



# Address by the President of the Caribbean Court of Justice to a Special Sitting of the Joint Houses of Assembly of Saint Lucia

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

**Address to the Parliament of Saint Lucia**

20 January 2022

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**By**

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[Salutations]

We at the Caribbean Court of Justice (the CCJ), have followed with tremendous interest and pleasure, the recent statements made by Prime Minister Phillip J Pierre, regarding the government's intention to have Saint Lucia accede to the Appellate Jurisdiction of the CCJ. Since that momentous step naturally impacts the CCJ, I believe the Court has a responsibility if not a duty, to share with you information about its operations that is pertinent to your decision making. I am confident that imparting this information, whether in these hallowed precincts or elsewhere, does not in the least compromise our judicial independence.

I recognise at the outset that there would be some persons who might say that this is an odd time, in the midst of a pandemic, to be addressing this issue; that, moreover, instead of acceding to the CCJ's Appellate Jurisdiction, attention should perhaps be focussed on closing gaps in and optimising the efficiency of the domestic or the sub-regional justice system. These are all political issues for determination by the people of Saint Lucia. But I have to confess that, throughout the region, I have heard such opinions expressed again and again for the last fifteen years and more. The intent always appeared to be the same; to excuse a failure to put an end to one of the remaining linkages with our colonial past. For some people, it is never a good time to take any such step.

Today I wish to say a little about the structure, composition and work of the Court. The CCJ has two distinct jurisdictions. The first is what is referred to as the Original Jurisdiction where the Court interprets and applies the CARICOM treaty<sup>1</sup>. Saint Lucia, like every other CARICOM state, is automatically a part of the Original Jurisdiction. Today's discussion relates to the Appellate Jurisdiction where the Court hears appeals from the Courts of Appeal of those states that no longer send their appeals to England to be resolved by British judges.

But first, a little about the court itself. The court is funded from the proceeds of a trust fund established by the States of CARICOM. The fund was capitalised at US\$100 million which was obtained by the Caribbean Development Bank. The various states of CARICOM repaid that money in proportion to the relative size of their economies. Saint Lucia's repayment was US\$2.1million. The \$100 million were placed in the hands of a Board of Trustees whose remit is to invest that money so that the yield on that investment will finance the Court's operating budget. This mechanism is the envy of all international courts because it strengthens the Court's financial independence and insulates the court from the possibility of political pressure being exerted upon it.

The judges and staff of the Court are selected by a Regional Judicial and Legal Services Commission that is entirely independent of any form of political control or influence. The President of the Court is the Chairman of the Commission.<sup>2</sup> To date, the following Saint Lucians have served terms of office on the Commission, namely: The Right Honourable Sir Vincent Floissac; Mr. Frank Myers; Mr. Egbert Lionel; Mr. Evaristus Jn. Marie and Mr. Tyrone Chong, QC.

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<sup>1</sup> Revised Treaty of Chaguaramas establishing the Caribbean Community including the CARICOM Single Market and Economy (adopted 5 July 2001, entered into force 4 February 2002) 2259 UNTS 293 (Revised Treaty of Chaguaramas or RTC).

<sup>2</sup> CCJ Agreement, Article V(1)(a).

The President of the Court is selected by the Commission and appointed by the votes of at least three-quarters of the Heads of CARICOM States.<sup>3</sup> The Heads may only accept or decline to accept the Commission's nomination. They cannot handpick their own choice. The President serves a non-renewable 7-year term.<sup>4</sup>

The Agreement Establishing the Court makes provision for nine judges and the President<sup>5</sup> but since its inauguration, to save expense, the Court has been able to get by with six judges and a President. I am the third President. The Caribbean has been exceptionally fortunate to have had two outstanding regional jurists to serve as President prior to my appointment. The first was the Right Honourable Mr Justice Michael de la Bastide of Trinidad and Tobago and my immediate predecessor was the Right Honourable Sir Dennis Byron, himself currently resident in Saint Lucia. The current judges are The Honourable Mr Justice Jacob Wit, originally from the Netherlands but who had long made Curaçao his home; The Honourable Mr Justice Winston Anderson of Jamaica; The Honourable Mme Justice Maureen Rajnauth-Lee of Trinidad and Tobago; The Honourable Mr Justice Denys Barrow of Belize; The Honourable Mr Justice Andrew Burgess of Barbados; and The Honourable Mr Justice Peter Jamadar of Trinidad and Tobago. This judicial complement comprises a well-rounded and very highly regarded mix of academic, legal and judicial experience.

This country ratified the Agreement Establishing the CCJ without any reservation. Ratification had two consequences. Firstly, Saint Lucia, like every other CARICOM state, automatically became part of the court's Original Jurisdiction. Secondly, under Article XXV of the Agreement, Saint Lucia solemnly agreed to have its final appeals heard by the CCJ.

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<sup>3</sup> CCJ Agreement, Article IV(6).

<sup>4</sup> CCJ Agreement, Article IX(2) and The Protocol to the Agreement Establishing the Caribbean Court of Justice Relating to the Tenure of Office of Judges of the Court, Article II(1)(a).

<sup>5</sup> CCJ Agreement, Article IV(1).

The oldest and most fundamental principle in international law is captured in the Latin expression *pacta sunt servanda*. It means that treaties must be obeyed in good faith. By finally acceding to the Appellate Jurisdiction Saint Lucia will fall into compliance with this bedrock principle of the law of treaties that undergirds mutual trust and confidence among sovereign states. Accession represents a logical forward progression in the constitutional maturation of a Commonwealth Caribbean state. The Parliaments of Barbados and Guyana, Belize and the Commonwealth of Dominica have all taken this significant step and in each of these four CARICOM States, a recurrent pattern is evident.

Before I speak to that pattern, I digress briefly to state that in any country relatively few appeals are heard by that country's final appellate court. The Supreme Court of the United States, for example, agrees to hear on average, between 65 and 80 appeals each year, although thousands of litigants apply for their appeals to be heard. I make that digression in order to contextualise some figures I wish now to point out. I ask that we focus not so much on the discrete numbers but on the comparison. The pattern I earlier referenced is that in each of the countries that sends their appeals to the CCJ, there has been a marked expansion in second level appeals. Let us take Barbados for example. In the five years prior to joining the CCJ, only six appeals from Barbados were decided in London. In the five years after joining the CCJ, that number had climbed to twenty. In 2019 alone, the CCJ decided as many cases from Barbados as Barbados sent to London in the last five years their cases were heard by the Judicial Committee of the Privy Council.

<b>BARBADOS</b>			
<b>No. of Decided Cases JPC</b>		<b>No. of Decided Cases CCJ</b>	
2000	0	2006	3
2001	2	2007	1
2002	0	2008	1
2003	0	2009	5
2004	3	2010	2
2005	1	2011	8
Total	6	Total	20

**CASES DECIDED IN 2019 BY THE CCJ FROM BARBADOS, BELIZE AND DOMINICA RESPECTIVELY**

Countries	No. of Decided Cases in 2019
Barbados	6
Belize	2
Dominica	2

Belize and Dominica have experienced the same trend. Dominica joined the CCJ in 2015. In the five years between 2010 and 2015, that country sent a single appeal to be heard in London. But between 2016 and last year the CCJ had already heard seven appeals from Dominica.

<b>BELIZE</b>			
<b>No. of Decided Cases JPC</b>		<b>No. of Decided Cases CCJ</b>	
2005	1	2011	1
2006	1	2012	3
2007	0	2013	2
2008	1	2014	4
2009	3	2015	3
2010	3	2016	2
Total	9	Total	15

<b>DOMINICA</b>			
<b>No. of Decided Cases JPC</b>		<b>No. of Decided Cases CCJ</b>	
2010	0	2016	0
2011	0	2017	1
2012	0	2018	1
2013	0	2019	2
2014	0	2020	1
2015	1	2021	2
Total	1	Total	7

In the sixteen years since the CCJ has been operating, Saint Lucia has had only 17 cases heard in England. In other words, on average, about a single case per year. The extremely low number of cases decided in London is easy to explain. It is far more convenient for a Caribbean person to approach the CCJ. Indeed, the Court goes out of its way to facilitate access to it.

Permit me to reference one notable instance. This case actually involved a national of Saint Lucia who, as a lecturer at the Cave Hill Campus of the UWI, resided in Barbados. Under the laws of that state, the lecturer was entitled to be registered as an elector for that country's elections, but over the years he was frustrated in his efforts to be so registered. He brought an action claiming the right to be registered. In the meantime, elections were called in Barbados. The lecturer was anxious to exercise his right to vote. His action proceeded through the local courts but he was dissatisfied with the effect of the decision of the Court of Appeal. On Friday afternoon on 11 May 2018, the lecturer filed an application for permission to appeal to the CCJ using our modern e-filing platform. The matter was extremely urgent because elections in that country were scheduled for 24 May and the cutoff date for the final electoral list to be prepared and published was a few days away. To cut a long story short, between 4:00PM on Friday 11 May and 2:00PM on Sunday 13 May, the CCJ enabled and facilitated the following processes: The appeal was filed and served; five judges of the CCJ were assembled and given the file to study; a hearing was held by video conference commencing Sunday 13 May at 11:00AM in which counsel for all the parties were present and, as well the Chief Elections Officer; and at

approximately 2:00PM, after completion of the hearing, the court gave an oral decision on the case. The appeal succeeded. The Chief Electoral Officer was ordered to cause the lecturer to be registered as an elector before 12:00 noon the following day 14<sup>th</sup> day of May 2018. The name of the case is *Ventose v Chief Electoral Officer*<sup>6</sup> and it can be located on the Court's website—[www.ccj.org](http://www.ccj.org).

In addition to the convenience of having an accommodating final court in a neighbouring island, it is considerably less expensive to access the CCJ than it is to take an appeal across the Atlantic to England partly because the filing fees at the CCJ are far less. Moreover, long before the pandemic, the CCJ was hearing cases by videoconference so that litigants and their lawyers are not necessarily required to travel to Port of Spain if they cannot afford it.

Quite apart from questions of convenience and expense, Caribbean lawyers who have appeared before the CCJ have expressed to us their view that their sense of being in a place where they belong eliminates a certain measure of discomfort and stress. The cultural and idiomatic connectivity makes for easier and better communication. Litigants too have expressed a similar experience of feeling comfortable to repose trust and confidence in judges who have a more intimate appreciation of the milieu in which their disputes arise.

What of the quality and integrity of the Court's jurisprudence? It is for others to make that assessment. All I would say is that the CCJ's judgments are delivered in a timely fashion and are regarded by other courts, regionally and internationally, with the utmost respect.

The processes involved in the intake, management, hearing and judgment delivery of the cases the CCJ handles together with the jurisprudence of the CCJ constitute the core remit of the Court. That is what all final courts do. For my part, a just as impressive feature of the CCJ's operations is that it has rapidly become the nerve centre of a regional justice eco-system that supports and

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<sup>6</sup> [2018] CCJ 13 (AJ), (2018) 92 WIR 118.



promotes judicial administration and reform, judicial and legal training, public awareness of justice-related issues and promotion of the rule of law generally. Permit me to single out just a few isolated examples.

The court's educational arm, The CCJ's Academy for Law engages in public awareness and training programmes with a variety of justice sector stakeholders. The Academy is currently in the midst of a project honouring 34 pioneering Caribbean Women Jurists, many of them forgotten heroines. One of them is the late Mme Justice Marie Elizabeth Bourne-Hollands. Who among us has heard of her? She died in 2014. Justice Bourne-Hollands was born to Barbadian parents in Morne Fortune, here in Saint Lucia. She was the first woman Judge of the Commonwealth Caribbean. The Academy has published a book with a biographical summary of her and all the other 33 honourees. It is the CCJ's Academy for Law that is immortalising and making the public aware of the career and impact of people like Justice Marie Elizabeth Bourne-Hollands. The Academy is chaired by CCJ judge Mr Justice Winston Anderson.

The Caribbean Association of Judicial Officers or CAJO was established in 2009 through the efforts of the CCJ. The current Chair is CCJ judge Mr Justice Peter Jamadar. The Vice-Chair? Saint Lucia's Hon Justice Vivian Georgis Taylor-Alexander. There's hardly a judge, magistrate or registrar in the entire region who has not been touched in one way or another by CAJO, whether through its informative, user-friendly electronic newsletter, its several training initiatives for judicial officers or its grand biennial conference held on each occasion in a different CARICOM state.

When the Government of Canada made Canadian \$20million available for judiciaries in the region for justice improvement, it was agreed by all that the CCJ would be the executing agency for this project. It is called the Judicial Reform and Institutional Strengthening (JURIST) Project. Over the last eight years or so the CCJ has been managing the JURIST project on behalf of the

Heads of Judiciary of CARICOM states. The JURIST Project has done much to improve the administration of justice across the region, including in the Organisation of Eastern Caribbean States (OECS).

I can go on and on. The point is that the CCJ fills a deep void in promoting regional justice ethos that translates to an enhancement in the rule of law. We do so with tremendous pride and humility. Our 2019 – 2024 Strategic Plan guides our efforts to live our vision to be a model of judicial excellence. That strategic plan is no mere coffee table document. It animates our mission of providing accessible, fair and efficient justice for the people and states of the Caribbean Community.

The proper interpretation and application of law and resolution of disputes are intimately linked to an awareness and understanding of the mores and culture of the people who inhabit the spaces from where the disputes originate. Every state deserves a final court whose judges have a full appreciation of and so can readily identify with the realities, the dreams and aspirations, the values and the challenges of the people. So, when is the right time for Saint Lucia to join the Appellate Jurisdiction of the CCJ? That is a question for this august body to answer. You may perhaps be assisted in answering that question by considering other questions. What is the logic of investing US\$2million in an asset, only to make very limited use of that asset, especially when the asset is functioning well; when there is, to put it at its lowest, no demonstrable difference in quality between the use and value you can derive from that asset and that which is to be had from the alternative? Where is the logic when it costs your citizens considerably more to make use of the alternative?

Saint Lucia is the most populous state in the OECS. It hosts both the secretariat of the OECS as well as the headquarters of the Eastern Caribbean Supreme Court. Accession by this country to the Appellate Jurisdiction of the CCJ will set a powerful example to the remainder of CARICOM and in particular to other OECS States.

Honourable members of this prestigious body, distinguished ladies and gentlemen, the Caribbean Association of Judicial Officers, of which I spoke earlier, is coincidentally scheduled to convene in Saint Lucia this year for its biennial conference; a conference which should actually have been held last year. We hope and expect, the pandemic permitting, to assemble, as usual, a large representation of Caribbean judges, magistrates, registrars and court administrators on this soil. Nothing would please me more if when we do, towards the end of this year, we can combine that occasion with an in-person sitting of the CCJ to mark Saint Lucia's accession to the Appellate Jurisdiction.

I thank you for your attention.