

Judicial System Turned Inside Out?

Can you imagine getting justice without going to Court?

Can you imagine going to Court after work?

And believe it or not, knowing the exact status of your case?

These are just a few of the outcomes that clients and users of the court system may expect after a major overhaul of our judicial system. What is even more surprising is that, many juridical reforms have already started to take shape. That is according to Sir David Simmons, the Chief Justice, who recently spoke to Public Officers at the Inland Revenue Department's monthly lecture sessions.

The Chief Justice stated that judicial reform has been long in coming- but the process has already started. He noted that, Barbados and most of the region, has inherited its common law system from Great Britain, and, as such, characteristics of the system have left us with justice that is long and delayed and, with a set of rules that are complex for Judges, Magistrates and lawyers, not to say, laymen.

He stated that the major challenges of pursuing judicial reforms were working in a framework that used limited technology, limited manpower and limited space. He went on to say that with the completion of the new judicial centre almost all of these challenges would be addressed.

JUDICIAL CENTRE BY 2008

The New Judicial Centre will herald a modern judicial system by 2008. The centre will be located on 5.4 acres of land at Whitepark Road and will house the Supreme Court as well as facilities for the Caribbean Court of Justice. In the design of the Building there will be ample space for Criminal and Civil courts, Chamber courts, Registration's court, the court of the Master,.....rooms for lawyers and clients, the Registration Department, the Masters Department, the Community legal Services Department, inter alia.

PREPARATION FOR THE NEW CENTRE

Sir David indicated that, one of the old problems in the Courts was the increasing volume of cases and the inadequate number of Judges. In order to arrest the problems several changes were made. They included:

- An increase in the number of Judges and Magistrates, This allowed for two new temporary courts at Roebuck street. This had an immediate impact in respect of the processing of Chamber applications. Before April 2006, it would take about four months to process applications, this processing period has now been reduced to four weeks. On average, there are over 100 applications in Chambers per week.
- An additional four persons as Court Transcript Reporters have also been employed, this gives the system a total of eleven transcript reporters, this too has aided in improved efficiency of the system.

The Chief Justice explained that the Court System itself is plagued by a number of cases that are inactive for various reasons. Thus, in acknowledgement of this problem ‘The Backlog Reduction Project’ was developed. This project seeks to weed out inactive cases from the system. This task, he states, is vitally important prior to the introduction of a computerised structure. The project was undertaken by a dedicated team from the Registration Department which often had to give up their weekends to complete the assignment. By the end of the project over three thousand (3000) cases were identified as inactive over a period ranging from 1990 – 2005. The Chief Justice said that the success of the project relied heavily on the co-operation of the Attorneys and the Bar Association.

NEW RULES OF CIVIL PROCEDURE

Sir David admits that the main vehicle of reform in the administration of justice will be a change of court rules; this, he said, requires a major cultural change from Judges, Attorneys and the general public. Changing attitudes is not easy and, in essence, the tone must be set by the Bench. Essentially, the Court will control the pace of litigation as opposed to the current system where attorneys tend to dictate the pace. The court will become more proactive and will take control of cases and try to keep costs within

manageable limits. For example, where in an accident case today there may be several reports from doctors and other experts, the New Rules will in future, empowers judges to order the parties to agree ... and not more than two reports.

In taking early control, the court will fix firm dates for pre-trial matters and a fixed date; multiple adjournments will become a thing of the past.

Another consequence of the proposed changes will be the provision that *all* parties will be present throughout the case. This will allow the litigant to follow the legal proceedings. And of course, in addition it is anticipated that the language of the court will be less complex and more readily understood by all parties.

With effect from July 2007, Barbados will have for the first time, a Master of the High Court. He is Mr. Keith Roberts, attorney-at-law. The Master will be a kind of procedural judge dealing with aspects of a case before trial and assisting in making orders in some cases, such as uncontested divorces. Under the New rules, his function will be cantered in the administration of justice.

NEW APPROACHES TO JUSTICE

The Chief Justice contends that there is a strong case for settling disputes by mediation rather than going to court; that is, *Alternative Dispute Resolution (ADR)*. This, he said, is evident by the three thousand (3000) inactive cases identified in the “Backlog Reduction Project”. Sir David said, prior to the introduction of ADR in Trinidad and Tobago, 75% of family law cases ended up in the law courts. However, after the introduction of ADR 75% of cases were settled in mediation, with only 25% being litigated. The Chief Justice indicated that the Justice Improvement Programme is preparing the way for the introduction of ADR in Barbados.

Alternative Dispute resolution (ADR) includes, dispute resolution processes and techniques that fall outside of the government judicial process. It has gained widespread acceptance among both the general public and the legal profession within recent years, in

fact, some courts now require some parties to resort to ADR of some type, usually mediation, before permitting, the parties' cases to be tried. The rising popularity of ADR can be explained by the increasing caseload of traditional courts, the perception that the ADR imposes fewer costs than litigation, a preference for confidentiality, and the desire of some parties to have greater control over the selection of the individuals who will decide their dispute.

Sir David said that the Judicial Council is preparing two new initiatives this year. Working Groups have been established to report on the feasibility of a Drug Treatment Court and a Night Court for Traffic Matters in St. Michael. The Chief Justice explained that there is a backlog of traffic cases, District 'A' because in one year as a result of "operation Road Maintenance" the Royal Barbados Police Force lodged some 30,000 case in that jurisdiction alone. However, since February 2006, some District 'A' traffic cases are being dealt with in other courts since the increase in Magistrates

The Chief Justice is optimistic that "the year 2008 will be the watershed in the legal history of Barbados." He expects the new Judicial Centre to be completed, the New Rules to be enacted and modern technology to be fully in use in the Supreme Court.

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