



News

CARIBBEAN ASSOCIATION OF JUDICIAL OFFICERS

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The ECSCC Focus



CAJO NEWS Team

CHIEF EDITOR

The Hon. Mr. Justice Adrian Saunders

CONTRIBUTORS

Mr. Gregory Girard

GRAPHIC ARTWORK, LAYOUT

Ms. Seanna Annisette

Ms. Semone Moore

Special thanks and considerations are extended to:

The Hon. Dame Janice Pereira

Photo credits/sources

Eastern Caribbean Supreme Court

The Caribbean Association of Women Judges

CAJO Newsletter Committee

*The Hon. Mr. Justice Adrian Saunders, The Hon. Mr. Justice Roy Jones, The Hon. Mr. Justice David Batts QC,
The Hon. Mr. Justice David Fraser, The Hon. Mme. Justice Margaret Mohammed, Her Honour Anne-Marie Smith,
The Hon. Mme. Justice Vivienne Harris, Ms. Marissa Robertson, Mr. Gregory Girard,
Ms. Lovette Nunez, Ms. Sandra Dee Brown, Ms. Seanna Annisette*

EDITOR Notes

This edition of CAJO NEWS features the Eastern Caribbean Supreme Court (the ECSC). The ECSC is a court like no other. It is the only court of its kind because it provides the services of a domestic and an appellate court for Antigua and Barbuda, Dominica, Grenada, St Kitts and Nevis, Saint Lucia, St Vincent and the Grenadines as well as for Anguilla, The British Virgin Islands and Montserrat. Each of these states and territories has surrendered the bulk of its judicial branch to the ECSC. The court therefore carries on the tradition of shared court services which was a regular feature of pre-independence Anglophone Caribbean experience.

There is no doubt that by reason of its regional character the ECSC, and in particular its Court of Appeal, are in substance more institutionally independent than their counterparts in the Caribbean. This greater independence derives not from constitutional entrenchment but rather from their regional status, from the funding arrangements necessary for their existence on account of their regional character, from the fact that they interface not with any particular executive or parliament but rather with another regional entity, i.e. the OECS Heads of Government, and finally because of the fact that since the Court may well be called upon to resolve disputes between participating States, the latter have a common advantage in strengthening the integrity of the Court and enhancing its status and physical infrastructure. In all these respects, the ECSC shares much in common with the region's highest court, the Caribbean Court of Justice.

In 2012, the ECSC appointed its first female Chief Justice in the person of Dame Janice Pereira. Chief Justice Pereira is not the first female Chief Justice in the region (currently, Jamaica and Suriname both have female Chief Justices) but her elevation underscores a trend that is irreversible. Certainly, given the numbers of women entering the legal and judicial profession, so far as the judicial branch in CARICOM is concerned the proverbial glass ceiling has already been smashed to smithereens.

As Chief Justice of six different states and three Overseas territories, Dame Pereira has been capably performing the duties associated with the head of the judicial service in these nine states and territories and also presiding over the ECSC Court of Appeal. CAJO NEWS extends best wishes to Dame Pereira and to all the judicial officers and court staff who are part of the ECSC.

In this edition of CAJO NEWS we also look at gender balance in the OEC judiciary over the years 1982 – 2013 and there is a commentary on the Attorney General's Reference in Saint Lucia determined by the ECSC Court of Appeal. The Attorney General had referred to that court the question whether, in light of the extant constitutional provisions, it was possible for Saint Lucia to accede to the appellate jurisdiction of the Caribbean Court of Justice without the necessity of holding a popular referendum.

As we go to Press on this issue, the Caribbean Association of Women Judges (CAWJ) is preparing for the grand inauguration of that body at a Conference in Port of Spain, Trinidad. CAJO NEWS also takes this opportunity to salute the CAWJ and its officers and to wish them all the best.

Adrian Saunders
Editor

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The Honourable Dame Janice Pereira

Chief Justice of the Eastern Caribbean Supreme Court

CAJO Profile

During the forty six years of the Eastern Caribbean Supreme Court's existence, many legal luminaries have conscientiously and dedicatedly led the Institution, as it sought to make its indelible mark on the region's jurisprudence – Sir Allen Montgomery Lewis, Hon. Neville Algernon Berridge, Sir Lascelles Lister Robotham, Sir Vincent Floissac, Sir Charles Michael Dennis Byron, Hon. Adrian Saunders, Sir Brian George Keith Alleyne, and Sir Hugh Anthony Rawlins. These stalwarts all had one thing in common, apart from majoring in the field of law; they were of the masculine gender. However, all that changed with the meteoric rise of Her Ladyship Madam Justice Janice M. Pereira to the highest seat in the judiciary, making her the first female to assume this prestigious position.

How did this happen? Having read the law sufficiently to acquire the status of what Francis Bacon called the 'full man' ... woman in this instance, and a decade of unstinting service to the Court where she exhibited the qualities of unflinching dedication to duty, discipline, high standard of integrity, attention to detail, and sound judgment.

Justice Pereira was appointed a High Court Judge in 2003 and Court of Appeal Judge in 2009, a position which she held until her appointment as Chief Justice. She was sworn in as Acting Chief Justice of the Court on Tuesday, 31st July 2012 in a historic ceremony convened at the residence of Her Excellency Madam Dame Pearlette Louisy, GCMG, Governor General of Saint Lucia; and later, Wednesday 24th October 2012, was officially sworn in as Chief Justice.

Justice Pereira is no stranger to excellence and firsts; on 9th January 2009 she created history when she was sworn in as one of the two female judges to be appointed Justices of Appeal. Up until then females only held acting positions for short periods at this the highest level of the judicial system in the Sub-region. (The other judge was Justice Ola Mae Edwards, now retired.)

Justice Pereira is a native of the Territory of the British Virgin Islands, and obtained her law degree with honours from the University of the West Indies in 1979, and the Legal Education Certificate from the Norman Manley Law School in 1981. She was called to the Bar in the Territory of the British Virgin Islands and St Kitts and Nevis in 1981 and 2000 respectively.

Justice Pereira served as Acting Registrar General; Acting Registrar of the Supreme Court and Registrar of Companies; Additional Magistrate and Acting Magistrate, between 1981 and 1985. As a private practitioner she was an associate at:



J.S. Archibald and Company; Harney Westwood and Riegels; and McW Todman and Company; and a law partner at Farara George-Creque & Kerrins, in the Territory of the British Virgin Islands, from 1985 to 2003.

On 7th May 2013 Justice Janice Pereira was conferred with the prestigious honour of Dame Commander in the Order of the British Empire by Her Majesty Queen Elizabeth II for her sterling contributions in facilitating the advancement of justice.

Dame Janice Pereira is married and is the mother of two children.

Contributed by: The Hon. Mr. Justice David Batts QC
Puisne Judge, Supreme Court of Jamaica

On December 31 2005, the Parliament of Saint Lucia passed Act 10 of 2005 to provide for referral of important questions of interpretation of the Constitution and the constitutionality of legislation enacted by Parliament in that State. This was necessary so that the State could have the benefit of the Court of Appeal's opinion on issues that cannot otherwise be taken through the normal court litigation process, or in some cases provide an alternative avenue to benefit from the wisdom of the court. The issue of the route of accession to the appellate jurisdiction of the Caribbean Court of Justice has been in the public domain for some time now with the commonly held view that such accession can only be had by way of a referendum which for most Governments of the OECS can be a costly and unsettling exercise. Legal pundits including very well-known constitutional lawyers have advocated other routes available within the letter of the Westminster Constitutions to some States other than the referendum. The Government of Saint Lucia in its quest to resolve this issue has sought an opinion from the Court of Appeal which was rendered in the majority ruling below. The Attorney General of Saint Lucia, pursuant to the Attorney General's Reference (Constitutional Questions) Act, referred to the Court of Appeal a series of questions concerning the interpretation of section 41(7)(a) of the Saint Lucia Constitution Order 1978. This section of the Constitution states as follows:

"(7) The provisions of subsection (6)(b) shall not apply in relation to any bill to alter—

(a) section 107 in order to give effect to any agreement between Saint Lucia and the United Kingdom concerning appeals from any court having jurisdiction in Saint Lucia to Her Majesty in Council."

Subsection (6)(b) (referred to above) is set out below:

"(6) A bill to alter any of the provisions of this Constitution or the Supreme Court Order shall not be submitted to the Governor General for his or her assent—

...

(b) if the bill provides for the alteration of this section, Schedule I to this Constitution or any of the provisions of this Constitution or the Supreme Court Order specified in that Schedule, unless after it has been passed by the Senate and the House or, in the case of a bill to which section 50 applies, after its rejection by the Senate for the second time, the bill has been approved on a referendum, held in accordance with such provision as may be made in that behalf by Parliament, by a majority of the votes validly cast on that referendum."

Section 107 (mentioned in section 41(7)(a)) deals with appeals which lie from the High Court to the Court of Appeal. The following questions were referred for the Court's consideration:

1) Whether the reference in section 41(7)(a) of the Constitution should properly be to section 108 (which deals with appeals from the Court of Appeal to Her Majesty in Council) instead of section 107. If yes, was the reference to 107 an error;

2) If the answer to question 1) is yes, whether the error may be judicially corrected merely upon the determination of this application by the Attorney General, or by an application by the Attorney General to a judge of the High Court, or, must the error be corrected by an alteration to the Constitution.

3) If the answer to question 1) is yes, whether the Agreement Establishing the Caribbean Court of Justice signed on February 14, 2001 and ratified by Saint Lucia on July 5, 2002 and enacted into the laws of Saint Lucia as the Caribbean Court of Justice (Agreement) Act, No. 34 of 2003 constitutes an international agreement to which Saint Lucia is a party for the purpose of the provisions of section 41(7)(b);

4) If the answer to both questions 1) and 2) is yes, whether for the purposes of an alteration of the Constitution to replace appeals to Her Majesty in Council with appeals to the Caribbean Court of Justice, the Agreement between Saint Lucia and the United Kingdom referenced in section 41(7)(a) –

i. may validly be entered into by Saint Lucia alone or in common with one or more other States of the Organization of the Eastern Caribbean which may have similar constitutional provisions;

ii. may validly be entered into prior to the passage of the bill referred to in section 41(2);

iii. and, if the answer to question 4(ii) is no, at what point in the process of any such alteration of the Constitution pursuant to section 41 may the said international Agreement be entered into;

5) If the answer to question 1) is no, which "Court (or Courts) having jurisdiction in Saint Lucia" is referenced by section 41(7) of the Constitution.

The Court of Appeal, by a majority (Mitchell JA [Ag.] dissenting), gave the following answers to the above questions:

Question 1: Yes. The reference in section 41(7)(a) of the Constitution should properly be to section 108 instead of section 107. The reference to 107 was an error.

Question 2: Yes. The Constitution ought to be read and construed as if 'section 107' in section 41(7)(a) were deleted and 'section 108' substituted. There is no need for further application to the High Court (which in any event has no jurisdiction to determine the question) for an order, the power to interpret such a question having been given by Parliament to the Court of Appeal by virtue of the Attorney General's Reference (Constitutional Questions) Act.

Question 3: Yes.

Questions 4) i and ii: Yes. Such an agreement must pre-date the presentation of the bill to alter the Constitution to give effect to the agreement.

The Court held that having answered the above questions in the affirmative, the questions posed at 4) iii and 5) did not arise for determination. Mitchell JA [Ag.], in his dissenting judgment, held that the reference in section 41(7)(a) of the Constitution was properly a reference to section 107, and was not intended to be a reference to section 108.

Gender Balance in the OECS Judiciary

Contributed by: Mme. Justice Vivienne Harris
- Puisne Judge (Ag.), Supreme Court of Jamaica

CAJO
Commentaries



On Wednesday September 26, 2012, Jamaicans both at home and in the Law is traditionally a man's terrain; but like almost every other exclusive turf, women have overcome the challenges, broken the barriers, entered the territory and have successfully coexisted and on occasions have led the 'pack' with distinction.

Does judicial equity reside in gender parity? Are women judges different from their colleagues of the opposite sex? Does the gender of a judge make a difference in the decisions delivered? Several studies have attempted to answer questions of this nature and have been inconclusive in their findings. But according to Sital Kalantry, "...regardless of whether it does, equal representation for women in the judiciary strengthens the rule of law and should be a goal ... [for all jurisdictions]" *Americas Quarterly*, Gender Equality: Political Backrooms, Corporate Boardrooms and Classrooms, Americas Society and Council of the Americas (Summer 2012)

Durham Law School Professor Erika Rackley shares similar sentiments. She notes that in the Groundbreaking Experiment for BBC Radio 4's *Law in Action* (2013) law students who were asked to determine if gender affected judges' rulings were unable to establish a discernible difference. She opines however, "While we are never going to be able to isolate the precise impact of gender in any judgment, there are cases where the gender of the judge does appear to have influenced their judgment," She further states that "A diverse judiciary is a better judiciary. The more varied the body of knowledge and collective wisdom an individual judge has to draw on when making their decisions, the better those decisions will be."

This article is not an attempt to answer the questions posed above, but to highlight the representation of females serving on the Bench of the Eastern Caribbean Supreme Court.

According to the 2011-2012 UN Women report, *Progress of the World Women*, the most significant gender parity in the global judicial system can be found in Central Asia and Central and Eastern European countries, where women represent more than forty percent of judges.

The same study also noted that courts in Latin America and the Caribbean ranked second in the developing world, but observed that, "a notable exception to the low representation of women on judiciaries is the Eastern Caribbean Supreme Court ..."

This was not always the case however. At the recent opening of the Law Year in the Territory of the Virgin Islands, Dr. J.S. Archibald, QC addressed the issue of gender balance in the OECS judiciary, as he made his presentation on behalf of the Inner Bar. He noted that it was the first time he had seen so many judges sitting at the opening of any Law Year "My lady to see 10 Judges on the bench, six of whom are women ... to me is magic! When I joined the bar 53 years ago no woman was a judge in the whole Eastern Caribbean; no woman was a Magistrate. There were only five women lawyers; four from Dominica...and look at today," Dr. Archibald stated.

Up until October 1982, females were excluded from the administration and dispensation of justice in the OECS. However history was created when Justice Monica Joseph shattered the "old boys' club" mentality that surrounded judicial appointments in the Eastern Caribbean and entered the sacrosanct halls of the judiciary. She was appointed as the first female judge and assigned to the Territory of the British Virgin Islands serving as resident High Court Judge. Prior to these cases were heard by visiting [male] judges.

The statistics below show the steady infiltration of females in the OECS judiciary, which to date stands at a high of 56%. 5

Judicial Appointments (Masters, High Court Judges, Court of Appeal Judges) in the OECS for the period 1982 - 2013				
Period	Number of Female Judicial Officers	Number of Male Judicial Officers	Total Number of Judicial Officers	Percentage of Female Judicial Officers
2012 - 2013	18	14	32	56
2011	15	14	29	52
2009 - 2010	14	14	28	50
2008	12	13	25	48
2007	7	10	17	41
2005 - 2006	6	10	16	38
2004	6	10	16	38
2003	6	12	18	33
2002	5	11	16	31
1990 - 2001	3	15	18	17
1982 - 1989	1	11	12	8

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CAJO News Highlights

Opening of the New Law Year 2013/2014



Above: The Judges of the Eastern Caribbean Supreme Court at the Opening of the Law Year ceremony in BVI

On Tuesday, 17th September, 2013, the nine Member States/Territories of the Organization of Eastern Caribbean States (OECS) participated in the Ceremonial Opening of the New Law Year 2013/2014.

As is customary the annual event was commemorated with a church service in each island, which set the tone for the other activities. Prayers, Scripture lessons and words of spiritual encouragement and guidance were presented by the resident pastors and priests, with a view to acknowledge the dependence of the Bench and the Bar on God Almighty, as both parties commence another year of working cooperatively to administer justice in the region.

In Anguilla, the admonition was; "As you face the awesome challenges of your office...don't forget you are a pursuer after knowledge. Let that pursuit to wisdom, which is the highest pursuit of all, become that eternal lover of wisdom. As you seek it, it flowers into justice and peace and I guarantee you Anguilla and the Caribbean will be a better place."

In Grenada: "Try not to do things (just) for the money you (are) getting but to please God", was the charge.

In Montserrat, members of the judiciary and the bar were admonished: 'Thou shalt not avenge, nor bear any grudge against the children of thy people, but thou shalt love thy neighbour as thyself: I am the LORD.' Leviticus 18:19

The church service was followed by a procession of the judiciary and the bar to the various High Courts of Justice, where the formal sitting was conducted. Prior to the sitting, judges inspected the respective guards of honor formed by the Islands' Police Force. The high point of the Opening Ceremony is always the Chief Justice's address. This year Her Ladyship, the Hon. Dame Janice Pereira delivered her second Opening of the Law Year address for the first time from her homeland, the Territory of the Virgin Islands, presenting under the theme: The Role of the Court in the Region's Socioeconomic Development.

This was broadcasted live via simulcast to all the Member States/Territories gathered in the various court rooms with an audience of government officials, members of the bar, court employees and in some cases, members of the public and private sectors. Persons were also able to access the address via radio, television and live streaming on the Internet.



Above: Inspection of the Guard of Honour in Antigua



Above: The Hon. Mme. Justice Cheryl Mathurin is captured with Governor Christina Scott and members of the Clergy and Bar in Anguilla

CAJO News Highlights

CAJO 2013 Conference Report

The 3rd Biennial Conference of the Caribbean Association of Judicial Officers (CAJO) was held from 26 – 28 September, 2013 at the Accra Beach Hotel and Spa in Bridgetown, Barbados. The programme committee under the direction of Justice Adrian Saunders, CAJO Chairman, also comprised Justice Desiree Bernard, Justice Jacob Wit, Justice Christopher Blackman, Ms Lee Cabatingan and CAJO Secretary Ms Sandra Dee Brown. The theme of the conference was “Equality, Justice and Caribbean Realities – The Way Forward”. The conference was an outstanding success and attracted 150 delegates and presenters.

Keynote addresses were given by Ms. Tracy Robinson, Senior Lecturer, Faculty of Law, University of the West Indies and Professor Norman Girvan, Professor Emeritus, University of the West Indies.

Session topics included “Gender Justice over Time”; “Is the jury system under threat and should it be maintained?”; “Insolvency in the Caribbean; problems and solutions”; “The role of IT in efficient case management and delay reduction”; “Prosecutorial discretion and Caribbean constitutionalism”; “Judicial techniques to enhance efficiency in the delivery of justice”; “Protection of the rights of children and minorities in the Commonwealth Caribbean”; “Balancing your personal and professional life”; “Are our legal systems equipped to redress endemic corruption and other threats to the integrity of Caribbean States?”; “Integration and Migration within CARICOM: The CSME as an instrument of transformation and change”; “User-friendly delivery of justice”; “Judicial Officers and the Media”; “ADR and the role of the non-lawyer in the settlement of disputes”; and “Human trafficking in the Caribbean”.

Presenters included: Hon Chief Justice Zaila McCalla, Jamaica; Hon Justice Jacob Wit, JCCJ, Trinidad and Tobago; Hon Chief Justice Ken Benjamin, Belize; Judge Murray Shanks, UK; Hon Justice Andrew Burgess, Barbados; Hon Justice David Hayton JCCJ, Trinidad and Tobago; Hon Chief Justice Ian Kawaley, Bermuda; Mr Edward Davis Jr, Certified Fraud Examiner, USA; Hon Chief Justice Ivor Archie, Trinidad & Tobago; Rt Hon Sir Dennis Byron, President, CCJ, Trinidad and Tobago; Mr Jim Rebo, Former Director of Information Systems, New Jersey, USA; Mr Greg Girard, Court Administrator, Eastern Caribbean Supreme Court; Hon Mme Justice Carla Brown-Antoine, Trinidad and Tobago; Hon Mr Justice Jacob Wit, JCCJ, Trinidad and Tobago; Ms Gillian Lucky, Director Police Complaints Authority, Trinidad and Tobago; Hon Mr Justice Geoffrey Henderson, Trinidad and Tobago; Dame Janice Pereira, Hon Chief Justice, Eastern Caribbean Supreme Court; Ms Camille Gomez, Assistant Registrar, The Bahamas; Hon Mr Justice Bryan Sykes, Jamaica; Hon Mme Justice Desiree Bernard, JCCJ, Trinidad and Tobago; Ms Se-shauna Wheatle, Stipendiary Lecturer in Law at Exeter College, Oxford; Dr Rosina Wiltshire, CARICOM Advocate for Gender Justice,



(From L to R) The Rt. Hon Sir Dennis Byron, The Hon Mme Justice Jamadar, Ms. Tracey Robinson and The Hon. Mr. Justice Marston Gibson

Guyana; Hon Mme Justice Roxanne George, Guyana; Hon Chief Justice Sir Marston Gibson, Barbados; Mr Frank Walwyn, Partner WeirFoulds, Canada; Sir Henry Forde QC, Barbados; Hon Chief Justice Cynthia C.L.A. Valstein-Montnor, Suriname; Hon Justice Winston Anderson JCCJ, Trinidad and Tobago; Prof Dr Kusha Haraksingh, Chairman CARICOM Competition Commission, Trinidad and Tobago; Dr Indira Rampersaud, Equal Opportunity Commission, Trinidad and Tobago; Hon Mr Justice Christopher Blackman, Bahamas; Rt Hon Lord Kerr of Tonaghmore; Mme Justice Sandra Oxner, Canada; Mr Jones Madiera, Manager Information and Protocol Division of the Judiciary of Trinidad and Tobago; Mr Anthony Ross QC, Canada; Hon Mr Justice Carl Singh, Chancellor, Guyana; Hon Mr Justice Vashiest Kokoram, Trinidad and Tobago; Mr Anthony Vierra, Certified Mediator and Senator, Trinidad and Tobago; Mr Valdon Bend, Ombudsman, Barbados; Hon Justice Sylvia Hinds-Radix, New York State Appeals Court, USA; Hon Justice Janet Arterton, Federal Judge District of Connecticut, USA; Mr Daniel Suter, Criminal Justice Adviser to the Eastern Caribbean, Barbados and Her Worship Ms Ann-Marie Smith, Chief Magistrate, Belize.

At the Business Meeting of the Association, Justice Saunders was re-elected Chairman of the body and it was agreed that Jamaica will host the next biennial in 2015.

CAJO News Highlights



Dominica moves to adopt the CCJ as its final Court of Appeal

Dominica may soon follow in the footsteps of Barbados, Guyana and Belize to become the fourth CARICOM state and the first member of the Organization of Eastern Caribbean States (OECS) to accede to the Appellate Jurisdiction of the Caribbean Court of Justice. Having received approval from Britain to make the move back in January, which obviates the need to have a referendum, the Dominica Constitution Amendment Bill 2014 has since been introduced to the Dominican parliament for its first reading. There is, however, a 90-day waiting period between the first and second readings of the Act before it can be fully debated and passed by a three quarter majority. During that waiting period it is expected that public education activities will be held to give greater information to the Dominican people about the CCJ.

Launch of the Caribbean Association of Women Judges (CAWJ)

The CAJO News Committee would like to congratulate the Caribbean Association of Women Judges' (CAWJ) on their inaugural conference and project launch, which was recently held from the 27th-29th March 2014, at the Hyatt Regency Trinidad in Port of Spain, Trinidad. The non-profit organization was established to promote a greater understanding and better resolution of legal issues facing women and girls while also focusing on general issues affecting women and women judges throughout the region. The Association intends also to perform the role of a chapter of the globally recognized "International Association of Women Judges" (IAWJ),

The Conference was held under the theme "The Law and the Protection of Women and Children -Save the Children" and it explored topics such as children in care/custody; domestic violence and its effect on children; families in violent circumstances; rape and incest in the Caribbean and human trafficking and its effect on women and girls. CAWJ also used the opportunity to introduce its project to empower and expose single mothers and parents of blended families to strategies aimed at protecting themselves and the children of the family from violent behaviours. On the Saturday following the launch CAWJ elected its Executive Committee which is led by Justice Joan Charles.



L to R back) Her Worship Lisa Ramsumair-Hinds (Trinidad & Tobago), The Hon. Mme. Justice Jacqueline Cornelius (Barbados); The Hon. Mme. Justice Maureen Rajnauth-Lee (Trinidad and Tobago); The Hon. Mme. Justice Joan Charles, Chair (Trinidad & Tobago)

(L to R front) The Hon. Mme. Justice Yonette-Cumming-Edwards (Guyana); Her Honour Paula A. Blake (Jamaica); The Hon. Mme. Justice Carla Brown-Antoine (Trinidad & Tobago); and The Hon. mme. Justice Nadia Kangaloo (Trinidad and Tobago).

CCJ Rules in The Attorney General of Belize v. Philip Zuniga et al. and BCB Holdings Limited et al.

This appeal concerned the constitutionality of the Supreme Court of Judicature (Amendment) Act and the Supreme Court of Judicature (Amendment) No. 2 Act, (together, "the new legislation") which were enacted by the Parliament of Belize to amend the Supreme Court of Judicature Act ("the principal Act"). The new legislation added section 106(A), which falls under Part IX of the principal Act which deals with contempt of court. Section 106(A) created the offence of knowingly disobeying or failing to comply with an injunction (particularly an anti-arbitration injunction). The new legislation prescribed severe penalties for the new offence, including mandatory minimum penalties, and provided for a range of ancillary matters.

The constitutionality of the legislation was attacked by the respondents on several grounds. First, they alleged that the legislation contravened the separation of powers doctrine because it was introduced specifically to target them and to deter them from pursuing international arbitration. Considering the principles set out by the Privy Council in *Liyanage v. R*, the Court found that legislation prompted by the acts of a particular individual or group, accompanied by stiff mandatory penalties and providing for rules to be made by the Attorney General, may raise a red flag but it did not necessarily establish that the separation of powers doctrine had been compromised. The court's adjudicative process must also be negatively impacted to justify a finding that Parliament had compromised judicial discretion. The CCJ held that the new legislation was not *ad hominem* as it did not direct the court on how it should deal with the respondents in any particular proceeding.

It was also submitted that the legislation was enacted for an improper purpose in two respects, firstly, to thwart the respondents' recourse to international arbitration, and secondly, that it contravened section 68 of the Constitution which "limits" Parliament's law-making power to one of enacting laws for the peace, order and good government of Belize. The CCJ held, however, that the National Assembly has a specific remit to assess and legislate what it considers suitable for Belizean society and without more, if an Act of Parliament is otherwise constitutionally valid the court should not examine it to determine whether it is inimical to the peace, order and good government of the country.

The Court found, however, that the mandatory minimum sentences prescribed in sub-section 3 of the Act were grossly disproportionate, inhumane, unconstitutional and bore no reasonable relation to the scale of penalties imposed by the Criminal Code for more serious offences. The Court also held that the reverse burden of proof contained in sub-section 5 of the new legislation contravened the principle of the presumption of innocence as it required the accused to establish a negative and came close to legislating guilt by association.

Ultimately, although the CCJ found, in agreement with the Court of Appeal, that these two provisions of the new legislation were invalid the CCJ disagreed with the Court of Appeal as to the consequences of this finding. A majority on the CCJ considered that the invalid parts of the legislation could be severed while the minority was of the view that the legislation should be struck down in its entirety.

The judgment of the Court may be accessed at

<http://www.caribbeancourtjustice.org/wp-content/uploads/2014/02/2014-CCJ-2-AJ1.pdf>



CARIBBEAN ASSOCIATION OF JUDICIAL OFFICERS

MEMBERSHIP APPLICATION

WHO CAN BECOME A MEMBER

- ❖ Full Membership is extended to judicial officers - persons currently holding the position of judge, master, magistrate, registrar, court administrator, deputy or assistant registrar, and any other person appointed or serving in a judicial or adjudicatory capacity, including members of tribunals, boards or commissions or other similar judicial or adjudicatory bodies.
- ❖ Associate Membership is extended to retired judicial officers
- ❖ Honorary Membership is extended to those persons upon whom such status is conferred by the Association

BENEFITS OF MEMBERSHIP

Networking opportunities, discounted conference fees and access to certain password protected areas of the CAJO website (whenever available).

ANNUAL MEMBERSHIP FEES

Full member
US\$100

Associate Member
US\$50

New Member
 Renewal

First Name

Middle Initial

Last Name

Male

Female

Position/Title

Court/Organisation/Tribunal

Business Address

Country

Mailing Address

Country

**Biographical Information (200 words) for Website/ Conference Brochures/Newsletter etc:
(This may be submitted electronically to the email address below)**

PRIMARY CONTACT:

Phone Number with Country Code (Work)

Fax Number with Country Code (Work)

Email Address

SECONDARY CONTACT:

Phone Number with Country Code (Home)

Phone Number with Country Code (Mobile)

Email Address

PAYMENT DETAILS:

- Cheque should be made payable to the "Caribbean Court of Justice – CAJO".
- Online via credit card: <http://thecajo.org/>

Mail this form and cheque to:

Caribbean Association of Judicial Officers
c/o Caribbean Court of Justice
134 Henry Street
Port of Spain
Trinidad and Tobago

Or email this form to:

info@thecajo.org

THANK YOU FOR YOUR INTEREST AND SUPPORT
We are excited to have you join us!