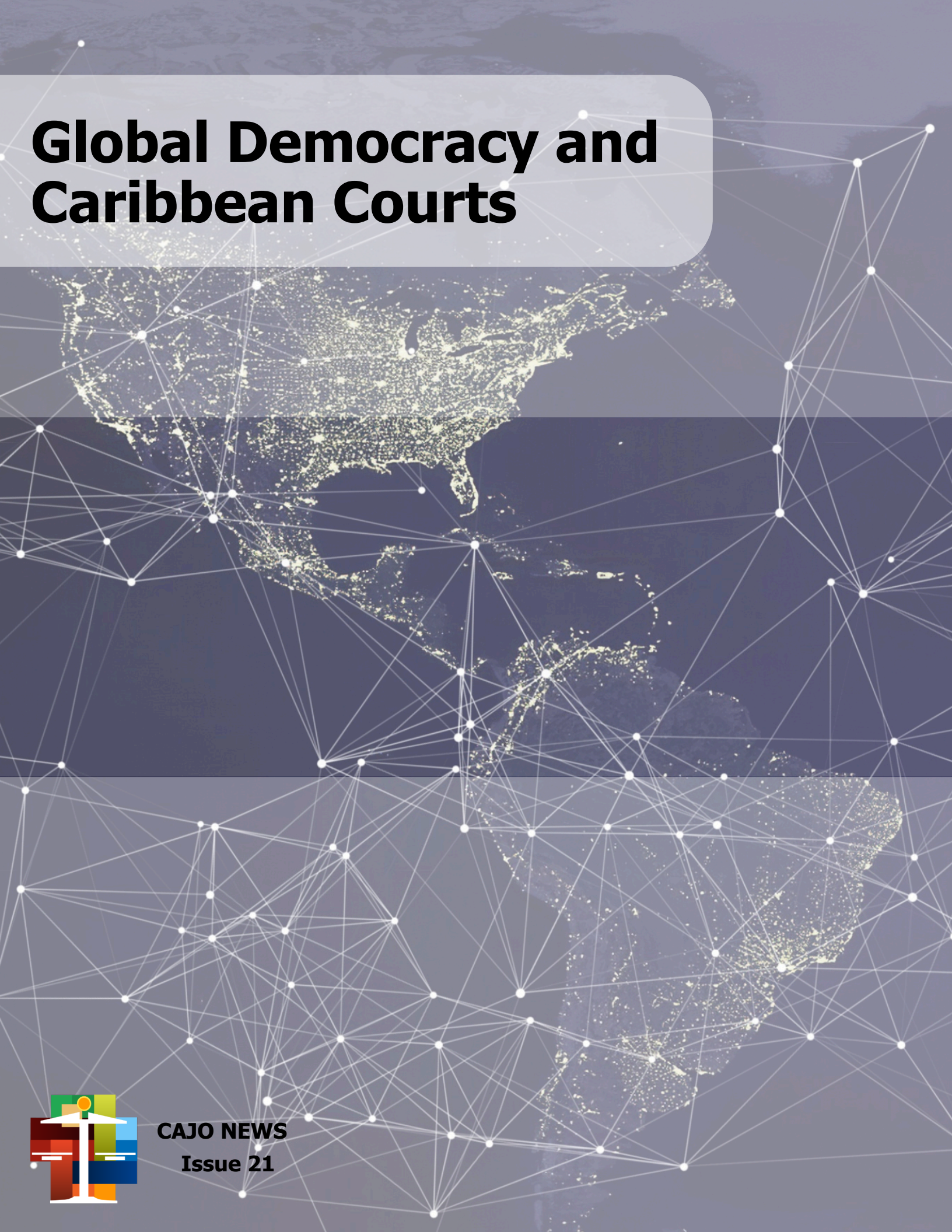
Global Democracy and Caribbean Courts



CAJO NEWS
Issue 21

CONTENTS

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Message from the Management Committee

As we read this edition of CAJO News, and as we reflect on our current global circumstances, already it has been a tumultuous year. One like we have not known for decades. The state of 'Global Democracy' and its impact on Caribbean Courts is one of the matters of real concern. Much as we may wish to hope that it can be 'business as usual', that is likely quite naivete.

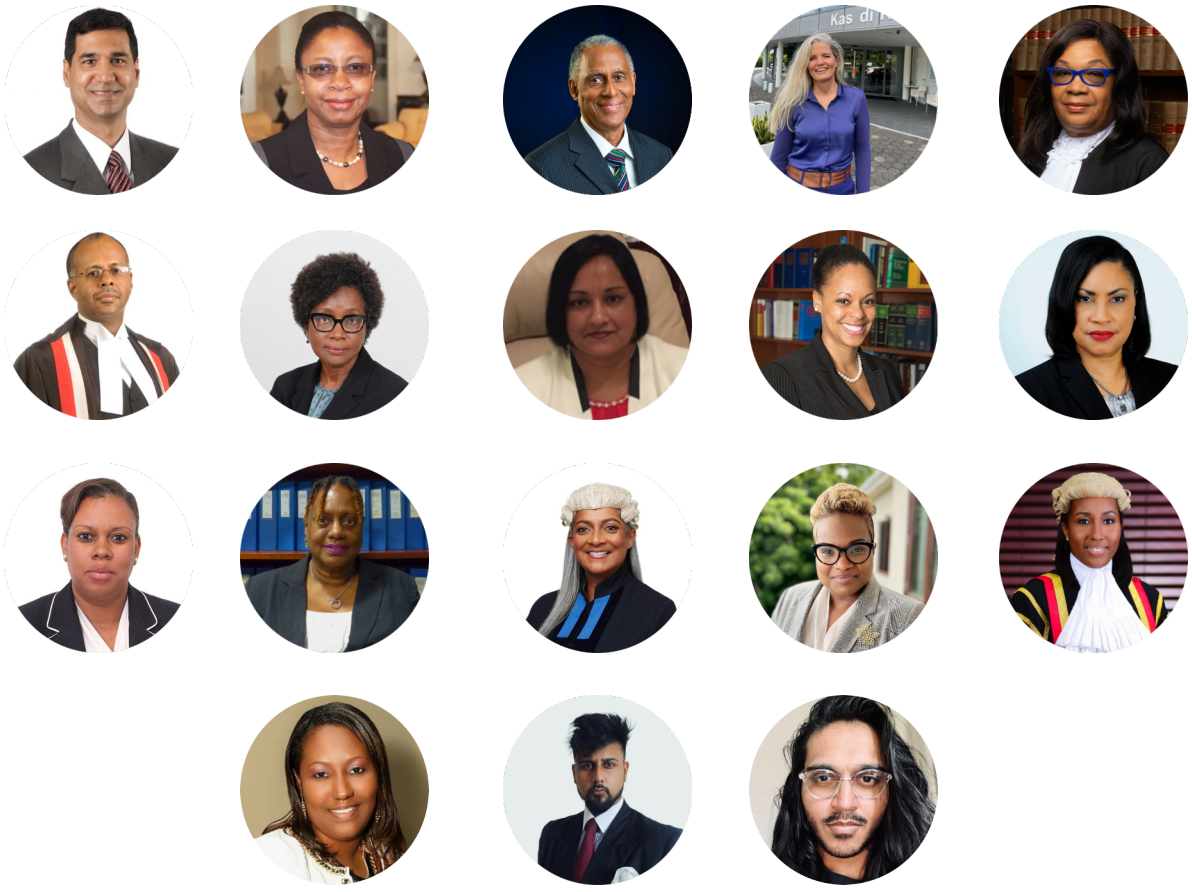
We are being pressed to recognise that the idea of an agreed, predictable and enforceable international world order, in which some broad-based form of international rule of law prevails, has been exposed as a fragile and idealistic framework. One that may be dissolving before our eyes. Which is not to say that international law per se is ineffective, as its intention and purpose remain normative, but only that the impact of geo-politics on it can severely reduce its enforceable efficacy – and hence, in some quarters, its pragmatic usefulness.

Indeed, are we also living with an existential global reality of the dismantling of the territorial democratic norms to which we have grown accustomed? And what of the core values of liberal democracy (this courageous human experiment in governance, based on principles of dignity, equality and fairness, and grounded as it is in the privileging of fundamental human rights)? There are in fact many concerns across the globe about what may be happening to national commitments to liberal democratic values. Again, which is not to say that these values do not remain functionally purposive and effective. Yet we must also accept that we are facing serious challenges to hitherto assumed democratic principles.

In Caribbean spheres, one such peril may come in the form of unprecedented and spiralling violent crime, that not only threatens the democratic way of life for Caribbean peoples, but can result in popular and executive demands for compromising human rights in pursuit of safety and security.

Our judicial systems presume certain pre-existing human and systemic conditions. The idea of an independent and impartial judiciary, as we know it, presumes three independent and autonomous branches of state, coexisting with mutual respect and certain institutional conventions (Commonwealth Latimer House Principles). And yet, even as it sometimes seems that the world we know is unravelling before our eyes, it also feels that this very world expects us, the judicial arm of state, to keep calm and carry on doing what we have to do - deliver independent justice, and to do so impartially, efficiently, and effectively.

These are challenging times. And how Caribbean courts respond can determine our futures for generations to come. Somehow, even in the midst of apparent global turmoil, we need to know what are our core values and to hold the centre together, especially when fragmentation threatens.



20 Years of the Caribbean Court of Justice: Realising the Vision of Judicial Excellence

Justice Adrian Saunders*

As the immediate past President of the Caribbean Court of Justice (CCJ) I am pleased to contribute to this edition of the CAJO News which features submissions relating to the importance of Caribbean judiciaries in a changing global democracy and the manner in which Caribbean courts contribute to the broader discourse on this subject.

The Preamble to the Agreement Establishing the Caribbean Court of Justice explicitly sets out the Court's mandate to play 'a determinative role in the further development of Caribbean jurisprudence through the judicial process.' This directive has shaped both the institutional underpinnings of the Court and also the Court's interpretation and application of the law. The architectural framework that undergirds the Court is novel, autochthonous and suited to the peculiar needs of the Caribbean. In both its Appellate and Original Jurisdictions, the judges of the Court are ever aware of the imperative to promote our Caribbean jurisprudence by examining best practices (not only in the Caribbean but internationally as well), referencing and citing Caribbean case law where applicable, and carefully considering the impact of the Court's decisions on the Caribbean people.

In its role as the region's apex court, and the only court vested with jurisdiction to apply and interpret the Revised Treaty of Chaguaramas, the CCJ has made every effort to play a lead role in the further development of an authentic Caribbean jurisprudence. Like the establishment of the University of the West Indies, or the Caribbean Community, or the Caribbean Examinations Council, or the Caribbean Development Bank, each of which preceded the Court, the establishment of the CCJ is a major step forward in reinforcing the levers of independence.

For Justice Duke Pollard, one of the inaugural judges of the Court, establishment of the CCJ represented a closure of the circle of independence. The judges of the Court have therefore consciously striven to interpret the law through a Caribbean lens, taking into account the region's history, its current realities and aspirations, and also the CARICOM's expressed desire to deepen the regional integration process.

Many of the CCJ's landmark judgments have charted a course that animates broad constitutional concepts of democracy, human rights and the Rule of Law in a Caribbean context. See, for example, cases like **AG v Joseph [2006] CCJ 3 (AJ)**, **Maya Leaders Alliance v AG [2015] CCJ 15 (AJ)**, **BCB Holdings v AG [2013] CCJ 5 (AJ)**, **Nervais v R [2018] CCJ 19 (AJ)**, **AG v Richardson [2018] CCJ 17 (AJ)**, and **McEwan v AG [2018] CCJ 30 (AJ)**. A common thread runs through the judgments of these cases. In each of them, the CCJ can be seen connecting these abstract concepts to the lived experiences of ordinary Caribbean citizens, demonstrating in the process how the respective roles of the branches of Government can advance Caribbean constitutionalism.

Similarly, in each of its Original Jurisdiction judgments, where the Court interprets and applies the Revised Treaty, the Court fleshes out the desire of the Member States to deepen regional economic integration in a manner that is principled and in keeping with democratic values and the rule of law. Note for example the explicit statements made in **TCL v The Caribbean Community [2009] CCJ 4 (OJ)**.

Naturally, it is disappointing that not all the eligible CARICOM States have altered their national Constitutions so as to have the CCJ determine their final appeals. This development limits the rate at which the Court can fulfil its mandate. More importantly, it hampers access to justice at the highest level for the citizens of those States. Most significantly, it sets up the real threat of a fractured Caribbean jurisprudence precisely at a time when Caribbean people deserve autochthony.

This threat has, sadly, been realised in the divergent approaches taken by the CCJ and the Judicial Committee of the Privy Council respectively to the manner in which Caribbean courts should treat with laws enacted during the colonial era when those laws collide with the fundamental and constitutionalised rights of Caribbean citizens. English-speaking Caribbean countries share Constitutions that bear a family resemblance to each other. It is a truly regrettable thing when, in a matter that speaks so poignantly to decolonisation and to the promotion of democratic rights and the rule of law, the region's peoples must experience such divergence.

That said, with the five countries that have acceded to the CCJ's Appellate Jurisdiction, the Court carries on in ensuring that the people of Guyana, Barbados, Belize, Dominica and Saint Lucia enjoy full access to it and receive timely and efficient justice from judges who live and share their aspirations.

The judges of the CCJ do not carry out their mandate in a vacuum. Several factors underpin the Court's thrust in contributing to the strengthening of democracy and the rule of law and, as well, to the effectiveness of the Court in the performance of its administrative and institutional roles.

For a start, the success of any organization fundamentally depends on the suitability, resilience, expertise and professionalism of its human resources. From its inauguration to now, the Court has been able to recruit a cadre of professionals of a high calibre to serve as Judges, managers and support staff. From the position of President of the Court right down to non-judicial staff at all levels, the recruitment exercise is carried out with particular care by a specialised body, the Regional Judicial and Legal Services Commission (RJLSC). The Commissioners are all independent of the Executive Branch and are drawn from diverse legal and professional backgrounds. They all have a profound appreciation for the grave responsibilities entrusted to them in staffing the Court with the most competent and qualified persons available for selection.

To this end, the RJLSC has taken steps to enhance its own effectiveness by employing, in 2024, an Organisational Development and Human Resources Advisor who works alongside the Commission's Human Resources and Selection Committee to ensure that the recruitment and promotion processes employed are fair, transparent and merit-based. All candidates are subjected to a rigorous process of scrutiny, appropriate vetting and careful consideration. This has generally produced highly effective appointments.

Justifiable criticism has been levelled at two areas of the Court's recruitment processes: one relating to the recruitment of judges and the other, of non-judicial staff. As to the former, the identity of judicial applicants and shortlisted candidates are not published. The ostensible reason for this is to protect and preserve privacy interests. The other side of the coin is that this practice effectively shuts out the public from the recruitment exercise. It is the case, however, that all applicants undergo a thorough, confidential vetting process by the Commissioners and the Commission does publish the number, nationality and sex of the applicants and the shortlisted candidates.

As to the non-judicial staff, greater efforts must be made to attract more non-Trinidadian nationals to work at what is a **regional** Court that happens to be headquartered in Port of Spain, Trinidad. While in no way casting any aspersions on the excellent performance of the current staff complement, it is undeniable that the ratio of local to non-Trinidadian staff is, for a regional organisation, disproportionately high. Recognising this, the Commission has recently instituted meaningful measures to induce more non-Trinidadian Caribbean nationals to apply for positions at the Court.

With a view to enhancing efficiency, it is critical that the Court be heavily invested in innovative practices. The Court has consistently therefore demonstrated a forward-leaning approach, deliberately seeking out best practices in court administration and management and strategically applying them to the Caribbean context. This has been the case particularly in relation to information and communication court technology. The CCJ holds the distinction of being the first court in the Caribbean to introduce electronic filing (e-filing) in 2013.

This was soon followed by the piloting of a comprehensive electronic case management system in 2016, which was formally adopted across the Court in 2017. These milestones were not accidental; they were direct expressions of the Court's vision for a digitally empowered justice system.

Significantly, these advancements coincided with and indeed catalyzed the creation of the Caribbean Agency for Justice Solutions (CAJS), the region's first agency focused on driving digital transformation in the justice sector. The CCJ played a foundational role in the establishment of CAJS, recognizing that sustainable technological reform across the region required specialized expertise, shared resources, and coordinated leadership.

The partnership between the CCJ and CAJS has yielded transformative results. The Court has successfully automated a range of critical administrative and judicial functions, enabling more efficient workflows, better case tracking, and enhanced service delivery. Most recently, this collaboration has extended to the integration of artificial intelligence-powered research tools, designed to augment the capabilities of Judicial Counsel and improve the depth and efficiency of legal research.

The CCJ's journey in this regard demonstrates not only the power of purposeful innovation but also the tangible benefits of regional cooperation. It stands as a testament to what is possible when courts embrace technology, not as an accessory, but as a core pillar of judicial excellence and public service.

Another aspect of the CCJ's operations that has been critical to its success has been the adoption by the Court of a governance framework that is policy-driven and guided by the rule of law. The rule of law is the antithesis of arbitrariness. The Court has created a raft of policies aimed at eliminating arbitrariness in decision-making, providing checks and balances in court administration, increasing transparency generally, promoting high standards that must consistently be met and keeping the CCJ up to date with best practices.

This is all geared to ensuring that the Court performs optimally. There is, essentially, a published written policy, protocol or guideline which concern and guide nearly every facet of the Court's operations. They are developed through various Committees after extensive consultation with staff and/or external stakeholders.

In recent years, the Court has, for example, published a Harassment Policy, a Policy for Improving Access to Justice for Persons with Disabilities, a Non-Judicial Code of Conduct, a Judicial Code of Conduct and accompanying Judicial Disciplinary Regulations, and a Protocol governing the Use of Generative Artificial Intelligence. The Court's policy framework is supported and periodically reviewed by a Policies and Procedures Approvals Committee (PPAC) which undertakes periodic assessment to ensure that policies are fully aligned with new developments in the relevant area.

The relatively modest caseload of the CCJ has meant that the Court has not had to recruit the full complement of ten judges catered for in the Agreement Establishing the CCJ. Even with a complement of six judges plus the President, the Judges of the Court have time available to them to devote to assisting in non-judicial activities whether within the Court, its affiliate organisations (the CCJ Academy for Law and the Caribbean Association of Judicial Officers), or cooperation endeavours with other regional and international courts and bodies. This work, though sometimes arduous and time-consuming, has done much to cement the place of the Court both in the regional justice eco-system and throughout the world. In the future, however, as the judicial workload becomes heavier there will be a need for additional support and resources for the Judges to eliminate any risk that their core court work of hearing cases and writing judgments can be compromised.

The CCJ continuously strives for financial prudence and rigour in accountability mechanisms. A feature of the Court which has been a topic of great interest to courts, court administrators and heads of judiciaries internationally is the unique funding mechanism of a Trust Fund. The CCJ Trust Fund guarantees the Court a critical element of financial independence which many courts across the world long for.

The relationship between the Court and the RJLSC on the one hand, and the Trust Fund on the other, is governed by a Protocol which addresses, among other things, matters relating to the preparation and finalisation of the budgets of the Commission and the Court.

Expenditure of this budget is overseen by the Commission's Financial Oversight Committee (FOC) which comprises representation from Judges, Commissioners, and senior personnel of the Court. The FOC is responsible for overseeing the Court's expenditure, ensuring the accurate reporting and record-keeping of same and making appropriate recommendations to the Commission. The Committee essentially acts as a check and balance, ensuring the Court's budget is managed appropriately and properly accounted for.

Over the past decade, the Court has paid great attention to its strategic planning and implementation. The second of two five-year Strategic Plans has recently ended, and the Court will later this year be embarking upon its third cycle, the preparatory work for which was carried out last year and earlier this year. As I pointed out in a lecture delivered some months, these strategic plans guide the Court in continually improving its delivery of justice, adapting to challenges, building resilience and enhancing operational efficiency and stakeholder access. A Monitoring and Evaluation Committee oversees adherence to the Strategic Planning process.

Notably, the CCJ is a proud implementing member of the International Consortium of Court Excellence (ICCE), an organisation of judiciaries, judicial institutions and affiliated bodies from various parts of the world. The Consortium actively promotes court excellence principally by publishing, continually revising and encouraging the use of a framework (the International Framework for Court Excellence) that enables courts to measure their performance against internationally recognised benchmarks. The Framework utilises a methodology that features continuous self-improvement through a cycle of self-assessment, planning, implementation and evaluation. The Court strives faithfully to follow this approach to its non-judicial work.

The CCJ is by no means a perfect court. None exists! But an important measure of the integrity of any institution is the manner in which it responds to errors it makes. In this regard, the Court has shown a willingness to recognise, accept and confront the making of errors and ultimately, address or rectify them in a principled way. One such error was once made that impacted on the rights of a litigant appearing before us. This happened in 2023 in a special leave application in the case of *Tasker v DPP [2023] CCJ 11 (AJ)*. After dismissing Tasker's special leave application without considering submissions from counsel, the Court acceded to the unusual request to reopen the dismissal to consider arguments of Counsel as to why the Court's initial decision was contrary to its own published procedural Rules. On a second consideration of the case, the Court admitted its error, corrected it and addressed the shortfall in procedure by an amendment in the 2024 revision of its procedural rules.

I am grateful to the CAJO for permitting me to make this brief assessment of the Court at 20 years. What has been discussed hopefully paints a picture of the features which underpin what I believe is an institution that is always ready and dedicated to serve the region and its citizenry with excellence.

**Justice Adrian Saunders is the immediate outgoing President of the Caribbean Court of Justice. The invaluable assistance of Ms Hilary Wyke is deeply appreciated.*

Ensuring Due Diligence Obligations of States: Activist Judgments Supporting Women's Human Rights in the English-speaking Caribbean

Justice Roxane George*

In 2005, the late Justice Desiree Bernard, pioneering woman judge of Guyana and the Caribbean, and member of the IAWJ said: "***Judicial activism must be encouraged if we are to enforce and protect the human rights of citizens. We must strive to develop our jurisprudence and a culture of resorting to international treaties even if there are specific domestic laws based on international principles***" (Bernard, Desiree, Chancellor of the Judiciary, Guyana, Public Lecture sponsored by the Guyana Public Service Union, February 21, 2005). Fast forward to 2025, much has changed regarding judicial activism in the Caribbean.

This presentation seeks to explain what Justice Bernard meant by judicial activism, and to highlight how such activism is being applied in the English-speaking Caribbean to ensure that the countries of our region adhere to their due diligence obligations to uphold human rights, more especially to address discrimination against women and girls, and secure gender equality.

The judicial activism to which Justice Bernard was referring can be defined as judges considering societal implications when interpreting and applying both substantive and procedural law so as to ensure that human rights are upheld. According to General Recommendation 19, which has been complemented and updated by General Recommendation 35, issued by the UN Committee on the Elimination of Discrimination Against Women, gender-based violence against women is a form of discrimination against women. Given the unfortunate pervasiveness of gender discrimination, for us judicial officers it is about ensuring gender equality – it is about asking ourselves the gender question; asking the woman question – each of us asking ourselves - how can I promote the rights and empowerment of women and girls?

Chief Justice George presenting at the IAWJ Conference

It is appreciated that many argue that there should be judicial restraint – that we should leave it to the legislature or national assemblies to make the necessary changes to the law; that we judges must not overstep our boundaries as interpreters of the law. **However, given the pivotal role women play in the development of our societies, it is incumbent on us as judges to give meaning to women's rights being human rights.**

Judicial activism requires us judges to provide the leadership that is necessary to guide the changes we want to see. So, we must fully understand our obligations, and the obligations of our states to protect, promote, respect and fulfil the human rights of all, especially of women.

We must understand that violations of women's rights, whether done by state actors or private individuals and organisations, or whether done in public or in private, if not dealt with effectively and condignly by the justice systems of which we are a part, could result in our countries being held accountable. As judges, we are state actors, and we are accountable. We must not be seen to tolerate or condone disrespect for, or discrimination against women and girls.

Robust judicial education in the Caribbean has sensitised judges into making the connection between gender-based violence against women, and gender inequality.

This is because the judiciary forms an indispensable part of the commitment to confronting harmful cultural and societal norms that discriminate against women. From The Bahamas in the north to Guyana in the South, along with the Caribbean Court of Justice, both female and male judges have delivered ground-breaking judgments demonstrating that we play a pivotal role in influencing both de jure and de facto implementation of States' international human rights obligations to prevent the violation of, and protect, promote and ensure women's rights.

We have come a long way from decisions of Caribbean courts of the mid 1990s (**Pivotte v R (1995) 50 WIR 114** (CA, Eastern Caribbean Supreme Court); **Williams & Khublall v The State, (1997) 57 WIR 164** (CA, Guyana)) which upheld the rape myth that one has to be cautious in assessing the evidence of women and girls in sexual offences cases because they may be prone to lie and hallucinate because of "sexual neurosis, fantasy, spite or refusal to admit consent because of shame." Since that time, judicial decisions have sought to not only provide justice to the parties to the case, but ultimately to guide our societies on what is acceptable for ensuring the human rights and well-being of all.

In Guyana, the judiciary applied The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) when counting women's unpaid child-bearing and caring work in division of property and maintenance proceedings which are critical matters since financial security plays is an important issue in addressing gender-based violence (**Nasrudeen v Thompson, Action 1422 of 1996**, HC, Guyana, March 24, 2014; **Persaud v Persaud, Action 1193D of 2011** HC, Guyana, April 4, 2016; **Fraser v Fraser, Action 723 of 2013**, HC, Guyana, July 1, 2014).

Then, in St. Vincent and the Grenadines, CEDAW was also upheld to establish the State's duty to protect the interests of girls against sexual abuse (**Gladstone v R, Crim App No 13 of 1997**, CA, St Vincent & the Grenadines,12 Jan., 1998), while in St. Lucia a judge dismissed a husband's constitutional challenge that emergency domestic violence protection orders violated the right to a fair hearing and freedom of expression (**Francois v the AG, Suit 69 of 2001**, HC, St. Lucia, 24 May, 2001).

A 2024 groundbreaking case from Trinidad and Tobago further emphasises that, pursuant to their due diligence obligations, States can and will be held accountable for systemic failures to protect survivors or victims of gender-based violence (**Tot Lampkin v Attorney-General, CV 2021-03178**, HC, Trinidad and Tobago, May 16, 2024). The court held that these systemic failures by the police and the judiciary violated the constitutional rights of the victim to the right to life, protection of the law and equality before the law. It was also found that the right of the victim's mother and child to respect for family life was violated and compensation for the breaches was ordered.

There are a number of decisions of the Caribbean Court of Justice and from Courts in Barbados, St. Kitts-Nevis, and Dominica that frontally address gender discrimination, including against LGBTQI+ persons, and highlight how such discrimination fosters gender-based violence (**McEwan v Attorney-General** (CCJ, Guyana, 2018); **Lalchand v Supal** (Belize, 2024); **McClean-Ramirez v Attorney-General** (Barbados, 2023), **Jeffers and Another v Attorney-General** (St. Kitts-Nevis, 2022) and in **B.G. v Attorney-General** (Dominica, 2024)).

And in a case from The Bahamas, the right to citizenship through one's parents irrespective of their marital status at the time of birth was confirmed.

While it is not a case from the Caribbean, I want to highlight a recent decision of the Supreme Court of India in February this year in which the Court, led by a woman judge, overturned decisions to dismiss two women judges (Writ Petition (C) No. 142 of 2024 **Choudhary v High Court of Madhya Pradesh** & Anor; Writ Petition (C) No. 233 of 2024 **Sharma v State of Madhya Pradesh & Anor**, Supreme Court of India, Feb 28, 2025, pp 118 – 125, paras 15.4 and 17). In one of the cases, the judge had explained that the reason for being unable to achieve the required disposal rate for cases was because she had been on 21 days sick leave due to Covid-19, she had had a family emergency due to her brother being seriously ill, and she had had a miscarriage for which she had taken 45 days special leave. It was held that with more women judges, it is time for judiciaries to be more sensitive about their well-being at work and to shift the discourse on gender stereotypes in order to change attitudes. In highlighting the need to protect "freedom from discrimination or equal protection of the law during pregnancy and maternity" (para 17.4), the court "noted the need to rebuild societal and legal structures to realise equal opportunity in public employment and gender equality" (part 17.6).

Chief Justice George with other presenters at the IAWJ Conference

The cases highlighted, cited a number of international human rights conventions and learning. They demonstrate how judges can be change agents in reshaping the narrative regarding gender-related issues, including gender-based violence, so as to reduce discrimination and promote gender equality.

Precisely because women carry so much of the burden of ensuring the wellbeing of families and societies, indeed that our populations do not stagnate, respect for women and advocating for equality and non-discrimination is fundamentally a developmental issue. Discrimination in any form or fashion against women and girls means that the full potential of any country cannot be realised.

Through the work of the IAWJ, the Caribbean Association of Women Judges and national women judges associations in the Caribbean and around the world, we women judges work to build self-esteem and self confidence in women and girls, so that they know and have the capacity to enforce their rights. This is judicial activism as part of community activism.

Our judicial activism must ensure that in balancing justice, we recognise that women's rights to access to justice are fundamental. The balance must be assessed more particularly in the context of women's rights to equality. We know that in many countries "women have barely been visible in the systems that create, interpret, and apply laws" (Kathleen Mahoney 'Canadian Approaches to Equality Rights and Gender Equity in Courts' Law' in Rebecca Cook (ed) Human Rights of Women: National and International Perspectives (Univ of Pennsylvania Press 1994), 438.). So, it is essential to appreciate that: "if women's rights are to be recognised and protected and if women are to achieve equality, existing models and values must be questioned and traditional theories, foundations, and boundaries challenged."

Therefore, we must be part of the development of strategies "***to ensure that women's voices are heard, that gender-biased myths that buttress the law are removed, that principles applied to the law involve and support women in the legal system, and that judges and other actors in the administration of justice respond to women's needs***." As the President of the Caribbean Court of Justice recently said when referring to intimate partner violence, we must focus on "***the safety, dignity and human rights of the complainant***" (**OO v BK [2023] CCJ 10 (AJ)**).

Each of us has to commit to inspiring change for the benefit of all, and more especially women and girls. As women judges, we must personally recommit to gender sensitivity in order to protect, promote, respect and fulfil women's rights to be free from all forms of discrimination so as to ensure that in reality women have equality, and that women's rights are human rights. In this vein, from the theme for International Women's Day 2025, as women leaders, we must accelerate action by judicial activism.

**Justice Roxane George is the Chief Justice (a.g.) of Guyana. This contribution was her presentation at the IAWJ Conference, Cape Town, South Africa, April 9 – 12, 2025*

Updates from the CAJO

Outlined below are events, programmes, workshops, and initiatives the CAJO was engaged in between December 2024 to June 2025, as well as upcoming activities.

December 2024

Regional Workshop by the ParlAmericas UN Women, the Commonwealth Parliamentary Association, and the Parliament of Trinidad and Tobago

The CAJO was invited to participate in this regional workshop in Trinidad from December 4–6, 2024. The workshop entitled "Making the Work of Parliaments Responsive to the Needs of Women and Men", provided a platform for CAJO to share on the development of Gender Equality Protocols for Caribbean Judiciaries. The aim was to encourage Caribbean Parliaments to consider and develop similar Gender Protocols/ guidelines to support parliamentarians, parliamentary staff, and institutions in promoting gender responsiveness in their internal operations and public-facing activities, including their legislative responsibilities.

January 2025

The Bahamas Judicial Education Institute Conference 2025

The CAJO facilitated a session on January 6, 2025, entitled "Justice 360: Wellbeing at the Centre." The session emphasized the importance of maintaining work-life balance and cultivating a sustainable work rhythm that integrates intentional movement, breathwork, and moments of stillness. Judicial Officers were invited to see themselves as leaders in wellness, extending this holistic approach to include judiciary staff and court users, promoting a 360° model of judicial wellbeing that supports the judiciary.

Strengthening the Judicial Office: A Judicial Officer and Research Assistant Programme for the Judiciary of Guyana

A four-day programme designed to employ different methods of learning towards achieving the objectives and outcomes of each module. Programme areas:

- Effective and Efficient Caseflow Management
- Legal Research Tools and Preparation of Hearing Notes
- Principles of and Tools for Judgment Writing
- Constitutional Interpretation and Legal Argumentation
- Ethics and Professional Excellence in the Administration of Justice

All participants at the four-day programme in Guyana

February 2025

Social and Economic Rights: Constitutional Design and Adjudication

A roundtable discussion put on by the Caribbean Association of Judicial Officers (CAJO) and the Faculty of Law, The University of the West Indies Mona in celebration of the 20th Anniversary of the Caribbean Court of Justice, which was inaugurated in 2005.

Managing Conflict for ECSC Registrars

On February 7, 2025, the CAJO hosted this training session for Registrars of the ECSC. To tailor the session to their needs, pre-session surveys were conducted to gather insights into their experiences and challenges. The session also included interactive group work, enabling participants to explore practical strategies and apply conflict management tools to real-world scenarios. The overall objective was to equip Registrars with effective approaches for navigating and managing conflict within their judiciary.

Jamaica Judicial Wellbeing 3-Day Conference

On February 8, 2025, the CAJO co-facilitated a session for the Jamaican Judiciary entitled "Justice 360: Wellbeing at the Centre." The session aimed to provide research-based insights into the connection between stress, judicial wellbeing, and performance; the impact of stress on conflict and the importance of conflict management within the judiciary; and the role of mindfulness and wellbeing in supporting judicial function.

Active Case Management: Projectising Cases – The Beating Heart of the Civil Litigation Process

The CAJO hosted this judicial education training session on February 17, 2025, for judicial officers of the ECSC. This session focused on strengthening case management as a core function of judicial efficiency and effectiveness in civil litigation.

March 2025

Launch of CAJO Membership for the 2025/26 Period

The CAJO invited members to renew their membership for the upcoming period and welcomed new members; encouraging continued participation and engagement in its initiatives and programmes.

April 2025

CAJO's Law and Logic Podcast Series

In April 2025, the CAJO launched its Law and Logic podcast series as part of its ongoing commitment to preserving and sharing the insights of the Caribbean's leading legal minds. The series explores the stories behind the bench and delves into the reasoning and mental frameworks jurists apply to navigate the law in an increasingly complex and changing world. The inaugural episode featured an interview with Retired Justice Andrew D. Burgess of the Caribbean Court of Justice (CCJ), and plans are underway to release two additional episodes by the end of July 2025.

Click the image above to view the first installment

May 2025

CAJO Mentorship Orientation Programme

The CAJO has launched its Judicial Mentorship Programme, providing experienced judicial officers (7+ years) the opportunity to mentor and guide mentees through the challenges of judicial responsibilities, ethics, and leadership. This programme aims to build a supportive mentoring community within the regional judiciary. CAJO's Orientation Session was held on May 15, 2025.

Ongoing and Upcoming Initiatives

Criminal Bench Book for the Bahamas – The CAJO is currently engaged in the review, editing, and finalization of a Criminal Bench Book (CBB) for the Bahamas. This initiative aims to deliver a comprehensive, user-friendly resource to support judicial officers of the Bahamian judiciary.

Consultancy with the Commonwealth Secretariat – The CAJO was awarded a contract for consultancy to develop training materials for Commonwealth e-courses aimed at judicial officers, with the goal of strengthening the judiciary's capacity by providing accessible digital learning resources. These materials include videos, handouts, and templates designed to enhance the learning experience of judicial officers.

Judicial Wellness Video Series – The CAJO in collaboration with the CAWJ is producing a video series on Judicial Wellness to commemorate the upcoming International Day of Judicial Wellbeing in July 2025. This initiative aims to promote sustainable individual, relational, and institutional wellbeing across the Caribbean judiciary.

CAJO 9th Biennial Conference – Planning has commenced for the CAJO's 9th Biennial Conference which will be hosted in Guyana in 2026. The CAJO and Guyana teams have begun collaboration, with early planning meetings already held to lay the groundwork for the event.

The initiatives outlined above reflect CAJO's ongoing commitment to promoting judicial excellence, strengthening institutional capacity, and fostering meaningful collaboration across the region. Through its training programmes, resource development, and leadership initiatives, CAJO continues to support judicial officers at all levels in meeting complex and evolving demands. By investing in mentorship, wellbeing, innovation, and inclusive practices, CAJO remains focused on supporting judiciaries that serve the Caribbean with integrity, fairness, and effectiveness.

Prepared by the CAJO Team: Candace Simmons-Peters, Elron Elahie, and Suraj Sakal

The CCJ at 20: Honouring Our Legacy and Shaping Our Future

Signing of the Revised Treaty of Chaguaramas

On 16 April 2025, the Caribbean Court of Justice (CCJ) marked the 20th anniversary of its inauguration in Port of Spain, Trinidad. For a human being, 20 years may seem like a long time, but for an institution designed to endure and evolve across generations, it is only the beginning. Yet in this relatively short time, the CCJ has made a significant impact on Caribbean jurisprudence and justice delivery in the region. At a time when democracies worldwide face unprecedented challenges, the role of strong, independent, and responsive judiciaries has never been more vital, and the CCJ has demonstrated that it is ready and able to stand in the face of such challenges.

Significant Cases

Since its inception, the Court has served as both a guardian of the rule of law and a steward of the region's integration agenda. Through its Appellate and Original Jurisdictions, the Court has issued landmark decisions that have reaffirmed constitutional rights, upheld democratic principles, and clarified Community law under the Revised Treaty of Chaguaramas (RTC).

Cases such as the following are some of the key cases decided by the Court over the years:

Appellate Jurisdiction

Barbados Rediffusion v Mirchandani [2006] CCJ 1 (AJ), (2006) 69 WIR 52: The case involved defamation claims against Barbados Rediffusion for broadcasting calypsos alleging the plaintiffs sold diseased chickens.

A-G v Joseph and Boyce [2006] CCJ 3 (AJ), (2006) 69 WIR 104: The appellants' death sentences were commuted to life imprisonment due to enforceable international human rights.

Gibson v A-G of Barbados [2010] CCJ 3 (AJ), (2010) 76 WIR 137: Frank Errol Gibson's right to a fair trial was upheld, with the Court ordering the state to provide the necessary facilities for his defence, including expert witnesses.

Da Costa Hall v R [2011] CCJ 6 (AJ), (2011) 77 WIR 66: Romeo Da Costa Hall's sentence was deemed excessive as the court failed to account for time spent on remand.

Marin v A-G [2011] 9 CCJ (AJ), (2011) 78 WIR 51: The Attorney General of Belize sued former ministers for misfeasance in public office related to undervalued land sales.

Maya Leaders Alliance v A-G of Belize [2015] CCJ 15 (AJ), (2015) 87 WIR 178: The CCJ recognised Maya customary land tenure and found the government breached constitutional rights by failing to protect these rights.

Ventose v Chief Electoral Officer [2018] CCJ 13 (AJ), (2018) 92 WIR 118: The CCJ ruled that the Chief Electoral Officer must register Professor Ventose as an elector, rejecting the policy limiting registration to certain Commonwealth citizens.

Nervais; Severin v R [2018] CCJ 19 (AJ), (2018) 92 WIR 178: The CCJ declared the mandatory death penalty unconstitutional in Barbados, allowing courts to consider mitigating factors.

McEwan v A-G [2018] CCJ 30 (AJ), (2019) 94 WIR 332: The CCJ struck down a law criminalising cross-dressing in Guyana, deeming it unconstitutional.

A-G of Guyana v Richardson [2018] CCJ 17 (AJ), (2018) 92 WIR 416: The CCJ struck down the constitutional amendment that imposed term limits on the presidency, affirming the right of Guyanese citizens to choose their president without such restrictions.

Ram v A-G of Guyana [2019] CCJ 10 (AJ), (2019) 97 WIR 266: The CCJ ruled that the no-confidence motion passed against the government was valid, leading to the requirement for fresh elections.

Pompey v DPP [2020] CCJ 7 (AJ) GY: Linton Pompey's cumulative 37-year sentence for sexual offences was reduced as it was deemed excessive.

R v Flowers [2020] CCJ 16 (AJ) (BZ): The case involved the appellant's conviction on multiple counts arising from a vehicular accident involving alcohol.

Ali & Jagdeo v David & Ors [2020] CCJ 10 (AJ) GY, (2020) 99 WIR 363: The CCJ determined that the Guyana Court of Appeal did not have jurisdiction to hear the case regarding the validity of the presidential election results, as this jurisdiction only applies after a president has been elected.

Belize International Services Ltd v A-G of Belize [2020] CCJ 9 (AJ) BZ, (2020) 100 WIR 109: The CCJ found that the government breached its contract with BISL by unlawfully taking possession of the International Merchant Marine Registry and International Business Companies Registry, awarding damages to BISL.

Marin Jr v R [2021] CCJ 6 (AJ) BZ: Solomon Marin Jr's conviction for kidnapping and robbery was upheld, but he was granted relief for the breach of his constitutional right to a fair hearing within a reasonable time due to a nine-year delay in his appeal.

Bisram v DPP [2022] CCJ 7 (AJ) GY, (2022) 101 WIR 370**:** Marcus Bisram's murder charge was dismissed by the CCJ, which found that the Director of Public Prosecutions' directive to reopen the preliminary inquiry and commit him for trial violated the separation of powers and his constitutional rights.

Caye International Bank v Rosemore International Corp [2023] CCJ 4 (AJ) BZ, (2023) 104 WIR 74**:** The CCJ ruled that Caye International Bank breached its duty of care by transferring funds based on fraudulent instructions, resulting in a loss for Rosemore International Corp.

Fields v The State [2023] CCJ 13 (AJ) BB, (2023) 104 WIR 37**:** James Fields' conviction for manslaughter was upheld, but the CCJ clarified the proper jury instructions regarding the credibility of witnesses found to be lying on oath.

McDowall Broadcasting v Joseph [2023] CCJ 15 (AJ) LC**:** The CCJ dismissed McDowall Broadcasting's appeal, finding that the defamation claim by Guy Joseph was valid despite procedural irregularities in service of the claim.

Apsara Restaurant v Guardian General Insurance [2024] CCJ 3 (AJ) BB: Apsara Restaurant's claim for fire damage was dismissed as the Court found material non-disclosure and breaches of policy terms by the restaurant.

Gaskin v Minister of Natural Resources [2024] CCJ 14 (AJ) GY: The CCJ upheld the issuance of a Petroleum Production Licence to ExxonMobil and its partners, despite Gaskin's challenge regarding environmental permits.

A-G of Guyana v Environmental Protection Agency [2024] CCJ 16 (AJ) GY: The CCJ ruled that the Attorney General should be a party in the lawsuit against the EPA concerning the enforcement of environmental regulations related to ExxonMobil's operations.

Original Jurisdiction

Trinidad Cement Ltd v Co-operative Republic of Guyana [2009] CCJ 1 (OJ), (2009) 74 WIR 302: Clarified the locus standi of private entities under CARICOM law.

Johnson v CARICAD [2009] CCJ 3 (OJ), (2009) 74 WIR 57: The CCJ dismissed Doreen Johnson's application for special leave to sue CARICAD, finding that CARICAD, as an institution of the Community, could not be sued in the Court's Original Jurisdiction.

Trinidad Cement Ltd v CARICOM [2009] CCJ 2 (OJ), (2009) 74 WIR 319: The CCJ granted special leave to Trinidad Cement Ltd to commence proceedings against CARICOM for allegedly violating its obligation to maintain the Common External Tariff on cement.

Hummingbird Rice Mills v CARICOM [2012] CCJ 1 (OJ), (2012) 79 WIR 448: The CCJ found that Suriname violated the Revised Treaty of Chaguaramas by failing to impose the Common External Tariff on flour from outside CARICOM, but did not award damages to Hummingbird Rice Mills due to insufficient evidence of loss.

Myrie v State of Barbados [2013] CCJ 3 (OJ), (2013) 83 WIR 104: Defined the right of CARICOM nationals to freedom of movement within the Caribbean Community.

Rudisa Beverages & Juices N V v State of Guyana [2014] CCJ 1 (OJ), (2014) 84 WIR 217: The CCJ ruled that Guyana's environmental tax on non-returnable beverage containers breached the Revised Treaty of Chaguaramas, ordering Guyana to refund the taxes collected.

Trinidad Cement Ltd v State of Trinidad and Tobago [2018] CCJ 4 OJ: This case dealt with the interpretation of trade agreements and the imposition of tariffs within the region.

Mootilal Ramhit and Sons Contracting Ltd v State of Trinidad and Tobago [2020] CCJ 3 (OJ): This case addressed issues related to the freedom of movement of goods within the Caribbean Community.

Rock Hard Cement Ltd v State of Barbados [2020] CCJ 2 (OJ): This case clarified the application of tariffs and trade regulations within CARICOM.

Advisory Opinion [2020] CCJ 1 (AJ) (AO): The CCJ provided an advisory opinion on the interpretation of the Revised Treaty of Chaguaramas, clarifying the legal obligations of Member States under the Treaty.

DCP Successors Ltd v State of Jamaica [2024] CCJ 1 (OJ): The CCJ found that Jamaica breached the Revised Treaty of Chaguaramas by failing to impose the Common External Tariff on soap noodles imported from outside CARICOM, awarding costs to DCPS.

Use of Technology

E-filing was implemented at the CCJ in 2013, followed by the introduction of electronic case management in January 2017. E-filing offers a convenient, cost-effective, accessible, timely, and environmentally friendly way to file court matters at the CCJ. By providing 24/7 access to stakeholders, e-filing has eliminated various constraints imposed by geographical boundaries and traditional court hours. It has also streamlined case management and made statistical analysis of filed cases easier.

Similarly, the use of virtual hearings has afforded court users and stakeholders easier access to justice as litigants no longer have to visit the Seat of the Court for hearings, and the public can view our hearings in real time on the Court's YouTube platform. This is particularly important for the Court as our stakeholders are geographically dispersed, making it difficult for persons outside of Trinidad and Tobago to view the hearings. As judiciaries around the world face closer scrutiny by the public, easily accessible livestreams of hearings provide greater transparency in court proceedings. Development Fund.

Further, by eliminating the need for both physical travel to the courthouse and the use of paper, the adoption of these technologies fully supports the Court's "Go Green" initiative, which encourages and promotes environmentally friendly practices. As the Court continues to embrace the practice of virtual hearings, it is currently upgrading its courtroom technology, an initiative made possible through a grant from the European Development Fund.

Additionally, in keeping with global developments, the Court implemented a new Practice Direction (PD) for all Court users: *The Use of Generative Artificial Intelligence in Court Proceedings*. This PD provides guidance on the permissible use of Generative Artificial Intelligence (Generative AI) technology to all court users, including attorneys, parties, witnesses, and self-represented persons.

Organisational Strategic Planning

The CCJ has devised multi-year strategic plans as dynamic tools to guide its continuous improvement in delivering justice. These plans are designed to help the Court adapt to challenges, build internal resilience, enhance operational efficiency, and improve access to stakeholders. The Court has since developed two strategic plans and is currently developing its third. This committee responsible for developing the plan, has thus far undertaken significant initiatives and surveys to ensure the effective and efficient implementation of the upcoming plan. The plan encompasses goals and strategies designed to enhance Caribbean jurisprudence and foster equality, fairness, integrity, and accessibility for all stakeholders.

Commitment to Inclusion

As a testament to the Court's commitment to its mission of 'providing accessible, fair and efficient justice', in December 2024, the Court implemented the *Policy to Improve Access to Justice and Provide Accommodations to Persons with Disabilities*. This policy aims to ensure equitable access to justice and opportunities within the Court for persons with disabilities, whether they are court users or employees.

Snapshot from the CCJ Confernece for Strategic Planning

Unveiling of the 2019-2024 Strategic Vision

Commitment to Excellence

In January 2022, the Caribbean Court of Justice was admitted to the International Consortium of Court Excellence (ICCE) and adopted the framework that employs a methodology featuring continuous self-improvement through a cycle of self-assessment, planning, implementation, and evaluation in its non-judicial work. The ICCE is a global network of courts and organisations with expertise in court and judicial administration, committed to ensuring high-quality service delivery. The Consortium's goal is to continuously develop and implement a framework of values, concepts, and tools for courts and tribunals aimed at enhancing the quality of justice and judicial administration. This framework is referred to as the International Framework for Court Excellence.

Regional Collaborations

The CCJ has not limited its effort to improve justice delivery to solely improving its own systems and processes. As the apex court within the region, the CCJ has also worked with various other stakeholders to enhance justice delivery in the region through a number of initiatives. One of its most impactful collaborations has been the Annual CCJ International Law Moot. In this flagship event**,** the Court engages law schools and law faculties from across the region to involve law students from across the region in simulated court proceedings in its Original Jurisdiction, thereby improving participants' advocacy skills and understanding of Community law.

Judicial & Legal Education

CCJ Academy for Law

Established in 2010, the CCJ Academy for Law (CAL), the educational arm of the Court, has since played a vital role in promoting legal education, judicial independence, and access to justice throughout the Caribbean.

Headed by the Honourable Mr Justice Winston Anderson, CCJ Judge, its mandate is to provide informative and innovative perspectives on the rules and roles of law, particularly international law, while also serving as a platform for examining court administration and encouraging best practices in the judicial delivery of justice. Over its seven biennial conferences, which spanned topics from international trade and legal practice to the impact of COVID-19 and criminal justice reform, CAL has addressed critical issues facing the regional justice sector. In addition to events such as the Hague Conference on Private International Law and the Regional Town Hall marking the Needham's Point Declaration, the Academy has hosted numerous training sessions, symposiums, and collaborative conferences with regional and international partners. The Academy is also responsible for the Eminent Jurists Series, which aims to recognise and raise awareness of outstanding regional legal practitioners.

The Caribbean Association of Judicial Officers

The Caribbean Association of Judicial Officers (CAJO), founded in 2009, is a non-profit organisation committed to strengthening judicial education, collaboration, and excellence throughout the region. The CAJO is a key partner of the CCJ and is headed by the Honourable Mr Justice Peter Jamadar, CCJ Judge. Through the CAJO, the CCJ supports conferences, workshops, and seminars aimed at enhancing judicial standards and practices. CAJO has played a pivotal role in promoting judicial education and professional development throughout the Caribbean. Over eight biennial conferences, most recently in Bermuda in 2024, CAJO has addressed critical themes such as judicial independence, human rights, technology in the courtroom, and judicial wellness. In addition to national judicial education programmes in Guyana, Barbados, and The Bahamas, CAJO has hosted forums on access to justice, constitutional design, and HIV and human rights. It also produced several key publications to support justice delivery such as the Criminal Bench Book for Barbados, Belize and Guyana, and Disability and Inclusion Awareness Guidelines. Through continuous judicial education, skills-based training, and initiatives promoting technological integration and judicial well-being, CAJO has significantly contributed to the evolution of Caribbean judicial practices.

Referral Training

The 11th EDF Support to the Caribbean Court of Justice contract was signed between the European Union and the Caribbean Court of Justice in May 2022 with the Caribbean Court of Justice acting as Coordinator on behalf of the Caribbean Community Administrative Tribunal (CCAT) and the Council of Legal Education (CLE) to implement activities, this action was determined to be highly relevant to address critical needs and constraints in the CARICOM region, particularly in improving access to justice, strengthening legal education, and operationalising the Caribbean Community Administrative Tribunal (CCAT).

One of the key activities of the project involved public education on the CCJ's Original Jurisdiction and the Court's referral process**.** The Original Jurisdiction is pivotal for regional integration, providing clarity on issues such as taxation, free movement, and discrimination. However, its referral and advisory processes remain underutilised due to limited awareness. To further support regional cooperation and the consistent interpretation of the RTC, the CCJ conducted referral training and sensitisation sessions on the Original Jurisdiction for judicial officers, bar associations, and business sectors in CARICOM member states. These sessions were designed to strengthen national courts' capacity to engage the CCJ for interpretive guidance on matters concerning CARICOM law. By fostering collaboration between national courts and the CCJ, the referral mechanism promotes coherence, legal certainty, and the harmonious application of Community law across the region. Participating jurisdictions included Barbados, Belize, Guyana, Jamaica, Saint Lucia, Suriname, and Trinidad and Tobago.

To the end of June 2025, 901 persons comprising 601 females and 300 males have been engaged through the provision of Original Jurisdiction and Referral training activities in 20 events across 7 territories. The feedback has been overwhelmingly positive from attendees who have indicated that their knowledge has increased on the topics covered and has also created avenues to apply that increased knowledge to their secular responsibilities.

Needham's Point Declaration on Criminal Justice Reform

Further affirming its commitment to transformative justice, the CCJ Academy for Law convened its 7th Biennial Conference in October 2023 under the theme *"Criminal Justice Reform in the Caribbean: Achieving a Modern Criminal Justice System"*. The conference brought together a broad cross-section of stakeholders, including Prime Ministers, Attorneys General, judicial officers, law enforcement leaders, defence attorneys, academics, and civil society representatives from across the Caribbean. The event culminated in the adoption of the Needham's Point Declaration on Criminal Justice Reform, a collective commitment to implement practical, evidence-based reforms. Drawing on regional experiences and best practices, the Declaration outlines a shared vision for a criminal justice system that is modern, efficient, and fair.

Since its adoption, the Needham's Point Declaration has catalysed meaningful reform across the region's criminal justice systems. Numerous jurisdictions, among them Barbados, Belize, Guyana, and Saint Kitts and Nevis, have enacted or advanced legislation aligned with the Declaration's 39 recommendations. These include laws enabling judge-alone trials, modern plea-bargaining frameworks, and alternative sentencing options, along with the development of sentencing guidelines and measures to strengthen victim/survivor compensation and witness protection. Institutional collaborations have also intensified, with countries establishing Criminal Justice Boards and Committees to support inter-agency cooperation and reform implementation. These developments underscore a shared commitment to modernising our criminal justice systems through practical, and regionally relevant interventions.

Furthermore, the judiciary's response has been especially notable, with over 60 judicial citations of the Declaration, signaling its growing influence on Caribbean jurisprudence. These references have guided rulings on case backlogs, digital evidence, victims' rights, and timely trials, bringing to life the Declaration's transformative ambitions. Complementing this, the Monitoring, Evaluating and Facilitating Committee (MEFC)**,** chaired by Justice Winston Anderson, has met regularly to track national implementation and guide progress.

A forthcoming Digital Dashboard, being developed in collaboration with the IDB, will further promote accountability, transparency, and regional benchmarking.

In the words of Justice Anderson, "*The Needham's Point Declaration is a comprehensive menu of recommendations, which if actioned with energy and commitment, will produce a radical transformation in criminal justice.*" The outcomes to date reflect a promising trajectory, one that, with sustained effort and cross-sectoral support, can reshape the administration of justice across the region for a better and modern criminal justice system.

This brief overview offers just a snapshot of the CCJ's work over the past two decades. It has been a busy yet deeply rewarding journey for the Judges and staff who have had the honour of serving the region. We are sincerely grateful to the Caribbean Association of Judicial Officers for the opportunity to share our story, and we look forward to serving the people and states of CARICOM for many generations to come.

CCJ Staff Photo taken in 2019

Honouring Justice Adrian Saunders

July 03rd 2025 marked the final day in office for the immediate outgoing President of the Caribbean Court of Justice (CCJ), Justice Adrian Saunders. He was appointed President of the CCJ in 2018.

Justice Saunders is a native of St. Vincent and the Grenadines. He joined the Eastern Caribbean Supreme Court (ECSC) High Court Bench in 1996, after 19 years of private practice. On May 1, 2003 he was appointed to the ECSC's Court of Appeal and served as acting Chief Justice between 2004 and 2005. Due to his active engagement in advancing judicial integrity, Mr Justice Saunders was appointed to the Advisory Board of the Global Judicial Integrity Network by the United Nations Office on Drugs and Crime's (UNODC) Global Programme for the Implementation of the Doha Declaration.

Mr Justice Saunders has written many legal articles and publications. He is the Editor-in-Chief of The Caribbean Civil Court Practice and a co-author of Fundamentals of Caribbean Constitutional Law. He holds an Honorary Doctorate from the University of the West Indies. He is also an Honorary Bencher of the Society of the Inner Temple. In 2005 Justice Saunders was among the first cohort of judges to be appointed to the newly created Caribbean Court of Justice.

Shared in the next few pages are photos from his tenure as President of the CCJ. The CAJO celebrates Justice Saunders as he enters this next chapter of his life and we remain grateful for his invaluable contributions to the judicial and legal landscape of the Caribbean.

Ceremonial Sitting for the Inauguration of Justice Saunders as President of the CCJ

Justice Saunders with Regional Judicial Officers at a past CAJO Conference

Justice Saunders delivering the Feature Presentation at the 8th Biennial Conference

Justice Saunders with Judge Sandra Oxner and Justice Peter Jamadar

Justice Saunders receiving a token from Chief Justice Roxane George

First Steps into the World of AI for the Joint Court of Justice

In the previous edition of CAJO News, we briefly touched upon the topic of artificial intelligence (AI) within the Joint Court of Justice, partly as a result of the lecture during the CAJO conference in Bermuda. Since that presentation, the use of AI within the judiciary has received considerable attention. The possibilities and benefits of AI in the legal sector are promising and deserve deeper exploration. In this article, we will take a closer look at the impact and future developments of AI within the judiciary.

Twice a year, the Court Academy—the training and education department of the Joint Court—organizes a so-called knowledge week. During this week, judges and clerks from all branches come to Curaçao to attend various relevant courses over the span of a week.

At the end of two intensive course days, workshops were also scheduled. These workshops focused on AI in the judiciary. The workshops covered three main topics: a general introduction to AI, the use of AI by litigants, and the use of AI by the judiciary itself.

Use of AI by Litigants

It is expected that in 2025, AI will be increasingly used by litigants. The rise of artificial intelligence (AI) in the legal world appears to be accelerating. Law firms are increasingly using AI tools to analyze legal documents, draft pleadings, and speed up case law research. This technology offers significant advantages but also brings serious risks—particularly the phenomenon of "hallucinations."

One of the most notable cases occurred in 2023 in New York, where a lawyer was sanctioned after including several fictitious cases in a court filing that had been generated by ChatGPT.

The lawyer had failed to verify the sources, resulting in reputational damage and legal repercussions.

The question is to what extent the Joint Court should regulate how litigants use AI. To answer this question, several questions were presented to the participants:

- Should the Court amend existing procedural rules for AI use by litigants?
- Should the Court investigate whether amending procedural rules regarding AI use by litigants is desirable?
- Should lawyers provide a 'disclosure statement' about AI use in drafting pleadings?
- Should the Public Prosecutor's Office provide a 'disclosure statement' about AI use in criminal cases?

Such a statement would include:

- Which tool was used.
- What prompts were generated.
- What dataset was used.
- In which parts of the document AI-generated text was included.
- Was the legal accuracy checked.
- What safeguards were applied.

The participants were divided on whether the Court should amend existing procedural rules for AI use by litigants. Some saw no added value. They argued that it is not up to the judge to determine how litigants arrive at their conclusions.

Participants asked whether such procedural rules already exist in the European Netherlands. And if not, whether the Court should take the lead. The answer is: NO. Such rules do not yet exist. Internationally, some procedural rules have been established, mainly in response to incidents involving "hallucinated" use of ChatGPT by lawyers.

After discussion, it was decided not to include rules on AI use in our procedural regulations at this time. If it becomes apparent in court cases that litigants have used AI in drafting pleadings or evidence, and a dispute arises, inspiration can be drawn from the still limited case law on this point.

Inspiration can also be drawn from the AI usage guidelines established by, for example, the Dutch National Register of Court Experts. Case law on AI use by lawyers and the Public Prosecutor's Office still needs to develop further. Once that has happened, there may come a time when procedural rules must be amended and rules on AI use added.

Use of AI by the Judiciary

In the introduction to the workshop, it was mentioned that only limited activities are currently being undertaken to explore the possibilities of artificial intelligence (AI) for the Joint Court. This development is approached with caution. During the workshops, it was also established that AI should never take over the role of the judge, but only serve as a supportive tool.

Some workshop participants indicated that they had already used AI to some extent for work at the Court. In most cases, this involved searching for case law or translating pieces of text.

It was also discussed whether the Court should establish an internal code of conduct for AI use by judges and staff. The participants agreed on the necessity of such a code. It was also indicated that such a code of conduct should be based as much as possible on principles rather than rules. After all, it is essential that codes of conduct remain up to date. Examples of such codes are available.

During the workshops, the desire was also expressed to explore AI pilots for applications such as search functions on rulings, anonymization, translations, and legal research.

The following questions were presented to participants:

1. Should the Court establish a code of conduct for the use of existing AI tools, such as Co-Pilot, by judges and staff?
2. Should the Court investigate whether a code of conduct for AI use by judges and staff is desirable?
3. If a code of conduct is desirable, should it be based on rules or on norms and principles?
4. Should certain uses be explicitly prohibited?
5. Is it desirable for the Court to invest in (pilots with) AI use?

The answers to these questions were much more unanimous than those regarding the use of AI by litigants. The participants clearly saw the need to establish a code of conduct for judges and staff for the use of existing AI tools, such as Co-Pilot. The answer to the first question is therefore: YES. The second question could thus remain undiscussed. As a jointly formulated answer to the third question, it was indicated that there is a need for a code of conduct based on principles, but with clear examples and some do's and don'ts. During the discussion of question four, it was mentioned that certain uses should indeed be prohibited, such as uploading court documents into Co-Pilot to generate a summary—especially in the free version of this AI tool.

In response to the final question, the group expressed the desire for the Court to also explore where gains can be made with AI use. Suggestions included:

- Organizing data management
- Allowing AI use in a segregated (data) environment as a pilot
- Exploring the possibility of an AI tool for anonymization/ pseudonymization
- Exploring the possibility of translating our rulings into English (SXM) and Papiamento and Papiamentu, so that these translations can be added as service annexes to the Dutch-language rulings
- Exploring possibilities for "smart" search and legal research
- Generating a timeline on a case file

Action Following the Workshops

Following the conclusions, an internal draft code of conduct will be prepared by a small group of interested colleagues. To maintain momentum, it is recommended to form a separate working group (a judge, a judicial officer, supported by a staff member from the operations department) to draft the code. The task of this working group should be to have a draft ready before the summer, so that it can be discussed and adopted after the recess.

Regarding AI pilots, the following applies. There may be a tendency not to want to reinvent the wheel and to adopt what has been tested and approved elsewhere. The thought may be that the Court is a relatively small player compared to, for example, the judiciary in the Netherlands. While that may be true, it is still recommended not to wait for results elsewhere and to take initiative now and not be dependent in this regard.

Therefore, the initiative has been taken to take modest steps ourselves. Also, to gain experience with safe AI applications on our own data. It makes sense to start with "low-hanging fruit," such as pseudonymization and translations. Above all, all initiatives will always be guided by the principle of Human in the Loop.

This contribution was submitted by the Joint Court of Justice of Aruba, Curaçao, Sint Maarten and of Bonaire, Saint Eustatius and Saba

Cross-Cultural Jurisprudence

Shail Pooransingh*

We are all familiar, I am sure, with the blindfolded female figure as an almost universal symbol of justice, the blindfold intended to lend an aura of impartiality and equality in the treatment of court users. Some of us may also be aware that this 'objective fairness' is in reality not experienced by many litigants, whom we have heard say, "That judge was biased!"

Was the judge in each of those matters deliberately biased, or is it as the anthropology professor David Howes advocates, that in our rapidly evolving multi-cultural societies, judges need to be more aware of the 'interdependence of culture and law' – that law must now be considered a part of culture. Were those 'biased' judges perhaps 'blind' to the court users' cultural backgrounds which could have influenced their behaviour and choices and should have been considered and given weight when arriving at the decisions? The blindfold, which 'implies that law is somehow above humanity or culture' (Suzy Newing, McGill University) and which allows for cases to be decided on the premise that individuals are 'interchangeable rights-bearing units …' (Howes), must be removed, or creatively replaced with a symbol that is contextually appropriate.

What is needed now more than ever, is jurisprudence which 'crosses cultures', which SEES, hears and feels from the perspective of each party involved – from their customs, traditions and ways of life – so that findings and decisions may be arrived at through processes that would be experienced as respectful and fair. 'Justice needs to see difference, than be blind to it' (Newing).

It is understandable to assume that cross-cultural jurisprudence would be most appropriate for those jurisdictions that are subject to an influx of migrants from other countries, or those nations which indigenous peoples historically first occupied.

However, cultural diversity can arise within/intra societies, based on the different exposure of its own members to education, religion, family life, social conditioning and wealth. Judges practicing 'blind justice' according to anthropologist Ronald Niezen, 'can actually create greater inequality by not recognizing that distinct groups might require differential rights regimes'; that is, the application and even creation of laws which accommodate the mores of the discrete peoples within a society.

How can such cross-cultural jurisprudence be achieved? A simple two-pronged response would be through conversation and reflexivity.

Conversations can help to close gaps between persons of different cultural traditions, by enabling the exploration and comprehension of the space between the different perspectives. Such oral exchange in a court setting between a judicial officer and a party with dissimilar orientations, can result in greater clarity for the judge of what the court user intends to communicate and desires to be understood. The accommodation of oral 'cultural' testimony in court, through the facilitation of authentic subjective verbal accounts of events, can according to Howes, not only 'open the law's ears to other voices', but also 'the law's eyes to cultural difference, rather than cultural sameness, as a source of distinct rights.'

In our Caribbean jurisdictions, oral cultural testimony could be experienced through the use of broken English, patois, slang words, modern/new age phrases and even religious referencing when describing events and relating facts in court, all of which arise out of subjective social contexts. Some judges can experience this as too alien, and their response would be to resist and dismiss. But, if the blindfold of the 'dominant society institutions' is removed and conversation/dialogue engaged, this can lead to a true appreciation of different ways of life with their own distinct paradigms, values and standards. There can be an interaction of cultures and the exercise of cross-cultural jurisprudence.

Cross-cultural jurisprudence is definitely lacking in some areas of our region, as reflected through research on Procedural Fairness conducted by the Judicial Education Institute of Trinidad and Tobago in 2018, which revealed that 66.7% of the public respondents either agreed or strongly agreed that those who speak proper English are more likely to receive favourable treatment from judicial officers; and 65.7% of the public agreed or strongly agreed that those who appear educated are also more likely to be treated favourably. The scales here obviously weighed more heavily in favour of the 'accepted cultures' rather than the 'distinct' ones. Yet according to Australian sociologist and law professor, Richard Mohr, the judicial process can be improved by 'pluralizing the notion of the audience (or "public") with which the judiciary imagines itself to be in conversation …' Judges must be willing to see and hear and dialogue with court users as the persons they truly are, if equality before the law is to be achieved.

This philosophy is supported by Alison Dundes Renteln in her work, 'The Cultural Defence' (2004). She highlights cultural conflicts which can arise when 'cultural claims' are made in courts, for instance drug use for spiritual enlightenment, or office wear for religious reasons which contravenes safety codes or the company image. Renteln believes that there should be 'maximum accommodation' of cultural differences rather than a 'monocultural paradigm' where individuals must conform to a dominant national standard. In court, the latter would result in judges dismissing culture-context evidence as irrelevant and nurture their blindness to what is necessary to consider for ensuring the protection of fundamental human rights. In support of her theory that culture matters for justice, Renteln states:

> **In pluralistic societies it is especially vital that judges acknowledge variation in motives to better understand the behaviour of individuals who come before them … justice requires *looking* at the context of individuals' actions; otherwise, it is not possible for judges to understand what has transpired** …. (emphasis added)

'Looking at the context' can only be helped by conversations which explore the whys behind actions. This would result in avoidance of misjudgment based on society's dominant standards/culture; that is, the avoidance of cross-cultural misunderstanding. Indeed, conversations facilitate the exploration of how to learn from and inform one another. In court they can open the door to oral cultural testimony, and lead to broader and more receptive interpretations and approaches in the realm of cross-cultural interactions between judges and court users. Such dialogue would avoid 'the risk of losing the true meaning of concepts from one culture that have no equivalent in the other' (Borrows) and would restrict understandings and conclusions which only favour the dominant society.

Instead, there would be scope for judges to truly appreciate the court user's standpoint, even if they have never themselves stood at, or 'seen' that point before! They would be able to hold two different cultural perspectives equally (Howes) rather than understanding the court user only through their own values. This ability to see the issues also from the litigant's position and context, with equal weight and recognition, lends to a more holistic, inclusive adjudication approach - adjudication through a cross-cultural lens.

Renteln's approach can actually be advocated as reflected in the recent decision of the High Court of Trinidad and Tobago in *ARSHAD SINGH v AG* CV2022-05126, where a Muslim prison officer filed a judicial review claim and constitutional motion for an order, amongst other things, that the decision of the Commissioner of Prisons to refuse to promote him on the basis of his beard, which he maintained as part of his religious belief, was unreasonable and should be quashed. In summary, the judge decided that the wearing of a beard by a Muslim man is an essential aspect of his obligation to the faith. She was of the view that there was no merit in the reasons of the COP that facial hair is untidy or unclean and no evidence that facial hair on the basis of religion has been a catalyst for instilling discipline and uniformity. She stated, '... the right of freedom of conscience and religious belief and observance in the multi religious society of Trinidad and Tobago'..... meant 'the Commissioner had a duty to take into account the guaranteed fundamental right of freedom of conscience and religious belief and observance and his failure to do so means that he has not treated the Claimant equally.'

Her position was that while the TTPrS is entitled to make policies and procedures to instill discipline, uniformity, tidiness and cleanliness, these cannot limit or restrict any Prison officer's right to practice and observe religious belief.

Is it easy though, for judges to remove their blindfolds and see what is 'other' to the accepted conventions and practices of the dominant society? What is 'outside the box'? Would it not be simpler to stay within, and decide according to, the principles of established legal precedents with which they are versed and comfortable? Well, according to Niezen, 'judicial emphasis on facts and clear-cut decisions prevents judges from exploring new 'theoretical paradigms' necessary for cross-cultural jurisprudence.' How, then, can judges begin to manifest a cross-cultural process of adjudication, begin to truly converse with their court users?

According to Howes, to advance cross-cultural jurisprudence, 'culturally–reflexive legal reasoning' is the key. This is supported by Newing who has stated, '… moving more meaningfully towards cross-cultural jurisprudence requires that … courts be reflexive of their own cultural biases …' and by Professor Capers who says, 'Blind justice creates a barrier to reflexivity … the ability to engage one's own cultural biases in decision-making.' This means that judges must ensure that they are aware of their own personal cultures and how that would impact and influence their perspectives, interpretations and decisions in court. They must not only be sensitive to the culture of the other, but take whatever steps are required to face and acknowledge their own. This would include the realization that the distinctness and 'otherness' of the court user, could be due to the interplay of the judging factors from within the dominant culture to which the judge subscribes. Clifford Geertz states in "the Uses of Diversity", '… if we wish to be able capriciously to judge, as of course we must, we need to make ourselves able capriciously to see…', and if this does not occur the result is '…failure to grasp, on either side of some cultural divide, what it is to be on the other, and thus what it is to be on one's own.'

Thus, cross-cultural justice requires that the origin of facts at issue in a case and how they are represented, must be seen by judges through *outward and inward facing lenses* before arriving at judgment. This type of judicial process is supported by Mohr, who states it can even do better by: reflecting critically on the ideal of impartiality by factoring consciousness of the … specific life experiences of all the parties to a case (including the judiciary) into the deliberation process.

The institutional constraints which courts insist they are bound by, may be revealed by reflexivity as a product of blind justice history, and that what is needed more are 'conditions for cultivating diverse deliberations and to institutionalize them' (Howes).

Perhaps this train of thought is what inspired the Caribbean Court of Justice (CCJ) in *NICHOLSON v NICHOLSON* (2024) CCJ 1 (AJ) BZ, wherein it was stated, 'No human is free from unconscious bias, judicial officers included.' In this case, the CCJ chose the route of a gender sensitive approach to the interpretation and application of property law, but evidence of reflexivity on the part of the judges themselves is clear, based on the fact that in coming to their decision, they relied on such principles as follows:

> 39. …. the interpreters of the law, judicial officers, emerge from the very cultures that create discrimination.
>
> 48. … traditional legal methods … are neither complete nor exhaustive… The high premium they place on predictability and certainty anchored in past occurrences, is sometimes too rigid an approach … what is needed are more flexible approaches that can, among other things … (ii) take account of relevant differences …
>
> 54. … because of social context, culture, and human interactions, we all develop subjective (individual and ingroup/outgroup) recognition patterns (perceptions) that become default assumptions about reality. These can lead to stereotyping, prejudice, and presumptions about certain groups or populations pre-reflexively, that is, without conscious knowledge or awareness.

> 55. … it may very well be that 'courts are an ideological body whose rulings represent the preferences of the men and women who serve on them.'
>
> 129. In a certain sense, Caribbean legal methods have tended to become somewhat 'pot-bound'. They need to be re-potted, put in larger and more inclusive constitutionally and rights-centric soil, if they are to flourish and respond to current Caribbean and global realities, insights, and demands. As jurists, both advocates and decision makers, it is for us to do the work of replanting, into pots that match the galaxies we inhabit – and not to remain pot-bound in someone else's universe.
>
> 133. … judicial interpretation and decision-making are never purely neutral and objective and include intersecting human and social realities that must be reckoned with in order to advance the goals of justice. … Justice is, after all, a deeply human endeavour.

This CCJ's decision is a stellar example of 'adjudication with imagination' (Vera Roy). It mirrors Rohr's philosophy that, '… the act of interpretation is not a simple mechanistic application of the law to objective facts: the facts [and … the laws] themselves must be interpreted within a legal and social context. The judge is a participant in – and indeed a part of – that context.

To move towards true equality before the law, distinctness from, rather than sameness as, the 'dominant' culture must be recognized, respected, and accommodated. If justice remains 'blind' to difference, then according to Newing, courts will continue to engage in a jurisprudence predicated on inequality, rather than cross-cultarism which is seeing and hearing from the other and from oneself, from the standpoint of the mainstream and that of the alternative and seeking solutions that are experienced as fair by all. In the words of Nicholas Kasirer, it is stepping out of "Law's Empire" and finding footing in "Law's Cosmos".

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The Evolving Role of Caribbean Courts in Safeguarding Climate-Conscious Governance

Chelsea Dookie*

Environmental justice depends on the core tenets of democracy: transparency, accountability, participation and equality before the law (UNEP, 2019). Globally, democratic institutions are strained due to economic instability, political polarisation, or crises of legitimacy (Freedom House, 2023). In parallel, the climate crisis intensifies, exposing deep vulnerabilities in governance systems, particularly in small island developing states (SIDS) such as those in the Caribbean (IPCC Sixth Assessment Report, 2022).

When democratic values erode, so too does the capacity of societies to respond fairly and effectively to environmental threats. Decisions about who may pollute, who gets access to land or water, or how communities are consulted on development projects, are inherently democratic decisions. When these processes are opaque, exclusionary, or politically manipulated, the result is not just ecological harm, it is democratic decay.

As environmental, political and economic crises converge, Caribbean judiciaries stand at a pivotal crossroad. As guardians of constitutional rights and procedural fairness, our courts are not only asked to interpret environmental law but are being tested on whether democratic values can withstand the pressures of climate change and development. The judiciary's role is therefore to preserve public trust, enable inclusive governance and hold power to account in defending both people and planet.

Environmental litigation in the Caribbean has often arisen in the context of development approvals, land use decisions, and extractive projects and often forces courts to confront core democratic values such as transparency and public voice.

In *Ramon Gaskin v Minister of Natural Resources et al* [2024] CCJ 14 AJ, the Appellant challenged Guyana's Minister and Environmental Protection Authority for issuing a licence to Hess and CNOOC under a joint venture for the Liza I oil project without separate environmental permits for each party. The High Court and Court of Appeal upheld the licence, noting that it related to the project, not individual companies, and that only the operator (Exxon) needed the permit. Both courts took approximately 366 days to deliver judgment.

Interpreting the Environmental Protection Act as a whole and within the context of its objectives and constitutional underpinnings, Anderson J concluded that environmental authorisation must be given for the undertaking of a project and that the Environmental Protection Agency must be convinced that a developer can fulfil their role and responsibilities and comply with the terms and conditions of the environmental permit.

Notably, the CCJ elaborated on broader democratic principles. The Court demanded transparency from public authorities and called upon citizens to play a "watchdog" role and to scrutinise environmental practices and decisions. Anderson J at paragraph 121 stated that 'Good governance, fairness and the utmost transparency must be observed…Transparency promotes trust and facilitates public participation in environmental decision-making processes.'

Gaskin affirms that environmental licensing carries democratic implications. Environmental review cannot be confined to technical compliance. It must be accessible, well-understood by the public and tied to accountability. Environmental jurisprudence, accordingly, becomes an expression of democratic self-governance.

Environmental cases often implicate powerful economic interests such as those of hotels, energy firms and state-backed development projects, creating pressure points for judicial independence. Against this backdrop, the steadfast neutrality and courage of Caribbean courts have reinforced the judiciary's role as a guardian not only of legal order, but of public trust in democratic institutions.

Although the Caribbean Court of Justice (CCJ) has not yet delivered a major landmark ruling squarely on environmental law, its broader jurisprudence has laid important groundwork for an environmental ethic rooted in accountability, regional integration and rule of law. CARICOM Member States subject to CARICOM law are obligated to act lawfully, fairly and consistently. These standards could be readily adapted to environmental obligations, particularly where sustainable development intersects with trade, agriculture or tourism. Moreover, the CCJ has articulated a distinctively Caribbean jurisprudential voice that values participatory democracy and regional identity. The Court has emphasised the role of the judiciary in protecting community rights under the Treaty, a model that could be extended to environmental protections that benefit CARICOM citizens collectively, such as marine biodiversity or shared air and water quality.

As the CCJ evolves in both its appellate and original jurisdictions, its institutional legitimacy positions it as a potential leader in shaping regional environmental jurisprudence. A future case addressing cross-border environmental harm, for instance, could enable the Court to draw on both customary international environmental principles and CARICOM treaty objectives to affirm a coherent, climate-conscious legal standard.

CARICOM Member States have consistently acknowledged the existential threat that climate change poses to the region. Through the CARICOM Energy Policy, the Caribbean Community Climate Change Centre (CCCCC), and advocacy at international forums such as COP summits, the Community has framed climate resilience as a collective priority. However, translating regional policy into enforceable legal standards has proven difficult. Most CARICOM States lack specific constitutional environmental rights, and environmental laws (where enacted) tend to be fragmented or outdated. This gap leaves the judiciary as one of the few state institutions with the ability to *integrate* international environmental commitments into domestic practice.

As climate litigation continues to evolve globally, Caribbean courts may be called upon to answer questions of climate inaction, environmental degradation or disproportionate impacts on vulnerable groups.

Caribbean judiciaries are not passive observers of the climate change crisis, but they are active participants in defining how our societies respond. Environmental disputes are, at their core, questions about democratic voice, public accountability and the protection of common goods. In affirming that environmental governance must be lawful, participatory and transparent, Caribbean courts protect both ecosystems and democratic ideals.

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Judicial Wellness and the Boiling Frog Syndrome

Justice Tanya Lobban-Jackson*

Have you ever felt like the world around you was tenuous, or experienced the sudden racing of your heart for no apparent reason, unexplained tiredness or headaches, irritability or even brain fog?

Though these may sound like the list of side effects, you hear on one of those annoying television commercials for medication; they may actually be signs of "burnout," and burnout is one of the many consequences of "boiling frog syndrome."

Boiling Frog Syndrome

Boiling frog syndrome is a metaphor for burnout. The concept was first presented by writer and philosopher Olivier Clark, to demonstrate that humans, when put in certain negative conditions, will adapt or get used to the environment if the changes are gradual. Similarly, it is said that a frog when placed in a pot of boiling water could be boiled alive, if the temperature gradually increased. The frog simply adjusts to the higher temperatures.

As judicial officers, we are often required to adapt to heavy caseloads, staffing issues, security issues or even lack of resources, just to name a few. As resilient Caribbean people we often make do, even as the overloaded plate of work slowly eats away at our wellbeing. Outside of the caseloads, there are judgements to write, work related or community projects and many times self and family comes last on the list of priorities. Many of us are in the 'boiling pot' and do not know it, until there is an obvious dose of reality, requiring a visit to the hospital.

Work-Life Balance

The term ‘work life balance’ has become either a cliché or a term of art, either way it is fundamental to the wellbeing of the judicial officer in the modern, ever-changing work environment, with its cutting-edge technology, AI tools, and the measurable deliverables required at the end of each quarter.

It is indeed important to meet the goals set out in the short, medium and long term to ensure that the quality of justice is maintained at a high standard. However, it is equally important to ensure that the judicial officer is supported, with both the tools and the environment in which to succeed.

It is up to the individual judicial officer to set boundaries, if possible, know your limits and create time to develop outside of the work environment. Take up a hobby, read for pleasure, go for a walk, go to the seaside, play a sport or go to the gym. Take time to meditate or just to be. All these are activities which help to balance the scales of our lives. This is just as important as balancing the scales of justice.

**Justice Lobban-Jackson is a Judge of the Supreme Court of The Turks and Caicos Islands*

Photo from Psychology Today

The Caribbean Court of Justice: A Guardian of Justice and Democracy in the Region

On the 16 April 2025, Professor Tracy Robinson delivered the 2025 Norman Manley Distinguished Lecture at the Norman Manley Law School, entitled '**The Caribbean Court of Justice: A Guardian of Democracy and Justice in the Region**'. It was an engaging and erudite exploration of how courts, in this instance and illustratively the CCJ, in liberal democratic states can be called upon to uphold and protect democracy itself.

The lecture examines, among other things, how a court can legitimately be a 'consequential' actor in political processes, that is, resolving what are in fact political disputes, and in this way play "its role in safeguarding a core constitutional principle, that of democracy."

Professor Robinson takes us through an enlightening examination of constitutional interpretation as "a legal activity in its own right" and the need for "robust judicial review", yet posits that:

> **Despite some nascent signals that democracy is being regarded as an implied and substantive constitutional norm in Caribbean constitutions, like separation of powers and the rule of law, Caribbean constitutional law is relatively muted in talking about the role of judicial review in responding to the political process and democratic deficits.**

As we contemplate the theme 'Global Democracy and Caribbean Courts' in this edition of the CAJO News, this lecture by Professor Robinson may be considered prescient. It is difficult to imagine that the notion of democracy can be disavowed as a core constitutional principle – a part of a constitution's fundamental deep basic structure.

Indeed, surely even the notions of the separation of powers and the rule of law presume for their existence, in liberal democratic states, the underpinning idea of democracy itself.

We commend this lecture as essential for all interested in and concerned about democratic governance in Caribbean spheres. There is much to ponder, amidst what some may consider provocative.

Professor Robinson's lecture can be viewed by clicking on the image above

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