

**ADDRESS OF RESHMA SHARMA, ACTING ATTORNEY GENERAL
AT THE OPENING OF THE GRAND COURT ON 16 JANUARY 2019**

My Lord Chief Justice, Honourable Judges of the Grand Court, Hon. Chief Magistrate and other Honourable Magistrates, President of the Justices of the Peace Association, Acting Director of Public Prosecutions, Madam Acting Solicitor General, Interim President of the Cayman Islands Legal Practitioners Association, distinguished colleagues at the Bar, Special Guests, Ladies and Gentlemen.

May it please you My Lord,

At your invitation, my Lord, I rise to move the motion for the opening of the Grand Court for the Year 2019 and crave your indulgence to make brief remarks on some of the highlights of the past year, and those to come in this New Year.

Before doing so, my Lord, please permit me to extend a special welcome to the His Excellency The Governor and the Deputy Governor. His Excellency's presence here today underscores his commitment to the administration of

justice. This marks his first attendance at this event but we sincerely hope that it will not be his last.

My Lord, I would also like to convey the apologies of the Honourable Premier and Honourable Attorney General, both of whom are currently ‘pounding the pavements’ in Europe in relation to the unending EU/ FATF initiatives that have been strangling the jurisdiction for some time. I will address this in some more detail but for now, may I extend their best wishes to you and the Judiciary.

On this occasion, my Lord, we pause to recognize the esteemed members of the legal profession who are no longer with us. Mr. Arthur Hunter, OBE, one of the founding members of the law firm Hunter & Hunter - now, Appleby (Cayman) Ltd and founder of the former Cayman Islands Law Society, passed away in November. His contribution to the financial development of the Islands, including his work on the Companies Law over the years, has been recognized both locally and internationally. Our condolences are extended to his family.

The Judiciary

It is only fitting, my Lord, that I begin by recognizing your appointment to the Bermuda Court of Appeal in April 2018, your most recent achievement in an eminently distinguished career. The Bermuda Judiciary, and indeed the jurisdiction as a whole, will be well served by your judicial acumen, wisdom and integrity. Given the evolving litigation landscape and novel issues before the Bermuda courts in recent time, your tenure with the Court of Appeal will no doubt be edifying and highly rewarding. Please accept our heartiest congratulations my Lord and we wish you every success in this new appointment.

My Lord, 2018 saw a number of appointments to the Cayman Islands Bench:

- Sir Michael Birt and Sir Jack Beatson joined their distinguished colleagues on the Court of Appeal;
- Madame Justice Cheryll Richards Q.C. was appointed as a Judge of the Grand Court;
- Madame Justice Aileen Downey, Mr. Simon Russell-Flint Q.C and Mr. Hugh Southey Q.C also joined the Grand Court as Acting Judges; and

- Ms. Angelyn Hernandez and Ms. Phillipa MacFarlane was installed as permanent Magistrates following their years of service in an acting capacity.

The Judiciary will no doubt be extremely well served by appointees of such high caliber and we wish them every success in their new roles.

On another note, my Lord, it is with sadness that we bid farewell to Justice Quin Q.C, after his many years of distinguished service in the Grand Court. There will no doubt be an occasion where his outstanding contributions to the Judiciary can be fully recognized but suffice it to say that he will long be remembered for his sound judicial competence, as well as his compassion and empathy. The jury is still out on whether the title of the ‘nicest man in the world’ or ‘nicest judge in the world’ should be conferred upon Justice Quin; indeed, I am advised that he is described in both terms consistently and evenly. Either verdict would be very well deserved and bear testament to the heartfelt sentiments of those who worked with Justice Quin. We wish him a very happy retirement.

Reflecting on the matters before the Courts over the past year, these ranged from challenges to the constitutionality of various legislative provisions,

discrimination under the Bill of Rights, a number of high-profile criminal cases, asylum and complex commercial matters.

Special mention must be made of Your Lordship's landmark ruling of some 1,300 pages in what has been described as the longest and highest-value trial ever conducted in these Islands. This high-profile fraud matter garnered widespread international attention and reinforced the already stellar reputation of the Courts of these Islands and their ability to deal, judicially and administratively, with cases of such magnitude and complexity. We pay tribute to you my Lord for your judgment which marks a watershed in the history of these Courts and to the administrative staff who spared no effort in modifying one of the courtrooms to accommodate the unprecedented number of attorneys and materials alike.

Touching on criminal justice matters my Lord, in 2018 the Grand Court continued to deal with a high volume of criminal cases - some 84 new indictments were filed, and 89 indictments disposed of in that year. Trial dates continued to be fixed within 6 months of arraignment in the Grand Court. It is anticipated that the disposal rate for criminal cases will only increase in 2019 with the newly installed Justices.

In 2018, a number of Sexual Harm Prevention Orders were issued by the Court, particularly in the cases of minors at risk of sexual harm. In August, the Penal Code was amended to provide for the retrospective application of such orders, further strengthening victim protection.

Turning to the Summary Court, the Specialist Domestic Violence Court has now been fully implemented, with regular sittings in the Summary Court to deal with matters involving domestic violence and abuse. With the continued support of the RCIPS, private and public Bars and the Multi-Agency Safeguarding Hub, it is anticipated that this Court will only further the efficiency of the administration of justice in this critical area and provide meaningful support to those affected by the scourge of domestic violence.

Permit me then, my Lord, to express our appreciation to the entire Judiciary for their continued dedication and commitment and as always, for maintaining high standards of professionalism and excellence, all of which inevitably foster public confidence in our justice system.

Lastly, my Lord, in relation to the Judiciary, I am very pleased to report that last year the Government acquired the Scotiabank building to alleviate the accommodation woes that have plagued the Courts over the years. I am

advised that the refurbishment work will commence fully in May. Your Lordship will no doubt report on this more fully; I would therefore only add that we look forward to the culmination of this project into a centre of judicial excellence.

CFATF

In other events, in 2018 the financial services and regulatory sectors continued to grapple with the ongoing challenge of meeting the myriad of international standards set by entities such as the FATF/CFATF, OECD and EU. Unfortunately, based on the recent action taken by the Netherlands, it may be that 2019 will be no different in this respect.

In relation to the CFATF, much – if not all – of 2018 entailed what some might describe as grueling preparations for the Cayman Islands Mutual Evaluation Report, the 3rd Draft of which was considered at the CFATF Plenary last November. Publication of the final Report is expected shortly; this will inform the jurisdiction of the actions, if any, to be taken to ensure that the Islands have adequately met the requirements of technical compliance and effectiveness. I must commend the various stakeholders

within the public and private sectors for their tireless work over the past year for the demands upon them have been immense.

Legislation

Over the past year 100 pieces of primary and subsidiary legislation (some of which are pending for 2019) were drafted and 46 laws were passed by the Legislative Assembly. Some of the major pieces of legislation included the Customs and Border Control Law and a number of related laws and regulations intended to modernize the Immigration and Customs Departments; and Stalking (Civil Jurisdiction) Law which, along with amendments to the Penal Code, introduces the criminal offence of stalking.

A raft of financial services legislation was amended to ensure compliance with international financial and anti-money laundering requirements. Among these was the Legal Associations Law, the amendments to which provided for, among other things, the merger of the Caymanian Bar Association and Cayman Islands Law Society into the single voice of the Cayman Islands Legal Practitioners Association (CILPA). One of CILPA's responsibilities will be the regulation of attorneys to ensure their compliance with anti-money laundering and counter-terrorism legislation. We will hear more about

CILPA's initiatives later this morning. A range of other laws were also amended throughout the year including the Stamp Duty Law to, among other things, increase the threshold of the exemption granted to first-time Caymanian home buyers.

I would also mention that the Data Protection Law which was expected to come into force on 29 January 2019, will now come into force in September 2019.

Looking ahead, the Legislative Drafting Department's work in 2019 will include preparation of Bills for matters such as the establishment of a Fair Employment Opportunity Commission; use of surveillance devices; and contempt of court.

At this juncture, my Lord, I should advise that all new legislation and Bills will be prepared using a new template which will facilitate ease of drafting, consistency, and greater efficiency for the drafters. It was also deliver a more user-friendly style of legislation.

Steered by First Legislative Counsel Ms. Cheryl Neblett, the Legislative Drafting Department remains well equipped to deal with its work in this New

Year. Following the departures of Legislative Counsel Don McPherson and Catherine Williams, three new Counsel - Mr. Ryan Awai, Ms. Dharlene Smith and Ms. Kimberley Superville – joined the Department in November.

Law Reform

In 2018 the Law Reform Commission submitted a Final Report on the Statutory Regulation of Queen’s Evidence. This is supported by draft legislation which empowers the Director of Public Prosecutions to grant immunity from prosecution in certain cases and allows the court to make a sentence reduction on guilty pleas.

The Commission also submitted a Final Report on the Reform of Trusts Law which proposes the enhancement of the Court’s inherent jurisdiction in relation to the administration of trusts. It also published a discussion paper on the enforcement of mortgage securities over real estate (more commonly referred to as ‘foreclosures’) in response to the heightened level of public concern in this area.

The Commission saw a number of personnel changes in 2018 - it said goodbye to former Chairman Mr. Kenneth Farrow Q.C. who served on the

Commission for 7 years (his last two years as Chairman); Mrs. Eileen Nervik Q.C. who served as Commissioner for the periods 2016-2018 and previously, 2005-2014; and former DPP, now Grand Court Judge, Madame Justice Richards Q.C. Commissioner Mr. Hector Robinson Q.C. was appointed as Chairman, along with new Commissioners Mr. Justice Alexander Henderson Q.C. and Mr. Abraham Thoppil. The Commission is ably supported by the new Director Mr. Jose Griffiths, Senior Legislative Counsel Mrs. Karen Stephen-Dalton and Paralegal Katherine Wilks, all of whom were also appointed in 2018. Our congratulations to the new appointees. We wish them well with their work in 2019 which will include:

- conditional and contingency fee agreements
- anti-bullying legislation; and
- the modernization of the Computer Misuse Law to address cyber-criminal conduct.

Law Revision

In 2018 the work of the Law Revision Commissioner, Dr. Camille Stoll-Davey, included the revision of 57 pieces of legislation – a task which

entailed the careful review of some 2,559 pages of legislation. The Commissioner's work also included development of a website and a new work-flow system (iLaws) similar to that used in jurisdictions such as Jersey, Isle of Man, Australia and various provinces of Canada. The iLaws system, once completed, will provide a comprehensive archiving and retrieval mechanism for all legislation in the Islands, including statutory instruments and subsidiary legislation from 1963 to the present. The Commissioner has also introduced a Legislative Gazette in which all future legislation and Bills will be published.

Truman Bodden Law School

In the area of legal education, permit me to highlight the following achievements over 2018:

- The last academic year marked the start of the Professional Practice Course (PPC) affiliation with Oxford Brookes University (OBU) leading to the award of the University's Diploma in Legal Practice. Two-thirds of those who graduated did so with distinctions. Graduates may also enroll in a Masters of Law in Legal Practice from the OBU.

- The Law School's new Masters in Law and Diploma courses in International Finance attracted interest both locally and overseas. It is anticipated that these part-time programs will be offered on a full-time basis in the next academic year.

On the personnel front, the Law School welcomed the appointments of Mr. Scott Atkins as Deputy Director and long-serving employee Ms. Rhian Minty as Assistant Director, both of whom have provided invaluable support to Director of Legal Studies, Mitchell Davies.

RCIPS

Permit me to recognize the work of the Commissioner of Police and the RCIPS for their dedication to maintaining the safety of these Islands.

Last year, a number of recruitment initiatives were undertaken to strengthen the resources of the RCIPS. As we are all aware, criminality has become increasingly sophisticated with rapid changes to the IT world. Officers today face the challenges of computer-related crime, the use of technology and social media to encourage gang activity, and the importance of digital evidence in criminal proceedings. It is anticipated that in the coming year, the

introduction of key pieces of legislation in related areas (such as computer misuse, which I mentioned earlier) will assist the RCIPS in considering the changes to its operations to meet the constantly evolving criminality we now see pervading the Islands. We pledge our continued support to them where possible.

Office of the DPP/Portfolio of Legal Affairs

I am happy to report the establishment of a dedicated Witness Care Unit and Witness Protection Unit within the Office of the DPP. It is hoped that the Witness Care Unit, by offering more effective pre-trial support to witnesses, will improve the quality of evidence before the Courts. The first dedicated Witness Care officer commenced duties earlier this month. The Witness Protection Unit is part of the Justice Protection Administrative Centre established under the Justice Protection Law, 2017. This Unit will provide protection for those who give evidence in serious criminal cases.

Following an open recruitment exercise, Ms. Candia James was appointed as Assistant DPP/Director of the Justice Protection Administration Centre. We wish her every success with this important initiative.

Permit me to pay tribute to the Office of the DPP, and of course Madame Justice Richards Q.C. who, until her recent judicial appointment, served with distinction as the Islands' first Director of Public Prosecutions following the creation of that office in the CI Constitution Order 2009. In that capacity, Madame Justice Richards Q.C. discharged her prosecutorial duties diligently, respectfully and always fairly. Prior to that, my Lord, she served as the Solicitor General of the then known "Legal Department" (now the Portfolio of Legal Affairs) – no doubt her brief foray in civil law has equipped her well for the steady influx of non-criminal cases presently before her. She will be greatly missed by her colleagues in the Office of the DPP and the Bar, and we extend our heartiest congratulations on her elevation to the Bench.

In 2018, the Office of the DPP welcomed new prosecutors Mr. Garcia Kelly and Ms. Kerri-Ann Gillies. I would like to recognize the dedicated DPP staff for their dedication and commitment to criminal justice in these Islands, not only in the prosecution of crimes but also in areas of mutual legal assistance and international cooperation. We wish the Acting DPP Mr. Patrick Moran and his team continued success during this period of transition

I would also take this opportunity to publicly acknowledge the equally dedicated staff of the Portfolio of Legal Affairs. Two new Crown Counsel, Ms. Celia Middleton and Mr. Michael Smith, were appointed to the Solicitor General's Office in 2018. The diverse work of the Portfolio's staff – often carried out quietly behind the scenes, as it were – nonetheless plays a critical role in the machinery of justice and I extend my sincere thanks to them for their efforts. Special thanks to Ms. Dawn Lewis and Ms. Anne-Marie Rambarran, who have acted as Solicitor General from time to time.

I am pleased to announce that in February, the Attorney General will host the annual Overseas Territories Attorneys General Conference. At this forum, the Attorney General and his esteemed counterparts will discuss matters relating to legal developments and initiatives, law enforcement, human rights, mutual cooperation and assistance and of course, preparation for a possible Brexit, to name a few. The conference will also be attended by the Attorney General for England and Wales, Mr. Geoffrey Cox, Q.C. MP, representatives of the Foreign and Commonwealth Office and the U.S Department of Justice, among others. We look forward to welcoming the delegates next month and to sharing with them some of the achievements highlighted this morning.

Closing remarks

In closing, my Lord, it remains only for me to wish a safe, prosperous and productive New Year to you, all the Judges and Magistrates, the Court staff, fellow members of the legal profession and those in attendance this morning.

I now formally move the Opening of the Grand Court for the year 2019.

May it so please you my Lord.

RESHMA SHARMA

ATTORNEY GENERAL (AG)

16 JANUARY 2019