



News

CARIBBEAN ASSOCIATION OF JUDICIAL OFFICERS

AUGUST 2016 • ISSUE 5



The Judiciary of Suriname

CAJO NEWS Team

CHIEF EDITOR

The Hon. Mr. Justice Adrian Saunders

CONTRIBUTORS

Mme. Justice Charmaine Pemberton
Judge Sandra Nanhoe-Gangadin
Magistrate Avason Quinlan
Magistrate Lisa Ramsumair-Hinds

GRAPHIC ARTWORK, LAYOUT

Ms. Seanna Annisette

CAJO BOARD MEMBERS

The Hon. Mr. Justice Adrian Saunders
Registrar Barbara Cooke-Alleyne
Registrar Camille Darville-Gomez
Justice Charles-Etta Simmons
Justice of Appeal Christopher Blackman
Chief Justice Evert Jan van der Poel
Justice Francis Belle
Justice Charmaine Pemberton
Justice Nicole Simmons
Justice Sandra Nanhoe-Gangadin
Parish Judge Simone Wolfe-Reece
Justice Sonya Young
Chief Justice Yonette Cummings
Magistrate Lisa Ramsumair-Hinds

SAVE THE DATE - CAJO 2017



CAJO

THE 5th CONFERENCE

CARIBBEAN ASSOCIATION OF JUDICIAL OFFICERS

**THE RENAISSANCE HOTEL
WILLEMSTAD, CURACAO**

SEPTEMBER 28-30 2017

EDITOR'S Notes

This edition features the judiciary of Suriname. Like Guyana, Suriname is part of the South American mainland and a member of the Caribbean Community (CARICOM). Unlike Guyana, however, the Surinamese speak Dutch. The country was for many years a Dutch colony. Suriname's legal system is also unlike that of the English speaking Caribbean in that it follows the Civil Law tradition. Some of the critical features of that system include: an inquisitorial and not an adversarial approach to trials; absolutely no juries; judgments that are relatively brief and direct judicial oversight and supervision of criminal investigations. It should be mentioned here that CAJO also embraces other Civil Law counties like Haiti, Aruba, Curaçao and St. Maarten. In fact, CAJO holds its next biennial conference in beautiful Curaçao from 28th to 30th September 2017.

In this issue our Surinamese colleagues give us a flavour of how their judicial system is organised. There is a Chief Justice or President of the High Court of Justice, in the person, currently, of Judge Iwan Rasoelbaks (Ag.). Another important difference Suriname boasts is that the variety of courts described on page 6 are staffed by judicial officers of equal rank and status. Unlike the countries of the common law tradition, there is no 'higher' and 'lower' judiciary. It is naturally possible to appeal a judge's decision and such appeals are heard by judges of coordinate rank as the judge from whom the appeal is brought.

There is much that common law countries can learn from civil law countries. And, vice versa, civil law states find in the common law tradition some values they admire. It might be said that the new Civil Procedure Rules adopted by Caribbean common law countries over the last 15 or so years, with innovations such as case management and pre-trial witness statements in lieu of pure oral advocacy, are methods borrowed from the civil law tradition. CAJO is proud of its efforts at promoting greater collaboration between the judiciaries of both systems.

In this edition we also provide a stirring account from Magistrate Avason Quinlan of her experiences attending the International Association of Women Judges' recently held biennial Conference in Washington. The region was represented by Retired CCJ Judge (and currently a judge of the Bermuda Court of Appeal) Mme Justice Desiree Bernard along with Justice Maureen Rajnauth-Lee of the CCJ and Justices Joan Charles, Charmaine Pemberton and Carla Brown-Antoine of the Trinidad and Tobago judiciary, Parish Judge Paula Blake-Powell of Jamaica and Trinidadian Magistrates Avason Quinlan and Lisa Ramsumair-Hinds. Finally, we also feature an Article by Justice Charmaine Pemberton on Competition Law in the region and finally, a CAJO commentary on recent developments on the Magistracy in Jamaica.

Happy reading, all!

IN THIS ISSUE

P.3

CAJO PROFILE

Mme. Justice
Norma Wade-Miller

P.4 - P.7

CAJO Highlights

The Judicial System of
Suriname

P.8

Competition Law
and the
Caribbean region

P.10

IAWJ's 13th Biennial
Conference

Tribute to Mme. Justice Norma Wade-Miller on the occasion of her retirement from the Bench

CAJO Profile

The complete judge is one who not only is proficient at trying cases in court but also someone who leads an exemplary life off the Bench and who, more importantly, is pro-active in promoting judicial education and reform and who takes an active part in the building, sustaining and strengthening of associations of judicial officers. Justice Norma Wade-Miller was the complete judge. Earlier this year she retired from the Bench in Bermuda.

Although she has lived and worked in Bermuda for almost forty years, Justice Wade-Miller is a proud Jamaican who embraced and was embraced by Bermuda. She is a Past President of the Commonwealth Magistrates and Judges Association (CMJA) and is now an Honorary Life Vice President of that Association. Justice Wade-Miller chaired Bermuda's Justice System Review Committee, the Judicial Training Institute of Bermuda (JTIB) and Bermuda's Family Law Reform Sub-committee. She is currently leading the development of Bermuda's new Integrated Family Court. She is a Fellow of the Commonwealth Judicial Education Institute (CJEI), and a member of the International Hague Network of Judges.

CAJO expresses its sincere thanks to Justice Wade Miller for her many years of untiring service; for being such an outstanding role model; for always going above and beyond the call of duty and for unflinchingly accepting the leadership roles she did especially when everyone else was too busy. We wish her a happy retirement.



JURIST Advisory Committee on Criminal Justice and Magisterial Reform Activated

The Advisory Committee on Criminal Justice Reform of the Judicial Reform and Institutional Strengthening (JURIST) Project has commenced its work. Within its means and resources, the Advisory Committee (the Committee) seeks to undertake several criminal justice and magisterial reform initiatives aimed at improving the quality of justice delivery and reduction of delay in the criminal justice systems in the CARICOM region.

The Committee held its inaugural meeting from March 3-4, 2016 in St. Vincent and the Grenadines. The Committee Concluded that there was an urgent need for all states to implement measures to provide for the video or audio recording of interviews, confessions and admissions of criminal suspects by investigative officials and that these electronic interviews must be admissible as evidence at trial. The Committee has also expressed its deep concern that in some territories there is no legal aid available for children and juveniles charged with serious crime. The Committee considered that there was an urgent need for the provision of legal aid to allow legal representation for children and juveniles accused of crime. The Committee is also championing the concept and practice of electronic management of criminal cases from the time of the arrest of a suspect to the final disposition of a criminal charge. States in the region are being asked to embrace this reform and to adopt and deploy the necessary Information Technology (IT) measures to accommodate the electronic management of all criminal cases.

The Committee has adopted a work plan of activities and reform initiatives for the period 2016-2017. The members of the Committee include Chief Justice Ken Benjamin, Justices Adrian Saunders, Jacob Wit, Maureen Rajnauth-Lee, Alice York-Soo Hon, and David Fraser; Parish Judge Simone Wolfe-Reece, Magistrate Judy Latchman, Mr Colin Williams DPP, Mr Andrew Pilgrim QC, Ms Renee Cummings and Professor Velma Newton.

CAJO News Highlights

The Judicial System of Suriname

Introduction

This article aims to describe the judicial system in Suriname, focused on how it is structured and how it functions. This, against the background that Suriname does not have a judicial system based on the common law system. The judiciary in Suriname is based on the civil law system. As such, a short description on the following topics will be provided:

1. general information about Suriname;
2. the institutionalization of the judiciary;
3. staffing of the Court;
4. the various types of Courts;
5. extraordinary judicial procedures;
6. data on judgements over 2015;
7. highlights of the year 2015;
8. the code of conduct for judges;
9. the system of proceedings in Suriname;
10. challenges.

General information

The Republic of Suriname covers an area of 163,820 km² and is situated in South America. Suriname is bordered by Guyana, French Guyana, Brazil and the Atlantic Ocean. According to census data of 2012, Suriname has a population of 541,638 persons, consisting mainly of Maroons, Amerindians, Creoles, Asian-Indians, Indonesians, Chinese and Brazilians. As a result of which Suriname has many religions, cultures and spoken languages. As a former colony of the Netherlands, Suriname became independent on 25th November 1975. The mainly spoken language in Suriname is Dutch and its legal system is also based on Dutch law.

On 4th July 1995, Suriname was admitted as the fourteenth member of the Caribbean Community (CARICOM). As such, Suriname has accepted the original jurisdiction of the Caribbean Court of Justice (CCJ) in 2005.

By virtue of the Constitution of the Republic of Suriname, Suriname is a social-democratic state under the rule of law based on the principle of the separation of powers (trias politica).

The National Assembly (the Parliament) consists of 51 members, elected for a term of five years.



The Government is formed by the President of the Republic of Suriname, the Vice-President and the Council of seventeen Ministers. Both the President and the Vice-President are elected by at least two-thirds of members of Parliament. The Ministers are appointed by the President.

The institutionalization of the Judicial Power

According to the Constitution, the judiciary in Suriname is formed by the President and the Vice-President of the Court of Justice of Suriname, its members and substitute members, the Court registrar, as well as the Procurer-General, the two Advocates-General and its prosecutors.

The highest authority of the Judicial Power in charge of adjudication under the Constitution is named the Court of Justice in Suriname (Hof van Justitie Suriname; herein after referred to as 'the Court'). By virtue of the Constitution a judge is appointed for life, which is a constitutional guarantee for his independency. This appointment takes place by the Executive following advice of the Court. The legal requirements for a nominee are: of Surinamese nationality, citizenship of Suriname, minimum age of 30 years, a law degree and sufficient working experience. Generally accepted policy may also require that the nominee has successfully completed a five-year course for trainee judges. Specifically identified lawyers with sufficient working experience may also be approved by the Court for appointment, after having successfully completed an on the job training for two years.

CAJO News Highlights

The Judicial System of Suriname ... continued



When a judge is appointed, he/she becomes a substitute member of the Court. After having practiced as a judge for at least three years, a substitute member of the Court may be nominated by the members for appointment as a member of the Court, following a positive evaluation by the members. The appointment as a member of the Court gives him/her more responsibilities regarding the Court's policy matters and projects as well as on the admission of judges, family lawyers, attorneys at law. The retirement age for a member is set at 70. Adjudication in Suriname always involves a judge, as we do not have magistrates in our judiciary.

The staffing of the Court

The Court currently consists of an acting President, a Vice-President, nine members and eight substitute members, of the total of which five men and fourteen women, varying in ages from 32-65 years. So, the Court consists of nineteen judges all in all, whereas by law it should consist of at least forty judges. Every two years a judge is assigned a new package of job responsibilities. By virtue of the Constitution the judiciary is independent. As such the judiciary adjudicates independently in all cases. However, the operational management of the judiciary is in the hands of and falls under the responsibility of the Ministry of Justice and Policy. The Court's budget is approved by the Executive and the Parliament, while it is managed by the Ministry of Justice and Police. The Court has started a process of

bringing the management of the budget under the Court's management. The total supporting staff of the Court currently consists of forty seven registrars, forty five administrative personell and eighteen other supporting staff, all of who are civil servants of the Ministry of Justice and Police.

There are also eighteen bailiffs available to the Court. A registrar is required to have at least a bachelor's degree in law. Suriname currently has one hundred eighty two attorneys at law.

During the past decades the number of cases submitted to the courts has significantly increased while the number of judges and registrars has not increased accordingly, resulting in delays in proceedings and serious backlogs. All petitions and all other legal documents submitted in a case, are manually registered in hard copy files, as a result of which data are not readily available. Information and communication technology is in an early stage of development.

CAJO News Highlights

The Judicial System of Suriname .. Types of Courts

Appeal Court (Civil/Criminal)

The Court also functions as the appeal court. Adjudication in each appeal case (civil or criminal case) takes place in a chamber of three judges. For each case a separate chamber of judges is appointed. A judge who has rendered a judgement in first instance cannot be appointed in the chamber of appeal for the same case.

Civil Service Court

The Court also functions as the Civil Service Court. Civil servant cases are brought before this Court, also in a chamber of three judges. In these civil servant cases judgements are given in first and last instance, which means that there is no possibility for appeal.

The Court of Justice in Suriname was officially established by the Colonial Act of 31st of July 1828. The building is monumental and was completely rebuilt in 1793 in this structure from a house that was originally built in 1755. Currently renovation of this building is being finalized.

In appeal on the average and on a monthly basis, eleven cause lists (dockets) for criminal cases are dealt with and a number of cause lists regarding appeals in labor, environmental, tobacco and traffic violation cases. Furthermore several cause list hearings take place in Chambers. Further, there are two permanent, monthly cause list hearings for appeals in civil cases, including deliberations in civil servant cases, as well as an indefinite number of cause list hearings for appeal in other civil cases.

Adjudication in first instance (civil/criminal)

Cantonal (District) Courts

Adjudication in first instance takes place in three Cantonal Courts, depending on the District in which the claim arose or the criminal act was committed or in which the plaintiff lives. On the average there are forty one permanent cause list hearings on a monthly basis for civil cases and thirty one for criminal cases.

The office of the examining judge

The examining judge in criminal cases examines the lawfulness of detentions on a daily basis and also deals

with preliminary investigations and requests for legal assistance from other countries.

Juvenile Court

There is separate court for juveniles up to 18 years, which has a monthly permanent cause list hearing. It is worth mentioning, that the proceedings in a juvenile case commences with a report of the judicial child protection services. The building in which the juvenile court is situated, is completely equipped with a special interrogation room, a school, cells for detention of up to forty juveniles. The judicial child protection services and the youth division of the police are also accommodated in the same building. Depending on the seriousness of the case and some other factors, a juvenile between 16-18 years may not necessarily be detained in this detention building for juveniles. Instead, they may be detained in one of the country's prisons

Extraordinary judicial procedures

Court Martial - There is a court martial for trial of military personnel accused of having committed a crime. The Court appoints three judges to fill in positions in the court martial. Judgments of the court martial are appealable.

Disciplinary Commissions

Besides dealing with the assigned cause list hearings in appeal and in first instance, both in criminal and civil cases, judges are also assigned positions in Disciplinary Commissions, such as:

- the disciplinary commission for doctors and medical staff, which is mandated to take binding sanctions such as suspension or removal from office; this commission has just recently been reinstalled; judgements are appealable;
- the disciplinary commission for attorneys at law, which is currently not functional; judgements are appealable;
- the disciplinary commission for notaries, lawyers dealing specifically with wills, transports, creating corporations, etc. (in Dutch: notaris); this commission consists of all the members of the Court; judgments are not appealable.
- the Tax Appeal Board regarding taxes; judgements are appealable.

CAJO News Highlights

The Judicial System of Suriname ... Types of Courts



Data on judgements of 2015

First instance:

- criminal cases

986 offences dealt with, judgement in 826 cases

12,900 traffic violations dealt with and determined

- civil case:

1,377 injunctions (in preliminary relief proceedings)

404 restraining orders

821 divorces

1,158 other family law cases

757 protective measures by attachments

944 commercial cases

546 extrajudicial cases

- appeal in civil cases

369 pending cases, of which 268 still have to be adjudicated.

Highlights of the Court during 2015

On 30th December 2014, five new judges were appointed and were assigned their own job responsibilities from October 2015. Apart from that, five judges were admitted as full members of the Court. In 2015 approx. ten registrars were added to the Court as well as twelve new bailiffs.

From January 2015 to June 2015, the five newly appointed judges cleared a backlog of approx. 900 judgements in civil cases.

In August 2015 a draft bill was submitted to Parliament for deliberation and acceptance, aimed at implementation of article 141 of the Constitution which stipulates that the remuneration for the judiciary must be regulated by law. Due to circumstances the deliberations on this bill have currently been put on hold. Currently remuneration for the judiciary is established by Presidential Act.

In 2015 the penal code of Suriname was significantly amended. Important amendments were among others: the abolition of the death penalty; the introduction of alternative ways of punishments, such as transactions, community service, general pardon; the inclusion of acts of terrorism, cybercrime; also the introduction of a chapter on juvenile justice.

The office of the examining judge

At the opening of the new Court year in October 2015, rules of procedure regarding civil cases were introduced and adopted in order to provide more transparency for the general public.

In November 2015 the Code of Conduct for Judges was launched at a special public hearing of the Court. The development of this Code of Conduct was supported by the CCJ and started in 2012. This session was also attended by head of the Judiciary of the Republic of Guyana, Chancellor Karl Singh; Sir Dennis Byron and Justice Jacob Wit of the CCJ.

Competition Law and the Caribbean region

by Justice Charmaine Pemberton

The Revised Treaty of Chaguaramas, at Chapter 8 - Articles 169 to 186, provides for Competition Law and how this corpus of law is relevant to the realisation and operationalization of the CSME.

The Revised Treaty sets out inter alia the Objectives of Community Competition policy, the Establishment of the Regional Competition Commission, Prohibition of Anti-Competitive Business Conduct, the Demarcation of Dominant Position and what constitutes the abuse of same and the responsibility of member states to enact legislation aimed at the protection of consumer interests in the Community.

As part of its programme for capacity building within the Caribbean Forum of ACP States (CARIFORUM) in the implementation of the CARIFORUM-EU Economic Partnership Agreement, CAJO in conjunction with that project, devoted a space in the Biennial Conference in Montego Bay, Jamaica to afford participants a snapshot of the Competition landscape, by a familiarisation with concepts and principles of the regime. The session was facilitated by Prof Frederic Jenny, former Supreme Court Judge of France and an internationally renowned Competition Law expert. Professor Jenny was introduced by Dr Taimoon Stewart, Regional Expert on Competition Law for the EU funded Capacity Building Project in Competition Law and Lecturer in the LLM programme at the Law Faculty, Cave Hill, UWI. Professor Jenny made the point that Competition Law has the distinction of being the only area of law which is based on Economics, and Micro Economics at that; that it sets boundaries for business operations and therefore shapes the performance of a country's economy.

The new concepts introduced by this regime and which have spawned a body of law concern those related to unfair trading, restrictive practices, existence of a firm's dominant position and the abuse of which, is frowned upon and anti-competitive behaviour and practices, to name a few. Participants at the Conference were instructed on the goals of Competition Law – to encourage competition, to promote equitable participation in the market place and to promote the welfare and interests of the Consumer.



One of the aims of the EU funded project identified at that session was the training of judges. Professor Jenny, I would say, planted the seed (even a tiniest one) and of the idea of specialist courts in this area.

From this session, both Professor Jenny and Dr Stewart have shared their knowledge and experience with the judiciary of Trinidad and Tobago and will in November, train Appeal Court Judges from other CARICOM Countries. I should say that of all of the CSME States, Barbados, Guyana, Jamaica and Trinidad and Tobago have institutionalised Commissions.

In Trinidad and Tobago, the writer was fortunate to benefit from the learning and experience of both Professor Jenny and Dr Stewart. Among other issues, Professor Jenny delved more into economic theories in the area, took us on a detailed examination of the goals of Competition Law and the issues likely to confront us, the type of evidence we should address our minds to when confronted with cases in this area and methods of enforcement of the regime. Professor Jenny even guided us on how to assess an expert who may be appointed to assist the court!

CAJO News Reports

Competition Law and the Caribbean region...continued

At another session, Dr Stewart took us through existing and prospective legislation. That was an interesting and involved exercise but one which was well appreciated since we did a comparative study of all legislation in the region and pitted them against the Revised Treaty of Chaguaramas. Our Justice Davidson- Honeywell who has first- hand experience in the area, having worked at the Commission in Jamaica shared her experiences as well. The session evoked intense discussion among the few participants but was rewarding in its result. It is clear that we in Trinidad and Tobago may have to address some critical issues before the regime comes into full swing.

We all left the two sessions hesitantly, but with a little more confidence and better equipped to tackle any matters which may come into our dockets.

Competition Law and Policy are an integral part of the engine to ensure the ideals and aims of a vibrant Caribbean Community as envisaged by its founding fathers. It is a statement of the economic basis of CARICOM. The understanding and appreciation of the mechanics of this important facet cannot be underscored.

I wish to do two things, to thank both Professor Jenny and our own Dr Stewart for their time and effort in training us in this area and to encourage Judicial Officers to embrace the training and ideas, which can only ensure to our region's benefit.



CAJO News Alerts!!!

- ✓ [CCJ Advertises for Judge](#)
- ✓ [ECSC seeks Commercial Court Judge for BVI](#)
- ✓ [Check out the TTJEI's Criminal Bench book 2015](#)
- ✓ [Cayman Islands Issues Sentencing Guidelines](#)
- ✓ [CCJ rules on Tomlinson's claims of prejudice - CARICOM homosexuals not barred from visiting Belize or Trinidad and Tobago](#)
- ✓ [Check out IMPACT's Indigenous Peoples Conference Report](#)

CAJO News Reports

The IAWJ's 13th Biennial Conference

by Magistrate Avason Quinlan



Pictured from left to right – Magistrate Avason Quinlan, Mme. Justice Yonette Cummings (Chief Justice of Guyana), Magistrate Lisa Ramsumair-Hinds, Mme. Charmaine Pemberton, Mme. Justice Paula Blake-Powell (Jamaica) Mme. Justices Maureen Rajnauth-Lee and Desiree Bernard (CCJ), Mme. Justices Carla Brown-An-toine and Joan Charles

As a first time attendee at an International Association of Women Judges' (IAWJ) Conference, I am pleased to share the highlights of my experiences and impressions. The IAWJ conference, Advancing Human Rights and Equal Justice for All - was held during the period 26th May to 29th May 2016 in Washington D.C. USA. There were in excess of 900 women judges from eighty-two countries; from Afghanistan to Zimbabwe.

The sheer magnitude of the occasion was evident from the welcome reception; I have never been in one place with so many women judges. The formal programme commenced with the opening ceremony and the roll call by Lisa Davis, the Executive Director of the IAWJ. I was grateful for the opportunity to be acquainted with US Supreme Court Judge Ruth Bader Ginsburg – the second woman to be appointed to the Supreme Court of the United States of America. Justice Ginsburg reflected on a statement often made by her predecessor to the Supreme Court, Justice Sandra Day O'Connor which for some reason made an impact on me - that upon assuming a leadership position as a woman "the first step to getting power is to become visible to others and then put on a good show".

The Panel Discussions were both cognitively provocative and inspiring. They started with a bang; Equality's Frontiers saw Judges reflecting on the rule of law and their own work and the effect of being female on their careers. I have never considered how being a woman has specifically directed my career choice and progression. I was startled to learn from the Right Honourable Lady Brenda Hale that she is the lone female Judge appointed to the Supreme Court Bench in the U.K. I thought to myself that we have made such great progress in the region

where we have had a female Chancellor in Guyana, we have female Chief Justices in the ECSC, Jamaica and Guyana and quite a number of female Justices in the Supreme Court and First Instance Courts. We have also had two women judges appointed to the Caribbean Court of Justice (CCJ).

I also learned more about 'Femicide'. In Argentina the Women's Office of the Supreme Court keeps statistics on femicide - the killing of females by males because they are females. The conference taught me to better appreciate the importance of nomenclature that gives recognition to the appreciable greater number of women than men being killed in partner related homicides.

Another panel that intrigued me dealt with the challenges faced by women judges in the Middle East and Africa; for instance, in Jordan the female judges are limited to doing civil cases. We heard about the different types of child marriages there which was of contemporaneous interest to us in Trinidad and Tobago. These included court authorized if the girl is under the legal age to marry (eighteen) and was between the ages of fifteen to seventeen.

Day two commenced with Mindfulness Practice. This practice was not new to me because of the efforts of the Judicial Education Institute of Trinidad and Tobago and especially Justice of Appeal Peter Jamadar's relentless efforts over the years to have us cultivate a mindfulness practice. See in this regard <http://themindfuljudge.com>, dedicated to mindfulness for judges.

The moot court exercise was enlightening. The case involved the reconciliation of international law and national law in a

CAJO News Reports

The IAWJ's 13th Biennial Conference ... continued

factual situation involving a same sex couple. Another session looked at alternatives to traditional sentencing. An exploration of restorative justice – from the work done in New Zealand - forced us to consider whether we, in our sentencing practices, are engaged in the warehousing of persons by the thousands. It was noteworthy to see traditional cultural practices being utilized in dispute resolution. The Jordanian traditional dispute resolution and revenge prevention system of sulha is motivated by considerations that include the community's desire for stability, the aggrieved parties' need for restored honour and accused parties' need for reconciliation and regaining face.

The importance of women networking was emphasised at the Conference. The World Economic Forum has proffered that in countries where the gap between men and women is narrow, there is greater prosperity. This is supported by the theory known as 'womenomics' which espouses a causal relationship between the growth of society and the advancement of women in that society.

For our judiciaries of CAJO member states the session on emergency situations was relevant. It was riveting to hear how courts functioned after diverse disasters as the earthquakes in Nepal and New Zealand, the terrorist attacks in Kenya, the hurricane in Texas and the sinking of a ship in Korea. These experiences told how important it is for courts to arrange for the secondary storage of its files and demonstrated how important is a current disaster plan that would focus on ensuring the continuity of the courts, its reopening and relocation and even a plan for reaching the courts' officers.

On the last day of the conference there was a panel discussion on women in detention. Our region was represented by the convener of CAJO's Magistrates' Arm, Magistrate Lisa Ramsumair-Hinds whose presentation was well delivered and equally well received **[click here for presentation]**. Her presentation highlighted the difficulty faced by both Magistrates and young girls alike when confronted with the hitherto "Beyond Control Applications". These applications have since been replaced by s.61 of the Children Act No. 12 of 2012, where the Magistrate does not directly place the 'uncontrollable' child in an institution, but refers him/her to the Children's Authority for that very purpose. The highlight of this session for me was hearing from Piper Kerman author of the book *Orange is the New Black*. The book has spun a NETFLIX series with the same name. Ms Kerman's life's work is to reduce the reliance on incarceration to solve life's problems.

The conference ended with the Grand Banquet – a last opportunity to meet, greet and exchange with our new friends. The IAWJ's 14 Biennial Conference is scheduled for 2018 in Argentina – home of IAWJ'S new President.

I was beaming with pride when our own Madame Justice Joan Charles was elected and elevated to IAWJ's board. Justice Charles had previously been a regional representative.

The impact of being in a locale with so many powerful women whose interests in justice and the well-being of women and girls I share, was awe inspiring. Nothing is as important as networking with women who can understand and appreciate your experiences, lend support and provide a multiplicity of ideas.

Without encouragement I would not have attended the conference. I will remain forever appreciative of Justice Joan Charles and Justice Charmaine Pemberton for encouraging me to attend. I would have missed out on tremendous learning and social opportunities but for their encouragement.

In return, I now encourage all women judges and magistrates across CARICOM to become involved, become members of CAJO and CAWJ. In Trinidad and Tobago, I also encourage my colleagues, especially in the Magistracy, to become members of TTWJA.

Shakespeare suggested that names are mere labels which seek to distinguish in circumstances where no real substantive distinction exists (Shakespeare, *Romeo and Juliet*, Act II, Scene II, Lines 38-49). While he may have been right in cases of forbidden love and scents, the recent promulgation of the Judicature (Resident Magistrates) (Amendment and Change of Name) Act in Jamaica promotes an alternate theory on the importance of nomenclature. Since the passage of that Act Jamaica now has 'Parish Judges' and no more 'Resident Magistrates'.

In 1999, as the UK contemplated a similar name change, from Stipendiary Magistrates to District Judges, Viscount Tenby asked the same question, "What's in a name?", suggesting rather remarkably, that there might be a danger that defendants could become confused by thinking that they were being dealt with by a 'superior' court (Hansard, 28 Jan 1999: Column 1255). The response by Lord McIntosh is worthy of repetition:

"I fully agree that titles are important ... We announced our intention to modernise justice and make it accessible to all. One of the ways we intend to do that is by establishing a unified Bench of professional judges in the magistrates' courts with a new title reflecting their status. The new title is important in recognizing the work of the district judge magistrates' court and underlines the role of the unified Bench ... it will also assist in launching the new unified Bench ... by confirming to the public the judicial status that stipendiaries now hold. It will also aid court users in that the district judge will possess a title which more accurately reflects the work and expertise" (Hansard, 28 Jan 1999).

Magistrates' Courts are often called the 'workhorse' in the judicial system. It is estimated that they shoulder as much as 90% of the criminal court business in some jurisdictions. However, the weight attached to these impressive statistics is often negatively affected by common understandings of summary justice. It was once easy to suggest that the majority of summary cases are of minor importance, for example, traffic and breach of the public peace cases. But, is that still an accurate assessment of the allocation of work in contemporary Magistrates' Courts? Summary justice now involves, among other things, increased civil jurisdiction (approximately the equivalent of US\$10,000 in many if not most jurisdictions), complicated proceeds of crime and extradition matters, bad character and admissibility of inculpatory evidence in the absence of a structured voir dire, a preference by both Prosecution and Defence to elect summary trial in either way offences (due primarily to the overwhelming backlogs in criminal Assize courts) and essentially, equal jurisdiction with trial judges in family cases such as child custody and maintenance. In Jamaica, every single dangerous drug case is determined summarily. In many other jurisdictions, though laid indictably, the majority of dangerous drug cases is heard by magistrates. Matters of grave public interest, such as misbehaviour in public office, corruption, bribery, election breaches and perverting the course of public justice are determined summarily.

The point is simple – Magistrates are now responsible for a greater proportion of more serious matters than in past decades. The nature of this creature has changed remarkably. There is therefore a pragmatic justification for a shift towards promoting the modernisation of summary justice and recognition of the true worth of these judicial officers, who sit as lone arbiters of both fact and law. Ideas of localism and laity, borne from the origins of UK Lay Magistrates are no longer harmonious with modern regional (and international) realities.

It therefore is of no small consequence that the Jamaican Government enacted the Judicature (Resident Magistrates) (Amendment and Change of Name) Act in February 2016 effecting, among other things, the name change from 'Resident Magistrates' to 'Parish Judges'. But, the legislation does more. The new Act repeals an archaic requirement for magistrates to reside in the parishes in which they presided and gives Parish Judges wider powers to address contempts of court (though, of course, it stops short of vesting in them an inherent power). Through the creation of a Chief Judge of Parish Courts, who is responsible for the general administration of the Parish Courts and who reports to the Chief Justice, there is greater and more efficient administrative organisation in the summary courts (a feature previously absent in Jamaica). Qualification for appointment has been affected as well. In order to be appointed as a Parish Judge, there is now a requirement of 7 years practice at the Bar (the previous qualification was 5 years). A significant feature of the legislation, and one applauded by all Magistrates regionally, is the creation of the new section 7A, which reads:

"Judges of the Parish shall enjoy the same immunity from liability as Judges of the Supreme Court."

The importance of this provision follows on from the Commentary in our Issue 4 Newsletter on *Mason v Jagroo*, CV 2012-00129 (Trinidad and Tobago). Indeed, does not the idea of this 'same immunity' accord with the requirement of independence of the judiciary? Surely, litigants are entitled to have their matters determined by lower ranked (or 'inferior') judicial officers who are equally independent enough to deliver 'superior' justice. Anything otherwise might suggest a less than fair hearing.

The Magistrates' Arm of CAJO is greatly encouraged by the legislative changes in Jamaica. It is hoped that this will be a trend to be followed in other jurisdictions. Summary justice (and the hundreds of judges regionally who dispense the same daily, year-round) is due professional recognition as part of a unified Bench. Justice ought not to suffer from an inferiority complex!

Upcoming events...

CALCA UPDATE #2



CARIBBEAN ACADEMY FOR
LAW AND COURT ADMINISTRATION
www.calca-ccj.org



generallegalcouncil.org

4th Biennial Law Conference

Law at the crossroads:

Who Should Attend:

- Judges
- Legal Practitioners
- Academic Faculty
- Public Sector Officials
- Private Sector Executives
- Law Students

*Reappraising the Role of
Common Law and Civil Law
Practitioners in
Transnational Development*

27-29
OCT
2016

Sonesta Maho Beach Resort & Casino
www.sonesta.com/mahobeach **Sint Maarten**

Concessionary rates (all inclusive) available upon registration
with an Online Booking Code from 16th May, 2016

**REGISTRATION OPENS
ONLINE!!** 16 MAY
2016

Registration Will:

- Allow participants to select preferred conference sessions
- Generate a personal schedule
- Generate electronic invoice/receipt
- Provide the opportunity to obtain One Year's CLPD Credits (JAMAICA)

PROPOSED CONFERENCE THEMES INCLUDE:

- Law as a Post-Sovereignty Phenomenon
- Commercial Law and Practice
- New Challenges in Financial Regulations Law
- Law & Sustainable Development
- Legal Practice and Ethics
- An Evolving Legal Practice
- Legal Perspectives on Economic Integration
- Arbitration: Is Adjudication An Endangered Species?
- Hard Law and Human Rights: Asymmetrical Contributions to Development?
- Virtual Justice: Technological Developments in Justice Delivery

CONFERENCE FEES

Early Bird Registration US\$495

Group Rate (10 persons) US\$425
These rates apply from 16 May until 15 July 2016

Regular Registration US\$595

Group Rate (10 persons) US\$525
These rates apply from 16 July until 16 Sep. 2016

Late Registration US\$795

Commences 17 September 2016

QUESTIONS OR CONCERNS
SHOULD BE DIRECTED
TO CALCA SECRETARIAT

Ms. Kerine Dobson
kdobson@caribbeancourtofjustice.org
Ms. Susan Medina
smedina@caribbeancourtofjustice.org

Ms. Charmaine Wright
cwright@caribbeancourtofjustice.org

CARIBBEAN COURT OF JUSTICE
Phone: (868)623-2225 Ext. 4298/3229/2260



Orde van Advocaten
Sint Maarten



THOMSON REUTERS



OHADAC