



JURIST NEWS

JUDICIAL REFORM AND INSTITUTIONAL STRENGTHENING (JURIST) PROJECT

THE OFFICIAL NEWSLETTER OF THE JURIST PROJECT | ISSUE 01 | 2015

Message from the Project Director

WELCOME DEAR READER, to the inaugural issue of JURIST NEWS – the newsletter of the Judicial Reform and Institutional Strengthening (JURIST) Project.

Allow me, a few moments of your time to tell you about the JURIST Project. The JURIST Project is a five year regional Caribbean judicial reform initiative funded under an arrangement with the Government of Canada. It is being implemented on behalf of Global Affairs Canada and the Conference of Heads of Judiciary of CARICOM (the Conference), by the Caribbean Court of Justice (CCJ), which was appointed by the Conference as its Regional Executing Agency (REA).

We are working with judiciaries in the region to support their own efforts to improve court administration and strengthen the ability of the courts and the judiciary to resolve cases efficiently and fairly. The Project is being implemented in at least six countries and will be expanded to include other territories in the region.

The JURIST Project is also building the capacity of regional trial and appellate courts, including the CCJ, to facilitate the deepening of economic integration and improve court governance, case flow management and the

timeliness of case disposition. The enhancement of fair and efficient case disposition will improve the quality of justice delivery, inspire public confidence in the justice system, foster gender equality throughout the courts and make the region more attractive to foreign and domestic investment.

The Project's stated overarching goal is to establish a judicial system that is more responsive to the needs of women, men, youths and businesses.

In this issue of JURIST NEWS, we will share with you some of the initiatives currently underway in the region to achieve the aforementioned goal. This inaugural copy highlights the work undertaken by the JURIST Project from January to September 2015, however subsequent editions will be issued on a quarterly basis. The objective of JURIST News is to provide you, dear reader with information on developmental updates as we work to improve the legal processes and systems in our region.

We also welcome and appreciate feedback from everyone involved in the Project, as well as any contributions, information or materials which we can use for future editions of our newsletter.

Dear reader, the importance of this Project cannot be



highlighted enough. We hope that you will join us in this journey as judiciaries within CARICOM continue to engage in court reforms and to adopt best practices in various areas across sectors of the judiciary.

Thank you
Sir Dennis Byron
President of the Caribbean Court of Justice and JURIST Project Director.

Delay and Backlog Project Launched in Grenada

The Judicial Reform and Institutional Strengthening (JURIST) Project in collaboration with the Eastern Caribbean Supreme Court (ECSC) embarked on a delay and backlog reduction project for the Supreme Court in Grenada. This was JURIST's first project and its objective is to reduce 175 backlogged civil cases to zero. This project is testing mandatory mediation, case management conferences, delivery of oral judgments and the digital court room.

The project commenced the week of February 2, 2015 with a special training session for judges of the ECSC as well as other legal practitioners who are assisting the Supreme Court of Grenada in the capacity of acting judges. This training programme was developed and delivered by the Commonwealth Judicial Education Institute (CJEI) which is based in Halifax, Canada together with the Judicial Education Institute (JEI) of the ECSC, the President and Judges of the Caribbean Court of Justice (CCJ) and the Trinidad and Tobago Judicial Education Institute.

A meeting with lawyers and mediators was also held to discuss the project and seek feedback.



(TOP) Mr. Francis Compton, Mediation Coordinator for the Organisation of Eastern Caribbean States (OECS) answers some of the questions raised by mediators and lawyers.



(BOTTOM) The judges engaged in one of the many interactive sessions of the training.

The project design called for the backlog to be addressed by the assignment of two additional judges exclusively to the Project. The Government of Grenada made counterpart contributions to the project by providing two court rooms at a cost of approximately \$1 million (Eastern Caribbean (EC) dollars). Additionally, the Government provided housing and other requirements for the judges.

A Practice Direction was issued for mandatory court-annexed mediation on February 6, 2015. Grenada already had mediation and for the purposes of the project a practice direction was made to make it mandatory.

Mr. Gregory Girard, Court Executive Administrator, ECSC also conducted training for court clerks in the use of the digital recording equipment (the Liberty System). The Case Management System (CMS) was configured to generate statistical reports to measure the impact of the project's techniques. A Business Process Re-engineering (BPR) exercise is planned and recommendations will be made to ensure maximum efficiency with the available resources. A monitoring and evaluation framework will also be put in place to assess the implementation process.



ENHANCING PERFORMANCE: Participants of the training programme conducted by the CJEI

Backlog Elimination at the Belize Court of Appeal

A project to introduce new case management, information technology support and other programs in the Court of Appeal of Belize to improve the quality of justice delivery of the court was implemented by JURIST.

The project commenced the week of April 20, 2015 with the training of 36 judicial officers by the Commonwealth Judicial Education Institute (CJEI) and the introduction of case management techniques.

A consultant was retained to assist the President of the Court of Appeal to set up Case Management Conferences (CMCs), to engage the Bar in the representation of unrepresented litigants and to ensure systems are put

into place to prevent further backlogs. For the Belize project, CMCs by a pre-trial panel of appellate judges will be mandatory. Those CMCs are to be fixed so that they would be completed at least two weeks before the scheduled sittings of the Court to ensure that the final list is prepared in a timely manner.

The first such CMCs introduced and overseen by the JURIST Project, were held in Belize on May 19, 20, 21 and 26, 2015 in an effort to commence the clearance of the existing backlog in preparation for the June 2015 session of the court.

The CMCs proved to be successful as a total of 11 criminal and 12 civil appeals were case managed. Two

pre-trial panels were appointed comprising two resident appellate judges of the Court who sat in morning and afternoon sessions. The CMCs were well attended by counsel and litigants (represented and unrepresented) who appeared before the panels.

As a result of the success of the CMCs and other earlier sittings by the court, the June 2015 session was shortened as the court was only required to sit in two weeks instead of the projected 5 weeks. Seven of the 11 criminal appeal cases and 10 of the 12 civil appeal cases were listed for hearing and disposed of. The remainder of the cases were listed for the October 2015 session of the court.

Digital Recording Project Initiated in Jamaica

JURIST in collaboration with the Judiciary of Jamaica launched a digital recording project. The Commercial Division of the Supreme Court of Jamaica was the first court to participate in the project. This was the first step in a phased roll out of the project which also includes six other courts. These courts include two Civil Courts, one Criminal Circuit Court at the Supreme Court; one High Court Division of the Gun Court and two Resident Magistrate's Courts – one at the Corporate Area Criminal Court and the other at the St. James Resident Magistrate's Court.

The project commenced the week of March 30, 2015 with the training of 25 judicial officers and court staff by the Commonwealth Judicial Education Institute (CJEI). The training focused on the development of performance standards which were selected and defined by the judiciary and topics such as judgement writing, delivery of oral judgements, differentiated case management and better case management practices were covered.

The project is testing digital recording of evidence (DRE) and will implement certain case management procedures. In Jamaica, delays in the completion of cases are a major concern for court users. The use of DRE and enhanced case management procedures are expected to increase the efficiency of the courts and enable faster disposal of a greater number of cases.

Chief Justice of Jamaica, the Honourable Mme. Justice Zaila McCalla welcomed the initiative and stated that "the project will improve the overall administration of justice by improving the capacity and skills of judges, court



PRO-ACTIVE APPROACH: The Hon. Mr. Justice Adrian Saunders (centre), CCJ Judge, interacts with some of the participants at the training.

administrators and court personnel. The ultimate objective is to reduce delays in the court system."

The digital recording project will ensure that evidence is fully captured and will make storage and retrieval of that evidence more efficient. It is expected that in due course the digital record will replace paper records as the official court record. The case management procedures will assist in ensuring that cases are ready for trial and will shorten the length of some trials, especially in instances where evidence is not in dispute and can be agreed by the parties.

CPR training hosted by JURIST Project and BBA

The JURIST Project in collaboration with the Barbados Bar Association (BBA) held a two day seminar to address the ongoing development of the Barbados Civil Procedure Rules (CPR). The seminar took place from May 27-28, 2015 at the Lloyd Erskine Sandiford Centre and provided the Barbados legal fraternity with a comprehensive understanding of the recently introduced CPR.

Speaking at the opening ceremony, Dr. Gail Miller, Senior Director of the Caribbean Regional Programme at Global Affairs Canada and Canadian Director for the Caribbean Development Bank said stricter compliance and common understanding of CPR by those in the legal fraternity, is critical to reducing the backlogs in the local court system.

Dr. Miller explained that: “The purpose of this seminar is for the ongoing training of chief justices, judges, registrars and the broader legal fraternity, in the use of the Civil Procedure Rules, as an integral part of the delay and backlog reduction component of the JURIST Project.”

The Honourable Sir Marston Gibson, Chief Justice of Barbados noted that the true power wielded correctly for the region’s benefit can only be achieved by admitting that every judicial expert is a perpetual student. He added that laws are only effective when they are in keeping with current situations.

The Rt. Honourable Sir Dennis Byron, President of the Caribbean Court of Justice (CCJ) and JURIST Project Director highlighted the value of the seminar in enhancing legal education and said that ongoing education improves justice delivery. He also acknowledged that the Caribbean judiciary has benefitted immensely from its association with Canada.

The two day seminar which was attended by approximately 200 members of the BBA, was conducted by the Honourable Dame Janice Pereira, DBE, Chief Justice of the Eastern Caribbean Supreme Court (ECSC) and the Honourable Louise Esther Blenman, Justice of Appeal, who serves as the Chair of the ECSC’s Judicial Education Institute.

The seminar was an initiative under the JURIST’s model court project in Barbados for developing reduction mechanisms to deal with delays and backlogs. Ensuring sound knowledge of the content, practice and application of the Barbados CPR by practitioners and the judiciary is a key component of the project.

The purpose of the seminar was to provide a high quality training program for the legal profession aimed at achieving the:

- Provision of an understating of the CPR;
- Establishment of the roles and responsibilities of the judge and the practitioner;



PROVIDING INSIGHT:(TOP) Dr. Gail Miller, Senior Director of the Caribbean Regional Programme at Global Affairs Canada and Canadian Director for the Caribbean Development Bank speaks about the importance of the CPR seminar to the JURIST Project.

(BOTTOM)The Honourable Sir Marston Gibson, Chief Justice of Barbados addresses participants at the Barbados CPR seminar.

- Development of an understanding of the purpose of key stages in the CPR particularly Case Management Conferences and Pre-Trial Reviews;
- Identification and clarification of the practice as it obtains to Procedural Appeals; and
- The Costs regime under the dispensation of the CPR.

CPR was introduced in Barbados in 2008. Under the new dispensation all matters would hitherto comply with the rules as set out, the overriding objective being to do justice to the parties. The practical effect is that judges case manage while practitioners assume the front

end of preparing pleadings on a trial ready basis.

Mr. Tariq Khan, President of the BBA explained that “seminars of this nature are absolutely critical as they provide a valuable platform for practitioners and the judiciary to share an environment in which they can exchange experiences and identify solutions to misconceptions, misunderstandings, a definition of roles, legitimate expectations, rational means of tackling backlogs that will lead to a culture of higher standards, ex tempore judgments, minimise adjournments and ultimately do justice to the parties in a timely manner.”

Advisory Committee Established to Develop Guidelines on Sexual Offences

An Advisory Committee has been set up to establish guidelines on handling sexual offence cases and victims of sexual offences (including cases involving children). The Committee held two meetings thus far on May 20 and August 12, 2015 at the Caribbean Court of Justice's (CCJ) headquarters in Port-of-Spain, Trinidad and Tobago.

The Committee which comprises of representatives from UNWomen, UNICEF, CARICOM Secretariat, the Barbados Supreme Court, the Family Court of Trinidad and Tobago and the University of the West Indies (Jamaica) was formed to oversee and advise on the establishment of these guidelines and other gender related issues under the JURIST Project.

The Committee is tasked with conducting research to ascertain and share best practices and what currently exists

in the Caribbean region as it relates to the handling of sexual offence cases.

The committee will:

- Provide information and advice on major issues affecting sexual offence survivors in the judicial system;
- Share best practices and information on what obtains in the region;
- Advise and make recommendations on Project implementation methodology and timelines;
- Advise and make recommendations on the development of the guidelines;
- Review baseline data and make recommendations on the implementation of model court room(s);

- Monitor the implementation of the model court room(s) and the guidelines, and its impact on the delivery of justice;
- Advise on matters which impact directly on the responsibilities of other agencies and stakeholders who are responsible for the well-being of survivors;
- Identifying areas for and facilitating the training of key stakeholders; and
- Assisting in the development of the appropriate curricula to support training.

UNWomen will be engaged by the Project to conduct the baseline studies which will inform the development of the guidelines, precede regional consultations and the establishment of a model court.

JURIST Project Supports Establishment of Regional Administrative Tribunal

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There have been several proposals¹ in recent years for the provision of an appropriate independent and impartial mechanism to address disputes arising from employment matters in the Caribbean Community (CARICOM) and their respective institutions, which are international organisations. Many of the Agreements establishing these organisations provide for immunity from suit which could be invoked to oust the jurisdiction of the ordinary domestic courts, for example: the Caribbean Court of Justice (CCJ) decided in *Johnson vs CARICAD* [2009] CCJ 3 (OJ) that it had no jurisdiction over the staff dispute involved in that case. Nevertheless, common principles of justice would require that employees should have a forum for the hearing and the resolution of their disputes.

Many international organisations have established systems to resolve disputes arising out of employment matters which are not subject to the jurisdiction of domestic courts.² Some CARICOM institutions and associate institutions may have internal grievance or administrative mechanisms to address matters of misconduct or staff complaints. However, these mechanisms, generally comprising staff members, do not offer the independence from the employer which would be more evident at the national level, where public officials have access to a public service tribunal, and employees of other organisations may seek recourse to the courts or to industrial relations tribunals.

Discussions on the establishment of a Caribbean Community Administrative Tribunal (CCAT) have been revived at



the level of the Governance Cluster of Institutions, with the support of the JURIST Project and the International Labour Organisation (ILO), which is providing technical assistance.

The proposal for the CCAT was tabled for discussion by all CARICOM institutions at a meeting in April 2015. That meeting reviewed a draft statute to establish the CCAT. Existing staff rules and grievance procedures at CARICOM institutions were also presented. It was recognised that there was more work to be done, including –:

- the development of proposals for financing of the CCAT;
- the review and harmonisation of the Staff Rules of CARICOM institutions;
- the development of procedures for selection and appointment of members of the CCAT;

- the seat of CCAT together with office and administrative support requirements; and
- the setting out of the implementation plan and requirements to launch the CCAT.

A revised draft statute is to be prepared with the assistance of the ILO for further review by CARICOM institutions.

¹ *Carnegie, Report on the Relationship of CARICOM with the Institutions of the Revised Treaty of Chaguaramas (2006) (commissioned by the CARICOM Secretariat); Carnegie and Anderson, A Regional Administrative Tribunal for the CARICOM Family of Regional Organisations (2008) (CLIC with the support of CARICAD, at the request of The Inaugural Meeting of Human Resource Managers of Caribbean Community (CARICOM) Institutions); Proposal from the Office of the General Counsel, CARICOM Secretariat (2009).*

² *The United Nations has an Internal Justice System for the entities in the UN System, which includes a two-tier judicial system, with judges serving on the UN Dispute Tribunal (UNDT) and the UN Appeals Tribunal (UNAT). The Administrative Tribunal of the International Labour Organisation (ILO) is competent to bear matters from more than sixty (60) regional and international organisations. There is also a Commonwealth Secretariat Arbitral Tribunal (CSAT).*



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