



A DIVE INTO BERMUDA

CAJO NEWS
Issue 19

CONTENTS

Message from the Management Committee	3
Appointment of the Chief Justice of Bermuda, The Hon Mr Justice Larry Mussenden	4
Exploring the Courts of Bermuda: A Dive into the Judiciary	6
Bermuda's Mental Health Treatment Court (MHTC)	38
Turning Tides: How a Landmarck ECHR Ruling Empowers Small Island States in the Climate Fight	50
Court of Justice of Suriname Celebrates 155 Years of Justice	56
Joint Court of Justice of Aruba, Curaçao, Sint Maarten, and of Bonaire, Sint Eustatius and Saba 155th Anniversary	70
CCJ Continues Its Regional Engagement in Suriname	72
Celebrating A Decade Of Excellence: Highlights from the 10th Anniversary Professional Development Conference and Gala of the CAWJ and the TTAJW	76
CAJO Judicial Education Initiatives Across the Region	84
Appointments and Retirements Across the Region	92

A publication of the Caribbean Association of Judicial Officers, June 2024 | Layout and Design by Elron Elahie

Message from the Management Committee

This edition of the CAJO NEWS, Issue 19, features the Judiciary in Bermuda. With a new Chief Justice at the helm and as a leader in many domains including the development of local problem-solving courts, Bermuda hosts the CAJOs 8th Biennial Conference. The Judiciary of Bermuda is living proof of what relatively small island states can achieve with limited resources, and the Management Committee of the CAJO invites and welcomes qualified persons to register for our 2024 Conference and join us in Bermuda on the 21-23 November.

Two Caribbean Judiciaries celebrated 155 years of their existence in 2024, and both are also featured. They are, the Judiciary of Suriname and the Joint Court of Aruba, Curacao, Sint Maarten, and of Bonaire, Sint Eustatius and Saba. These are significant milestones, and their stories are fascinating. We at the CAJO join in congratulating them and in celebrating their achievements.

Also celebrating anniversaries, their 10th, are the Caribbean Association of Women Judges (CAWJ) and the Trinidad and Tobago Association of Women Judges (TTAWJ). In this Issue of the CAJO NEWS you can re-live some of the highlights of those activities.

Our focus on environmental justice continues and we feature a landmark ECHR ruling that may just empower regional jurists in our common concern for protecting the environment.

Finally, we highlight CAJOs regional initiatives and note transitions that have been shared with us.

As always, we invite you to learn more about our region's judiciaries as you enjoy our offerings. Together regional judiciaries are stronger and better, and the CAJO remains committed to facilitating this process of developmental engagement.

See you in Bermuda!



Appointment of the Chief Justice of Bermuda Justice Larry Mussenden

The Hon Mr Justice Larry Mussenden was appointed as the Chief Justice of the Supreme Court of Bermuda from 8 February 2024. His appointment was announced on 6 February 2024 by The Governor, Ms Rena Lalgie.

The Governor said, "I am very pleased to announce the appointment of Larry Mussenden as Bermuda's next Chief Justice. Mr Mussenden is a highly regarded lawyer both within Bermuda and internationally. He has over 27 years of professional legal experience in public service and private practice, serving as Crown Counsel, Director of Public Prosecutions, Attorney General and Minister of Justice and most recently as a Puisne Judge. I am confident that his legal expertise and leadership experience will serve the Supreme Court well, helping to maintain the island's standing as a legal jurisdiction of the highest order."

The appointment was made by the Governor after consultation with the Premier and the Leader of the Opposition in accordance with Section 73(3) of the Constitution.

Justice Mussenden was called to the Bar of England and Wales in 1995 and the Bermuda Bar in 1996. He was Crown Counsel from 1996 to 2001, then became a defence lawyer. He Mussenden became Attorney General and Minister of Justice in 2004 under the then Progressive Labour Party Government after he was made Government Senate Leader the year before.

Bermuda, The Hon Mr

He was appointed Director of Public Prosecutions after working in private practice from 2007 to 2016 and later appointed as a Puisne Judge on 3 December 2020. Justice Mussenden also served in the Royal Bermuda Regiment and retired as a Major and Second-in-Command.



The Hon Mr Justice Mussenden at his swearing-in

Exploring the Courts of Bermuda: A D

Like most of the Commonwealth Caribbean, the Judicial System of Bermuda consists of the Magistrates' Court, the Supreme Court, the Court of Appeal and the Judicial Committee of the Privy Council in London. The structure of the Judiciary is hierarchical with appeals lying to the Court above. The Magistrates Court is the first tier in the hierarchy, followed by the Supreme Court, the Court of Appeal and finally to the Privy Council. Each Court is governed by its own legislation. The Supreme Court Registry is responsible for the administration of the Court of Appeal and the Supreme Court. It is established by the Supreme Court Act 1905 and the Rules of Supreme Court 1985. The Registrar is the administrative head of the Judiciary, and its accounting officer.

The Magistrates' Court

The Magistrates' Court is multi-jurisdictional having conduct of Civil, Criminal, Traffic, Coroners Inquests, Adoptions, Juvenile and Family matters. There are also the Treatment Courts, such as the Mental Health Treatment Court, Drug Treatment Court and the Driving Under the Influence (DUI) Court which continue to reduce recidivism by addressing the drug, alcohol and mental health challenges of offenders.



Dive into the Judiciary

In 2023 the Worshipful Senior Magistrate Anderson created the Probation Review Court (PRC) which is conducted once a month and is designed to encourage compliance by persons who have been placed on probation through routine reviews. The PRC enables persons to get back on track and to assist them in addressing their criminogenic & mental health needs, secure employment & housing, and most importantly to be productive members to their community and to their families. All cases/hearings are heard by a Magistrate sitting alone, except in the Juvenile and Family Courts, where the Magistrate sits with two (2) lay members chosen from a Special Panel. There are no jury trials and all appeals from judgments of the Magistrates' Court are heard by the Supreme Court.

The Magistrates' Court provides funding for the Senior Magistrate, four (4) Magistrates and acting appointments where necessary. The Magistrates' Court is presided over by the Worshipful Senior Magistrate Maxanne J. Anderson, the Worshipful Tyrone Chin, the Worshipful C. Craig Attridge, the Worshipful Maria Sofianos and the Worshipful Aura Cassidy, all of whom bring a wealth of knowledge and experience to the Magistracy.



The Senior Magistrate also has an acting Magistrate roster so as to give opportunities to those in the legal profession to acquire judicial experience and skills which would put them in a position to elevate to the bench. In 2023, the Magistrates' Court had 751 trials, 3,463 mentions and over 17,000 case events (which include pleas, sentencing hearings, legal submissions and other types of events that do not fall under mentions or trials).

Highlights from the Magistrates' Court

Decriminalization of Marijuana

Most recently, the government has enacted the decriminalization of personal use marijuana possession, permitting amounts not exceeding 7 grams. However, this policy shift has inadvertently led to several concerning developments observed within the courts' purview.

Firstly, there's been an observable trend of marijuana acting as a gateway drug, potentially leading individuals toward the use of more potent substances. This phenomenon has contributed to an increase in associated criminal activities. Moreover, scholarly studies have highlighted a direct correlation between marijuana misuse and amplified occurrences of mental health issues within young black men. Research indicates a significant association between higher instances of schizophrenia in men of Caribbean descent, particularly in those under the age of 25 whose brain development may not have completed. This demographic subgroup is particularly vulnerable to the adverse effects of marijuana misuse on mental health. Additionally, a notable surge in the homeless population has been identified, often intertwined with the acceleration and proliferation of mental health challenges among individuals grappling with schizophrenia.

The link between marijuana misuse and the exacerbation of mental health issues, especially schizophrenia, is starkly evident. What remains conspicuous is the lack of a corresponding increase in government budget allocations directed towards agencies tasked with supporting and managing mental health challenges stemming from marijuana misuse. This discrepancy raises concerns about the adequacy of resources available to address the escalating mental health repercussions associated with this policy shift.

Therapeutic Courts

As many know and are fully aware there are those amongst us who find themselves in the throngs of drug addiction or crippled by debilitating mental health problems or shackled by the grip of alcohol addiction. For many years magistrates simply fined and/or imprisoned those who pled guilty or who were found guilty of drug/alcohol related offense(s) triggered by mental health. Statistics and recidivism rates evidenced that the criminal justice system of enforcing fines and implementation of imprisonment did not work in Bermuda. With the advent of the Criminal Code Amendment Act 2001 (the "Alternatives to Incarceration" legislation) the Magistrates' Court has been able to put non-traditional Treatment Courts in place to help those who commit offences whilst in the grips of alcohol/drug addiction or mental health challenges:

- Through the Drug Treatment Court by giving the drug addict the opportunity to find rehabilitation through behaviour modification, counselling, offering personal and professional guidance and support and where warranted incarceration;

- Through the introduction of the Mental Health Treatment Court, implemented by the former Senior Magistrate (now the Honourable Justice Juan P. Wolffe) and under my stewardship for the last 7.5 years, the Magistrates' Court has contributed to removing the stigma attached to mental illness by providing supporting services including but not limited to: counselling; housing; psychiatric supervision; assistance with substance abuse, medication compliance, financial assistance or employment; and various social & economic needs. The Mental Health Treatment Court deals with the offenders' challenges offering them a clear alternative to incarceration and provides an opportunity to deal with offenders in a holistic manner. However, securing dual diagnosis treatment for people with mental health and cannabis use is unreasonably difficult and continues to be a major challenge.
- Through the Driving Under the Influence Court, also implemented by the former Senior Magistrate ((now the Honourable Justice Juan P. Wolffe) and presided over primarily by me with the assistance of the other Magistrates, offenders who have committed the offense of driving on our roads whilst impaired by alcohol/drugs are given the opportunity to receive counselling and coping skills that allow them to understand the connection between alcohol/drug misuse and their offense.

There are also initiatives and opportunities to holistically tackle some of the challenges within our Criminal Justice System. These included the implementation by the Worshipful Senior Magistrate Anderson of a Probation Review Court and Juvenile Treatment Court pilot:

- The Probation Review Court routinely reviews Probation Orders so as to encourage compliance by persons who have been placed on probation. Such regular scheduled reviews enable persons to get back on track and assist them in addressing their criminogenic & mental health needs, secure employment & housing, and most importantly to be productive members to their community and to their families.
- The Juvenile Treatment Court is designed to address the needs of young offenders identified as having problems with drugs/alcohol and/or suffering from mental health diagnosis. It is to provide intervention, structure and treatment in the lives of young offenders through regular monitoring, family engagement and by providing skills to assist them in leading productive substance-free and crime-free lives.

To date, neither of these initiatives has required any additional capital expenditure or human resources. Our teams continue to work diligently ensuring the proper Administration of Justice.

The statistics and the anecdotal evidence clearly shows that the above-mentioned Treatment Courts are making a hugely positive impact in our community. It is gratifying to hear the stories of those who journey through the Treatment Courts and are now living their lives alcohol & drug free and with the tools to address their mental health challenges. Most importantly they have been able to break the chain of incarceration. Furthermore, the statistics show that levels of incarceration have decreased and this can be partly attributed to the efforts of the Magistrates' Court and its stakeholders in meting out noncustodial sentences were deemed appropriate.



**The Wor. Maxanne Anderson, JP
Senior Magistrate**



**The Wor. Tyrone Chin, JP
Magistrate**



**The Wor. Khamisi Tukunbo, JP
Magistrate (Ret)**

of Bermuda



**The Wor. Craig Attridge, JP
Magistrate**



**The Wor. Maria Sofianos, JP
Magistrate**

The Supreme Court

The Supreme Court is divided into criminal, civil, commercial, divorce and probate jurisdictions.

Criminal Division

Serious criminal offences or indictable offences, are tried in the Supreme Court. The most common examples are serious assault, murder and money laundering. Criminal matters start in the Magistrates' Court where the Magistrate will not require a plea and commit the matter to the Supreme Court for trial on indictment. Once the matter has been assigned to the Supreme Court, defendants will be scheduled to appear at an assigned Arraignment Session to enter a plea and receive a hearing date.



Bermuda's Parliament House which hosts some Supreme Court Trials

By way of Practice Direction issued under Circular 3 of 2017, the Registrar implemented forms which are used to efficiently case manage a trial from start to finish. Trials are heard in one of the five Supreme Court courtrooms before a single Judge and begins with jury selection. The jury will deliver a verdict after all evidence is heard by counsel appearing for the Prosecution and Defendant(s). Sentencing occurs after the trial at a date determined by the Registrar. The Hon Mr Justice Juan P Wolffe is the Supervising Judge of the Criminal Division.

Highlights from the Criminal Division:

- Out of the 60 backlogged indictments that existed on 1 April 2022, a total of 33 of those backlogged trial listings were disposed since 1 April 2022. This means that the total portion of the backlogged trial listings decreased from as many as 60 Indictments (for the years spanning 2018-2021) to 27 backlogged Indictments (for the years spanning 2018-2021), i.e. more than 50% of the backlog which existed on 1 April 2022 was disposed of by December 2022.
- In the year of 2023, the backlog of criminal cases comprised the 2021 and pre-2021 indictments. By November 2023 the position was as follows:
 - Save indictments awaiting a re-trial, all of the 2018 and 2019 backlogged indictments had been finally disposed;
 - The remaining 2020 indictments totalled 4;3. The remaining 2021 indictments totalled 12;
 - This left a total of 16 backlogged indictments as at November 2023;
 - In November 2023, those backlogged indictments had the benefit of assigned and fixed trial dates.

Civil/Commercial Division

Civil and Commercial cases are heard in the Commercial Courts. Civil cases include matters where the dispute exceeds \$25,000, establishing receiverships for mental health persons and other family related issues. These matters are often heard in Chambers, in the privacy of the parties and the Judge however, if heard in Court, the matter is open to the public.

The Civil and Commercial Division has a very wide brief. The civil area may be divided into two halves: (1) deciding cases which concern the relationship between the citizen and the State (public law cases), and (2) deciding cases involving private law rights, mainly disputes between private individuals but sometimes disputes between individuals and the State (general civil or private law). Public cases include cases concerning the Bermuda Constitution or the Human Rights Act, and challenges to the decisions of Ministers or Government Departments. Private law cases may involve employment disputes, landlord and tenant disputes, personal injuries claims and disputes relating to estates or other property cases. A significant part of the work of the Commercial Court is dealing with disputes between business entities, primarily in the international sector. Bermuda is home to approximately 13,000 international corporate structures. It is also a leading jurisdiction for international trust structures and wealth management. As a result, a significant part of the workload of the Commercial Court reflects the disputes and insolvency proceedings generated by this sector of the Bermudian economy.

Highlights from the Civil/Commercial Division:

- The total number of written judgments is down from 94 in 2021 to 86 in 2022. Written judgments in commercial cases are up from the 49 in 2021 to 51 in 2022. Another and more global measure of the judicial output of the Civil and Commercial Division is the number of orders made. This will include the minority of cases where reasoned judgments are given and the majority of cases where they are not.
- In 2023, the figures reveal 664 interlocutory orders were made and 192 final orders were made (a total of 856) in civil and commercial matters. A further 20 orders were made in administrative matters (e.g. admissions to the Bar and appointment of notaries). In 2021, there were 663 interlocutory orders, 188 final orders and 55 administrative orders. Another measure of activity in the Civil and Commercial Court is the number of actions commenced within the relevant year.
- Substantive proceedings are represented by (i) writ of summons filed in the Commercial Court; (ii) originating summons filed in the civil jurisdiction; (iii) writ of summons filed in the civil jurisdiction; (iv) judicial review notices of motion; and (v) partition actions in the civil jurisdiction. In these categories there was negligible decrease in the total number of actions commenced in the 2022 (415) compared with 2021 (417). Criminal and civil appeals from the Magistrates' Court are also heard in the Civil and Commercial Division. In 2021, the total number of appeals filed were up (from 33 cases to 41 cases). In 2022, 33 appeals were lodged. Of those appeals, 3 were allowed, 3 were dismissed and 3 were abandoned or withdrawn; 26 cases remain pending from 2022.

Appellate Division – Appeals from the Magistrates' Court

The procedural law for the Supreme Court's appellate jurisdiction is primarily governed by the operation of statute. Appeals from criminal matters heard in the Magistrates' Court are heard under the authority of the Criminal Appeals Act 1952 while appeals from civil cases heard in the Magistrates' Court fall under the governance of the Civil Appeals Act 1971. Appeals are also heard from the Family Court, although less frequently than those from the criminal and civil summary Courts. The scope of work within the appellate jurisdiction of the Supreme has enlarged over passing years with its final appellate powers over statutory tribunals and the like. To list only a few examples, the Supreme Court adjudicates appeals from Ministerial decisions, the Employment Tribunal, the Bermuda Medical Council and the Bermuda Bar Council. This genre of appeal cases usually falls under the procedural framework outlined in Order 55 of the Rules of the Supreme Court 1985, which generally allows for appeals to be heard by way of a full re-hearing upon election of the parties, subject to the exercise of the Overriding Objective and the Court's case management powers. During 2023 the Supreme Court heard and determined six (6) appeals including the following:

- An appeal under section 53 of the Adoption of Children Act 2006 of an adoption order made in the Family Court of the Magistrates' Court. (**F v MFP & FFP & Director of Child and Family Services [2023] SC (Bda) 3 App 13** January 2023 – Elkinson AJ)
- Employment and Labour Relations Tribunal, unfair dismissal, termination for cause, delay in delivering the award, remittal of the matter to the Tribunal (**Bermuda Healthcare Services Ltd. and Brown Darrell Clinic v Tuvier Ideh [2023] SC (Bda) 34 Civ 31** March 2023 – Elkinson AJ)

- Condominium maintenance fees and renovation costs, Appeal on Costs (**Hillcrest Properties Ltd v Smith [2023] SC (Bda) 56 App 6** July 2023 – Elkinson AJ)
- An appeal from a decision of Magistrate Mr T Chin convicting the Appellant of three offences. (1) Use of offensive words in a public place; 2 (2) Oral communication intending to cause fear or alarm contrary to Section 200A of the Criminal Code; and (3) Willful and unlawful damage to a vehicle owned by the Complainant Ms Gremarie Armstrong (**Amir Mizrachy v The King [2023] SC (Bda) 80 App 6** December 2023 – Diel AJ)
- An appeal of the decision of the Learned Magistrate Tyrone Chin, the Appellant seeks to quash the conviction of driving without due care and attention contrary to Section 37 of the Road Traffic Act 1947 (**Amir Mizrachy v The King [2021] SC (Bda) 81 App 6** December 2023 – Diel AJ)

Matrimonial Division

By Commencement Day Notice Br 14/2023 dated 10 March 2023, the much-anticipated Matrimonial Causes (Faultless Divorce) Amendment Act 2022 became operative on the 13 March 2023. There is now only one ground for the dissolution for a divorce which is that the marriage has broken down irretrievably. Either party to a marriage may apply to the Supreme Court for an order (a “divorce order”) to dissolve the marriage. A Statement of Irretrievable Breakdown is the only evidence required to obtain a divorce. This statement and other documents embodying ordinary language instead of outdated legalese may be found on the Supreme Court’s website. The Hon Mme Justice Nicole Stoneham is the Head of the Matrimonial Division.

The increasing numbers of litigants in person preparing and filing their applications for divorce might be hailed an access to justice success. Though, it has undoubtedly put a strain on the resources of the Courts' Bailiffs Office. In 2023 an estimated 35 Petitions/ Applications for Divorce were served by the Courts' Bailiff's Office at a flat service fee of \$20 dollars. When compared to the fee to engage a private process server estimated to be of \$75 - \$150, Mr. Christopher Terry, the Deputy Provost Marshall, and his team of bailiffs – Mr. Donville Yard, Ms. Donna Millington, Ms. Veronica Dill and Mr. Davario Thompson, must be commended notwithstanding the inconceivable circumstances often encountered. In addition, the Court's Bailiffs' Office facilitated service of an estimated 30 other documents including Summons and Affidavits in family matters before the Supreme Court.



Bermuda Courtroom

The total number of 'other documents' served by the Bailiffs' Office was significantly lessened by the co-operation of both Attorneys and litigants in person, who consented to service via email.

An estimated 101 Thursday chambers hearing were conducted by the Judge. These applications included matters related to ancillary relief, the relocation of children overseas as well as the prohibition of children travelling overseas, custody, care and control, declaration of parentage and the enforcement of financial orders.

In 2023 applications before the Court involving the welfare of children were noticeably enhanced by the appointment and participation of Litigation Guardians. The continued dedication, excellent focus and commitment to the best interests of our children demonstrated by the Court Social Workers was beyond reproach. Much gratitude is extended to the Litigation Guardians, Court Social Workers and the Matrimonial & Family practitioners in the Supreme Court.

Supreme Court Judicial



**The Hon Mr Justice Larry
Mussenden, Chief Justice**



**The Hon Mme Justice Nicole
Stoneham**



**The Hon Mme Justice Shade
Subiar Williams**

al Officers of Bermuda



The Hon Mr Justice Juan Wolffe



**Ms Alexandra Wheatley,
Registrar**



**Mrs Cratonia Thompson,
Assistant Registrar**

The Court of Appeal

Adapted from The Rt Hon Sir Christopher Clarke's contribution in the Bermuda Judiciary's 2023 Annual Report

The range of cases decided by the Court in 2023 was as substantial as ever. I will not go through the whole list – the judgments are to be found on the judiciary's website. But I will draw attention to some of the more significant cases.

At the beginning of the year we gave judgment in three cases which had been argued in 2022. The first was **AB v The Minister of Education**, in which we rejected an appeal from the decision of Hargun CJ, who had dismissed the challenge brought to the decision of the Minister to deny AB entry to school unless he was able to provide a negative, test and to keep public schools closed until 80% of students had provided such a test. The second was an appeal in **Bell v The Attorney General & Ors** where we upheld a finding that a Residential Care Officer had been guilty of gross misconduct by being under the influence of alcohol and validly dismissed. The case largely concerned the procedure that led to her dismissal and the effect of the Public Service Commission Regulations 2001 and the procedure adopted by the Commission.

The lead judgment in those two cases was given by Maurice Kay, JA, whose term of office has now come to an end, He has been a highly respected member of the Court for many years and the Court has benefited very greatly from his wisdom and common sense, particularly in relation to criminal, common law, and administrative law matters, for which Bermuda has much to be thankful.

The third case from the previous year was **In the Matter of the X Trusts**, which required consideration of the role of Protectors in relation to Trusts with assets of very high value the disposition of which by the Trustees required the Protectors' consent. The question was whether the role of the Protectors was (i) to approve dispositions decided on by the Trustees if satisfied that the Trustees' decision was rational and took into account all relevant, and ignored irrelevant, considerations; or (ii) to exercise an independent discretion as to what disposition should be made, so that they could decline consent even though the decision of the Trustees was a rational one, which took into account all relevant and took no account of any irrelevant considerations. The Court upheld the decision of Kawaley AJ, as he then was, The case is now on its way to the Privy Council.

In the March session the Court considered, in **Information Commissioner v The Attorney General**, the extent of the Information Commissioner's powers under the Public Access to Information Act 2010, and whether the Commissioner was entitled to issue summonses to the Solicitor General and the Acting Permanent Secretary of the Ministry of Health calling for the production of documents relating to a settlement between the Brown-Darrell Clinic and the Ministry of Health, even though some of the documents were records which were said by the Ministry to be excluded from the application of the Act. The Court allowed the appeal from the first instance decision, which had quashed the issue of the two summonses.

We also gave judgment in the case of **In Re Jardine Strategic Holdings Ltd** which concerned the right of a dissenting shareholder whose shares have been compulsorily acquired pursuant to section 106 of the Companies Act 1981 to claim to be paid such amount as might be appraised by the Court, in circumstances where the shareholder in question had acquired his shares after either the initial announcement of the particular company's intention to propose an amalgamation or merger, or where such shareholder had not been a shareholder of the company when the company had given notice of the proposed amalgamation pursuant to section 106(2) of the Act. That case too is destined for the Privy Council.

Another case in which we gave judgment was **Greenidge v The Commissioner of Police**, in which we had to consider whether a Detective Inspector had wrongly been held ineligible to participate in the 2018 Inspector to Chief Inspector Promotion Process. We upheld the decision of Hargun CJ that he had not been wrongly excluded from that process. In the course of the judgment we expressed concern about the exchange of certain messages with the ACOP which were not, in our view, in keeping with the high standards to be expected of the Bermuda Police Service.

In the June session the Court handed down a sizeable judgment in **Ivanishvili & Ors v Credit Suisse (Life) Bermuda Ltd**, dismissing an appeal from a judgment of Hargun CJ, who had awarded Mr Ivanishvili and others what turned out to be over US \$ 607.35 million plus interest against Credit Suisse (Life) Bermuda Ltd, as damages for the fraudulent handling of investments. The Court upheld the judgment of Hargun CJ in relation to breach of contract, although disagreeing with him in relation to the claim in misrepresentation. This case, too, is destined for the Privy Council.

We also entertained, but dismissed, an appeal, in **The King v Walker**, against conviction for causing death by careless driving (and against sentence) in a case where the expert evidence was of some considerable complication, two experts being of the opinion that carelessness was not made out and one that it was. The judgment laid down some important principles on the proper approach by the Court of Appeal in relation to appeals from the decision of a jury (and, in particular as to the non-application of a “lurking doubt ” test).

In the November session we gave judgement in **Stevedoring Services Ltd v Minister of Labour & Economy**, upholding the decision of the trial judge that there was a labour dispute in relation to the dismissal of an employee in an essential service which fell to be referred (as we held) to the Employment and Labour Relations Tribunal. This case concerned the new provisions in relation to labour disputes put into effect by the Trade Union and Labour Relations (Consolidation) Act 2021.

We also considered, four criminal appeals, one in relation to possession of drugs - Butterfield, which addressed the question of the legal requirements for reasons in judicial decisions, another – **Charlton** in relation to the intrusion into the privacy of a woman and sexual assault, both the latter being cases determined in the Magistrates court and then on appeal to the Supreme Court. The other two – **Muhammad and Davis** – were appeals in relation to murders, the former being an appeal against conviction and the latter against sentence.

We also heard the appeals of five appellants whose claims for compensation had been rejected by the Criminal Injuries Compensation Board on the grounds that they were out of time. We dismissed those appeals with reluctance, but drew attention to the unsatisfactory nature of the system: a short time limit for making a claim (1-year from the date of the crime), practically no notice to the public of the existence of the time limit, and no ability to extend time beyond (at most) one year. We recommended that consideration be given to the making of ex gratia payments.

In December we gave judgment in the case of **Bermuda Press (Holdings) Ltd v Evatt Tamine** in which Bermuda Press sought to appeal the decision of Mussenden J granting Mr Tamine interlocutory relief against the continued publication of an article in the Royal Gazette which referred to an affidavit which Mr Tamine had filed in proceedings in Bermuda which were sealed. The case raised interesting questions, which included whether the fact that the affidavit had been filed on the website of a US District Court, to which the public could obtain access, was determinative of whether any relief should be granted.

At the very end of the year we gave our reasons for the ruling we had given in June in the case of **The King v AH and AW**. In that case the then Deputy DPP had approved the laying of charges against two police officers; the then DPP had decided that there should be no prosecution. The DPP then became a Supreme Court judge and the former Deputy DPP became the DPP in his stead. She then decided that a prosecution should in fact be brought. The defendants obtained a stay of the proceedings from Wolffe J which he granted as "necessary to protect the integrity of the criminal justice system". The now DPP then appealed.

We held that we lacked jurisdiction to hear an appeal by the DPP under section 17 (2) of the Court of Appeal Act 1964 because the defendants had never been called upon to plead and, therefore, their trial had never commenced, that being a pre-condition of the DPP's right to appeal under the Act.

As is apparent from this brief summary of some of the cases, the workload of the Court is extremely varied; and the Court has had to address some major cases, particularly in the civil field. At least four cases decided on this year will fall to be considered by the Privy Council. That workload is, itself, a mark of Bermuda's standing in the commercial and trust world, where it punches way above its weight. The Court is grateful for the quality of the submissions that have been made to it, and for the contributions of the Barristers and Attorneys engaged in the cases before us, who are both competent and helpful. The Court has had the benefit of some high quality advocacy, both from the local Bar and from overseas.

Everything changes. As well as saying good bye to Maurice Kay, we were glad to welcome Ian Kawaley on his promotion to the Court. As a former Chief Justice the quality of his judicial output is well known and we very much look forward to his continued participation in the Bermuda judicial system in this Court. We were sorry to lose Hargun CJ from the Supreme Court. We shall miss the clarity of his thought and the quality of his judgments, with which we have only rarely disagreed.

Judicial Officers of the B



**The Rt Hon Sir Christopher
Clarke, President**



The Rt Hon Sir Maurice Kay



**The Hon Mr Justice Geoffrey
Bell**



**The Hon Mr Justice Anthony
Smellie**

Bermuda Court of Appeal



**The Rt Hon Dame Elizabeth
Gloster**



**The Hon Mr Justice Ian
Kawaley**



**Ms Alexandra Wheatley,
Registrar**



**Mr Audley Quallo,
Administrative Officer**



THE CAJO'S

8TH BIENNIAL CONFERENCE



**NOVEMBER 21 - 23,
2024**



**HAMILTON,
BERMUDA**

[CLICK HERE FOR MORE INFO!](#)



41

TRA 400



41

TRA 400

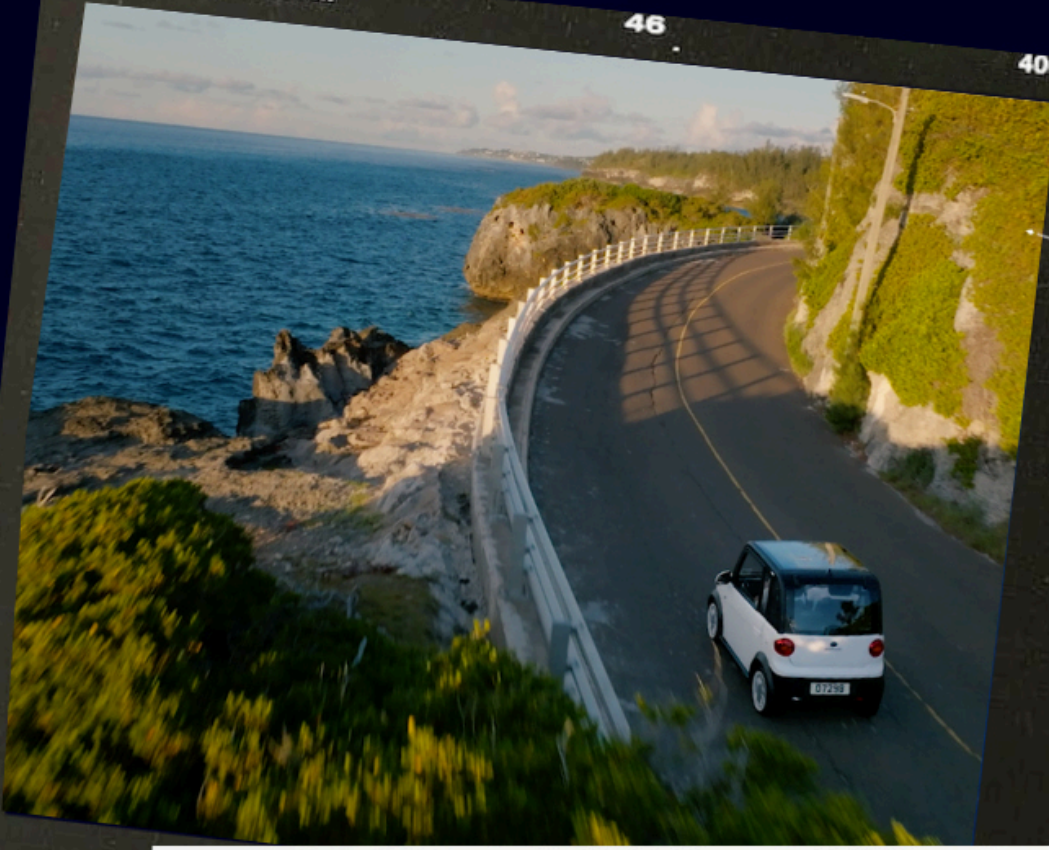


400TM

46

400TM

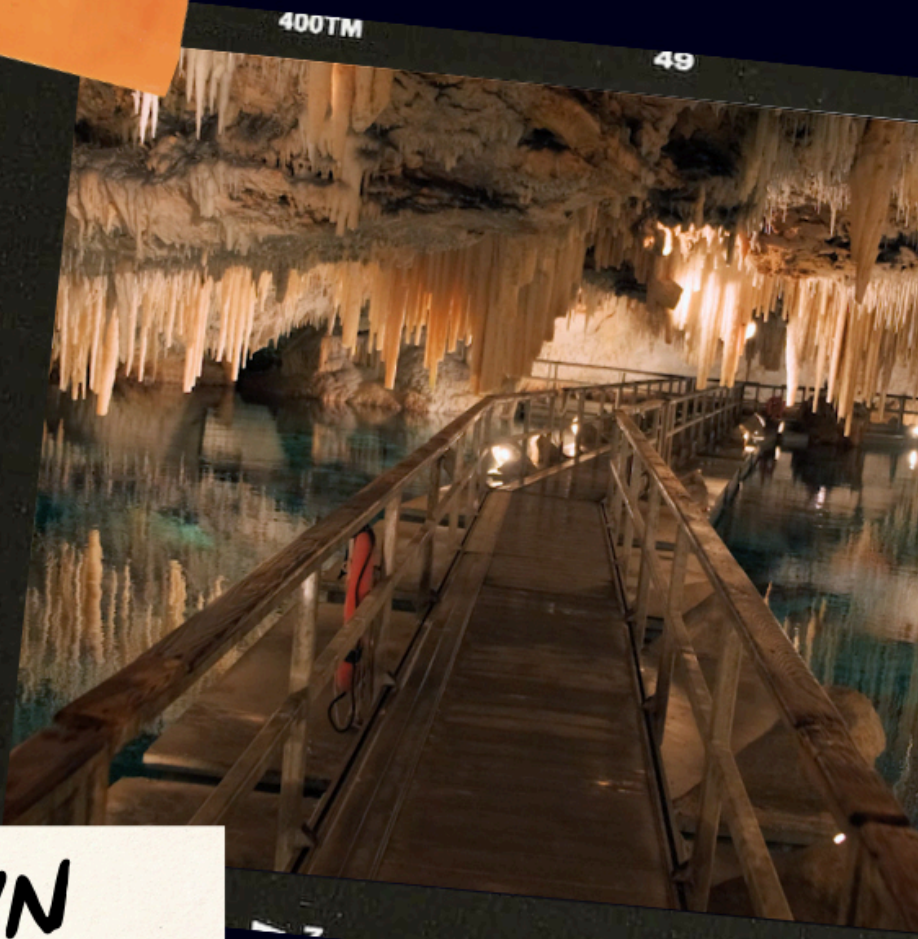
47



23

CANVA STORIES





SEE YOU IN
BERMUDA!





CNV40

14

CANVA STORIES

CNV40



CNV40

14

CANVA STORIES

CNV40



[CLICK HERE FOR MORE INFO!](#)

THE CAJO'S

8TH BIENNIAL CONFERENCE



**NOVEMBER 21 - 23,
2024**



**HAMILTON,
BERMUDA**

Bermuda's Mental Health Treatment

Another version of this article was published in CAJO News Issue 15 in 2022

Not unlike many other jurisdictions Bermuda's Criminal Justice System was characterized by disturbing levels of recidivism whereby offenders repeatedly passed through the revolving door of incarceration. Many of those offenders committed crimes as a result of underlying acute mental health challenges and without having their illness adequately or at all addressed whilst imprisoned they continued to commit offences once released. Fortunately, through the amendment of Bermuda's Criminal Code Act 1907 in 2001, there was a tectonic paradigm shift in the manner in which the Criminal Justice System treated offenders who were afflicted with drug addiction and/or mental health issues. This watershed legislative moment ushered in a collective mindset which embraced "alternatives to incarceration (ATI)" and "therapeutic jurisprudence", and twenty-one (21) years later it has become firmly entrenched in sentencing guidelines.

The flagship of the ATI regime was the Bermuda Drug Treatment Court ("DTC") which is specifically designed for persons whose offending behaviour is primarily fuelled by their insatiable desire to feed their drug habit. However, through dealing with participants in DTC it was revealed that although some had drug addiction issues the crux of their criminal conduct was deeply seeded mental health struggles.

nt Court (MHTC)

Article by The Worshipful Maxanne Anderson (Senior Magistrate) & Kelly Madeiros (Mental Health Treatment Court Coordinator)

Moreover, it was recognized that the structure and treatment modalities of DTC were not suitable for offenders who committed crimes because of an unaddressed psychological or psychiatric issue. It was for this reason that in 2013 then Senior Magistrate The Worshipful Juan P. Wolffe (who is now a Puisne Judge in the Supreme Court of Bermuda) and Kelly Madeiros formulated and commenced the pilot programme of the Mental Health Treatment Court ("MHTC"). It was during the pilot phase of MHTC that Bermuda was able to design a bespoke treatment court which met the specific criminogenic needs of offenders who struggled with a mental health diagnosis. On Thursday, 20th October 2016 a further amendment to the Criminal Code officially created the final iteration of MHTC.



The Hon Mr Justice Juan Wolffe (then Senior Magistrate) and Magistrate Maxanne Anderson in-session.

Since its inception, the MHTC has significantly increased: engagement in mental health services and medication compliance; and decreased: mental health hospitalizations, prison sentences, days spent in prison, and re-offending in the community. The MHTC embraces therapeutic jurisprudence with care, compassion and hope, with the ultimate aim to help people meet their individual life goals, live healthy, meaningful lives, and most importantly, not find themselves back in the Criminal Justice System. Mental Health Courts vary from jurisdiction to jurisdiction; however, most of them share and are guided by treatment court principles, defined as “essential elements”, first written by The Council of State Governments Justice Center (or “CSG”) in the USA. A CSG Justice Center publication highlights the essential characteristics which the majority of Mental Health Courts share as the following:

- A specialized court docket, which employs a problem-solving approach to court processing in lieu of more traditional court procedures for certain defendants with mental illness;
- Judicially supervised, community-based treatment plans for each defendant participating in the court, which a team of court staff and mental health professionals design and implement;
- Regular court hearings at which treatment plans and other conditions are periodically reviewed for appropriateness, incentives are offered to reward adherence to court conditions, and sanctions are imposed on participants who do not adhere to the conditions of participation; and
- Criteria defining a participant's completion of (sometimes called ‘graduation’ from) the programme. Successful completion may result in expunging the offence the client is before the Court for.

Bermuda is a country of approximately 62,000 people with high rates of mental health disorders and limited access to comprehensive mental health and substance use disorder treatment. The majority of clients enter the Criminal Justice System marginalized and, as a result, Bermuda's MHTC has had to be creative, collaborative and actively involved in the development of the programme on many micro and macro levels. It is no doubt that the accomplishments and challenges of Mental Health Courts in small Caribbean countries would have similar experiences, however, every country will have unique ones as well. There is an invigorating beauty of designing a court based programme that aligns with culture, resources and a team of people who genuinely care for their client population.

Programme Intake

The MHTC employs a court monitored and case management treatment system to supervise clients in the community. The MHTC is a voluntary programme which the defendant (or client as they are commonly referred to in the MHTC) must want and agree to participate in. Once a client is deemed guilty of an offence, they are ordered to observe the MHTC while reports, such as a psychiatric, psychological, mental health, social inquiry, and drug & alcohol assessments, are being conducted.

The eligibility and suitability criteria for MHTC include that; the person must be at least 18 years old, must have plead guilty or been found guilty, agrees to undergo a mental health assessment to determine eligibility, must have a diagnosed mental health disorder or impairment, agrees to participate in the programme, is able to be maintained in the community, it is in the best interests of the offender, and is not contrary to public interest that the offender be enrolled in the programme.



Mental Health Treatment Court activities

The MHTC shares characteristics with crisis intervention teams, jail diversion programmes, specialized probation and parole caseloads, and a host of other collaborative initiatives intended to address the significant overrepresentation of people with mental illness in Bermuda's Criminal Justice System.

Since 2016, the Bermuda MHTC has had 50 clients participate in the programme. Of those 50, 95% have a co-occurring disorder with substance use and mental health - predominately with cannabis as the drug of choice. 91% have been males, and the ages range between 18 to 70 years. The average age of participants has been 35 years old and 88% of participants identify as Black. The mental health disorders of the clients range from Schizophrenia (being the most common) to Anxiety and Depression.

Staffing

The Mental Health Treatment Court consists of a team that includes:

- A Magistrate - the Magistrate makes the final decisions, having heard from all parties.
- Crown Counsel - representing the Department of Public Prosecutions and who speaks on behalf of the Crown.
- Legal Aid or Defence Counsel - who represents the legal interests of the client.
- The Coordinator – responsible for the coordination of all the working parts.

- Mental Health Professionals [Psychiatrist, Forensic Psychologist & Psychiatric Nurses] - who will conduct assessments and put together Treatment Programs.
- Probation Officers - who ensure the treatment plans are being followed and are responsible for drug & alcohol assessments.
- A Police Officer - to ensure there is compliance and represents the interests of the Bermuda Police Service.
- The Department of Corrections – responsible for Bermuda's prisons.

Prior to MHTC sitting at 11am on Thursdays, the team meet at 9:30am to review clients and discuss progress, challenges and determine if the person is in compliance or in breach of their MHTC order. During these "staffing" meetings, it is vital that team members participate in their designated roles. It is extremely important that each team member is given an opportunity to be heard and everyone is respected in their roles. Ultimately, the programme is guided by law and the final say in decision making lays with the Magistrate. It is also during these staffing meetings that those persons observing the programme are discussed and their suitability and eligibility for the programme is decided. The psychiatry team are a key stakeholder at the table during the staffing meetings.

Court Appearances

After "staffing", the team proceed to the courtroom and reviews are completed on the clients. The clients are asked to provide a report or summary of their time between reviews, highlighting challenges and achievements.

It is during this time that the MHTC may provide sanctions, such as curfews, increased reporting, writing of essays, attending daily plea court, or it may provide rewards, such as decreased reporting, removal of curfew, increase time between court reviews, removal of electronic monitoring devices, gift/food vouchers. It is not uncommon for there to be multiple rounds of applause for clients in the Court sitting as the clients share their accomplishments – big and small.

The Mental Health Treatment Court sits every Thursday at 11am with the same Magistrate each week. Research has shown that, in treatment courts, the relationship between the Magistrate and the clients have the most impact. In addition, spending an average of 7 minutes in dialogue with the client makes the greatest empirical difference. Even during heavy Covid-19 restrictions in Bermuda, when all other courts were closed to in-person reviews, it was imperative for the continuity of care that the Mental Health Court met in-person (with strict social distancing protocols) to maintain the connection, collaboration and trust with the clients. This was instrumental in assisting clients meet basic daily needs during the pandemic lockdowns when the majority of helping services (e.g. church feeding programs, charities, emergency housing, etc.) closed their doors to in-person services. The MHTC is a closed Court - not open to the general public - in order to protect the confidentiality of participants and the programme's integrity.

Treatment Sessions, Drug Testing & Probation Contacts

The Mental Health Treatment Court has the great advantage of easy access to the Forensic Psychiatrist and a Psychiatric Nurse on a weekly basis as they attend the Probation Department to carry out Psychiatry Clinics with the clients.

In lieu of a forensic team or service on the island, being able to collaborate weekly is one of the programme's greatest strengths. Clients must also submit to random drug testing and visits with their Probation Officer at least once per week.

Challenges

Some of the challenges the programme faces are: no supportive or supervised housing programmes; very little access to mental health rehabilitation programmes; lack of co-occurring treatment for mental health and substance use disorders (both outpatient and inpatient); and the lack of employment opportunities. Oftentimes judicial officers do not fully comprehend the treatment court philosophies and that's okay. Traditional courts are for those who like structure and procedure that's linear.

More than just a Court

MHTC's primary operating goals are to:

- reduce the number of times people with mental illness come into contact with the criminal justice system in the future.
- reduce the inappropriate use of institutionalization for people with mental health challenges.
- improve the mental health and the well-being of the individuals who come into contact with the Mental Health Treatment Court Programme.
- protect the public safety.

- develop greater linkages between the Criminal Justice System and the mental health system and other helping agencies to maximize treatment responses.

Other unique aspects of the MHTC, which translate into magical moments, and have helped to change clients' lives have been while participating in group outings with the MHTC team (including but not limited to – fishing off the rocks together, bowling, touring parts of Bermuda, gym and/or outside workout sessions with a personal trainer, picnics & cricket in the park or having a meal together). It is during our annual 'Thanksgiving Court' when we forget about the traditional reviews in order to have clients and their families share what they are grateful for on that day. We have held MHTC at a bowling alley before playing competitive games with everyone divided into teams of the clients' choice. We have had traditional Bermuda kite making activities with the MHTC team and clients the day before Good Friday and supplied all in attendance with Bermuda's traditional Good Friday meal of hot cross buns and fish cakes (plus Easter candies). These are the moments that help the clients forget they have mental illnesses or are classified as criminals by the community, but for a few minutes they feel genuinely connected to a community that they so desperately try to fit into. The MHTC programme employs a court-monitored and case managed treatment system to supervise clients in the community, ensuring that clients have the greatest opportunity to address their mental health issues and become productive and contributing citizens. Because of the progressive model of working with clients with mental illness in the community, the Coordinator is often contacted by family members of persons not enrolled in the MHTC to find out how they can get their loved one into the programme without having them arrested or going through the criminal justice system.

Treatment Court Research

In some American jurisdictions, exclusion criteria can include sexual and/or violent offences; however, due to the Bermuda's size, the intricate knowledge of the defendant and the circumstances, as well as an understanding of the familial and societal histories, the Bermuda MHTC has a low threshold of exclusion criteria and will consider persons with sexual offences and most violent offences (except for manslaughter and murder). Interestingly, recent research from the USA has shown that there were no significant differences between violent and nonviolent offenders on any recidivism outcome, and two courts showed lower re-arrest rates among participants charged with violent felonies than those charged with drug and property crimes. Compared to defendants in traditional courts, Mental Health Court defendants have lower rates of re-offending, longer times in the community before committing new offenses, and fewer days of incarceration.



Mental Health Treatment Court aThanksgiving

Studies that have followed participants for a period of time after exiting the Mental Health Court showed that positive effects can endure for a year or more. Mental Health Court participants also demonstrated greater engagement in community-based treatment than nonparticipants.

Court Liaison & Diversion Officer

In the last year, due to the efforts of then Senior Magistrate and now Puisne Judge Juan P. Wolffe, the Mid-Atlantic Wellness Institute (our mental health facility), and the Bermuda Police Service Bermuda has had the benefit of a Court Liaison and Diversion Officer (LDO) for the Magistrates' Court. The purpose of the LDO is to provide immediate in-court assistance to individuals who appear in court but may be struggling with a mental health issue. Specifically, the LDO will triage the situation and provide guidance to the individual so that they may receive immediate direction and/or treatment if deemed necessary. It is hoped that the use of the LDO will not only give some comfort to the individual but to also reduce the criminality of the individual.

Final Words

There is a different feeling when you enter a Mental Health Court if the right team is in place. It feels collaborative, not punitive. It feels meaningful, not scolding. It works with a trauma focused and compassionate lens which reminds us that the client's journey of finding themselves in the Criminal Justice System is usually not a happy one. However, it also reminds us that with life there is hope, and when the hopeless and rejected get referred to MHTC, we are there to help!

Mental Health Treatment Courts save lives!

Turning Tides: How a Landmarck ECHR Empowers Small Island States in the

History was made in Strasbourg, France on 9 April 2024 when the European Court of Human Rights (ECHR) made a major stride in the fight against climate change through its decision in **Affaire Verein Klimaseniorinnen Schweiz Et Autres C. Suisse (Senior Women for Climate Protection v Switzerland) Application No. 53600/20**. This decision highlights the interconnectedness of global human rights standards and environmental justice, emphasising the need for comprehensive and proactive measures to protect vulnerable populations from the adverse effects of climate change. The full text of the judgment can be found at: <https://hudoc.echr.coe.int/eng/?i=001-233206>

The ECHR Ruling: A Brief Overview

An action was filed in November 2020 by four Swiss women, all members of the association, Senior Women for Climate Protection, which is comprised of women living in Switzerland, the majority of them being over the age of 70. The Association is committed to reducing greenhouse gas emissions and their effects and acts in the interest of its members, the general public and future generations. In these proceedings, the Applicants alleged that heatwaves were affecting their health and daily routines and that the State was violating their rights to life and private and family life as enshrined in Articles 2 and 8 of the European Convention on Human Rights (the Convention) due to its inadequate measures and failure to reduce greenhouse gas emissions.

ECJ Ruling Climate Fight

Article by Chelsea Dookie, Judicial Counsel,
Caribbean Court of Justice

They also alleged a violation of the right to a fair trial (Article 6) and the right to an effective remedy (Article 13) as the Swiss courts had dismissed their claims on procedural grounds. The ECHR ruled that Switzerland had failed to timeously and in an appropriate and consistent manner, develop and implement relevant legislation and measures to mitigate the effects of climate change. Therefore, there was non-compliance with positive obligations under the Convention. The ECHR stated that Article 8 of the Convention must be seen as encompassing a right for individuals to effective protection by State authorities from serious adverse effects of climate change on their life, health, well-being, and quality of life. Additionally, the Court found that Switzerland breached Article 6 of the Convention as the Swiss Courts had not provided convincing reasons why they considered it unnecessary to examine the merits of the action.



Click the image above to view the BBC report

Is this ruling relevant to Caribbean Small Island Developing States?

SIDS are among the most vulnerable to climate change due to their geographic and economic characteristics. These nations face unique challenges including limited resources, small economies, and high susceptibility to natural disasters. The ECHR's decision presents beneficial learning for SIDS firstly because of the Court's emphasis on the need for robust legal frameworks that protect the rights of individuals against the impacts of climate change. For SIDS, this means developing and enforcing laws that address environmental protection and human rights. This action also illustrates to citizens that there is a legal basis for them to demand action from their governments, potentially leading to stronger environmental policies and measures.

Moreover, the ECHR's ruling sets a precedent for holding governments accountable for the inadequacy of their environmental policies. For SIDS, this means that governments can be held accountable not only by their citizens but also by international bodies. This increased accountability can drive more effective and transparent climate policies, ensuring that governments take necessary actions to protect their populations. Secondly, the decision underscores the importance of international and regional cooperation in addressing climate change. The ECHR ruling may encourage international organisations and more developed nations to strengthen their commitment to assisting SIDS by providing them with the resources needed to effectively combat climate change.

The Caribbean regional integration movement, the Caribbean Community (CARICOM), is beneficial to the region as Member States band together and collectively take example from more developed nations in an effort to combat climate change.

Tackling the problem as a region is more efficient and effective than any one small island developing state working on its own. Pooling resources in the regional integration regime has facilitated access to support from developed nations and international organisations in the implementation of climate adaptation and mitigation strategies. For example, CARICOM has successfully secured funding from the Green Climate Fund to support a range of climate adaptation and mitigation projects including coastal protection initiatives, water resource management, and the development of climate-resilient infrastructure.

CARICOM has been proactive in addressing the challenges posed by climate change and recognising the existential threat it poses to Member States. These efforts span a range of initiatives, policies, and collaborations aimed at building resilience, reducing greenhouse gas emissions, and securing international support. CARICOM has established the CARICOM Climate Change Centre (CCCC), headquartered in Belize which provides climate-related policy advice and guidelines, facilitates capacity-building activities, and implements regional projects aimed at enhancing climate resilience. The Centre also serves as a repository for climate data and information, which is crucial for informed decision-making. There is also the Regional Framework for Achieving Development Resilient to Climate Change which was adopted in 2009 and which outlines CARICOM's strategic approach to climate change adaptation and mitigation. It emphasizes mainstreaming climate resilience into national development plans, enhancing regional cooperation, and securing international funding and technical assistance. CARICOM's efforts illustrate the benefits of international and regional cooperation. It is clear that through regional cooperation, Caribbean SIDS have been able to make strides in building climate resilience and reducing vulnerability, a feat which could seem unattainable if each State stood on its own.

A third benefit of the ECHR decision for Caribbean SIDS, is that it empowers civil society organisations and individuals to take legal action against inadequate climate policies. In SIDS, where civil society plays a crucial role in advocating for environmental protection, this empowerment can lead to increased public participation and pressure on governments to implement effective climate action measures.

Finally and perhaps most importantly, the ECHR illustrated an effective adoption of a human rights-based approach to climate action. The ruling highlights the importance of integrating human rights into climate action and SIDS can leverage this approach to ensure that their climate policies prioritise the protection of vulnerable populations, such as women, children, and the elderly. By framing climate change as a human rights issue, SIDS can advocate for more comprehensive and equitable solutions on a global stage.

Conclusion

The ECHR's ruling against Switzerland marks a significant step towards recognising the link between human rights and environmental protection. SIDS can look to this ruling as a gateway to opportunity and add it in their arsenal in the action against climate change. By adopting a human rights-based approach to climate action, strengthening legal frameworks, and seeking international support, SIDS can better protect their vulnerable populations and build resilience against the impacts of climate change. This landmark decision serves as a powerful reminder that the fight against climate change is not only an environmental issue but also a fundamental human rights concern and the responsibility of all humanity.

KlimaSeniorinnen: Meet the older women suing Switzerland to demand climate action

By Reuters

April 9, 2024 9:18 AM AST · Updated 2 months ago



Aa



Anne Mahrer and Rosmarie Wydler-Walti, of the Swiss elderly women group Senior Women for Climate Protection, talk to journalists after the verdict of the court in the climate case Verein KlimaSeniorinnen Schweiz and Others v. Switzerland, at the European Court of Human Rights (ECHR) in Strasbourg, France April 9, 2024.... [Purchase Licensing Rights](#) [Read more](#)

Click the image above to read the Reuters article

Court of Justice of Suriname Celebrates 155 Years of Justice

On May 1st 2024 the Court of Justice of Suriname commemorated 155 years of justice in Suriname. In this regard festive activities were concentrated in the first week of May, while other activities carried out during the rest of May, all aimed at getting the Court closer to society and modernizing communication. The activities started with the presentation of a commemorative book by the President of the Court of Justice, the Hon Mr. Justice Iwan Rasaelbaks to the President of Suriname, H.E. Chandrikapersad Santokhi. This book was specially written and published on the 155th anniversary of the Court of Justice with highlights of the development of the Court and the Judiciary in Suriname throughout the 155 years. Another activity was the honorary decoration of 11 special friends of the Court, retired judges and judicial officers by the President of Suriname at the Presidential Palace, as an acknowledgement of their contribution to the development of the judiciary in Suriname.

The festive week started with a welcome reception on May 5th, followed by a congress on May 6th, masterclasses on May 7th and 8th, and a historical tour for the guests on May 9th. Among the invitees for the festive week were judges from the Netherlands, the Netherlands Antilles, and the Caribbean Court of Justice. The welcome reception was focused on highlighting the youth. Students from different high schools had been given the opportunity to write an essay about their perception of justice. The two best essay writers of the 9 submitted essays received a prize at the welcome reception.

es 155 Years of

Article by The Hon Mme Justice Sandra Nanhoe Gangadin, Judge, Suriname

An art exhibition was also held at the welcome reception in which students from the Nola Hatterman Art Academy, the Academy of Higher Art and Culture Education and the Institute for Teacher Training portrayed justice and the law in a creative way. These artworks were also exhibited in the courthouses throughout the month of May. All the art students received an acknowledgement from the Court for their participation in the exposition at the welcome reception.



L: Essay competition winners | R: Art pieces

The highlight of the festivities was the congress, during which prominent speakers from different judiciaries, the university, the media, parliament, the Bar Association, and the executive had the opportunity to present their view on the judiciary then, now and in the future. More specifically on how Lady Justice uses her sword; is the sword to stab people in the back or is it to protect the rule of law; does society believe that Lady Justice is in fact blind, or does she peep who the defendant is; does she measure with two measures or is everyone equal before the law. With this congress the Court had put itself in a vulnerable position, in fact positioning itself in the defendant's position for a change.

The Court and its judges took serious note of the issues raised and the feedback provided on how others outside the Court perceive the judiciary. This important input will be used to better the judiciary in the future. Especially since the judiciary in Suriname is in a transit phase on its way to become an independent entity. It is worth mentioning that the Court already has financial autonomy for over two years now, managing its own budget. Currently the Court is drafting legislation to acquire further autonomy. It is also important to mention that the Court currently consists of 31 judges, including the President of the Court, while two cohorts of respectively 14 and 15 trainee judges are currently being educated to become judges. With these cohorts the Court aims to relieve the heavy workload of the current judges and more efficiently bring justice to the people by 2026.

The master classes were provided in collaboration with the Anton de Kom University and judges from the Netherlands for lawyers on themes related to pending changes in the civil code of Suriname. The festive week was concluded on May 11th with a team building activity for the staff of the Court to promote connection and togetherness among the employees to strengthen the organization.

Other activities entailed two young judges providing lectures on what a judge does and how the judiciary functions at two schools on the secondary level as part of the 'meet the judge' activity to promote a relationship between young people and judges. There was also a program called 'talk legal to me' with the Anton de Kom University of Suriname, in which law students were interviewed about their understanding of case law. These promotional videos were shared on social media. Also, a communication unit was established, and three press judges have been appointed to provide the media with explanations/clarifications regarding the grounds and consequences of delivered judgements, especially in high profile cases. For this a press room will also be set up in one of the Court House buildings. The communications unit will commence its work in October of this year.



T: Hon Mr Justice Iwan Roeselbaks, President of the High Court, Participating in a panel discussion | B: Staff team-building activities

Court of Justice of Suriname 155th Anniversary - Message from Hon Mme Justice Maroeska Scholte, Vice President of the Joint Court of Justice of Aruba, Curaçao, Sint Maarten, and of Bonaire, Sint Eustatius and Saba

I would first like to extend my warmest congratulations on the 155th anniversary of the Court of Justice and express my heartfelt gratitude for having been invited to join you in the celebration of this memorable occasion! Hereby, I would also like to convey the congratulations of the President of my Court, Mr. Mauritsz de Kort, LL.M., who unfortunately could not attend today.

Let us be honest; I was surprised to receive the invitation. Was this a coincidence, or not? After all, this year, the Joint Court of Justice of Aruba, Curacao, Sint Maarten and of Bonaire, Sint Eustatius and Saba also celebrates its 155th anniversary, of May 1st, 1869. You structured this conference around the topic "Justice then, now and in the future". A nice opportunity for me to explore the origins of our joint anniversary and to inform you of my findings in that context. After looking back at the past, I will also address where we as a Court stand in the present (or: where we are moving, considering the title of this section: "Justice in motion") and also, how we relate to the Court of Justice of Suriname, now and in the future.

So, what is the story of this joint anniversary of both Courts?

In the period from 1828 to 1845, the former Netherlands Antilles (which back then were named Curacao and the Dependencies) and Suriname were a Government-General. At the time, they were also jointly named the West Indies. In 1828, the reasoning was that unifying the territories in a Government-General would reduce expenditure, as it had earlier in the East Indian territories.

Reality turned out to be more challenging. The unification of Suriname with Curacao and the Dependencies did not bring what was expected. In Suriname, particularly, a need was felt for a Governor who was entirely and exclusively dedicated to the Surinamese interests. In 1845, the unification of Suriname with the six islands in a Government-General was undone.

However, what was not undone, was the arrangement that had arisen in the meantime, that the Court of Suriname acted as the appeals court for Curacao and the Dependencies. Therefore, any appeal of rulings of the courts of Curacao and the other Dependencies had to take place at a distance of approximately 1,700 kilometers “as the crow flies” from Curacao and the Leeward Islands (and even further from the Windward Islands). And all that in a time before the Wright brothers invented the airplane, in 1903.

As you may have guessed; due to the distance and the lack of communication in those days, this appeal option was barely used, if at all. The appeal arrangement did remain in place until 1869.

Incidentally, appeal at a distance is still a given for our Court. The appeals in civil, criminal and administrative cases on the Windward Islands and Aruba and Bonaire are handled from Curacao. In tax cases, they are handled from Aruba. This should be nuanced by saying that since late last year, all islands have their own physical location where those seeking justice can submit procedural documents. They no longer need to travel to do so (except to the Court Registry on their own island). The Court, and particularly the judges and legal support staff, travel to the islands for hearings. Talk about “justice in motion”.

Let us go back to the past.

The next relevant occurrence for our joint history was the establishment of a State Committee in 1852, which was tasked with making the new Dutch legislation of 1838 applicable to the so-called Dutch West Indies, meaning Suriname, and Curacao and the Dependencies. Until then, justice was exercised in our territories based on old Dutch and Roman legislation. It is said that at the time, Mr. L. Metman, LL.M. – who was a member of the State Committee and in that context was also appointed Commissioner of the King – was given the order to distribute his costs: he was to charge Suriname for two-thirds of the costs and Curacao and the Dependencies for one-third of the costs.

At the time, the codification project coincided with several other topics that required the Dutch authorities' attention, among others the development of a Government Regulation but also the abolition of slavery. This, and the fact that the aforementioned Mr. Metman passed away in Suriname in 1860, six months after having arrived there, caused a delay in the codification project. In 1865, a Government Regulation was established, in which it was stipulated that civil law, commercial law and criminal law in the colonies (thus for both Suriname and Curacao and the Dependencies) wherever possible had to be in conformity with the applicable law in these areas of law in the Netherlands.

For Curacao and the Dependencies, this meant that a committee under the supervision of Mr. A.M. de Rouville, LL.M. was appointed, which was tasked with the implementation of the new legislation and the establishment of the judicial system. This resulted, among others, in the "Regulation on the Structure and Composition of the Judicial Power in the colony of Curacao" on September 4th, 1868. Also, a Civil Code and a Criminal Code were drawn up.

On the night of Friday April 30th, to Saturday May 1st, 1869, the coming of a new era was announced to the Curacao community with a cannon shot fired from Fort Nassau in Curacao. An era with their own Court of Justice, codification and regulation of the appeal to the Supreme Court in the Netherlands.

And what happened in Suriname? I was able to determine in my investigation that a "Regulation on the Structure and Composition of the Judicial Power of Suriname" also existed. This regulation was dated January 4th, 1869. I have been unable to determine exactly how everything subsequently unfolded. I deduce from old newspapers that in any case there was a Code of Civil Procedure that entered into force on May 1st, 1869. In light of that fact and today's festivities, I assume that the aforementioned Regulation of Suriname and the other legislation also entered into force on or around that date. Therefore, at that point, Suriname also entered a new era with its own Court of Justice, codification and, from what I gathered, regulation of the appeal to the Supreme Court in the Netherlands. If in that case a cannon shot was also fired, remains unsure.

And was all said and done with the birth of these two Courts on May 1st, 1869? Did both Courts go their separate ways afterwards?

As for our Court, I can tell you it underwent several changes. In 1919, the Councils of Justice (with competence in the area of criminal law) and the Subdistrict Courts (with limited competence in criminal and civil cases) were dissolved on the islands and replaced by one Subdistrict Court for the Windward Islands and one Subdistrict Court for the Leeward Islands. Cases on Aruba and Bonaire were handled from Curacao, and the Windward Islands' cases from Sint Maarten.

Since there was very limited interest for placement on Sint Maarten (and because the posted personnel experienced problems of social nature), in 1941 it was decided to terminate the Subdistrict Courts. Subsequently, it was decided to establish one Court of First Instance with six seats, where cases were handled by the members of the Court as traveling judges. For a long time, this judicial organization remained virtually unchanged. In 1986, Aruba's withdrawal from the Netherlands Antilles gave rise to the establishment of a Court of First Instance of Aruba in addition to the Court of First Instance of the Netherlands Antilles, which (then still) had five seats. The Court of Justice became a joint body of both countries and was therefore named the Joint Court of Justice.

This lasted until October 10th, 2010, also named 10-10-10. That day marked the dissolution of the Netherlands Antilles. Since then, the Court serves four countries, namely Aruba, Curacao, Sint Maarten and the Netherlands (as regards the special municipalities Bonaire, Sint Eustatius and Saba). For the Court, 10-10-10 brought about considerable (organizational) changes: Article 15 of the Kingdom Act on – in short – the Joint Court of Justice stipulates that the Joint Court has independent legal personality and that the Courts of First Instance form part of the legal person that is the Court. The Courts of First Instance currently are: the Court of First Instance of Aruba, the Court of First Instance of Curacao, the Court of First Instance of Sint Maarten and the Court of Bonaire, Sint Eustatius and Saba. The latter has seats on each of the three islands mentioned in its name. Another novelty was the fact that there are now three Vice-Presidents who, together with the Director of operations and the President, form the Management of the Court. The Vice-Presidents and the President are all judges and members of the Court.

The costs of the Court, the Courts of First Instance and the Management Council (among others supervisor of the Court and formal employer of non-judicial personnel) are covered by contributions made available by the countries, which are determined by means of an allocation formula.

Since November 2023, with the opening of two permanent own locations on Saba and Sint Eustatius, the Court has six own seats where cases in first instance are heard. As mentioned before, appeals in all areas of law and tax law in first instance are handled from Curacao and Aruba. Together, we conclude approximately 40,000 cases each year, of which 20,000 are heard in Curacao, 13,000 in Aruba and the rest on the other islands.

Our personnel is a mix of local employees with island roots and employees with a European background. Like other organizations on the islands (and in the Netherlands) the Court faces challenges when filling vacancies for legal support. With regard to recruiting new legal colleagues (in any case for judges and meanwhile also – increasingly – for new legal support staff) a “Caribbeanizing policy” applies. In the explanatory memorandum to the Kingdom Act on the Joint Court of Justice, this is described as a policy to employ more members in the Court who are originally from the Caribbean part of the Kingdom. According to the explanatory memorandum, this is taken into account accordingly when it comes to the influx of magistrates in training and the appointment of members.

At the moment, also as a consequence of the challenges mentioned before, we are actively engaged in enthusing (future) legal professionals with local roots for a career at our Court. These legal professionals are law students who study on the islands, but also students with local roots who study law in the Netherlands.

To reach the students, the Court participates in the FRED Expo in the Netherlands (a job fair for organizations and businesses from the islands), it has been present for two consecutive years at the job fair Nationale Carrièrebeurs in the “Working in the Caribbean” section, and it organizes informational sessions in the Hague, at the Cabinets of the Ministers Plenipotentiary (the Arubahuis, the Sint Maartenhuis and, this year, the Curaçaohuis). This year, the Court was also invited to the Dutch Caribbean Student Association in Rotterdam to provide information about working at the Court. Also, this year, we participated in the Job Fair organized by Curacao’s Ministry of Justice.

I would also like to mention the Caribbean Summer Court. Students with local roots who study law on the islands or in the Netherlands, and whose study results are above average, are given an opportunity to visit us in the month of August, for a look behind the scenes. For three weeks, they accompany employees of the criminal, administrative and civil law sections (one week for each area of law). The program is concluded with a Moot Court. This year, the third edition of the Caribbean Summer Court will take place. We are happy to see the effects of our efforts, and meanwhile, we have welcomed several new colleagues.

In addition to college students, we also make an effort to interest high school students in the Court and to give them an insight into the goings on of the Court. After all, they still have to choose their career path. Last year, we organized a successful Open House for Students in Curacao, during which higher-level secondary school students could participate in a criminal and civil Moot Court. The Moot Courts were greeted with a lot of enthusiasm by the students. That is why during our Dia Habrí (Open House) of April 13th of this year in Curacao, we again included a Moot Court in the schedule (again, with an enthusiastic response).

That was all for our look back on the justice (in motion) at our current Court, which leads me to the question of what connects our Court and the Court of Justice of Suriname nowadays, and what does the future hold. The fact that our Courts, in Caribbean surroundings with predominantly common law systems, both have a civil law system, unites us. And in that context, we support one another. For a long time, it has been customary that the courses that are offered in Curacao are also accessible to colleagues of the Suriname Court.

Currently, our Court organizes two Knowledge Weeks a year, during which legal trainings and courses are offered to all judges and legal support staff, among others with the help of members of the Supreme Court – for which we consider ourselves truly fortunate. It was agreed with the Court of Justice of Suriname that on each occasion, two judges from Suriname can participate in the Knowledge Weeks. Two weeks ago, another invitation for the Knowledge Week was sent to the Court of Suriname, for next September's edition. Furthermore, there are several judges of our Court who – often on their own time – offer and have offered a helping hand in eliminating the back log and offering courses in Suriname. Vice versa, our Court received the offer from Suriname to have our magistrates in training participate in the courses that are given here for Surinamese magistrates in training.

Also in other areas, there is cooperation between our Court and the Court of Justice of Suriname. Not only has our Court offered a helping hand for progressing toward a digital court, but we also shared our digital case log and information system – developed internally by our Court – with the Court of Justice of Suriname (and it was implemented with the help of our colleague, Mr. Steg).

And finally, it may not be left unsaid that our colleague, Professor Jan de Boer, LL.M., frequently traveled to Suriname on his own time to assist with the new Civil Code of Suriname. I would like to seize the opportunity to congratulate him, along with the other decorandi, on his recent distinction as Officer in the Honorary Order of the Palm.

All truly fine forms of cooperation that we feel should be continued.

Which leads me to a conclusion. For 155 years, both our Courts have been committed to justice and to ensuring that those who seek justice feel they can rely on the rule of law. It is up to us to ensure justice is impartial, independent, accessible, timely and effective. It cannot be emphasized often enough: duly functioning and independent justice is of the utmost importance for a democratic state under the rule of law, and a prerequisite for a just society, not only now, but also in the future.

Again, my heartfelt congratulations, and on to our next joint lustrum!



Anniversary celebrations



Click the image above to view the 155th Anniversary video

Joint Court of Justice of Aruba, Curaçao of Bonaire, Sint Eustatius and Saba 155th Anniversary

On Monday, May 6, 2024, the Court celebrated its 155th anniversary. Officially, the Court's dies natalis is on May 1. This celebration was combined with that of Liberation Day.

In this context, a special lunch was offered to all colleagues at all Court locations, in collaboration with the organization responsible for the Kingdom-wide Freedom Meals (<https://freedom-meals.com>). This lunch not only symbolizes the unity within the Kingdom but also the deep appreciation for the diversity and strength of our societies, from all six islands that the Court serves through its jurisdiction.

Prior to the lunch, a lecture was given in Curaçao by Mr. Allan van der Ree from the WWII Museum Curaçao, and in Aruba, the lecture was given by Mr. Luc Alofs, cultural anthropologist, historian, and heritage specialist.

As part of this celebration, the Court is pleased to share a video message from Maurits de Kort, President of the Joint Court of Justice, reflecting on the significance of this historic moment.

, Sint Maarten, and th Anniversary



Gemeenschappelijk
Hof van Justitie

Click the image above to view the video

CCJ Continues Its Regional Engagement in Suriname

In early May 2024, the Caribbean Court of Justice (CCJ) continued its Referral Workshop Series and sensitisation sessions on the CCJ's Original Jurisdiction (OJ) with the Court of Justice of Suriname and Chamber of Commerce and Industry in Suriname. Throughout the day, some of Suriname's key stakeholders were part of the CCJ's workshop to deepen their understanding of the referral obligations of local courts and the Court's Original Jurisdiction. This initiative is co-funded by the European Union (EU).

The sessions were facilitated by Mr Justice Peter Jamadar, CCJ Judge; Dr Chantal Ononaiwu, Director, External Trade, CARICOM Secretariat; Suraj Sakal, CCJ Judicial Counsel; Ria Mohammed-Pollard, CCJ Communications and Information Manager; and John Furlonge, Project Coordinator, 11th EDF Support to the CCJ. Dr Jacintha Asarfi, guest lecturer at the Anton de Kom University of Suriname was also a pertinent contributor to this series. Her doctoral dissertation centred on the contrast between the Caribbean Court of Justice and the Court of Justice of the European Union, especially regarding their respective reference procedures.

Through simulation exercises, step-by-step guides and group exercises, referral workshop participants were able to upgrade their skills and knowledge, including their ability to:

- identify when questions concerning the interpretation and application of the Revised Treaty of Chaguaramas arise in domestic proceedings,

ement in

- assess whether a referral should be made to the CCJ,
- formulate the question(s) to be referred together with the ancillary information to be supplied to the CCJ,
- oversee/supervise the process of making the referral utilising the office of the Registrar, and,
- apply the ruling of the CCJ to resolve the dispute.

Participants were also able to understand the process for accessing the Court's OJ and its value to the local and regional business communities in the context of CARICOM's fundamental rights and freedoms, for example, the freedom of movement of people, goods, services, capital, labour/skills, and the right of establishment.

Throughout this year, the referral workshop series will continue in other CARICOM Member States. The EU will continue its partnership with these institutions to improve access and delivery of justice in the Caribbean region, by strengthening the functions and outreach of the CCJ, supporting the establishment and operationalisation of the Caribbean Community Administrative Tribunal, and enhancing legal education in the Caribbean.



A cross-section of the facilitators at the Referral Workshop Series in Suriname

155th Anniversary of Administration of Justice In Suriname

On the 155th anniversary of the administration of justice in Suriname, hosted in collaboration with the Centre for Democracy and Justice, CCJ President, the Hon. Mr Justice Adrian Saunders stated, "Ongoing judicial education allows judges to grapple better with these issues and become better able to factor them in our work." Mr Justice Adrian Saunders spoke on the topic "The Value of The Judiciary within Society and the Conditions for Building a Constitutional State" and Mr Justice Peter Jamadar presented remarks entitled "Judiciary in Motion - Judiciary Here, Now and in the Future".



CCJ President, the Hon. Mr Justice Adrian Saunders presents a copy of “The Caribbean Court of Justice: The First Ten Years” to President of the Court of Justice of Suriname the Hon. Mr Justice Iwan H.M.H. Rasoelbaks.



The Hon. Mr Justice Peter Jamadar makes his presentation during the official celebration of the 155th anniversary of the administration of justice in Suriname.

Celebrating A Decade Of Excellence: High Anniversary Professional Development Conference CAWJ and the TTAJWJ

The Caribbean Association of Women Judges (CAWJ) and the Trinidad and Tobago Association of Women Judges (TTAJWJ) recently marked a significant milestone with the successful hosting of a 10th Anniversary Professional Development Conference and Gala (PDCG) under the theme "Honouring our Journey, Strengthening our Sisterhood".

This landmark event, held from April 26-28, 2024, in Port-of-Spain, Trinidad and Tobago, brought together distinguished members of judiciaries from across the Caribbean, from UN Women and the National Center for State Courts (NCSC) to celebrate, reflect, and chart a path forward.

Early arrivals were treated to a guided tour of the Caribbean Court of Justice (CCJ), where we were given the royal treatment by staff and judges of the Court. We were honoured to have the ear of no less than its President, The Hon. Mr. Justice Adrian Saunders and Justices Winston Anderson and Maureen Rajnauth-Lee in an engaging discussion on the work of the CCJ.

The festivities of the PDCG commenced the following day with an elegant Opening Ceremony at the Waterfront Judicial Centre. The evening began with a Flag Raising Ceremony by volunteers from the Family Support Network, followed by the national anthem performed by Her Worship Kerianne Byer and The Hon. Mme Justice Halcyon Yorke-Young. Master Sarah De Silva, who served as the Host, welcomed attendees with her warm and engaging presence.

Highlights from the 10th Conference and Gala of the

Justice Nadia Kangaloo, President, Caribbean Association of Women Judges



CAWJ at the CCJ



CAWJ members at the Conference

CAWJ President, The Hon. Mme Justice Nadia Kangaloo, and TTAJWJ President, The Hon. Mme Justice of Appeal Carla Brown-Antoine delivered notable addresses, which highlighted the achievements and future aspirations of both associations.

Greetings were also extended by The Honourable the Chief Justice Ivor Archie ORTT, The Hon. Justice Binta Nyako (IAWJ President), Master Sherlanne Pierre (IAWJ Regional Director), and The Hon. Mr. Justice Peter Jamadar (CAJO President).

The contingent of Barbados Judges made a special presentation to the CAWJ and its President.



Highlights from the Conference

The highlight of the evening was a compelling keynote address by a Patron of CAWJ and the TTAJW, The Hon. Mme Justice Maureen Rajnauth-Lee, who inspired the audience with her reflections on the formation of the associations and the formidable women who were at the forefront of this venture.

Presentations were made to persons in recognition of their contribution and dedicated service to the associations.

The evening concluded with a cocktail reception featuring music by the Trinidad and Tobago Police Service Steel Orchestra and a tribute to the late Hon. Mme Justice Désirée Bernard, a trailblazer in Caribbean jurisprudence and First Patron of the CAWJ.

Day Two of the PDCG saw the conference open with a registration and welcome session ex tempo style by our commanding Host Master De Silva, setting the tone for a day of insightful discussions and knowledge sharing in a vibrant atmosphere.



Remote attendees on Day 2

The first session, "Conversations with Outstanding Women Judges of the Caribbean: Their Remarkable Journeys," was hosted by The Hon. Mme Justice Maureen Rajnauth-Lee. The Hon. Justice Roxane George, The Hon. Mrs. Justice Zaila McCalla, and The Hon. Justice of Appeal Margaret Reifer joined her. These esteemed judges shared their personal and professional journeys, offering invaluable lessons to attendees.

A session on "Justice in the Age of AI: Opportunities and Challenges for the Judiciary" by Mrs. Angelique Parisot-Potter explored the impact of technology on the legal landscape, prompting thought-provoking discussions.

In the afternoon, The Hon. Mme Justice of Appeal Charmaine Pemberton presented "Caseflow - The Inside Story," followed by sessions on "Judicial Wellness Caribbean Style" by Dr. Dianne Douglas and "Healthy Bodies, Healthy Minds" by Dr. Sarah St Louis. These sessions underscored the importance of well-being for judicial officers.

The day concluded with closing remarks and a vote of thanks by The Hon. Mme Justice of Appeal Carla Brown-Antoine, followed by a Meet and Greet session for Presidents and Organizers of regional Women Judges Associations.

One of the highlights of the PDCG was the Silent Auction, jointly organized by the CAWJ and the TTAWJ. The auction featured an array of items, ranging from handcrafted artwork and books to exclusive rum and memorabilia, donated by generous members and supporters. Both Associations will openly acknowledge that we borrowed (not "stole" as Justice Jamadar would have us believe!) this concept from CAJO. Let us just say that the CAWJ Silent Auction has now become a highlight of both CAJO and other conferences that is eagerly awaited, much to the delight of our associations' Treasurers.



Participants at the Conference



Moments from the Gala

A Gala Dinner at the Hyatt Regency Trinidad followed the Conference. It was a night to remember. Master Sarah De Silva once again led the proceedings with a Trini-style, Spoken Word welcome. The highlight of the night was the Keynote Address by Her Excellency Paula-Mae Weekes, ORTT, Former President of the Republic of Trinidad and Tobago. Her Excellency's speech, titled "Honouring Our Journey, Celebrating Our Sisterhood," paid tribute to the trailblazing women of the region's judiciaries and emphasized the importance of mentorship and collaboration.

Following a vote of thanks by Justice Nadia Kangaloo, attendees enjoyed a sumptuous dinner, music, and dancing, celebrating the camaraderie and achievements of the CAWJ and TTAWJ.

The final day featured a scenic bus tour of Port-of-Spain, Paramin Lookout, and Maracas Bay, allowing attendees to relax and enjoy the beauty of Trinidad and Tobago.

We invite you to stay connected with the CAWJ through our upcoming events and initiatives. For more information, visit the CAWJ at www.cawj.org or email us at info@cawj.org.



CAWJ members at Maracas Bay

CAJO Judicial Education Initiatives Region

Over the past six months, the CAJO has continued its impactful work in Caribbean judicial education. Delivering in-person and remote training interventions, we have continued to offer cutting-edge programmes which are premised on a holistic approach to education and behavioural change. That is, our programmes are not only aimed at increasing knowledge, but focus on the underlying cultures and habits that shape and inform how we deliver justice.

Judicial Training in The Bahamas

In January of 2024, the CAJO designed and delivered a four-day in-person judicial education programme for the Judiciary of The Bahamas. The programme, which was designed for judicial officers and judicial research counsel, covered five main programme areas:

Effective and Efficient Caseflow Management – guided mapping of the lifecycle of cases using practical principles, establishing achievable goals, standards, and best practices, and developing and deploying case management skills are necessary for the effective and efficient delivery of justice.

Legal Research Tools and Preparation of Hearing Notes – an exploration of key research philosophies, tools, and practices toward developing a culture of strong and effective legal research. This research culture also underscored an issue-driven approach to preparing research briefs for decision-making.

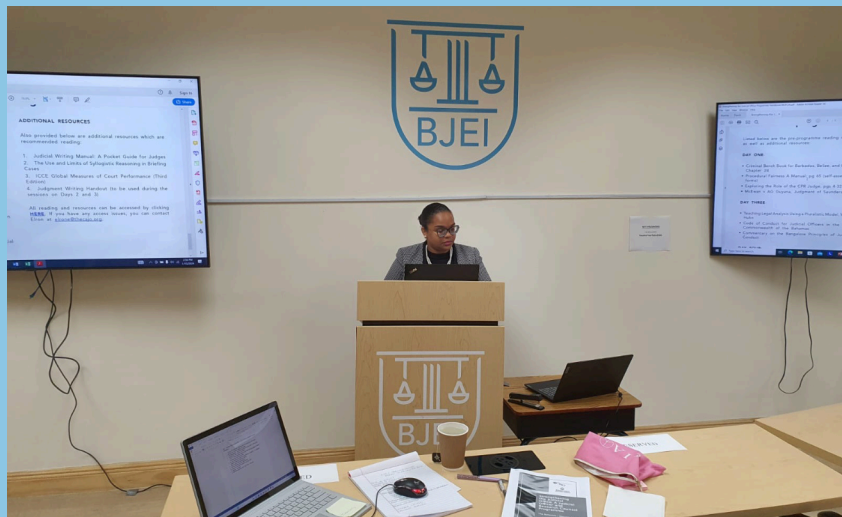
Across the

Principles of and Tools for Judgment Writing – a methodological and reasoned approach to judgment writing to ensure clear, coherent, and cogent judgments. This also included a practical toolkit for producing sound judgments.

Constitutional Interpretation and Legal Argumentation – a deep-dive into the foundational principles of interpretation and argumentation. Using hypotheticals and real-life examples, these sessions sought to strengthen jurisprudence and judicial reasoning.

Ethics and Professional Excellence in the Administration of Justice – an examination of the fundamentals of conduct and comportment towards ensuring excellence in the administration of justice.

To develop and deliver the programme, the CAJO convened a faculty of well-experienced and knowledgeable judicial training and programme support personnel. Each member of the faculty has worked in judicial education and participated in the delivery of high-level and intensive training to judicial officers across the Caribbean. The faculty comprised Justice Peter Jamadar, Judge of the Caribbean Court of Justice and Chair of the CAJO, Justice Gregory Smith, Judge of the Court of Appeal of The Bahamas, Ms Kerine Dobson, Former Legal Officer to the President of the Caribbean Court of Justice, and Elron Elahie, Research and Programme Coordinator of the CAJO.



Snapshots from the Training Programme

The programmes was exceedingly well-received by participants as both the formal and informal feedback received showed a deep appreciation for the content, its delivery, and the engagement. As is customary in the CAJO's work, we utilised a variety of adult education tools including the use of music and poetry which resulted in a spirited session of song and laughter while consolidating the ideas and knowledge shared.

Member-only Forum: Preparing Oral Judgments/Decisions

On 18th May 2024, the CAJO hosted its first forum for members for 2024. Preparing Oral Judgments/Decisions explored underlying philosophies in the use of oral judgments and engaged a group-work hypothetical using the CAJO-developed Oral Judgments preparation tool. The session was praised for being very informative and timely, as well as the ingenuity of the preparation tool.

The screenshot shows a Zoom meeting interface. At the top, a 'Muted' button is visible. The main window displays a spreadsheet titled 'CAJO Oral Judgment Notetaking and Judgment Writing Template'. The spreadsheet has columns A, B, and C, and rows numbered 1 through 6. The content of the spreadsheet is as follows:

Note-taking Template								
1	Introduction/Overview	Relevant Background Evidence/Circumstances: <ul style="list-style-type: none">•Parties - State and Mr Mc Rae•Who Wants What from Whom - State wants conviction•Who Wants the Court to do What. -•Who Did What to Whom. - Mr Mc Rae allegedly unlawfully entered premises at night and intended to commit offence•Who is Arguing about What. - State is arguing that Mr Mc Rae entered the dwelling place w/o proper manager's permission and with intent•Who is Charged with What. - Mr Mc Rae is saying he had permission to enter						
2	Relevant Legal Principles	Statutory Provision(s)						
3	List of Issues							
4								
5	Issue 1	<table border="1"><thead><tr><th>Evidence in Favour</th><th>Evidence Against</th></tr></thead><tbody><tr><td></td><td></td></tr><tr><td></td><td></td></tr></tbody></table>	Evidence in Favour	Evidence Against				
Evidence in Favour	Evidence Against							
6	Issue 2							

The sidebar on the right shows a list of participants: Peter, Elton Elahio, Elton Elahio, Madam Justice Camille Desautels-Gomez, Sydele Johnson, and reinveller. The bottom of the screen shows the Zoom status bar with 'Ready' and 'Accessibility: Investigate'.

Snapshot of the Member-only Session

Model Checklist for Case Management and Preparation of Decisions

In 2023, the CAJO launched the Criminal Bench Book for Barbados, Belize and Guyana. In it, in the chapter on Criminal Case Management, we included a Model Checklist for Case Management and Preparation of Decisions. This tool has since been utilized by judicial officers across the region and has proven quite useful. However, it was limited to a PDF format. In April 2024, the tool was made available in an Excel spreadsheet format for ease of repeated use. Each section of the tool is contained in its own tab/sheet so that information entered in other sections is not affected. As well, we included a navigation menu in each tab/sheet for easily navigating across the tool.

About the Model Checklist

The tool was created as an aid to facilitating the effective and efficient management and timely delivery of judgments in criminal matters. It was developed by CAJO after consultation with select regional judicial officers who are subject matter experts, and after reflecting on and incorporating feedback from a regional workshop that explained and demonstrated its intent and use.

As a generic template, it is intended to facilitate structure, organization of materials, accuracy of the record, clarity around facts and law, and general efficiency and effectiveness in the management of judge alone proceedings, and the writing of reasons/ judgments in a timely manner. The aspiration is to ensure compliance with constitutional, ethical, and institutional qualitative and quantitative performance standards in the conduct of judge alone trials.

Fulfilment of these standards can eradicate delay, improve case disposition rates, increase respect, regard, and belief in the authority of courts, judicial officers, and the rule of law, and as well enhance public trust and confidence in criminal justice systems.

The intention and purpose of this checklist template is to help judges and their teams manage judge alone criminal trials effectively and efficiently, and as well to support the timely delivery of decisions. It tries to do so in several ways. Organizationally, it creates fourteen discreet sections which follow, generally, the sequential unfolding of a criminal trial, and a fifteenth which has general application. In this way, it serves as a practical checklist of best practices and relevant considerations. It allows for case specific information to be extracted and placed in the template prior to, during, and at the end of a matter, and for this information to be easily and readily accessible and available.

Strategically, it facilitates effective and efficient case and caseload management, as all relevant steps are easily identifiable, as well as relevant observations and notes. It also facilitates timeliness in the hearing and disposition of matters, as the information recorded addresses issues that commonly arise in cases and encourages preliminary assessments of relevant considerations, facilitating efficient decision making. Professionally, it supports competence and public trust and confidence.

Having a checklist and a single template that organizes all relevant information both sequentially and in an issue-driven manner allows for improved thoroughness and accuracy in both case management and disposition. All these considerations support the fair hearing and timely disposition constitutional benchmarks and standards. If you would like a copy, please reach out to us at info@thecajo.org.

ARE YOU A MEMBER OF CAJO?

Visit the
membership
webpage

[https://thecajo.
org/membership/](https://thecajo.org/membership/)

Check
Eligibility
Read
FA

Kindly note that the 2024-2024 member
- February 28th 2025. Please read the F
information.

F THE



Check your
eligibility and
read the
FAQs

Register and
Follow the
Instructions
emailed to you

Membership period runs from March 01st 2024
FAQs on the Membership page for more

Appointments and Retirements Act

ECSC: Retirement of The Honourable Dame Janice M. Pereira DBE, LL.D and Appointment of The Honourable Mr Justice Mario Michel

The Eastern Caribbean Supreme Court is announced the retirement of Her Ladyship, the Honourable Dame Janice M. Pereira DBE, LL.D. effective on 5th May 2024. Her distinguished and highly respected leadership has left an indelible mark on the Court and her retirement marked the culmination of an era of exceptional service. Throughout her illustrious career, Her Ladyship has been a trailblazing leader who has broken barriers and shattered glass ceilings. Her unwavering determination and commitment to excellence have inspired us all, encouraging us to pursue greatness and strive for success. Her distinguished career is a testament to the fact that we, too, can achieve our dreams with perseverance and dedication.

Her Ladyship's tenure as the Court's first female Chief Justice has been a pioneering journey in the field of law. Over her 12 years of exceptional service, marked by her unwavering dedication to justice and equity, she has made an indelible impression on the Court. Her profound grasp of the law and exceptional ability to balance the rights of all parties involved have been evident in every aspect of her career, from technological advancements to legislative developments and adept pandemic adaptation strategies to commendable efforts in enhancing remuneration. Her leadership has steered us towards comprehensive progress and development, ensuring accessible justice for all litigants.

ross the Region

The Judicial and Legal Services Commission has appointed His Lordship, the Honourable Mario Michel, Justice of Appeal, to act as Chief Justice of the Eastern Caribbean Supreme Court from May 5th to September 4th, 2024. The Hon Chief Justice (Ag) worked in private practice from 1990 – 1997 and then served in government until 2007 when he returned to private practice. In February 2009, responded to a call to service in the judicial sphere and served as an acting judge of the Eastern Caribbean Supreme Court from 1st February to 31st August, 2009 assigned first to Anguilla and then to Grenada. On 1st September, 2009, Justice Michel was appointed as a judge of the High Court of the Eastern Caribbean Supreme Court and assigned to the territory of Antigua and Barbuda, where he served until September 2012 when he was elevated to the Court of Appeal.



L: Hon Dame Janice Pereira DBE | R: Hon Mr Justice Mario Michel

Barbados: Retirement of The Honourable Sir Patterson Cheltenham KA and Appointment of The Honourable Mr Justice Leslie Haynes

On May 15th 2024, Sir Patterson Cheltenham KA retired as the Chief Justice of Barbados. Sir Patterson was appointed as Barbados' 5th Chief Justice in 2020. Prior to his appointment, he served as one of the principals of a leading law office in Barbados, Charlton Chambers, became becoming an Accredited Mediator and a Fellow at the Chartered Institute of Arbitrators (CI Arb), as well as the Education Coordinator of CI Arb (Caribbean Branch), served as the Chairman of Barbados Revenue Authority's Value Added Tax Appeal Tribunal, and served as a lecturer and tutor at the University of the West Indies, Cave Hill Campus in the Faculty of Law and the Faculty of Social Sciences. Sir Patterson became a Knight of St. Andrew in November, 2020. He continues his public service and contribution to the legal profession through his appointment as President of the Caribbean Community Administrative Tribunal (CCAT) in 2019.

On May 17th 2024, The Honourable Mr Justice Leslie Haynes was sworn in as Barbados' 6th Chief Justice. The Hon Chief Justice has over 44 years of experience as a legal practitioner. In addition to his year of practice, the Hon Chief Justice is a former Chairman of the Barbados Electoral and Boundaries Commission and former President of the Barbados Bar Association.

Appointment of Ms Patricia Arana as Resident Magistrate in the Turks and Caicos Islands

On May 13th 2024, Ms Patricia Arana was sworn in as a Resident Magistrate of Grand Turk. Prior to her appointment, Magistrate Arana served as Registrar of the Magistrates' Court of the Turks and Caicos Islands and, previously, and Deputy Registrar General of the Judiciary of Belize. Magistrate Arana is a long-standing CAJO Management Committee Member, is an active member of the Caribbean Association of Women Judges, and the National Garifuna Council (Orange Walk Branch) in Belize.



Magistrate Arana (R) and Ms Ms Dileeni Daniel-Selvaratnam, Govenor of the TCI



CAJO NEWS
Issue 19

