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STATEMENT BY THE OECS BAR ASSOCIATION CONDEMNING UNFAIR AND UNWARRANTED ATTACKS ON THE JUDICIARY BY CERTAIN CARICOM LEADERS

The OECS Bar Association (“**the OECS Bar**”), joins with its Commonwealth Caribbean counterparts in strongly condemning recent statements made by Prime Ministers Mia Motley and Dr. Ralph Gonsalves, which clearly constitute an attack on the independence of the judiciary and regrettably reflects a disconnect from the realities of criminal behaviour in society and the role of the Judiciary.

WIDELY PUBLISHED STATEMENTS

In statements widely published in the media throughout the region, both Prime Ministers harshly criticized judges for granting bail for murder, and effectively accused judicial officers of favouritism to certain lawyers. Dr. Gonsalves characterized “too many” judges and magistrates as being “too soft” and called for the carrying out of the death penalty as a form of punishment. Both Prime Ministers were speaking at the two (2) day Regional Crime Symposium held in the Republic of Trinidad and Tobago on April 17th and 18th 2023, under the theme “*Violence as a Public Health Issue – The Crime Challenge*”.

MISSING THE FOCUS

Instead of focusing on the real issues impacting crime such as the lack of investment in youth, the family, education, the judicial system, the police, and the crown prosecution service, some leaders preferred playing the blame game – blaming everybody else but the politicians currently in office.

The OECS Bar is truly disappointed at the missed opportunity at the symposium, in such an esteemed setting, in finding new and creative ways to tackle the scourge of crime, but instead leaving the headlines

blazing and opportunistically focused on judges and magistrates who speak from their judgments and are in no position to defend themselves publicly against such attacks.

It is especially disturbing that the offending statements came from two very admired former legal practitioners, one of whom was a formidable defence lawyer.

WHOLLY UNFAIR AND UNFOUNDED

The attacks on judicial officers were wholly unfair, unfounded, uncalled for and misplaced. Our Bar Associations in the region have been consistently calling, over the years, for an overdue injection of resources to boost our legal system long suffering from poor accommodation, woefully inadequate and ill-equipped supporting registries, a serious shortage of judges to meet the ever-growing demand of cases within the system, and a lack of basic equipment and tools for transcription and other services ancillary to the work of judicial officers.

It is well known that judicial officers are largely overworked and operate under less than desirable conditions. Examples abound in the Eastern Caribbean of governments not paying their required financial contributions to the court, causing serious embarrassment to the judiciary. Growing backlogs of cases in the High Court and Court of Appeal, seriously impacting the administration of justice, are not creations of the judiciary but stem largely from an under resourced judicial system.

NOT ABOVE CRITICISM

The OECS Bar wishes to make it clear that judicial officers are not above criticism. However, Bar Associations have a duty to rise in the defence of judicial officers against unfair and unwarranted criticism, especially by agents of other arms of the State seeking to absolve themselves of responsibility and heaping blame on them in circumstances where they cannot defend themselves.

The OECS Bar remains troubled by the statements of the two distinguished leaders, whose pronouncements carry great weight and influence in the region, and who know or ought to know the historical challenges within the legal system. Fortunately, judges are sworn to uphold the constitution and the law, not to follow the dictates of politicians.

PRESUMPTION OF INNOCENCE

The OECS Bar wishes to remind our CARICOM leaders that our Constitutions mandate that every person charged with a criminal offence is entitled to the presumption of innocence and to a fair trial within a reasonable time. The presumption of innocence applies no less to persons charged with murder. In several jurisdictions across the region, bail has long been granted in murder matters.

In any event, judges act judicially, not arbitrarily. Each bail application will be considered on its own merit and a decision taken after considering well established judicial guidelines. Bail is not automatic. Holding persons on remand for murder for long extended periods, in some countries for more than 10 and 15 years, without the possibility of bail, clearly infringes the guaranteed fundamental right to a fair trial.

BOUND BY DECISIONS OF HIGHER COURTS

Further, judges are bound by the decision of higher courts. If the Privy Council has therefore declared that withholding bail for murder is unconstitutional, then our judges must follow and apply the law accordingly. Moreover, under our system of separation of powers, the executive, legislative and judicial arms are co-equal and constitutionally mandated to perform specific roles. Parliament, comprising a body of elected and appointed politicians, passes the laws which the courts apply. The OECS Bar further wishes to remind our CARICOM leaders that punishment aims, not only at retribution, but also at deterrence and rehabilitation. Studies have shown that the death penalty does not meet the aims of deterrence and obviously provides no room for rehabilitation.

BROAD COLLABORATIVE APPROACH REQUIRED

The OECS Bar recognizes the many challenges of crime fighting and calls on CARICOM leaders to be measured, mature, responsible, and objective in their public utterances, especially on issues that evoke strong public sentiment and may tend to erode trust and confidence in our judiciary. Crime fighting requires a broad collaborative approach involving not only the key stakeholders but also the public. We urge our leaders to desist from their unfair and unfounded attacks on the judiciary and provide the resources to build a strong and effective justice system.

The OECS Bar pledges to continue to defend the independence of the judiciary, uphold the rule of law and promote a more efficient and effective administration of justice. We shall also continue to educate and empower the public on issues touching and concerning the law and on burning issues impacting the administration of justice.

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OECS Bar Association Inc

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