this task. The leadership of the Institute is vested in Judges and Magistrates who volunteer their time and the Institute organizes seminars, workshops and training programmes aimed at providing information on the content of the intended programmes and promoting relevant attitudinal and behavioural changes. These programmes were targeted at the Judiciary and the judiciary support staff. Similar programmes were designed and implemented for the legal profession.

The Judiciary has utilized media consultation in the design of public awareness programmes and Judges have featured in educational television programmes designed for regional dissemination. Out reach programmes with legal institutions have also been developed aimed at integrating law students in the process.

The strategies for implementing change are ongoing but every effort has been made to ensure that change has not been introduced until the persons affected have shown a level of acceptance for that change. One critical element in the process has been that at all levels, local ownership has been encouraged by the use of local expertise, where available.

**Results to Date: External Evaluations: By Whom? Results? Comparison of Pre-Reform and Post-Reform Indicators. What do Figures Show? Public Opinion Surveys? Has Perception of Justice Improved? Perception of System Operators?**

We are not aware of any external valuations of our reform process and we have not ourselves commissioned any local or public surveys.

However, we have been able to make some evaluations using indicators such as the comments of Judges, members of the legal profession and the public as to the improved levels of efficiency in particular areas. One example would be the reaction to the public awareness programme introducing court –connected mediation in St. Lucia.

The new civil procedure rules have been introduced and implemented and the court offices have been computerized. The result of the introduction of the new procedure rules and information technology into the court processes is noticeable and there has been substantial increase in the rate of disposition of cases. The figures are now being compiled for review.

The introduction of professional management staff has been taking place and the programs they have initiated have been implemented. Once performance indicator has been the responses of the Authority, which has approved substantial budgetary increases in response to and evidence of public support of the reform process. Budgetary figures also show that the Member States' investment in the Court has doubled since 1996 and this is a direct indication of their support for the reform process and its outcomes.

In the area of management, the professional court officers who have been engaged have effectively discharged their functions and this can be seen in the quality of the administrative and technical support given to the Judiciary.

**Upcoming Challenges to be Faced in the Reform Process**

The greatest priority is the development of the court administration capacity both at the Headquarters of the Court and the court offices in the Member States. Not only must professional managers be in place but also professional management

systems must be implemented and maintained along with and including the technological tools to support the management functions.

Linked to this is the issue of centralized management. The fact that the court is regional and comprises a number of small units raises additional demands for the development of economies of scale and the centralization of administrative and management functions. Completing the development of the concepts is a current challenge.

A major challenge lies in the financial implications of continued development and sustaining of this process. Another major issue which is affected by economic considerations is the improvement of buildings and equipment. Limitations of physical office space have sometimes placed obstacles in the way of providing new equipment.

The usual issues in change management still require to be dealt with. In particular, overcoming traditional conservatism of the judicial and legal profession has to be addressed on a continuous basis. The reform process must continue to advance the professionalisation of the Bar Associations, as the development of the legal profession must parallel that of the Judiciary, if the judicial reform program is to be sustainable and impact on society.

The momentum achieved in the area of continuing professional education of the Judiciary must be maintained with the new and innovative programmes and the institutionalization of accountability.

Emphasis must be placed on public awareness programmes aimed at improving the public perception of the Judiciary as the reform process has heralded changes in cultural patterns. The choice of techniques used in these programmes will dictate their success.

**Sir Dennis Byron**  
**Chief Justice**  
**Eastern Caribbean Supreme Court**  
**18<sup>th</sup> August, 2002.**