

Justice 360: CAJO's 8th Biennial Conference in Bermuda



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

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Message from the Management Committee

This Issue of the CAJO News marks a transition from one Management Committee (MC) and Board of Directors (BoD) to another. A new beginning, as it were.

At the Third AGM of the CAJO, held in-person at the Hamilton Princess on Friday 22 November 2024, a new 2024-26 MC and BoD were elected. The new MC and BoD are representative of Caribbean Judiciary diversity and consist of accomplished judicial officers. The details are contained in this Issue. However, seven members of the 2022-24 MC and BoD did not offer themselves for re-election. These were: Justices Francis Belle (CA, Barbados), Vivian Georgis Taylor-Alexander (ECSC), and Kimberly Lasten (Joint Court), Judge Natiesha Fairclough Hylton (Parish Court, Jamaica), Registrars Constance Delancy (Bahamas) and Patricia Arana (Turks & Caicos), and Ms Suzanne Bothwell (Court Administrator, Cayman Islands). To these seven we owe our deep appreciation for their service to the region through the work of the CAJO. All have been instrumental in what the CAJO has achieved over the last two years and added value to the democratic process that underpins the way the CAJO operates.

Times of transition are opportune for both critical reflection and strategic planning. Looking back over the last two years the CAJO has undertaken and achieved a lot that we can be proud of. These accomplishments are documented in its [November 2022-24 CAJO Report](#), entitled 'Explore, Innovate, Educate'.

There is still much to be done, as deficits in our judicial processes and in our delivery of justice to court users, staff, and key stakeholders continue to need attention. Some strategic areas of focus include whole system wellbeing and Caribbean judiciaries are encouraged to develop and promulgate appropriate institutional Wellbeing Policies for both judicial officers and judiciary staff. The wellbeing of court users ought not to be overlooked in this regard.

The CAJO 2024 Bermuda [Statement on Wellbeing](#) is commended. As well, attention to internal judiciary cultures of disrespect, disregard, and violence that create and perpetuate institutional and interpersonal conflict, need to be faced and addressed. The prevalence of these anti-therapeutic cultures undermine wellbeing, teamwork, performance and integrity. More substantively, ineffective and inefficient criminal justice delivery and endemic delay continue to plague us.

The good news is that across the Caribbean we are well aware of these challenges and working assiduously to address them, with signs of measurable success. The CAJO is committed to strengthening the judicial function for the benefit of all Caribbean justice sector stakeholders. It is our hope that 2025 will usher in continuing urgency to achieve excellence in the delivery of justice across the Caribbean. The CAJO remains a regional inflexion point for facilitating dialogue, and in researching, developing and rolling out interventions to improve the judicial function. Together we are always better!



Planning the 8th Biennial Conference

After the successful 7th Biennial Conference in Saint Lucia, the CAJO had a tall order to ensure an even more impactful and memorable 8th Biennial. At the formal closing in Saint Lucia, it was announced that the 8th Biennial would take place in Bermuda and just a few months after that closing – in January 2023 – planning for the 8th Biennial Commenced.

The CAJO put together a team of Conference professionals. Chaired by Justice Jamadar, the team included the CAJO's Corporate Secretary, Candace Simmons-Peters, Research and Programme Coordinator, Elron Elahie, and the CCJ's Candis Cayona, Danielle McConney, Semone Moore, Oriel Herrera, Anum Greene, Deborah Williams, Denise Douglas, and Suraj Sakal. Similarly, the Judiciary of Bermuda established its Local Organising Committee chaired by Chief Justice Larry Mussenden and supported by Justice Shade Subair Williams, Justice Alexandra Wheatley, Registrar Cratonia Thompson, Senior Magistrate Maxanne Anderson, and Audley Quallo. Work began between the two teams to get an early started on the Conference venue and logistics as Bermuda is a beautiful as it is costly – so securing the venue and a limited number of hotel rooms early was necessary.

For the 8th Biennial, a few logistical arrangements were non-negotiable as learnings from past Conferences informed our approach. To start with, the Conference space had to be able to accommodate the meals and snacks as navigating to/fro a separate restaurant had proven challenging in the past, especially with the tight programmes. As well, the exhibitor space has to be close to, if not in the same room, as the Conference participants. Limited space for exhibitors or being a distance away from participants took away from their impact and engagement. Securing a limited number of rooms was also a must-do. Given the relatively limited number of hotels in Bermuda, the rates can fluctuate quite a lot and sharp rises are inevitable. As such, the CAJO secured sixty rooms at the Hamilton Princess at a reduced cost.

Between March 2023 and the time of the Conference, planning was in gear and arrangements being made. Committees and sub-committees were formed to manage the various aspects of the Conference: programme, venue and logistics, marketing and communications, registration, on-the-ground logistics, media, memorabilia and merchandise, and social and cultural events. Of course all this planning did not happen without a few snags – but alas, the teamwork made for quick and seamless resolve. Mid-registration for the Conference the team switched software as the initial choice presented some insurmountable restrictions despite rigorous testing. As well, the a couple proposed faculty members were unable to maintain their participation quite close to the Conference start date. These, just a couple of the bumps along the way that were negotiated calmly and professionally by the teams.



Packing perils - Conference banners could not fit in any suitcases so they had to be tagged as individual pieces



Proofing the CAJO Report



Organising tokens for members of the LOC

While the specifics and day-to-day of Conference planning are many, this brief narrative highlights two major points. First, that planning a regional judicial Conference is a massive undertaking. There are visible and invisible moving parts that require constant care, attention, and intentionality. And second, that the passion for regional unity and development is earthed in all of us. Despite challenges, heavy workloads, and the whirlwinds of responsibility that each contributor to the Conference faced, a deep-seated desire to advance regional justice prevailed and this shaped a truly successful Conference. For those of us who participated in this year's Conference, you may have noticed a change in the Conference programme. And we next dive into more about designing the programme that was heralded as “**relevant, live, and current**”.

Designing the Judicial Education Programme

Elron Elahie, Research and Programme Coordinator

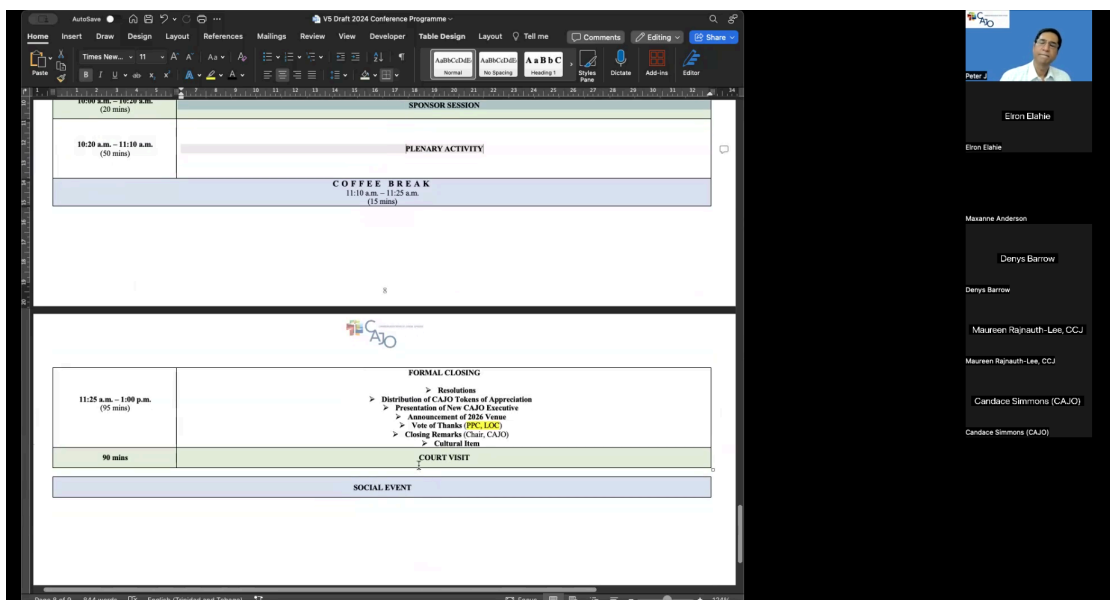
The CAJO's Conferences have historically been celebrated for cutting-edge judicial education, highlighting local and regional expertise to provide meaningful insight into current judicial and legal topics. But past feedback showed that participants wanted more engagement. The CAJO was thus at a crossroads – do we stick with the tried and tested format of multiple keynotes, concurrent sessions, and tight days or do we introduce an adjusted programme that, though a risk, may satisfy participants' desire for more engagement while maintaining or even elevating the cutting-edge nature? Naturally, choosing the latter was a no-brainer.

Intrinsic in CAJO programming is the goal to constantly evolve and transform; to utilise data to reform approaches and interventions to refine the design and delivery of adult judicial education that is not only Caribbean in its essence but innovative. To craft this new way forward, the previously monikered Papers and Panels Committee was re-named to the Conference Programme Design and Delivery Committee (CPDDC) as the committee would focus on the overall programme experience. Chaired by Justice Peter Jamadar, the committee comprised President Adrian Saunders, Chief Justice (Ag) Roxane George, Justice Denys Barrow, Justice Carol Edwards, Justice Francis Belle, Justice Shade Subair Williams, Justice Constance Delancy, Senior Magistrate Maxanne Anderson, Parish Judge Natiesha Fairclough-Hylton, Resident Magistrate Patricia Arana, Elron Elahie, Candace Simmons, and Candis Cayona.

Work on the 8th Biennial Conference programme started at the end of the 7th Biennial as participant feedback from that Conference was critical to the re-designed programme. As well, the CAJO other judicial education interventions and data collection from 2022-2023 were significant as this interfacing with judicial officers illuminated key areas that prospective participants wanted to explore in more depth.

Thus from November 2023, the CPDDC began meeting and designing the Conference programme. The Committee was intentional about key areas in the design of this programme:

- Later start – past Conferences began around 8:00 a.m. which gave participants little time to prepare themselves in the morning. As well, that the majority of participants would be flying in from countries across the Caribbean, it meant that their rest may be impacted. It was thus important to the Committee that the 8th Biennial start closer to 9:00 a.m. to allow for more rest.
- One Feature Presentation – formerly the Keynote Address, there were usually two Feature Presentations; one on day one and another on day two. However, as participants desired more engagement and interaction, we decided to have only one Feature Presentation on the first day so that the second day can have fuller breakout sessions.
- A focus on Wellness – the programme was designed to put emphasis on participants’ wellness. In addition to the later start times, the Committee worked to ensure there was sufficient time between the end of a day and the social event so that participants do not feel rushed. As well, a dedicated wellness segment was included.
- Fewer concurrent sessions – past programmes had either three concurrent breakouts or two pairs of breakouts on one day. This led to participant burnout and not enough engagement. As such, there was one pair of breakouts on day one and another pair on day two. And the time allotted to these breakouts was increased to promote participant engagement.
- Session format – typically, breakouts would see the faculty give presentations and then leave some time for participant engagement. However, for this Conference, we ensured that each session was specifically designed to limit “talking to” and to promote “engaging with”. Different formats were utilised such as short lecturettes followed by dedicated hypothetical exploration, or a Q&A bench. The programme placed great emphasis on learning through doing. By engaging different teaching-learning models, such as small group work, panel discussions, lecturettes, and question and answer segments, the programme offered participants variety not only of session topics but ways to interact with the subject material.



One of the early CPDDC Meetings via Zoom

Justice 360: Holistic Approaches to the Administration of Justice was thus not only reflective of the array of current topics, but the 360-focus on the impact of the timing, structure, and format of the programme itself. A significant addition to this year’s programme was the use of music and performance in the Sounds of Justice segment. This session, which asked participants to form groups and write and perform a song or spoken word on the Conference theme, stimulated the senses and offered judicial officers creative outlets as a means of consolidating learning.

As one participant noted, ***“360 was such an appropriate tag word for this conference. Everything was so relevant, and they were live and current topics, ripe for discussion. There was never a dull moment. I loved the song for justice segment. The conference was very interactive.”*** And another, ***“The topics adequately brought out the theme of the Conference - which by the way was an excellent choice.”***

It is clear from the feedback received, both submitted by participants and anecdotal, that the 8th Biennial Conference was one of the most impactful and engaging Conferences in the CAJO’s history!

Dynamic Days: Welcome to the 8th Biennial



Welcome, welcome, welcome to all who are here for the CAJO Biennial Conference 2024 in Bermuda. We gather under the theme of “Justice 360: Holistic Approaches to the Administration of Justice”.

In the Caribbean, we live in an all too often divided time, where outcomes are in doubt and uncertainties seem to be everywhere, swirling around us like the winds and pelting rains of a tropical storm.

In a time, when for many, chaos and confusion seem to define our lived experience; and where conflict strikes us like lightning bolts from an overcast sky, many ask:

Where can we find hope, if there is still is such a thing?
What and where is centre?
How can we find direction?
Who will stand with us in the breach?

These are the voices of the multitude, of our Caribbean people. Everywhere I go in the region, these voices can be heard. Voices of despair and of wavering hope.

But there is also another voice to be heard:

*[T]he wise shall shine brightly
like the splendor of the firmament,
and those who lead the many to justice
shall be like the stars forever*

(Daniel 12:3)

Colleagues and friends, we are the ones called and sworn to 'lead the many to justice'. We are the ones called to shine brightly, like the stars, so that justice may be the 'the splendor of the firmament' and our societies may endure forever.

We are the ones called to stand in the breach, to hold the centre, and point out the directions ... to be the living examples, individually and institutionally, of judicial integrity.

Welcome to this the 8th Biennial Conference of the Caribbean Association of Judicial Officers (the CAJO).

May I invite those who wish to join, in pausing for a moment from the busyness of our preoccupations, the addiction of our thoughts, and the compulsions of our egos, and offer our collective thanksgiving for life, for work, for purpose, and for our vocations.

Thank you, Giver of Life, who sustains us in all our doings, in our goings and our comings, and in our very beings. May your enduring goodwill always abide with us.

Thank you, judicial officers, colleagues, who have come from across the Caribbean, for choosing to be and to share this time with us all, together, here in Bermuda.

Thank you to the Judiciary of Bermuda and to Chief Justice Mussenden and his team, led by Justice Subair Williams, for so graciously hosting us, and to the Government of Bermuda and the Caribbean Court of Justice (the CCJ), and so many others, for their generous support, without which this Conference would not, could not, have been possible.



Justice Denys Barrow (foreground) and Justice Maureen Rajnauth-Lee at the Conference Opening

Thank you to the several Heads of Judiciary and to Judicial leaders here with us and all who have supported the CAJO over the years. In this vein, I specially acknowledge the presence of and welcome: President of the CCJ, the Hon. Mr Justice Adrian Saunders; Chief Justice of The Bahamas, Sir Ian Winder; Chief Justice of Barbados, the Hon. Mr Justice Leslie Haynes; Chief Justice of Bermuda, the Hon. Mr Justice Larry Mussenden; Chancellor of the Judiciary of Guyana (Ag), the Hon. Mme Justice Yonette Cummings-Edwards; Chief Justice of Guyana (Ag), the Hon. Mme Justice Roxane George; Chief Justice of Jamaica, the Hon. Mr Justice Bryan Sykes; and Vice President of the Joint Court of Justice of Aruba, Curaçao, Sint Maarten and Bonaire, Sint Eustatius and Saba, Mrs Maroeska Scholte.

The CAJO is a symbol of Caribbean regionalism, and our gathering exemplifies that. We stand together proud Caribbean judicial officers, capable of forging our own unique paths, and of developing our own jurisprudence. May our time here, as the CAJO, be meaningful.

Together we are always better.

We hope that this time will help to bring out the best that we can be - not just for now, but also for when we return to our places and spaces of work and living.

It is our hope that the next three days will be filled with learning, with discovery, and with fun filled moments of friendship and camaraderie.

Together we will explore, in plenary and breakout sessions, the following topics: artificial intelligence in Caribbean judiciaries, management of high-profile matters, creating judiciaries in integrity, breaking cycles of violence against women and girls, conflict management within the judiciary, the management of court resources, and many other issues pertinent to courts in the region.

May our deliberations be honest, robust, and insightful. Among other things, we will seek concrete outcomes in the form of guidelines from some sessions. And we will put wellness at the centre of our programme and try to agree a 'Statement on Wellness for Judicial Officers and Judiciary Staff', to share regionally and internationally.

Wishing you all every good. I look forward to interacting with all of you over the next few days

We are the CAJO, all of us.

- Welcome Remarks from the Hon Mr Justice Peter Jamadar, Chair, CAJO





Justice Juan Wolffe, Chair of Proceedings for the Conference



Head Table (L-R): Justice Peter Jamadar, Justice Winston Anderson (CCJ), Sen Kim Wilkerson (Attorney General, Bermuda), and Justice Larry Mussenden (Chief Justice)



Opening Ceremony performance by the marching band



Gombey performers at the Opening Ceremony



Feature Presentation: Celebrating Caribbean Jurisprudence

Justice Adrian Saunders, President, Caribbean Court of Justice

I have been a member of CAJO's Management Committee throughout its 15-year existence. This Association is naturally therefore very dear to my heart. In all the circumstances I am extremely honoured to make this presentation.

This year has been a sad one for us. It was a year in which we lost several prominent Caribbean judges each of whom was on the CCJ or on the RJLS Commission or was a regional Head of Judiciary. I would like us to pay homage to these stalwarts who I list in no particular order –

- **Justice Jeff Cumberbatch** – for many years a lecturer at Cave Hill (who here was taught by him?), a legal expert who educated the public on various aspects of the law, a former member of the RJLSC and, at the time he died, a judge of the C/A of Barbados.
- **Justice Bob Wit** – the most widely read judge I have known; our bridge to the Civil Law, to Suriname, to the Dutch Antilles and to so much more.

- **Justice Dennis Morrison** – one of, if not the finest legal mind trained in the Caribbean; an extraordinary human being who was President of the Jamaica and TCI C/A and a C/A Judge in several other Caribbean jurisdictions including Belize and the ECSC.
- **Justice Desiree Bernard** – The most highly decorated female judge of the English speaking Caribbean; Rapporteur and later Chair of the CEDAW Convention; a lady of many firsts; a truly wonderful person.
- **Justice Michael de la Bastide** – Former CJ of TnT and first President of the CCJ. Another first rate Caribbean legal mind with whom I had the great privilege to serve.
- **Justice Abdulai Conteh** from Sierre Leone. CJ of Belize from 2000 – 2010 and a judge of the C/A of The Bahamas from 2010 - 2015. A judge well ahead of his time. Of the many outstanding judgments he authored that will resonate down through the ages there is one I often cite - Wade v Roches where he laid bare the difference between formal equality and equity in the sphere of gender.

We shall not forget these judges and their treasured role in developing our Caribbean jurisprudence. In their honour I ask that you to stand and join me in observing a moment's silence.

CAJO was carefully conceptualised by past Heads of Caribbean judiciary, including some of those mentioned above whom we lost earlier this year. Shortly after the CCJ was inaugurated in 2005, Caribbean Heads of Judiciary resolved that there was a need for an association of judicial officers that would complement the CCJ in the grand task of refining and developing our Caribbean jurisprudence. The Association was expected to provide a forum for the exchange and sharing of ideas and views on topics and themes defined by Caribbean judicial officers. The first conference in 2009 was addressed by Judge Patrick Robinson and by Sir Shridath Ramphal whose recent passing we also deeply mourn.



Justice Adrian Saunders delivering the Feature Presentation

On the last day of that inaugural conference the Steering Committee that was elected to manage the Association included Tamara Gill, Christopher Blackman, Kenneth Benjamin, Ian Chang, Roy Jones, Marissa E Robertson, Victoria Harrigin, William Chandler, Bryan Sykes and myself.

In 15 years, **CAJO has grown from an idea in the minds of regional Heads of Judiciary to an impressive organisation.** With no real income stream, but guided by Justice Jamadar's astute leadership, the dedication and voluntary efforts of successive Mngt Committees, the expertise and untiring work of a stream of current and past CCJ Judicial Counsel and Administrative Officers (I think of Debra Gibbs, Elron Elahie, Laurissa Pena, Suraj Sakal, Candace Simmons, Candis Cayona and so many more) an enormous job has been done in professionalising the organisation. I have seen many newsletters of judicial bodies across the world and I can tell you that CAJO's interactive newsletter is second to none. CAJO's training and educational programmes are of the highest quality. I experience a sense of great pride when I see an applicant for a judicial position list on their resume or CV, as an indicator of their outstanding achievements, their attendance at a CAJO Conferences or training session.

We must never take the existence and work of CAJO for granted. Much effort goes into them. Let's all give our Association and its leadership a rousing round of applause!

Last month, I was pleased to listen to impactful presentations by two of the region's foremost constitutional and legal thinkers. Professor Tracy Robinson delivered her inaugural professorial lecture and some days later, our Chairman, my CCJ brother, the said Justice Jamadar, gave the feature address at the LATT Annual Awards Dinner. Tracy spoke about the constrained sovereignty of Caribbean states. Peter spoke about lawyers applying outcome thinking to the pressing issues faced by the legal profession of T&T.

Outcome thinking occurs when we put a pause on the distractions of the daily grind and instead spend some time imagining a desirable future where our fundamental challenges are suitably addressed. Outcome thinking encourages individuals to envision the end goal, and then work backward to plot the best courses of action that will get you there. Outcome thinking is conducive to more efficient problem-solving because it aligns short-term actions with long-term objectives and it encourages solutions that directly contribute to achieving a desired end.

If we are not involved in outcome thinking, then we may be engaged in process thinking. While outcome thinking focuses on the end goal or desired result, process thinking emphasizes the steps, methods, and actions taken to go forward. Process thinking is detail-oriented. It involves paying close attention to how things are done, how to ensure that each step is carried out properly and efficiently.

Both approaches are useful depending on the context. But I venture to suggest that while process thinking tends to come to us naturally, instinctively, because it is forced upon us, outcome thinking is a relatively new and learned phenomenon. Fifteen years ago, for example, no judiciary in the Caribbean had a strategic plan. None had a defined and published mission and vision. We were all focused on enhancing the now. CAJO's challenge, our challenge, (and that was the crux of Peter's address to the LATT) is to engage in more outcome thinking.

What is the future for Caribbean jurisprudence that, we, as judicial officers, dream of? What is the environment in which we would like to operate in 15 years' time? And how do we work to achieve that goal, that dream?

We must start with a shared narrative, that is to say, a structured and coherent account of the sequence and meaning of key historical events. Shared narratives contribute to building the unity of purpose that is required to realise the vision. Framing the journey towards the goal as a meaningful uplifting story helps us foster mutual commitment, to stay focused and overcome the inevitable obstacles we will encounter along the way.

So, what is my dream? And what is the narrative that informs that dream? By a remarkable coincidence, in preparing for this presentation, I came across an article by former Canadian Supreme Court judge, Justice Bertha Wilson. The article is in the 1988 volume of Public Law . This is how her article begins –

“On April 17, 1982 Canada entered a new phase in the evolution of its constitution with the proclamation ... of the Constitution Act 1982. For the first time in our history control over our constitution passed exclusively into the hands of Canadians, thereby marking the final step in our journey towards fully independent status as a nation.”

My dream is precisely for control over our constitutions to pass exclusively into the hands of Caribbean people, thereby marking the final step in our journey towards fully independent status. Justice Duke Pollard says the same thing in different words. He wants to see us in the region complete the circle of our independence.

The narrative that explains where the circle starts and how and where and why it must end begins of course with the Pre-Colombian indigenous peoples. They were independent and free to make their livelihood howsoever they pleased, constrained only by the forces of nature. No alien civilisation limited or thwarted their aspirations. They were in that sense independent ... that is, until they suffered a holocaust, genocide. Genocide was followed by the imposition of colonial rule, the enslavement and transshipment of Africans to the Americas followed by the importation of cheap indentured labour from Asia.

This was a brutal system devised with the sole purpose of enriching Europe through the exploitation of human labour and fertile natural resources.

But throughout it all the colonised people fought back. In the 18th century Toussaint's brave Haitians successfully revolted and established an independent state. How dare they? Today their descendants are still paying the price. David Rudder's lament resonates. Haiti, I'm sorry! Elsewhere, emancipation from enslavement was eventually achieved and indentureship ended. In the wake of the atrocities of the 2nd world war, colonised peoples benefited from and helped to shape carefully defined global rules that promoted principles of inalienable human rights, self-determination for all peoples and an abhorrence of crimes against humanity. In the latter half of the 20th century adult suffrage was won and Caribbean mini-states emerged from the clutches of colonial rule.

Independence, with a new flag and anthem and Constitution, should have symbolised a break; a new beginning for those countries that were able to proceed to independence on their own. It was an opportunity for them to have control over their own Constitutions and define for themselves fundamental rights and freedoms which did not necessarily mirror common law rights bequeathed by the coloniser. These Constitutions were supposed to have ushered in a new order in which government was distributed among three co-equal branches; and in which a vital part of the judiciary's role is to ensure conformity with the Constitution by each of these three branches.

Justice Pollard's point was that this conception of Independence is not fully realised. There is still work to be done to complete it. Some territories have not been able to proceed to independence and for too many that have, the UK still retains and or has been permitted to retain a level of continued influence over critical aspects of the law and justice sector.

In this presentation I would like to reference two related aspects of this lingering imperial influence. The most obvious one which I would address later, is overarching, deeply affecting the manner in which our Constitutions and laws are interpreted and how our common law evolves. It is the retention in the independent states of the Privy Council as the final court of appeal even after there exists a suitable Caribbean alternative to that court.

The second one is this. Upon independence a new constitutional and legal order was superimposed on the old. A vexed question that therefore arises is **what is the status of colonial era laws that are inconsistent with the high ideals that underpin the new constitutional order?**

From the early years of independence, it became obvious that the judges of the Privy Council did not share the narrative that independence signaled a new beginning. The view was taken that in the spheres of law and justice, independence was essentially a continuation of the old regime under a different flag and anthem; that the meaning of the new constitutional order was to be determined by reference to the content of the old and not by reference to the ideals that promoted self-determination and defined fundamental rights. It was said in the caselaw, for example, that pre-independence laws “already embodied the most perfect statement of fundamental rights” and that it was not possible that they could ever be in conflict with the human rights provisions set out in the Constitution. The courts construed the meaning of a constitutionalised fundamental right so it could accord with the common law, even if the constitutionalised right was differently framed. This approach encouraged weak judicial review and was neither a faithful nor accurate reading of our Constitutions. It is illustrated in cases like *Director of Public Prosecutions v Nasralla*, *King v Queen* and *de Freitas v Benny*.



Justice maria Wilson introducing Feature Presenter, Justice Saunders

Courts are charged with the obligation to do justice according to law. That is the oath we take as judges. Justice is not done in an arbitrary manner. Justice must be done within the framework of the law. The rule of law is foundational to the achievement of justice. How then to eliminate or narrow any perceived gap between justice and the law? Common law judges have over the years developed well recognised and universally accepted techniques to do so. When interpreting law, Judges use devices such as "reading down" and "reading in"; or judges may have resort either to strict and narrow interpretations of the law or to generous and ample interpretation all in order to meet what one considers to be the ends of justice within the framework of the law. What one considers to be just is influenced in part by the narrative we embrace.

In my narrative, after a former colony has become independent, logic dictates that these interpretative devices of "reading down" and "reading in" should be utilised to privilege human rights and to promote the self determination of the formerly colonised people. If it is reasonably possible to read in or to read down a legal provision (whether contained in a statute, common law or the Constitution) in order for it to comply with constitutionalised human rights or with the right to self-determination, then that is what I feel duty bound to do.

In the UK, parliament there is supreme, but the judges rightly utilise these techniques of "reading down" and "reading in" to safeguard the rights of British citizens. Consider, for example, the House of Lords decision in **R v A (No 2)** . It is unnecessary to delve into the details of the case. It was a situation where provisions in the UK's Youth Justice and Criminal Evidence Act 1999 when read literally, came into collision with Article 6 of the European Convention on Human Rights which speaks to the right to a fair trial. In order to avoid a finding that the law was incompatible with the Convention, the House of Lords used the technique of reading down to interpret the relevant provisions of the UK Act in a way that could render those provisions compatible with a defendant's right to a fair trial under Article 6 of the Convention.

An example of reading in is to be found in **Ghaidan v Godin-Mendoza** where the House of Lords read words into the UK's 1977 Rent Act so as to be able to interpret that Act in a way that extended tenancy rights to same-sex partners.

Here again, the purpose of reading in was to ensure compliance with the ECHR's Article 14 (anti-discrimination) and Article 8 (right to respect for home and family life).

A similar approach should be taken by Caribbean courts to pre-independence laws. **It is more than strange that Caribbean Constitutions should be interpreted in a manner as to suggest that courts are empowered to modify or render void post-independence statutes that infringe fundamental rights but on the other hand, pre-independence laws must be construed so as to defeat enjoyment of the same fundamental rights.** It is a strange response to say that it is for Parliament to do something about the anti-human rights existing law. Caribbean constitutions are not premised on Parliamentary supremacy. Responsibility for protecting the rights of the citizenry is specifically entrusted to courts, not to Parliament. Neither Parliamentary inertia nor parliamentary indifference to the deleterious consequences of an existing law provides an excuse for keeping that law in place if it tramples on constitutionalised human rights.

In the noughties the Privy Council had to grapple with this issue of how to interpret constitutional savings clauses which purport on their face to exalt colonial or existing laws over the enjoyment of individual rights. One would think that this dilemma presents itself as a clear case for “reading down” even if the savings clause is also part of the Constitution. The human rights are also constitutionalised and, as I have stated judicially, if one part of the Constitution appears to produce an effect that denies an individual fundamental right, then, in interpreting the Constitution as a whole, courts should place a premium on affording the citizen her enjoyment of the fundamental right, unless there is some overriding public interest.

In the Trinidad case of **Roodal**, a 3-2 JCPC majority determined that courts were entitled to modify an existing colonial law – in that case one that prescribes the mandatory death penalty for murder - so as to have the law comply with the bill of rights. The Privy Council later assembled a nine member Bench in 2004 in the respective cases of **Watson, Matthew** and **Boyce** to review the question as to how should existing laws be treated. A bitterly divided Privy Council voted 5-4 to reverse **Roodal** and not to read down the general savings clause.



Justice Saunders answering a question from a participant

The majority persuaded itself that if existing laws were found to be inconsistent with the rights and freedoms that were declared in the Constitution, it was for Parliament to provide the remedy.

The CCJ has taken a different view. In a trilogy of cases - **Nervais**, **McEwan** and **Bisram** the CCJ has rejected what it regards as an un-generous interpretation of the general savings law clause. Caribbean narrative and outcome thinking are evident in the CCJ's framing and reasoning of its stance on the matter. At [58] of the CCJ judgment in *Nervais* the CCJ majority states:

The general saving clause is an unacceptable diminution of the freedom of newly independent peoples who fought for that freedom with unshakeable faith in fundamental human rights. The idea that even where a provision is inconsistent with a fundamental right a court is prevented from declaring the truth of that inconsistency just because the [provision] formed part of the inherited laws from the colonial regime must be condemned.

Faced with the **Nervais** and **McEwan** decisions, the JCPC had an opportunity to re-consider its 2004 decisions. Another nine member Bench was convened in the Trinidad case of **Chandler**. This second 9-member Bench held unanimously that the CCJ's approach in **Nervais** was "tenable", but the JCPC preferred to stick with the notion that the general savings clause should continue to be interpreted in a manner that would privilege colonial laws over fundamental rights. So, according to their Lordships, two interpretations of this dilemma are possible and tenable; one having the effect of promoting human rights and one denying human rights. Their Lordships were satisfied to adopt the latter because they considered it sounder and also because of the need to adhere to their earlier 2004 precedent. In support of the tremendous store they place on stare decisis they cited the US Supreme Court judgment of **Planned Parenthood v Casey** that had upheld **Roe v Wade** in relation to a woman's right to abortion services. The decision in **Chandler** was given in May 2022. The following month, in **Dobbs v Jackson Women's Health Organization**, the SCOTUS spectacularly reneged on **Roe v Wade** and on **Casey**. So much for the value and importance of precedent!

When all the legal fluff is set to one side, decisions like **Matthew** and **Chandler** unfortunately feed a narrative that says that colonial laws are sacrosanct because they were enacted by the coloniser. The judgment of the Privy Council in the Saint Lucia case of **Hilaire v Chastanet** strengthens that perception. A brief paper has been written on the implications of this decision by my former Court of Appeal colleague in the ECSC, Mr Michael Gordon QC. I have taken the liberty here to borrow from his analysis and also from the arguments of counsel who appeared before their Lordships.

In 1956, when Saint Lucia was still a colony, that country's Civil Code was amended to insert Article 917A. The amendment came into force in 1957. According to this amendment, subject to certain provisions of the article, it was stated that from and after the coming into operation of the amendment "*the law of England for the time being relating to contracts, quasi-contracts and torts shall mutatis mutandis extend to Saint Lucia.*"

The question which arose for determination in **Hilaire v Chastanet** was whether this provision automatically imported into independent Saint Lucia mutatis mutandis every statute enacted by the Westminster Parliament relating to contracts, quasi-contracts and torts; specifically, whether the Defamation Act 2013 of the UK formed part of the Law of Saint Lucia by virtue of Article 917A.

Senior counsel, Mr Anthony Astaphan, urged that this question should be addressed against the background that Article 917A was enacted not by the sovereign parliament of Saint Lucia, but by the country's colonial legislature. Counsel argued that Saint Lucia's 1979 Independence Constitution grants only to the Saint Lucia legislature the power to make laws for Saint Lucia; the Saint Lucia Constitution, the supreme law of that country, stipulates how these laws are to be made and the Constitution specifically declares that inconsistent laws shall be declared void to the extent of the inconsistency. Counsel submitted that Article 917A was an inconsistent provision because effectively it allowed the UK to legislate extraterritorially for sovereign and independent Saint Lucia without the request or consent of Saint Lucia; and that if Article 917A could not be suitably modified it should be declared void to the extent of its inconsistency.

The Privy Council dismissed each of these arguments as, incidentally, did the Court of Appeal of the ECSC. The attitude of the JCPC to existing laws and to the manner in which those laws are to be construed is summed up in paragraph [18] of the judgment where the Court stated that -

“.. the grant of independence to Saint Lucia and the creation of a Parliament within the newly created independent sovereign State could not, without more, have the effect of rendering invalid within the new State existing laws which had previously applied within the colony...”

The reasoning in **Hilaire v Chastanet** therefore goes well beyond **Matthew and Chandler**. Apparently, even without an applicable constitutional savings provision, the courts of a former colony may not render invalid, colonial laws that are inconsistent with self-determination, with international law and with the country's supreme Independence Constitution.

The laws of the former coloniser, however inconsistent they are with the new legal order created by the Constitution, must remain in place unless they are altered by the sovereign parliament of the independent state.

Time does not permit now an exploration of all the fundamental reasons why Independent Caribbean states that have not already done so should cease sending their final appeals to London. The reality is that **judicial decision making is compromised if and when firstly, the adjudicating judges share a different narrative on the meaning and value of independence; secondly, the judges do not experience for themselves the consequences of the decisions they make because they do not reside in the Caribbean and are therefore unfamiliar with local conditions; and thirdly, the cost of appealing to the JCPC effectively shuts out most people of ordinary means.**

As to the last of these, as I continually point out, when appeals to a final appellate court are too few or are choked off because people of ordinary means are unable to access it, the rule of law is undermined because several important disputes where the law is uncertain or in need of review by an apex court, are left unresolved or insufficiently or inadequately addressed. The cases are legion where the CCJ has heard cases that in all likelihood never would have reached the Privy Council. These were cases that have made a profound contribution to the development of the law and the Constitutions of the respective States.

In seeking to strengthen our democracies and or complete the circle of our independence, there's a role here for everyone - Governments, regional parliaments, lawyers, the public and of course us, judicial officers. I want to mention three things we can do as judicial officers. Firstly, we must never lose sight of our constitutional role to protect the Constitution and to promote fundamental rights. In this regard I have sometimes seen judges lose the forest for the trees. They become overwhelmed by process thinking to the total neglect of outcome thinking. They fail to utilise the devices of reading in and reading down if and when these tools are open to them. They allow themselves to be so mesmerised by the minutiae of the law that they become blind to just outcomes.



Justices Saunders and Wilson during the Q&A segment of the Feature Presentation

Secondly, even where a just outcome cannot be achieved whether because there is no just outcome you can reach without breaking the law, or because you are absolutely bound by a higher court, it is still possible to do as Justice Jamadar did in the case of **Sat Maharaj v The AG of Trinidad**, the Trinity Cross case. The issue in that case was whether, in light of the multi-religious, multi-cultural nature of Trinidadian society, the naming of the country's highest award as "the Trinity Cross" was discriminatory and unconstitutional.

When Justice Jamadar sat down to write his judgment, he was very clear in his mind that given the experiences and religious beliefs of Hindus and Muslims, naming the country's highest award as The Trinity Cross amounted to indirect discrimination against those religious groups. He also was of the equally clear view (ultimately determined to be erroneous) that he was barred because of the Privy Council's decision in *Matthew* from declaring the unconstitutionality of this discriminatory practice. Technically, Peter's judgment could therefore have extended only to about five pages in which he explained that he was bound by *Matthew* and in which he dismissed the case before him.

Well, his judgment actually did say precisely that, and it did so in exactly five pages. But those five pages were preceded by as many as 75 pages in which he painstakingly set out how and why the Trinity Cross nomenclature was discriminatory and, but for *Matthew*, unconstitutional. He laid out a Caribbean narrative that underpinned that explanation and he showed readers the outcome that was just even if, as he thought, the JCPC's judgment in the case of *Matthew* precluded that outcome. My point is that he didn't simply roll over and capitulate to *Matthew*. And as fate would have it, his 75 pages were ultimately fully justified because, as it turned out, *Matthew* was inapplicable. That is how I believe judges should treat with precedents that they believe create a yawning gap between law and justice when it is not possible to read in or read down and/or if you are bound to follow a decision of a higher court.

The third thing judges in independent states can and should do was recently illustrated by Chief Justice Brian Sykes. The Gleaner newspaper had him on their front page a few weeks ago. The article stated:

Chief Justice Bryan Sykes has questioned why a nation that has produced such strong figures of resistance and self-determination as Jamaica, still clings to the colonial legacy of the United Kingdom-based Privy Council. Addressing the Norman Manley Law School Class of 1984, during a dinner in Montego Bay, St James, Sykes critically examined the country's path towards decolonisation, juxtaposing the accomplishments of the country's national heroes with the current political leadership's reluctance to fully embrace Caribbean sovereignty.

Notice how he weaves our shared narrative and engages in outcome thinking!

Chief Justice Archie of Trinidad and Tobago is also on public record making a stirring plea for his country to adopt the CCJ as its final court of appeal. These examples should in my view be emulated. Both the Commentary on the Bangalore Principles of Judicial Conduct and the Nauru Declaration on Judicial Wellbeing make the point that a serving judge does not surrender the rights to freedom of expression enjoyed by other members of the community.

A judge may speak out on matters affecting the courts, the independence of the judiciary and fundamental aspects of the administration of justice, provided the judge acts with restraint to preserve the dignity of their judicial office and upholds the impartiality, integrity and independence of the judiciary.

If we are to ennoble our Caribbean jurisprudence, if we are to assure full access to justice for the people of the region, If we are to be able to say as Canadian Justice Wilson said *“For the first time in our history control over our constitution passed exclusively into [our] hands ... thereby marking the final step in our journey towards fully independent status as a nation”*, it is important that we be pro-active; that we keep our sights on the goal and that **we continually play our part in promoting self-determination and human rights.**



Justice Adrian Saunders at the 8th Biennial Conference

Conference Perspectives: Vice President Maroeska Scholte

From November 21 to 23, 2024, Maroeska Scholte, Vice President, Angèle Martijn, Judge and Andre Steg, Senior Advisor Business Operations participated on behalf of the Joint Court of Justice in the biennial conference of the Caribbean Association for Judicial Officers (CAJO) titled “Justice 360, Holistic Approaches to the Administration of Justice” on the beautiful island of Bermuda.

On behalf of the Joint Court, Maroeska Scholte, together with Peter Jamadar (Chairman of CAJO and Judge of the Caribbean Court of Justice), introduced and led discussion on the topic “the Importance of Judicial Civility.” In the lecturette differences of the “civil law” legal system in relation to the “common law” system were addressed, as well as the role of the judge at hearings and factors that influence the smooth running of a hearing and the acceptance of a ruling. It was interesting to note that pictures of the courtrooms (of all the locations of the Joint Court of Justice) were viewed with warm interest.

During the conference, valuable insights were gained in the various workshops and panel sessions, including “Artificial Intelligence and Caribbean Judiciaries” “Trial by media: High Profile Cases and the Media’ ‘Judiciaries in Integrity: Policies and Protocols promoting Justice’ and ‘Managing Conflict in the Judiciary’ but also in the sessions that had a focus on the importance of well-being and mental health within the judiciary.

Artificial Intelligence and Caribbean Judiciaries

The session “Artificial Intelligence and Caribbean Judiciaries” was one of the prominent topics discussed at this CAJO Conference 2024. Reflecting on the participation in the 2022 conference held in Saint Lucia, Artificial Intelligence (AI) was also a significant point of discussion back then.

At that time, the consensus was that AI had limited added value for the judiciary, with many perceiving it as a technology still in its infancy with respect to legal applications. Fast forward two years, and the landscape seems to have changed drastically. It is now evident that AI has been embraced widely. The shift from scepticism to embracement and adoption is clear, as various judicial bodies have either developed or are currently in the process of developing AI applications such as assisting with legal research, predictive analytics for case outcomes, to even more sophisticated tools for document review and automation of routine legal tasks. A particularly noteworthy development during the conference was the recognition that CCJ itself is actively engaging in the integration of AI within its operations. The demo of the AI legal research tool of CCJ in that respect was very inspiring. Clear guidelines and examples were provided on how the judiciary can implement a new AI tool responsibly. During the conference, contacts were established to facilitate the exchange of insights and experiences related to AI applications at the Caribbean level.

Trial by media: High Profile Cases and the Media

This session offered profound insights into the challenges in managing media influence during high-profile cases. It shed light on how media coverage (including social media) can shape public perception of justice. While the session acknowledged the preparedness of press judges and communication staff—who are often trained to handle media inquiries and manage public relations—it also underscored a key vulnerability: other court employees may lack the same level of preparation. Employees such as court clerks and administrative staff, while integral to the judicial process, may inadvertently compromise confidentiality or fairness due to insufficient awareness of how their actions or words could be amplified in a media-driven environment of high-profile cases. The speaker illustrated this gap with examples where lapses in protocol, whether through casual comments, mishandling of documents, or inconsistent communication, inadvertently fuelled media narratives. While press judges and communication staff may serve as the frontline defence against media scrutiny, high-profile cases require a unified approach where all court employees understand their role in safeguarding justice and are aware of the importance of avoiding missteps that can have outsized repercussions.

The conference was a valuable and educational experience and great opportunity to exchange best practices with colleagues from the region. The knowledge and experiences gained during this conference will be shared within the Joint Court.



In the photo the participants of the Joint Court of Justice, Angèle Martijn, Maroeska Scholte and André Steg, after presenting a token of appreciation (a lithograph of the Courthouse in Curaçao) to Mr. Larry Mussenden, Chief Justice of Bermuda.

Snapshots from the 8th Biennial Conference





Asking a question at the Conference



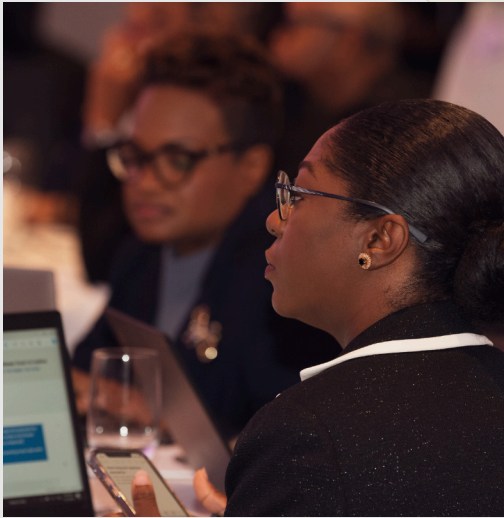
Gombey dancer at the Opening Ceremony



Group photo from the Camden House reception



Participants preparing for the ferry ride to the cultural event



Listening to a presentation



Bermuda shorts when in Bermuda!



Getting ready for the Royal Naval Dockyard



Enjoying dinner at Cafe Lido and the Deep

Conference Perspectives: Justice Sandra Nanhoe Gangadin

The 8th Biennial CAJO Conference in Bermuda was the sixth CAJO Conference I attended. As always very enlightening and educational. Although the turnout was not as high as in the previous two conferences, because of the high expenses for travel and stay in Bermuda, it was very good in my opinion. Actually even better! Everything was well organized, there were no congestions anywhere, not even for breakfast, lunch or coffee. The organization of the conference excellent. Congratulations to the organizing committees. Very punctual pickups every day thanks to Senior Magistrate Maxanne Anderson. I very much appreciated the daily active participation of the Chief Justice of Bermuda, Justice Larry Mussenden. The Conference pace was very good. I very much appreciated that feedback on the previous conferences was taken very seriously. Especially the fact that there were not more than two breakout sessions at a time.



Justice Nanhoe Gangadin (2nd from right) with colleagues at the Conference

Very convenient was the breakfast and lunch right in the hall of the conference room. I think this was one of the reasons that the daily programs ran in a timely manner. The other reason was the excellent management of the Chair of Proceedings, Justice Juan Wolffe who kept everyone in their time slots. The theme of the conference was very up to date and all the program sessions fitted perfectly within. The Conference program was very well balanced between exchange of judicial expertise, the role of AI, well-being and entertainment. There were a lot of interactive sessions, which made the program more interesting. Every Conference brings out the fact that even with different judicial systems, we more or less face similar challenges. Another plus point was that we even had time to see a great deal of the island itself as well as some shopping. All in all a great conference, yet again! Looking forward to the 9th Biennial Conference in Guyana!



Bermuda sunset captured by Justice Nanhoe Gangadin

3rd Annual General Meeting of the CAJO

The CAJO's 3rd Annual General Meeting (AGM) took place on Friday 22nd November at the Hamilton Princess, as part of the 8th Biennial Conference programme.

At the AGM, members were to:

- consider and if thought fit adopt the Management Committee's report on the affairs and business of the CAJO for the period November 2022-November 2024.
- receive and consider the Financial Statements for the years ending December 2022, and December 2023 together with the Auditors' Report thereon.
- elect the Management Committee of the CAJO who shall also serve for the term expiring no later than the close of the Fifth Annual General Meeting of the Members of the CAJO following the election to be held at that meeting.
- elect and appoint the Directors of the CAJO who shall serve for the term expiring no later than the close of the Fifth Annual General Meeting of the Members of the CAJO following the election to be held at that meeting.

The AGM went smoothly with all business matters resolved as required. The Conference Resolutions were agreed to and are available [here](#).

Also, as noted, a new Management Committee was elected to serve for the period 2024/26. They are:

- Justice Peter Jamadar – Chair (Judge, CCJ)
- Justice Roxane George – Vice Chair (Chief Justice (Ag), Guyana)

- Justice Adrian Saunders – ex officio (President, CCJ)
- Justice Maroeska Scholte (Vice President, Joint Court of Justice)
- Justice Carol Edwards (Justice of Appeal, Jamaica)
- Justice Gregory Smith (Justice of Appeal, The Bahamas)
- Justice Maria Wilson (Justice of Appeal, Trinidad & Tobago)
- Justice Sandra Nanhoe-Gangadin (Senior Judge, Suriname)
- Justice Shade Subair-Williams (Judge, Bermuda)
- Justice Tanya Lobban Jackson (Judge, Turks & Caicos Islands)
- Justice Anneil Coote-Guinness (Judge, Jamaica)
- Justice Cicely Chase (Judge, Barbados)
- Her Worship Maxanne Anderson (Senior Magistrate, Bermuda)
- Ms. Michelle John-Theobalds (Chief Registrar, ECSC)
- Ms. Kristina Wallace Whitfield (Registrar, The Bahamas)



Back Row (L-R): Vice President Maroeska Scholte, Justice Cicely Chase, Justice Sandra Nanhoe Gangadin, Justice Gregory Smith, Ms Kristina Wallace Whitfield, Senior Magistrate Maxanne Anderson, Justice Tanya Lobban-Jackson, Justice Anneil Coote-Guinness

Front Row (L-R): Justice Maria Wilson, Justice Adrian Saunders, Justice Roxane George, Justice Peter Jamadar, Justice Carol Edwards, Justice Shade Subair Williams

Not pictured: Ms Michelle John-Theobalds

Statement on the Wellbeing of Judicial Officers and Staff

One of the significant outcomes of the recently concluded CAJO Biennial Conference Bermuda (21-23 November 2024), was the unanimous agreement and adoption of a [CAJO Statement on the Wellbeing of Judicial Officers and Judiciary Staff](#).

This **Statement on the Wellbeing of Judicial Officers and Judiciary Staff** broadens and builds on the global July 2024 'Nauru Declaration on Judicial Well-being'. Consistent with the theme of the CAJO Conference - 'Justice 360: Holistic Approaches to the Administration of Justice', it advances Judicial Wellbeing in meaningful ways by focussing on the wellbeing of Judiciaries as One System, a single interconnected and interdependent living human system. Its salience for the sustainability of institutional integrity and performance, is exemplified by specifically including Judiciary Staff, and adopting a holistic approach which includes a healthy work-life balance, which also invites special attention to work-load management cognizant of the reality of power-relation imbalances within judiciaries.

The CAJO Conference was attended by about 100 Caribbean judicial officers and court administrators. In addition, several Caribbean Heads of Judiciary were present, from both Anglo-Caribbean common-law states as well as from the civil-law jurisdictions including the Joint Court of Justice of Aruba, Curaçao, Sint Maarten and Bonaire, Sint Eustatius and Saba, and from the Supreme Court of Suriname. All have welcomed and endorsed the Bermuda Statement on Wellbeing for Judiciaries.

The proclamation of the CAJO Bermuda Statement on Wellbeing for Judiciaries has been internationally acclaimed. Some international responses to this achievement are:

“Wonderful to see this! What a terrific development and one that many countries can draw inspiration from. A very timely initiative by the Caribbean judges association.”

- Prof. Carly Schrever, Director of Human Ethos, a psychological consultancy directed to the wellbeing of judges and lawyers. Since 2022, Prof. Schrever has been a Principal Investigator on an Australia Research Council-funded national research project on judicial wellbeing across Australia, with findings expected to be published in 2026.

“It is so inspiring to see what the Caribbean judicial officers have achieved. Justice Saunders often spoke about your judiciary’s efforts in promoting well-being during the Nauru Declaration drafting process. I believe this statement is the culmination of your collective commitment to advancing well-being. Thank you Justice Jamadar for your leadership in this important initiative.” - Justice Rangajeeva Wimalasena, President of the Nauru Court of Appeal and chief architect of the Nauru Declaration on Judicial Wellbeing.

“I would like to thank you ... and congratulate you on the adoption of this important statement. Judicial well-being, as we know and continue to hear from judges, is a crucial ingredient of a well-functioning judiciary, and I am therefore very pleased that 2024 has brought tangible positive developments in this regard –the Nauru Declaration and your CAJO statement.” - Tatiana Veress, Crime Prevention and Criminal Justice Officer Corruption and Economic Crime Branch United Nations Office on Drugs and Crime UNODC, GJIN.

“Wonderful to see this. Encouraging wellness in our judiciary is key in supporting our judges and judicial staff in our high stress jobs that produce such important decisions in our communities.” - Sandra Engel, Judicial Wellness Manager, has worked with judicial officers helping them discover their growth potential and develop themselves as top leaders in their field.

The essential text of the CAJO Bermuda Statement on Wellbeing for Judiciaries is as follows:

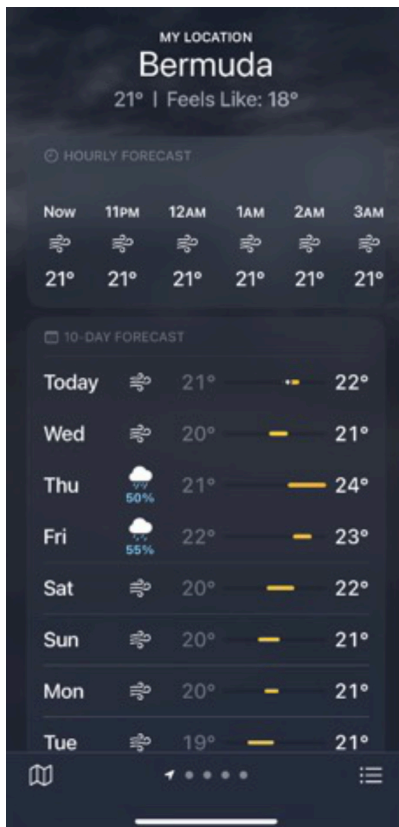
WE, the members of the Caribbean Association of Judicial Officers (CAJO) gathered at the Hamilton Princess, in Bermuda, hereby collectively declare and affirm:

1. The wellbeing of all judicial officers and judiciary staff is integral to achieving performance excellence in all domains in judiciaries, for sustaining public trust and confidence in the administration of justice, and for consistently upholding the rule of law.
2. The wellbeing of all judicial officers and judiciary staff must be institutionally facilitated and supported, including by the promulgation of Judicial Wellbeing policies, and by continuously implementing wellbeing-oriented activities and interventions.
3. Wellbeing is a continuous process enabling persons to thrive and flourish in all domains, including the following recognised ones: occupational, physical, social, cognitive, emotional, and spiritual.
4. The wellbeing of Judicial Officers and judiciary staff requires knowledgeable, sensitive, caring, and attentive judicial leadership at all levels that is committed to promoting, creating, and supporting judicial cultures of wellbeing that are holistic and inclusive, and ensuring that working conditions exist that are conducive to wellbeing.
5. Judicial stress and work-related health issues are not uncommon and must not be stigmatized or treated in ways that hinder individual and institutional actions towards wellbeing, but rather must be addressed with sensitivity and support.
6. Judicial stress and judicial wellbeing both need to be continuously researched and studied, and interventions to mitigate the former and enhance the latter should be evidence based and aimed at achieving sustainable individual and institutional behavioural and cultural change.
7. The wellbeing of all Judicial Officers and judiciary staff is both an individual and institutional responsibility, and both individuals and judiciaries are expected to pro-actively engage and create for themselves and others healthy lifestyles and workplace environments.
8. Supporting a healthy work-life balance is essential to the wellbeing of all Judicial Officers and judiciary staff and Judicial Officers and judiciary department and unit heads and managers must monitor, evaluate and ensure that this balance is created and maintained, with special attention to work-load management cognizant of power-relation imbalances.
9. Judicial wellbeing initiatives must be tailored to suit the circumstances and requirements of national judiciaries and to accommodate resource and other unique local realities, cognizant of the right to a dignified work life.

Conference Perspectives: Dr Danielle McConney

Behind the Scenes in Beautiful Bermuda

I had the distinct privilege of attending the Caribbean Association of Judicial Officers' (CAJO) 8th Biennial Conference in Bermuda, 21-23 November 2024 under the theme: “*Justice 360: Holistic Approaches to the Administration of Justice*”. The 2½ conference days only represented the tip of the iceberg as major preparation for this conference started in earnest in February 2024. Meetings with the local organising committee in Bermuda and amongst the Caribbean Court of Justice (CCJ), and CAJO staff were frequent and productive. From the onset, I admired how well-organised the planning process was, and it re-emphasised the ease of working with Elron Elahie, CAJO’s Chief Cook and Bottle-washer, under the stewardship of the Chair, the Hon. Mr Justice Peter Jamadar.



Upon arrival at the L.F. Wade International Airport, I was struck by the warm reception provided by the Judiciary of Bermuda. In stark contrast, I was not fully prepared for the combination of wind and chill in this Caribbean location! Never have I ever been so grateful for the warmth of a fireplace at the hotel. It was only until I met with CCJ President, the Hon. Mr Justice Adrian Saunders and Justice Jamadar for the scheduled media interviews the following day, that I realised the friendliest face at the airport the night before was that of Chief Justice of Bermuda, The Hon. Mr Justice Larry Mussenden!

Photo: Weather forecast for Bermuda during the Conference period

Media interviews in Bermuda started from the Tuesday before the conference where Justices Saunders and Jamadar engaged with local media portals to discuss the work of the CAJO, goals of the conference, and topical issues of the regional judiciaries. Besides the Chief Justice of Bermuda, The Hon. Mrs Justice Shade Subair Williams and The Hon. Mr Justice Juan Wolffe facilitated interviews with the media houses.

The first day of the conference was one for the books! The pace started from early with registration where the Secretariat was a hub of activity, and setting up the conference venue, even after closing off around 11:00 p.m. the previous night. The reward was witnessing what was easily the most energetic and energising opening ceremony. The entertainment set the tone for the conference where engaging presentations, plenaries, and workshops abounded. The feature presentation on the first day by CCJ President Saunders was such an absorbing experience and I appreciated the coffee table talk with Mme Justice Maria Wilson on judicial advocacy under the title “*Celebrating Caribbean Jurisprudence: Intersections between Law, Politics, and Society*”.



Harbour view from the Hamilton Princess hotel

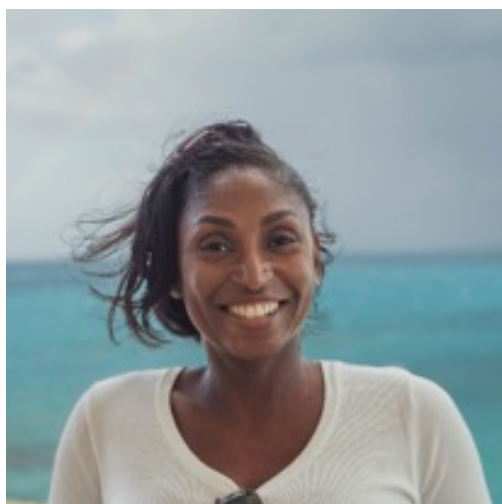


As a presenter for the final plenary and panel discussion on “*High-profile Matters: Managing Public and Media Relations, Maintaining Public Trust & Confidence*”, I realised the critical timeliness of this discussion: the moderator, the Hon. Mr Justice Denys Barrow, and the panellists Chief Justice of Guyana (Ag), the Hon. Mme Justice Roxane George and the Hon. Mme Justice Carol Edwards of Jamaica, shared experiences from different jurisdictions, highlighting the challenges we face in managing public trust and confidence within a constantly evolving media landscape. The discussion prompted me to reflect on how our judicial systems can better safeguard the autonomy of the judiciary while remaining responsive to the needs of the media and the public.

On the third day, the Sounds of Justice session was listed as an interactive participant segment, and boy, those judicial officers did not disappoint! They put into poetry, dance, and song their hearts' cries for holistic justice, regional integration, and complete judicial independence. It provided truly memorable moments on the last day of the conference and brought home the realisation that judicial officers are as human as the rest of us. In addition to the formal sessions, one of the most rewarding aspects of the conference was the opportunity to connect with judicial officers from across the Caribbean. The networking occasions provided safe spaces to share ideas, discuss challenges, and learn from one another's experiences. I had the chance to speak with members from jurisdictions with different legal systems, and the exchanges were eye-opening. Inherent in all the work that is undertaken by the judiciaries is managing the human relationships that underpin our vocations and also maintain our wellbeing, inclusive of our mental health.

The daily social events organised by the Government, the Judiciary, and the Bar Association of Bermuda all allowed for more informal networking, and I found these moments to be equally important as the conference sessions. In the relaxed (and ever-changing) atmosphere of Bermuda, I was able to have deeper, more personal conversations with my CCJ colleagues as well. Whether it was recalibrating at the end of the first conference day, or during the picturesque bus ride to the Commissioner's House, or dancing at The Deep, these interfaces helped to build stronger professional and collegial relationships. The sense of camaraderie was palpable, and it was inspiring to be surrounded by colleagues who are equally dedicated to upholding the highest standards of service.

The location of the conference in Bermuda added a unique dimension to the experience. The quaint streets, tranquil beaches, and lush landscapes offered a serene backdrop for reflection. During those brief moments amidst my busy schedule, I found a couple of opportunities to walk into the town to relax and view the capital. Everyone I met along my strolls demonstrated Bermuda's warm hospitality and inviting atmosphere.



Dr McConney at the Commissioner's House

In conclusion, I am truly grateful for being a part of the CAJO's 8th Biennial Conference in Bermuda. It provided a unique opportunity to learn, share, and collaborate with judicial officers from across the region. The conference not only deepened my understanding of the current challenges facing the industry but also inspired me to continue striving for excellence. The conversations, the networking, and the ideas exchanged during the conference will stay with me for years to come, and I look forward to continuing the work of strengthening the judiciary in the Caribbean.

Participatory Approach to Climate Resilience, Adaptation and Mitigation in the Caribbean

Chelsea Dookie, Judicial Counsel, CCJ

The scientific evidence cannot be disputed: climate change is real. The Caribbean is highly vulnerable to the impacts of climate change particularly hurricanes as climate-related disasters, making the region a prime candidate for climate resilience initiatives and post-hurricane recovery strategies. The Caribbean has seen and felt the effects of numerous serious hurricanes over the years including Hurricanes Ivan, Irma and in 2024, Beryl. Undoubtedly, there are more to come, and we should be prepared.

The increasing severity and frequency of hurricanes in the Caribbean makes relevant the goal of becoming **climate resilient**. The Center for Climate and Energy Solutions defines climate resilience as the ability to prepare for, recover from, and adapt to the impacts of climate-related disasters. See this video by The Climate Explainers via NDTV: <https://www.youtube.com/watch?v=MGdeXn3YV4w>

Caribbean nations have developed a strong policy foundation to address climate change through both national strategies and regional frameworks. National climate policies in countries like Barbados and Jamaica focus on renewable energy targets, disaster risk management, and ecosystem preservation. Regionally, the Caribbean Community (CARICOM) coordinates climate resilience efforts through the Caribbean Community Climate Change Centre (CCCCC). Established in 2002, the CCCCC provides climate policy advice and data management for CARICOM Member States, facilitating regional adaptation and mitigation strategies.

Furthermore, the Caribbean Disaster Emergency Management Agency (CDEMA) plays a crucial role in coordinating regional responses and disaster preparedness. CDEMA's efforts include training local communities, implementing early warning systems, and advocating for more resilient infrastructure across Member States. Collaborative initiatives like these help smaller nations pool resources and expertise, enhancing their collective ability to recover from and adapt to extreme weather events.

A notable development in Caribbean climate action is that in January 2024, the Caribbean Community Resilience Fund was launched in Bridgetown, Barbados. The US\$100 million fund is dedicated to supporting initiatives that will enhance growth and resilience across the region in the face of climate change. In addition to these regional initiatives, CARICOM has adopted various international agreements and frameworks, including the United Nations Framework Convention on Climate Change (UNFCCC), to ensure that regional policies align with global climate goals. Such frameworks not only guide policy development but also foster collaborative efforts, sharing resources and expertise across borders, making the Caribbean a global example of a regional approach to climate governance.

A commendable stride has been made by Dominica in particular, the country emerging as a regional leader in climate action and resilience through its efforts after Hurricane Maria in 2017. The country aims to become the world's first "climate-resilient nation" through projects like constructing hurricane-proof homes, promoting sustainable agriculture, and investing in geothermal energy. Dominica's overarching goal is to reduce the impact of natural disasters and the recovery time, while also boosting the country's socioeconomic development. Their commitment to becoming climate resilient has facilitated the creation of the Climate Resilience and Recovery Plan (CRRP) to implement the National Resilience Development Strategy (NRDS). The CRRP codifies targets such as achieving 100% renewable energy production by 2030 and increasing protected forests to 67% of the island by 2030.



Image: Commonwealth of Dominica Citizenship by Investment <https://www.cbiu.gov.dm/news/dominica/dominicas-road-to-climate-resilience-by-2030-sponsored-by-cbi/>

Barbados is also making strides towards building climate resilience by accelerating its renewable energy transition to reduce vulnerability to fossil fuel price volatility and natural disasters. The government's target of 100% renewable energy by 2030 includes solar, wind, and ocean energy projects. Prime Minister Mia Mottley has also been a strong advocate for climate financing at international forums, emphasising the urgent need for equitable financial support for small island developing states (SIDS).

Participatory approach to climate resilience

The proactive regional initiatives are to be applauded but there is room for a more participatory approach to climate resilience and adaptation in the Caribbean. The participatory approach was developed on the basis that effective and equitable climate resilience requires a communal approach involving diverse voices and perspectives from citizens, businesses, policymakers, and researchers (see more on this concept in this blog by Dmitry Erokhin, <https://globaldev.blog/why-climate-resilience-needs-participatory-strategies/>).

In recent years, several Caribbean nations have embraced the participatory approach to climate resilience by involving local communities in disaster preparedness and adaptation initiatives. For example, in 2017 Dominica implemented community-driven recovery programs led by the Dominica Climate Resilience Execution Agency (CREAD). These initiatives included reforestation projects and the construction of climate-resilient infrastructure, with active input from local residents. Students and faculty are also trained in disaster resilience, and community members undergo skills development training. Similarly, Barbados has integrated public consultations into the development of its renewable energy and climate policies and in Jamaica, various government agencies and NGOs have partnered with grassroots organisations to restore mangroves and protect coastal areas, empowering communities to become stewards of their environment.

Despite these efforts, challenges remain. Environmental law continues to be a budding area in the Caribbean region despite its importance. Consider these questions: Are there any legal frameworks in place in your country of residence which speak to community participation in climate adaptation, resilience and mitigation? If yes, what measures are in place to drive or encourage this participatory approach? Have you observed members of your community engaging in climate mitigation strategies?

Do you participate in climate resilience initiatives at a community level?

Based on my own personal experience as a CARICOM citizen, my guess is that most of those questions can be answered in the negative depending on your country of residence. But the first step is to spread the word. Citizens of Caribbean SIDS may be more inclined to participate in climate resistance strategies if they are empowered by education on the topic and understand from a participatory perspective, what they can do to contribute to strategic climate adaptation, resistance and mitigation.

By engaging in environmental monitoring, such as tracking coastal erosion and biodiversity changes, communities provide valuable data that informs local and national climate strategies. Adopting sustainable practices such as water conservation, waste reduction, and utilising renewable energy, can minimise carbon footprints. Additionally, participating in public consultations and environmental impact assessments ensures that citizens' voices shape climate policies. Awareness campaigns and educational initiatives also foster broader community understanding of climate risks and resilience measures.



Keynote by PM Mia Mottley on impact of global climate change | GC NOW NYC Health & Climate Financing. Click image to go to video.

Citizens can further support climate efforts by engaging in renewable energy cooperatives, ecosystem restoration projects, and policy advocacy. For instance, reforestation and mangrove restoration strengthen natural defenses against storms and rising sea levels, while renewable energy projects enhance local energy independence. Advocating for stronger climate policies and using citizen science platforms to report environmental issues also empower individuals to influence adaptation and disaster preparedness. Together, these actions foster a culture of resilience and ensure that climate strategies are inclusive, community-driven, and effective across the Caribbean.

In the Caribbean, resource constraints often limit the scope and impact of community-led climate resilience projects. Financial challenges, inadequate technical expertise, and inconsistent access to training hinder the ability of local communities to implement long-term solutions. Despite these obstacles, **adopting a participatory approach to climate resilience empowers individuals to act within their capacity, fostering collective responsibility for the region's future.** This approach does not require massive financial resources or complex programs. Rather, it emphasises individual and community involvement in small but impactful ways, such as reducing waste, conserving water, planting trees, and advocating for sustainable practices.

Participation begins at home, where you can adopt simple measures to reduce your carbon footprint, such as installing energy-efficient appliances, harvesting rainwater, and practicing sustainable gardening. By engaging in local initiatives like beach clean-ups or tree-planting drives, you can contribute directly to building climate resilience. This grassroots involvement creates a ripple effect, encouraging others to participate and fostering a culture of climate awareness and responsibility.

Moreover, participation extends beyond physical actions to include advocacy for policy changes. You can engage with local governments, participate in public consultations, and support climate education initiatives. Advocacy for stronger environmental policies, renewable energy adoption, and climate justice ensures that all voices influence national and regional strategies.

By recognising that individual actions, no matter how small, contribute to the broader climate resilience effort, Caribbean citizens can collectively work towards a sustainable and resilient future. This participatory mindset is crucial in overcoming resource limitations and ensuring that climate resilience is a shared, inclusive journey.

Looking Ahead: CAJO in 2025 and Beyond

Justice Peter Jamadar, Chair, CAJO

As we look forward to the future, the CAJO anticipates working on several projects, some already in train and some to be commenced. All are aimed at improving the delivery of justice as a service for the benefit of court users and the public.

Arising directly from the CAJO Biennial Conference, Bermuda are three initiatives:

- the development of a **Protocol Framework for Managing Conflict in Caribbean Judiciaries**,
- the development of **Guidelines for Dealing with Self-Represented Litigants**, and
- the roll out of a process for **Facilitating a Mentoring Arrangement for Caribbean Judicial Officers**.

Each of these emerge out of specific sessions from the Biennial Conference Bermuda. And each addresses current and pressing needs in Caribbean judiciaries. In this sense these projects continue the tradition of the CAJO, to generate relevant knowledge products and practical tools to improve the administration of justice in the Caribbean in ways that impact judicial officers in important respects. Here we can recall the 2015 CAJO Biennial, Jamaica mandate to prepare Gender Protocols, which resulted in the preparation of a generic draft and actual customized Gender Equality Protocols in Belize and Trinidad and Tobago, with others already in train in Guyana and Barbados.

Together and in partnership with the CCJ Academy for Law (CAL), the CAJO will join in researching, writing and publishing another volume in the CAL Eminent Caribbean Jurist Series – **Legendary Caribbean Judges**. Some preliminary work has already begun, and qualifying criteria and a selection committee have been agreed.

The CAJO is a regional resource for targeted judicial education and training. In January 2025 a CAJO Expert Team will be in Guyana rolling out a four-day **Strengthening the Judicial Office** programme. This training is designed to employ different methods of learning towards achieving the objectives and outcomes of each module. Each session is designed to ensure each participant is actively engaged in the learning process and the modules contain built-in activities and assessments to ensure that learning is achieved. All judicial officers in Guyana will participate though special focus is on Judicial research Assistants. The programme will cover areas such as: projectising cases, judgment writing, types of legal argumentation, constitutional approaches to statutory interpretation, oral judgments, and ethics. Also in January 2025, the CAJO is supporting training for Registrars of the ECSC: **Managing Conflict, for Registrars of the ECSC**. This virtual session will be facilitated by CAJO facilitators from the CAJO Biennial Conference Bermuda. It is an important continuation of the work of the CAJO in this area. Further, in January 2025, the CAJO will facilitate a wellness session for the Judiciary of the Bahamas, building and broadening its focus on wellness.

The CAJO has developed a credible reputation for research-based publications, such as the recent 2023 Criminal Bench Book for Barbados, Belize and Guyana, and the regional Disability and Inclusion Awareness Guidelines. In 2025 the CAJO will continue this trend and will work with the Judiciary of the Bahamas to produce and publish a **Criminal Bench Book for the Bahamas**. In addition, and working in partnership with UN women Caribbean, the CAJO hopes to research and publish **Gender Equality and Trafficking in Persons (TIP) Protocols for the Bahamas**. This latter project builds on the 2015 Jamaica mandate in relation to Gender Protocols for Caribbean judiciaries, though this project is enhanced to include a TIP Protocol.

The CAJO has advanced judicial and judiciary excellence by its promulgation of the **CAJO Bermuda Statement on Wellbeing for Judiciaries** (reported on in this CAJO NEWS). The CAJO places wellbeing at the centre of the mandate for regional judiciaries to push towards sustainable judicial excellence. Without judiciary staff and judicial officers who are experiencing wellbeing in all domains, including, occupational, physical, social, cognitive, emotional, and spiritual, the goal of judiciary excellence will always be a pipe dream.

To further this approach, the CAJO proposes to launch a **Members Only CAJO Wellness Post**, which will focus on wellbeing. As well, each edition of future issues of the CAJO News will also feature aspects of Judiciary Wellbeing aligned with the CAJO Bermuda Statement on Wellbeing for Judiciaries.

On the corporate side of the CAJO, it being a duly incorporated non-profit organization (registered in Trinidad and Tobago), two initiatives are imminent: (i) the consideration and processing of formal **Charitable Status**, and (ii) the rollout of **Anti Money Laundering Training** for its directors. The former can be beneficial to the effectiveness of the CAJO in its operations and in the delivery of its services regionally. The latter is a necessary compliance requirement for retaining its corporate status. The CAJO is committed to maintaining due diligence in meeting its corporate responsibilities and compliance requirements.



Group photo of participants from the 8th Biennial Conference

