

SOMC opened in Antigua

Even though the CARICOM region has made progress in promoting gender equality, statistics illustrate that sexual violence perpetrated against women, girls and boys remains a significant problem. This was revealed at the official opening of the Sexual Offences Model Court (SOMC) in Antigua and Barbuda on Monday January 21, 2019.

An initiative of the Canadian funded Judicial Reform and Institutional Strengthening (JURIST) Project and the High Court of Justice in Antigua and Barbuda, the SOMC seeks to help remedy the deficiencies in the court's current handling of sexual offence cases.

Citing statistics from the World Bank, Ms. Monique Bergeron, Acting Senior Director, Caribbean Regional Program, Global Affairs Canada, noted that:

- The Caribbean has three of the top 10 countries with the highest incidence of rapes;
- In nine Caribbean countries, 48 percent of adolescent girls' first sexual encounter was either "forced" or "somewhat forced";
- In Antigua and Barbuda, 93 percent of victims in sexual assault cases before the High Court are girls under the age of 16; and
- Seventy-nine percent of the perpetrators in sexual assaults cases in the Antigua High Court are men between the ages of 21 and 60.

"It is therefore evident that the region, including Antigua and Barbuda, experiences high levels of sexual violence – the majority of which is underreported and ineffectively dealt with by the justice system," Ms. Bergeron said.

She further stated that in a 2016 Baseline Study, commissioned by the JURIST Project and undertaken by UN Women and which examined the legislation, protocols and court processes for sexual offence cases in five Caribbean countries, major gaps in the justice system's handling of sexual offences were identified.

These gaps included poor investigative and evidence gathering procedures by the police; delays that result in the survivor of sexual violence having to relive this trauma over a number of years; undervaluing of sexual offence cases in relation to the public interest, which results in scarce resources being reserved for other "serious crimes" such as murder; and the complainants' refusal to pursue cases for fear of re-victimisation by the very process of seeking justice among other issues.

Ms. Bergeron said that the Government of Canada was heartened to know that the SOMC will remedy these ills through a number of mechanisms which include speedy adjudication of cases and reduction of case backlogs over time; improved responses to survivors that will enable their full participation in the justice system, increase offender accountability and reduce



Members of the Honey Bee Theatre Group during a dramatic performance on gender bias at the opening of the SOMC

secondary victimisation; and the use of a skilled cadre of cross-sectional professionals including judges, doctors, court personnel, police and attorneys trained to efficiently respond to sexual assault cases, survivors and witnesses.

"We are pleased to see that Canada's contribution to judicial reform, through the funding of the JURIST Project, has led to the establishment of a specialised court that will above all, ensure a fair trial for defendants and preserve the dignity of survivors of sexual assaults," Ms. Bergeron added.

She continued: "It is our hope that all stakeholders will work assiduously to ensure the sustainability of the SOMC and that the Court will, as the name suggests, become a model court that all other CARICOM jurisdictions will adopt for the treatment of sexual survivors and the management of sexual offence cases."

The Honourable Mr. Justice Jacob Wit, Judge, Caribbean Court of Justice explained that the SOMC was not a separate court, but a regular criminal trial court with distinct procedures for sexual offences with important additional facilities and equipment. "The idea is, it seems to me, that for very good reasons, the resolution of a sexual offences charge should be achieved with deliberate speed, which could result in either a conviction or an acquittal. Nobody, the defendant, the victim nor the witnesses, should have to wait too long for the resolution of such a case," he reiterated.

Justice Wit said it was his hope that when the new techniques employed by the SOMC are proven to be successful, that they will be extended to every other area of criminal law.

Read more about the opening of the SOMC [here](#).

In this Issue

Dear Reader,

We are pleased to present for your reading pleasure, Issue 11 of *JURIST News*.

Featuring in this issue, is the historic opening of the Sexual Offences Model Court (SOMC) in Antigua and Barbuda. A truly ground-breaking initiative with the High Court of Justice in Antigua and Barbuda, the SOMC is intended to introduce specialised procedures to remedy the deficiencies in the court's handling of sexual offences.

Trinidad and Tobago, and Belize became the first two countries to launch the Gender Protocol which will assist judicial officers in both countries to adjudicate cases through a gender lens. It builds the capacity of judges and magistrates to identify and address the social, economic and cultural circumstances that perpetuate gender inequality in cases dealing with custody, maintenance, sexual violence, domestic violence and human trafficking.

The first of its kind *Criminal Bench Book for Magistrates and Parish Court Judges in the Caribbean Region* was also launched in December, 2018 in Jamaica. The issues covered in the Bench Book include a broad spectrum of litigation from across the English-speaking Caribbean and it is hoped that it will be the first point of reference for all magistrates and parish court judges. Consistent with the imperative of access to justice for all, the publication provides critical information relating to the norms for conducting a fair and just criminal trial.

We hope you enjoy reading the articles in this issue. As always, we take this opportunity to remind you that we welcome and appreciate feedback from our readers. We encourage contributions, information or material that we can include in future issues of the Newsletter.

- The JURIST Project Team

Public confidence critical to administration of justice

“Given the high expectations that society as a whole has for judges, it is little wonder that we often forget that judges are human beings with attendant strengths and weaknesses.”

This was the view of the Honourable Mr. Justice Ivor Archie, Chief Justice of Trinidad and Tobago. He was at the time speaking at the opening of the Commonwealth Judicial Education Institute’s (CJJI) Biennial Meeting which was held from November 15-18, 2018 in Port-of-Spain, Trinidad and Tobago. The theme of the Meeting was “Teaching Effective Behavioural Change Programming,” and was held in partnership with the Judicial Reform and Institutional Strengthening (JURIST) Project and the Trinidad and Tobago Judicial Education Institute (TTJJI).

The Honourable Chief Justice said that while judges should aspire to objectivity, they cannot avoid being shaped by their background and life experiences. He added that while many judges and lawyers still accept the traditional view of the judge, others have begun to question how objective one can really be even in pursuit of the correct legal solution.

He explained that there was beginning to emerge a more modern conception of the role of the judge, which is more tolerant of elements of subjectivity. However, he stated that those who support this version of the judge argue that to completely factor out all subjective perceptions would make judging mechanical and inhuman.

“This more subjective and human judge is not to be substituted for the objective judge. The challenge is to put the two roles together,” he explained. He added that recognizing one’s biases may be the best route to impartial judging.

“The judge who realizes before listening to a case, that all men and women have a natural bias of mind and that thought is apt to be coloured by predilection, is more likely to make a conscious effort at impartiality and dispassionateness than one who believes that his elevation to the bench makes him at once the dehumanized instrument of infallible logic. This approach to the role of the judge has important implications for the scope of judicial ethics. If reveling one’s biases as a judge is a positive thing, then perhaps it can be argued that explicit impression of our internal thought processes should be encouraged rather than restrained,” he explained.

He pointed out that Codes of Conduct provide a standard against which to assess judicial behavior and serve as a guide to judges about what is and is not acceptable behaviour. “It is in these grey areas that the concept of judicial ethics become particularly important. There would likely be widespread agreement that a judge should not abuse his or her position of power but less agreement about what would constitute such an abuse,” he noted.

He reminded participants that judiciaries do not exist in isolation and are institutions of society where

judges require the respect and faith of the communities they serve to be effective. “Public confidence is critical to the administration of justice. Educating the community about the role of judges is gaining recognition as a key element of maintaining the respect for the judiciary. Making judges accountable for their conduct is another vital aspect of maintaining public respect for judges,” he stated.

Justice Archie noted that the Meeting afforded all participants the opportunity to discuss these burning issues with their peers and exchange experiences and information.

Her Excellency Carla Hogan Rufelds, High Commissioner of Canada to Trinidad and Tobago reiterated the Chief Justice’s sentiments and said that a judicial system was only as strong and independent as the belief and faith of the people in it. “The judiciary, while needing to discharge its role in specific times and context can only be a judiciary worthy of its name if its pronouncements are underpinned by core values that are cemented in its commitment to the dignity of the human being and the respect that such dignity commands,” she explained.

The High Commissioner urged all participants to remember the value of each human being by never forgetting that the community has interests that must be protected by reasonable restraints on the activities of individuals.



A cross section of the participants at the CJJI's Biennial Meeting

“The delicate balance required to properly evaluate conflicting positions and competing interests can only be sustained by a wise and mature judiciary that is unafraid to face the challenges of increasingly changing landscapes. Core values that uphold the dignity of the human being are what makes for the Rule of Law. And it is the Rule of Law that will allow human society to continue in a spirit of solidarity,” she advised.

Read more about the CJJI’s Biennial Meeting [here](#).

JURIST Project donates equipment to Guyana judiciary

The Guyana judiciary got a boost in its technology when the JURIST Project officially donated 10 Liberty systems on January 28, 2019.

The equipment was installed from November 11-14, 2018 in 10 courts across Guyana - nine in Georgetown and one in Berbice. The systems will allow the courts to capture, store and retrieve digitally recorded audio of courtroom proceedings.

The JURIST Project is working with judiciaries in the region to support their efforts to improve court administration and strengthen the ability of the courts and the judiciary to resolve cases efficiently and fairly. In this regard, the Project has committed to support the judiciary in Guyana in reducing to zero the current backlog that exists in the Demerara and Berbice Supreme Courts.

Read more [here](#).



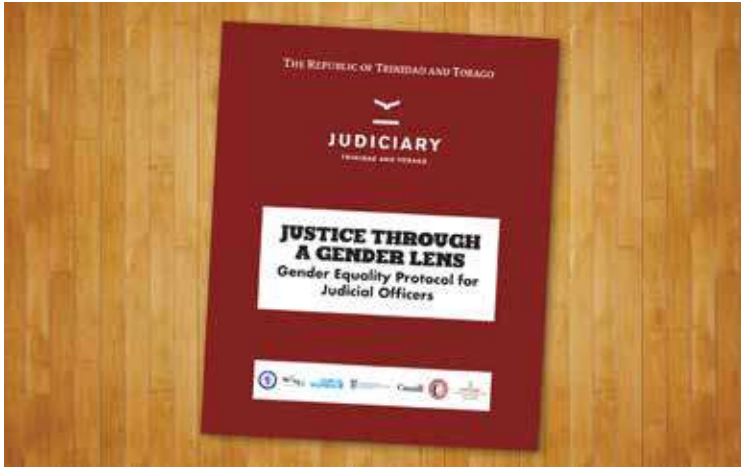
The Honourable Mme. Justice Yonette Cummings-Edwards (second from right), Chancellor of the judiciary of Guyana officially receives certification for the 10 Liberty systems from Her Excellency Lilian Chatterjee (second from left), High Commissioner of Canada to Guyana. Looking on are Mrs. Gloria Richards-Johnson (right), Director, JURIST Project and Mr. Collins Ijoma (left), Chief Executive Officer (CEO), Collins Ijoma and Associates, suppliers of the equipment

Gender Protocol launched in Trinidad and Tobago and Belize

The judiciaries of Trinidad and Tobago and Belize launched *Justice Through a Gender Lens: Gender Equality Protocol for Judicial Officers* on November 27, 2019 and December 11, 2019 respectively in their countries.

TRINIDAD AND TOBAGO

The launch in Trinidad and Tobago represented the first such Protocol to be established in the Caribbean.



The Honourable Mr. Justice Ivor Archie, Chief Justice of Trinidad and Tobago speaking at the launch which was held in Port-of-Spain at the Radisson Hotel, lauded the Protocol saying that it was appropriate for the country and its legislative framework.

“It is a practical guide that is geared towards fostering and improving gender sensitive adjudication,” he explained. He said that it would ensure that vulnerable persons are not disadvantaged, and all judicial officers would be fully conscious of changes taking place in society and the need to be gender sensitive despite their own personal views.

The Protocol was developed by the Judicial Reform and Institutional Strengthening (JURIST) Project in collaboration with the Trinidad and Tobago judiciary, UN Women, the Trinidad and Tobago Women’s Judges Association (TTWJA) and Caribbean Association of Judicial Officers (CAJO). It addresses gender stereotypes and biases of judicial officers that may affect a person’s access to justice. The Protocol notes that personal views and biases of judicial officers have the potential to affect the outcome of cases related to gender and sexuality.

The document noted that in a 2015 survey, 44 percent of judicial officers in Trinidad and Tobago stated that they believed homosexuality to be against God’s law, while 52 percent admitted that attitudes regarding the roles of men and women in society influence the way in which judicial officers make their decisions. Most agreed, however, that there was a need for a Protocol to identify gender biases and combat gender discrimination.

The Protocol also addresses gender-based and domestic violence and how judicial officers, ought to treat with such matters. It urges judicial officers to acknowledge the reasons why women, despite turning to the courts for help, may choose to return to their abuser, including reasons of economic dependence or deep emotional ties. Guidelines for cases involving sexual offences, child custody, maintenance and human trafficking are also included.

Her Excellency Carla Hogan Rufelds, High Commissioner of Canada to Trinidad and Tobago noted that the country’s Government has made great strides in putting in place legislative measures that promote the ability of both men and women to access justice.

However, she noted that there are still significant barriers in the administration of justice that hinder both men’s and women’s opportunity to access justice and receive equitable outcomes from the justice system.

“Gender stereotypes about women’s and men’s roles continue to influence judicial decision-making. Such judicial-decision making is not unexpected given that

everyone experiences gender socialisation. Its influence on the functioning and behaviour of judicial officers and court personnel can be hard to avoid, particularly when such socialisation reproduces acceptance or tolerance of rigid gender roles and unequal power relations between women and men,” she explained.

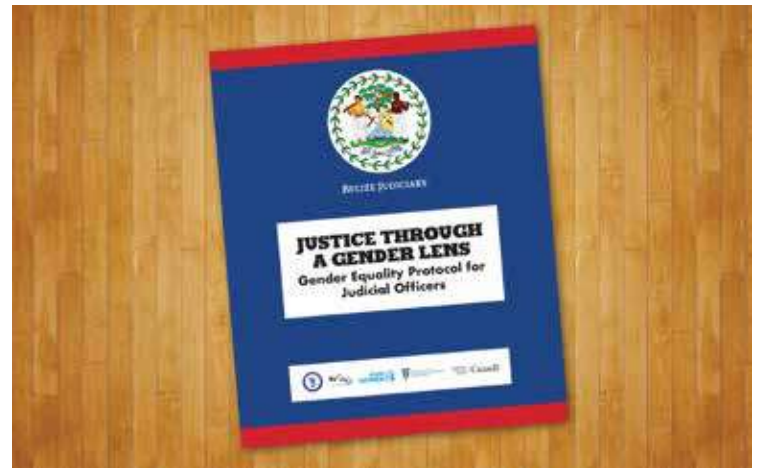
The High Commissioner added that the Trinidad and Tobago Protocol will strengthen the capacity of the judiciary to use gender analysis to safeguard the ability of both men and women to have equal access to justice as well as assist the judiciary in ensuring that their decisions result in equitable outcomes for both men and women.

BELIZE

Following on the heels of Trinidad and Tobago, Belize was the second country to launch their Protocol.

Speaking at the launch, the Honourable Mr. Justice Kenneth Benjamin, Chief Justice of Belize said it was the mandatory duty of the judiciary to explore all possible avenues to ensure that access to justice for all persons, especially the disadvantaged, is a reality.

“The introduction of the Gender Equality Protocol represents a significant step in that ongoing process. The effect on access to justice from a gender perspective is direct. It impacts how persons are treated when interfacing with the court and its various



processes. It requires adjustments to be made to provide meaningful equal access to justice,” he stated.

The Gender Protocol was customised to be specific to Belize with reference to local legislation and case law. The Alcalde system has been referenced and the Protocol was also informed by an online survey that was administered to and responded to by 15 judicial officers in Belize. There were also extensive interviews conducted with judicial officers and stakeholders of the justice system.

“I believe that with judicial officers embracing the Protocol and accepting that attitudinal change is inevitable, the adjudicative process is destined to be transformed. As we embark on this ground-breaking journey, I urge both magistrates and judges to not be dismissive of the objectives of the training but rather to challenge themselves to become aware of the tremendous impact that can be made on the experiences of women, vulnerable groups and disadvantaged persons as they navigate the judicial process,” the Chief Justice advised.

His Excellency Lynn Young, Honorary Consul of Canada to Belize, highlighted that in Belize, there have been significant achievements in eliminating discrimination embedded in laws and policies. For example, amendments to the Married Persons Protection Act mean that husbands can now apply for and obtain maintenance on the same grounds as wives. Additionally, the country has one of the most progressive Domestic Violence legislation in the CARICOM region.

He noted that the Gender Equality Protocol was a great example of the Government of Canada’s Feminist International Assistance Policy (FIAP) in action. “We are quite confident that the Protocol will contribute to producing a more gender-responsive Belize judiciary in which judicial officers and court personnel make decisions that promote substantive equality between men and women,” he said.

Regional Criminal Bench Book launched

The *Criminal Bench Book for Magistrates and Parish Court Judges in the Caribbean Region* will be an important tool which will result in improved uniformity, efficacy and consistency in criminal proceedings across the Caribbean.

The Bench Book was launched on Friday December 14, 2018 at the CCJ Academy for Law 5th Biennial Conference which was held at the Pegasus Hotel in Kingston, Jamaica.

The Honourable Mme Justice Alice Yorke-Soo Hon, JA, Trinidad and Tobago Judiciary and Chair, Criminal Bench Book Committee said the Bench Book is critical for the purposes of improved jurisprudence, well explained and laid out court processes and the continuous improvement in the way justice is dispensed in criminal proceedings.

“This Bench Book captures the progressive jurisprudence and practices emerging from regional English-speaking Caribbean jurisdictions on all aspects of criminal procedure. It also incorporates recent policy prescriptions and where applicable, international laws and standards,” she explained.

She added that the core objective of the Bench Book was to enhance service delivery for courts’ clients and users and that it shall be a crucial resource material for magistrates and parish court judges during criminal trials as well as the basis for further research, training, partnerships, benchmarking, research and development initiatives.

The Honourable Mr. Justice Mark Mohammed, JA, Trinidad and Tobago Judiciary and Co-Chair, Criminal Bench Book Committee noted that one of the common challenges identified in the magisterial court system in

several Caribbean countries is that of delay. “Delay has become endemic in some states. Magisterial matters are not resolved in a timely manner. There are frequent adjournments and persons who access the courts complain that, as a result, they are being denied justice,” he lamented.

He went on to say that the view has also been expressed that there is a lack of consistency in the application of laws and procedures by magistrates and parish court judges.

In response, the Advisory Committee on Criminal Justice and Magisterial Reform established a sub-committee comprising senior judicial officers, representatives of the Caribbean Court of Justice (CCJ) and the JURIST Project in 2016 to develop the Bench Book.

Justice Mohammed said the Bench Book required extensive research into diverse areas of substantive and procedural law across the various jurisdictions of the English-speaking Caribbean. On March 17, 2017 a regional consultation was held in Trinidad and Tobago and was attended by magistrates from across the region. The magistrates reviewed each chapter of the Bench Book, covering all the relevant jurisdictions.

“Collaboration was a key aspect in putting together the Bench Book. We could not have done it without the support of the regional judiciaries and for this we are truly grateful,” he added.

Mr. Walter Bernyck, Counsellor and Head, Development Cooperation, High Commission of Canada to Jamaica said the need for a regional Criminal Bench Book has long been recognised by judiciaries around the region as a necessary and relevant



publication. This Bench Book, he noted, will be the first of its kind in the Caribbean.

“Security and justice are bedrock foundations of good governance. The Bench Book is an important document because equality before the law is a fundamental precept of the rule of law,” he stated.

He continued: “The more judicial officers use a common Bench Book, the more they will be able to fulfil the traditional judicial values of impartiality and fairness and provide timely justice for all.”

Though primarily developed as a tool for those on the Bench, the utility of this Bench Book will go beyond the judiciary. This readable and comprehensive tool will be of value to prosecutors, advocates, probation officers, litigants and other actors in the criminal justice system.

Find out more about the Criminal Bench Book for Magistrates and Parish Court Judges in the Caribbean Region [here](#).

South-South Knowledge Exchange

In December 2018, Ms. Anika Gray, Regional Project Coordinator and Gender Specialist, JURIST Project, travelled to South Africa to participate in a South-South Knowledge Exchange Programme sponsored by the UN Women Caribbean Multi Country Office (MCO). The South-South Exchange provided a forum for justice sector stakeholders from the Caribbean and South Africa to exchange better practices on providing effective justice to survivors of gender-based violence. The stakeholders participating in the exchange included judges, magistrates, police officers, civil society organisations, prosecutors and national gender machineries.

The JURIST Project got the opportunity to share, with the South African Judicial Education Institute, its work in supporting the creation of gender-responsive judiciaries in the English-speaking Caribbean. The South African stakeholders were impressed with the Gender Equality Protocols for Judicial Officers, the accompanying gender sensitive adjudication training and the gender equality accountability tool used to track the judiciary’s performance in promoting gender equality.



South African and Caribbean justice sector stakeholders who participated in the South-South Exchange Programme

Members of the Caribbean delegation also got the opportunity to visit the Sexual Offences Court in Pretoria. This was a major highlight of the trip as the Project was at the time, in the process of supporting Antigua and Barbuda to establish its Sexual Offences Model Court (SOMC).

Like the sexual offences courts in South Africa, the SOMC has as its objectives, the reduction of insensitive treatment of victims in the criminal justice system by



Ms. Anika Gray (left), Regional Project Coordinator and Gender Specialist, JURIST Project presents Dr. Gomolemo Moshoeu, Head, South Africa Judicial Education Institute with a copy of the Trinidad and Tobago Gender Equality Protocol (Photos courtesy UN Women Caribbean MCO)

following a victim-centred approach; adopting a co-ordinated and integrated approach among the various role-players who deal with sexual offences cases; and improving the investigation and prosecution, as well as the reporting and conviction rates in sexual offences.