



# ANNUAL REPORT

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**STRONG FOUNDATION**

**FOCUSSED FUTURE**

For the period under  
review, the court year  
of

**1 August 2019  
to 31 July 2020.**

**The Caribbean Court of Justice (CCJ)** has an obligation to account for its performance to the people of the Caribbean Community (CARICOM). It is required every year to submit to its stakeholders an Annual Report of its work and operations during the previous year.



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## List of Abbreviations

- AJ** - Appellate Jurisdiction
- CAL** - CCJ Academy for Law
- CAJO** - Caribbean Association of Judicial Officers
- CARICAD** - Caribbean Centre for Development Administration
- CARICOM** - Caribbean Community
- CARMES** - CARICOM Monitoring, Evaluation and Reporting System
- CCAT** - Caribbean Community Administrative Tribunal
- CCJ** - The Court, Caribbean Court of Justice
- CMC** - Case Management Conference
- CSME** - Caribbean Single Market and Economy
- J** - Judge, Justice
- JA** - Justice of Appeal
- JURIST** - Judicial Reform and Institutional Strengthening Project
- KMS** - Knowledge Management System
- MAP** - Management Action Plans
- OJ** - Original Jurisdiction
- PPAC** - Policies, Procedures Approval Committee
- RTC** - Revised Treaty of Chaguaramas

# Introduction

## Mission

Providing accessible, fair and efficient justice for the people and states of the Caribbean

## Vision

To be a model of judicial excellence

## Values

Excellence - Demonstrate the highest quality of service and performance

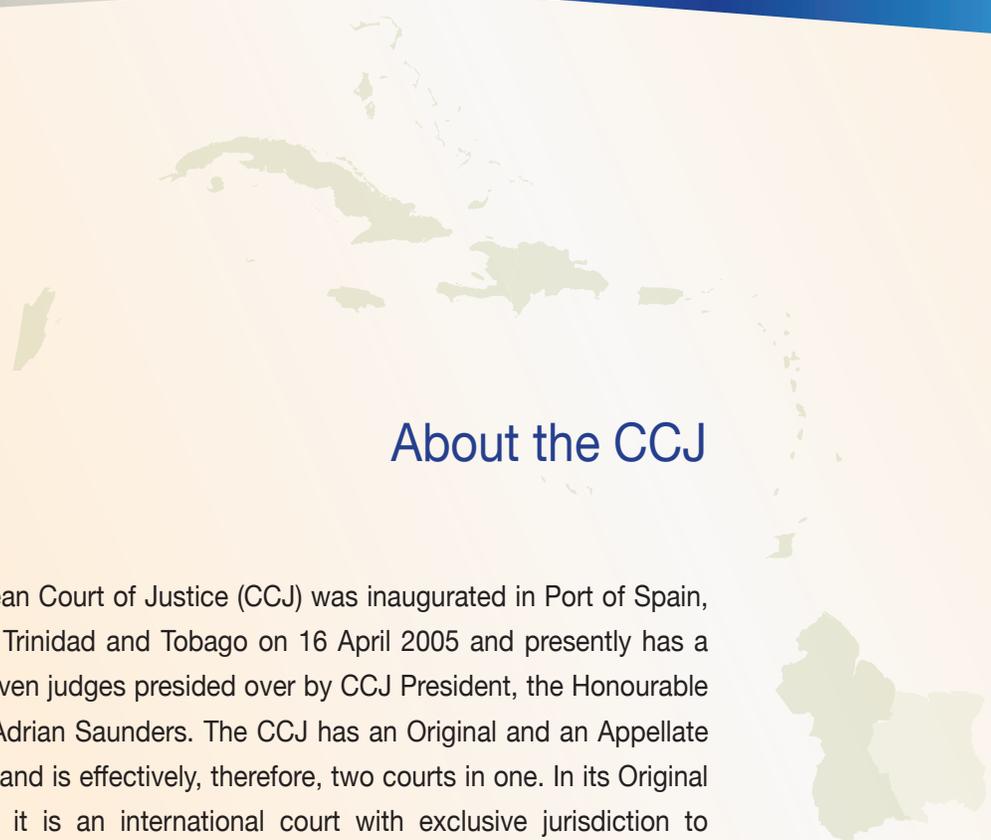
Courtesy and Consideration - Demonstrate care and respect for all

Industry - Be diligent, go above and beyond

Integrity - Be honest, do right, stand firm

## Strategic Objectives

- Communication
- Independence and Accountability
- High Performance Environment
- Equality, Fairness and Integrity in Promoting the Rule of Law
- Organisational Capacity for Caseload Growth
- Enhanced Regional System Capacity and Performance

A light green map of the Caribbean region, showing the outlines of the islands and the mainland of South America. The map is positioned in the upper right quadrant of the page, behind the text.

## About the CCJ

The Caribbean Court of Justice (CCJ) was inaugurated in Port of Spain, Republic of Trinidad and Tobago on 16 April 2005 and presently has a Bench of seven judges presided over by CCJ President, the Honourable Mr Justice Adrian Saunders. The CCJ has an Original and an Appellate Jurisdiction and is effectively, therefore, two courts in one. In its Original Jurisdiction, it is an international court with exclusive jurisdiction to interpret and apply the rules set out in the Revised Treaty of Chaguaramas (RTC) and to decide disputes arising under it. The RTC established the Caribbean Community (CARICOM) and the CARICOM Single Market and Economy (CSME). In its Original Jurisdiction, the CCJ is critical to the CSME and all 12 Member States which belong to the CSME (including their citizens, businesses, and governments) can access the Court's Original Jurisdiction to protect their rights under the RTC. In its Appellate Jurisdiction, the CCJ is the final court of appeal for criminal and civil matters for those countries in the Caribbean that alter their national Constitutions to enable the CCJ to perform that role. At present, four states access the Court in its Appellate Jurisdiction, these being Barbados, Belize, Dominica and Guyana. However, by signing and ratifying the Agreement Establishing the Caribbean Court of Justice, Member States of the Community have demonstrated a commitment to making the CCJ their final court of appeal. The Court is the culmination of the integration ideals of early Caribbean visionaries an expression of independence and a signal of the region's coming of age.

# Focused Leadership & Management

## Message from the President

The period under review was particularly noteworthy for the Caribbean Court of Justice (CCJ). The Court made steady progress in the implementation of its 2019 – 2024 Strategic Plan which was launched in the last period under the theme 'Unlocking Potential: Strengthening Caribbean Jurisprudence'. Quite significantly, on 16 April 2020, we observed the auspicious milestone of 15 years' service to the people of the Caribbean Community (CARICOM). To mark this august occasion, this Annual Report has been designed not only to showcase the major highlights of the past year but also to commemorate this special anniversary. The new interactive manner of presenting this Annual Report is well aligned with that commemoration.

As I reflect on the significant strides that the CCJ has made over these past 15 years, I am filled with pride and optimism. I recall vividly the day the Court was inaugurated. There was an overwhelming feeling of joy, achievement and great hope. The establishment of the Court signalled the coming of age of the region. It was a crowning achievement of the sovereign CARICOM States determined to reclaim their destiny and advance our uniquely Caribbean identity. It set the stage for the Court to play a 'determinative role in the further development of Caribbean jurisprudence through the judicial process' and to deepen regional integration.





## Message from the President

*(continued)*

These symbolic yet pragmatic aspirations of the people of CARICOM have been fully embraced by the Court. They have underpinned the Court's ethos not only in the jurisprudence emanating from both the Original and Appellate Jurisdictions but also in the strategic thrust undertaken over the last 15 years.

As we take stock of the Court's performance over these past 15 years, we are acutely conscious that we are the inheritors of the accomplishments of those distinguished Caribbean women and men who made it their life's work to define, unearth, express and promote Caribbean jurisprudence. It is in that vein that, in this our 15th year, we also acknowledge the 50-year milestone celebrated by the Faculty of Law of The University of the West Indies this year. The eminent legal minds who supported the establishment of that Faculty and those who have been its beneficiaries have all played a considerable role in bringing to the fore indigenous legal thought and innovation. These contributions have, in their own right, advanced Caribbean jurisprudence and so we pay homage to those stalwarts.

Reflecting on the judicial work of the Court over the past 15 years, one readily appreciates the Court's dual role in advancing Caribbean jurisprudence. Many of its decisions have reverberated throughout the very fabric of our Caribbean (and CARICOM) identity and experience. The Original Jurisdiction

cases of *Trinidad Cement Limited v The Co-operative Republic of Guyana* [2009] CCJ 1 (OJ), *Myrie v The State of Barbados* [2013] CCJ 3 (OJ), *Rudisa Beverages & Juices NV Caribbean International Distributors Inc* [2014] CCJ 1 (OJ) and the *Advisory Opinion* [2020] CCJ 1 (OJ), issued at the request of the Community in March of this year, are but a few examples of how the Court's judicial pronouncements have continued to shape the Community. The same can be said when one examines the work of the Court in its Appellate Jurisdiction. Cases such as *The Attorney General v Joseph and Boyce* [2006] CCJ 3 (AJ), *Ross v Sinclair* [2008] CCJ 4 (AJ), *Gibson v The Attorney General* [2010] CCJ 3 (AJ), *Da Costa Hall v The Queen* [2011] CCJ 6 (AJ), *Marin v The AG of Belize* [2011] CCJ 9 (AJ), *Maya Leaders Alliance v The Attorney General of Belize* [2015] CCJ 15 (AJ), *Nervais and Severin v The Queen* [2018] CCJ 19 (AJ), and *McEwan v The Attorney General of Guyana* [2018] CCJ 30 (AJ) all reflect a distinctly Caribbean jurisprudence, fashioned by and shaping our indigenous expressions of constitutionalism, access to justice, democracy and the rule of law with a relevant appreciation for our unique socio-historical background.

The Court has also engaged in significant outreach activities primarily through the JURIST Project, the CCJ Academy for Law and the Caribbean Association of Judicial Officers (CAJO). Each of these agencies pursued their mandates over the past year in supporting reform, capacity building and judicial and legal education for their respective constituent stakeholders. To better rationalise the relationship between the Court on the one hand and the Academy and CAJO, respectively, on the other, Memoranda of Understanding were signed on 21 July 2020. This will ensure a more organic flow in the operations between the Court and these agencies.

Thrust upon us in this period was the COVID-19 pandemic. Like many institutions the world over, the CCJ was obliged to safeguard the health and safety of its staff and its operations. COVID-19 served as a crucial stress test



## Message from the President *(continued)*

of our institutional and operational framework. But the sophistication of our technology and the dedication and deftness of our workforce have enabled the CCJ to continue its operations efficiently, with a blend of remote working and structured operational transitions. The resilience that has been displayed by staff has been remarkable. I must once again record my deepest appreciation to the Registrar and Chief Marshal, the Court's Management Team and all the staff for their continued and exemplary commitment, not just over the period under review but for the years gone by as well. I also record here my thanks and appreciation to my predecessors and to the Judges and staff members who are no longer with us.

The Court, as it goes forward, is focused on rationalising internal processes with a view to ensuring that they continue to be sturdy so as to continue to support the Court's mandate and strategic goals. After 15 years, the Court rests on a strong and tested foundation. We look to the future with renewed vigour and optimism.

It is my hope that as you go through this account of the past year's activities and generally reflect on the Court's achievements since its inauguration, you will experience an even deeper connection with the Court that would serve to strengthen our stakeholder relationship.

*The Honourable Mr Justice Adrian Saunders  
President of the Caribbean Court of Justice*



## Message from the Registrar

*Ms Jacqueline Graham  
Registrar and Chief Marshal*



As we continue to be impacted by the coming of the SARS-CoV-2 (“the COVID-19 virus”) pandemic, around the world the future of courts, economies and wider societies, family life, employees and institutions are being shaped, but not in a way that experts can control or anticipate. The COVID-19 virus presents a threat that is both persistent and pervading. The environment it creates is saturated with unpredictability and uncertainty. It is in this climate, which has confounded many world leaders, corporations, institutions and industries that the very foundation and strength of the Caribbean Court of Justice (CCJ) are being put to the test.

In the Caribbean, the pandemic has exposed court systems in general, and in the case of the CCJ in particular, to the need for specific strategic leadership and implementation skills and competencies, especially, change management, mastering information technology and risk-based management. Where these skills have been developed, such court systems are holding their own.

Video conferencing, eFiling and remote work capability have reflected the visionary development of a strategy for the CCJ, that precipitated the formation of strong pillars and frameworks on which the Court is relying in these bewildering times. No one would have expected a crisis of such monumental proportion as the world is now experiencing. Yet in the face of such overwhelming adversity, the CCJ remains resilient.

It is remarkable because it has taken all the resources of the Court to create this resilience. Members of staff, who themselves must battle this contagion have fearlessly risen to the challenge to create balance and stability while the swirl of uncertainty continues around them. Employees were commendably quick to adapt to new work arrangements as the technology that was advanced to provide cutting edge access to justice now has been repurposed to include remote work environments and virtual meeting

## Message from the Registrar *(continued)*

rooms so that the work of the Court has continued uninterrupted. In the face of the peril posed by the virus, the Court went directly to its strategic framework for the tools to navigate the unstable environment. What became evident is that fluidity and adaptability were built into the design to cater for the contingencies produced by the crisis. The Court had the added advantage of staff being familiar and at ease with the requirements of its strategic plan and this made it easier for each one to bring creativity to solutions. The synergy that resulted was compelling in its effectiveness. The Court was able to manage its caseload expeditiously despite the exacting restrictions of the pandemic. The foundations are holding firm. It is this confidence that buttresses the Court as it focuses on the future.

Prior to COVID-19, the Court contributed to the strengthening of the judicial arm of CARICOM with the significant role it played in the establishment of the Caribbean Community Administrative Tribunal (CCAT). The CCAT launched on 17 February 2020 and is the realisation of an impartial and independent judicial body that provides staff members of the CARICOM Secretariat and regional institutions, who are subject to the CCAT's jurisdiction, with a forum for the final settlement of employment disputes. The establishment of the CCAT was approved by the CARICOM Heads of Government at their Thirtieth Inter-Sessional Meeting in St. Kitts and Nevis in February 2019. In exceptional cases, judgments of CCAT can be appealed to a Review Committee made up of five judges of the Caribbean Court of Justice.

There is a growing realisation that a "new normal" is emerging. Things will not be the same. There has been a decrease in the number of cases that reached the

Court in this reporting year, but this is not expected to be the long-term situation. As the backlog of cases that is building up in national judiciaries due to this pandemic is ultimately cleared, the CCJ is poised for the bounce back in the caseload that it manages when the pandemic abates.

Yet the lessons the Court has learned while contending with this all-out assault will influence the strategic disposition of the CCJ as it continues to serve the Caribbean Community. Modern technology will continue to determine the progression and character of our engagements and our operations. The new work order of remote functioning and safeguarding health standards will continue to typify the work environment. The Court will continue to rely heavily on video and teleconferenced proceedings, while also observing health guidelines and protocols. Intense focus on the well-being of staff will continue to be high on the agenda. Staff engagement is even more critical going forward to maintain morale and trust. It is a time like no other and the Court is responding with the ingenuity that the circumstances demand and seizing the chance to put in place improved, sustainable court services that are much more accessible. This year's Annual Report will be presented in an interactive format, a departure from what has obtained before, and a foray into innovation. This format is an announcement of the Court's response in uncommon times. All the articles give an account of the CCJ's performance over the period 2019-2020. We proudly commend it to all our stakeholders and to those who have an interest in the work of the CCJ and what it represents to the Caribbean. I trust that as you peruse our Report, you will learn more about our performance and the workings of the Court through these pages.

## Milestones

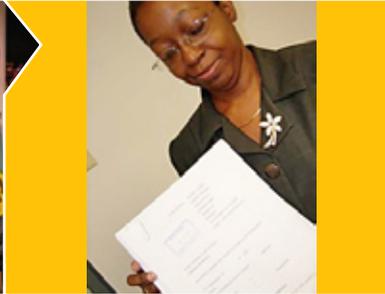
### 2005



**1st PCCJ-**  
The Rt Hon Michael de la Bastide, the first President of the CCJ raises the shield of the Court at the inauguration of the CCJ in 2005.



**Inauguration-** Sir Edwin Carrington, the then Secretary-General of CARICOM bringing remarks at the inauguration of the CCJ in Port of Spain, Trinidad and Tobago in 2005.



Ms Paula Pierre, the CCJ's then Registrar and Chief Marshal displaying the first notice of appeal filed at the Court in 2005.

### 2010



**2010 IACA Conference-** Regional jurists represented at the 2010 International Association for Court Administration (IACA) Conference in Port of Spain, Trinidad and Tobago. Notably, the current and former Presidents of the CCJ are seated on the panel.

### 2009



**Moot winners 2009-** The Norman Manley Law School stand proudly with the Challenge Shield after winning the first CCJ Annual International Law Moot Competition in 2009.

### 2006



In May 2006, the Court relocated from the Unit Trust Corporation Building to its present home.

### 2010



**Introduction of video conferencing** at the Court. Mr Ayinde Burgess, Systems Manager (left) testing the Court's video conferencing equipment after it was purchased in 2010.

### 2011



The Rt Hon Sir Dennis Byron raises the seal of the Court after being sworn in as the second President of the CCJ in St Kitts & Nevis, 2011.



**CAJO 2011-** Caribbean Chief Justices flank Sir Dennis Byron at the second conference of the Caribbean Association of Judicial Officers in 2011.



## Milestones

**2012**



**8<sup>th</sup> ANNUAL CACTUS CONFERENCE**  
Grenada, 2012

*CACTUS 2012- A cross-section of attendees at the 8th Annual Caribbean Association of Court Technology Users Conference held in Grenada in 2012.*

**2013**



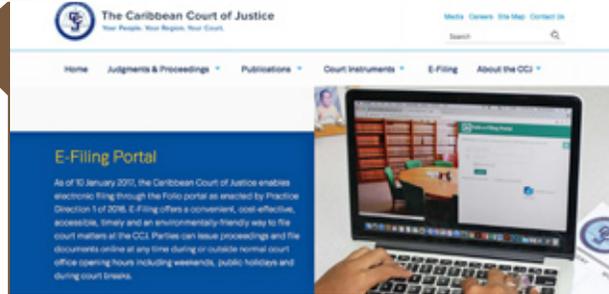
*In 2013, the CCJ held some of its first sittings outside of Trinidad and Tobago. Here the Court can be seen sitting in Jamaica to hear evidence from witnesses in the matter of **Shanique Myrie v Barbados**.*

**2018**



*PCCJ -The third President of the Caribbean Court of Justice, the Hon. Mr Justice Adrian Saunders sets the CCJ seal at his swearing-in ceremony. This event occurred on 4 July 2018 at the Meeting of the Conference of Heads of Government in Jamaica.*

**2017**



*E-filing -The CCJ implemented filing by email in 2013 to allow for the electronic submission of documents. This system was later replaced by e-Filing in 2017.*

**2019**



*Mayan sitting- In October 2019, the CCJ sat in Belize for a status update on the implementation of an agreement in which the Belizean government consented to develop a system to recognise the land rights of the indigenous Mayan people.*



*CCJ Academy for Law-The Caribbean Court of Justice Academy for Law hosted its inaugural Eminent Caribbean Jurists Gala and Awards Ceremony at the Hyatt Regency, Port of Spain, on 7 October 2019.*



## Honouring Long Service Employees

“People are definitely a company’s greatest asset.”

- Mary Kay Ash

One of the most important things an organisation can do is to demonstrate its appreciation for employees’ contribution to its growth and development. On 16 April 2020, the Court commemorated its 15th Anniversary. There was a great deal to celebrate – because of the hard work and dedication of its employees, a number of whom, have been with the organisation since its inception and have remained with it as it manoeuvres on its journey of continued excellence.

Though unable to physically gather to celebrate as was initially planned, the Court hosted a virtual celebration during which, it recognised the long-service of employees who joined the Court in 2005 as well as those who joined along the way.

### The employees celebrating 15 years of service with the CCJ/RJLSC in 2020 are

Genevieve Gray	Executive Assistant, Judicial
Ayinde Burgess	Systems Administrator
Heather Dyer-Thompson	Registry Supervisor
Lisa Furlonge	Executive Assistant, Judicial
Jennifer Scipio-Gittens	Administrative Assistant
Deborah Williams	Executive Assistant, Finance
Sherry-Ann Ramhit	Executive Officer, RJLSC
Jacinth Smith	Chief Librarian
Selwyn Hart	Driver/Usher
Nigel Payne	Office Services Co-ordinator
Andrea Sohun-Cooper	Executive Assistant, Judicial
Debra Gibbs	Executive Assistant, Judicial
Sonia Thompson	IT Support Technician
Hon. Mr Justice Adrian Saunders	President
Sheldon Cambridge	Driver/Usher
Oscar Peters	Driver/Usher
Collette Brown	Executive Assistant, Security
Hon. Mr Justice Jacob Wit	Judge
Denise Dickenson	Tea Assistant
Wendy Mitchell	Executive Assistant, HR
Annette Clarke-James	HR Officer, Compensation & Benefits

# Leveraging Our Foundation

## A Response to COVID-19

In response to the novel coronavirus (COVID-19) pandemic and the resulting public health measures adopted by the government of Trinidad and Tobago where the Court is housed, the Caribbean Court of Justice implemented several measures to ensure business continuity as well as the protection of its employees.

Such measures included the implementation of a new Practice Direction on 6 April 2020, which provided guidelines on how the Court will function during the pandemic. More specifically, the directions stipulated that:

1. After consultations with parties, only hearings that are urgent or fit for adjudication will be heard.
2. Where the Court agrees to hear a matter, it will be done virtually.
3. All Directions previously given or applied or provided for by the Rules for the filing of submissions or other documents may be varied by the Court on an application made by letter or other forms of written communication to the Court and copied to the other parties. The CCJ also reserves the right to grant or refuse such applications by letter or other forms of written communication.

Fortunately, the Court was able to avoid any disruption in its services as it was quickly able to transition to entirely virtual operations utilising the technology it had already been using to ensure that its geographically-dispersed stakeholders could easily access the services of the Court.

Additional measures included the postponement of the CCJ 12th Annual International Law Moot, which required



*Mandatory temperature testing is conducted before employees enter the CCJ building.*

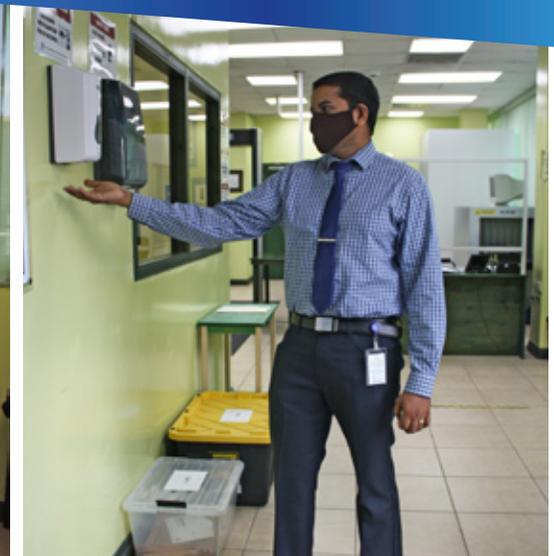


*Everyone must wash hands thoroughly and wear a mask before admittance to their workspace.*

participants to travel to Trinidad and Tobago from across the region. Further, Court tours were suspended, and visitors to the premises were restricted to manage the movement and interactions of persons throughout the CCJ building. Additionally, all persons entering the building, inclusive of staff, contractors and suppliers were screened and required to complete a health declaration



*Security stations are outfitted with plexiglass screens to protect persons from aerosol transmissions.*



*Automatic hand sanitisers ensure low contact and stymie the transfer of any viruses.*



*A health declaration form must be completed once an employee has not been in the office for 48 hours.*



*Strategically placed throughout the CCJ building are hand sanitiser and signage with directions to keep everyone safe during the pandemic.*

form to aid in contact tracing, if necessary. Hand sanitisers and disinfecting wipes were also provided at both entrances of the building, as well as placed at strategic points throughout the building for mandatory use.

From April to June 2020, work was conducted on a rotation basis for all non-shift staff members, allowing the Court to facilitate our stakeholders while maintaining social distancing. The Court continues to monitor the situation, with necessary adjustments to its operations and internal protocols, based on advisories from the World Health Organization and the Ministry of Health, Trinidad and Tobago.



*In-person contact is kept to a minimum while maintaining the safety protocols.*

## 2019-2020 Performance Highlights

Training of Security & Logistics Department in defensive & executive driving conducted by the Trinidad & Tobago Police Service (TTPS) Special Branch.

Health Safety Security and Environment (HSSE) Committee appointed new wardens and provided professional training in audits, inspections, and fire response.

Implementation of an Asset Management System to support the efficient management of the Court's physical assets.

Leveraging the Court's technology to allow the functions of the Court to continue regardless of the physical location of Court staff.

In keeping with the Court's strategic goal of improved communication, during the period, there was a greater engagement on the Court's social media platforms with the following upticks:

**197%**  
increase in  
Facebook  
followers



**15%**  
increase  
in Twitter  
followers



**56%**  
increase in  
LinkedIn  
followers



**95%**  
increase in  
YouTube  
subscribers



**94%**  
increase in  
YouTube  
views



The HR Department contributed significantly in several critical initiatives of the CCJ during the reporting period, including:

1. The establishment of a Staff Interface Committee
2. The development of the CCJ COVID-19 Protocols
3. The review of the Staff Regulations
4. Continued implementation of the Performance Management System
5. The organising of 2019 Internship Programme
6. The planning and hosting of 2019 Wellness Wednesdays
7. The drafting of a Harassment Policy and Procedures
8. The organisation of arrangements for the recruitment of CCAT Judges
9. The continued drafting of HR Policies and Procedures



# Focusing on the Future

## Strategic Plan Implementation

The Court continues to remain focused on its strategic agenda. Since the publication of the last Annual Report, great effort was expended on finalising Unit Management Action Plans (MAPs) which sought to align the activities of each Unit with the overall strategic direction of the Court. These MAPs ensured that all the work done by each Unit was geared towards the achievement of organisational goals. This activity was supported by Strategy Consultants Victor and Associates, who was contracted to assist the Court in the implementation and operationalisation of its Strategic Plan in November 2019.

When the Units' MAPs were finalised, an effort was placed on the development of individual Work Plans. This is also a very critical step since individual Work Plans are essential for aligning employee activities with Unit MAPs. These work plans provide a clear line of sight between the work that the employee is performing and the achievement of Unit goals and would certainly redound to the achievement of organisational goals and the Court fulfilling its mandate. Performance Management Consultants Thinking Allowed Limited laid the groundwork for this exercise in February 2020. Individual Work Plans have been completed for a significant percentage of the workforce, with scheduled completion by the end of the second quarter of 2020. When the individual Work Plans are finalised, supervisors will engage with employees to discuss targets, expected performance standards, monitoring, recordkeeping and feedback.

To support this implementation of the Strategic Plan, the Court embarked on a strategic capacity building effort targeting managers and supervisors to prepare them to develop MAPs in the future and to upskill supervisors with skills to carry out their duties as frontline

officers and functional supervisors. Managers and supervisors have undergone in-house Performance Management Training as well as Leadership Capacity Building Training facilitated by the Caribbean Centre for Development Administration (CARICAD). These training interventions were conducted to ensure that managers and supervisors were able to develop performance targets that are specific, measurable, achievable, realistic and timely, and will create impact and sustainability; and steer them to make a positive difference, think and act decisively and collaboratively, deepen their self-awareness and emotional intelligence, and inspire and build productive teams for sustained growth as the Court moves forward with its strategic agenda.

Keen attention has also been placed on developing methods to monitor the achievement of the goals identified in the Strategic Plan. This is important as the Court moves away from decision-making based on anecdotes and cognitive bias to a more robust evidence-based data collection system. One such initiative is the use of project management software to track organisational performance by monitoring achievement of Unit level goals and the fulfilment of the Unit MAPs. In the last quarter of 2019 and first quarter of 2020, a pilot group with representatives from the Finance and Administration Department, Human Resources Department, Protocol and Information Unit and the Public Education and Communication Unit were trained to use the software. It is anticipated that if



## Strategic Plan Implementation *(continued)*

the software is found suitable, it will be used to track performance indicators to support effective decision-making and seamless integration with the CARICOM Monitoring, Evaluation and Reporting System.

COVID-19 has presented several challenges for the Court's Strategic Plan in this reporting year. When the virus emerged in March 2020, we anticipated that several activities would have been hindered.

**The Court was nevertheless able to:**

- Advance its implementation of the new Work Planning and Appraisal Form
- Strengthen the governance framework of the Court to deliver high performance through the development, approval and roll-out of essential policies and procedures
- Effectively communicate with employees on the progress of the strategy implementation

The Court recognises that work still needs to be done with our external stakeholders, including raising awareness of the metrics which will be used to assess the Court's strategic performance. We also acknowledge that there is a need for a Court Reorientation Programme to strengthen employees' overall knowledge of court systems and processes as well as the CCJ's role in the regional justice sector. Additionally, with the Court's commitment to host the upcoming Knowledge Management System (KMS) as highlighted in our Future Key Strategic Priorities as well as our continued response to the COVID-19 pandemic this will result in increased up-skilling and cross-functionalism among our staff. These skills are necessary to enhance the quality of the service provided by the Court to its stakeholders.

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The CCJ has a thrilling period ahead which will undoubtedly have us fulfil our vision of becoming a model of judicial excellence!

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## Key Strategic Priorities

On raising the bar in providing judicial excellence internally and externally, the Court has embarked on several opportunities to enable a dynamic environment.

Implementation of an Enterprise Security Risk Management framework, which will be the template for the organisational risk-based management approach.

Implementation of Results Based Management Policy in support of CARICOM Monitoring, Evaluation and Reporting System (CARMES).

Training of staff will be conducted in response to the strategic goal of promoting an engaged and empowered workforce.

The design and execution of a baseline survey to measure the knowledge and perceptions of the Caribbean Court of Justice: building and enhancing the value of the Court's role in regional development.

Update of the Court's website with an emphasis on enhancing the judgment portal making it more user-friendly.

Implementation of a court reorientation programme to strengthen employees' knowledge in court systems and processes as well as the CCJ's partnerships in the region's justice sector.

Development and implementation of the Court's policies and procedures.

Implementation of a Knowledge Management System (KMS) project by JURIST. This will help to provide easier access to Court judgments, judgment summaries and other publications for Court stakeholders.

# Focusing on Court Performance

## Registry Report

The Registry is headed by the Registrar and Chief Marshal, ably assisted by the Deputy Registrar and Marshal, together with the Registry Supervisor, two Case Management Officers, one Court Support Officer and four Judicial Counsel.

The Registry provides administrative support for all the judicial activities of the Court and manages the case-flow process for all cases filed in the Court from the point of initiation, when the documents are submitted for filing, through to disposition of the matter.

In the period 1 August 2019 to 30 March 2020, the Court sat 33 times. These sittings comprised seven Case Management Conferences (CMCs), 16 hearings, eight judgment deliveries, one status hearing and one monitoring hearing. With the COVID-19 pandemic, the Court transitioned into full virtual hearings due to the health requirements imposed by governments across the region to protect employees and court users from exposure to infection. The Court sat for the first time in a full virtual sitting held on 30 April 2020, and since then, overall sat for a total of 17 times as follows: four CMCs; six hearings; six judgment deliveries and one monitoring hearing. Three out of these 17 matters were heard by the full Bench of the Court.

One of the considerable advantages of this virtual hearing transition is that the Bench dispensed the same high-quality justice to Caribbean litigants from their homes. It is noteworthy that the precursor to these virtual hearings was the issuance of Practice Direction 1 of 2020, PRACTICE DIRECTION COVID-19, which ensured inter alia business continuity during the pandemic.

The statistics below represent a significant decrease in the trend of new matters coming before this Court for any reporting period. While this Court was able to ensure business continuity, a general assumption may be that the COVID-19 pandemic significantly impacted domestic courts' ability to ensure that matters progress onward to the Caribbean Court of Justice in the usual manner of their operations. The CCJ anticipates this impact may well be manifested in the 2020-2021 reporting period, as the domestic judiciaries and litigants regain the wherewithal to progress the matters filed to disposition. Notwithstanding, the Court is prepared for the significant peak in the volume of new cases likely in the forthcoming period.



## Registry Report *(continued)*

### Appellate Jurisdiction

#### New Matters

Appellate Jurisdiction	2019/2020	2018/2019
Application for Special Leave	14	25
Notice of Appeal	1	12
<b>Total</b>	<b>15</b>	<b>37</b>

Table 1

There was a 59% decrease in new matters filed in the reporting period compared to the previous year. In the reporting period of 1 August 2019 – 31 July 2020, seven of the cases filed were from Barbados, three from Belize, one from Dominica, and four from Guyana. Sixty percent of the matters were civil, while 40% were criminal.

#### Time to Disposition

Number of Days	Number of Cases Disposed	Cases Disposed (%)
0 - 90	3	11
91 - 180	7	26
181 - 270	5	19
271 - 360	6	22
361 - 450	4	15
451 - 540	2	7
<b>Total</b>	<b>27</b>	<b>100</b>

Table 2

#### Summary of Disposition

Number of Days	Number of Cases Disposed	Cases Disposed (%)
0 - 180	10	37
0 - 360	21	78
0 - 450	25	93
0 - 540	27	100

Table 3

#### Clearance Rate

The clearance rate for matters filed reflects 180% for disposed matters against new matters. This represents a 107% increase in the clearance rate as compared with the previous year. With fewer cases filed, the Court was afforded more time to focus on completing pending matters, resulting in fewer outstanding cases.

#### Age of Active Pending Caseload

Days	Number of Cases
0 - 90	2
91 - 180	3
181 - 270	1
271 - 360	0
361 - 450	0
451 - 540	3

Table 4

In the critical case of international, regional and national interest, 'Guyana Election case: *Mohamed Irfaan Ali and Bharrat Jagdeo v Esllyn David et al* [2020 CCJ 10(AJ) GY the Court heard the matter virtually and delivered judgment within 15 days of filing. This matter had two Applicants, 10 Respondents and two Intervenors. In this

## Registry Report *(continued)*

case, the Court noted that 'valid votes' which determine the election of members of the National Assembly as well as winning Presidential candidate, are obtained by a transparent exercise described in the Representation of the People Act. The Court also considered the history of Article 177(4) and held that the Application was premature as it was always intended that questions of the validity of the election of a President could arise only after the members of the National Assembly had been elected and a Presidential candidate had been deemed and declared to be President. As Ms David's Application did not trigger the provisions of Article 177(4), the Court of Appeal lacked jurisdiction to make the orders that were made, and the finality clause was inoperable.

## Original Jurisdiction

### New Matters

Original Jurisdiction	2019/2020	2018/2019
Barbados	1	1
Grenada		2
Guyana	1	1
Jamaica		1
St. Lucia		1
Trinidad and Tobago	1	4
Total	3	10

Table 5

There was a 70% decrease in new matters filed for the reporting period of 1 August 2019 – 31 July 2020, compared to the previous year. Of these, two were disposed.

## CCJ's First Advisory Opinion

In addition to the matters filed in this jurisdiction during this period, the Court delivered its first Advisory Opinion, pursuant to Article 212 of the Revised Treaty of Chaguaramas. This request was made by the Caribbean Community in Suit No. AOOJ2019/001. The Court had been asked to render its advice on two issues. First, whether Article 27(4) allows a Member State to opt out of a decision of the Conference of Heads of Government taken under Article 46 to enlarge the classes of persons entitled to move freely in the Community. In answering the first question, the Court noted that an opt-out was only permissible if the fundamental objectives of the Community, as laid down in the Treaty, were not prejudiced by it. However, the RTC did not 'lay down' "fundamental objectives"; therefore, such objectives had to be culled from the Treaty. This Court opined that freedom of movement of skilled nationals is essential for the achievement of a seamless economic space.

The second question was whether the principle of non-reciprocity would enable nationals of those Member States which opted out of a decision under Article 27(4) of the Treaty to derive the benefits of the decision. In answering the second question, the Court stated that Article 27(4) clearly specified that a Member State might opt out of the obligations arising from a decision. The Court held that Article 27(4) is non-reciprocal in character and Member States are required to extend to the agricultural workers and security guards of Antigua and St Kitts and Nevis the right to seek employment in their respective States.



## Our Bench

**From left to right:**

*Back row standing:*

The Honourable Mr Justice Peter Jamadar, The Honourable Mr Justice Andrew Burgess,  
The Honourable Mr Justice Denys Barrow, The Honourable Mme Justice Maureen Rajnauth-Lee

*Sitting:*

The Honourable Mr Justice Jacob Wit, The Honourable Mr Justice Adrian Saunders (CCJ President),  
The Honourable Mr Justice Winston Anderson

## Judgment Summaries

### Appellate Jurisdiction:

- **John Solomon and Dawattie v Kisson and Chandrawattie Persaud & Ors. [2019] CCJ 16 (AJ)**

*This is an Application for Special Leave to Appeal (Guyana)*

The Rice Assessment Committee decided that the Respondents were permitted to issue notices to quit to the Applicants who were tenants of rice lands and enjoyed the benefits conferred by the Rice Farmers Security of Tenure Act. The Applicants appealed the Committee's decision to the Full Court, but the appeal was struck out and the Applicants' application for leave to appeal to the Court of Appeal at that Court was also refused. The Applicants then filed a Notice of Appeal in the Court of Appeal against the Full Court's decision and they also filed a summons for a stay of execution of the decision of the Committee. The summons was dismissed because the Notice of Appeal had not been filed pursuant to leave first having been obtained. The Applicants then filed a Notice of Motion to the Full Bench of the Court of Appeal asking for a stay of execution of the Committee's decision and this was dismissed. The Applicants then sought special leave to appeal to the CCJ against the refusal of the stay.

This Court analysed section 6 of the Court of Appeal Act Chap 3:01 and found that the order that the Applicants sought to appeal fell within section 6(2)(d), being "an order upon appeal from ... [an] other ... tribunal ...". The order, of the Full Court, had been made on an appeal from a tribunal (the Committee). Section 6(3) mandates that such an appeal may only be brought with leave. The object of requiring leave in any case was to establish a gatekeeping function so as to not allow an abuse of process. The Court ultimately dismissed the application for special leave to appeal and further stated that no appeal in fact existed because the Applicants did not obtain leave to appeal.

- **Mark Fraser v The State [2019] CCJ 17 (AJ)**

*This is an Application for Special Leave to Appeal (Guyana):*

On 14 November 2007, Mark Fraser was found guilty of gross negligence manslaughter and sentenced to 4 years imprisonment. After filing an appeal against his conviction, and obtaining bail on 17 December 2007, Fraser never returned to prison. His appeal was then fixed for hearing almost ten years later, but that hearing was further delayed as the record of appeal was not made available to his attorneys until 4 October 2017.

While Fraser's appeal against his conviction was dismissed by the Guyana Court of Appeal, the Court agreed that the delay in proceedings breached his Article 144(1) right to a fair hearing within reasonable time and stayed any further imprisonment. Fraser then applied to the CCJ for special leave to appeal the decision of the Court of Appeal refusing to set aside his conviction.

In dismissing his application for special leave, the CCJ found the approach of the Court of Appeal in hearing the constitutional delay challenge and the substantive appeal together to be wise and prudent, as it allowed



## Appellate Jurisdiction: *(continued)*

the Court of Appeal to properly consider what might be a just and effective remedy for the breach of Fraser's Article 144(1) right. The Court indicated that it did not find any flaws in the Court of Appeal's conclusion that the conviction was sound, and that there were no special or exceptional circumstances established to justify cancelling the conviction. There was therefore no proper basis upon which to grant special leave to Fraser and his application was dismissed.

- **International Environments Ltd v Commissioner of Income Tax [2019] CCJ 18 (AJ)**

*This is an Application for Special Leave to Appeal (Belize):*

International Environments Ltd ("IEL") disputed a tax assessment and pursued the appellate channels available to it under the Income and Business Tax Act ("IBTA"). As a last resort, IEL made an application for a case to be stated to the CCJ citing section 43(12) of the IBTA. This section says that a Judge in Chambers may state a case to the Privy Council. IEL's argument was that the CCJ replaced the Privy Council as the apex Court of Belize through Amendment No. 4 of 2010 creating section 104(10) of the Belize Constitution. However, the Judge held that the case had to be stated to the Court of Appeal as section 43(12) was enacted at a time when Belize had no Court of Appeal. IEL then appealed against the decision of the Judge to the Court of Appeal and that Court agreed with its position.

IEL proceeded to state its case before the CCJ. The Commissioner, being concerned as to whether the CCJ had jurisdiction also lodged an appeal but against the decision of the Court of Appeal. This Court embarked upon an analysis of the history of the Belize Court system and found that the Court of Appeal was in fact established in 1968 after the enactment of section 43(12). Its establishment altered the Court structure where there emerged a three-tiered court system; the Supreme Court, Court of Appeal, and the apex Court which at the time was the Privy Council. As a result, cases would no longer make their way straight from the Supreme Court to the apex Court as was the case when section 43(12) was first enacted.

Naturally, amendments were made to existing legislation to implant the jurisdiction of the Court of Appeal. The Privy Council Appeals Act ("PCAA") was amended by Act 19 of 1967, so that the word Court meant Court of Appeal instead of Supreme Court. Section 3(c) of the PCAA consequently meant in relation to the IBTA, that appeals to the Privy Council laid from the Court meaning the Court of Appeal to the Privy Council. Further, section 13(2) of the Court of Appeal Act read consistent with section 3(c) of the PCAA which solidified the Court of Appeal's jurisdiction to hear and pronounce upon a case stated from a Judge of the Supreme Court. This Court held that with the establishment of the Court of Appeal, there was no longer a direct access to the Privy Council from the Supreme Court. Even though there was no express amendment to section 43(12), it was clear that section 3(c) of the PCAA impliedly amended section 43(12) to mean Court of Appeal. Therefore, there was no need to invoke section 104(10) of the Constitution. The Court allowed the Commissioner's appeal and dismissed IEL's application.

## Appellate Jurisdiction: *(continued)*

- **David George v Albert Guye [2019] CCJ 19 (AJ)**

*This is an Appeal from Dominica:*

This matter involved a dispute between David George and Albert Guye over a strip of land in Dominica. George was the occupier of the strip of land for over 12 years. However, that strip formed part of a larger parcel of land of which Guye became the registered owner in 1995. Although Guye was issued a certificate of title under the Title by Registration Act (TRA) in 1995, it was not until 2007 that he filed a claim to regain possession of the disputed strip of land.

George argued that his long and continuous possession of the strip had extinguished Guye's title. Both the High Court and the Court of Appeal disagreed with George and held that under the TRA, Guye's registered title could not be challenged unless George had complied with the procedural steps outlined in section 33 of the TRA. The lower courts held that George, having not triggered section 33, could not now succeed against the claim of Guye.

The CCJ, by a majority judgment delivered by the Hon. Mr Justice Saunders, President, (the Hon. Mr Justice Wit and the Hon. Mme Justice Rajnauth-Lee) disagreed with the lower courts and allowed George's appeal. The majority noted that indefeasibility of a Certificate of Title in Dominica was not absolute and that the TRA expressly provided for two exceptions to such indefeasibility; the one relevant to this appeal being where the title of the registered proprietor had been superseded by a title acquired under the Real Property Limitation Act (RPLA). The majority stated that the RPLA conferred certain "squatter's rights" on someone who has been in occupation of land for over 12 years. The majority took the view that the law barred even a registered landowner who allowed someone to squat on his land for a continuous period in excess of 12 years, from bringing an action in court to recover the land from the squatter. The majority was also of the view that this interpretation of the law was in line with cases coming out of Dominica over many years. Accordingly, the majority held that George was entitled to successfully defend the claim for possession brought by Guye.

The Hon. Mr Justice Anderson and the Hon. Mr Justice Burgess, however, in minority opinions, noted that the critical issue was to determine the circumstances in which the title of the registered owner can be superseded. The Hon. Mr Justice Anderson expressed that the introduction of the TRA was to provide stability and security of title and overrode the earlier "squatter's rights" legislation where there is a conflict between the two. It was for this reason that the certificate of title could not be challenged and anyone seeking to use their long-standing possession as a defence had to first comply with the procedure laid down in section 33. The Hon. Mr Justice Burgess, based on a strict interpretation of the RPLA and the TRA, reached a similar conclusion.



## Appellate Jurisdiction: *(continued)*

- **David Brooks v Alistair Morris (The Executor of the Estate of Henry Newitt, Deceased) [2019] CCJ 20 (AJ)**

*This is an Appeal from Barbados:*

David Brooks agreed to rent Henry Newitt's Desert Rose, a luxury villa in Holetown, Barbados, from 13 to 28 December 2005 for a cost of US\$11,750. Brooks paid both the 25% deposit and the balance of the fee eight weeks prior to his family's arrival at the villa, as required by the agreement. Upon arrival, however, Brooks alleged that Desert Rose was unfit for occupation, and his family elected to vacation elsewhere. He demanded the return of his money, but Newitt refused, instead offering to rent Desert Rose to someone else and give Brooks the proceeds from any such rental. Newitt was able to rent Desert Rose for a few days for Bds\$5,000 and he gave a cheque in this amount to Brooks but cancelled it before Brooks could cash it.

In her judgment dismissing Brook's claim for breach of contract, Margaret Reifer J found that the villa was fit for occupation and that, as it was Brooks who had breached the contract, he was not entitled to damages. She did, however, order that Newitt pay Brooks the Bds\$5,000 received as rent during the period paid for by Brooks, with interest.

The Court of Appeal, in dismissing the appeal of Brooks, agreed with Reifer J and rejected another argument raised by Brooks that the maximum amount to which Newitt was entitled was the 25% deposit. The Court of Appeal held that the 25% deposit was a reasonable amount of money given to secure the performance of the contract and not liquidated damages agreed or fixed by the parties.

Brooks appealed to the CCJ, now accepting the decision of the Court of Appeal that he had wrongfully terminated the contract but asserting that the damages he was liable to pay was limited to the 25% deposit. In the majority opinion, the Hon. Mr Justice Wit held that neither party had breached the contract, thus there was no liability for damages. In a concurring opinion, the Hon. Mr Justice Anderson agreed with the Court of Appeal in finding that it was Brooks who had breached the contract and that Newitt was entitled to the sum he would have received if the contract had been fully performed, which was the entire rental fee inclusive of the deposit.

The Court, therefore, unanimously dismissed the appeal and ordered costs to be paid by the Appellant as agreed by the parties.

## Appellate Jurisdiction: *(continued)*

- **Shantidai (as Administratrix of the Estate of Mahendra Sanasie, Deceased) v Barama Company Limited [2019] CCJ 21 (AJ)**

*This is an Application for Special Leave to Appeal (Guyana):*

Mahendra Sanasie, the son of Shantidai, was killed when the fishing boat on which he was working sank after being hit by a pontoon towed by a barge owned and operated by Barama Company Limited. Following the Grant of Letters of Administration of the Estate of her son, Shantidai filed proceedings seeking compensation for the loss suffered by reason of her son's death.

Fourteen and a half years after the claim was filed, Shantidai was awarded damages in the sum of GY \$12,450,000 with interest at the rate of 6% per annum from 9 January 2003 to the date of the Judgment, and at a rate of 4% per annum thereafter until fully paid. Barama appealed the award of damages and applied for a stay of execution. On 1 February 2018, Rishi Persaud JA ordered a partial stay of the execution of the award of damages and that GY \$2,000,000 be paid to Shantidai within 14 days of his Order. The Full Bench of the Court of Appeal refused Shantidai's appeal against this stay, and she then appealed that decision to the CCJ.

The CCJ noted that Shantidai properly conceded that the trial judge erred in calculating the quantum of Mahendra's contribution to his parents, thus arriving at a wrong figure for loss of dependency. Shantidai thus failed in her argument that Barama had no good prospects of success on the substantive appeal.

The CCJ was also of the view that Barama had properly used the evidence of Shantidai that she and her husband did odds and ends jobs to indicate that Shantidai would not be able to repay if the appeal was successful. This was sufficient evidence of Shantidai's financial weakness that required her to rebut it, and her failure to do so meant that Persaud JA was entitled to give full weight to it and the Court of Appeal did not err in upholding his decision on that issue.

However, the CCJ held that Shantidai's inability to repay the trial judge's award was not determinative in this case. Barama did not contest its liability for the death of Mahendra and would therefore be required to pay some amount of money to Shantidai. The GY \$2,000,000 already awarded was not seriously challenged and unlikely to be disturbed on appeal. When the loss of dependency figure was corrected, the total award would be reduced to GY \$6,850,000. The Court found that, if a stay had been sought on this figure, it would probably not have been granted.

As such, the CCJ set aside the partial stay upheld by the Court of Appeal and ordered that the adjusted award of GY \$6,850,000, minus the GY \$2,000,000 already paid, be paid to Shantidai with interest as ordered by the trial judge. The CCJ also ordered that the parties take the necessary steps to expedite or otherwise dispose of the appeal before the Court of Appeal.



## Appellate Jurisdiction: *(continued)*

- **Sigma Construction Inc v Birch Development Ltd & Ors. [2019] CCJ 22 (AJ)**

*This is an Application for Special Leave to Appeal (Barbados):*

The Applicant filed a Notice of Appeal in the Court of Appeal against an interlocutory order granted by Worrell J without first obtaining leave to appeal. After being advised by the Ninth Respondent of their intention to raise the point that leave had to first be granted, the Applicant filed an Notice of Application for directions from the Court of Appeal as to whether leave was required and if so, leave to file an application out of time for leave to appeal. The Court of Appeal determined that leave was required and then refused leave for the Application out of time. The Court weighed the interests of justice and found that while not inordinate, there was no good reason for the length of, or acceptable explanation for, the delay such as to attract the favourable exercise of discretion. Additionally, the intended appeal lacked merit and, therefore, had very little chance of success.

The Applicant then applied for special leave to appeal against the decision of the Court of Appeal. This Court held that in order to overturn the decision it was necessary for the Applicant to show that there was a blatant or egregious error of law or fact and that that error resulted or was likely to result in a serious miscarriage of justice. It was for the Applicant to present cogent reasons to excuse his failure to file his application within the stipulated time. It was not enough for the Applicant to show that the delay was due to unfamiliarity with the rules of procedure. The Court held that the Applicant failed to discharge that burden and there were no grounds to interfere with the Court of Appeal's decision. The application was dismissed.

- **Russell Crumpler v The Financial Services Commission [2019] CCJ 23 (AJ)**

*This is an Application for Special Leave to Appeal (Barbados):*

The Applicant appealed against the decision of the High Court to refuse his application to be joined as a party in judicial management proceedings. The Court of Appeal held that the appeal had no realistic prospect of success. The Applicant then sought special leave to appeal to this Court. Due to discussions with the Bench, Counsel accepted that the Court of Appeal was correct in its findings. In applying the test discussed by this Court in *Mohan v Persaud* [2012] CCJ 8 (AJ), there was no egregious error of law or substantial miscarriage of justice to justify the granting of special leave.

- **Carlton Junior Hall v The Queen [2020] CCJ 1 (AJ)**

*This is an Application for Special Leave to Appeal & Leave to Appeal as a Poor Person (Barbados):*

On 2 March 2016, Carlton Hall was convicted of the murder of Adrian Wilkinson and, as mandated by law, was sentenced to death. Hall appealed both his conviction and sentence. However, the appeal against the sentence became unnecessary after the CCJ ruled in the matters of *Nervais v The Queen and Severin v The Queen* [2018] CCJ 19 (AJ) that the mandatory death sentence for murder was unconstitutional. The Court of Appeal dismissed his appeal on 23 January 2019 and ordered that he be brought before the Trial Court for resentencing.

## Appellate Jurisdiction: *(continued)*

Hall appealed to the CCJ arguing that the identification evidence against him was so weak and unreliable that the trial judge should not have allowed the case to go to the jury and that, having done so, she was mistaken in directing that there were special circumstances to support the identification. Hall also claimed, for the first time, that his counsel had failed to raise the issue of his good character and the jury may not have convicted him if his counsel had done so.

The Court was split 3-2 over its decision. The majority (the Hon. Mr Justice Wit , the Hon. Mr Justice Anderson and the Hon. Mme Justice Rajnauth-Lee) held that the fact that the eyewitness saw Hall two times on the evening of the murder, prior to seeing him shoot the deceased, amounted to special circumstances within the meaning of the Barbados Evidence Act, and that the trial judge was, therefore, right to allow the case to go to the jury. The majority also decided that, although Hall was entitled to a good character direction as he had no prior convictions for violent offences, it was clear that the jury believed the eyewitness and did not believe Hall. So that even if the good character direction was given, it would not have made a difference to the jury's verdict.

The minority (the Hon. Mr Justice Barrow and the Hon. Mr Justice Jamadar) found that the identification evidence was not supported, either by special circumstances or otherwise, and that the trial judge should have accepted the "No Case Submission" by Defence Counsel. Alternatively, the minority felt that, had the good character direction been given, it might have swayed the jury given that the evidence against Hall was so weak.

In the circumstances, the Court dismissed the appeal and affirmed the order of the Barbados Court of Appeal that Hall be brought to the Trial Court for resentencing. The Court also called for more searching investigations and prosecutions, noting that criminal cases, and especially capital cases, required and deserved thorough investigation and presentation of all relevant evidence.

- **Hilary Shillingford v Angel Peter Andrew and Gloria Burnette nee Shillingford [2020] CCJ 2 (AJ)**

*This is an Appeal from Dominica:*

Angel Peter Andrew, by virtue of a power of attorney, authorised his sister, Gloria Shillingford, to sell lands in Dominica on his behalf. The property was sold in May 2007 for EC \$4.5 million. From the proceeds of sale, Gloria paid EC \$2,564,170.20 to Angel. Gloria also paid money to Hilary Shillingford, pursuant to an alleged exclusive agreement between them. Angel initiated a case against Gloria for the remaining funds from the sale of the property.

Angel alleged that Gloria had told him that the lands were sold for EC \$3 million and that he had no knowledge of the exclusive agreement. On the other hand, Gloria alleged that Angel knew of and had agreed to the exclusive agreement. Hilary challenged the judgments of the courts below by raising two main points. Firstly,



## Appellate Jurisdiction: *(continued)*

it was submitted that the exclusive agreement was valid. Cottle J, the trial judge and on appeal the Court of Appeal, both found that the exclusive agreement was a “fiction concocted by Hilary and Gloria in an effort to withhold from Angel a substantial part of the proceeds of his property”.

Secondly, a pleading point was raised for the first time, in which Hilary argued that the trial judge was plainly wrong to make a finding that the exclusive agreement was a fiction or concoction. As to the pleading point, it was argued that Angel never pleaded that Hilary and Gloria had concocted the exclusive agreement to defraud him. It was contended that the trial judge’s finding of fiction and concoction was nothing short of a finding of fraud, and allegations of fraud had to be specifically pleaded and particularised.

The Hon. Mme Justice Rajnauth-Lee, in delivering the judgment of the CCJ, noted that an examination of the evidence revealed that Angel’s testimony was replete with responses that the evidence of Gloria and Hilary was “fiction”, “complete fiction” and “just fiction”. In Hilary’s cross-examination it was put to him that he “made up” the exclusive agreement. The CCJ noted that this evidence was put forward without objection, and that when Hilary and Gloria appealed to the Court of Appeal, they never included the pleading point in their grounds of appeal. The CCJ agreed with the Court of Appeal that it was entirely open to the trial judge on the evidence to find that the exclusive agreement was fiction.

Furthermore, the CCJ noted that the pleading point was a new ground being raised for the first time in the appeal before the CCJ. The CCJ referenced *Byron v Eastern Caribbean Amalgamated Bank* for the proposition that an apex court is normally reluctant to allow a party to take a fresh point at this late stage in the proceedings. In the interests of justice, the CCJ held that it would not permit Hilary to take this fresh point. In the circumstances, the CCJ, therefore, dismissed the appeal and the judgments of the courts below were affirmed.

- **Pedro Deray Ellis v DPP [2020] CCJ 3 (AJ)**

*This is an Application for Special Leave to Appeal (Barbados):*

The Appellant in this matter was granted special leave to appeal against the refusal of bail. The appeal became academic because the Appellant was tried and acquitted of murder and was also released from detention. The Court asserted that the principle that courts do not adjudicate academic questions is a long settled one. The principle derives from the fact that, absent specific statutory intervention to the contrary, courts are created to decide disputes between parties and not to render advisory opinions. The Court relied on *Ya’axche Conservation Trust v Wilber Sabido et al* [2014] CCJ 14 (AJ) where the Hon. Mr Justice Anderson identified exceptions to the rule and emphasised that the Court is cautious in the exercise of its discretion to entertain an academic appeal and would in principle only do so where the question is one of public law. In the circumstances, the appeal was dismissed.

## Appellate Jurisdiction: *(continued)*

- **Chandroutie Persaud, Rafudeen Nizamudin v Javen Jason Nizamudin [2020] CCJ 4 (AJ)**

*This is an Application for Special Leave to Appeal (Guyana):*

Javen Jason Nizamudin, jointly held property under a Transfer of Lease with Chandroutie Persaud. Javen along with his wife and child resided on this property with his father, Rafudeen Nizamudin and Chandroutie, Rafudeen's current wife. After a deterioration of the family's relationship, Javen and his family left the premises. Javen brought legal action in the High Court by way of Fixed Date Application under the Civil Proceedings Rules 2016, seeking the sale of the property. The Applicants claimed that the property belonged to Chandroutie and that she had only included Javen's name as a trustee for Rafudeen, since at that time Rafudeen was engaged in legal battles with his former wife and the property would be subject to the dispute if his name was added.

The High Court granted Javen's application on 12 June 2018, ordering the sale of the property and that the net proceeds be divided equally between Javen and Chandroutie. The Applicants appealed this decision to the Court of Appeal. Javen responded with an application to have the appeal dismissed as an abuse of process and for lack of jurisdiction. On 11 July 2019, the Court of Appeal struck out the Applicants' appeal for want of jurisdiction. The Applicants then applied to the CCJ for special leave to appeal against the decision of the Court of Appeal to strike out their appeal.

The CCJ, in a judgment delivered by the Hon. Mr Justice Jamadar, found that two issues needed to be answered: 1) whether the proceedings brought by Javen were 'summary proceedings' for the purposes of the Court of Appeal Act and 2) whether it would be arguable that the appeal lies to the Court of Appeal and not the Full Court.

The CCJ first noted that neither the Court of Appeal Act nor the High Court Act define "summary proceedings". For the definition of summary proceedings, the CCJ first assessed the meaning of 'summary'. Reference was made to *Chung v AIC* where the CCJ in interpreting the same section defined the plain meaning of 'summary' as "short, speedy, without delay or without formality". Secondly, as it concerned the meaning of proceeding, the CCJ rejected the Applicants' contention that it was synonymous to 'judgment' since this would change the plain language of the section and no ambiguity existed to warrant such change. The CCJ further found that section 6 of the Court of Appeal Act created an exclusive civil jurisdiction for the Court of Appeal and agreed with the Court of Appeal that the combined effect of the provisions leads to the inevitable conclusion that appeals against orders made under Order 12 of the Guyana Rules of the High Court should lie to the Full Court.

The CCJ found that the Court of Appeal was correct in striking out the Applicants' appeal for lack of jurisdiction and as such the application for special leave was refused. The CCJ, therefore, dismissed the application for special leave.



## Appellate Jurisdiction: *(continued)*

- **Marjorie Knox v John Vere Evelyn Deane [2020] CCJ 5 (AJ)**

*This is an Application for Special Leave to Appeal (Barbados):*

The Respondents obtained a garnishee order at the High Court against dividends payable by Kingsland Estates to Marjorie Knox. The decision to make that order was appealed and the Court of Appeal reserved its decision in 2016. Three years passed and no decision was rendered by the Court of Appeal. Knox's representative wanted the failure of the Court of Appeal to render a decision to be treated as a dismissal of the appeal. On that premise, her representative sought special leave to appeal to this Court. The principle question before this Court was, therefore, whether it could hear an Application for special leave to appeal when the Court of Appeal did not deliver a judgment.

This Court quoted XXV of the Agreement establishing the CCJ which states that the CCJ in the exercise of its appellate jurisdiction shall hear appeals from decisions of the Court of Appeal. Article XXV, however, also states that the CCJ has jurisdiction and powers as are conferred on it by the Agreement and the Constitution of any other law of a Contracting Party. Article XXV is replicated in sections 6, 7 and 8 of the Caribbean Court of Justice Act and section 79D(1)(C) of the Constitution of Barbados further emphasises that the CCJ is the final Court of Appeal from any decision given by the Court of Appeal. This Court held that the relevant provisions of the Agreement and the Constitution made it unequivocally clear that an appeal lied to the CCJ from decisions of the Court of Appeal from: decisions of the Court of Appeal as of right; with the leave of the Court of Appeal from the decisions of the Court of Appeal; and with special leave from this Court from decisions of the Court of Appeal.

This Court in response to the contention of the Appellant that it should exercise its inherent jurisdiction to hear the matter said that the inherent jurisdiction encompassed a residual power which was rooted in the authority and judicial processes established by statute. There is nothing in the CCJ's inherent jurisdiction that would allow it to radically enlarge its statutory remit to bypass the Court of Appeal. This Court dismissed the application for special leave but added that the representative was not without remedy; he was empowered under section 24(1) of the Constitution to make an application for constitutional redress.

- **Chefette Restaurants Limited v Orlando Harris [2020] CCJ 6 (AJ)**

*This is an Appeal from Barbados:*

Orlando Harris was dismissed on 27 January 2014 from his position as an assistant manager with Chefette after he was blamed for failing to follow cash handling procedures, resulting in the misappropriation of a Bds \$40 cheque of another manager. Prior to his dismissal, he was invited to three meetings with senior managers of the company. After the first meeting, he was suspended without pay pending further investigation, and was dismissed after he did not attend the third meeting.

## Appellate Jurisdiction: *(continued)*

The Employment Rights Tribunal (ERT), established by the Employment Rights Act of 2012, found that Harris had been unfairly dismissed, as the procedure detailed in the Act was not followed by Chefette. As a result, the ERT awarded Harris compensation in the sum of Bds \$106,630.01, inclusive of 27 months compensation for lost wages. The Court of Appeal upheld the finding of unfair dismissal but deducted the sum that Harris had been given as vacation pay and payment in lieu of notice and adjusted the award to Bds \$95,089.13.

In its appeal to the CCJ, Chefette's main argument was that the Court of Appeal had erred in upholding the decision of the ERT that Harris had been unfairly dismissed. However, the CCJ found that Chefette had failed to follow the required legal procedure, which was designed to ensure due process, by not informing Harris of the accusation against him and giving him an opportunity to respond. Therefore, Chefette's dismissal of Harris was unfair and that conclusion was the final decision on the question of unfairness. Additionally, the Court also considered the substantive fairness of the decision to dismiss Harris. Although purely academic, this will provide guidance on the interpretation of the Act for future cases.

The CCJ found that the compensation for an unfairly dismissed employee provides for a basic award, an award for benefits that the employee may have expected had it not been for the dismissal, and a punitive award if the dismissal was for certain reasons identified in the Act. The Court found that the basic award includes compensation for past services as well as for wages lost as a result of the dismissal, and as such there is no need for a separate award for lost wages. The punitive award was not applicable to this case and Harris had not provided any evidence of expected benefits, so the CCJ reduced the award of compensation to the amount of the basic award of Bds \$31,274.78. In addition, the Court held that Harris was entitled to retain the money paid to him as salary in lieu of notice and vacation pay which sum amounted to a further Bds \$11,540.88.

As the appeal was allowed only in part, Chefette was ordered to pay 75% of Harris' cost at both the CCJ and the Court of Appeal.

- **Linton Pompey v The Director of Public Prosecutions [2020] CCJ 7 (AJ)**

*This is an Application for Special Leave to Appeal (Guyana):*

Linton Pompey was convicted on 21 September 2015, of three sexual offences against his niece, who was 14 years old at the time of each offence. The trial judge passed sentences of five years for the sexual assault and 15 and 17 years for the first and second rape convictions respectively and ordered that the sentences run consecutively. Therefore, Pompey's total prison time would have eventually amounted to 37 years.

The Court of Appeal dismissed Pompey's appeal against both his conviction and the sentences imposed on him. The Court of Appeal noted that it was important to send a strong message that sexual offences, particularly rape, of child family members would not be tolerated.



## Appellate Jurisdiction: *(continued)*

The CCJ only gave Pompey permission to appeal his claim that his sentences were too severe, and unanimously agreed that the overall prison time of 37 years was excessive. However, the Court was divided as to how that time should be reduced.

The majority opinion was delivered by the Hon. Mr Justice Saunders, on behalf of himself and the Hon. Mme Justice Rajnauth-Lee, the Hon. Mr Justice Barrow, the Hon. Mr Justice Burgess and the Hon. Mr Justice Jamadar. They noted that although it was open to the trial judge to order consecutive sentences as the offences arose from separate incidents, the trial judge did not sufficiently consider that the resulting combined sentence would be excessively high. The trial judge could have imposed a sentence for the second rape, the most serious offence, that fairly reflected the offender's overall criminality. In this way, Pompey would have served the lesser two sentences simultaneously with the sentences given for the second rape. In applying this option, the majority held that the sentence of 17 years passed for the second rape was neither so lenient nor so harsh that it warranted being set aside by an appellate court, and therefore ordered that the sentences run concurrently to give an overall sentence of 17 years.

In separate concurring opinions, the Hon. Mme Justice Rajnauth-Lee and the Hon. Mr Justice Jamadar focused on the alarming prevalence of sexual offences against children and the robust approach that was required in respect of sentencing for such offences.

The Hon. Mr Justice Wit and the Hon. Mr Justice Anderson, in their joint dissenting opinion, considered that appellate courts are given wide powers to review sentences. As the cumulative 37 years in prison was excessive, the sentences imposed should be replaced by sentences that were warranted in all the circumstances of the case. These two judges considered that the sentences should accordingly be replaced with nine years for the second rape, six years for the first rape, and nine months for the sexual assault conviction. They would also have ordered that these sentences run concurrently.

- **Bay Trust Corporate Services Limited v Karen Acosta Longsworth [2020] CCJ 8 (AJ)**

*This is an Appeal from Belize:*

On 16 July 2011, Glen Wilson, the majority shareholder and Chairman/President of the Appellant company and a sister company, sent an email to Karen Longsworth. The email informed her that he had taken over management of both companies. Longsworth was at that time the Managing Director of the two companies. Longsworth met with Wilson on 18 July 2011, after which she sought legal advice and never returned to work. Instead, she commenced proceedings for constructive dismissal in the Supreme Court of Belize.

The Supreme Court found that Wilson's plan of action was designed to strip Longsworth of her management of the company and went to the root of her contract. However, in the absence of a resolution of the Board of Directors of the company, his plan was only a proposal so that the company could not be held responsible. The company thus succeeded on its counterclaim that Longsworth had abandoned her employment and

## Appellate Jurisdiction: *(continued)*

breached her contract. The Court of Appeal allowed the appeal, finding that Wilson's acts must be attributed to the company, as he was the directing and controlling mind and will of the company. Since his acts made it unreasonable to expect Longworth to continue the employment relationship, it therefore amounted to constructive dismissal of Longworth under section 42A of the Belize Labour Act 2011.

The CCJ agreed that Wilson was an agent of the company and that liability for his actions might in certain circumstances rest with the company. The CCJ also noted that this was different from saying that Wilson's conduct could be treated as the conduct of the company for the purposes of section 42A of the Act. The CCJ also found that the purpose of section 42A was to merge the liability of a company with an identifiable official of the company, and for that reason, it was unnecessary to determine whether such an official was the controlling mind and will of the company.

The CCJ found it necessary to fashion a special rule of attribution in the circumstances of this case to fulfil the purpose of section 42A. As Wilson was undoubtedly an identifiable official of company, the CCJ found that his acts were to be taken as the conduct of the company for the purposes of section 42A. Consequently, the company was liable for the constructive dismissal of Longworth.

The Court thus dismissed the appeal and ordered that the Appellant pay Longworth the costs of the appeal.

- **Belize International Services Ltd v AG of Belize [2020] CCJ 9 (AJ)**

*This is an Appeal from Belize:*

In 1993 Belize International Services Limited ('BISL') entered into an agreement ('Original Agreement') with the Government of Belize ('the Government') to assist in the development and management of two statutory bodies, the International Merchant Marine Registry of Belize ('IMMARBE') and the International Business Companies Registry of Belize ('IBCR'). Under the Original Agreement, the income earned by these two registries was to be deposited in several escrow accounts of these registries. The Original Agreement was set for a period of ten years with an option to renew for another term of ten years. On 9 May 2003, BISL exercised the option of renewal, extending the term to June 2013 ('Renewal Agreement'). On 24 March 2005, BISL and the Government agreed to extend the contract to June 2020 ('Extension Agreement'). Pursuant to the Extension Agreement, BISL paid the Government US\$1.5 million as consideration. On 11 June 2013, the Government forcefully, without a Court Order, took possession of both IMMARBE and IBCR from BISL.

On 25 March 2015, BISL commenced a claim in the Supreme Court of Belize against the Government, for damages resulting from a breach of contract. Arana J, the trial judge, found that the Government had failed to adhere to a mandatory requirement under the parties' agreement. Further, the trial judge held that the Extension Agreement was not put to tender as required by the Financial Orders 1965. Arana J found that this rendered the contract unconstitutional, illegal, and unenforceable. BISL appealed to the Court of Appeal, who dismissed the appeal and affirmed the Supreme Court's findings. The appeal of this decision was brought before the CCJ.



## Appellate Jurisdiction: *(continued)*

The Hon. Mr Justice Wit concluded that the Government flouted its duty under the contract and would be liable to pay damages for the breach. The Hon. Mr Justice Anderson found that in applying proportionality to the instant case, it would be grossly disproportionate to deny enforcement of the contract. He also posited that since BISL did not seek specific performance but rather damages, it could succeed in the relief sought. The Hon. Mr Justice Burgess found that not upholding BISL's claim would compromise the integrity of the legal system, by encouraging the Government to enter into illegal contracts, benefit from them and then withdraw with impunity at the expense of private companies. The Hon. Mr Justice Jamadar found that the Government, in its dealings with BISL, had not satisfied the minimum standards demanded by the rule of law. The Hon. Mr Justice Jamadar found there was an intersection of public constitutional law and private contract law in this case, where the State had a special duty to act fairly, reasonably and in good faith with its contracting parties. The Hon. Mr Justice Jamadar also found that the Government had not only failed to show legal justifications for its actions, but also acted in a constitutionally immoral manner.

The CCJ ordered that the appeal was allowed, and the matter was remitted to the Supreme Court for assessment of damages.

- **Mohamed Irfaan Ali and Bharrat Jagdeo v Eslyn David et al`[2020] CCJ 10 (AJ)**

*This is an Appeal from Guyana:*

On 16 June 2020, Eslyn David applied to the Guyana Court of Appeal to challenge the credibility of the recount, undertaken by the Guyana Elections Commission (GECOM), of the votes cast at the General and Regional Elections held on 2 March 2020. Ms David claimed that GECOM had created a new and completely different legal regime by an Order it had issued (Order 60) authorising the recount and that GECOM had abdicated its responsibility to determine the election's credibility.

Article 177(4) of the Guyana Constitution, under which David purported to bring her Application, addresses questions as to the validity of an election of a President. Decisions of the Court of Appeal made under that Article are final and cannot be appealed to the CCJ.

By a 2 -1 majority, the Court of Appeal held that it had jurisdiction to entertain the Application and concluded that the words in Article 177(2)(b) of the Constitution, "if more votes are cast in favour..." mean 'if more valid votes are cast in favour'. Mohamed Ali and Bharrat Jagdeo sought to appeal that decision to the CCJ.

The CCJ accepted that any decision made under Article 177(4) is final but determined that the Court of Appeal's decision neither fell under Article 177(4) nor was it in conformity with the Constitution. The Court took the view that the Court of Appeal majority interpreted Order 60, considered the effect of that Order and then applied that to the clear words of Article 177(2)(b). However, as there was no need for an interpretation of Article 177(2)(b) or any other Article of the Constitution, there was nothing in the Application to trigger Article 177(4).

## Appellate Jurisdiction: *(continued)*

The Court noted that “valid votes”, which determine the election of the members of the National Assembly as well as the winning Presidential candidate, are obtained by a transparent exercise described in the Representation of the People Act. Any further question of the validity of a vote must be pursued through the exclusive jurisdiction of the High Court under Article 163 after the elections have been concluded and the winners declared. By its decision, the Court of Appeal impliedly invited the CEO to engage unilaterally in an unlawful validation exercise that trespassed on that exclusive jurisdiction.

The Court also considered the history of Article 177(4) and held that the Application was premature as it was always intended that questions as to the validity of the election of a President could arise only after the members of the National Assembly had been elected and a Presidential candidate had been deemed and declared to be President.

As David’s Application did not trigger the provisions of Article 177(4), the Court of Appeal lacked jurisdiction to make the orders that were made, and the finality clause was inoperable. The CCJ thus had jurisdiction to hear and determine the Appeal and ordered that both the decision of the Court of Appeal and the report of the Chief Election Officer, that was based on it, were of no effect.

- **Prince Sinckler v Editha Sinckler [2020] CCJ 11 (AJ)**

*This is an Appeal from Barbados:*

On 6 February 2006, the marriage of Prince Sinckler and Editha Sinckler was dissolved. Editha subsequently obtained a maintenance order on 8 November 2007, ordering Prince to pay Bds\$950 per month to her with effect from 28 November 2007. Prince failed to pay maintenance from 28 November 2007 to 6 June 2008, during which period the maintenance order was treated as an interim order. On the 6 June 2008, the interim maintenance order was discharged. Editha sought to enforce the interim maintenance order by filing an application, on 30 September 2008. On 15 November 2010 Editha filed a new application as the trial judge had subsequently directed the application to be refiled. As there were now two applications for the same relief, when the matter came on again for hearing on 7 September 2011, Editha withdrew the older one.

The remaining application was eventually heard on 27 November 2012, and the judge gave some interlocutory orders, which were appealed by Prince. That appeal was dismissed by the Court of Appeal. The case went back to the High Court and on 28 March 2014, Prince was again ordered to pay maintenance and he once more, appealed to the Court of Appeal. He challenged the Order of 28 March 2014 on two grounds, the substantive ground being that the trial judge had wrongly refused to apply the “12 months’ rule”, a rule of practice in Australia according to which a spousal maintenance order should not be enforced and arrears of maintenance should not be collected if the application for enforcement was filed more than 12 months after these arrears were due.



## Appellate Jurisdiction: *(continued)*

On 12 May 2016, the Court of Appeal dismissed the appeal. By order of 18 January 2017, the Court of Appeal granted Prince leave to appeal to the CCJ. Prince filed his Notice of Appeal more than two years later. His only ground of appeal was that the Court of Appeal was wrong because of the “12 months’ rule” of practice.

The CCJ heard the appeal on 19 February 2020. With respect to the “12 months’ rule” of practice, the CCJ agreed with the Court of Appeal of Barbados’ finding that the practice in Barbados has been, that a person seeking to recover arrears of maintenance must act within a reasonable time. The fact that in some jurisdictions, a “reasonable time” in practice would or may have been transformed into a fixed period of 12 months, does not mean that such a rule of practice should be elevated to the level of a legal rule and transplanted into other jurisdictions, like Barbados. Furthermore, even if such a rule had existed in Barbados (which it does not), there would not have been a violation of that rule as Editha had filed her original application for enforcement, well within the 12 month period. The CCJ consequently dismissed the appeal.

- **Rohan Rambarran; Gavin Wayne Green v The Queen [2020] CCJ 12 (AJ)**

***This is an Application for Special Leave to Appeal & Leave to Appeal as a Poor Person (Barbados):***

Rohan Rambarran and Gavin Green were both convicted of importation, possession, and trafficking of large amounts of cannabis and cocaine. The Court of Appeal dismissed their appeals against conviction but reduced their sentences and they were both released. Rambarran sought to appeal on grounds that all related to the evidence. Principally, he wished to argue that the trial judge should have upheld his submission of no case to answer and that the evidence as to the identification of the drugs was totally discredited and otherwise unreliable. Green wished to appeal against the directions the trial judge gave in relation to corroboration and the right against self-incrimination.

The CCJ found that the Court of Appeal dealt adequately with all the issues that the applicants wished to argue on a further appeal and their judgment left the CCJ satisfied that there is no potential miscarriage of justice or arguable error of law. In the case of Rambarran, the Court of Appeal found that there was sufficient and reliable evidence on which a jury could properly convict. In relation to Green, the CCJ found there was no substance to his contention (as it evolved) that the trial judge should have given a stronger direction on how to treat the sworn testimony of a co-accused or on the alleged mistreatment of Green by the police.

It was clear, therefore, that their applications satisfied none of the requirements to qualify for the grant of special leave that the CCJ laid down in *Doyle v The Queen* and has consistently applied in decisions that followed. Namely that the CCJ will only intervene in a criminal case in circumstances where a serious miscarriage of justice may have occurred in the court below or where a point of public importance is raised and the applicant persuades the Court that if not overturned a questionable precedent might remain on the record.

## Appellate Jurisdiction: *(continued)*

The legislative condition that special leave to appeal must be obtained to appeal in criminal cases (as well as in some civil cases) is part of the fundamental tenet of law that there must be an end to litigation. Having been given a right of appeal to the Court of Appeal, a dissatisfied litigant is not allowed to appeal further simply because they are dissatisfied with the result. That limitation on the right to appeal protects opposing parties against the burden of further litigation, which is all the more burdensome if an appeal is unmeritorious. The limitation also guards the legal system, including the civil and criminal law departments of the State, and its judicial resources against undue demands. The function of the requirement to obtain special leave is to ensure that unmeritorious appeals go no further but that arguable appeals are permitted to proceed.

The CCJ was satisfied that there was no justification for permitting a further appeal. For that reason, the applications were refused.

- **Winston Alexander v the Queen [2020] CCJ 13 (AJ)**

*This is an Application for Special Leave to Appeal (Barbados):*

The Applicant applied for special leave to appeal against his murder conviction. He proposed to argue five grounds of appeal only one of which was argued before the Court of Appeal. The Court applying *Lovell v The Queen* [2016] CCJ 6 (AJ) at [19] said that it was only in exceptional circumstances, where there would be a miscarriage of justice, would the Court allow the Applicant to advance a new ground. The Court found that there was no such exceptional circumstance, then assessed the strength of the Applicant's sole ground of appeal. The question for determination was whether the Court of Appeal having found that the trial judge did not properly direct the jury on the defence of accident, erred in applying the proviso in section 4(2) of the Criminal Appeal Act Chapter 113A which states that, even if the Court decides that the point raised in the appeal might be decided in the Appellant's favour, it is empowered to dismiss the appeal if there was no substantial miscarriage of justice. This Court considered *Fazal Mohammed v The State* (1990) 37 WIR 438 at 445 quoting from *Lee Chun-Chuen v The Queen* [1963] AC 220 at 231 and was satisfied that it did not need to interfere with the judgment of the Court of Appeal. The Court of Appeal gave proper consideration in applying the proviso and did not misdirect itself; it considered the weight of the evidence against the Applicant and was satisfied that a jury properly directed would have inevitably found him guilty. The application was dismissed.



## Appellate Jurisdiction: *(continued)*

- **Caye International Bank Limited, Joel M. Nagel v Tommy Lynn Haugen [2020] CCJ 14 (AJ)**

*This is an Appeal from Belize:*

In 2014, Tommy Haugen sued Caye Bank and Joel Nagel for damages in the Supreme Court of Belize. The first issue was that in 2003, Caye Bank and Nagel had persuaded him to purchase 3,417 shares in Caye Bank for which he paid US\$200,655.00. Haugen alleged that Caye Bank and Nagel had fraudulently misrepresented the status of Caye Bank. He also alleged that he had never received the shares he had purchased. Haugen demanded damages (a) for fraudulent misrepresentation or, alternatively, (b) for breach of contract. The second issue was that Haugen alleged that a sum of US\$10,202.03 had wrongly been withdrawn from his account, constituting a breach of contract. Caye Bank and Nagel conceded on the first day of the trial the second plank of Haugen's case. However, they firmly maintained their opposition to the claim for fraudulent misrepresentation. The Supreme Court ruled against them and they appealed to the Court of Appeal.

At the hearing of the appeal, that court was informed that the Bank and Nagel had made good the wrongful withdrawal of US\$10,202.03 from Haugen's account. As to the first issue, the Court of Appeal agreed with the trial judge that Caye Bank and Nagel had been guilty of fraudulent misrepresentation. Caye Bank and Nagel subsequently appealed to the CCJ.

The CCJ was not persuaded that there had been any fraudulent misrepresentation. Before the CCJ the appellants conceded that they had been wrong to forfeit Haugen's shares and to withdraw moneys from his account without his authorisation. Thereupon, the parties presented the CCJ with a consent order which was adopted. The CCJ set aside the decision and orders of the Court of Appeal. The CCJ further remitted the issue of the breach of contract to the Supreme Court for damages to be assessed and ordered the parties to file written submissions on the issue of costs. This case was the CCJ's decision on those costs.

Caye Bank and Nagel were the successful party on the appeal before the CCJ and they should have been successful before the Court of Appeal. The situation in the Supreme Court, however, was substantially different. The CCJ had no difficulty in stating that the conduct of Caye Bank and Nagel unnecessarily required Haugen to commence proceedings. This situation was exacerbated by their decision to wait until the trial to concede. However, with respect to his claim for damages on the ground of fraudulent misrepresentation, Haugen was clearly the unsuccessful party.

The CCJ held that although Caye Bank and Nagel were entitled to recover their costs both at the CCJ and in the Court of Appeal, they should be reduced to 80% to be taxed, if not agreed, and that the parties were to bear their own costs in the Supreme Court.

## Original Jurisdiction:

- **Trinidad Cement Limited v The State of Trinidad and Tobago [2019] CCJ 4 (OJ)**

CARICOM's Council for Trade and Economic Development ('COTED') through the affirmative vote of 11 Member States decided to classify extra-regional cement called Rock Hard Cement as 'Other hydraulic cement'. Through this classification, Rock Hard Cement attracted a Common External Tariff (CET) of 0-5%. COTED'S decision was heavily influenced by the advice from the World Customs Organization's ('WCO') Harmonized System Committee. The Committee found that Rock Hard Cement was properly classified as 'Other hydraulic cement' under its widely accepted Harmonized Commodity Description and Coding System (HS). Trinidad Cement Ltd (TCL) and Arawak Cement Company Ltd (ACCL) argued that the economic objectives of CARICOM would be impaired if an extra-regional product was classified differently and was subjected to a lower tariff than a regional product with which it competed. On this basis, they contended that Rock Hard Cement ought to have been classified as 'Building cement (grey)' and be subjected to the 15% CET.

The Court found that all Member States participating in the CSME were also members of the broader framework of the World Trade Organization (WTO). It was expressly stated in the CARICOM CET that it was premised on the WCO's HS Convention and adjoining Explanatory Notes. Consequently, COTED was fully entitled to place heavy reliance upon the advice sought and obtained from the WCO and its HS Committee given the role of the WCO in harmonising rules on international trade within the context of the WTO. The Court also found that the decision was validly made in accordance with Article 29(1). In light of the Court's findings, COTED's classification decision was held to be binding on all Member States and Rock Hard Cement was therefore to be classified as 'Other hydraulic cement' on which Member States should levy a CET rate of between 0-5%.

- **Trinidad Cement Limited & Ors. v The State of Trinidad & Tobago and Ors. [2019] CCJ 5 (OJ)**

In this supplementary judgment, the Court decided the entitlement of the parties as to costs. The Court noted rule 31.1(2) of the Original Jurisdiction Rules 2019 which recognises the general rule that costs follow the event. The Court also considered that the proceedings were consolidated, and the four substantive issues were: classification, derogation, jurisdiction and interim measures.

Rock Hard Distribution Ltd ('RHDL') and Rock Hard Cement Ltd ('RHCL') were the overall successful Parties. Each of these two entities, who are related parties, appeared in two of the four proceedings. They were successful on the classification, jurisdiction and derogation issues, however, they lost on the competence of COTED to make a non-judicial determination on classification. Trinidad Cement Ltd ('TCL') and Arawak Cement Company Ltd ('ACCL') were related parties. TCL appeared in only two of the original four cases. ACCL appeared in only the case against Barbados, as Claimants along with TCL. While the two companies were losing parties, they did not lose on all issues. The State of Trinidad and Tobago was the Defendant in the first-commenced case, brought by TCL and was also Defendant in the claim brought by RHDL. Trinidad and Tobago was a losing party but did not lose on all issues. The State of Barbados was the Defendant in the two claims brought respectively



## Original Jurisdiction: *(continued)*

by TCL and ACCL and by RHCL. It won on the central issue of classification, but its stance on the derogation issue unnecessarily increased costs. Mootilal Ramhit and Sons Contracting Ltd were Interveners in the first-commenced claim by TCL and had a common interest with RHDL as to classification. Ramhit were content to file a notice stating they adopted the submissions filed by Rock Hard. Although Ramhit had Senior Counsel and the largest number of junior attorneys in attendance, they made a limited contribution on the substantive issues.

Based on the foregoing, the Court ordered that RHDL and RHCL recover 80% of their costs fit for one senior and one junior Counsel. In terms of distribution of payment of costs to RHDL and RHCL, TCL and ACCL were ordered to pay 60%, the State of Trinidad and Tobago 20%, and the State of Barbados 20%. Further, the Court ordered that Ramhit be entitled to 40% of costs for one senior and one junior Counsel and Barbados be entitled to recover 40% of its costs fit for one senior and one junior Counsel, from TCL and ACCL. CARICOM was ordered to bear its own costs.

- **Advisory Opinion by the Caribbean Community [2020] CCJ 1 (OJ)**

The Conference at its 18th Special Meeting agreed to enlarge the list of persons entitled to move and work freely to include agricultural workers and security guards (the “enlargement decision”). At its 30th Inter-Sessional Meeting, the Conference agreed that for a period of five years, a special dispensation would be given to Antigua and Barbuda and St Kitts and Nevis pursuant to Article 27(4) of the Revised Treaty of Chaguaramas (RTC), to opt out of the enlargement decision. Subsequently, CARICOM requested the Court’s advice pursuant to Article 212 of the RTC on two questions; whether a Member State can lawfully opt out of a decision of the Conference taken under Article 46 (“the first question”); and secondly, whether the principle of non-reciprocity would be applicable to enable nationals of those Member States to derive the benefits of the decision (“the second question”).

In answering the first question the Court noted that an opt out was only permissible if the fundamental objectives of the Community, as laid down in the Treaty, were not prejudiced by it. However, the RTC did not “lay down” “fundamental objectives”. Therefore, such objectives had to be culled from the Treaty. This Court opined that freedom of movement of skilled nationals is essential for the achievement of a seamless economic space. It is a goal according to Article 45 of the RTC. It is axiomatic for optimal production by economic enterprises according to paragraph seven of the Preamble to the RTC. It is also vital to the achievement of many blanket objectives listed in Article 6 of the RTC. More so, this Court in *Shanique Myrie v The State of Barbados* [2013] CCJ 3 (OJ) referred to freedom of movement as a ‘fundamental Community goal’ and ‘a fundamental principle’. Therefore, freedom of movement of skilled nationals is a fundamental objective of the Community, but the more pertinent question was whether it prejudiced by the enlargement decision. This Court employed the test of proportionality and considered the following factors: the opt out was made available to two Member States

## Original Jurisdiction: (continued)

which were less developed countries in CARICOM; it was temporary; and it related only to two categories of skilled nationals. Based on those factors, the Court found that the fundamental objective of freedom of movement of skilled nationals was not prejudiced.

In answering the second question this Court stated that Article 27(4) clearly specified that a Member State may opt out of the obligations arising from a decision. It did not mandate that the opt out extended to foregoing the rights to be enjoyed from the decision. More substantially, this Court noted Article 8 of the RTC which requires that each CARICOM Member State accord to another CARICOM Member State treatment no less favourable than that accorded to, *inter alia*, a third CARICOM Member State. Therefore, the Court held that Article 27(4) is non-reciprocal in character and Member States are required to extend to the agricultural workers and security guards of Antigua and Barbuda and St Kitts and Nevis the right to seek employment in their respective States.

- **Rock Hard Cement Limited v The State of Barbados and The Caribbean Community [2020] CCJ 2 (OJ)**

On 17 June 2019, the Council for Trade and Economic Development (COTED), the organ of the Caribbean Community (CARICOM) responsible for altering or suspending the Common External Tariff (CET), approved the application of Barbados to suspend the CET of 5% on other hydraulic cement in order to replace it with a tariff of 35%. The suspension was authorised for a period of two years and not the five years requested.

Rock Hard Cement Limited, a company that imports other hydraulic cement manufactured in Turkey into Barbados, was not consulted or notified before the application to raise the tariff was made or granted although both Barbados and COTED were aware of the impact the COTED decision would likely have had on that company. Rock Hard claimed that the decision to raise the tariff should be annulled because it had a legitimate expectation that Barbados would keep the tariff steady at the CET rate of 5%. The basis of this legitimate expectation was alleged representations made to Rock Hard by Barbadian officials in 2015 when Barbados reduced the tariff from 60%, where it stood in 2015, to the CET rate of 5%.

The Court held that, in order for Rock Hard to succeed in the Court's Original Jurisdiction, the alleged representations that gave rise to its expectation must have come from CARICOM, but there was no claim or evidence that it was COTED that made the alleged representations to Rock Hard. The Court also dismissed Rock Hard's claims that the COTED decision was arbitrary or irrational. The Court stated that the rationale and justification presented to COTED by Barbados were supported by the factual circumstances and that, in any event, the grounds on which the request was approved clearly fell within a category which allows COTED a broad discretion and where the scope for the Court's intervention is narrow.

On the other hand, the Court declared that Barbados and CARICOM had failed to ensure that Rock Hard was consulted before the application for the suspension was approved, but that the effect of the failure in this case



### Original Jurisdiction: (continued)

did not call for annulment of the decision. The Court expressed dismay that CARICOM had failed to maintain an effective system of consultations at the national and regional level as required by Article 26 of the Revised Treaty of Chaguaramas (RTC). The Court noted that the agreed procedures for the processing of requests to COTED, such as this one made by Barbados, had not yet been formally brought into force. The Court found that this was a weakness in the system.

The Court concluded by stating that it is a matter of Barbadian domestic policy whether that State wished to adopt measures to facilitate the importation of cement produced extra-regionally or encourage locally produced cement manufactured by Arawak Cement Company Limited. The Court emphasised, however, that any such measures and the processes accompanying them must comply with the rule of law.

- **Mootilal Ramhit and Sons Contracting Limited v The State of Trinidad and Tobago and The Caribbean Community [2020] CCJ 3 (OJ)**

Mootilal Ramhit and Sons Contracting Limited, a company that imports other hydraulic cement into the State of Trinidad and Tobago, was granted special leave on 11 February 2020 to file an Originating Application to commence proceedings against the Defendants for judicial review of the decision of the Council for Trade and Economic Development (COTED) to suspend the Common External Tariff (CET) of 5% on imports of other hydraulic cement (classified under Tariff Subheading 2523.90.00) and impose a rate of 35% from 1 January 2020 to 31 December 2020 ('the Suspension'). The Suspension was made effective by Legal Notice No. 394 dated 18 December 2019.

The Originating Application was filed on 19 February 2020, and subsequent pleadings also filed by the Defendants and Trinidad Cement Limited, which was granted leave to intervene. However, following the judgment of the Court delivered on 10 June 2020 in the similar matter of *Rock Hard Cement Limited v The State of Barbados and The Caribbean Community and Arawak Cement Company Limited, Intervening* [2020] CCJ 2 (OJ), the parties engaged in discussions and arrived at a compromise of the claim, which the Court found legally unobjectionable.

As a result, the Court, by consent of the parties, ordered and declared that:

- (a) The State of Trinidad and Tobago failed to ensure that the Claimant was consulted before the application for the suspension of the CET on Tariff Subheading 2523.90.00 was made and approved;
- (b) Leave be granted to the Claimant to discontinue all other claims contained in its Originating Application filed 19 February 2020;
- (c) The parties file submissions on costs.

# Focusing on Accountability

## Updated Code of Judicial Conduct

The year 2020 will forever be remembered by those of us who are living through it. It is also a special year for the CCJ. We celebrate our 15th Anniversary as an indigenous Caribbean court, established by the peoples of the Caribbean with aspirations and hopes that the CCJ would build a uniquely Caribbean jurisprudence that will better serve the needs of Caribbean people.

Given the CCJ's commitment to the highest judicial standards and the positive influence on the Court of the valuable work of the Global Judicial Integrity Network and the United Nations Office on Drugs and Crime, it was only fitting that the President and the Judges should come together in 2020 to consider the third iteration of the Code of Judicial Conduct. The first version of the Code was prepared in anticipation of the newly appointed Judges in 2005, and the first revision took place in 2013.

Over many weeks, the plenary of Judges met on several occasions to consider, discuss, hammer out and revise several provisions of the Code. Described by President Saunders in his Preface to the Code as "the most fascinating and valuable aspect of the revision process", the discussions among the Judges were extensive and robust. They served to foster a better understanding of the changing global environment in which the modern-day judiciary functions, as well as the new challenges faced by judges. The consensus was arrived at after the Judges fully explored the impact and consequences of the several important proposed amendments.

For the first time, the Judges decided that the Code should include a Preamble which would focus on its broad objectives. In so doing, the

Judges recognised and documented the CCJ's primary role in serving the peoples and states of the Caribbean Community by the delivery of accessible, fair, efficient, and effective justice. The Judges also acknowledged the importance of integrity and accountability in building public trust and confidence in the Judges and the CCJ.

The Code explores the following seven fundamental principles, which the Judges, both in their individual and collective capacities, undertook to uphold:

- (a) Independence;
- (b) Propriety;
- (c) Integrity;
- (d) Impartiality;
- (e) Equality;
- (f) Competence and Diligence; and
- (g) Accountability.



The revised Code of Judicial Conduct was adopted on **26 May 2020**. At the end of the day, the Judges spoke with one voice that this had been an excellent experience which enhanced their understanding of the value of judicial ethics. The initiative was led by the Hon. Mme Justice Rajnauth-Lee who was ably assisted by Ms Krystal Sukra, Judicial Counsel. The Judges expressed their gratitude to Ms Sukra for her excellent work.



# Judgment Protocol

## The Court's Revised *Judgment Protocol*

1. Introduced in 2012 and revised in 2015, the current revision of what is now called the *Judgment Protocol* is in its final stage of production. The revision of the Protocol is part of the broader effort of the Judges towards compliance with the principle of judicial accountability, which they have embraced in their very recently published *Code of Judicial Conduct*.
2. The objective of the Protocol is to specify and standardise the steps in the process that ultimately result in the issuance of a judgment of the Court. It harmonises the work of the Judges in writing a judgment with the significant contributions made by other members of the Court's staff to its production and delivery. The protocol, therefore, records the personnel and functions involved and seeks to give order to the entire process. It applies to judgments delivered in the Court's Original Jurisdiction as well as its Appellate Jurisdiction.
3. The core of the Protocol is the structure and order it provides. It begins with the duty of the Judges, having heard an appeal or application, to immediately identify who will be writing opinions or drafting the judgment of the Court. It sets timelines and reference points for writing and requires setting dates for circulating opinions and holding discussions. The protocol demands the setting of firm dates for delivery of judgments, guided by the rule that a judgment should usually be delivered within three months and, in exceptional cases, within six months of the hearing. Specific provision is made for creating, managing and controlling a staged approach to timely delivery and avoiding slippage.
4. Provision is also made to regulate the other significant stages involved in the delivery of a judgment. These include communication between the Judges and the Registry to progress finalisation of the draft, giving notification of the date and time of formal delivery, sending advance, confidential copies, publishing the judgment including on the Court's website, and preparing and publishing Executive Summaries and media releases.
5. The Court's President, the Honourable Mr Justice Adrian Saunders, who led the initiative, hailed the present revision and improvement efforts of the judges as a tangible commitment to the Court's theme in celebrating its fifteenth anniversary: "Champion for Caribbean Jurisprudence".

## Policies and Procedures Approval Committee

Strategic Issues 2.3.1 and 2.3.2 of the Court's 2019-24 Strategic Plan emphasise the strengthening of internal administrative policies, guidelines and procedures and the enhancement of the existing framework to support the Court's internal compliance requirements. In keeping with these, on 8 June 2020, the President commissioned the Policies and Procedures Approvals Committee (PPAC) to review the Court's policies and procedures and to prepare them for formal approval, as required.

The PPAC is comprised of a cross-functional complement of personnel, straddling core Units within the Court and is chaired by the Honourable Mr Justice Winston Anderson. The Committee's members are:

- The Hon Mr Justice Anderson, Judge – Chair
- Ms Jacqueline Graham, Registrar and Chief Marshal
- Ms Andrea Callender, Finance and Administration Manager
- Mrs Ria Mohammed-Pollard, Communications and Information Manager
- Ms Jacinth Smith, Chief Librarian
- Ms Kerine Dobson, Legal Officer – Secretary

As at 31 July 2020, the PPAC has held six meetings and has substantively reviewed four policy and procedure documents. Over the period, the Committee has received invaluable assistance from internal subject-matters experts. In this regard, the Committee wishes to express its deepest gratitude to Mrs Sheryl Washington-Vialva, Mr Vishal Dubé, Mr Ayinde Burgess, Mr Oriel Herrera, and Ms Andrea Callender who have so ably assisted the Committee in the discharge of its responsibilities to date. The Committee must also record its sincerest appreciation to Ms Candis Cayona, Mr Trevor James, Mr Vishal Dubé, Mrs Sheryl Washington-Vialva, Ms Alana Tasher, Ms Dianne Silverton and Mr Kevin Thorne for their invaluable support to the PPAC in ensuring that the Policies and Procedures submitted for review adhere to standard requirements.

The Policies and Procedures Approvals Committee looks forward to fully discharging its mandate within the timeframe set and is pleased to contribute to the work of the Court in building on its strong foundation and looking ahead to a focused future.



The Committee, which will come to an end in November 2020, has been tasked with a tripartite mandate to:

1. Review the Court's policies and procedures to validate their adequacy as a value-creation addition to the Court having regard to matters such as context and background; rationale and policy governance – including monitoring, evaluation, enforcement and accountability;
2. Devise a communication plan for the sensitisation of staff and relevant stakeholders of approved policies and procedures; and
3. Make recommendations for training of staff.



## Online Law Reporting Committee

The Caribbean Court of Justice (CCJ), mindful of its obligations to its stakeholders, has always considered it a matter of critical importance to make its judgments easily accessible to the public. Since the early days of its operations, the CCJ made the transcript of its judgments available on its website and also issued media releases to satisfy the needs of its varied stakeholders. These stakeholders included litigants, academia, students, the legal profession, other courts, the Caribbean Community, and so on. The Court considered it very important for these varied stakeholders, particularly the legal profession and academia, to have access to its pronouncements to engender rigorous legal commentary and analysis with a view to advancing Caribbean jurisprudence.

In keeping with its desire to cater in a more holistic way to stakeholders, the CCJ sought to add more value to its judgments. In so doing, the Court began to publish summaries of judgments, with the aim of presenting the judgments in a more digestible format. These summaries, over time, have evolved and are currently being used by the Court for judgment delivery. However, both internal and external stakeholders have expressed a need for enhanced documents and greater accessibility in the way they are presented.

Consequently, the Online Law Reporting Committee was established with the aim of recommending a cohesive framework for a more robust online law reporting system, specifically providing recommendations on the following:

1. The capture of the requisite information needed for online law reporting;
2. The verification process for references in draft judgments; and
3. The best process to achieve 1 and 2 above.

The Committee aims to ensure that the framework would be accurate, user-friendly with optimal utility for both internal and external users. It comprises a cross-section of the Court's functional areas which have a role

in creating and disseminating the Court's judgments and summaries. The members include:

- The Hon Mr Justice Andrew Burgess – Judge and Committee Chair
- Ms Jacqueline Graham – Registrar & Chief Marshal
- Mrs Gizel Thomas-Roberts – Deputy Registrar & Marshal
- Mrs Ria Mohammed-Pollard – Communications & Information Manager
- Ms Jacinth Smith – Chief Librarian
- Mr Vishal Dube – Information Systems Manager
- Ms Kerine Dobson – Legal Officer
- Ms Heather Dyer-Thompson – Registry Supervisor
- Mr Samuel Bailey – Judicial Counsel
- Ms Candace Simmons – Executive Assistant (Judicial)

Over the next judicial year, the Online Law Reporting Committee will be working on furthering the development of an efficient delivery system that provides all of the Court's stakeholders with comprehensive judgment materials.

## Our Management Team



Top row, left to right:

**Ms Jacqueline Graham**  
*Registrar and Chief Marshal*

**Ms Susan Campbell-Nicholas**  
*Human Resources Manager*

**Ms Andrea Callender**  
*Finance and Administration Manager*

Bottom row, left to right:

**Mr Trevor James**  
*Security and Logistics Manager*

**Mrs Ria Mohammed-Pollard**  
*Communications and Information Manager*



# Focusing on Outreach

## Communications and Information

The Communications and Information Department comprises the Public Education and Communications Unit (PECU), the Protocol and Information Unit, the Information Systems (IS) Unit and the Library Unit. All four are vital for the day to day operations of the Court and ensuring that the Court's communications and information objectives are met.

### Public Education and Communications Unit

#### The need for public education by the Caribbean Court of Justice (CCJ):

"Where there is no publicity there is no justice. Publicity is the very soul of justice." Jeremy Bentham

The CCJ is committed to ensuring access to justice and building public trust and confidence. It is for this reason that the CCJ's first strategic area under its 2019-2024 Strategic Plan is communication. With an outcome being **"improved communication both internally and with all stakeholders in the regional and global communities."**

There has always been a need for judiciaries to disseminate information concerning the operations of the court and by doing so, improving access to justice. To better integrate justice into society, a direct relationship between the courts and the public at large should be created. Public education directly emanating from the Court is undoubtedly of critical value in understanding how the judicial system works and would amplify the public's confidence in the CCJ. It is, therefore, unquestionably accepted that continuous public education is required from the CCJ.

During the period under review, the members of the Public Education and Communications and Protocol and Information Units continued to work towards building awareness of the Court and its work among its stakeholders. This was done primarily by keeping an updated website, our single largest public education tool, along with the dissemination of judgment products, media releases, media advisories and consistent updating of our social media platforms.

With the Court celebrating its 15th Anniversary in April 2020, the PECU developed an external communications plan aimed at increasing opportunities for the CCJ to interact with several of its stakeholder groups. Initially set to be launched in April, the Units had to re-envision this plan with the rise of the COVID-19 pandemic, particularly within the region. The general work of the Units was affected as a result of the COVID; airport facilitation and Court tours were curtailed consistent with governmental COVID-19 guidelines.

Consequently, the Units opted to leverage the Court's social media channels and website to our channels' engagement levels. As of 31 July 2020, the CCJ has 5,951 followers on its LinkedIn account, 5,940 Facebook likes, 1,474 YouTube subscribers and 2,997 Twitter followers. In particular, YouTube subscribers doubled over the period; the platform continued to play a crucial role in facilitating the mass viewing of matters of significant public interest. This was significant, as the Court was forced to limit physical access to the premises under the COVID-19 workplace guidelines.

## Communications and Information *(continued)*

The Units continued to support the work of the regional bodies that contribute to the building of Caribbean jurisprudence. This included the Caribbean Association of Judicial Officers (CAJO) as well as the CCJ Academy for Law, which both orchestrated several educational events that echoed the anniversary slogan "Champion for Caribbean Jurisprudence". The CCJ Academy for Law converted its 6th Biennial Conference into webinars, focused on the unprecedented legal issues arising from the novel coronavirus pandemic.

Also, the Department has been working on revising its media monitoring reporting to ensure that the organisation is provided with the information needed to plan and make strategic decisions. The Units also worked on updating and developing new policies and guidelines on the observance and practice of protocol and diplomacy to ensure its increased efficiency and accountability.



*Mr Oriel Herrera, Network Administrator in the IS Unit presented a paper on "Electronic Case Filing System – Procedures & Protocol" at the "National Conference on Technology in the Justice Sector, Roadmap to E-justice" in Kingston, Jamaica in February 2020.*

## Information Systems Unit

The Information Systems (IS) Unit worked on a variety of projects. One of significance was the implementation of an Asset Management System. This project, in collaboration with the Facilities Unit, involved the procurement of a barcode scanning and printing system to tag and track assets of the Court. The system improves accountability through its reporting features and efficiency in locating assets utilising a mobile handheld computing device.

The Unit is also charged with ensuring that CCJ's data is secure and available. In furtherance of this objective, a project was completed to consolidate multiple database implementations across the environment into a single system with improved disaster recovery procedures. The IS team also provided support, both locally and regionally, to the JURIST Project and the Caribbean Association of Judicial Officers (CAJO) at meetings and events during the period.

In response to the COVID-19 national restrictions the IS Unit proactively supported employees to ensure that they were able to work remotely with ease. The Unit members, who were often available after working hours, provided hands-on tutorials in Office 365, quick initiatives to resolve challenges, worked efficiently and effectively to guide the transition to remote work.



## Communications and Information *(continued)*

Moreover, the IS Unit demonstrated its commitment to the Court's strategic issue number 3 for a High Performance Environment which enabled the organisation to achieve greater levels of efficiency in executing its services remotely.

### Library Services Unit

Over the past 15 years, the Library has built a substantial collection to enable the provision of reference and research services to its users. To continue the provision of these services and to cater to the changing needs of our users as well as fulfil the strategic objectives of the Court, several areas of the Library's operations have been enhanced.

During the reporting year, the Library focused on the review of many of its policies and procedures to strengthen the framework for the enhancement of its collection and the delivery of efficient services. The Library Use Policy was revised to improve the delivery of services, and so too was the Collection Development Policy to address users' evolving needs and the changes in the publishing

industry. Moreover, the Cataloguing Policy was revised to reflect new practices and changes in library policy.

In addition to the updating of our policy framework, the Library began work on the reorganising and shifting of print materials to digital records, to streamline usage and facilitate ease of discovery of the materials in the collection. This would also allow a full inventory of the physical collection. Another area of attention was the continuation of the upgrade of our Integrated Library System, and this will continue in the next year with the launch of the online public access catalogue.

The Library also continued to develop the Court's Records Management Programme and in conjunction with the IS Unit, provided more Units with shared workspaces (using SharePoint) for the storage of their records.



## CARIBBEAN COMMUNITY ADMINISTRATIVE TRIBUNAL

The CCAT is an impartial and independent judicial body that provides staff members of the CARICOM Secretariat and Institutions, who are subject to the CCAT's jurisdiction, with a forum for the final settlement of employment disputes relating to their terms and conditions of employment including matters such as staff gratuity, retirement, and end of contract benefits. The Community and its Institutions, as international organisations, enjoy immunity from lawsuits brought in national courts. Their staff members were without recourse to an appropriate and effective judicial mechanism that could determine the legality of decisions concerning employment-related disputes. After exhausting the internal dispute resolution mechanisms of their organisations, staff members still aggrieved can file a complaint with the CCAT for settlement of their disputes. The CCAT is bound by principles of due process of law, and its decisions are to be consistent with the principles of fundamental human rights and taken in accordance with international administrative law. In exceptional cases, judgments of CCAT can be appealed to a Review Committee made up of five judges of the Caribbean Court of Justice after leave is granted by the Review Committee.



*The five judges of the CCAT stand with the Hon. Mr Justice Saunders and Registrar, Ms Jacqueline Graham.*

The launch of the Caribbean Community Administrative Tribunal (CCAT) was held on 17 February 2020, at the Headquarters of the Caribbean Examinations Council (CXC) in Barbados. At the launch, the five members selected as Judges of the Tribunal were sworn in by the Hon. Mr Justice Adrian Saunders, Chairman of the Regional Judicial and Legal Services Commission. The Tribunal's Members were appointed for a four-year term by the RJLSC after a competitive selection process which also took into consideration equitable geographical distribution and an appropriate gender balance. The Members of the Tribunal are Mr Patterson Cheltenham, QC, President; Ms Lisa M. Shoman, SC; Mr J. Emile Ferdinand, QC; Ms Dancia Penn, QC and Mr Westmin James. The interim Registrar of the CCAT is Ms Jacqueline Graham.

The CARICOM Conference of Heads of Government approved the establishment of the CCAT at their Thirtieth Inter-Sessional Meeting held in St. Kitts and Nevis in February 2019 where the Tribunal's Statute was adopted. The establishment of CCAT is an addition to the adjudicatory and governance framework of the Caribbean Community, joining the Caribbean Court of Justice which began operations on 15 April 2005, as the judicial arm of CARICOM.

The CCAT Statute was finalised at the Sint Maarten Meeting of CARICOM Institutions on 26 October 2016, Chaired by the Hon. Mr Justice Anderson. In



## CCAT (Caribbean Community Administrative Tribunal) *(continued)*

January 2019, at a meeting of the Community Council, and after repeated attempts to progress the Statute, the CARICOM Secretariat was mandated to take the decision of the Legal Affairs Committee (LAC) regarding the adoption of the Statute establishing the Tribunal to the Conference of Heads of Government.

The CARICOM General Counsel, Dr Babb-Schaefer, shepherded the draft Statute through the Twenty-Seventh Meeting of the LAC, held on 21 February 2019, which recommended that the Conference of Heads of Government adopt the Statute of the CCAT, while the CCJ Registrar, Ms Jacqueline Graham, was instrumental in devising the methodology for the financial arrangements concerning the sustainability of the Tribunal. The Conference, on 27 February 2019, adopted the CCAT Statute with 19 Community Institutions eligible for membership.

The seeds for the institution of CCAT were sown on CARICOM Day, 4 July 2008, when Ms Doreen Johnson applied for special leave from the CCJ to bring proceedings against the Caribbean Centre for Administration Development (CARICAD) for wrongful dismissal. On 27 October 2008, whilst the Court was considering the case, the Inaugural Meeting of the Human Resource Managers of CARICOM Institutions requested the University of the West Indies' Caribbean Law Institute Centre (CLIC) take the lead role, working with other legal institutions, to review best practices and make recommendations to the CARICOM Secretariat on the best approach to address disputes between CARICOM Institutions and their employees. Professor Winston Anderson (as he then was) and Professor Ralph Carnegie undertook this assignment supported by CARICAD.

The Tribunal's establishment followed several recommendations which led the CCJ, in 2014 to convene a meeting of the Governance Cluster of CARICOM Institutions on 17-18 November 2014, at its Headquarters in Port of Spain, Trinidad and Tobago. In addition to the CCJ and the CARICOM Secretariat, CARICOM Competition Commission, Caribbean Regional Organisation for Standards and Quality, CARICAD and the Caribbean Congress of Labour attended the Meeting. The Meeting proposed the establishment of a CARICOM Administrative Tribunal that had certain defined features and agreed on a programme of work that would lead to the institution of CCAT as that judicial arm of CARICOM empowered to address employee grievances. That work was carried out substantively by an expanded CCJ/CCJ Academy for Law Committee, chaired by the Hon. Mr Justice Winston Anderson and including Mrs Jennifer Astaphan; Ms Jacqueline Graham, Mr Neville Bissember and Mrs Catherine Comtet-Simpson, Consultant with the International Labour Organisation. The Committee facilitated a series of discussions and meetings to consider the draft CCAT Statute.

The launch of CCAT on 17 February 2020 was ably managed by a team of representatives of CARICOM institutions lead by Ms Jacqueline Graham, Registrar of the Caribbean Court of Justice who acted as the Interim Registrar to bring the Tribunal into effect. The other members of the Team comprised Dr Corlita Babb-Schaefer, General Counsel, CARICOM Secretariat; Mr Barton Clarke, Executive Director, Caribbean Agricultural Research and Development Institute; Mr Deryck Omar, Executive Director, CARICOM Regional Organisation for Standards and Quality (CROSQ); Dr Wayne Wesley, Registrar and Chief Executive Officer, CXC and Dr Arlene Laing, Coordinating Director, Caribbean Meteorological Organisation.

## CCAT (Caribbean Community Administrative Tribunal) *(continued)*



*Presentation by the Hon Mr Justice Winston Anderson at the Launch of the CCAT at the CXC Headquarters in Barbados.*

The CCJ Academy for Law has been heavily supportive of the decade-long process for the establishment of CCAT. The Academy was represented by the Hon. Mr Justice Winston Anderson who made two presentations at the event.

There are many similar Tribunals in the world, namely, the Administrative Tribunal of the International Labour Organisation, the World Bank Administrative Tribunal, the Inter- American Development Bank Administrative Tribunal and the United Nations Dispute Tribunal.



**CAJO**

THE INAUGURAL CONFERENCE OF THE  
CARIBBEAN ASSOCIATION OF JUDICIAL OFFICERS

The CAJO has truly had a busy and eventful year!

The CAJO's 6th Biennial Conference took place in Belize from 31 October – 2 November 2019. The Conference was indeed a special one as it marked ten years of the CAJO! Over 200 participants from across the Caribbean, and internationally, attended this regional gathering. The Conference featured electric keynote presentations from Dr Terrence Farrell and Ms Roberta Clarke and included a variety of sessions including Developments in the Rule of Law, Complex Criminal Trials, Pre-trial Detention, Judicial Stress, and Vulnerable Witnesses. The Conference also offered a memorable foray of social events put on by the Belizean Local Organising Committee. At the Conference, the CAJO held its biennial Business Meeting at which, the Hon. Mr Justice Peter Jamadar, was elected Chairman. Justice Jamadar follows on from the Hon. Mr Justice Adrian Saunders, who served as the CAJO's Chair for ten years with great distinction. A new Management Committee was also elected, and the Hon. Mme Vivian Georgis Taylor-Alexander serves as the Vice-Chair. At the Conference, and continuing after, the CAJO launched and sustained fundraising efforts for the Bahamas in the wake of hurricane Dorian.

In late 2019, the CAJO was tasked with designing, and subsequently rolling out in early 2020, a five-day intensive course geared towards enhancing the judicial office in the Bahamas. The CAJO's team of the Hon. Mr Justice Jamadar, the Hon. Mr Justice Gregory Smith (JA, TT), Ms Kavita Deochan, Judicial Counsel, and Mr Elron Elahie, Research and Programme Coordinator, designed an interactive week of training for judicial officers and newly onboarded Judicial Research Counsel. Taught modules in Judgment and Opinion Writing,



*Chairman of the Caribbean Association of Judicial Officers, the Hon Mr Justice Peter Jamadar makes his remarks at the 6th Biennial Conference in Belize on 31 October 2019.*



*The rapt audience that attended the CAJO's Biennial Conference in October 2019.*



*A Belizean entertainer at the opening ceremony of the CAJO's Biennial Conference 2019.*

## CAJO (Caribbean Association of Judicial Officers)

(continued)



*Flags of the represented countries at the CAJO conference in 2019.*



*The CAJO-led 5-day intensive training sessions held in the Bahamas in early 2020.*

Caseflow Management, Constitutional and Legislative Interpretation, Teambuilding, and Research Skills and Methodologies were administered over the five days, and the feedback received was overwhelmingly positive. While in the Bahamas, the CAJO presented Chief Justice the Hon. Sure Brian Moree with a commitment to donate over \$5,000 US for relief efforts. Additionally, the CAJO launched its 'Plant a Tree, Save the Planet' initiative in which Chief Justice Moree committed to ensuring that judicial officers in the Bahamas do their part and plant a tree.

In furtherance of expanding its role in regional integration, information sharing, and the development of regional jurisprudence, the CAJO adopted a feature-rich, interactive, and dynamic format for its Issue 11 Newsletter. Released in June 2020, the Newsletter focuses on recapping the 2019 Biennial and contains contributions that share ideas, thoughts, and experiences from the resonant Biennial. It also provides image and video-rich content that makes reliving the experience felt on the pulses.

In keeping with the CAJO's busy schedule, it partook in a number of strategic planning and education events, including "Adapting to the COVID-19 Reality: A Roadmap for Caribbean Judiciaries", publication of research on attitudes towards judiciary staff, a three-part webinar in partnership with the Eugene Dupuch Law School, and committed to providing training in Judicial Ethics and Judgment Writing to Trinidad and Tobago's Office of Procurement Regulation.



## CCJ Academy for Law

During the period under review, the CCJ Academy for Law engaged in several activities focusing both on its core mandate which is “advancing of knowledge, education, learning, research, and practical application of law and the administration of justice in the Caribbean context”, as well as on assisting with the strengthening of the non-judicial work of the CCJ.

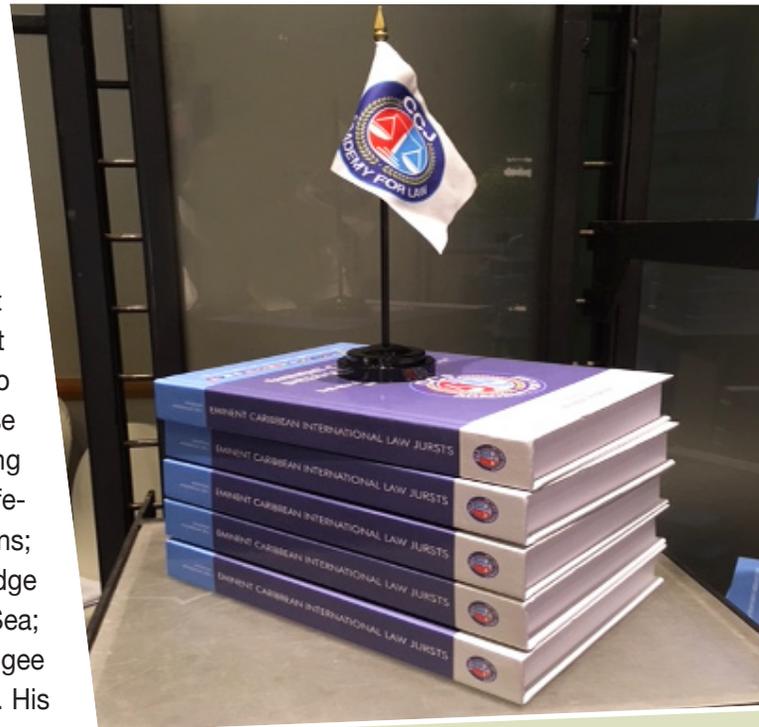
### Eminent Caribbean International Law Jurists Awards Ceremony and Book Launch

The Academy hosted the inaugural Eminent Caribbean Jurists Gala and Awards Ceremony on 7 October 2019, at the Hyatt Regency Trinidad. This special event was the first of its kind in the Caribbean, and 18 jurists were inducted into the Eminent Caribbean Jurists Hall of Fame. Five of these inductees, representing the most outstanding and long-serving honourees, were publicly recognised with the conferral of life-time awards: Sir Shridath Ramphal, Commonwealth of Nations; Judge Patrick Robinson, International Court of Justice; Judge Anthony Lucky, International Tribunal on the Law of the Sea; Ambassador Dr Bertrand Ramcharan, United Nations Refugee Office; and Judge Duke Pollard, Caribbean Court of Justice. His Excellency the Honourable Patrick Robinson, OJ delivered the feature lecture, “Independence is a Right, not a Gift: Lessons from Resolution 1514 and the Chagos Advisory Opinion”.

The event also featured the formal launch of a book containing samples of the work of the honoured jurists under the title *Eminent Caribbean International Law Jurists: The Rule of International Law in the Caribbean*. This publication provides a lasting resource which will add value to the work of legal practitioners and chart the evolution of Caribbean International Law.



Presenters at the Referral Manual training, Karen J. Alter and Larry Helfer, held at the Court in September 2019.



The “Eminent Caribbean International Law Jurists: The Rule of International Law in the Caribbean” book presentation hosted by the CCJ Academy for Law in October 2019.

## CCJ Academy for Law *(continued)*

### Fundraising – Bahamas Dorian Donation

A day after the awards ceremony, on 8 October 2019, a fundraising dinner was held to raise funds to provide support for activities of the Academy and the hurricane-devastated Bahamas. The Academy donated TTD \$30,000 to support recovery efforts in the Bahamas following the passage of Hurricane Dorian.

### Keynote Speaker on the Escazú Agreement

The Hon. Mr Justice Winston Anderson, Chair of the Academy and one of the founding members of the International Advisory Council of the United Nations, was the keynote speaker at the public lecture on the Regional Agreement on Access to Information, Public Participation and Justice In Environmental Matters in Latin America and the Caribbean (Escazú Agreement) held at the St Augustine Campus, UWI, on 23 January 2020. The event was intended to provide expertise on the ways in which the agreement will strengthen the adherence to the sustainable development goals and the advancement of human rights as reflected in the 2030 UN Agenda for Sustainable Development. The Lecture was a collaborative initiative with Caribbean Natural Resources Institute, Caribbean Environmental Law Society and Faculty of Law of the University of the West Indies, St Augustine.

### Referral Manual on Article 214 of RTC

The Academy conceptualized a project designed to sensitise members of the Caribbean judiciary and the legal profession to the referral obligation in Article 214 of the Revised Treaty of Chaguaramas (RTC). As part of that project, the Academy

partnered with the JURIST Project to engage Professor Alina Kaczorowska-Ireland to prepare a Referral Manual on Article 214 of the RTC. The Manual was effectively finalised at a meeting of the Judges and Judicial Counsel held on 12 February 2020.

### PAHO/WHO Workshop, Miami, Florida, 3-5 March 2020

The Hon Mr Justice Winston Anderson represented the Academy at the Pan American Health Organization (PAHO) and the World Health Organization (WHO) Conference on Non-Communicable Diseases Workshop in Miami, Florida, 3-5 March 2020. The Hon Mr Justice Anderson explored the use of law as a powerful tool to address non-communicable diseases (NCDs) and their risk factors in the Caribbean to influence and control behaviour. The judge emphasised the role of the court in providing institutional support for law enforcement of non-communicable diseases and explored the several possible intersections between the role of the CCJ in law enforcement and the law regarding NCDs. These commitments include 2007 Port of Spain Declaration on Uniting to Stop The Epidemic of Chronic NCDs; the 2011 UN High Level Meeting NCDs; the WHO Global Plan for Prevention and Control of NCDs 2013-20, and the PAHO Regional Plan of Action for the Prevention and Control of NCDs 2013-19.

### 6th Biennial Conference Webinar Series

In partnership with the General Legal Council of Jamaica, UWI-TV and IMPACT Justice Project, The Academy converted its 6th Biennial Conference into online symposia. A webinar was held on the 19 May 2020 under the theme: "Legal Dimensions Arising from COVID-19 Pandemic". Emphasis was placed on four panels: Civil Liberties; International Law; Force Majeure and Commercial Contracts; and the Administration of Justice. The panels comprised stellar legal minds from five continents of the world: Asia, North America, South America, Europe, and Australia. The webinar series was entirely free and open to the public via live streams on UWI-TV's website with statistics showing over 5,000 participants globally in the



## CCJ Academy for Law *(continued)*

initial presentation. There were follow-up broadcasts on UWI-TV. In going forward, a summary of the proceedings will be generated and published as a roadmap for post-webinar action with Caribbean IMPACT Justice Project. The publication will be distributed to regional libraries as well as government institutions.

## Training Session on Technology and Access to Justice

To facilitate familiarity with newly introduced systems for the delivery of justice in the context of COVID-19, the CCJ Academy, in collaboration with Hugh Wooding Law School, presented an online E-Hearing Training Session for Legal Practitioners on 25 June 2020. The training session was designed at strengthening the regional capacity for legal practitioners to participate in virtual hearings via electronic means, either videoconferencing or teleconferencing in accordance, with the Rules of Court. The staff of the Council of Legal Education Law Schools – Hugh Wooding Law School, Trinidad and Tobago, Eugene Dupuch Law School, Bahamas, and the Norman Manley Law School, Jamaica – participated in online learning with interactive sessions.

The Faculty included the Hon. Mme Justice Cummings-Edwards Chancellor of the Guyana Judiciary; Mrs Kerri-Ann Oliverie Stuart, Registrar and Marshal, Supreme Court of Trinidad and Tobago; Mrs Gizel Thomas-Roberts, Deputy Registrar of the Caribbean Court of Justice, The Hon. Mr Justice C Dennis Morrison OJ, President of the Jamaica Court of Appeal; The Hon. Justice Lisa Ramsumair-Hinds; Mr Douglas Mendes, SC, President of the Law Association of Trinidad and Tobago; Mr Raphael Morgan, Practising Attorney-at-Law; Mr Bevil Wooding, Executive Director, APEX; and Mr Vishal Dube, IS Manager, Caribbean Court of Justice.

In her letter of appreciation, Mrs Miriam Samaru stated, "The presenters were clear and precise and covered critical areas which will serve to assist us in both teaching and learning and the work of our legal aid attorneys. Excellent online training seminar."

## Memorandum of Understanding

The Academy signed a Memorandum of Understanding with the Caribbean Court of Justice on 21 July 2020. This signalled a commitment to facilitate collaboration in the review, development, and advancement of legal education throughout the region.

## Advisory Council Statement in Support of the Escazú Agreement

At the invitation and request of the Economic Commission for Latin America and the Caribbean ('ECLAC') the Hon. Mr Justice Winston Anderson, Chairman of the CCJ Academy for Law, together with Justice Antonio Benjamin of Brazil and Chief Justice Ricardo Luis Lorenzetti of Argentina, members of the Advisory Council of the United Nations Environment Program issued a statement on 25 July 2020, in support of the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean.

The statement read, in part, as follows: 'As Justices and high-ranking legal professionals, we, members of the International Advisory Council for the Advancement of Justice, Governance and Law for Environmental Sustainability fully support the Escazú Agreement and welcome the steps taken towards its prompt entry into force and implementation. Justices and courts of Latin America and the Caribbean must become key advocates and implementers of its provisions and ensure that the agreement becomes a reality for all.'

## JURIST (Judicial Reform and Institutional Strengthening) Project

The Judicial Reform and Institutional Strengthening (JURIST) Project continued to support Antigua and Barbuda, Barbados, Belize, Dominica (ECSC), Guyana, and Trinidad and Tobago as they implemented their judicial reforms. JURIST Project activities have impacted all six reform areas.

The Project has helped institute gender-responsive and customer-focused reforms in court and judicial service delivery. Courts in Antigua and Barbuda, Belize, Guyana and Trinidad and Tobago have adopted, and to varying degrees, implemented gender-responsive policies, practices and procedures.

For the period under review, the Project carried out monitoring activities to support the Sexual Offense Model Court (SOMC), provided gender sensitisation training to 64 judicial officers in Barbados and Trinidad and Tobago, and sponsored a judicial officer for training in Canada. The Project has exceeded its target for the number of judicial officers and court officers trained in gender-responsive services.



*Director of the JURIST Project, Ms Gloria Richards-Johnson.*

Some progress was made towards enhancing the capacity of the courts to undertake public education programmes. It designed two 40-hour regional training courses, materials and tools for developing public education campaigns. Training will be executed in year seven. The Project tested and delivered a public education campaign about the SOMC for implementation in Antigua and Barbuda and will capture information on customer satisfaction with improvements in service delivery when reviewing the campaign this year.

The Project helped improve court systems, policies and procedures to reduce delays and the backlog in the system. It assisted with case management, introduced alternative dispute mechanisms such as mediation into the system, strengthened gender-sensitive adjudication, and helped three jurisdictions protect their systems through contingency planning.

There were changes made to the Project Management Unit (PMU) during the reporting period. After losing two staff members to attrition, including the Regional Coordinator – Gender Specialist and the Project Accountant, the Project introduced a new team-based approach to management and implementation. Three senior advisors and a Financial Management Consultant were added to the PMU. The Project also advertised for a Gender Specialist to join the team and recruited a Consultant to support Monitoring and Evaluation (M&E) activities.



## JURIST (Judicial Reform and Institutional Strengthening) Project *(continued)*

### These key factors affected the course of the JURIST Project during the reporting period:

**Elections in Guyana** – Two major events created legal turmoil in Guyana during the reporting period. A no-confidence motion was imposed on the government in December 2018, and the opposition contested the results of the presidential election in March 2020.

**Project Extension** – Global Affairs Canada granted the 4-year no-cost extension to the project in February 2019. The Project needed time to ramp up activities from the outset of the extension. Programme spending increased as a percentage of overall spending each quarter, although both were much lower than expected. The Annual Work Plan (AWP) 2019-20 was approved by the Project Steering Committee (PSC) on 27 June 2019.

**Project Oversight** – Global Affairs Canada strengthened its oversight of the JURIST Project in 2019-20. The department commissioned an independent audit of CCJ's compliance with the Contribution Arrangement, which took place in November 2019.

**Project Management** – The Project continued to strengthen its management tools and capabilities. It introduced a new work planning tool and process for use in preparing the AWP 2020-21.

**Global Pandemic** – The seismic response to the COVID-19 virus affected project management and implementation beginning in March 2020. At the recommendation of Global Affairs Canada and the CCJ, JURIST PMU staff members started working from home in March. Project priorities shifted during this time and pivoted to focus on immediate needs of judiciaries as a result of the pandemic.

# Focusing on our Resources

## Human Resources

The CCJ remains committed to ensuring that our approach to the management of our human resources is aligned with the Court's strategic objectives. The Court aims to attract and recruit the best talent available to enhance its current complement of staff. We also recognise the importance of training and development for staff as it is important that employees keep abreast of innovations in their field.

### Manpower and Staffing:

During the reporting period, the following successful candidates assumed duty in the positions highlighted below:

Names	Position Title	Effective Date
Mr Kurt Da Silva	Judicial Counsel	12 August 2019
Ms Krystal Sukra	Judicial Counsel	12 August 2019
Ms Patrice Valentine	HR Officer – HR Development	12 August 2019
Mr Samuel Bailey	Judicial Counsel	2 September 2019
Mrs Ria Mohammed-Pollard	Communications & Information Manager	1 November 2019
Mr Anil Ramsahai	Court Support Officer	1 November 2019
Ms Choyce Walcott-Mathurin	Case Management Officer	13 January 2020
Mr Antonio Emmanuel	Judicial Counsel	2 July 2020

Table 1

Additionally, the following employees demitted office:

Name	Position Title	Reason	Effective Date
Mr Keith Gordon	Driver/Courier	Retirement	3 August 2019
Mr Tyrone Bailey	Judicial Counsel	End of Contract	30 August 2019
Ms Latoya McDowald	Judicial Counsel	End of Contract	31 August 2019
Ms Tanya Alexis	Judicial Counsel	End of Contract	13 November 2019
Mr Christopher Hoyte	Security Supervisor	Retirement	22 December 2019
Ms Seanna Annisette	Senior Public Education & Communications Officer	Resignation	27 December 2019
Ms Kavita Deochan	Judicial Counsel	End of Contract	1 July 2020

Table 2



### Human Resources *(continued)*

These activities ensured that the Court continues to have the required skill sets to execute its annual and operational plans. This was further enhanced with the completion of several Training and Development events that build on and maintained its capacity and competence throughout the various areas and levels of the Court. The events included:

No.	PROGRAMME	MAIN OBJECTIVE	No. TRAINED
1	21st Century Diplomacy	The realities of diplomatic practice	1
2	Defensive Driving Training	To maintain Defensive Driving Certification in keeping with good HSSE practice.	17
3	Court Technology Conference	Best practices in technology used in Courts. Networking and knowledge exchange.	1
4	HSE Audit and Inspection – IASP Certificate	Elements of Safety Management Systems, Hazard Identification, Risk Management, the Role of HSSE Audits and Inspections and current methodologies.	15
5	Leadership Capacity Building for Supervisors	To address leadership needs identified in the Managers of the CCJ	10
6	Protocol and Diplomacy: A guide for the Modern Professional	Introduction to the concepts of Protocol, State Protocol, Etiquette, Business Etiquette and Diplomacy	1
7	Fire Emergency Response Training	To ensure that persons are equipped to handle a fire emergency effectively, should one arise. Topics included: <ul style="list-style-type: none"> <li>• Fire safety</li> <li>• Smoke Alarms and Extinguishers</li> <li>• Stages of fire development</li> <li>• Duties of the Safety Warden</li> <li>• Means of escape</li> </ul>	15
8	Microsoft Excel Intermediate	Creating and manipulating data, formatting data and content, creating and modifying formulas, presenting data visually, collaborating and securing data and data trends and analysis.	3

## Human Resources (continued)

No.	PROGRAMME	MAIN OBJECTIVE	No. TRAINED
9	Executive Protection Driving	CPR Training, Defensive Driving, and IED Searches to further equip Officers with the essential skills needed to effectively perform their duties.	11
10	Project Design Certification Programme	To appreciate the stages of the Project Life Cycle and the intricacies involved throughout that cycle from proposal to appraisal.	1
11	Pensions Training Seminar	Background to Pension Plans in Trinidad & Tobago / Role of Management Committee and the Trustees; Financial Management.	3
12	The Decriminalisation of Marijuana and the Impact on the workplace	Understanding how the new legislation may impact policies in the workplace	3
13	Performance Management Training	Writing work plans that aligned with the strategic objectives of the Organisation	24
14	Leadership Capacity Building for Supervisors	To address leadership needs identified in the middle managers of the CCJ	16
15	Managing Remote Employees	Understanding the strategic elements of managing remotely especially considering COVID-19.	10

Table 3



A cross-section of attendees in supervisors' training on leadership.



## Human Resources *(continued)*



*Our supervisors are fully engaged recapping what they learnt in leadership training*



*What comprises a good leader? The facilitator at the supervisors' training session helps employees go through the qualities of a good leader.*



*The HR Department hosted Wellness Wednesday at the the Court and invited BWANA Business Inc.'s Tamika Taylor and Kerwin Craigwell to share with staff on novel, unique and healthy ways for snacking and drinking.*



*The CCJ engaged the Employee Assistance Programme to discuss grief management with staff members.*

## Security & Logistics/HSSE Committee

The Security and Logistics Department, tasked with the delivery of premium service to its stakeholders, geared the last reporting period to critical analysis and strengthening of its infrastructure to deliver on its mandate. Endeavours were predicated on a robust risk assessment. This involved a strategic analysis of its personnel, physical security, and processes to ensure alignment with the Court's strategic goals. Standard Operating Policies and Processes were re-crafted towards greater strategic alignment. The Department also focused on training to enhance the staff's competencies. This included defensive and executive driving; the latter was conducted by the Trinidad and Tobago Police Service (TTPS) Special Branch.

Security and Safety awareness was increased among staff, through timely delivery of information through the Court's media platforms on critical community-level risk, e.g. crime bulletins, implementation of the Demerit Points System. Logistics delivery was improved through the active participation of the Security and Logistics Manager in the acquisition of the new fleet of



*Members of the HSSE Committee attended Fire Emergency Response Training facilitated by members of the Trinidad and Tobago Fire Service.*

Court vehicles as well as the disposal of the old fleet in keeping with the Court's Assets Disposal Policy.

The rebranded Health Safety Security and Environmental Committee increased synergies in efforts and resources. New safety wardens were appointed and exposed to professional training in HSE audits and inspections, fire response training. Further, purposive equipment was acquired to support the execution of their function.

As the organisation became acutely aware of the COVID-19 pandemic on its business continuity, the Department strategically positioned itself to lead the organisational response. The Manager and Supervisors participated in Crisis Response Team meetings while officers were tasked with the execution of the lockdown, return to work, and health screening protocols limiting the organisation's exposure to COVID-19 to "as low as reasonably possible."

The next reporting period will see even greater strategic alignment as both the Department and Committee embark on new initiatives including the development of an Enterprise Security Risk Management Framework.



# Finance & Administration

## Finance and Administration Department

The Finance and Administration Department offers support for the effective and efficient delivery of justice to the Court. This is accomplished by ensuring that the required resources, particularly financial ones, are available to guarantee that the instruments for court administration are made accessible promptly and in sufficient quantities to enable the Court to function. The department is also charged with the responsibility of effective Facilities management.

This report will seek to provide an overview of the work performed for the period 2019 to 2020, including its accomplishments as a whole and initiatives identified for a focused future. The Finance Unit will be examined first, followed by the Facilities Unit.

## Finance

The Finance Unit is headed by the Finance and Administration Manager, with two Accountants, one Accounting Supporting Officer, and one Executive Assistant. The Finance Department's major responsibilities are outlined below:

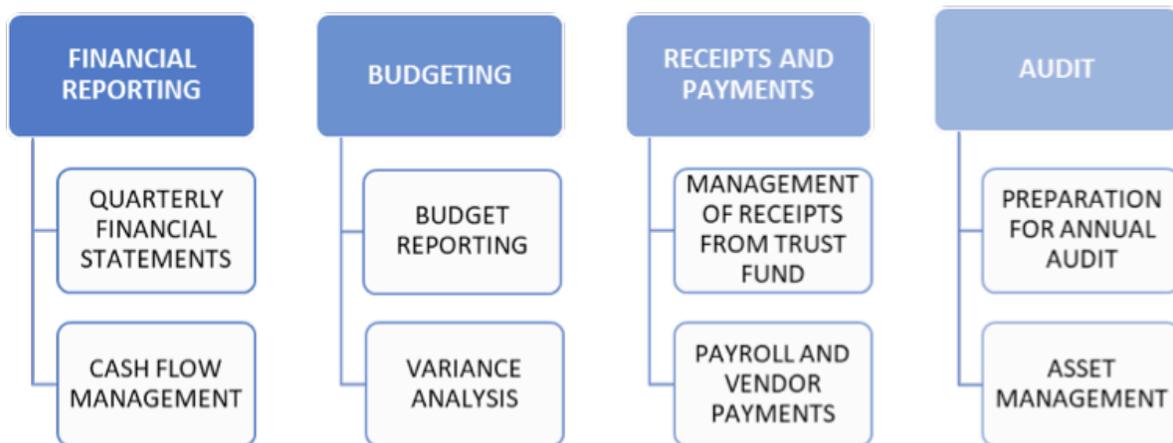


Figure 1

For some time now, the Court has been using electronic payments for specific transactions. Further, during 2020 this has been extended to all our vendors and suppliers. This allowed for greater flexibility with payments and facilitated some same-day supplier payments. The use of electronic payments engendered vendor convenience and trust. Savings in time and costs have been achieved by the reduction in the processing of cheques. Significant strides have been made with the use of payments made by electronic transfer, and we can now say with great confidence that at least 85% of our payments are being done this way.

## Finance & Administration *(continued)*

During the past year, the Finance Department sought to update our operating policies to ensure the design of internal controls are effectively implemented and monitored. The purchasing function was strengthened by implementing the use of a Standard Departmental Purchase Requisition Memo. This process eliminated at least two days from the purchasing process of the various departments.

During the year, the new electronic records management system has been established, and the Department has aligned the electronic and printed copy records accordingly. Labelling of the folders for the printed documents is still to be done in collaboration with the Library Unit on the new labels to be used.

Financial Reporting and Analysis are critical to the Court's success in evaluating the resources required and the availability to facilitate growth and sustainability. Financial Reporting and Analysis Reports are completed quarterly and used together with monthly status budget reports by departments to leverage on the areas needing review. These reports highlight the link between opportunities and challenges and their financial impact, enabling better decisions. Additionally, the Finance Department continues to provide financial accounting support to the following bodies: CAJO, CCJ Academy for Law and CCAT.

The Finance Department is near to the end of the finalisation of the 2021-22 Biennial Budget for the Court, including both recurrent and capital expenditure. This

would clearly outline the Court's spending plans for the next two years and identify mainstream and critical projects. This is to ensure the efficient utilisation of the Court's resources.

The auditors issued an unqualified audit opinion for the financial statements as of December 2019 (unqualified means it meets all necessary standards). Audited Financial Statements were processed by 31 March 2020.

The Court's activities are financed by a quarterly allocation from the Caribbean Court of Justice Trust Fund for both recurrent and capital expenditure. The Court's Statement of Financial Position consists primarily of assets purchased since its inception under property plant and equipment totalling US\$707,767. The following consist of Judicial and Court official vehicles (US\$348,792), IT software and hardware (US\$74,534), renovations and upgrades to internal space (US\$84,952), furniture and fixtures and equipment (US\$112,679), library books (US\$21,872) and security equipment (US\$64,938). There has been no other substantial movement apart from the replacement of the Judges' vehicles in 2019.

The results for the year (Statement of Comprehensive Income) show the total net resources consumed was US\$7,858,558, approximately 93% of the annual allocation, which amounts to US\$7,310,602 for recurrent expenditure. This represents an increase of 2% over 2018. The budget for this year was utilised as follows primarily relating to staff costs.

## Capital Expenditure

The Court's capital expenditure for the year was 8.5% or US\$667,879 of the yearly allocation. The funds were used to purchase Judicial and Court official vehicles (US\$464,574), IT software and hardware (US\$58,446), renovations and upgrades to internal space (US\$38,378), furniture and fixtures and equipment (US\$70,323), library books (US\$11,916) and security equipment (US\$24,243).



## Finance & Administration *(continued)*

### Statement of Cash Flows

The Statement of Cash Flow provides information on how the Court finances its ongoing activities. During 2019, the Court remained solvent and was able to meet its obligations as they became due. The Statement of Cash Flow shows a net cash outflow from operating activities of US\$1,138,975.

### Facilities Assets and Office Management Unit

The Facilities, Assets and Office Management Unit continued to build a strong foundation within the Caribbean Court of Justice over the judicial year 2019-2020. The Facilities Unit is headed by the Finance and Administration Manager and is assisted by one Facilities and Assets Supervisor, one Office Services Coordinator, one Executive Assistant, one Courier and one Tea Assistant.

For this period under review, the focus was initially placed on upgrading and updating occupied spaces. One such transformation was the refurbishment of the Judges' Lounge to a modern design where the CCJ can now receive and share a moment with high-level visitors and guests. These modern upgrades and designs were also incorporated throughout other sections of the Court. The ageing fleet of vehicles was also replaced to ensure that the reliability of transport was maintained. With the sudden, unexpected onset of the COVID-19 pandemic in 2020, new designs had to be incorporated into the refurbishment and improvement projects. Together with the Information Systems Unit we were also able to upgrade our asset and inventory tracking through the employment of an inventory and asset management system. Listed below are some of these key projects and activities that were performed over the period:

#### 1) Office Modifications

- Total refurbishment and upgrade of the Judges' Lounge, 3rd floor
- Refurbishment of Registry Department to accommodate new staff
- Refurbishment and outfitting of the HR Unit Office area to accommodate new staff
- Refurbishment of 3rd Floor Executive Assistant area to a modern look that incorporates physical distancing as per guidelines of COVID-19

#### 2) COVID-19 Protocols and Compliance

- Installation of safety signage throughout the building detailing COVID-19 guidelines
- Installation of sneeze guards and screens for the security on the ground floor
- Installation of hand wash sink at eastern entrance of the building
- Installation of sanitising stations throughout the building according to protocols issued by the Ministry of Health
- Procurement of infrared thermometers for the screening of persons entering the building
- Increased sanitising regime implemented by the Facilities Unit and executed by the National Maintenance and Security Company

## Finance & Administration *(continued)*

### 3) Asset Acquisition and Disposal

- Procurement of six new vehicles for use by the Judges of the CCJ
- Procurement of two new vehicles for use by the Office Driver and the Security Unit
- Assisting with the disposal and successful sale of eight used CCJ vehicles

### 4) Asset and Inventory Management Software

- Assisted with the data capture and initial set up and testing of the RedBeam Management system

As per usual, the Facilities, Assets and Office Management Unit continues to partner with all other departments and sections of the CCJ during these trying COVID-19 times. We are fully prepared to work audaciously to continue to deliver justice and to ensure that the staff and visitors to the building are afforded a well-sanitised and safe environment to conduct their affairs comfortably.



## The Caribbean Court of Justice

Audited Financial Statements  
For the year ended December 31, 2019





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## Independent Auditors' Report



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The Court President  
The Caribbean Court of Justice

### Opinion

We have audited the financial statements of The Caribbean Court of Justice (the "Court"), which comprise the statement of financial position as at December 31, 2019, and the statement of comprehensive income, statement of changes in accumulated fund, and statement of cash flows for the year then ended, and notes to the financial statements, including a summary of significant accounting policies.

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of the Court as at December 31, 2019, and of its financial performance and its cash flows for the year then ended in accordance with International Financial Reporting Standards ("IFRS").

### Basis for Opinion

We conducted our audit in accordance with International Standards on Auditing ("ISAs"). Our responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statements* section of our report. We are independent of the Court in accordance with the *International Ethics Standards Board for Accountants' Code of Ethics for Professional Accountants* ("IESBA Code") and we have fulfilled our ethical responsibilities in accordance with the IESBA Code. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

### Responsibilities of Management and Those Charged with Governance for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with IFRS, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

BDO, a Trinidad and Tobago partnership, is a member of BDO International Limited, a UK company limited by guarantee, and forms part of the International BDO network of independent member firms.

BDO is the brand name for the BDO network and for each of the BDO Member Firms.



## Independent Auditors' Report *(continued)*

### Responsibilities of Management and Those Charged with Governance for the Financial Statements *(continued)*

In preparing the financial statements, management is responsible for assessing the Court's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the Court or to cease operations or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the Court's financial reporting process.

### **Auditor's Responsibilities for the Audit of the Financial Statements**

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with ISAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with ISAs, we exercise professional judgment and maintain professional scepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Court's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Court's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Court to cease to continue as a going concern.



### Independent Auditors' Report *(continued)*

#### Auditor's Responsibilities for the Audit of the Financial Statements *(continued)*

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

We communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

June 25, 2020  
Port-of-Spain,  
Trinidad and Tobago

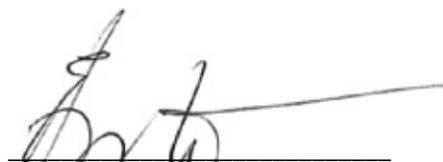
**Statement of Financial Position**  
**As at December 31, 2019**  
**(Expressed in Trinidad and Tobago Dollars)**

	Notes	2019	2018
<b>Assets</b>			
<b>Non-current assets</b>			
Property, plant and equipment	3	4,734,964	2,348,962
Retirement benefits due from Trust Fund	4	101,253,149	91,124,489
<b>Total non-current assets</b>		<b>105,988,113</b>	<b>93,473,451</b>
<b>Current assets</b>			
Other receivables	5	870,293	1,450,552
Due from related parties	6	964,627	1,033,244
Cash and cash equivalents		7,619,749	11,361,213
<b>Total current assets</b>		<b>9,454,669</b>	<b>13,845,009</b>
<b>Total assets</b>		<b>\$115,442,782</b>	<b>\$107,318,460</b>
<b>Accumulated fund and liabilities</b>			
<b>Accumulated fund</b>			
Accumulated fund		12,522,992	14,484,487
<b>Total accumulated fund</b>		<b>12,522,992</b>	<b>14,484,487</b>
<b>Non-current liability</b>			
Retirement benefit liability	7	101,253,149	91,124,489
<b>Total non-current liability</b>		<b>101,253,149</b>	<b>91,124,489</b>
<b>Current liability</b>			
Other payables	8	1,666,641	1,709,484
<b>Total current liability</b>		<b>1,666,641</b>	<b>1,709,484</b>
<b>Total accumulated fund and liabilities</b>		<b>\$115,442,782</b>	<b>\$107,318,460</b>

*See accompanying notes to the financial statements.*

These financial statements were approved for issue by the Court President and an RJLSC Commissioner on June 25, 2020, on behalf of the Caribbean Court of Justice.

  
\_\_\_\_\_  
Court President

  
\_\_\_\_\_  
Commissioner



**Statement of Comprehensive Income  
For the year ended December 31, 2019  
(Expressed in Trinidad and Tobago Dollars)**

	Notes	2019	2018
Funding from the Trust Fund	9	52,573,751	50,267,881
Other income	10	1,718,305	691,199
		<b>54,292,056</b>	<b>50,959,080</b>
Administrative expenses	11	(48,907,931)	(45,463,827)
<b>Surplus for the year</b>		<b>5,384,125</b>	<b>5,495,253</b>
<b>Other comprehensive loss</b>			
Re-measurement of defined benefit pension plans		(7,345,620)	(394,710)
<b>Total comprehensive (deficit)/surplus for the year</b>		<b>\$(1,961,495)</b>	<b>\$5,100,543</b>

*See accompanying notes to the financial statements.*



**Statement of Changes in Accumulated Fund**  
**For the year ended December 31, 2019**  
**(Expressed in Trinidad and Tobago Dollars)**

	Accumulated fund
<b>Year ended December 31, 2019</b>	
Balance as at January 1, 2019	14,484,487
Total comprehensive deficit for the year	(1,961,495)
<b>Balance as at December 31, 2019</b>	<b>\$12,522,992</b>
<b>Year ended December 31, 2018</b>	
Balance as at January 1, 2018	9,383,944
Total comprehensive surplus for the year	5,100,543
<b>Balance as at December 31, 2018</b>	<b>\$14,484,487</b>

*See accompanying notes to the financial statements.*



**Statement of Cash Flows**  
**For the year ended December 31, 2019**  
**(Expressed in Trinidad and Tobago Dollars)**

	2019	2018
<b>Cash flows from operating activities</b>		
Total comprehensive (deficit)/surplus for the year	(1,961,495)	5,100,543
Adjustments to reconcile total comprehensive surplus/deficit for the year to net cash from operating activities		
Depreciation	2,082,109	1,425,446
Gain on disposal of property, plant and equipment	(1,101,275)	-
Interest income	(69,629)	(3,309)
	(1,050,290)	6,522,680
Increase in retirement benefit due from Trust Fund	(10,128,660)	(4,194,630)
Decrease/(increase) in other receivables	580,259	(263,344)
Decrease in due from related parties	68,617	106,688
Increase in retirement benefit liability	10,128,660	4,194,630
(Decrease)/increase in other payables	(42,843)	1,057,798
<b>Net cash (used in)/generated from operating activities</b>	<b>(444,257)</b>	<b>7,423,822</b>
<b>Cash flows from investing activities</b>		
Interest received	69,629	3,309
Acquisition of property, plant and equipment	(4,468,111)	(868,700)
Proceeds from disposal of property, plant and equipment	1,101,275	-
<b>Net cash used in investing activities</b>	<b>(3,297,207)</b>	<b>(865,391)</b>
(Decrease)/increase in cash and cash equivalents for the year	(3,741,464)	6,558,431
Cash and cash equivalents as at January 1	11,361,213	4,802,782
<b>Cash and cash equivalents as at December 31</b>	<b>\$7,619,749</b>	<b>\$11,361,213</b>

*See accompanying notes to the financial statements.*

**Notes to the Financial Statements**  
**For the year ended December 31, 2019**  
**(Expressed in Trinidad and Tobago Dollars)**

**1. Establishment and principal activity**

The Caribbean Court of Justice (the "Court") and the Regional Judicial and Legal Services Commission (the "Commission") were established on February 14, 2001, by the Agreement Establishing the Caribbean Court of Justice (the "Agreement"). The Agreement was signed on that date by the following Caribbean Community ("CARICOM") states Antigua & Barbuda, Barbados, Belize, Grenada, Guyana, Jamaica, St. Kitts & Nevis, St. Lucia, Suriname and Trinidad & Tobago. Two further states, Dominica and St. Vincent & The Grenadines, signed the Agreement on February 15, 2003, bringing the total number of signatories to 12.

The Court was inaugurated on April 16, 2005, in Port of Spain, Trinidad and Tobago.

The first Commission came into force on August 21, 2003, and works to ensure that the Court meets and fully satisfies the expectations and needs of the people it serves.

The Court is the highest judicial tribunal, designed to be more than a Court of last resort for member states of the Caribbean Community. For, in addition to replacing the Judicial Committee of the Privy Council, the Court is vested with original jurisdiction in respect of the interpretation and application of the Revised Treaty of Chaguaramas Establishing the Caribbean Community including the CARICOM Single Market and Economy. The Court is designed to exercise both an appellate and original jurisdiction.

The Court is primarily financed by the Caribbean Court of Justice Trust Fund (the "Trust Fund"). The Trust Fund was established by the CARICOM states signing the Agreement, who together invested US\$100 million into the Trust Fund, which generates income to finance the expenditures of the Court and Commission.

**2. Significant accounting policies**

**(a) Basis of preparation**

The financial statements are prepared in accordance with International Financial Reporting Standards ("IFRS"), under the historical cost convention and are expressed in Trinidad & Tobago dollars, which is the Court's functional and presentation currency.

**(b) Changes in accounting policy and disclosures**

**(i) New and amended standards adopted by the Court**

The Court adopted IFRS 16 Leases with a transition date of January 1, 2019. There were no material changes to these financial statements resulting from the adoption of this new standard.

**(ii) New standards, amendments and interpretations issued but not effective and not early adopted**

There are no new standards, interpretations and amendments, which have not been applied in these financial statements which will or may have an effect on the Court's future financial statements.



**Notes to the Financial Statements**  
**For the year ended December 31, 2019**  
**(Expressed in Trinidad and Tobago Dollars)**

**2. Significant accounting policies** *(continued)*

**(b) Changes in accounting policy and disclosures** *(continued)*

Other standards, amendments and interpretations to existing standards in issue but not yet effective are not considered to be relevant to the Court and have not been disclosed.

(iii) Standards and amendments to published standards early adopted by the Court

The Court did not early adopt any new, revised or amended standards.

**(c) Use of estimates**

The preparation of these financial statements in conformity with IFRS requires management to make judgements, estimates and assumptions that affect the application of policies and reported amounts of assets, liabilities, income and expenses. Actual results could differ from these estimates.

Estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognized in the period in which the estimates are revised and in any future periods affected. Information about critical judgements in applying accounting policies that have the most significant effect on the amounts recognized in the financial statements is included in the following notes:

Note (e) Property, plant and equipment

Note (g) Other receivables

Note (j) Financial assets

Note (k) Financial liabilities

Note (m) Provisions

Note (n) Employee benefits

**(d) Foreign currency transactions**

Foreign currency transactions are translated into the functional currency using the exchange rates prevailing at the date of the transactions. Gains and losses resulting from the settlement of such transactions and from the translation of monetary assets and liabilities denominated in foreign currencies are recognised in the statement of comprehensive income. Year-end balances are translated at year-end exchange rates.

**(e) Property, plant and equipment**

Items of property, plant and equipment are measured at cost, net of accumulated depreciation and accumulated impairment losses.

Cost includes expenditure that is directly attributable to the acquisition of the asset. The cost of self-constructed assets includes the cost of material and direct labour, any other cost directly attributable to bringing the assets to a working condition for their intended use, the costs of dismantling and removing the items and restoring the site on which they are located and capitalized borrowing costs. Purchased software that is integral to the

**Notes to the Financial Statements**  
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**2. Significant accounting policies** *(continued)*

**(e) Property, plant and equipment** *(continued)*

functionality of the related equipment is capitalized as part of the equipment.

When parts of the items of property, plant and equipment have different useful lives, they are accounted for as separate items of property, plant and equipment.

The gain or loss on disposal of property, plant and equipment is determined by comparing the proceeds from disposal with the carrying amount of the property, plant and equipment, and is recognized net within other income/other expenses in the statement of comprehensive income. When revalued assets are sold, any related amount included in the revaluation reserve is transferred to the accumulated fund.

The cost of replacing a component of an item of property, plant and equipment is recognized in the carrying amount of the item if it is probable that the future economic benefits embodied within the component will flow to the Court, and its cost can be measured reliably. The carrying amount of the replaced component is derecognized. The costs of the day-to-day servicing of property, plant and equipment are recognized in the statement of comprehensive income as incurred.

Depreciation is based on the cost of an asset less its residual value. Significant components of individual assets are assessed and if a component has a useful life that is different from the remainder of that asset, that component is depreciated separately. Depreciation is recognized in the statement of comprehensive income on a straight-line basis over the estimated useful lives of each component of property, plant and equipment.

Depreciation is charged using the straight-line method at the rate of 25% for all property, plant and equipment except for leasehold improvements (10%), which is designed to write off the cost of the assets over their estimated useful lives.

Depreciation methods, useful lives and residual values are reviewed at each reporting date and adjusted if appropriate.

**(f) Impairment of non-financial assets**

The carrying amounts of the Court's assets are reviewed at each reporting date to determine whether there is any indication of impairment. If such an indication exists, the asset's recoverable amount is estimated.

An impairment loss is recognised whenever the carrying amount of an asset or its cash-generating unit exceeds its recoverable amount. Impairment losses are recognized in the statement of comprehensive income.

The recoverable amount of other assets is the greater of their net selling price and value in use. In assessing value in use, the estimated future cash flows are discounted to their present value using a discount rate that reflects current market assessments of the time value of money and the risks specific to the asset. For an asset that does not generate largely independent cash inflows, the recoverable amount is determined for the cash-generating unit to which the asset belongs.



**Notes to the Financial Statements**  
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**2. Significant accounting policies** *(continued)*

*(f) Impairment of non-financial assets* *(continued)*

An impairment loss is reversed if there has been a change in the estimates used to determine the recoverable amount. An impairment loss is reversed only to the extent that the asset's carrying amount does not exceed the carrying amount that would have been determined, net of depreciation or amortisation if no impairment loss had been recognized.

*(g) Other receivables*

Other receivables are stated net of any specific provision established to recognise anticipated losses for bad and doubtful debts. Bad debts are written off during the year in which they are identified.

*(h) Due (to)/from related party*

Due (to)/from related party is stated at cost.

*(i) Cash and cash equivalents*

For the purpose of the statement of cash flows, cash and cash equivalents comprise cash in hand and at bank, and cash deposited with money market income funds with an original maturity of three months or less.

*(j) Financial assets*

The Court classifies its financial assets at amortized cost. These assets arise principally from the Court's normal operations (e.g. advances to staff and VAT recoverable) but also incorporate other types of financial assets where the objective is to hold these assets in order to collect contractual cash flows and the contractual cash flows are solely payments of principal and interest. They are initially recognized at fair value plus transaction costs that are directly attributable to their acquisition or issue and are subsequently carried at amortized cost using the effective interest rate method, less provision for impairment.

Impairment provisions for financial assets other than related party balances are recognized based on the simplified approach within IFRS 9 using a provision matrix in the determination of the lifetime expected credit losses. During this process, the probability of the non-payment of the financial assets is assessed. This probability is then multiplied by the amount of the expected loss arising from default to determine the lifetime expected credit loss for the financial assets. For financial assets, which are reported net, such provisions are recorded in a separate provision account with the loss being recognized within cost of sales in the statement of comprehensive income. On confirmation that the financial assets will not be collectable, the gross carrying value of the asset is written off against the associated provision.

Impairment provisions for receivables from related parties and loans to related parties are recognized based on a forward-looking expected credit loss model. The methodology used to determine the amount of the provision is based on whether there has been a significant increase in credit risk since initial recognition of the financial asset. For those where the credit risk has not increased significantly since initial recognition of the financial asset, twelve months expected credit losses along with gross interest income are recognized. For those

**Notes to the Financial Statements**  
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**2. Significant accounting policies** *(continued)*

**(j) Financial assets** *(continued)*

for which credit risk has increased significantly, lifetime expected credit losses along with the gross interest income are recognized. For those that are determined to be credit-impaired, lifetime expected credit losses along with interest income on a net basis are recognized.

The Court's financial assets measured at amortized cost comprise retirement benefits due from Trust Fund, other receivables, due from related parties and cash and cash equivalents in the statement of financial position.

**(k) Financial liabilities**

The Court classifies its financial liabilities as financial liabilities at amortised cost. This primarily consists of other payables.

Payables and other short-term monetary liabilities are initially recognised at fair value and subsequently carried at amortised cost.

**(l) Accumulated fund**

The accumulated fund represents the excess (deficit) of funding received over (less than) expenditure.

**(m) Provisions**

A provision is recognised if, as a result of a past event, the Court has a present legal or constructive obligation that can be estimated reliably, and it is probable that an outflow of economic benefits will be required to settle the obligation. Provisions are determined by discounting the expected future cash flows at a rate that reflects current market assessments of the time value of money and, where appropriate, the risks specific to the liability. The unwinding of finance cost is recognized as a finance cost.

**(n) Employee benefits**

The Trust Fund had previously proposed that since the retirement arrangements of the Court are already funded from within the Trust Fund with a legislature from the Heads of Government to ensure that the resources are always adequate, the retirement benefits due to the judges and non-judicial staff should be paid from the Trust Fund as they fall due. These proposals were accepted by the Court. Refer to Notes 4 and 7.

**(i) Non-judicial staff pension plan**

The Court provides its non-judicial staff with a pension plan. Under this plan, the employees of the Court make contributions which are deducted from their salaries and are matched with employer contributions from the Court.

Balances accumulated under this plan are calculated by an independent third-party administrator, in accordance with an agreed formula between the Court and their employees. The administrator advises the Court of the accumulated amounts at the end of each financial year.



**Notes to the Financial Statements**  
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2. Significant accounting policies (*continued*)  
(n) *Employee benefits (continued)*

When a staff member reaches retirement, the Court's actuary determines the pension entitlement for that employee based on their accumulated balance using appropriate actuarial assumptions. The Trust Fund, at the request of the Court, provides to the Court the funds necessary to pay the pension for each employee on this basis.

However, since there is no separate external fund where the contributions are placed (other than the Trust Fund), under IAS 19 these arrangements are treated as a defined benefit obligation of the Court.

(ii) Defined benefit plan

The Court's obligation in respect of the defined benefit pension plan for judges is calculated by estimating the amount of future benefit that judges have earned in return for their service in the current and prior periods; that benefit is discounted to determine its present value. The calculation is performed by the Court's actuary using the projected unit credit method.

(o) Taxation

Pursuant to the terms of an agreement entered into on July 4, 2003, between the Court, the Commission and the Government of the Republic of Trinidad and Tobago, the Court is exempt from all direct and indirect taxes, duties and levies imposed in Trinidad and Tobago.

(p) Revenue recognition

Funds from the Caribbean Court of Justice Trust Fund

Unconditional funding related to the ongoing operations of the Court is recognized in the statement of comprehensive income as income in the period in which the funds become receivable from the Trust Fund.

Grants

Subventions that compensate the Court for expenses incurred are recognized as income in the statement of comprehensive income on a systematic basis in the same periods in which the expenses are incurred.

Grants that compensate the Court for the cost of an asset are recognized in the statement of comprehensive income as revenue on a systematic basis over the life of the asset.

All other revenue is recorded on an accruals basis.

(q) Administrative expenses

Expenses are recorded at cost on the transaction date and are recognised on the accrual basis in the statement of comprehensive income.

**Notes to the Financial Statements**  
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**3. Property, plant and equipment**

	Computer and software	Furniture, fixtures and equipment	Flags, crest and seals	Library books	Security equipment	Leasehold improvements	Vehicles	Total
<b>Year ended December 31, 2019</b>								
<b>Cost or valuation</b>								
As at January 1, 2019	11,648,071	11,929,727	428,470	15,037,900	1,587,276	1,052,724	4,103,935	45,788,103
Additions	391,003	470,458	-	79,718	162,183	256,749	3,108,000	4,468,111
Disposals	(181,733)	(14,445)	-	-	-	-	(2,761,234)	(2,957,412)
<b>As at December 31, 2019</b>	<b>11,857,341</b>	<b>12,385,740</b>	<b>428,470</b>	<b>15,117,618</b>	<b>1,749,459</b>	<b>1,309,473</b>	<b>4,450,701</b>	<b>47,298,802</b>
<b>Accumulated depreciation</b>								
As at January 1, 2019	(11,061,592)	(11,254,493)	(427,485)	(14,858,513)	(1,086,573)	(651,402)	(4,099,083)	(43,439,141)
Charge for the year	(478,849)	(391,870)	(985)	(112,784)	(228,453)	(89,743)	(779,425)	(2,082,109)
Disposals	181,733	14,445	-	-	-	-	2,761,234	2,957,412
<b>As at December 31, 2019</b>	<b>(11,358,708)</b>	<b>(11,631,918)</b>	<b>(428,470)</b>	<b>(14,971,297)</b>	<b>(1,315,026)</b>	<b>(741,145)</b>	<b>(2,117,274)</b>	<b>(42,563,838)</b>
<b>Net book value</b>								
<b>As at December 31, 2019</b>	<b>\$498,633</b>	<b>\$753,822</b>	<b>\$ -</b>	<b>\$146,321</b>	<b>\$434,433</b>	<b>\$568,328</b>	<b>\$2,333,427</b>	<b>\$4,734,964</b>
<b>Year ended December 31, 2018</b>								
<b>Cost or valuation</b>								
As at January 1, 2018	11,537,275	11,753,699	428,470	14,913,525	1,171,213	1,011,286	4,103,935	44,919,403
Additions	110,796	176,028	-	124,375	416,063	41,438	-	868,700
<b>As at December 31, 2018</b>	<b>11,648,071</b>	<b>11,929,727</b>	<b>428,470</b>	<b>15,037,900</b>	<b>1,587,276</b>	<b>1,052,724</b>	<b>4,103,935</b>	<b>45,788,103</b>
<b>Accumulated depreciation</b>								
As at January 1, 2018	(10,605,677)	(10,880,385)	(422,582)	(14,729,407)	(928,620)	(568,616)	(3,878,408)	(42,013,695)
Charge for the year	(455,915)	(374,108)	(4,903)	(129,106)	(157,953)	(82,786)	(220,675)	(1,425,446)
<b>As at December 31, 2018</b>	<b>(11,061,592)</b>	<b>(11,254,493)</b>	<b>(427,485)</b>	<b>(14,858,513)</b>	<b>(1,086,573)</b>	<b>(651,402)</b>	<b>(4,099,083)</b>	<b>(43,439,141)</b>
<b>Net book value</b>								
<b>As at December 31, 2018</b>	<b>\$586,479</b>	<b>\$675,234</b>	<b>\$985</b>	<b>\$179,387</b>	<b>\$500,703</b>	<b>\$401,322</b>	<b>\$4,852</b>	<b>\$2,348,962</b>



**Notes to the Financial Statements**  
**For the year ended December 31, 2019**  
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**4. Retirement benefits due from Trust Fund**

	2019	2018
Retirement benefits due from Trust Fund	<u>\$101,253,149</u>	<u>\$91,124,489</u>

The Trust Fund had previously proposed that since the retirement arrangements of the Court are already funded from within the Trust Fund with a legislature from the Heads of Government to ensure that the resources are always adequate, the retirement benefits due to the judges and non-judicial staff should be paid from the Trust Fund as they fall due. These proposals were accepted by the Court. For the judges, this balance is determined by the present value of the future cost of the judges' pensions, while for non-judicial staff the balance is determined by the total of the non-judicial staff's employee account balances. Refer to Notes 2 (n) and 7.

**5. Other receivables**

	2019	2018
Due from the Caribbean Association of Judicial Officers (CAJO)	289,216	46,121
Employee advances	285,199	418,390
VAT recoverable	194,855	254,076
Due from Caribbean Academy for Law & Court Administration (CALCA)	-	488,562
Prepayment	-	16,301
Other assets	101,023	227,102
	<u>\$870,293</u>	<u>\$1,450,552</u>

**6. Related party transactions**

The following balances/transactions were held/carried out with related parties:

	2019	2018
a) Due from related parties:		
- The Commission	932,628	947,182
- JURIST Project	31,999	86,062
	<u>\$964,627</u>	<u>\$1,033,244</u>

Amounts due from the Commission and the JURIST Project are interest-free, with no fixed repayment terms.

b) Trust Fund income received on behalf of and transferred to the Commission:	\$3,682,430	\$3,424,845
c) Expenses charged to the Commission	\$54,055	\$78,861

The Commission works to ensure that the Court meets and fully satisfies the expectations and needs of the people it serves.

**Key management compensation:**

d) Salaries and other short-term benefits	\$6,045,757	\$6,128,349
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**Notes to the Financial Statements**  
**For the year ended December 31, 2019**  
**(Expressed in Trinidad and Tobago Dollars)**

**7. Retirement benefit liability**

	2019	2018
Judges	76,199,100	70,934,070
Non-Judicial Staff	25,054,049	20,190,419
	<b>\$101,253,149</b>	<b>\$91,124,489</b>

**Judges pension arrangement**

The President and Judges of the Court are to be paid pension benefits as per a final salary defined benefit pension plan in respect of continuous service with the Court. The benefits are based on one of the following categories depending on the number of years of continuous service at the time of retirement.

Less than 5 years' service	A gratuity of 20% of the pensionable emoluments at the time of retirement for every year of continuous service.
5 to 10 years of service	A monthly pension equivalent to two-thirds of the monthly pensionable emoluments at the time of retirement, for life.
More than 10 years of service	A monthly pension equivalent to the monthly pensionable emoluments at the time of retirement, for life.

Principal actuarial assumptions at the reporting date are as follows:

	2019	2018
Discount rate	3.0%	4.0%
Expected rate of return on plan assets	N/A	N/A
Salary growth rate	1%	1%
Average expected remaining working lives of members	9 years	9 years
Fair value of plan assets as at the beginning of year	-	-
Contributions by the Court	3,753,090	3,191,130
Benefits paid	(3,753,090)	(3,191,130)
<b>Fair value of plan assets as at the end of year</b>	<b>\$-</b>	<b>\$-</b>
Present value of obligation as at beginning of year	70,934,070	68,565,810
Foreign exchange loss on opening obligation	-	-
Interest cost	2,829,870	2,401,710
Current service cost - Employer's portion	1,639,050	1,639,050
Benefit payments	(3,753,090)	(3,191,130)
Actuarial loss on obligation	4,549,200	1,518,630
<b>Present value of obligation as at end of year</b>	<b>\$76,199,100</b>	<b>\$70,934,070</b>
<b>Profit or loss</b>		
Service cost	1,639,050	1,639,050
Interest cost	2,829,870	2,401,710
	<b>4,468,920</b>	<b>4,040,760</b>
<b>Other comprehensive income</b>		
Net actuarial loss recognized	4,549,200	1,518,630
<b>Total expense</b>	<b>\$4,549,200</b>	<b>\$5,559,390</b>



**Notes to the Financial Statements**  
**For the year ended December 31, 2019**  
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**7. Retirement benefit liability (continued)**  
**Judges pension arrangement (continued)**

	<b>2019</b>	<b>2018</b>
Opening liability	(70,934,070)	(68,565,810)
Total expense	(9,018,120)	(5,559,390)
Contributions paid	3,753,090	3,191,130
<b>Closing liability</b>	<b><u>\$(76,199,100)</u></b>	<b><u>\$(70,934,070)</u></b>

As the retirement benefit liability is payable by the Trust Fund when it becomes due, a receivable balance from the Trust Fund is recorded in the statement of financial position to match the retirement benefit liability.

	<b>2019</b>	<b>2018</b>
Present value of the obligation	(76,199,100)	(70,934,070)
<b>Liability recognized in statement of financial position</b>	<b><u>\$(76,199,100)</u></b>	<b><u>\$(70,934,070)</u></b>

**Non-Judicial staff pension plan**

The Court and its employees, with the exception of judges, contribute towards a pension plan which is managed by a Pension Administration Committee made up of representatives of the Commission, employees, the Trust Fund and the Court. The data and benefit administration services are provided by Bacon Woodrow and de Souza Limited. However, since there is no separate external fund where the contributions are placed (other than the Trust Fund), under IAS 19 these arrangements are treated as a defined benefit obligation of the Court. Refer to Notes 2 (n) and 4.

<b>Movement in the present value of defined benefit obligation</b>	<b>2019</b>	<b>2018</b>
Defined benefit obligation as at start of year	20,190,419	18,364,049
Current service cost	1,478,490	1,578,840
Interest cost	829,560	682,380
Contributions paid	829,560	809,490
Re-measurements:		
- Experience adjustment	1,973,550	(829,560)
- Actuarial gains from changes in demographic assumptions	120,420	-
- Actuarial gains from changes in financial assumptions	702,450	(294,360)
- Benefits paid	(1,070,400)	(120,420)
<b>Defined benefit obligation as at end of year</b>	<b><u>\$25,054,049</u></b>	<b><u>\$20,190,419</u></b>

**Liability profile**

The defined benefit obligations as at the year ends were allocated as follows:

	<b>2019</b>	<b>2018</b>
- Active members	84%	85%
- Pensioners	16%	15%

The weighted average duration of the defined obligation at the year-end was 3.2 years (2018: 3 years). 92% (2018: 82%) of the benefits accrued by active members were vested. 1% (2018: 1%) of the defined benefit obligation for active members was conditional on future salary increases.

**Notes to the Financial Statements**  
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**7. Retirement benefit liability (continued)**

**Non-Judicial staff pension plan (continued)**

**Movement in fair value of plan assets/asset allocation**

The Plan's assets are held by the Trust Fund in an amount equal to the Plan's liabilities.

	2019	2018
<b>Expense recognised in profit and loss</b>		
Current service cost	1,478,490	1,578,840
Net interest on net defined benefit liability	829,560	682,380
<b>Net pension costs</b>	<b>\$2,308,050</b>	<b>\$2,261,220</b>

**Movement in fair value of plan assets/asset allocation**

**Re-measurements recognised in other comprehensive income**

Experience losses	2,796,420	(1,123,920)
<b>Total amount recognised in other comprehensive income</b>	<b>\$2,796,420</b>	<b>\$(1,123,920)</b>

The Plan's assets are held by the Trust Fund in an amount equal to the Plan's liabilities.

	2019	2018
Opening defined benefit liability	20,190,419	18,364,049
Net pension cost	2,308,050	2,261,220
Re-measurements recognized in other comprehensive income	2,796,420	(1,123,920)
Employees salary deductions	829,560	809,490
Benefits paid by the Court	(1,070,400)	(120,420)
<b>Closing defined benefit liability</b>	<b>\$25,054,049</b>	<b>\$20,190,419</b>

**Summary of principal assumptions as at December 31**

Discount rate	3.0% pa	4.0% pa
Salary increases	1.0% pa	1.0% pa

Assumptions regarding future mortality are based on published mortality tables. The life expectancies underlying the value of the defined benefit obligation as at the year ends are as follows:

	2019	2018
Life expectancy at age 65 for current pensioner in years:		
- Male	17.4	16.9
- Female	21.4	20.7

**Sensitivity Analysis**

The calculation of the defined benefit obligation is sensitive to the assumptions used. The following table summarizes how the defined benefit obligation as at the year ends would have changed as a result of a change in the assumptions used.

**As at December 31, 2019**

	1% pa higher	1% pa lower
Discount rate	\$863,010	\$(863,010)
Salary increases	\$(100,350)	\$100,350



**Notes to the Financial Statements**  
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**7. Retirement benefit liability (continued)**

**Non-Judicial staff pension plan (continued)**

**Sensitivity Analysis (continued)**

**As at December 31, 2018**

	1% pa higher	1% pa lower
Discount rate	\$521,820	\$(622,170)
Salary increases	\$(100,350)	\$100,350

An increase of one year in the assumed life expectancies shown above would decrease the defined benefit obligation as at December 31, 2019, by \$160,560 (2018: \$127,110).

These sensitivities were calculated by re-calculating the defined benefit obligations using the revised assumptions.

**Funding**

The Court provides benefits under the Plan on a pay as you go basis and thus pays benefits as and when they fall due. The Court expects to pay contributions totalling \$401,400 in 2020.

**8. Other payables**

	2019	2018
Accounts payable	920,500	784,286
Pension contributions due to Trust Fund	516,017	637,180
Accruals	208,260	210,709
Deferred income	593	593
Due to Caribbean Academy for Law & Court Administration (CALCA)	13,723	-
Miscellaneous liabilities	7,548	76,716
	<b>\$1,666,641</b>	<b>\$1,709,484</b>

**9. Funding from the Trust Fund**

	2019	2018
Funding received from the Trust Fund	42,920,081	48,736,239
Pension income receivable from the Trust Fund	9,653,670	1,531,642
	<b>\$52,573,751</b>	<b>\$50,267,881</b>

**10. Other income**

	2019	2018
Foreign exchange gain	513,949	474,107
Interest income	69,629	3,309
Memorabilia sales	24,009	5,825
CALCA registration fee income	-	152,143
Miscellaneous income	9,443	55,815
Gain on disposal of property, plant and equipment	1,101,275	-
	<b>\$1,718,305</b>	<b>\$691,199</b>



**Notes to the Financial Statements**  
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**11. Administrative expenses**

	2019	2018
Salaries and allowances	30,626,126	29,925,622
Pension cost and gratuities	8,158,223	6,964,849
Depreciation	2,082,109	1,425,446
Insurance expenses	1,648,528	1,282,633
Education and training	1,028,352	756,271
Telephone and internet	809,976	855,436
Repairs and maintenance	799,588	825,658
Library materials	726,984	681,313
Professional fees	717,991	387,053
Janitorial expenses	694,723	688,611
Other administrative expenses	474,837	484,662
Entertainment expenses	330,115	328,596
CALCA expenses	276,832	-
Public education	210,734	58,577
Motor vehicle expenses	130,639	146,946
Office supplies	88,552	152,868
Travelling expenses	61,549	353,091
Bank charges	42,073	40,662
Uniforms	-	105,533
	<b>\$48,907,931</b>	<b>\$45,463,827</b>
Number of employees	89	84

**12. Financial risk management**

**Financial risk factors**

The main financial risks arising from the Court's Operations are foreign exchange currency risk, credit risk and liquidity risk. Risk management is carried out by the Finance and Administration Manager under policies approved by the Commission.

**Foreign exchange risk**

The Court is mainly exposed to foreign exchange risk arising from financial instruments denominated in foreign currencies. Foreign exchange risk arises when future commercial transactions or recognized assets or liabilities are denominated in a currency that is not the entity's functional currency.

The table below summarizes the Court's assets and liabilities, at the year ended, which are denominated in United States dollars.

	2019	2018
<b>Assets</b>		
Retirement benefit due from Trust Fund	101,253,149	91,124,489
Cash and cash equivalents	5,655,446	9,989,912
<b>Total assets</b>	<b>\$106,908,595</b>	<b>\$101,114,401</b>
<b>Net exposure</b>	<b>\$106,908,595</b>	<b>\$101,114,401</b>



**Notes to the Financial Statements**  
**For the year ended December 31, 2019**  
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**12. Financial risk management (continued)**

**Foreign exchange risk (continued)**

The table below summarizes the sensitivity of the Court's assets and liabilities to changes in foreign exchange movements at the year-end. The analysis is based on the assumptions that the relevant foreign exchange rate increased/decreased by 5% to the Trinidad and Tobago dollars (2018: 5%), with all other variables held constant. This represents management's best estimate of a reasonable possible shift in the foreign exchange rates, having regard to the historical volatility of those rates.

Foreign exchange risk	Effect on accumulated fund	
	2019	2018
<i>Increased by 5%</i>	\$5,345,430	\$5,055,720
<i>Decreased by 5%</i>	\$(5,345,430)	\$(5,055,720)

**Credit risk**

Credit risk is the risk that a borrower or counterparty fails to meet its contractual obligation. Credit risk of the Court arises from cash and cash equivalents as well as credit exposures from staff loans receivable. The Court is mainly exposed to credit risk from cash and cash equivalents.

The credit quality of staff, their financial position, past experience and other factors are taken into consideration in assessing credit risk and are minimised through the use of contractual agreements.

Cash and deposits are held with reputable financial institutions.

The carrying value of financial assets on the statement of financial position represents their maximum exposure.

**Liquidity risk**

Liquidity risk arises from the Court's management of working capital. It is the risk that the Court will encounter difficulty in meeting its financial obligations as they fall due. Prudent risk management implies maintaining sufficient cash to fund its day to day operations.

The table below summarizes the maturity profile of the Court's financial liabilities as at the year-end based on contractual undiscounted payments:

	Less than three (3) months	Less than one (1) year	No stated maturity	Total
<b>At December 31, 2019</b>				
<b>Financial liabilities:</b>				
Other payables	1,666,641	-	-	1,666,641
<b>Total liabilities</b>	<b>\$1,666,641</b>	<b>\$-</b>	<b>\$-</b>	<b>\$1,666,641</b>
<b>At December 31, 2018</b>				
<b>Financial liabilities:</b>				
Other payables	1,709,484	-	-	1,709,484
<b>Total liabilities</b>	<b>\$1,709,484</b>	<b>\$-</b>	<b>\$-</b>	<b>\$1,709,484</b>



**Notes to the Financial Statements**  
**For the year ended December 31, 2019**  
**(Expressed in Trinidad and Tobago Dollars)**

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**13. Subsequent events**

Management evaluated all events that occurred from January 1, 2020, through June 25, 2020, the date the financial statements were available to be issued. During the period, the Court did not have any subsequent events requiring recognition or disclosure in the financial statements.

The 2019 Novel Coronavirus infection ('coronavirus') or 'COVID-19' outbreak poses a serious public health threat. It has interrupted the movement of people and goods throughout the world, and many levels of government are instituting restrictions on individuals and businesses. Significant development and spread of the coronavirus did not take place until January 2020. As such, the outbreak represents a non-recognised subsequent event for purposes of these financial statements.

COVID-19 did not have a significant impact on the operations of the Court.



## The Caribbean Court of Justice

### Supplementary Financial Information

(Expressed in United States Dollars)

For the year ended December 31, 2019



## Independent Auditors' Report on the Supplementary Financial Information



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To the Court President

The Caribbean Court of Justice

We have audited the financial statements of the Caribbean Court of Justice for the year ended December 31, 2019, and have issued our report thereon dated June 25, 2020.

We conducted our audit in accordance with International Standards on Auditing. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatements.

We conducted our audit for the purpose of expressing an opinion on the financial statements of the Caribbean Court of Justice taken as a whole. The accompanying supplemental financial information, consisting of the statements of financial position, comprehensive income and changes in accumulated fund, is presented for the purpose of additional analysis in United States Dollars and should not be considered necessary to the presentation of the basic financial statements. This information has been subjected to the audit procedures applied to the basic financial statements and, in our opinion, is fairly presented, in all material respects, when taken as a whole with the basic financial statements.

June 25, 2020

Port of Spain,  
Trinidad, West Indies

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BDO is the brand name for the BDO network and for each of the BDO Member Firms.



**Statement of Financial Position**  
**For the year ended December 31, 2019**  
**(Expressed in United States Dollars)**

	2019	2018
<b>Assets</b>		
<b>Non-current assets</b>		
Property, plant and equipment	707,767	351,115
Retirement benefit due from Trust Fund	15,135,000	13,621,000
<b>Total non-current assets</b>	<b>15,842,767</b>	<b>13,972,115</b>
<b>Current assets</b>		
Other receivables	130,089	216,824
Due from related parties	144,189	154,446
Cash and cash equivalents	1,138,976	1,698,238
<b>Total current assets</b>	<b>1,413,254</b>	<b>2,069,508</b>
<b>Total assets</b>	<b>US\$17,256,021</b>	<b>US\$16,041,623</b>
<b>Accumulated fund and liabilities</b>		
<b>Accumulated fund</b>		
Accumulated fund	1,871,897	2,165,095
<b>Total accumulated fund</b>	<b>1,871,897</b>	<b>2,165,095</b>
<b>Non-current liability</b>		
Retirement benefit liability	15,135,000	13,621,000
<b>Total non-current liability</b>	<b>15,135,000</b>	<b>13,621,000</b>
<b>Current liability</b>		
Other payables	249,124	255,528
<b>Total current liability</b>	<b>249,124</b>	<b>255,528</b>
<b>Total accumulated fund and liabilities</b>	<b>US\$17,256,021</b>	<b>US\$16,041,623</b>

Translation rate used - US\$1.00: TT\$6.69 (2018: US\$1.00: TT\$6.69)



**Statement of Comprehensive Income**  
**For the year ended December 31, 2019**  
**(Expressed in United States Dollars)**

	2019	2018
Funding from the Trust Fund	7,858,558	7,513,884
Other income	256,847	103,318
	<b>8,115,405</b>	<b>7,617,202</b>
Administrative expenses	(7,310,603)	(6,795,789)
Surplus for the year	<b>804,802</b>	<b>821,413</b>
Other comprehensive loss		
Re-measurement of defined benefit pension plans	(1,098,000)	(59,000)
<b>Total comprehensive (deficit)/surplus for the year</b>	<b>US\$(293,198)</b>	<b>US\$762,413</b>

Translation rate used - US\$1.00: TT\$6.69 (2018: US\$1.00: TT\$6.69)



**Statement of Changes in Accumulated Fund**  
**For the year ended December 31, 2019**  
**(Expressed in United States Dollars)**

	Accumulated fund
<b>Year ended December 31, 2019</b>	
Balance as at January 1, 2019	2,165,095
Total comprehensive deficit for the year	(293,198)
<b>Balance as at December 31, 2019</b>	<b>US\$1,871,897</b>
<b>Year ended December 31, 2018</b>	
Balance as at January 1, 2018	1,402,682
Total comprehensive surplus for the year	762,413
<b>Balance as at December 31, 2018</b>	<b>US\$2,165,095</b>

Translation rate used - US\$1.00: TT\$6.69 (2018: US\$1.00: TT\$6.69)



# ANNUAL REPORT

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