CONTINUING LEGAL EDUCATION IN THE CARIBBEAN

SOME HIGHLIGHTS

CAJO NEWS

Issue 18

CONTENTS

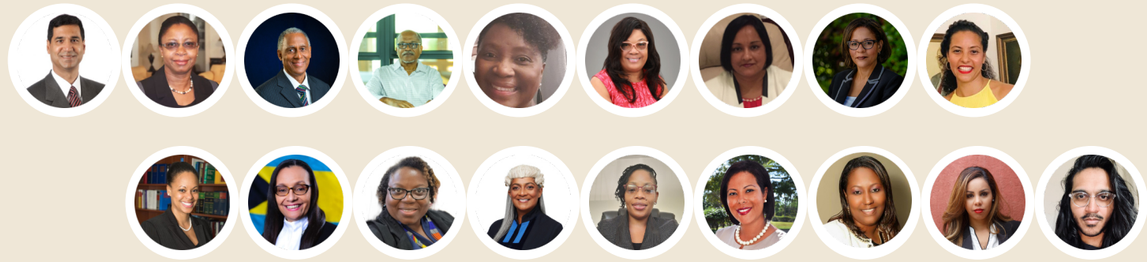
A publication of the Caribbean Association of Judicial Officers, December 2023 | Layout and Design by Elron Elahie

Message from the Management Committee

Continuing legal education in the Caribbean, for both judicial officers and attorneys-at-law, has been an aspirational work in progress. On the judicial side and through the establishment of judicial education institutes, Caribbean Judiciaries have been working to establishing local institutes that facilitate continuing education and skills-based training to all tiers of judicial officers, court administrators, and judicial staff. Regional entities such as the Caribbean Association of Judicial Officers – the CAJO, the CCJ Caribbean Academy of Law, and the Hof van Justitie Academy are also actively involved. The profession, largely through its law associations, has also in some jurisdictions organized continuing legal education for attorneys. The Law schools through legal aid clinics expose law students to practical hands-on legal education and professional development. And there are other regional organizations, such as the Caribbean Agency for Justice Solutions (CAJS), that provide various types of educational interventions. As well, legal publications are integral. All have as one common purpose, the improvement of justice delivery in the Caribbean.

Continuing legal and judicial education are essential for both judicial officers and legal professionals to stay updated on changes in the law, enhance their skills, and meet professional development requirements. These are all necessary in order to sustain the rule of law and to enhance access to justice, by, among other things, providing efficient, effective, inclusive, fair, and affordable judicial systems, as well as competent and socially conscious professional legal services for all court users. Continuously emerging technological developments, notably access to and the use of AI systems, have the potential to significantly improve Caribbean justice sectors. However, there are always caveats, one of which is the choices we make about home-grown systems and the uncritical adoption of foreign offerings. Another is the temptation to be 'first world', and to lose sight of our own populations' capacities to access justice with the introduction of new modalities. Education can help bridge many of these gaps.

As the Management Committee of the CAJO looks back at 2023 and anticipates what may be needed in 2024, the idea and actualization of continuing legal education is pivotal. In this Issue of CAJO News we have highlighted some examples of this work. Much is being done regionally and the CAJO welcomes the sharing of information by local Judiciaries and regional educational counterparts. May 2024 be a year in which further progress is made to eradicate some of the endemic regional issues that have plagued Caribbean justice systems post-independence, as we all continue to serve our citizenry.



CAJO Continues Its Regional Judicial Education Mandate

Elron Elahie, Research and Programme Coordinator

Between July and December 2023, the CAJO facilitated three (3) virtual training and engagement sessions for its members, regional judicial officers, and judicial staff.

Judicial Education Forum

On the 28th September 2023, the CAJO hosted its first Judicial Education Forum. The Forum brought judicial educators from across the Caribbean to explore judicial education theory and discuss their successes, challenges, and needs.

Justice Peter Jamadar, Chair of the CAJO, delivered a lecturette on judicial education ideology and teaching/learning pedagogies. Forum participants then moved into discussion around their successes and challenges. While there were many successes, participants shared challenges common across jurisdictions such as the need to make judicial education mandatory and cultural resistance to continuous education.

Another Forum will be held in 2024 at which participants will explore a specific topic as it relates to judicial education.

Disability and Inclusion Awareness Workshop

In March 2023, the Disability and Inclusion Awareness Guidelines were launched. These a Guidelines sought to assist judicial officers and regional judiciaries by providing practical tools and guidance as they relate to ensuring access to justice for persons with disabilities in the Caribbean. The Disability and Inclusion Awareness workshop, which took place on 12th October 2023, built on these Guidelines and offered participants an opportunity to engage with regional disability advocates, explore the underlying ethical imperatives for access to justice, and engage a hypothetical to discuss challenges, solutions, and best practices.

The workshop was facilitated by Justice Peter Jamadar (Chair, CAJO) and Elron Elahie (Research and Programme Coordinator, CAJO) and disability advocates, Ms Kerryann Ifill (Barbados) and Mr Ian Roach (Trinidad and Tobago) participated.

The workshop feedback report can be accessed by clicking HERE.

Ms Kerryann Ifill and Mr Ian Roach sharing their experiences at the workshop

Negotiating Judicial Conflict Forum

Judicial officers may experience conflict between or among themselves and/or administration. In some instances, managing and dealing with these conflicts can prove difficult and judicial officers may experience themselves as disadvantaged or unequipped to address the conflict and engage their daily duties without such conflict disrupting them and the efficiency/ effectiveness of their work. To this end, the CAJO facilitated a forum on negotiating judicial conflict on the 8th December 2023 to open the conversation on how conflict is experienced, how it can be negotiated, and allow member judicial officers to share tools, techniques, insights, and challenges. Justices Peter Jamadar and Vasheist Kokaram facilitated open dialogue as participants shared their experiences and challenges.

The forum was heralded as much needed by participants and the CAJO has committed to continue exploring these areas critical to judicial integrity, performance, and which impact the administration of justice across the Caribbean.

Presentation of the Criminal Bench Book and Disability and Inclusion Awareness Guidelines to the CCJ

On 18th December 2023, Chair of the CAJO, Justice Peter Jamadar, formally presented copies of the Criminal Bench Book for Barbados, Belize, and Guyana and the Disability and Inclusion Awareness Guidelines to Justice Adrian Saunders, President of the CCJ. Copies of both publications have been provided to the CCJ for use by its judges and staff. Copies of the Criminal Bench Book have also been provided to the Judiciaries of Barbados and Belize and will be sent to the Judiciary of Guyana.

Both the Criminal Bench Book for Barbados, Belize, and Guyana and the Disability and Inclusion Awareness Guidelines are also available, at no cost, electronically on the CAJO's website. They can be accessed by clicking HERE.

From left: Mrs Candace Simmons-Peters (Corporate Secretary, CAJO), Justice Adrian Saunders (President, CCJ), Justice Peter Jamadar (Chair, CAJO), Mrs Helena Ali-Victor, (Deputy Librarian, CCJ).

Embracing the mandate of Clinical Legal Education: The Legal Aid Clinic of the HWLS

Kavita Deochan,
Attorney-at-Law & Tutor

Clinical Legal Education (CLE) is the name commonly used to refer to the delivery of a legal service by, or with the involvement of, law students acting under professional supervision where necessary. CLE provides students with an opportunity to experience law in action.

In keeping with the Council of Legal Education's mission, to facilitate the development of competent legal practitioners, the Legal Aid Clinic of the Hugh Wooding Law School (HWLS) was founded very early in the evolution of the Law School. At present, the Legal Aid Clinic is managed by a Director/ Attorney-at-Law, Mr. Ashook Balroop, supported by a team of 11 Attorneys-at-Law/Tutors: Barbara Lodge-Johnson, Alice Daniel, Zenobia Campbell James, Gail Persad, Kathy-Ann Hogan, Marlon Moore, Jason Nathu, Jerome Herrera, Roshan Ramcharitar, Farah Ali-Khan and Kavita Deochan. Our mandate is to predominantly provide students with the opportunity to engage in the actual practice of the profession.

The programme is designed to achieve two objectives. One is to give students an appreciation of legal practice through the active conduct of matters. It involves the use of the clinical approach and techniques to enable students to develop not only skills but a critical and contextual understanding of the law as it affects people in society. This approach complements the substantive training delivered to students and bridges theory and legal practice.

Additionally, central to the HWLS' goal of providing a public service to those persons who need legal services to secure or defend their rights. As such, persons accepted by the Clinic are normally unable to afford the expense of legal services and at the same time, do not qualify for legal aid under the Government's legal aid programme. Here the emphasis is on public and community service. The Clinic therefore provides legal representation to the community in a variety of matters of specific educational value to students and within our capability, having regard to available resources.

The underlying pedagogy used in designing the Clinic's curriculum maps into a constructivist experiential learning framework embracing the concept of "learning by doing". The value of undertaking actual legal work exposes students to the essential values of the legal profession. This means through participation in the clinical experience, students have the opportunity to develop their existing knowledge and understanding of the substantive law by building on previous learning, application and understandings of the law to solve client problems. Alongside this, the Clinic enable students, as part of the Law School programme, to gain experience in performing various lawyering activities such as legal research, managing cases assigned to them, interviewing clients, gathering facts, preparing advice and negotiating on behalf of a client.

Students also have the opportunity to attend Court with their supervising Attorney. Through this, students learn to integrate knowledge of substantive law and its application in practice using the experience gained. The benefits and opportunities of learning within the constructive experiential framework also encourages students to reflect on the experience and opportunities since when reflection takes place, it facilitates awareness of learning, awareness of skills development, and an awareness of areas for improvement.

The work of the Clinic is also facilitated with the aid of its staff including its secretaries and law clerks who interface with the professional staff, students, clients and the courts. The Clinic is designed as far as possible to model the workings and facilities of a real law firm so as to prepare students for what they will meet in practice and the standards to which they must aspire.

In this regard, the Legal Aid Clinic provides two schemes by which students can gain valuable experience into the practice of law. The first is the General Legal Aid Clinic which provides legal support in matters varying from matrimonial, succession, conveyancing and civil matters including breach of contract and a variety of torts. Clients are also provided with legal advice and mediation services to resolve disputes.

Secondly, the Clinic also manages and facilitates numerous Specialized Law Clinics, which aims to provide student attorneys with exposure to various niche areas of the law and interaction with industry professionals. At present, the Specialist Clinics offered by the Hugh Wooding Law School's Legal Aid Clinic are as follows:

1. Criminal Law Clinic - The primary objective of this Clinic is to provide students with practical exposure to the everyday aspects of criminal practice. Coordination of this Clinic is overseen by Ms. Hasine Shaikh Chief Public Defender, Public Defenders' Department and Mr. Daniel Khan from Justitia Omnibus, Attorneys-at-Law.

2. Corporate Law Clinic - This Clinic is designed to prepare participants for one of the most practical applications of civil procedure in the corporate world. Conducted by experienced attorneys-at-law in Port of Spain and is particularly recommended for students interested in a mixed legal practice, especially those seeking employment in law firms specialising in corporate banking law or handling trade receivables.

3. Human Rights Law Clinic - The primary goal of the Human Rights Law Clinic (HRLC) is to impart essential legal values, skills, and attitudes to students, using a street law approach within the context of human rights education and advocacy. This Clinic is facilitated by Attorney-at-Law/Tutor, Mr. Jason Nathu.

4. Intellectual Property Law Clinic - Top of FormThis Clinic specialises in various aspects of intellectual property law, including trademarks, patents, and industrial designs. This Clinic is led by Mr. Regan Asgarali and Mr. Richard Aching, both Attorneys-at-Law associated with the Ministry of Legal Affairs.

5. Child Advocacy Clinic - This innovative Clinic introduces students to the field of Child Advocacy, which is currently emerging within the Caribbean region. This Clinic is facilitated by Attorney-at-Law/Tutor, Mrs. Zenobia Campbell-James.

6. Innovation, Technology and Entrepreneurship Clinic (Hitec) – This Clinic offers legal counsel and guidance to entrepreneurs, small businesses, and technology start-ups. This Clinic is facilitated by Attorney-at-Law/Tutor, Mr. Jason Nathu.

7. Public Law Clinic - This Clinic aims to sensitise and train students in the continuously expanding and intriguing field of public law practice. This Clinic is facilitated by Attorney-at-Law/Tutor, Mr. Roshan Ramcharitar.

8. Construction Law Clinic - This Clinic will commence in January 2024 and aims to introduce, educate, and familiarise students with the field of Construction Law, specifically focusing on Dispute Resolution and Construction Contracts. This Clinic is facilitated by Attorney-at-Law/Tutor, Mr. Jerome Herrera.

9. Peace Jurisprudence Clinic - Peace Jurisdiction encompasses a blend of mediation, restorative justice, collaborative law, and therapeutic jurisprudence practices. This Clinic is facilitated by the Honourable Mr. Justice of Appeal Kokaram, Judge of the Court of Appeal of Trinidad and Tobago.

10. Conveyancing Clinic – This Clinic is designed to sensitise and train students in various aspects of property conveyancing. This Clinic is facilitated by Attorney-at-Law/Tutor, Ms. Barbara Lodge-Johnson.

Additionally for the upcoming Academic Year 2024/2025, the Clinic will also manage and facilitate Hybrid Clinics in the areas of Insurance Law, Entertainment and Media Law and Immigration Law. The Clinic is also exploring the possibility of providing virtual Clinics in the areas of Family Law and Conveyancing Law specifically tailored for the Guyanese students, Commercial Law and Family Law for the Barbadian students, as well as general Civil Law for the Eastern Caribbean students. These proposed Clinics will be led by legal practitioners who are based in, and practicing in Guyana, Barbados, and the Eastern Caribbean, respectively. The goal of these Clinics is to provide student attorneys with exposure to casework rooted in the laws of their respective jurisdictions, and to connect them with specialised practitioners and industry professionals within their region.

As part of our mandate, and in furtherance of the yearlong 50th Anniversary Celebrations of the Law School, the Clinic in this Academic Year 2023/2024 has also been actively engaged in numerous outreach initiatives. These initiatives span from free legal advice and legal literacy Clinics in partnership with various NGOs and members of the bar, public education drive through the publication of articles in the newspaper on various areas of law, webinars conducted by the Clinic's team of Attorneys in collaboration with esteemed members of the bench and the bar.

For the period October to December 2023, some of the outreach initiatives embarked upon by the Clinic were:

- On the 24th October 2023, Attorneys-at-Law/Tutors, Gail Persad, Jason Nathu and Kavita Deochan conducted an **information session in conjunction with the Living Water Community's Ministry for Migrants and Refugees**. The session explored the topics of divorce, custody of children, maintenance, domestic violence and landlord and tenant rights and obligations. The session was designed for and marketed to the migrant population on the east-west corridor of the Island, between the areas of San Juan and Tunapuna.

From left: Kieara Kanhai, Legal Officer, Living Water Community; Ganesh Rampersad, Senior Legal Officer, Living Water Community, Kavita Deochan, Jason Nathu and Gail Persad, Attorneys-at-Law/Tutors of the Legal Aid Clinic.

- On the 28th October 2023, the Director of the Clinic, Mr. Ashook Balroop and Attorneys-at-Law/Tutors Zenobia Campbell James and Marlon Moore along with Legal Secretary Avion Crooks and 6 students from Barbados, Guyana and Trinidad participated in a **free legal aid clinic**. This initiative was done under the patronage of the Mayor of Arima, His Worship Balliram Maharaj, and in collaboration with the Eastern Lawyers Association, the Office of the Ombudsman, the Police Complaints Authority and the Equal Opportunity Commission.

The team from the Hugh Wooding Law School, Legal Aid Clinic along with its partners from the Eastern Lawyers Association, the Office of the Ombudsman, the Police Complaints Authority and the Equal Opportunity Commission at the Free Legal Aid Clinic held on the 28th October 2023.

- On the18th November 2023, the Legal Aid Clinic (LAC) sub-group comprising Barbara Lodge-Johnson, Gail Persad, Jason Nathu and Kavita Deochan collaborated with **three NGOs to provide free legal advice to persons in need**. The three organisations were Create Future Good (CFG), Caribbean Gender Alliance (CGA) and The Network of NGOs for the Advancement of Women which are all focused on, among other things, promoting the rights and protection of children and the elimination of gender-based violence.

- On the 22nd November 2023, the **Legal Aid Clinic facilitated a webinar titled, 'Family Proceedings – Drafting Petitions for Divorce and its Particulars'**. The webinar featured the Honourable Madam Justice Allyson Ramkerrysingh as the main speaker, along with presentations by Attorneys-at-Law/Tutors Alice Daniel and Marlon Moore and mediated and facilitated by Attorney-at-Law/Tutor Jerome Herrera and the Director of the Clinic, Mr. Ashook Balroop.

- On the 25th November 2023, in commemoration of the 50th Anniversary celebrations of the Law School, the Legal Aid Clinic **partnered with the Assembly of Southern Lawyers and the Public Defenders' Department to provide a legal literacy and free legal advice Clinic**. Students from the Clinic also took the journey down to South, Trinidad and were able to participate in this initiative and learn vicariously through their assigned Attorneys who from 10:00 a.m. to 2:00 p.m. met with persons in attendance and gave preliminary legal advice on various areas of law. At this Clinic, general public education sessions were also conducted on topics such as personal injuries, domestic violence, divorce proceedings and bail.

The team from the Hugh Wooding Law School, Legal Aid Clinic along with students and Attorneys-at-Law from the Assembly of Southern Lawyers and the Public Defenders' Department who participated in the 50th Anniversary – Legal Literary and Free Legal Aid Clinic.

- On the 4th December 2023, Attorneys-at-Law/Tutors Zenobia Campbell-James, Farah Ali-Khan and Roshan Ramcharitar along with Attorney-at-Law and previous Legal Intern of the Clinic, Naomi Haywood, **collaborated on and published an article in the Trinidad & Tobago Guardian Newspaper titled, 'Estate Matters: Grants of Representation**'. This column was part of the Clinic's public education initiative and was done in collaboration with the Trinidad & Tobago Guardian.

It is also noteworthy that the **Legal Aid Clinic is also involved in an exchange programme with the Queen Mary University of London, Legal Advice Centre, where students, in alternate years, are given the opportunity to work in the respective Clinic/Advice Centre, attend classes, and visit courts in the respective host countries**. In this regard, from the 6th to the 10th November 2023, the Clinic hosted two students from the Queen Mary University. During the week long visit, the students attended various Legal Aid, Trial Advocacy and Specialist Clinic classes and also had the opportunity to visit the Children's Court of Trinidad and Tobago. As part of this exchange program, Ms. Frances Ridout, Director of the Legal Advice Centre, Ms. Meghan Mizen, Street Law Manager, also conducted a face-to-face session on what is Street Law and its application.

Students from the Queen Mary University, James Donkin and Kayana Smith, attending virtual classes at the Legal Aid Clinic, Hugh Wooding Law School as part of the exchange programme between both institutions.

From left: Mr. Roshan Ramcharitar, Ms. Gail Persad, Mr. Ashook Balroop, Ms. Meghan Mizen, Mr Jerome Herrera, Mr. Marlon Moore, Ms. Frances Ridout, Mr. James Donkin, Ms. Kayana Smith and Ms. Barbara Lodge-Johnson. Photo taken during commemoration of Divali celebrations at the Hugh Wooding Law School and farewell to our guests from the Queen Mary University.

From left: Mr. Ashook Balroop, Attorney-at-law/ Director of the Legal Aid Clinic, Ms. Frances Ridout, Director of the Legal Advice Centre, Queen Mary University, Ms. Meghan Mizen, Street Law Manager, Queen Mary University and Mr. Jerome Herrera, Attorney-at-Law/Tutor, Legal Aid Clinic.

For the upcoming term, the Clinic will continue its mandate and will be actively pursuing additional opportunities to partner with its stakeholders as we endeavour to fulfil the Council's vision: **"To be a world leader in higher education through innovation, creativity and relevance in a system of practical legal education that is rooted in our history as a Caribbean people and is designed to enhance the practice of law and the jurisprudence of the Caribbean; to empower our people; and develop our societies throughout the 21st century**".

Click the image to look at the video:

The video shows events from the 1st December 2023 where the students of the Human Rights Law Clinic hosted a series of activities on the theme, "Justice Connect: Bridging Law and Humanity!". The students invited representatives from several civil society organisations (CSOs) to set-up 'booths' in the dining hall and sub-moot area of the Hugh Wooding Law School and allowed our staff and students to learn more about the work of these organisations and to sign-up to volunteer and/or become activists for some of these causes. Students from the UWI St. Augustine Faculty of Law, and three local high schools namely, St. Augustine Girls, Lakshmi Girls and Hillview College were also in attendance. As part of the initiative, the students asked for a donation of one canned food item to compile hampers for needy families identified by some of the CSOs, as part of their project. Panel discussions were also held by the Living Water Community on Refugee Law and the "Fight Against Violence Against Women: Celebrating the Girl Child" by Ms. Liselle Guerin, Attorney-at-Law and Course Director of the Hugh Wooding Law School.

FOR FURTHER INFORMATION, THE CLINIC CAN BE CONTACTED AT:

Mailing Address:	**Telephone:**		
The Legal Aid Clinic Hugh Wooding Law School, 100-114 Gordon Street, W.I.	1 (868) 235- 4957/4958/4959 Exts 238, 306 or 303	**Fax:** 1 (868) 662-9607	**E-mail:** legalaidclinic@hwlsedu.com

Publishing for the Caribbean Legal Sector

Alice Besson, Paria Publishing Co. Ltd

“Hi Jim, this is Paria Publishing from Trinidad and Tobago in the West Indies. How is the weather in Massachusetts? Listen, we need to source 500 red leather-covered binders with custom gold foiling for the Judicial Education Institute, you know, like last time?”

“We are so sorry, Alice, but our landlord has given us notice and our premises are going to be converted into a marijuana farm. Our machines are already being dismantled and we don’t know where we will go.”

“Oh no, that’s terrible!” Oh no indeed. But then comes a call from Diane Nurse-Gittens, judicial librarian with a brilliant institutional memory:

“Alice, I located 1,000 empty binders, already gold foiled, still in boxes in our store room. Would those do?”

“OMG, yes! Fabulous! We are saved!”

This was just one adventure in Paria Publishing’s journey of assisting both the Judiciary of Trinidad and Tobago and the Caribbean Court of Justice in its publishing efforts—a wide-ranging consultancy that encompassed various aspects of publishing, from research and writing to editing and proofreading, and of course the design and production of the actual books, e-books, legal binders and magazine-type publications.

Paria Publishing is a small, family-owned publishing house based in Trinidad and Tobago, founded in 1981 by Gérard A. Besson. Jerry, as he was known, was at the time an advertising executive with a thriving agency business. Named for the Gulf of Paria, his publishing house set out to create a published historiography of Trinidad and Tobago, and published many authors in that field. When Jerry’s son Dominic and I, Alice, joined the business in the late ‘90s, and with the rapidly emerging technological advancements like e-books and digital print-on-demand, we also became producers for self-publishers—including the Judicial Education Institute, the CCJ Academy for Law and the Industrial Court, all in Trinidad and Tobago.

No Legal Knowledge Required

Does publishing for the judicial sector require legal knowledge? I want to say no (I certainly don’t have any) but it does require knowing some aspects of what those who work in the legal sector need. Take, for example, accessibility to and searchability of data. Our dream is that each legal publication we do, be simultaneously available in print, as an e-book, as a raw data website, and in a smartphone-friendly version. Yes, Braille would also be an asset, as would be audio—maybe one day we will also start providing these options? And of course, all e-publications should have clickable navigational elements and hyperlinks to third-party sources. There is a world in the making when simultaneous translation of all English materials into Spanish, French, Dutch is on the horizon—the CCJ will be so pleased! AI, artificial intelligence, while painting a somewhat ominous future, will have its merits in that regard and become a standard tool for legal publishing, making accessibility and searchability so much easier. (We actually used an AI app this year called “Fixmyphotopro.com” to enhance the very pixely, low resolution images for the CCJ’s publication *Legendary Caribbean Legal Practitioners*. The results were stunning, but beware – AI changes the shape of spectacles quite willy-nilly, and while some of the older pictures were gorgeous, one really couldn’t be sure if the person really looked like that!)

The amazing improvement in picture quality that AI (artificial intelligence) can provide

Sometimes artificial intelligence goes a little too far—it "imagines" people to look a certain way, but we can't really be sure! We eventually opted for a better quality photograph of him as an older man.

Did we ever produce all of the above for any of the legal publications that we did? No, we did not—who would have that kind of money! Certainly not the budget-starved judicial sector of Caribbean countries that already does so much with so very little. But that doesn't mean that we don't keep the goal in mind, and examine each publishing project for its possibilities. Some steps have been taken already: utilising print-on-demand, for example, which allows distribution from international fulfilment centres, one book at a time. This came in handy for the CCJ's book *Legal Dimensions Arising from The Covid-19 Pandemic*, published in November 2020, which needed to be shipped to various Caribbean territories at the height of the pandemic. Or the simultaneous publication of CAJO's *Criminal Bench Book for Barbados, Belize, and Guyana* as an e-book and as a hardcover publication. There are also commercial opportunities here for the legal educational institutions themselves: easy online selling of books via those fulfilment centres are a click of the mouse away, which would bring in US-dollar revenue.

'Tis a Question of Style

Publishing for the judicial and legal sector is also a question of style, which, honestly, was a little unexpected for us as designer, who expected that everything legal is just word-heavy, and that while it needs to be precise, style would be secondary. But think about it: design is a means to an end, and coming from a place of authority, it is important that everything published by the judicial sector communicates excellence, care, attention to detail.

Judicial publications are not only allowed to look aesthetically appealing—who doesn't like a nicely designed book—but rather, it is functionally important that they do, because a top-notch production lends their content gravitas and credibility. Hardcover binding, expensive paper stock (e.g. laid paper), full colour printing, gold-foiling on the cover: a thoughtful design and good-quality production reflects the value of the content to society as well as the eminence of the writers, contributors, and persons featured in the book.

When I look back at the Judicial Education Institute's Distinguished Jurist Lecture Series books, or the CCJ Academy for Law's Eminent Caribbean Jurists Series™, those are books that portray a group of women and men who were, and are, the architects of the laws of man in the Caribbean. They uphold the balance of the scales of justice, and books that are by or about them need to reflect this unique responsibility and celebrate their qualities—like tenacity, sacrifice, genius, service, beauty.

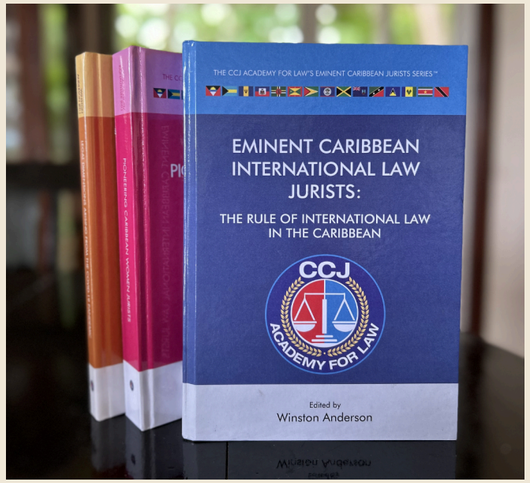
Strange Flowers of Correctitude

As many who have worked with Paria Publishing know, I am German and came to the Caribbean in 1994 pursuing an academic research project, and I am glad to report that certain German traits, like obsessive-compulsive proofreading, come in quite handy when producing books for the judicial and legal sector. Nothing gives me more pleasure than a kindred spirit in the Judiciary or Courts calling me and requesting that a line on page 568 be indented a fraction of an inch to line up better with point 3.2.2.1 (A) iv(a) above. That's what makes the publication perfect. That's what we want to achieve.

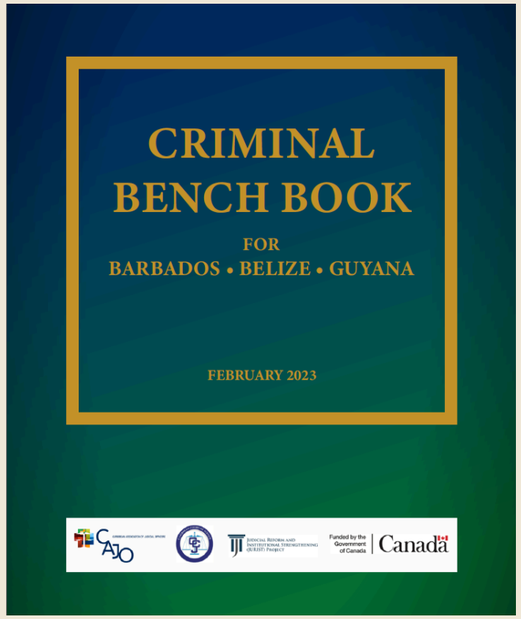
While it would be ideal to have someone with a legal education to proofread legal publications, we have realised that we can help. In some instances, like for the CCJ publications in their Eminent Caribbean Jurists Series™, we got experienced academics like UWI Prof. Emerita Bridget Brereton to streamline the many honorifics of the jurists featured in the book, and keep an eye on proper citation in the footnotes.

We once noticed in another manuscript that while great care had been taken by the internal editor to faithfully list the often long and complicated names of trade unions, the names of corporate entities had slipped through the cracks here and there. Having worked for 25+ years on annual reports and corporate publications, were able to assist with that and in the end, all entities mentioned had their proper names listed.

It may have been a strange flower of correctitude on our part, but we felt that in a small way, we had contributed something valuable.



The CCJ Academy for Law's Eminent Caribbean Jurists SeriesTM celebrates the flowers of the judicial and legal sector in the region in a series of hardcover books.



The CAJO's Criminal Bench Book for Barbados, Belize, and Guyana

A very strange flower was a project whereby we were asked to recreate a large quantity of forms used by the Judiciary. At first it looked like a straightforward layout job. But then we realised that some of the forms weren't really optimal — their wording didn't match, there were lots of spelling mistakes, they were inconsistent in how they dealt with date formats etc. We happily proofread the forms and made little alterations here and there to make them more user-friendly (UX – User Experience – being the Alpha and Omega in our profession!). Well, who told us to do THAT? We had to undo all our corrections, as these were legal documents that had obviously once been prepared in the era of typewriters, and they needed to stay as they were. Including, I am still sad to report, the spelling errors … they had all found their way into the legal field and once on a form, always on a form! Ahhh, let that be a lesson to future publishers and layout artists: it's very easy to make a mistake in the judicial arena, and very hard to get rid of it, even decades afterwards!

Summary

We are extremely proud of being producers of legal publications. Working on these books, which are an indispensable component of the judicial and legal sector, gives us a sense of meaning, of playing a pivotal role in knowledge dissemination, legal education, and the evolution of legal thought. We have become conscious that legal publishing in the Caribbean is pivotal, as the individual nation-states and their legal sectors are comparatively young and evolving, and legal education and information are important building blocks of nation-building. We are honoured to have had the opportunity to contribute to this process with our work.

Alice Besson is a journeyman photographer and holds a Master's Degree in Social and Business Communication from University of the Arts, Berlin. She is the Managing Director of Paria Publishing Co. Ltd. in Port of Spain, Trinidad, since 1998. Her specialty is research and writing of corporate and institutional histories as well as graphic design and production.

Dominic Besson is an experienced prepress technician and graphic artist of 25 years' experience, and a Director of Paria Publishing. His specialty is publication design and graphic arts.

Legal Publishing in a Nutshell:

1. **Dissemination of Legal Knowledge:** Document legal principles and precedents, provide critical analyses and commentaries that shape legal thought and practice.
2. **Access to Legal Information:** A fundamental tenet of the rule of law, facilitate transparency and empower legal professionals, scholars, and the general public to understand, interpret, and apply the law.
3. **Preservation of Legal Precedents:** The foundation of jurisprudence, aiding future generations in understanding the evolution of legal principles.
4. **Legal Education and Professional Development:** Cultivation of a well-informed and skilled legal community.

Challenges in Legal Publishing:

1. **Access Barriers:** High subscription costs for legal databases, journals and textbooks. Lack of inclusivity in publishing formats like Braille and audio books.
2. **Rapid Legal Developments:** Legislative reforms, court decisions, evolving societal norms can impact the relevance of legal materials.
3. **Quality and Credibility:** Ensuring the accuracy of legal publications, rigorous editorial processes, effective peer review, and adherence to ethical standards.
4. **Digital Transformation:** Improved accessibility and searchability, but also challenges related to data security and the authenticity of digital documents.

Digital Transformation in Legal Publishing:

1. **Online Legal Databases:** Platforms such as Westlaw, LexisNexis, and HeinOnline provide comprehensive databases of statutes, case law, legal journals, and other legal materials.
2. **Open Access Initiatives:** Initiatives like Legal Information Institute (LII) and Public Library of Law (PLoL) provide a wealth of legal materials without subscription fees.
3. **Electronic Court Reporting:** Enhances the speed of publication and accessibility. It also allows for the integration of multimedia elements, such as hyperlinks and audio-visual materials.
4. **Collaborative Online Platforms:** Blogs, legal forums and collaborative writing tools enable real-time discussions and the dissemination of legal insights.

International Perspectives on Legal Publishing:

1. **Comparative Law Publications:** Fostering cross-cultural understanding of legal systems, contributing to the development of international legal principles.
2. **International Legal Journals:** Discussion of global legal issues such as international human rights and transnational business law.
3. **Multilingual Legal Publications:** Efforts to translate key legal texts, treaties, and court decisions contribute to the accessibility of legal information across linguistic barriers.

Legal Publishing and Technological Innovations:

1. **AI:** AI-powered legal research tools, such as predictive analytics and natural language processing enhance the speed and accuracy of information retrieval.
2. **Blockchain:** Address issues of trust and authenticity in legal publishing by providing an immutable and transparent ledger, ensuring that published materials remain unaltered and authoritative.
3. **Interactive Legal Platforms:** Provide dynamic and engaging legal content, such as interactive case simulations, multimedia elements, and user-friendly interfaces.
4. **Smart Contracts and Legal Automation:** Streamlines routine legal processes and repetitive legal tasks.

Legal Publishing Ethics:

1. **Peer Review and Editorial Integrity:** Maintains the integrity of legal publishing by subjecting submissions to evaluation by experts in the field. Ethical editorial practices, including transparency and fairness, are paramount in ensuring the credibility of legal publications.
2. **Avoidance of Plagiarism:** Authors, editors, and publishers must uphold strict standards to prevent and address instances of plagiarism to uphold the originality of legal scholarship.
3. **Open Access and Public Interest:** Balancing the commercial viability of legal publications with the public interest in access to legal knowledge, such as open access initiatives and efforts to provide free legal information.
4. **Disclosure of Conflicts of Interest:** Authors and editors in legal publishing must disclose potential conflicts of interest to maintain transparency and avoid bias.

Redonda: The North Star How Ecosystem Rehabilitation Can Boost Sustainability for SIDS

Chelsea Dookie,
Judicial Counsel, CCJ

Nestled in the eastern Caribbean, Antigua and Barbuda boasts not only sun-kissed beaches and turquoise waters but also the small island of Redonda. Although a part of Antigua and Barbuda, Redonda is uninhabited, characterized by steep cliffs and rugged terrain. A tourist observing Redonda prior to 2016 could have called it a sorry sight due to the absence of a single characteristic of the beautiful Caribbean region, no resorts, no beaches, no amenities, no culture, no people.

Redonda's once barren landscape led to ecological degradation, rendering the island's ecosystem fragile. **Redonda was subjected to habitat destruction, soil erosion, and the proliferation of invasive species. These factors contributed to a decline in the island's biodiversity, with several native species struggling to survive**.

In 2016, ambitious environmentalists saw potential in Redonda and launched the **Redonda Restoration Programme** to breathe life into the island. The Programme was led by the Environmental Awareness Group and the Government of Antigua and Barbuda. The aim of the Programme is to **revive the island's ecosystem, protect native species, and promote sustainable practices**. One of the rehabilitative measures taken to bring Redonda back to life is the removal of invasive species such as rats and goats which wreak havoc on the island's flora and fauna.

CNN travel. https://edition.cnn.com/2023/09/29/travel/redonda-caribbean-restoration-wildlife-c2e-scn-spc-intl/index.html

Another measure is reforestation initiatives to combat soil erosion and rejuvenate Redonda's natural vegetation by reintroducing native flora to reconstruct ecosystems. And finally, there is increased focus on wildlife conservation. Redonda is home to unique and endangered species, including the Redonda ground dragon and several seabird species. Conservationists are implementing measures to protect these inhabitants, creating safe breeding grounds and monitoring their populations.

As Redonda undergoes environmental restoration, the project opens the door to economic opportunities for Antigua and Barbuda. The revived island has the potential to attract eco-tourists interested in witnessing the ecological transformation firsthand. This, in turn, can contribute to the local economy while promoting sustainable tourism practices.

Click the image above to play the video: Rewilding Redonda Island

Global Significance for Small Island Developing States (SIDS)

The restoration of Redonda is not only crucial for Antigua and Barbuda but also holds global significance. The success the project serves as a beacon of hope for other small islands grappling with environmental challenges. Redonda's journey showcases the importance of international collaboration and community engagement in preserving and restoring delicate ecosystems. **SIDS around the world can benefit significantly from small island restoration initiatives**. For example, the Maldives and the Seychelles which are highly vulnerable to climate change, manifesting in rising sea levels and extreme weather events can benefit from restoration efforts focusing on coral reef protection, mangrove restoration, and sustainable tourism practices. Other initiatives to support the environment and local economies include managing the populations of invasive species, and another example is Fiji which faces challenges such as coastal erosion, deforestation, and water resource management issues. Restoration programs can work towards reforestation, watershed protection, and sustainable agriculture practices, contributing to improved water quality and ecosystem health.

Closer to home, some Caribbean islands can take example from Antigua and Barbuda. Saint Lucia, known for its lush landscapes and coral reefs, can benefit from restoration projects focused on protecting marine ecosystems, promoting sustainable agriculture, and enhancing climate resilience to safeguard against the impacts of extreme weather events. Grenada, like many SIDS, faces challenges such as soil erosion and vulnerability to hurricanes and can benefit from reforestation, soil conservation, and community engagement to build resilience and ensure sustainable development. These examples highlight the diverse environmental challenges faced by SIDS and the potential benefits that restoration initiatives can bring to their ecosystems, economies, and communities.

It is notable that globally, there are several environmental restoration programmes which may provide support for SIDS in their environmental sustainability journeys. These include the Reef Resilience Network, the UNDP Pacific Risk Resilience Programme, the Caribbean Challenge Initiative, the Reef Resilience Network and Caribbean Biodiversity Fund. It is evident that there is a diverse range of environmental programs that aim to address the specific challenges faced by small island nations, fostering sustainable development and resilience in the face of environmental threats

Redonda, the North Star

Redonda, once a forgotten isle, has emerged from the shadows as a symbol of environmental resilience and commitment to conservation. **As Antigua and Barbuda continue their efforts to revive Redonda, the island stands as a testament to the positive impact of proactive environmental initiatives**. The story of Redonda is a reminder that even the smallest corners of our planet deserve attention and care as we collectively strive to protect and preserve the diversity of our natural world. Other SIDS around the world, can look to Redonda as a North Star and implement similar programmes to promote their sustainability.

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Caribbean Justice Gets a Hi-Tech Boost: CAJS Unveils AI Initiative for Modernising Legal Systems

Bevil Wooding, Executive Director, CAJS

The Caribbean Agency for Justice Solutions (CAJS) recently announced groundbreaking news that is set to bring the promise of Artificial Intelligence to courts in the Caribbean. This article takes a closer look into the issues, opportunities and promise of this pioneering development.

Introducing The AI Future of Justice

CAJS recently unveiled two powerful AI tools: **Aida and JUDI**. Aida, short for Adaptive Information Discovery Assistant, is a game-changer in legal research. Aida uses AI to streamline legal research processes, saving time and resources for legal professionals. The Caribbean Court of Justice (CCJ) will be the first to experience the revolutionary research power brought by Aida

In a collaborative effort with the Bahamas Industrial Tribunal (BIT), CAJS also introduced JUDI, short for Judicial Use of Data Insights. This innovative AI tool is designed to automate core court administrative functions, making court operations more efficient and accurate. These tools not only save considerable time and effort, they also redefine how justice is delivered.

AI Solutions to Real Problems

In the intricate Caribbean justice system, several challenges have long hindered the seamless delivery of justice. Two of the primary problems faced are the time-consuming and necessarily complex nature of legal processes. The introduction of the Adaptive Information Discovery Assistant (Aida) and JUDI (Judicial Use of Data Insights) by CAJS comes as a strategic response to these persistent issues.

Traditional legal research methods can often be laborious and time-consuming. The researcher must first have some idea (if not actually be aware of the existence and location) of the material or information they wish to access and mine. The researcher must then be able to accurately analyze, cross-reference and accurately apply the results of the research. This necessary work adds to the overall time it takes to prepare for and conduct court cases.

Aida steps in as a revolutionary yet easy to use tool designed to eliminate the requirement for that prior awareness and to supply readily the legal analysis, cross-referencing and application of the material. Aida therefore streamlines legal research processes, significantly reducing the time it takes for legal professionals to access and analyze crucial information. This not only expedites legal proceedings but also ensures that justice is delivered more swiftly to those awaiting resolution.

Additionally, accuracy, consistency, and currency are essential components for effective decision-making in the justice system. They can enhance the legitimacy of and increase public trust and confidence in the administration of justice. However, the immense volume of legal precedents and case law can overwhelm even the most seasoned judges and lawyers.

JUDI addresses this challenge by swiftly and accurately analyzing large datasets and providing dynamically curated responses.

The goal is to empower judges and legal practitioners with the tools they need to make well-informed decisions based on facts and legal precedents captured in local or regional case law. Another critical issue in the Caribbean justice system is the ease and affordability of access to legal services. Many individuals, particularly those in remote areas, face barriers to accessing justice due to cumbersome processes and limited resources. The CAJS seeks to support efforts to break down these barriers through the implementation of new AI-enabled tools.

What About ChatGPT?

By focusing on domain-specific functionalities, AI can provide targeted solutions for courts, law enforcement, prisons administration, and legal aid services. The AI tools being introduced by CAJS are an example of this specialization. This contrasts with tools like ChatGPT, Bard and Bing AI, which offer a more generalized approach. While consumer-oriented AI tools are versatile and applicable across various domains, including legal contexts, they do not possess the same level of specificity as domain-specific AI tools.

It is important to note that broader AI applications also come with their own set of risks. One significant risk associated with generalized tools like ChatGPT is the potential for AI hallucination. AI hallucination occurs when the tool generates responses that may sound plausible but are not based on factual information. This becomes particularly crucial in legal contexts where precision and accuracy are paramount. In contrast, CAJS's AI tools constrain responses to well-defined legal parameters, prioritizing accuracy and reliability. This approach addresses the unique challenges and concerns within the legal and justice domains.

Why Does It All Matter?

There is something very profound that lies beyond the hype of flashy AI technology.

At the heart of these initiatives is a commitment by the CAJS to catalyze the modernization of justice sector institutions. Its goal is to comprehensively address the diverse set of challenges impacting justice delivery in the region.

CAJS, from its inception, has taken a whole-sector approach, working with judiciaries, legal education bodies, alternative dispute resolution firms and law enforcement. This approach has resulted in an track record of both technological and service innovation. Now, with its new AI tools, it is raising the bar even higher and, in the process, is helping to make the justice system work better for everyone.

The Hon Mr Justice Adrian Saunders, President of the CCJ and Mr Bevil Wooding, Executive Director of CAJS

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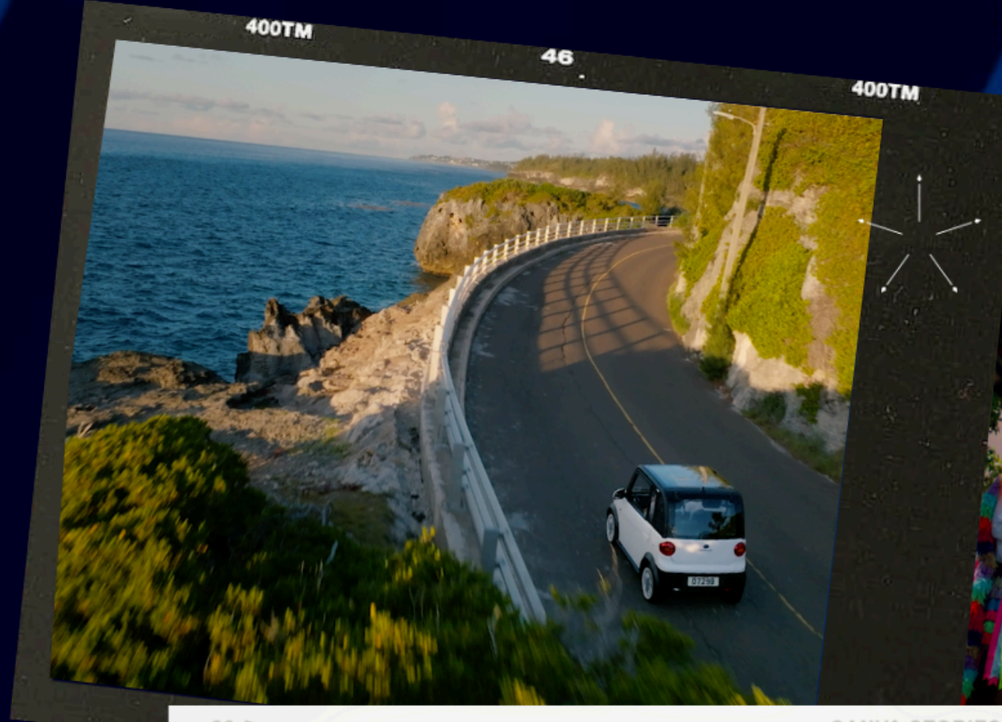

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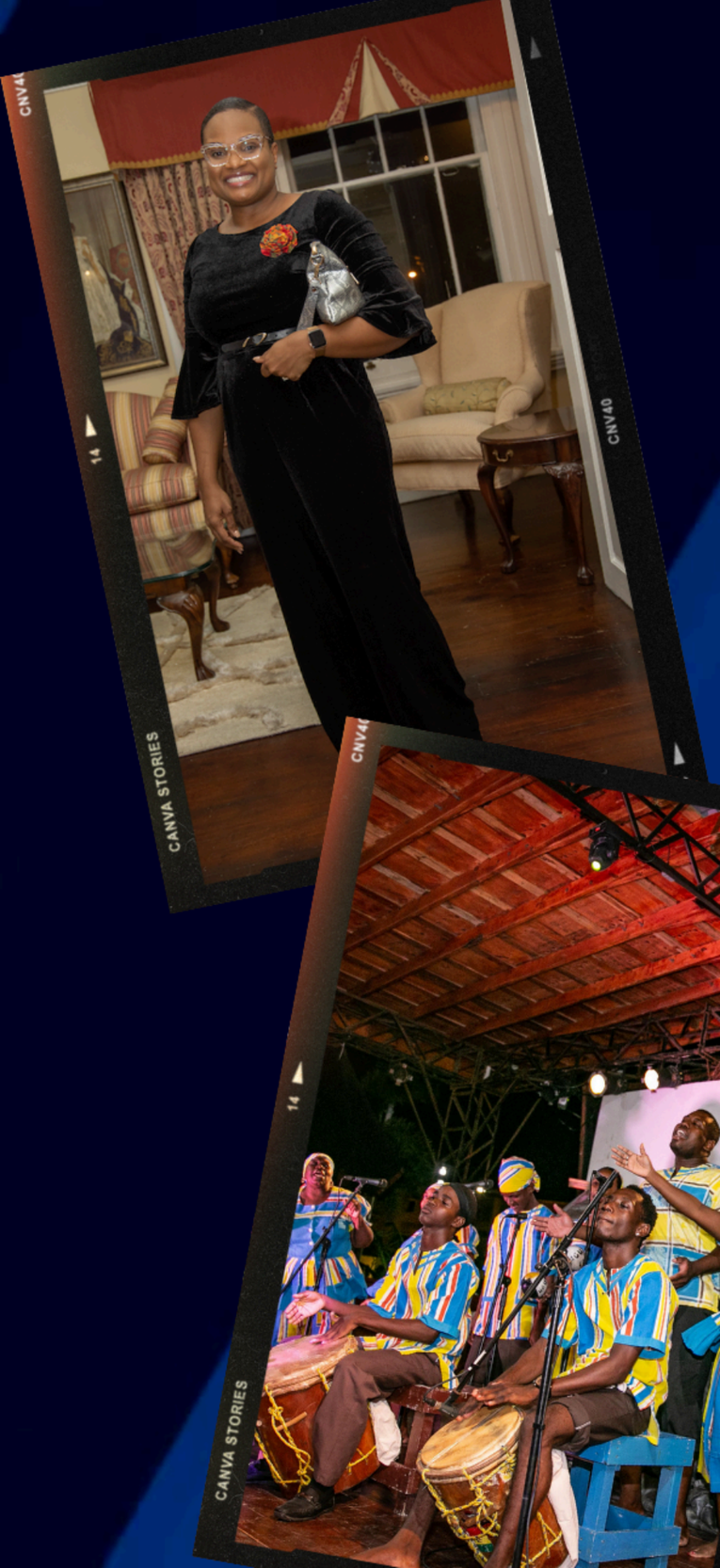

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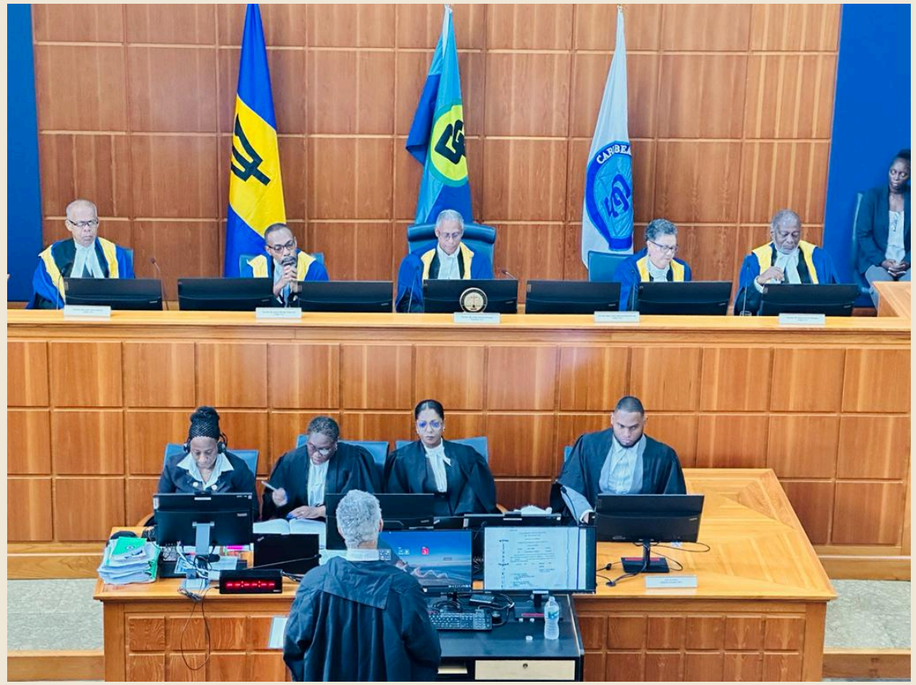
The Caribbean Court of Justice's Mission to Barbados

Caribbean Court of Justice (CCJ)

The Caribbean Court of Justice is an itinerant court. As such, it can sit in any of the twelve countries that signed the Agreement Establishing the CCJ. It is against this backdrop that the Court sat in Barbados on Monday, 16 October 2023, to deliver a judgment and hear appeals. In his opening remarks before the start of the day's matters, the Hon. Mr Justice Adrian Saunders, President of the CCJ indicated that "the people of Barbados have long demonstrated their high regard for and confidence in the CCJ. The very first matter heard by the CCJ in 2005 was a case from Barbados. Since then, in its Appellate Jurisdiction, the Court has received 123 more cases from Barbados. Another notable first that should be recognised is that the Court held its first itinerant sitting, here in Barbados in 2012. And we returned in 2013, the last time we sat here in person, for a hearing in one of the more important cases the Court has heard in its Original Jurisdiction." Sitting in another Member State is a mutually beneficial activity because it helps to improve public awareness of the Court, its work, and relevance to the pertinent society and the wider region; allows the citizens and residents of the particular country to see their final court of appeal in action and facilitates greater accountability and transparency. As Mr Justice Saunders affirmed, "**most importantly, these itinerant sittings afford litigants, potential litigants and members of the public from all walks of life the opportunity to see the Court at work up close; to see our Judges in the flesh as they engage upon the adjudication process**." While in Barbados, the CCJ's Registry officials also had the opportunity to obtain a first-hand understanding of the domestic court's registry processes and engage in knowledge sharing and informational exchanges.

While in Barbados, **the Court continued its Original Jurisdiction/ Referral Sensitisation and Training programme through sessions with the Barbados Chamber of Commerce and Industry and the Bar Association of Barbados**. These sessions form a key aspect of the overall public education efforts which are being supported by the 11th European Development Fund (EDF). Her Excellency The Most Honourable Dame Sandra Mason, President of the Republic or Barbados, attended the session with the Bar Association, which featured presentations from the CCJ President and Judges on "Reporting of activities suspicious of money laundering: erosion of attorney-client confidence", "The line between criticism and contempt: attorneys and defamation of Judges", and "assistance to the Court in respect of RTC Article 214 Referrals". Over two hundred attorneys and other specially invited guests attended this session at the Lord Erskine Sandiford Centre.



The CCJ's Itinerant Sitting in Barbados

From 18-20 October, Attorneys General, Ministers of National Security, Heads of Judiciaries, judicial officers, Directors of Public Prosecution, Commissioners of Police, Commissioners of Prisons, criminal defence attorneys, law students, and members of civil society from across the region convened at the Hilton Barbados Resort, Needham's Point, Bridgetown, Barbados for the CCJ Academy for Law's 7th Biennial Conference. Themed "Criminal Justice Reform in the Caribbean: Achieving a Modern Criminal Justice System", the Conference aimed to effect improvements in the criminal justice systems in the Caribbean by bringing together stakeholders to develop practical solutions to address the issues plaguing criminal justice.

According to the Chairman of the Academy, the Hon. Mr Justice Winston Anderson, CCJ Judge, the theme of the 2023 conference was selected in "**recognition of the real and pressing need for comprehensive reforms within the criminal justice system of the region. The aim of the conference is to explore and address the challenges and opportunities associated with achieving a more effective, fair, and efficient criminal justice system in the Caribbean region.**"

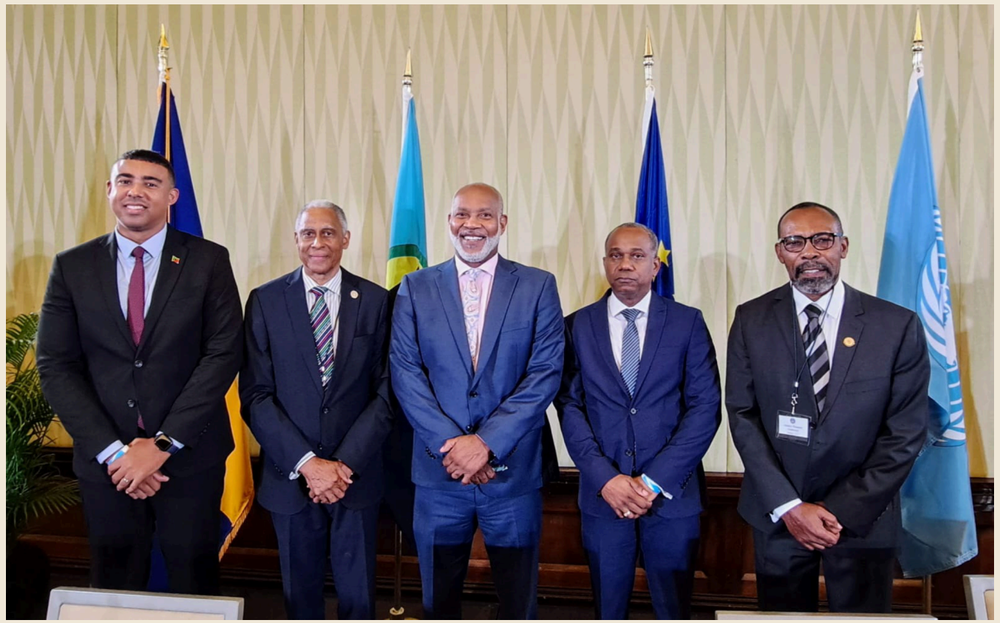
The Hon. Mr Justice Winston Anderson, CCJ Judge and Chair of the CCJ Academy for Law, delivering remarks.

The Hon. Mme Justice Lisa Ramsumair-Hinds of Trinidad and Tobago poses a question during one of the panel discussions.

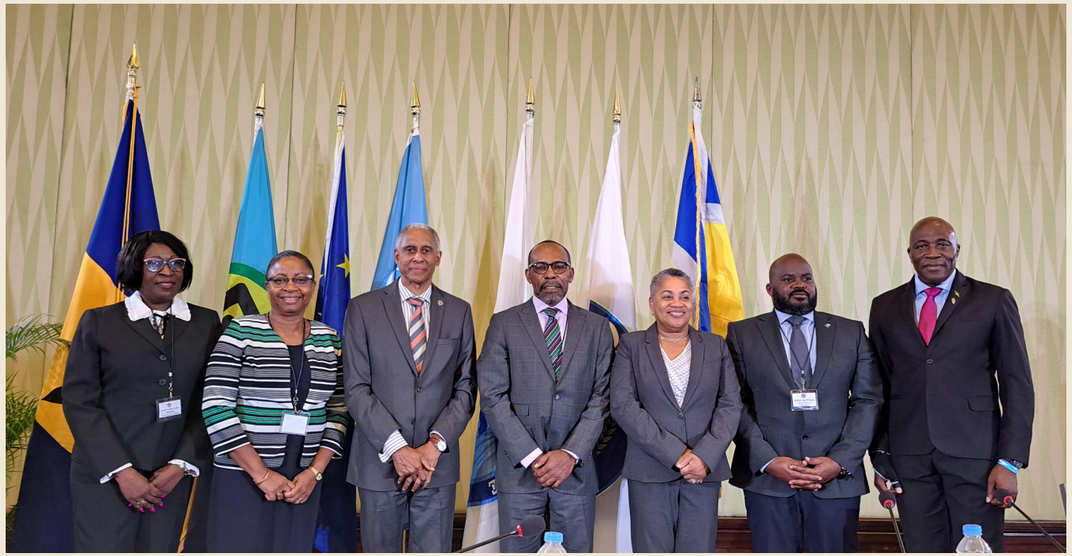
In his opening remarks at the Conference, the CCJ President affirmed that "**we must first recognise that the criminal justice system is an intricate network of actors and systems, comprising multiple stakeholders. We have police, and prisons, and prosecutors; lawyers and judges; courts and legislatures; probation and welfare departments to name a few. Each has their own role, and jurisdiction, and priorities**." The conference, therefore, "is driven by a common concern for the need to find solutions by and among these stakeholders…The idea is not simply to facilitate another talk shop. but rather to propose progressive and effective ways to grapple with the problems in the clear belief that the people of the region deserve better and are capable of doing better."

A Declaration, aptly titled the Needham's Point Declaration on Criminal Justice Reform, comprised experiences, best practices and recommended actions was adopted by the participants as a commitment to improving criminal justice. Some of the broader areas highlighted in this Declaration include policy interventions, legislative interventions, prosecution and police, representation and support for the accused, victims/survivors charter of rights and judicial interventions. The Declaration can be accessed here: https://www.ccjacademy.org/wp-content/uploads/2023/11/NEEDHAMS-POINT-DECLARATION.pdf

A unique addition to the 2023 CCJ Academy for Law Conference was the Regional Town Hall which took place on Wednesday 18 October.



CCJ President, the Hon. Mr Justice Adrian Saunders (2nd from left) and the Hon Mr Justice Winston Anderson, CCJ Judge and Chairman of the CCJ Academy for Law are joined by Senator the Hon. Garth-Lucien Wilkin, Attorney General of Saint Kitts and Nevis; the Hon. Dale Marshall, SC, Attorney General of Barbados and the Hon. Leslie Mondesir, Attorney General of Saint Lucia.



CCJ President, the Hon. Mr Justice Adrian Saunders (3rd from left) and the Hon. Mr Justice Winston Anderson, CCJ Judge and Chairman of the CCJ Academy for Law (centre) are flanked by some of the Chief Justices in attendance at the Conference. From left, the Hon. Mme Justice Louise Blenman, Chief Justice of Belize; the Hon. Mme Justice Roxane George-Wiltshire, Chief Justice (ag) of Guyana; Her Ladyship, the Hon. Dame Janice Pereira, Chief Justice of the Eastern Caribbean Supreme Court; the Hon. Mr Justice Sir Ian Winder, Chief Justice of the Bahamas and the Hon. Mr Justice Bryan Sykes , Chief Justice of Jamaica.

The Hon. Mr Justice Bryan Sykes, Chief Justice of Jamaica, moderating one of the panels at the Conference.

CCJ Case Summaries

Decisions Handed Down in 2023

Prepared by Laurissa Pena, Judicial Counsel,
CCJ and Executive Manager, CAJO

For full Judgements, visit the CCJ's website at **https://ccj.org/judgments-proceedings/**

Appellate Jurisdiction

Orwin Hinds & Cleon Hinds v The State [2023] CCJ 1 (AJ) GY

This was an appeal from Guyana. The appellants, Orwin Hinds and Cleon Hinds were involved in a joint enterprise to murder Clementine Fiedtkou-Parris ('the deceased') for the payment of money, contrary to s 100(1)(d) of the **Criminal Law (Offences) Act** ('the Act'). The appellants were found guilty of murder and sentenced to 81 years without eligibility for parole before 45 years. The appellants appealed their sentences and convictions imposed by the High Court to the Court of Appeal. The Court of Appeal upheld the convictions but reduced the appellants' sentences to 50 years. The appellants appealed their sentences and convictions to the Caribbean Court of Justice ('CCJ').

The main issues in this appeal were: (1) whether the decision of the jury to rely on the oral and written confessions of the appellants should be overturned as there was evidence that the confessions were obtained under duress and were untrue; (2) in relation to Cleon, whether the trial judge ought to have warned the jury on the danger of relying on his written confession as there was no other confirmatory evidence; and (3) whether the sentences imposed by the Court of Appeal were excessive and impermissible under the Act. The CCJ dismissed the argument that the jury should not have relied on the confessions, finding that it was virtually impossible to overcome a jury's decision as to who or what to believe unless it could be shown that their decision was perverse. **The CCJ found that the reasonableness of the jury's decision could not be doubted as it was not proven to be perverse**. In relation to the second issue, Cleon submitted that as his written confession was the only evidence against him, the trial judge ought to have warned the jury on the danger of relying on the statement since there was no other confirmatory evidence. The CCJ held that there was no requirement in law to deliver such a warning.

On the issue of sentencing, the CCJ noted that murder for pay was one of the worst murders under s 100(1) of the Act and that persons found guilty of this offence shall be sentenced to death or imprisonment for life. Where a sentence of life imprisonment is imposed, the Act set out that the Court shall specify a period which the person should serve before becoming eligible for parole, this period shall be not less than 20 years. The appellants submitted that ***Alleyne v R [2019] CCJ 06 (AJ) (BB)*** established that a sentence of life imprisonment amounted to a term of years of imprisonment, usually 25 years, therefore the sentencing court ought to have imposed that sentence. In practice, the sentence of 50 years was a more severe sentence than the maximum sentence of life imprisonment.

In response to these submissions, the CCJ reiterated that life imprisonment means a sentence of imprisonment for life and the convicted person has no right to be released. The fact that the parole system can result in the convicted person being released and not dying in prison did not alter the duration of the life sentence. The CCJ held: (1) a sentence of life imprisonment is the maximum sentence and the court had no power to impose a sentence more severe than the maximum sentence; (2) the maximum sentence carries with it a statutory entitlement to be considered for eligibility for parole; (3) that eligibility arises after a period of 20 years (in Guyana) or such later period as a court may fix; and (4) a court has no power to impose a sentence of 50 years imprisonment (or any determinate period) that would exceed the sentence fixed by the Act. The sentence was held to be unlawful as no minimum period was set before the appellants were eligible for parole. The Court found that the period of eligibility for parole should be set at the minimum of 20 years for both appellants and mitigating factors, could not operate to reduce that.

The CCJ allowed the appeal, set aside the sentence imposed by the Court of Appeal, and imposed life imprisonment with eligibility for parole after 20 years imprisonment.

Jamar Dwayne Bynoe v The State [2023] CCJ 2 (AJ) BB

This was an application for special leave from Barbados. The applicant, Jamar Dwayne Bynoe was convicted of six counts of murder. The applicant appealed his conviction to the Court of Appeal, which upheld his conviction. The applicant then applied for special leave to appeal the decision of the Court of Appeal to the Caribbean Court of Justice ('CCJ').

The main issues in this application were: (1). whether the applicant would be allowed to advance new proposed grounds of appeal at this stage; and (2) whether the trial judge ought to have enquired from the applicant at trial, in circumstances where the applicant challenged the authenticity of his signature, whether he wished to appoint an expert witness to give evidence on the authenticity of his signature. In the application for special leave, the applicant sought to advance new proposed grounds of appeal. The CCJ refused to allow the applicant to advance these new grounds of appeal as it held that to allow the applicant to introduce new grounds of appeal at this stage would be an abuse of process and would violate the fundamental principle of the judicial process which requires that a litigant put his whole case forward on appeal. In the absence of exceptional circumstances or a miscarriage of justice, a final appellate court ought not allow grounds to be argued before it which were not argued before the Court of Appeal.

Counsel for the applicant further submitted that the trial judge had a duty in circumstances where the applicant disputed the authenticity of his signature on his statement to ask the applicant if he wanted to appoint an expert to give evidence. The CCJ found that there was no duty for the trial judge to ask the applicant if he wanted to appoint an expert to give evidence on the authenticity of the signature as the applicant had a right against self-incrimination. If the trial judge were to have asked the applicant if he wanted the assistance of an expert, the judge would have been violating the applicant's right to silence and, further, gambling with the applicant's fate. **The CCJ therefore dismissed the application for special leave**.

Basil Williams v Prithima Kissoon, Guyana National Newspaper Ltd., the Attorney General of Guyana [2023] CCJ 3 (AJ) GY

This was an application for special leave to appeal from Guyana. Prithima Kissoon, the respondent brought an action for defamation against Basil Williams, the applicant in his personal capacity. The applicant was the former Attorney General of Guyana. The issue was whether special leave should be granted.

The High Court struck Mr Williams from the claim in his personal capacity, stating that it was contrary to the **State Liability and Proceedings Act Cap 6.05** ('The Act'.) Thereafter, on appeal by the respondent to the Full Court of the Supreme Court, the Full Court restored the applicant to the suit in his personal capacity. The Full Court comprised of two judges, one of whom was the respondent's brother-in-law. The applicant, dissatisfied, applied for leave to appeal to a judge in chambers of the Court of Appeal, however this application was dismissed on the basis that the Judge in Chambers did not have any jurisdiction. The applicant then sought leave to appeal and an extension of time to appeal the decision of the Full Court to a full panel at the Court of Appeal. The Court of Appeal, having found that the intended appeal had no merit, dismissed the application.

Consequently, the applicant applied to the Caribbean Court of Justice ('CCJ') for special leave to appeal the decision of the Court of Appeal and to restore the judgment of the High Court striking him from the claim in his personal capacity. He argued that the composition of the Full Court justified him being granted special leave to appeal. In respect of the constitution of the Full Court, the CCJ found that the judge of the Full Court ought to have recused himself given his close relationship with the respondent who was at the time the appellant before him. Nevertheless, this issue was not determinative of the application for special leave.

The Court proceeded to assess whether the applicant met the test for being granted special leave, that test being whether the applicant demonstrates a realistic prospect of the appeal being successful i.e., that there appears to be an egregious error of law or there was a possible miscarriage of justice.

To determine the prospects of success of the appeal, the CCJ considered and interpreted ss 3, 9, and 10 of the Act. The Act was modelled after the United Kingdom's, **Crown Proceedings Act 1947** 'the UK Act' which was enacted to make the Crown vicariously liable in tort for the acts of their servants and agents. Section 2 of the UK Act and s3 of the Act impose liability on the Crown and State respectively in cases where torts are committed by the agents or servants of the Crown, or State as the case may be, in the course of the execution of their duties. The CCJ further stated that there was nothing in the Act or any authority that removed the right to sue the actual tort-feasors for acts or omissions in the performance of their duties as agents or servants of the State.

The CCJ found therefore that the Full Court of the Supreme Court was entitled and right to restore the applicant to the suit as a defendant in his personal capacity and therefore dismissed the application for special leave and made no order as to costs.

Caye International Bank v Rosemore International Corp [2023] CCJ 4 (AJ) BZ

This was an appeal from Belize. The appellant, Caye International Bank Ltd is an international bank, operating in Belize providing online banking services to its customers. The respondent, Rosemore International Corp, is a company registered in Panama, and was one of the appellant's online banking customers in accordance with a Depository Agreement and an Indemnity Agreement between the two.

The dispute arose when the appellant transferred USD $175,000.00 from the respondent's online account to a Canadian account belonging to Yaron David Walter ('Walter') without the respondent's authorisation or knowledge. On 30 March 2016, the respondent brought an action against the appellant for breaches of the Quincecare duty owed by the appellant to the respondent; as well as breaches of the Depository Agreement entered into between the two. The Quincecare duty consists both of a negative duty to refrain from executing an order once the bank is 'put on inquiry' that it's customer may be subject to a fraud, and a positive duty to do something more than simply not comply with a payment instruction. The appellant denied that the Quincecare duty arose in the instant case and relied on clauses in the Depository Agreement and Indemnity Agreement to support this position. Both the High Court and Court of Appeal found in favour of the respondent. The appellant appealed the decision of the Court of Appeal to the CCJ.

To determine the appeal, the CCJ considered five issues: (1) whether the appellant breached clause 14 of the Depository Agreement; (2) whether the appellant was in breach of its Quincecare duty; (3) whether clause 14 of the Depository Agreement excluded the appellant's liability for breach of its quincecare duty; (iv) whether clause 51 of the Depository Agreement excluded the appellant's liability for breach of its quincecare duty; and (v) whether the Indemnity Agreement indemnified the appellant against liability for breach of its quincecare duty.

To decide the first issue, the CCJ considered clause 14 of the Depository Agreement which provided that:

'*Account Holder may, upon verification of signature or upon identification satisfactory to Bank, authorize wire transfers to and from the Account. All outgoing wire transfers must be from accounts on which the Account Holder is an owner. No third-party requests will be processed*'.

The CCJ adopted the modern objective and contextual approach to contractual interpretation set out in ***Kayman Sankar Blairmont Rice Investments Inc v Kayman Sankar Co Ltd [2021] CCJ 7 (AJ) GY*** ('the Blairmont approach'). The Blairmont approach requires the Court to ascertain the objective meaning of the language which the parties have chosen to express their agreement. Applying this approach, the Court found that clause 14 was not breached as the appellant followed the proper verification and identification processes set out by that clause.

In respect of the second issue, the CCJ found that the appellant was subject to the Quincecare duty set out in ***Barclays Bank plc v Quincecare Ltd [1992] 4 All ER 363***. The CCJ considered that the transaction was unusual as the transfer request came from an unfamiliar domain and there were observable differences between the signature on the wire transfer form and Connor's signature. Accordingly, the CCJ found that appellant ought to have contacted Connor to verify the legitimacy of the instructions before executing same. The CCJ found the appellant breached its Quincecare duty as it did not exercise the skill and care of a reasonably prudent banker.

The CCJ then considered clause 14 (above) and clause 51 of the Depository Agreement to determine whether it excluded liability for breach of the Quincecare duty.

Clause 51 provides: '*The Bank shall not be liable to Account Holder for any action taken or not taken by it under the terms of this document unless directly caused by the Bank's gross negligence or wilful misconduct*'.

The CCJ held that the **Blairmont** approach required the Court to consider whether a reasonable outside observer would think that the respondent was likely to have agreed to give up its valuable quincecare right except by clear words to that effect. Clauses 14 and 51 did not expressly exclude negligence or the Quincecare duty. The Court was therefore of the opinion that a reasonable observer would not believe that the respondent agreed to give up its quincecare right without clear words to that effect as it would be contrary to business common sense, the Court concluded that clauses 14 and 51 did not exclude the duty

The Court applied a similar interpretational approach as it relates to the Indemnity Agreement. As the Indemnity Agreement did not expressly indemnify for breach of the quincecare duty the CCJ held that it must be interpreted as not indemnifying against such a liability.

The CCJ therefore dismissed the appeal, confirmed the order of the Court of Appeal, and ordered that the appellant pay the cost of the appeal to the respondent.

Anand Kalladeen, Anand Sanasie v Roger Harper, Davteerth Anandjit, and Bradley Fredericks [2023] CCJ 5 (AJ) GY

This is an application for special leave to appeal the judgment of the Court of Appeal which upheld the High Court's decision that it has inherent jurisdiction to amend a final order in concluded High Court proceedings. The applicants, Anand Kalladeen and Anand Sanasie, were members of the Demerara Cricket Board ('DCB'). The respondents, Roger Harper and others were members of other Guyanese cricket boards. The issue was whether special leave should be granted.

On 20 June 2019, in proceedings brought by the respondents Singh J in the High Court ordered that the term of office for DCB members had ended ('the Order'). In the Order, Singh J set out a timeline for a list of delegates to be submitted, for elections to be convened and a returning officer to be elected; DCB elections were to be held by 11 August 2019; and the number of voting delegates was to be in accordance with the Guyana Cricket Administration Act ('the Act').

The applicants appealed Singh J's decision to the Court of Appeal and that appeal is pending. On 9 August 2019, by consent, Persaud JA granted an interim stay of execution of the Order. The applicants also challenged the constitutionality of the Act and in these constitutional proceedings, Gregory JA suspended provisions of the Act which Singh J had relied on in making the order. While the appeal of the Order of Singh J was pending, the stay was in operation and provisions of the Act were suspended, the applicants seized the opportunity to convene DCB elections and an Executive Committee was elected in January 2020 for a term of two years.

On 22 September 2020, the order of Gregory JA suspending provisions of the Act was discharged and on 1 February 2021, Persaud JA granted the applicants leave to withdraw and discontinue the summons for the stay of execution of the Order.

On 2 February 2021, the respondent filed an urgent notice of application before Singh J in the previous High Court proceedings to vary the timelines in the Order so that same could be enforced. Singh J granted the application and adjusted the timelines set out in the Order.

The applicants appealed Singh J's decision to vary the timelines in the Order to the Full Court and to the Court of Appeal, in both instances the appeal was dismissed. The applicant then applied for special leave to appeal to the Caribbean Court of Justice ('CCJ'). The applicants argued that Singh J had no jurisdiction to amend the Order as: (1) he was functus officio and the Order was the subject of an appeal; (2) the courts below erred in determining that the application to vary the timelines in the Order constituted enforcement proceedings; (3) that the Court of Appeal erred in failing to consider the impact of the amended order on the pending appeal; (4) that Singh J considered fresh issues of fact and law in determining the application to adjust the timelines; (5) that the holding of DCB elections within four days from Singh J's variation of the timelines was unreasonable and unsupported by law.

The CCJ noted that an oral decision or order made by a judge is normally binding from the moment it is delivered. Once the order is recorded and perfected, the Court is functus officio and any dissatisfied party must appeal the decision. The CCJ considered ***BCB Holdings v Attorney General of Belize (2011) 78 WIR 4***, ***Guyana Bank for Trade and Industry v Alleyne [2011] CCJ 5 (AJ)*** **GY** as well as Rules 3.02(2), 3.02(3), 5.04(4), and 5.05(2) (b) Civil Proceedings Rules, 2016 and concluded that Singh J had jurisdiction to extend any time prescribed by an order upon application or on its own initiative.

The CCJ found that there was no evidence that any fresh issues were considered in determining the application and Singh J was under no legal obligation to consider what might ensue on the hearing of the appeal. He was entitled to render the Order effective for enforcement purposes.

The CCJ noted that the timelines did seem to be aggressive but there was no evidence that the timelines were unreasonable. The CCJ noted that the hearing was inter partes so that the exercise of the judge's discretion should not be called into question.

The CCJ noted that an oral decision or order made by a judge is normally binding from the moment it is delivered. Once the order is recorded and perfected, the Court is functus officio and any dissatisfied party must appeal the decision.

The Court therefore dismissed the application for special leave and ordered the respondents to pay the applicant's costs.

Larry Pierre Tatem v Katherine Tatem [2023] CCJ 6 (AJ)BB

This is an application for special leave to appeal the decision of the Court of Appeal refusing to stay enforcement of an order committing Larry Pierre Tatem, the applicant, for his contempt in failing to pay maintenance to his former wife, Katherine Tatem. The committal order was made on 16 September 2020 by Worrell J who ordered that the applicant shall by 15 March 2021 pay the sum of BBD $273,160.00 to the respondent, being arrears of maintenance, failing which he shall be committed to prison for a period of 28 days ('the committal order'). The issue was whether special leave should be granted.

The applicant appealed the committal order and also applied to the Court of Appeal for a stay of enforcement, pending the hearing of the substantive appeal. The reasons relied upon by the applicant for the stay was that he could not pay the maintenance as he had no assets; he had already paid another substantial maintenance sum with the assistance of family and friends; he was undergoing counselling, and he was in no psychological state to work. However, no evidence was provided to support his inability to pay. The Court of Appeal refused the stay as it found that it had no merit and the substantive issues raised in support of the application for a stay were issues that the Court of Appeal had roundly rejected when they heard an earlier application for a stay in other similar proceedings advanced by the applicant.

The applicant then sought special leave from the CCJ. In support of his application for special leave the applicant submitted that the Court of Appeal erred because (1) it ignored the order of the CCJ that the substantive appeal be heard as a matter of urgency; (2) it placed no or no sufficient importance on the fact that incarceration was the consequence of the order sought to be stayed; (3) it purported to find that the appeal had no prospect of success in the absence of the Judge's reasons and the transcript of the proceedings; and (4) it failed to consider the provisions of the Debtors Act Cap 198 and ignored the fact that the process of imprisoning persons for non-payment of judgment debts is open to constitutional challenge.

The CCJ dismissed the application and found that the applicant failed to show how the delay in hearing the substantive appeal affected the application for the stay. Additionally, there was an abundance of evidence upon which the Court of Appeal could conclude that the applicant's assertion that he could not pay the maintenance order was false, therefore the Court of Appeal need not proceed on the basis that incarceration was a result of the order; as it was a result of the applicant's failure to pay. Furthermore, the CCJ stated that the Court of Appeal found and was entitled to so find that the application for the stay had no merit whatsoever. In relation to the constitutionality of the stay, the CCJ held that it was open to the applicant to pursue that action by the appropriate procedure, it was not open to the Court of Appeal to anticipate such a challenge and stay the application before it. **The application for special leave was dismissed and costs were awarded to the respondent**.

Ramnarace Ramassar v Stella Scantlebury [2023] CCJ 7 (AJ) BB

This is an application for special leave to appeal the decision from the Court of Appeal of Barbados. The applicant, Ramnarace Ramassar, was a tenant of a property owned by the respondent, Stella Scantlebury. The respondent obtained an ejectment order against the applicant. The applicant subsequently appealed the ejectment order to the Court of Appeal and the Court of Appeal dismissed the appeal. The applicant then appealed to the Court of Appeal seeking leave to appeal the decision to the Caribbean Court of Justice ('CCJ'). The Court of Appeal dismissed the applicant's application for leave to appeal to the CCJ.

The applicant then sought special leave to appeal to the CCJ. The CCJ was of the view that the applicant appeared to have applied for a procedural appeal against the Court of Appeal's decision not to grant leave to appeal as well as a substantive appeal against the decision of the Court of Appeal to dismiss his appeal of the ejectment order. The issue was whether special leave should be granted. Regarding the procedural appeal, the CCJ held that there can be no appeal from the decision of the Court of Appeal refusing to grant leave to appeal. The remedy for those whose applications for leave are denied is to apply for special leave from the CCJ to appeal the substantive decision of the Court of the Appeal. In other words, the applicant could only appeal the substantive decision of the Court of Appeal to reaffirm the ejectment order and not the decision of the Court of Appeal not to grant leave to appeal such a decision.

The CCJ then turned to consider whether the appeal of the ejectment order had an arguable point of law of general public importance. The application considered s 13 of the Landlord and Tenant (Registration of Tenancies) Act Cap 230A ('the Act'). Section 13 of the Act required a landlord to produce a certificate of registration in order to obtain a warrant of ejectment against a tenant in respect of premises sought to be recovered.

The applicant argued that it was a point of public importance as to whether s13 of the Act should be interpreted to mean that a produced Certificate of Registration ought to be valid at the date of the tenancy or whether a Certificate of Registration obtained after the commencement of the tenancy but before its termination could suffice. The CCJ did not agree that the application raised any issue of public importance as in the circumstances of the case, there was no evidence that the Certificate of Registration was invalid at the date of the tenancy. **As such, the Court found that the applicant failed to satisfy the test for special leave and dismissed the application, with costs to the respondent**.

AB v The Director of Public Prosecutions [2023] CCJ 8 (AJ) GY

This is an application for special leave to appeal the decision of the Court of Appeal to affirm the sentence of the applicant imposed by the High Court. The applicant was charged and convicted of two counts of sexual activity with a child contrary to the **Sexual Offences Act Cap 8:03** (the Act). It was alleged that he engaged in sexual penetration with the child between 1 January 2016, 31 December 2016, and on 6 January 2017. At the material times, the child was seven and eight years old respectively. Upon conviction, he was immediately sentenced by the trial judge to two concurrent life sentences without the possibility of parole before the expiry of twenty (20) years ('the sentence'). On appeal to the Court of Appeal, he contended that the sentences imposed were manifestly excessive. The Court of Appeal affirmed the imposition of his sentences.

The applicant then sought special leave to appeal the judgment of the Court of Appeal. The applicant argued that the sentence was manifestly excessive, and the Courts below adopted a flawed approach to the sentencing process. To determine the issue of whether special leave ought to be granted the CCJ examined the sentencing process of the trial judge. The CCJ noted that in ***Pompey v DPP [2020] CCJ 7 (AJ) GY*** **(affirmed in *Ramcharran v DPP [2022] CCJ 4 (AJ) GY*)**, guidance was provided to trial judges on the best practice approaches to be taken on sentencing in cases involving sexual violence on minors, including the importance for the trial judge to receive and consider a victim impact statement when sentencing an offender.

In relation to the sentencing process, the CCJ noted that the trial judge sentenced the applicant immediately after the verdict was given. The trial judge did not receive a victim impact statement nor did the trial judge consider a social services report.

However, the trial judge heard and considered a plea in mitigation, and it was evident that the trial judge considered the aggravating factors placed before her including the age of the complainant, the special relationship of trust between the applicant and the complainant, the lack of a guilty plea, the applicant's attempt to shift blame, the repeated course of conduct, and the consequential emotional damage to the complainant. The trial judge also showed that rehabilitation and reintegration into society were taken into account. The CCJ therefore held that the failure to follow the guidance in Pompey was not fatal.

In relation to the sentence, the CCJ noted that life imprisonment was the maximum penalty under the Act and was within the range of punishment options available to the sentencing judge. The CCJ found that this case was one of the more severe cases due to the fact that the offence was perpetrated by an adult in a special relationship of trust with the victim-survivor and the young age of the victim-survivor. The CCJ considered the fact that the trial judge found no mitigating factors, the crimes involved premeditation and coercion, and the applicant showed no remorse, nor did he offer an apology. After considering several precedents in which the crime of sexual activity with a minor was perpetrated by an adult in a position of trust, the Court found that the sentence was neither extraordinary nor manifestly excessive. While imprisonment for life was considered sufficient to punish and deter, the opportunity for eligibility for parole after serving twenty years (with the necessary rehabilitation through counselling and therapeutic facilities available in prison) provided the possibility for rehabilitation and reintegration into society within the applicant's lifetime, and so meets those sentencing objectives. **The application for special leave was dismissed. Each party was ordered to bear their own costs**.

Sherwyn Harte, Deon Greenridge v The State [2023] CCJ 9 (AJ) GY

This is an application for special leave by members of the Coast Guard Division who were convicted of murder and sentenced to death, the applicants. The applicants seek to (1) appeal against the decision on sentence of the Court of Appeal and (2) to obtain an order from the Caribbean Court of Justice ('CCJ') declaring the death penalty to be unconstitutional. The second applicant also sought special leave to appeal his conviction. The issue was whether special leave should be granted.

In 2013, the applicants and a third person, were indicted for the murder of Dwieve Kant Ramdass ('the Deceased') under s 100 of the **Criminal Law Offences Act Cap 8:01** ('the Act'). The prosecution's case was that the men robbed the Deceased of money and threw him overboard during a stop and search exercise of boats in the Parika area. This resulted in the Deceased drowning. Section 100 of the Act provided for the mandatory sentence of death on conviction for felony murder. This section was amended in 2010 to allow a person convicted of murder in the course or furtherance of a robbery to be sentenced to life imprisonment or death.

The applicants and the third person were tried and convicted of murder before Holder J and sentenced to the mandatory death penalty under the un-amended s 100. The three men appealed to the Court of Appeal against their convictions, and the constitutionality of the death penalty. The Court of Appeal unanimously upheld the convictions, but vacated the original death sentences, and replaced them with life sentences with tariffs.

The applicants applied for special leave to appeal against the decision on sentence of the Court of Appeal and challenged the constitutionality of the death penalty. The second applicant also sought special leave to appeal his conviction.

In relation to the second applicant, the CCJ held that the Second Applicant did not establish any realistic possibility that a potentially serious miscarriage of justice may have occurred by virtue of his conviction for murder. There was ample evidence in the caution statement and the circumstantial evidence on which a jury, properly directed, could conclude that he was party to the joint enterprise. In relation to the death penalty, the CCJ found that the applicants faced no threat of execution, and that this issue was academic. The Court will only hear academic appeals in specified exceptional circumstances and this case did not fall under those exceptional circumstances. The case law of the CCJ had already expounded clear views on the savings law clause and to the extent that there is any variance between those views and the reasoning of the Court of Appeal, the views of this Court must prevail.

The applicants also challenged the Court of Appeal's process for resentencing. The Court considered that a normal sentencing hearing would probably not be practical 9 years after the indictment and conviction. However, the Court held that in respect of future cases, there ought, in principle, to be a re-sentencing hearing, which could be brief, in which counsel on both sides were asked to indicate factors relevant to the resentencing exercise. In the present case, the offenders were members of the Guyana Defence Force who had robbed and murdered an innocent citizen and there was no ground for regarding the sentence imposed as excessive. Further the unchallenged s 100A of the Act only attracts two sentences: death and life imprisonment. Where the court imposes life imprisonment, as in this case, the section requires that the court 'shall' specify a period, being not less than 20 years, which the convicted person should serve before becoming eligible for parole. If the court imposes the minimum of 20 years, there is no space for consideration of established sentencing principles including mitigating factors. In this case, the Court of Appeal imposed a tariff of 18 years. Even though less than the statutory requirement, the CCJ decided that it would not intervene to bring the tariff in line with the statutory minimum. The application for special leave was dismissed with no orders as to costs.

OO v BK [2023] CCJ 10 (AJ) BB

This was an appeal from Barbados concerning the interpretation of the Domestic Violence (Protection Orders) Act, Cap 130A. The appellant and the first respondent, her former partner, lived together in a relationship for approximately 21 months, during which time, their son was born. Their relationship ended in November 2019. In February 2020, their relationship resumed in the form of an 'on-and-off relationship', which continued until May 2020. After an incident involving the first respondent at the business place of the appellant's mother, the appellant applied for a protection order for her and her son at the Magistrates' Court.

At the hearing, the Magistrate focused on whether the appellant had the status of a 'former spouse', for the purposes of the **Domestic Violence (Protection Orders) Act, Cap 130A**, as amended by Act 2 of 2016 ('the amended Act') which entitled a former spouse to a protection order. The appellant, in response to questions from the Magistrate, denied that she was a 'former spouse' or currently in any type of relationship with the first respondent. Based on these responses, the Magistrate granted a protection order in favour of her son but declined to grant one in favour of the appellant as she held that the legislation did not apply to her. On appeal, the majority of the Court of Appeal upheld the Magistrate's decision.

The appellant then appealed to the Caribbean Court of Justice ('CCJ'). The key issue before this Court is the entitlement of the appellant, an unmarried woman, who had previously been in a cohabitational/visiting relationship in Barbados, to protection under the amended Act. The appellant sought a ruling that the phrase 'former spouse' as used in the amended Act was not time limited.

In a unanimous decision, the CCJ using the literal and purposive approaches to statutory interpretation, held that the appellant was a 'former spouse' and therefore was entitled to a protection order.

In the lead judgment, Rajnauth-Lee J examined the statutory framework and held that imposing a time limit on an applicant's capacity to apply for a protection order would run counter to the objective and purpose of the Act, which was to provide greater protection to victims of domestic violence. Rajnauth-Lee J also considered that the legislation should be interpreted in line with the fundamental human rights, core constitutional values, and international obligations of Barbados. Further, the status of the appellant to apply for the protection order was a matter of statutory interpretation, and thus a question of law for the Magistrate to decide, not one that could be determined by the appellant's opinion.

In his concurring opinion, Saunders P agreed that the appellant was eligible for a protection order because she qualified under the legislation as a 'former spouse', a former cohabitant and a former partner in a visiting relationship. Saunders P also noted that the appellant was a mother bringing proceedings against her child's father and thus automatically was eligible for protection under the Act. In a separate opinion, Anderson J agreed that the appellant was a 'former spouse' and was fully entitled to apply for a protection order. Further, he emphasised that the Court must be cautious not to interpret legislation to mean something which Parliament did not mean or intend, simply because of constitutional preferences. Regarding international sources of law and their influence on interpretation of statutes, he emphasised that the Court must interpret what the Legislature enacted and not subordinate this for what the Executive agreed to internationally. Agreeing with Rajnauth-Lee J and Saunders P, Jamadar J addressed the intersection of three voices relevant to law-making and legal interpretation: (1) the voices of society, voices of trauma, fear, and suffering – phenomenological and social context perspectives; (2) the voices of the law – philosophical/policy and jurisprudential perspectives; and (3) the voices of peace, healing, and reconciliation – therapeutic and restorative perspectives. These were highlighted in the case and revealed the statutory intentionality and meaning of the amended Act. **The CCJ allowed the appeal and reversed the decision of the Court of Appeal**.

Alex Tasker v The United States of America [2023] CCJ 11 (AJ) BB

This is an application for special leave to appeal the decision of the Court of Appeal in Barbados dismissing an application for leave to appeal a committal order under the **Extradition Act Cap 189** ('EA').

On 8 September 2021, Mr Alex Tasker, the applicant, was committed to surrender to the authorities of the United States of America, the respondent to face charges for money laundering and conspiracy to launder money. After the committal order was made, the Magistrate, in accordance with s 19 of the EA, advised the applicant of his right to apply for leave to appeal or for a writ of habeas corpus within 15 days of his committal and the applicant's attorney gave oral notice to the Magistrate of their intention to file an appeal pursuant to s 240 of the **Magistrate's Courts Act Cap 116 A** ('MCA'). On that same date, the applicant's attorney appealed the committal order by Notice of Appeal to the Court of Appeal pursuant to the process for appealing a Magistrate's order or decision set out in s 240 MCA. Subsequently, the applicant filed a Notice of Application, seeking leave to appeal the decision of the Magistrate pursuant to s 20 EA. This application was filed outside of the statutory time limit and as a result the Court of Appeal dismissed the application for leave to appeal.

The applicant applied to the CCJ seeking: (1) special leave to appeal to the CCJ; (2) interim orders further staying the order of committal pending the hearing and determination of the application and the potential appeal; and (3) an order restraining the State of Barbados from taking any steps to surrender him or that will result in his surrender to the respondent. The issue was whether special leave should be granted.

The applicant argued that the Court of Appeal was wrong in failing to hold that s238 of the MCA and s 20 of the EA provided concurrent appellate procedures or routes of appeal; in holding that the right of appeal under s238 MCA did not apply to committal procedures; and in failing to exercise its jurisdiction in circumstances where the applicant indicated a clear intention to appeal the Magistrate's decision orally and by way of Notice of Appeal filed on 8 September 2021; there is no prescribed form for application for leave to appeal under the EA; the Notice of Appeal filed under the MCA operated to fulfil the role of an application for leave to appeal under the EA. In considering the issue of whether the applicant satisfied the test for special leave the CCJ considered whether the procedure for appeal under the MCA and EA were concurrent routes of appeal; and whether the applicant satisfied the requirement for leave to appeal under s 20 of the EA.

The CCJ held that the Court of Appeal was entitled to dismiss the application for leave to appeal. In the Court's opinion, the process to appeal an order of committal was explicit in the EA, since it was the specific legislation dedicated to the management of extradition proceedings and it contained a specific procedure for appeal in such proceedings. While there is a general right of appeal provided for under the MCA, under the EA one must apply for leave to appeal.

To suggest that these two procedures can be understood to mean the same thing, or that the Notice of Appeal filed pursuant to the MCA can be construed as an application for leave to appeal to the Court of Appeal as proposed by the applicant was erroneous. Additionally, the argument that the Court of Appeal had the power to enlarge the time for filing the application for leave to appeal under the EA was problematic, given that the EA contained no explicit provision for extending the time limits for filing such an application. As a result, the Court determined that there was no arguable case advanced by the applicant which justified the grant of special leave. **On these bases, the application for special leave was dismissed**.

Graham Bethell v Royal Bank of Canada (Barbados) Limited [2023] CCJ 12 (AJ) BB

This is an application for special leave to appeal the decision of the Court of Appeal refusing to grant the applicant an extension of time for appealing the underlying High Court decision, after the time for appealing had expired.

The Court of Appeal dismissed the applicant's application to extend time to appeal as the applicant failed to satisfy the requirements stated in the **Supreme Court (Civil Procedure) Rules 2008** ('Rules') as the applicant failed to: (1) adequately demonstrate to the Court why it would be in the interests of justice to extend time for appealing the dismissal of the counterclaim, as required by r. 62.1(2); and (2) present special reasons for extending time for appealing the order for summary judgment, as required by r 62.6 (3) of the Rules. The applicant applied for special leave to appeal this decision to the Caribbean Court of Justice ('CCJ'). The issue in this case was whether special leave be granted.

In support of the application, the applicant argued that special reasons consisted of the same grounds and a proposed (new) ground of appeal on the merits, which had been roundly rejected by the Court of Appeal as incapable of succeeding. The CCJ found that the applicant did not satisfy the requirements for an extension of time to appeal to the Court of Appeal and failed to identify what factors the Court of Appeal did not consider when it dismissed the application.

The CCJ dismissed the application for special leave as well as the applicant's application for leave to file and serve an amended Notice of Application for Special Leave to appeal pursuant to r 9.13 of the **Caribbean Court of Justice Appellate Jurisdiction Rules, 2021**. **The applicant was ordered to pay the respondent's costs**.

James Ricardo Alexander Fields v The State [2023] CCJ 13 (AJ) BB

This is an appeal from Barbados concerning the direction to be given to the jury in cases where a witness is found to be lying on oath. The appellant, James Ricardo Alexander Fields was arrested and charged with murder. He was indicted on 3 September 2012 and was twice tried in the High Court. Each of these proceedings resulted in a mistrial. At his third trial, he was found guilty of manslaughter and sentenced to serve 16 years in prison. The State's case against the appellant was that on 18 February 2010, the appellant was engaged in the sale of cocaine rocks in his neighbourhood. One of his customers, Mr Michael Dear ('the Deceased'), was dissatisfied with the rocks he had purchased, and demanded the return of his money. Mr Dear attacked the appellant who drew a firearm, and shot the Deceased killing him. An eyewitness, Mr Geoffrey Carter gave evidence for the State, and during cross examination, it was demonstrated that he was untruthful in at least one aspect of his testimony. In his summing up, the trial judge directed the jury along the lines that if the jury found a prosecution witness to be 'lying', 'you are entitled to reject that particular detail…The fact that you do not accept a portion of the evidence of a witness does not mean that you must necessarily reject the whole of the witness' evidence…if you think it is worthy of acceptance.'

The appellant was convicted by the jury and appealed to the Court of Appeal. The Court of Appeal interpreted the material part of the trial judge's summation as suggesting that when the judge referred to a witness who was 'lying', the judge really meant a witness whose evidence contained one or more discrepancies. And so, the Court of Appeal, treating Carter's untruthful testimony as a mere discrepancy, did not find it necessary to cast doubt on the validity of the Scantlebury direction. The Court of Appeal held, moreover, that, having regard to all the circumstances, the verdict of the jury was neither unsafe nor unsatisfactory and that, even if the offending direction, taken out of context, may amount to a material misdirection, no miscarriage of justice had occurred. The appeal against conviction was dismissed but the sentence was varied to 11 years.

The appellant dissatisfied with the Court of Appeal's decision appealed to the Caribbean Court of Justice ('CCJ'). The issue in this appeal was whether the jury was misdirected by the trial judge on how to treat with a witness whom the jury considered may be deliberately untruthful in one or more particulars. The appellant argued that the direction to be given to the jury must follow the direction approved by the Court of Appeal in ***Scantlebury v R* (2005) 68 WIR 88 (BB CA)** ('the Scantlebury direction'). The Scantlebury direction requires the trial judge to direct the jury that if they find that a witness was deliberately lying on oath, then they must reject the whole of that witness' evidence because, if the witness lied on one matter, they would be quite capable of lying on another matter. The respondent disagreed and contended that issues of credibility and reliability are within the exclusive competence of the jury.

The majority of this CCJ held that a blanket direction requiring the discarding of the entirety of the evidence of a sworn witness who is found to have lied in one matter under oath, blurs the role and function of the judge and jury to an unacceptable degree. It makes no attempt to convey to the jury that the extent to which the lie is material to the issue for determination at the trial might be a factor for their consideration and introduces an unwarranted distinction between prosecution and defence witnesses. This direction is not consistent with best practice in directions to juries on matters of this nature. The majority emphasised that the categories of evidence which are admissible are matters of law for the judge; the weight to be placed on admissible evidence is a matter of fact for the jury. Therefore, it is entirely permissible for the judge to point out that the fact that a witness has lied under oath or affirmation is relevant to the reliability and credibility of that witness, whilst leaving the ultimate decision on the weight to be given to the evidence, to the jury. At the same time, it is also permissible for the judge to direct the jury to guard against assuming that the fact that the witness had lied about one matter must mean that the witness must automatically be taken as having lied about something else.

On the question, whether the principle of stare decisis required this Court to refrain from overruling the Scantlebury direction on this issue, the majority noted that the Court was not bound by previous rulings of the Court of Appeal. **The appeal was dismissed**.

Sasedai Kumarie Persaud v Sherene Mongroo, Zenobia Rosenberg, and Indranie Mulchand

This is an appeal from the Court of Appeal of Guyana in which the appellant Sasedai Kumarie Persaud, challenged the decision of the Court of Appeal that the will ('the will') of Mr Yusuf Mungroo ('the Deceased') was invalid and ineffective. The appellant was the business manager, executor, and principal beneficiary under the will. The first and second respondents were Sherene Mongroo (Sherene or Sherene Mongroo) and Zenobia Rosenberg (Zenobia or Zenobia Rosenberg), the two daughters of the deceased, who challenged the will. The third respondent was Indranie Mulchand (Indranie or Indranie Mulchand) who the trial judge found, was the common law wife of the Deceased, and who also benefitted under the Deceased's will.

The respondents brought an action in the High Court contesting the validity of the will. The trial judge found that the will was valid and effective, dismissed the claim, and granted probate in solemn form with respect to the copy of the will presented to the trial court.

The panel of the Court of Appeal consisted of Cummings-Edwards C (Ag), Gregory JA, and Persaud JA. Cummings-Edwards C (Ag) found that the Deceased did not have the capacity to make the will. Gregory JA found that the Deceased had the capacity to make the will but that the will was not duly executed. Persaud JA did not produce a written judgment but indicated that he had the benefit of the judgments of Cummings-Edwards C (Ag) and Gregory JA and that he fully agreed with their analysis and conclusions. The Court of Appeal reversed the decision of the trial judge and held that the will was invalid and ineffective.

The appellant dissatisfied by the decision of the Court of Appeal, appealed to the Caribbean Court of Justice ('CCJ'). On appeal, the following issues arose: (1) Whether the conflicting opinions of the Court of Appeal on certain issues resulted in a defective judgment on those issues that ought to be set aside?

(2) Did the evidence led at the trial support the findings of the trial judge on the following issues: (a) whether the deceased possessed the requisite testamentary capacity?; (b) whether the will complied with the requirements of s 4 of the **Wills Act, Cap 12:02** in that the deceased acknowledged his signature in accordance with s 4?; (c) whether the signature on the will was that of the Deceased in compliance with s 4 of the Wills Act; and (d) whether the trial judge ought to have admitted to probate in solemn form a copy of the will?

On the first issue, the CCJ made it clear that in its appellate jurisdiction it is a superior court of record with such jurisdiction and powers as are conferred on it by the Agreement Establishing the Caribbean Court of Justice, the Constitution or any other law of the Contracting Party. The Court was of the view that the conjoint effect of s 4(1) (b) and s 11(6) of the **Caribbean Court of Justice Act, Cap 3:07**, and s 7(2) of the **Court of Appeal Act, Cap 3:01** was that this Court was empowered in an appeal from Guyana to ensure the determination on the merits of the real question in controversy between the parties. The Court therefore did not agree that the conflicting opinions of the Court of Appeal on certain issues resulted in a defective judgment which ought to be set aside for that reason alone. The Court stated that it was able to hear the case on its merits. The Court distinguished between findings of primary facts and inferences drawn from the findings of primary facts. The Court agreed with Burgess JA sitting in the Court of Appeal of Barbados in the case of ***Walsh v Ward*** **[2015] CCJ 14 (AJ) (BB)** that an appellate court should exercise cautious reluctance before it reviewed findings of fact which were based on assessments of the credibility of witnesses, but that it was in as good a position as the trial judge when it came to drawing inferences which involved evaluating evidence.

On the issue of the deceased's testamentary capacity, the Court observed that there did not exist in the instant case, circumstances which ought to have excited the suspicion of the trial judge.

The Court also noted that 'stricter proof of knowledge and approval' by the deceased in the making of the will was not necessary. The Court noted that the trial judge accepted the evidence of Mr Vidyanand Persaud, Attorney-at-Law who prepared the will, and of Dr Rohan Jabour, a medical doctor, who was one of the witnesses to the will. The trial judge also found that the first and second respondents had not established that they enjoyed a close relationship with the Deceased. The Court was therefore of the view that the evidence accepted by the trial judge provided a sufficient basis on which she could have found that the Deceased had the requisite testamentary capacity.

As to the requirement of due execution contained in s 4 of the Wills Act, the Court expressed the view that it was undisputed that the will was not signed in the presence of the witnesses, as stated in the attestation clause. In those circumstances, the Court observed that the presumption of due execution could not be applied. The Court was however of the view that having regard to the evidence accepted by the trial judge, and in particular, the evidence of Dr Jabour, the finding of the trial judge that the Deceased acknowledged his signature on the will in the presence of both witnesses, who signed in the presence of the Deceased, and of each other, could not be faulted, and ought not to have been reversed. The Court thus held that due execution of the will was established.

In relation to the conflicting expert evidence regarding the Deceased's signature, the Court concluded that given the totality of the evidence the trial judge was correct to find that the signature on the will was that of the Deceased. Further, the Court was of the view that the exercise of the discretion by the trial judge to admit to probate in solemn form a copy of the will, could not be faulted, as the Court was of the view that the trial judge was seeking to do justice in the circumstances of the case. T**he Appeal was allowed, the decision of the Court of Appeal was set aside, and the judgment of the High Court was restored. The first and second respondents were ordered to pay the appellants and the third respondents' cost**.

Original Jurisdiction

Ellis Richards & Ors. v The State of Trinidad and Tobago [2023] CCJ 1 (OJ)

The Claimants are nationals and institutions established in Antigua & Barbuda and Grenada. They were policyholders of a subsidiary, namely British American Insurance Company Limited ('BAICO'), of the Trinidad & Tobago financial conglomerate, CL Financial Limited ('CLF'). In 2009, following the collapse of CLF, the Defendant, the Government of Trinidad & Tobago rescued or 'bailed out' CLF and its Trinidad & Tobago subsidiaries. The Defendant did not however bail out BAICO, it being incorporated in the Bahamas. The Claimants accordingly brought a claim against the Defendant in the original jurisdiction of the CCJ, alleging that since protection was not offered to them as policyholders of BAICO, the actions of the Defendant in rescuing the Trinidadian subsidiaries were discriminatory and in breach of **Articles 7, 36, 37, 38 and 184(1)(j) of the Revised Treaty of Chaguaramas** ('RTC').

In its defence, the Defendant argued that the actions complained of by the Claimants fell outside the scope of the RTC by virtue of Articles 30(2) and 30(3). Article 30(2) excludes activities involving 'the exercise of governmental authority' from the scope of operation of Chapter 3 of the Treaty. Such 'activities' are further defined under Article 30(3) of the RTC as 'activities conducted neither on a commercial basis nor in competition with one or more economic enterprises.' The CCJ therefore raised two preliminary issues at the case management stage. The first issue was whether the actions of the Defendant fell within the meaning of Articles 30(2) and 30(3) and consequently fell outside the scope of Chapter 3 of the RTC? If the first question is answered in the affirmative, what effect does this have on the proceedings before the Court?

In considering these preliminary questions, the CCJ examined the purpose and objectives of Chapter 3 of the RTC which deals with the establishment, services, capital and movement of community nationals. Having concluded that Chapter 3 imposed obligations upon Member States which fettered their sovereignty, the Court found that the purpose of Article 30 was to exempt certain activities of Member States from the restraints imposed by such obligations.

As such, having regard to the factual circumstances of the claim, the CCJ noted that there was nothing in the Claimant's pleadings which suggested that the actions by the Defendant were done for any commercial purpose or done in competition with other economic enterprises. Rather, the actions of the Defendant were intended to mitigate the effects of the financial collapse of CLF on its policyholders and the wider Trinidadian economy. The CCJ therefore held that the actions of the Defendant fell within Articles 30(2) and 30(3) of the RTC and dismissed the claims in relation to the Articles of the RTC which fell under Chapter 3, namely Articles 36 (prohibiting new restrictions on the provision of services), 37 (removing restrictions on provisions of services), and 38 (removing restrictions on banking, insurance, and other financial services), as well as Article 7, to the extent that it related to Chapter 3. However, the alleged breaches of Article 184(1)(j) and Article 7 (prohibiting discrimination on the grounds of nationality), in so far as they related to Article 184(10(j) (which promotes consumer interests within the community), remained issues to be determined, as well as the issue of costs.

Ellis Richards & Ors. v The State of Trinidad and Tobago [2023] CCJ 2 (OJ)

On 9 February 2022 at the first Case Management Conference, the Claimants raised the issue of management of each Claimant's claim and the approach that the Court would take to the existence of additional potential Claimants across CARICOM countries having the same or a similar claim. The Claimants were directed to a file a categorised register of Claimants, and accordingly filed two different registers of Claimants. At the second Case Management Conference, the Court again directed that the Claimants complete and file a categorised register of Claimants containing the details of the Claimants specified in the four appendices to the Originating Application. The Claimants sought to file lists of hundreds of potential Claimants from Dominica, Saint Lucia, Montserrat, Saint Kitts and Nevis, and Saint Vincent and the Grenadines. The claims brought by these potential additional claimants would bring claims materially identical to those filed by the Claimants. The Defendant opposed any expansion of the Register of Claimants beyond those listed in the appendices to the Original Application. The Court considered whether the Claimants were entitled to expand the Register of Claimants beyond the number listed at the time special leave was granted to commence these proceedings.

The CCJ dismissed the application as it held that in accordance with the Caribbean Court of Justice (Original Jurisdiction) Rules, 2021 and with Article 222 of the Revised Treaty of Chaguaramas ('RTC') nationals who seek audience before the Court must apply for special leave to do so, given the Defendant's position considerable delay and inconvenience could attend that special leave process. The Claimants further submitted that allowing the addition of Claimants would prevent a multiplicity of proceedings with identical issues. In response to this submission, the CCJ held that if the Claimants are successful in the instant proceedings, then there will be nothing precluding the potential Claimants from bringing collectively a single subsequent proceeding and not a multiplicity of proceedings.

Furthermore, Article 221 of the RTC specified that the judgments of the Court shall constitute legally binding precedents for parties in proceedings unless such judgments were revised in accordance with Article 219 of the RTC. Therefore, if liability was established against the Defendant in the current proceedings, that liability would constitute binding precedent in respect of any subsequent claim. **The CCJ therefore refused the Claimants' application and reserved the issue of costs to be dealt with at a later time**.

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