The Caribbean Court of Justice Annual Report

> "Responsive and Resilient, Navigating Uncertainty"

PUBBEAN COURT OF JUSH



For the period under review, the court year of 1 August 2020 to 31 July 2021. 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, financials 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



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INTRODUCTION



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

VISION

To be a model of judicial excellence

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 ISSUES

- 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

VALUES

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The Caribbean Court of Justice (CCJ) was inaugurated in Port of Spain, the Republic of Trinidad and Tobago on 16 April 2005, and presently has a Bench of seven judges presided over by 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 twelve 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 are 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 realisation of a vision of our ancestors, an expression of independence and a signal of the region's coming of age.



MESSAGE from the PRESIDENT

The Hon. Mr. Justice Adrian Saunders President of the Caribbean Court of Justice.

Responsiveness and resilience characterised the work of the Caribbean Court of Justice (CCJ) over the past year. These qualities were critical to ensuring that our activities are aligned with our strategic direction, while adjusting to the significant environmental shifts resulting from the ongoing COVID-19 pandemic.

Throughout the period, the CCJ remained focused on providing uninterrupted service to our customers and simultaneously safeguarding the health and safety of judges, staff, and stakeholders. To achieve this, we continued with the transition to remote work that was started in the latter half of the previous period. For staff who, by virtue of the nature of their duties, were unable to transition to workingfrom-home, special arrangements were implemented. There were also intervals where the circumstances permitted us to return safely to working from the Court's headquarters. In those instances, we utilised a hybrid in-person/telework arrangement together with other special measures to provide a safe and supportive environment to staff. Ultimately, however, due to the prevailing circumstances, we were constrained to return to having staff work from their homes.

Supporting a predominantly virtual workforce required heavy reliance on our robust information and communications technology infrastructure. In this regard, we leveraged existing capabilities and introduced CCJ Connect, an internal information-sharing platform, and the Online Public Access Catalogue, a database of our Library's holdings, to ensure that judges and staff could have ready access to key information assets while working remotely.

MESSAGE from the PRESIDENT (continued)

"

I am truly very proud of all that we have accomplished over the past year and the steady progress we are making in implementing the Strategic Plan. The lessons we have learned in being resilient, responsive, and agile will put us in excellent stead to meet the challenges to come.

The transition to a fully virtual courtroom with employees who primarily worked remotely, however, required certain improvements to our technological infrastructure. With the kind assistance of the Judicial Reform and Institutional Strengthening (JURIST) Project, the CCJ, along with other judiciaries, benefitted from the Project's regional business continuity support initiative. This initiative allowed the Court to procure critical equipment to enhance not only the core components of that infrastructure but also the data security capabilities. We, and the Region, are indebted to JURIST for their invaluable support.

In the period under review, the Court convened a total of fifty-five fully virtual sittings. Thirty-eight of these were in the Original Jurisdiction and seventeen in the Appellate Jurisdiction. Among the Original Jurisdiction cases filed was, for the first time, a claim brought by a Member State. In the past, claims have always been made by individuals or companies against Member States and/or the Caribbean Community. The filing of a claim by a Member State therefore represented an expansion in the use of the Original Jurisdiction.

2020

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Over the last year, the Court continued to refine and strengthen its strategic planning and management approaches. As a key part of this thrust, a Monitoring and Evaluation Framework, was approved to better assess and oversee the implementation of the 2019 – 2024 Strategic Plan. We also intensified our focus on critical human resource management imperatives including employee development, promoting employee wellbeing, and maintaining a healthy work environment. In so doing, a raft of programmes was

MESSAGE from the PRESIDENT (continued)

undertaken. In one of the major initiatives, a study was conducted on how the Court's organisational culture could be enhanced. The comprehensive programme, carried out by Douglas and Associates, yielded wide-ranging recommendations which resulted in a number of committees being established to generate greater staff engagement and staff empowerment. Among these was the revival of the Court's internal newsletter committee and an overhaul of our Newsletter. The consultant also recommended a review of the Court's organisational structure. The Regional Judicial and Legal Services Commission (RJLSC) engaged the Caribbean Centre for Development Administration (CARICAD) to conduct an organisational design review. The CARICAD consultancy recently concluded, and the Report is now being considered by the Commission.

The Court engaged in significant training of staff throughout the year. Relevant legal and technical subjects were tailored so that each course would be accessible to every participant, not only those with qualifications in law. The topics covered a wide spectrum including our Court Rules and mandatory sensitisation sessions on our Harassment Policy, for all judges and staff of the Court and members of the RJLSC. Recognising the immense strain occasioned by the pandemic, we adopted a variety of approaches to offer emotional, institutional, and other forms of support to staff to help them and their families adjust to and cope during these challenging times.

Despite the constraints of the pandemic, the Court strengthened its relationships with several external stakeholders. A four-year Memorandum of Understanding on Institutional Cooperation was executed with The University of the West Indies. On our own and collaboratively, several local, regional and international legal and judicial education programmes were conducted with the CCJ Academy for Law, the Caribbean Association of Judicial Officers and the Global Judicial Integrity Network. Through the innovation of our staff, we also found a new way to bring the CCJ to our many stakeholders by creating a virtual 3D courtroom tour. The tour offers an interactive, multimedia experience that provides an overview of our courtroom and court technology together with information about the Court's judges. This feature was just one facet of our increased communication and engagement efforts with our stakeholders. Greater efforts in this area will be made in the upcoming year.

2020

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I am truly very proud of all that we have accomplished over the past year and the steady progress we are making in implementing the Strategic Plan. The lessons we have learned in being resilient, responsive, and agile will put us in excellent stead to meet the challenges to come.

In the upcoming period, the Court will promulgate revised Rules of Court including a revised structure for filing fees for both the Appellate and Original Jurisdictions. Additionally, we will engage in several initiatives geared towards enhancing our internal and external performance across a number of metrics including communication, service quality, and workforce efficiencies. These measures are too numerous to list here but one of them, the creation of a Referral Manual should be mentioned. The manual sets out guidance to would-be litigants, lawyers, domestic courts and other stakeholders on how referrals may be made from local courts to the CCJ when, in the course of a local court case, a question of law arises concerning the interpretation or application of the Revised Treaty of Chaguaramas.

Notwithstanding the effects of the pandemic, these are exciting times for the Court and I look forward with great optimism to the year ahead. The Caribbean Court of Justice • Annual Report



2020 2021

MESSAGE from the REGISTRAR and CHIEF MARSHAL

Ms Jacqueline Graham Registrar and Chief Marshal, Caribbean Court of Justice.

"Sometimes carrying on, just carrying on, is the superhuman achievement " Albert Camus

> The unpredictable and often volatile nature of the ongoing COVID-19 pandemic continues to demand that organisations and their people remain flexible and resilient. During this period, regional and international Courts have been challenged to adjust to these new circumstances to uphold their mandates of maintaining the rule of law and providing access to justice. The Caribbean Court of Justice (CCJ), while not immune to the effects of the pandemic, certainly demonstrated its resilience in dealing with the challenges associated with this epidemiological crisis. The strength and stability of the Court's strategic plans, processes, technological infrastructure, and people were quite evident during this period. The resilience of the judges and staff have been exceptional amid the challenges.

> To mitigate, as far as possible, the effects of the COVID-19 pandemic, the Court's Response Team remained active. This Team, comprising key office holders, was established to devise and implement solutions that allowed the Court to continue with its mandate seamlessly, while reducing the overall risk to staff, judges and customers. Some of the

Team's main activities, during this past year included the implementation of alterations to our court procedures and health and safety measures to effectively manage this fluid and ever-changing health situation.

Alongside this, the Court also placed significant emphasis on risk assessment during the reporting period. The importance of risk assessment, opportunities and business continuity, particularly in a judicial environment, must never be understated when planning and implementing strategy. As a court, our risk exposure and the associated impacts are critical for us to be able to react in the most effective and agile manner. In this regard, the implementation roadmap for the Enterprise Risk Management was completed and significant steps have begun to sensitise staff and nurture a culture that embraces risk awareness and management. The plan includes completing the Court's Enterprise Risk Management Framework, conducting risk assessment training and establishing a Risk Register and a Compliance Register to be customised to ensure alignment with our strategic goals.



MESSAGE from the REGISTRAR (continued)

Assessing risk and putting measures in place to facilitate effectiveness and alignment, were important to ensuring the capacity to support our case load growth. Throughout the period under review, the filing and disposition of cases continued seamlessly, utilising the Court's digital processes. The CCJ's caseload increased by 173%, compared with last year's load. Disposition of these cases in the present circumstances, is testimony to the Court's robust technological systems, processes and procedures, which have also been used as a guide for courts in the region.

The current volatile, uncertain, complex and ambiguous environment necessitated a consistent approach to adjust to the 'new normal' while embedding the Strategic Plan 2019 to 2024 during this implementation phase. To this end, the Court established and operationalised a Monitoring and Evaluation Committee to effectively monitor the deliverables and achievements of the Strategic Plan. By adopting a results-based approach, the Court is using data to guide decision making, ensuring that our planning is evidence-based and the results of the Strategic Plan are value-added.

As the implementing agency for the Canada-funded Judicial Reform and Institutional Strengthening (JURIST) Project, we supported the implementation of several initiatives focusing on business continuity plans, case flow management, court administration and the procurement of ICT equipment and the development of processes to treat with this everchanging environment. These activities are connected to Strategic Issue 6, which focuses on enhancing regional justice system capacity and performance by supporting national judiciaries.

The Court adopted more innovative engagement tools to inform the regional and international community about our role and the importance of our work. This approach is critical to facilitate greater access and promote public trust and confidence. The Court also made great strides over the period in strengthening its communication policies, systems and practices.

Across the Court, significant work has also been completed on the development of other relevant polices and procedures. This activity is in line with Strategic Goal 2.3: to strengthen the internal regulatory frameworks to ensure that they are fair and promote independence and accountability. In March 2021, twenty-two policies were approved by the President and made accessible to all staff on an internal communication platform to ensure continuous review so that the Court remains relevant and maintains benchmarks. An organisation-wide, CCJ-approved policies and procedures sensitisation programme has been scheduled for the last quarter of 2021.

None of the work and activities mentioned above would have been possible without the CCJ staff, who are critical to the success of the Court's operations and I am grateful for their continued efforts. The managers and supervisors must also be commended for leading their respective teams and departments commendably. I am particularly happy that the supervisors have accepted their leading role as the frontline management support for the Court's operations. Recognition must also be given to the President of the Court, the Honourable Mr Justice Adrian Saunders, for his vision, support and contribution to measures and initiatives which we have implemented over the year to propel the Court forward.

Now more than ever, the Court remain responsive to the changing landscape. The staff of the Court will continue to keep sight of our vision, mission and strategic goals, I am confident that it can be done.

I sincerely hope that the information in the following pages will help you to further appreciate the work of the Court in building Caribbean jurisprudence.



RESILIENCE

The BENCH

From left to right: *(Sitting)* The Honourable Mr Justice Jacob Wit The Honourable Mr Justice Adrian Saunders (CCJ President) The Honourable Mr Justice Winston Anderson **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

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COURT PERFORMANCE Report from the Registry (2020-2021)

The Registry provides administrative support for the judicial activities of the Court and manages the case-flow process for all cases; from the point when the documents are submitted for filing through to disposition of the matter. It is headed by the Registrar and Chief Marshal, assisted by the Deputy Registrar and Marshal, together with the Registry Supervisor, two Case Management Officers, one Court Support Officer, five Judicial Counsels, one Senior Executive Assistant and five Executive Assistants (Judicial). The Executive Assistants are assigned to the Judges.

Court Sittings

The Court continued to dispense justice virtually via the video conferencing and Microsoft Teams platform during this period of the COVID-19 pandemic. This ensured that no litigant was left behind. For the Court year - 1 August 2020 to 31 July 2021, the Court sat 55 times. These sittings comprised 16 Case Management Conferences (CMCs), 25 court hearings, and 14 judgment deliveries. Below is a table showing the type and number of sittings held during the period under review.

Type of Sittings	No of Sittings
Case Management Conferences	16
Hearings	25
Judgment Deliveries	14
Total	55

Appellate Jurisdiction 1 Aug 2020 – 31 July 2021

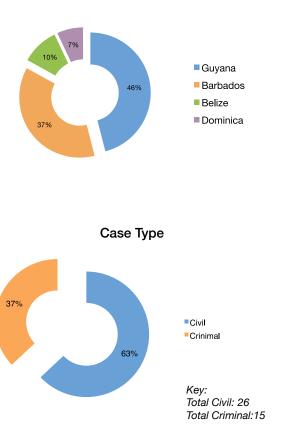
New Matters

Appellate Jurisdiction	2020/2021	2019/2020
Application for Special Leave	21	14
Notice of Appeal	20	1
Total	41	15

Cases Filed by Jurisdiction

Country	2020/2021	2019/2020
Barbados	15	7
Belize	4	3
Dominica	3	1
Guyana	19	4
Total	41	15

For the reporting period of 1 August 2020 - 31 July 2021, there were 15 cases from Barbados, 4 cases from Belize, 3 cases from Dominica, and 19 cases from Guyana. This is a 173.33% increase in new matters filed compared to the previous year, in which 15 matters were filed. 63% percent of the matters were civil cases while 37% percent were criminal cases. The Court ,therefore, disposed of 75% of its caseload with a pending caseload of 10.



Cases filed by Country

Responsive and Resilient

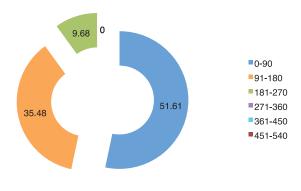


Report from the Registry (continued)

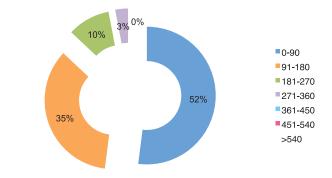
Time to Disposition (2020-08-01 to 2021-07-31)

	Number			Summary of Disp	osition
Number of Days	of Cases Disposed	Cases Disposed (%)	Number of	Cumulative Number of	Cumulative Percentage Cases
0 - 90	16	51.61	Days	Cases Disposed	Disposed (%)
91 - 180	11	35.48	0 - 180	27	87.10
181 - 270	3	9.68	0 - 360	30	96.77
271 - 360	0	0.00	0 - 450	0	0
361 - 450	0	0.00	0 - 540	0	0
451 - 540	0	0.00	>540	31	100.00
>540	1	3.23			
Total	31	100.00			

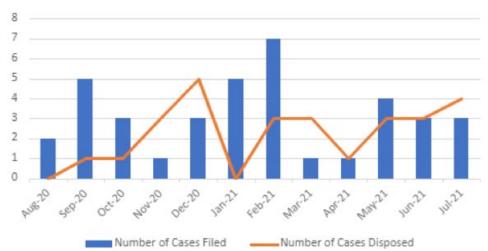
Time to Disposition



Number of Cases Disposed



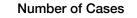
Clearance Rates





Ą	ge of	Active	Pending	Case	load

Days	Number of Cases	Percentage	Cumulative Percentage
0 - 90	7	70%	70%
91 - 180	2	20%	90%
181 - 270	1	10%	100%
271 - 360	0		
361 - 450	0		
451-540	0		
Exceeding 540	0		





During this reporting period, the Court adjudicated on another election matter from one of its member countries in the Appellate Jurisdiction. On this occasion, the Dominican case, DMCV2020/001- Roosevelt Skerrit and Ors v Antoine Defoe and Ors was appealed up to the CCJ. In this case, the issue concerned the jurisdiction of the Magistrate to



hear and determine a charge of treating against a member of the House of Assembly. In its judgment, the CCJ held, inter alia, that where a candidate was involved, there were two distinct modes of addressing election offences, evident on a reading of the House of Assembly (Elections) Act Chap 2:01. First, the summary offences procedure, where offences like treating are tried before a Magistrate. Second, the election petition procedure, which was concerned with the undue return or undue election of a member of the House and where one of the bases upon which such return or election can be found to be undue is the engagement in certain corrupt practices, inclusive of treating. The imposition of the disqualification from retaining a seat in the House set out in section 61 of the Act, did not fall within the summary jurisdiction mode of trial and therefore, was not within the Magistrate's power.

Original Jurisdiction

New Matters			
Original Jurisdiction	2020/ 2021	2019/ 2020	
Barbados	-	1	
Grenada	-		
Guyana	-	1	
Jamaica	-		
St. Lucia	-		
Trinidad and Tobago	2	1	
Belize	1		
Antigua and Barbuda	1		
Total	4	3	

There was a 33.3% increase in new matters filed for the reporting period of 1 August 2020 - 31July 2021, compared to the previous year. Of these, one (1) matter was disposed.

BUILDING CAPACITY

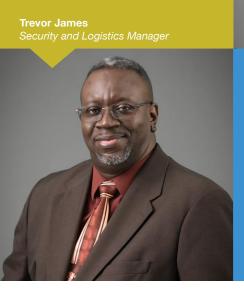
MANAGEMENT TEAM



Jacqueline Graham Registrar and Chief Marshal

Susan Campbell-Nicholas Human Resources Manager







Andrea Callender Finance and Administration Manager

Ria Mohammed-Pollard Communications and Information Manager



Navigating Uncertainty



COMMUNICATION and INFORMATION DEPARTMENT

The Integration of the Public Education and Protocol Unit

In 2021, there was a diagnostic and organisational restructuring across the Court. As a result the Court Protocol and Information Unit (CPIU) and Public Education and Communications Unit (PECU) were integrated into one unit, hereafter to be called the Public Education and Protocol Unit.

Consequently, the recruitment of a supervisor for the newly integrated unit was critical. In July 2021, the Chief Public Education and Protocol Officer, the Unit Head for the new unit, assumed duties. This modification created significant opportunities for the Department to focus on enhancing its communications capacity and strengthen the Court's communication resources, policies, standards and practices. The Department developed and employed a range of methods to reach its customers and engage its internal and external stakeholders. During this period, two key policies and sixteen standard operating procedures were also reviewed and finalised. The Media Relations Policy outlines the responsibilities and protocols for managing the Court's interactions with the media and matters related to issues management and crisis communication. The Annual Report Policy prescribes responsibilities, approval processes and procedures for the preparation and distribution of the Annual Report. These have all helped to place the manner of those interactions formally within the Court's governance framework.

In supporting the strategic intent to create a cadre of informed, energised and empowered staff members, the Department also worked with the Human Resource Department on a number of internal communication and staff engagement initiatives and programmes.

Challenges:

The uncertainty of COVID-19 has delayed the conduct of primary research to support the design and execution of a

baseline survey to measure – *Knowledge and Perceptions* of the Caribbean Court of Justice: Building and Enhancing Appreciations of the Value of the Court's Role in Regional Development. In the interim, secondary data has been explored to develop an external communication plan and key stakeholder engagement to begin implementation during the next reporting period.

Website Breach:

In February 2021, the Department responded to the appearance of broken links, which caused a breach of the website. Preventative measures were put in place with the longer-term measure being to update and re-design the website. This project is in progress and will begin during the next year.

The Court, like many other institutions, continues to navigate uncertainty. However, it remains responsive and resilient. The Communications team therefore continues to leverage its social media channels and website to create greater engagement with members of the public. Live streaming of cases via YouTube and dispatching media releases after each judgment continued during the period under review. This latter approach provides a summary of each judgment and makes it more digestible and easily understandable for journalists and court users/consumers. The Court also continued to use its social media platforms to improve its engagement with the general public and stakeholders. Plans are being implemented to incorporate more infographics and videos on our digital platforms.

During the period under review, significant headway was made with the development of a Stakeholder Engagement Plan for the Court. Identification and analyses of the stakeholders were completed and in the upcoming year, a detailed Stakeholder Engagement Framework will be finalised.



Communication and Information Department (continued)

Information Systems Unit

The Information Systems (IS) Unit undertook several projects intended to support the Court's third strategic goal of cultivating a "high-performance environment". Subsequent to the implementation of the Asset Management System, a further expansion was done to the system to support inventory management in collaboration with the Facilities Unit. The Court conducted a tender exercise for the supply of a modern phone system with associated network infrastructure to enhance our communication capability, which will be installed in the last quarter of 2021.

During the period under review, a two-phase internal audit process which focused on cybersecurity and logical processes, was also conducted. The results of the audit have been received and the Unit is currently engaged in resolving any findings that have been identified. As part of the Court's pandemic response, a significant number of laptops were procured and distributed to staff, thus allowing most members of the Court to function remotely and seamlessly.

In furtherance of the Court's policy development process, the Unit submitted six policies for review which were subsequently, approved. Sensitisation sessions are scheduled for the latter part of 2021. To facilitate seamless access to policies, training materials and the Court calendar in one centralised location, the CCJ Connect platform was launched and implemented. A Virtual Court Tour, which provides the public with a "behind the scene" view of the Court, is now available on the Court's website. Due to the COVID-19 restrictions and the hold on in-person tours, this approach allows interested stakeholders to develop an understanding of the court and its operations. Visit the Court tab at https://ccj.org/virtual-courtroom-tour/.

Library Services Unit

2020

2021

The Library plays an integral role in the operations of the Court. Like other units, it had to make adjustments to its operations and services in light of public health regulations. Physical access was limited to the judges and staff of the Court, and designated drop-off areas were established and bins were installed for the return of material. As far as was practical, staff members were relocated so that direct interface with users was minimised.

Notwithstanding the challenges faced by the pandemic, reference and research services were not disrupted and users adapted well to a fully virtual format. The Library Unit was able to provide electronic resources from its online subscriptions as well as its in-house database collection. This was bolstered by resources obtained from other libraries within as well as beyond the well-established regional network of law libraries.

Moreover, the recent internal launch of the Online Public Access Catalogue (OPAC) enabled users to view the availability of items on a specific subject and newly added resources, submit requests for materials, or access directly many of the Library's online resources. Also, the upgrade of the Integrated Library System (ILS) further enhanced the functionality and availability of the OPAC which previously was only available on specific systems in the Library. The OPAC will be available to all users later in the year.

The Library also continued to develop the Court's Records Management Programme, by providing support to the various units to help them develop and utilise their shared workspaces in SharePoint for the storage of records. This initiative will assist greatly with the retrieval of records as we continue to operate in these uncertain times. The Library also assisted with the development of the Caribbean Judicial Information System (CJIS), the regional Knowledge Management System (KMS). The Library is presently working on the collation of specific data required and data entry conventions for use with the CJIS.



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2020 2021

Oriel Hererra, Network Administrator, finalises the IT infrastructure in the newly re-configured space of the integrated Public Education and Protocol Unit.

The CCJ has the second largest collection of international law books in the Caribbean. Although access to the Library has been restricted during the pandemic, the public was still served through electronic and digitised means.

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Throughout the period, the Court hosted several virtual training sessions for staff as part of the strategic efforts to foster a high-performance work environment.

HUMAN RESOURCES Manpower and Staffing

During the reporting period, the following successful candidates assumed duty:

Names	Position Title	Effective Date
Mrs Laurissa Pena	Judicial Counsel	01 April 2021
Mr Dike Noel	Chief Public Education & Protocol Officer	21 July 2021
Ms Alaina Reid	Judicial Counsel	26 July 2021

The contracts of these employees were extended:

Names	Position Title	Effective Date
Ms Kerine Dobson	Legal Officer	01 April 2021
Mr Kurt Da Silva	Judicial Counsel	12 August 2021
Ms Krystal Sukra	Judicial Counsel	12 August 2021

Responsive and Resilient

Navigating Uncertainty



2021

Human Resources (continued)

Additionally, the following employees demitted office:

Name	Position Title	Reason	Effective Date
Mrs Sharon Anne Alfonso-Farrell	Chief Protocol & Information Officer	End of Contract	18 September 2020
Mr Samuel Bailey	Judicial Counsel	Resignation	30 September 2020
Mr Elron Elahie	Executive Assistant (Judicial)	Resignation	01 May 2021

The recruitment activities coupled with the following training and developmental initiatives, unscored the Court's commitment to being **"Responsive and Resilient, Navigating Uncertainty".**

Further, despite the challenges of the pandemic, the CCJ developed the capacity and competence of the staff throughout the various functional areas and levels. As such, the following training and development programmes were conducted:

PROGRAMME	2021 CCJ Judicial Training series
DATE	07 April – 02 June 2021
PROVIDER	In House Training with the support of external Judge – the Honourable Mr Justice Gregory Smith.
MAIN OBJECTIVE	This initiative was designed to enhance the performance of the Court as well as to provide strategic sensitisation and educational opportunities to staff members. The training was intended to allow staff to gain an appreciation and understanding of some of the aspects of what informs the core judicial work of the Court.
NO. EMPLOYEES TRAINED	 Sixty-nine (69) employees participated in the series Forty-eight (48) employees attended more than five (5) sessions Twelve (12) employees attended all fifteen (15) sessions

PROGRAMME	Certified Information Systems Security Professional (CISSP) Mentor Programme
DATE	12 April – 02 June 2021
PROVIDER	FRSecure.
MAIN OBJECTIVE	The Court facilitated CISSP Mentor Programme and CISSP Certification training following an independent audit which indicated that the RJLSC needs to become more cyber resilient. The CISSP Mentor Programme and CISSP Certification Examination ensured that IS staff are adequately trained, equipped and certified to treat with the issue of Cyber Security within the Court and is a positive step towards helping the Court become cyber resilient.
NO. EMPLOYEES TRAINED	Five (5) employees of the IS Department.

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Human Resources (continued)

PROGRAMME	Harassment Policy Sensitisation Series
DATE	14 June – 23 July 2021
PROVIDER	In-House Training with the support of Ms. Tracy Robinson, Ms. Roberta Clarke and external Judge – the Honourable Mr Justice Vashiest Kokaram.
MAIN OBJECTIVE	The purpose of this initiative was to raise awareness of the Court and Commission's Harassment Policy
NO. EMPLOYEES TRAINED	Eighty-nine (89) employees participated in the series Seventy-six (76) employees attended all 4 modules

In addition to its core Human resource management activities, the Human Resource Department also conducted a series of employee engagement initiatives. Some of these included the revision of the Staff Regulations and development of HR policies and Standard Operating Procedures; the re-introduction of the Court's internal newsletter and the creation of an Employee Recognition and Appreciation Programme. During the period under review the Department also collaborated with the Public Education and Communications Unit to execute an internal communications survey.

Building a high-performance environment is key if the Court is to achieve its overall mandate. To this end a revised Performance Management System, which intended to create a more systematic approach that is aligned with the Court's goals was implemented. Additionally, the Department conceptualised and implemented the HR Team Tag initiative to strengthen intra-Unit communication and foster the CCJ's Core Values.

Recognising the challenges that accompany working through a pandemic, a number of health and wellness sessions for employees were conducted virtually.

The Department also provided support for the execution, monitoring and evaluation of the Court's 2019-24 Strategic Plan.



FINANCE and ADMINISTRATION DEPARTMENT

The current global pandemic has changed the corporate landscape and brought a level of uncertainty which has reinforced a culture of flexibility, innovation, and continuous learning to ensure effective and timely service delivery to internal and external stakeholders.

Finance and Accounting Unit

During the period under review, the Finance and Accounting Unit focused on the following activities:

The 2021/2022 Biennial Budget

The Court's budget for the 2021/2022 biennium was formally approved, as presented, by the Board of Trustees at the CCJ Trust Fund in March 2021. Monitoring and control mechanisms have been reinforced to ensure that recurrent and capital expenditure identified for the next two years are implemented within the approved cost parameters.

CCJ Audited Financial Statements as at December 2020

The Court has been able to sustain an unqualified audit opinion on the financial statements for the financial year 2020, which indicated that the Court's Financial information has been presented fairly, accurately, and is free from fraud, error or material misstatement. This audit opinion was completed by our auditors, BDO Trinity Limited.

Internal Audit Financial Month End Close

The Finance and Accounting Unit participated in the Internal Audit of its Financial Month End Close; recommendations and process improvement points were received from this activity. Some recommendations have already been implemented and the others will be accomplished toward the end of 2021.

Management Financial Reporting & Analysis

Accurate and timely Financial Reporting & Analysis are critical Court success factors as they provide vital information to assess growth and sustainability. Reporting and analysis, which highlight key areas for management's attention, are completed monthly and quarterly. These reports highlight the link between opportunities and challenges and their financial impact, thus enabling better decisions. During the reporting period, the Finance and Accounting Unit continued to provide financial support to the following arms of the Court: CAJO and the CCJ Academy of Law.

Electronic Payments

The Court continued to utilise the electronic medium for payments to all vendors and suppliers. During the period under review, 95% of vendor payments were made via electronic transfer. This has boosted vendor satisfaction, as there is now more flexibility in the process, and it has reduced supplier waiting period which can be caused by manual cheque processing.

Policies and Procedures

The department reviewed and updated several Standard Operating Procedures, during the period, to address performance gaps which were identified. This allowed for the strengthening of the Unit's internal operations and service delivery to internal and external stakeholders.



Finance and Administration Department (continued)

Records Management/ Department File Plan

The Unit also implemented an enhanced records management system with guidance from the Library Unit. Electronic and hard copy folders were indexed to carry the same filing code to streamline both copy filings.

Financial Summary of the Financial Year 2020

The Court's Statement of Financial Position consists primarily of assets purchased since inception under Property Plant and Equipment, totalling US\$517,074. The following consist of Judicial and Court Official Vehicles (US\$232,649), IT software and hardware (US\$46,327), renovations and upgrades to internal space (US\$116,622), Furniture & Fixtures and Equipment (US\$70,352), Library books (US\$17,782) and Security Equipment (US\$32,147). The most substantial movement was the upgrade and refurbishment of office spaces.

Capital Expenditure

The Court's capital expenditure for the year was 1% or US\$72,598 of the yearly allocation. The funds were used to purchase IT software and hardware, conduct renovations and upgrades to internal work spaces, furniture, fixtures and equipment, flags and library books.

Statement of Cash Flows

The Statement of Cash Flow provides information on how the Court finances its ongoing activities. During 2020, 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\$823,600.

Facilities, Assets and Office Management Unit

2020

2021

The requisite restructuring to accommodate the merger of Units was completed.

Several initiatives were executed during the period under review to make the building more comfortable for both external and internal stakeholders. These include: -

- 1. Office Modification
 - Refurbishment of the southern side of the third floor to incorporate physical distancing
 - Restructuring of the second-floor office space to accommodate the merger of the Protocol and Public Education & Communication Units

2. COVID-19 Protocols and Compliance

In light of the evolving nature of the pandemic, the Work Place guidelines were revised to reflect the current public health regulations.

3. Asset and Inventory Management Software

Greater competencies were gained in the use of the Red Beam Inventory and Asset Management System. Reports are currently being customised to track inventory usage by the cost centre and create alerts for stock re-order levels. The software has also been integrated with the Employee Self Service System to accommodate and track inventory requests from employees and departments more efficiently.

4. General Enhancement

The Facilities, Assets, and Office Management Unit continues to partner with other departments and units to ensure staff and visitors to the building are exposed to a well sanitised and safe working environment.

Navigating Uncertainty

HEALTH ATTON dS 2020

2021



SECURITY and LOGISTICS DEPARTMENT

Amidst the pandemic, the Security and Logistics Department maintained its operational functions. In doing so, the Department led the development of the Enterprise Risk Management Framework in support of the Court's strategic goals. This was supported by awareness training for all members of staff as a precursor for embedding an organisationwide risk awareness culture. As this program is rolled out, the Court will be better positioned to identify, analyse, evaluate and treat with both its strategic and operational risks. Moreover, it will be able to conduct horizon scanning to prepare for future risks.

Doing our part: Everyone who enters the Court's premises is required to complete mandatory COVID-19 selfassessment and declaration forms.

While adapting to the pandemic has not been easy, members of the Security and Logistics Department and Facilities Unit have worked tirelessly to ensure that safety protocols are followed while at the office.

The Security and Logistics Department of the CCJ plays a critical role in keeping staff and visitors safe.





Security and Logistics Department (continued)

The organisational structure of the unit was reviewed in the context of the emerging changes to successfully navigate the pandemic. To this end, the structure was modified to include two Lead Security Officers to the Unit to provide a more granular level of operational supervision required for the Court's pandemic response.

This change created greater opportunities for focus of the Manager and Supervisor on addressing the strategic issues and initiatives. The change also enhanced the Department's responsibility as the gatekeeper of the health screening protocols. All entrants to the Court were actively monitored and the appropriate actions taken to reduce the risk of COVID-19 infections. In addition, the Security Unit conducted two hundred and sixty-eight compliance patrols during the reporting period leading to a progressive reduction in non-compliance by staff, contractors and guests of the Court.

Unfortunately, as with most organisations, a few of the staff contracted COVID-19. However, this provided an opportunity to stress-test our protocols. This resulted in an immediate containment of the infections. Furthermore, despite the need to quarantine some of the staff as a precautionary measure, the operations of the Unit and the Court were not unduly affected.

The Department developed three policies during the reporting period that are critical to both its strategic and operational goals. These policies are, the Security Administration and Management, the Transportation Logistics Policy, and the Carpark Usage Policy.

The Logistics Unit continued to provide transportation services to staff who were required to use public transportation to be at the Court. The Drivers/Ushers/ Couriers expanded their assigned tasks to reduce the exposure of the Judges and Court staff by reducing the need of these categories of staff being at the Court building to receive documents and packages.

The Demerit Points System training was conducted for all staff. A panel consisting of the Transport Commissioner, a sitting magistrate, head of the Traffic Enforcement Unit, legal representatives of the Ministry of Works and Transport explained the workings and implications of the new system and fielded questions from staff. This initiative is now supported by active monitoring to ensure the Court and its staff comply with the applicable laws as well to ensure that alternative strategies are employed to mitigate risks in relation to this national initiative.



NAVIGATING CHALLENGES Core Business

COMMITTEES

Health, Safety, Security and Environment (HSSE) Committee The Health, Safety, Security and Environment (HSSE) Committee continued to perform its functions in the background throughout the successive national lockdowns during the reporting period. Some of its critical functions devolved to the Crisis Response Team (CRT) Committee tasked with the reviewing, developing, and implementing the organisation's response to national Covid-19 directives.

The Security and Logistics Manager, who is the Chairperson of the HSSE Committee, as well as some of the committee members are also active members of the CRT Committee. This cross-functionalism provided greater synergies of effort in reporting, implementing, and reviewing the various initiatives implemented during the reporting period to treat with the pandemic.

The HSSE Committee used this opportunity to revise the HSSE policy to ensure greater alignment with national regulations, best practices as well as organisational needs. The Committee also ensured that the necessary equipment for emergency response were acquired. It is now poised to further deliver on its mandate as the Court adjusts to the new normal.

Policies and Procedures Approvals Committee (PPAC)

The work of the Policies and Procedures Approvals Committee (PPAC), which commenced during the last reporting period, continued into the period under review. Under its Terms of Reference, the PPAC was mandated to review several of the Court's policies and procedures and prepare them for formal approval, as required.

The Committee was directed to

- a) review and validate the policies and procedures as value-creation additions to the Court's regulatory infrastructure;
- b) devise a communications plan for staff and stakeholder sensitisation;
- c) make recommendations for the orientation and training of staff. This initiative was critical to the Court's achievement of Strategic Goal 2.3, which targets the strengthening of its internal regulatory frameworks to ensure that they are fair and promote independence and accountability; and
- d) developed methodology for the review of policies every two years

The PPAC was established by the Court President, the Hon. Mr Justice Adrian Saunders, on 8 June 2020 with membership drawn from officers across various functional areas. The Committee comprised the Hon. Mr Justice Winston Anderson, as Chair, along with Mrs 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; and Ms Kerine Dobson, Legal Officer. As the work of the Committee progressed, additional support became necessary. Accordingly, the President approved the assignment of Mr Kurt Da Silva, Judicial Counsel and Ms Genevieve Gray, Executive Assistant (Judicial) to the Committee.

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Navigating Challenges - Core Business (continued)

Between 1 August and 15 December 2020, the Committee convened on 19 occasions. Sixteen of these meetings were dedicated to policy review/validation and settlement of the communication and orientation/sensitisation plan. On the other three occasions, the Committee engaged in interim and final audits of its work compliance with its mandate.

PPAC also reviewed, and approved sensitisation frameworks to support the implementation of policies. These documents outline the overall aim of the sensitisation exercise and also provide a guide to Unit Heads/Department Managers for the development of their respective sessions in the sensitisation programme.

At the time of establishment, it was anticipated that the Committee would conclude its work by December 2020. Scope was, however, provided for an extension of that time. On 4 January 2021, PPAC presented its final Report to the President. In addition to recommending 22 policy documents for approval, PPAC made several other recommendations. Among them were suggestions for early implementation of staff sensitisation and training on the approved policies; the implementation of mechanisms to ensure the application of approved policies to the Regional Judicial and Legal Services Commission and the Court's affiliated institutions – the JURIST Project, the CCJ Academy for Law and the Caribbean Association of Judicial Officers; and the institutionalisation of a routine policy review mechanism.

All 22 policies and procedures recommended for approval by the PPAC were approved by the President on 18 February 2021, with an effective date of 1 March 2021. Since then, these and other Court governance documentation have been moved to a centralised internal repository called 'CCJ Connect' to allow all staff to readily access these documents. The follow-up work, including preparing for the rollout of the mandatory staff sensitisation programme, continues. Much of this is now being undertaken by the Office of the Registrar and Chief Marshal in collaboration with the Human Resources Department. It is expected that the interactive sensitisation sessions will be completed by November 2021.

The Strategic Plan Monitoring and Evaluation Committee

The Strategic Plan Monitoring and Evaluation Committee ("the Committee") was established in January 2021 by the President of the Caribbean Court of Justice, the Honourable Mr Justice Adrian Saunders. It comprises several employees of the Court including the President as Chairperson; the Hon. Mr Justice Jacob Wit; the Hon. Mr Justice Peter Jamadar; Ms Jacqueline Graham, Ms Susan Campbell-Nicholas, Ms Andrea Callender, Mr Trevor James, Mrs Ria Mohammed-Pollard, Ms Patrice Valentine, Mr Ayinde Burgess, Ms Candis Cayona (Staff Interface Committee Representative) and Mr Kurt Da Silva (Secretary).

The Committee held its inaugural meeting on 4 February 2021. Since then, it has met on two additional occasions: 4 May 2021 and 27-28 July 2021. An Executive Sub-Committee was also established to continue the work of the Committee in the intervals between Committee Meetings. The members of this Sub-Committee are Mr Justice Saunders, Mr Justice Jamadar, Ms Graham, Ms Valentine and Mr Da Silva.

At the first meeting, the Committee developed a Monitoring and Evaluation Framework for the Court's Strategic Plan and Terms of Reference for the Committee, which were completed by the Sub-Committee and approved by the wider Committee at its second meeting. The Committee has also taken on the role and responsibility of the Strategic Planning Committee of the Court.

2021



At its second meeting, the Committee commenced its regular work, which is primarily divided into two categories. First, it received reports from each Department on the progress of work that was agreed upon for the previous quarter. The Committee also heard presentations on such progress, as well as on challenges faced and lessons learned during the quarter.

The information obtained was then used in the second aspect of the Committee's work, which is to receive and evaluate draft Work Programmes from each Unit for the next quarter. The Committee examined these drafts considering the information received and lessons learned from the previous quarter. Following discussions at the meeting and the subsequent work of the Sub-Committee, finalised Work Programmes were produced with more attainable goals to meet the needs of the Court for that quarter.

The Committee will continue to monitor, evaluate and make adjustments to the work of the Court throughout each performance period to ensure that it is proceeding with maximum effectiveness and efficiency. This will greatly enhance the Court's ability to successfully achieve the strategic goals of the Court as it seeks to realise its vision to be a model of judicial excellence.

Remembering the two W's: wearing their masks and watching their distance. The new normal in action.

Despite the pandemic, CCJ employees continued to demonstrate their diligence and dedication to ensuring that the Court achieves its mandate.

Adjusting to the new way. The new look of in-person meetings.







Navigating Challenges - Core Business (continued)

Website Committee

Strategic Issue 1 of the Caribbean Court of Justice's Strategic Plan 2019-2024 focuses on *Communication* with an expected outcome being the *improved communication both internally and with all stakeholders in the regional and global communities.* In keeping with this issue, President of the Caribbean Court of Justice, the Honourable Mr Justice Adrian Saunders, commissioned the Website Committee. The committee comprises a cross-

functional complement of personnel and is chaired by the Communications and Information Manager, Mrs Ria Mohammed-Pollard. The other members are, The Hon. Mr Justice Denys Barrow, Ms Semone Moore, Ms Danielle McConney, Mr Antonio Emmanuel, Mr Anil Ramsahai, Ms Jacinth Smith, Mr Ayinde Burgess, Ms Heather Dyer-Thompson and Ms Lisa Furlonge (Secretary).

A Terms of Reference for the Committee was adopted and became effective on 20 October 2021. The fundamental purpose of the Committee is to develop strategies in relation to the CCJ's website and online presence in keeping with –

- a. The mission and vision of the Court as set out in the Strategic Plan 2019-2024;
- b. The performance standards to which the Court adheres; and
- c. The Court's responsibility to engage in public education.

The Committee is also mandated to recommend changes which reflect the current image of the Court to ensure the website can support the services required for internal and external stakeholders and provide guidance for the governance of the website.







CCJ Academy for Law (CAL)

The CCJ Academy for Law (CAL) collaborated with the Canadian-funded IMPACT Justice Project to host its 6th Biennial Conference in the form of online symposia, the first of which was held on 19 May 2020. The focus of this session was on the very issue which led to the hosting of the conference via virtual means: the COVID-19 pandemic. A book which was fully funded by the IMPACT Justice Project and edited by the Hon. Justice Winston Anderson, Judge of the CCJ and CAL Chairman, was also produced. Published in May 2021, the publication features presentations by several prominent legal scholars, jurists, and regional and international practitioners.

In collaboration with the World Intellectual Property Organisation (WIPO, Geneva), CAL hosted an Intellectual Property Conference on 2 June 2021. The webinar was convened exclusively for judicial officers in the Caribbean and considered common issues in the adjudication of trademark infringement disputes such as similarity of signs, likelihood of confusion, and assessment of well-known marks, with a focus on the recent decision of the Court of Appeal of Jamaica in *3M Company v Manufacturera 3M SA DE CV* [2017] JMCA Civ 21.

The Hon. Mr Justice Bryan Sykes, Chief Justice of the Supreme Court of Jamaica; the Hon. Mme Justice Nadia Kangaloo, Judge of the High Court of Trinidad and Tobago; and the Hon. Mme Justice Hillary Phillips, Justice of Appeal, illuminated on these issues. The event was moderated by the Hon. Mr Justice Winston Anderson with an introduction to the work of the Academy provided by the Hon. Mr Justice Jacob Wit.

On 30 June 2021, CAL, in collaboration with the Pan American Health Organization/World Health Organization ('PAHO/WHO') established and launched the Caribbean Public Health Law Forum. This forum focused on the use of law to tackle public health challenges, notably noncommunicable diseases (NCDs) and their risk factors. The Forum is expected to accelerate the implementation of public health measures which require legal and regulatory action, and enhance knowledge-sharing, capacity-building, and cooperation across the Caribbean. Ultimately, it envisages the emergence of a regional culture of using law to address public health issues.

The Academy was instrumental in assisting PAHO with launching the virtual course "Developing Tobacco Control Legislation in the Caribbean" on 19 July 2021. The interactive training combined virtual, self-directed, peer-topeer and tutoring-based approaches as well as experiential and practice-based methods. The collaboration brought together lawyers and public health officials including representation from all Caribbean PAHO/WHO Member States, and CARICOM institutions with an interest in tobacco control.

The Pioneering Caribbean Women Jurists (PCWJ) Project is the latest instalment of the Eminent Caribbean Jurists, which is designed to recognise women who have had a formative impact on the development of law and law-related institutions in the Caribbean. The Academy will celebrate the contributions made by torch bearing and distinguished Caribbean Women Jurists to Caribbean law and society, and to memorialise that contribution in a gala and in a permanent written and digital resource.

The PCWJ project is three-fold:

- Publication of an anthology of the honourees' biographies
- (2) Educational videos
- (3) Awards ceremony

The first stream has been advanced for the publication of the book *"Eminent Caribbean Jurists: Pioneering Caribbean Women Jurists"*.



CCJ Academy for Law (CAL) (continued)

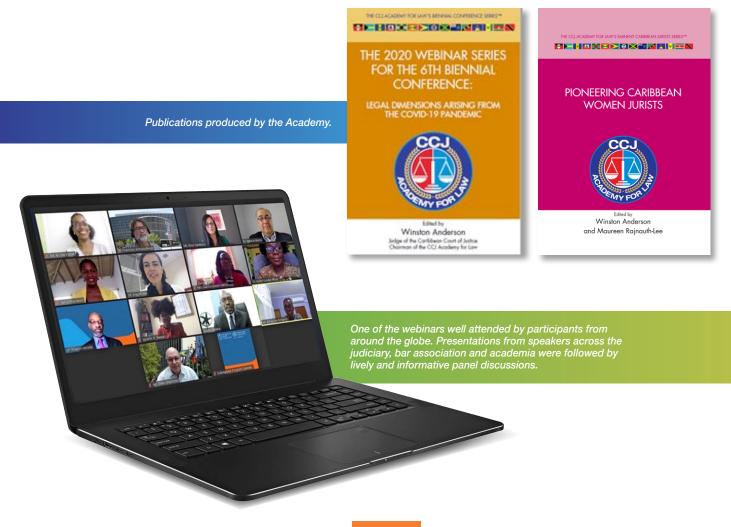
As a key stakeholder in the judicial sector, CAL was invited by the United Nations Development Programme (UNDP) to participate in a consultation process held on 29 July 2021. The consultation was facilitated by Ms Juliet Solomon, Programme Specialist, Citizen Security and Rule of Law, UNDP Regional Bureau for Latin America and the Caribbean with the Hon. Messrs Justice Winston Anderson, Chairman and Justice Jacob Wit, Deputy Chairman. Discussions were held via Zoom and centred around enhancing the institutional capacities of police forces, prosecutors, and courts in the Caribbean to effectively and efficiently manage criminal cases.

During the period, CAL also engaged in several activities which focused on its core mandate of "advancing of knowledge, education, learning, research, and practical application of law and the administration of justice in the Caribbean context." In this vein, the Academy collaborated with the Hugh Wooding Law School and the Judiciary of Trinidad and Tobago to provide support for the in-service training of the law school. This initiative was designed to fill the lacuna created by the reduction of in-person opportunities for student lawyers to be exposed to the practical aspects of legal practice due to the COVID-19 public health regulations.

2020

2021

A series of webinars including live simulated court hearings started from July 2021 in the areas of Public Law, Criminal Law, Ethics and Civil Law. The first webinar was well attended by participants from around the globe and a lively and informative panel discussion followed excellent presentations from speakers across the judiciary, bar association and academia.



Navigating Uncertainty

THE INAUGURAL CONFERENCE OF THE CARIBBEAN ASSOCIATION OF JUDICIAL OFFICERS

CAJO: Fostering Collaboration and Communication in Times of Crisis

Not withstanding the unpredictable nature of the COVID-19 pandemic, the Caribbean Association of Judicial Officers (CAJO) has maintained high levels of commitment and responsiveness to the needs of Caribbean judicial officers and effectively adapted to the changing times. Given the current environment and the virtual world within which we are operating, CAJO increased collaboration and communication within the region, helping judicial officers to collectively find solutions for challenges to the administration of justice which may have been highlighted by the COVID-19 pandemic. During the period under review, several important initiatives including round table discussions and training webinars were hosted. Two issues of CAJO News were also published and ground-breaking regional surveys were administered.

Round Table Discussions

Two Round Table discussions were conducted: the first with Magistrates and Parish Judges and the second with Registrars. The session for Magistrates and Parish Judges comprised two knowledge sharing sessions on remote hearings and safety and support with a third session focusing on ascertaining the needs of Magistrates and Parish Judges. This activity was well-received and the feedback provided was positive. The Registrars' Round Table session included a series of webinars which focused on preparing the registries of the region to face the challenges of the COVID-19 pandemic and on building staff morale.



Participants and Presenters in the International Public and Private Law from the Civil Law Perspective Webinar

CAJO Training Sessions

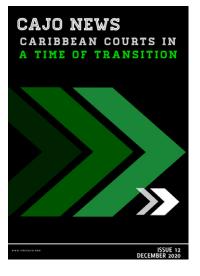
CAJO also hosted a number of regional virtual training webinars which attracted a high participation rate, some having as many as 185 participants. The sessions were interactive and engaging and incorporated modern digital tools in its training approach. The presenters utilised videos, voice-overs, real-time surveys, question and answer segments, and built-in commentaries to create engagement and knowledge co-creation. For some webinars, participants were provided with pre-reading and pre-recorded materials which included:

- Jury Trials
- Judgment Writing
- International Public and Private Law from the Civil Law Perspective: Relevance for Caribbean Judicial Practice

CAJO also provided training to the Office of Procurement Regulation-Trinidad and Tobago, on Clarity in Judgment Writing (three modules), and Judicial Ethics.



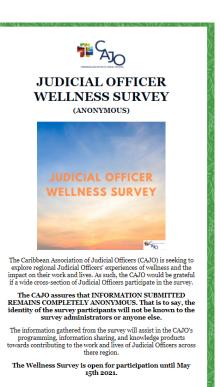
CAJO: Fostering Collaboration and Communication in Times of Crisis (continued)



CAJO News

From 1 August 2020 to 31 July 2021, CAJO published two innovative and interactive editions of the CAJO News. Issue 12 focussed on Caribbean Courts in a Time of Transition with Issue 13 highlighting wellbeing in Caribbean judicial contexts. Both attracted widespread interest and positive feedback.

They can be viewed at: http://thecajo.org.



2020

2021

Wellness Survey and Report

From March to May 2021, the CAJO also spearheaded an anonymous regional wellness survey. Responses were received from 126 judicial officers. The results indicated that judicial wellness has a direct impact on the core functions of judicial work, and that there is cause for concern. A comprehensive report was prepared and shared with regional Heads of Judiciary and other stakeholders. CAJO is also working with the Global Judicial Integrity Network in preparing an international wellness survey for justice sectors.

CLICK HERE TO PARTICIPATE



Judicial Reform and Institutional Strengthening Project

Since 1 April 2020, the COVID-19 pandemic has impacted work arrangements, service and programme delivery, and the project activities of the Judicial Reform and Institutional Strengthening (JURIST) Project and jurisdictions across the region. This epidemiological crisis continues to redefine the landscape and the ability of courts in the Caribbean to use new technologies. Ultimately, the outcome of the reform process, perhaps more than any other factor, was affected.

Working with various partners, the JURIST Project responded to requests for short, medium and longer-term COVID-19 support consistent with the areas of reform in the Project's design. While there was momentum lost and some delays due to the pandemic, the Project adapted well to working virtually, and as much as possible, has continued to make significant investments in judicial reform and make progress on the expected outcomes.

To this end, the Project has supported five (5) judiciaries to further embrace business continuity measures as a continuation from an initiative which commenced in 2017. This includes draft disaster recovery plans to improve case flow management, court administration and remote operations through business continuity, while adhering to current public health requirements. The Project began to see instances of larger reform results in some key areas and continued to support Antigua and Barbuda, Barbados, Belize, the Eastern Caribbean Supreme Court (ECSC) and Guyana, as they implemented their judicial reforms.

During the period, the Project's activities continued to focus on support for regional courts in their thrust to access to justice and the timely disposition of cases in their respective jurisdictions. Six (6) countries have all made progress in both reform areas with the support of the Project.

With the end of the Project scheduled for 31 March 2023, the Project has focused on measures for sustainability of results and continuity of initiatives after the Project ends. This includes, but not limited to, putting in place the regional knowledge management system, the business continuity management policies and procedures, and continuing to strengthen capacity in regional judicial training through the Caribbean Association of Judicial Officers (CAJO).

The JURIST Project prepared a sustainability plan for both the Project and the Caribbean Court of Justice (CCJ) and also established a Transition Team comprising senior officials of the CCJ, regional stakeholders and the Project to ensure the continuity of key initiatives.



JUDGMENT SUMMARIES for Judicial Year 2020/2021

Responsive and Resilient

REACTOR OF STREET



Judgment Summaries (continued)

Shir Affron Nabi and Ors v Ashmidphiraque Sheermohamed and Ors [2020] CCJ 15 (AJ) GY

This is an Appeal from Guyana:

Nabi and Sons Ltd, is family owned. Following its incorporation, the relationship between the shareholders became acrimonious. In these circumstances, Ashmidphiraque Sheermohamed (the First Respondent) filed a petition in the High Court seeking an order that the company be wound up under section 354(e) of the Companies Act, on the basis that it was just and equitable so to do. The High Court (Persaud J) granted the order for the just and equitable winding up of the company. The Appellants appealed this order. That appeal, however, was dismissed on the merits by the Court of Appeal. The Appellants appealed to the CCJ. The notice of appeal disclosed a single ground of appeal, namely, that the Court of Appeal made an error in all the circumstances of the case in upholding the exercise of discretion by Persaud J to grant the order for the winding up of the company.

The CCJ was satisfied that the Court of Appeal acted upon correct principles of law in upholding Persaud J's section 354(e) discretion in ordering the winding up of the company on just and equitable grounds. The question which the CCJ had to solve therefore became whether the Court of Appeal of Guyana misapplied those principles on the evidence before it as contended by the Appellants.

The judgment of the Court was delivered by the Hon. Mr Justice Wit and the Hon. Mr Justice Burgess. The Court was satisfied that there was sufficient evidence available to the Court of Appeal that the First Respondent was a contributory within the meaning of section 350 and therefore could commence the section 354(e) winding up petition. The CCJ found that the Court of Appeal did not make any findings of fact not supported by the evidence. On the contrary, the CCJ found that, the Court of Appeal meticulously made its findings of fact based on the record. The CCJ also found that the Court of Appeal did not misapply the just and equitable principles and that there was an abundance of evidence to support the finding that the parties were in deadlock. The CCJ also found that this was not an appropriate case to order a buy-out of the company's shares.

Finally, the CCJ found that the equitable maxim "he who comes to equity must come with clean hands" applies to the exercise of the section 354(e) just and equitable winding up jurisdiction. The CCJ disagreed with the Court of Appeal's reason for rejecting the Appellants' "unclean hands" argument. The CCJ felt bound to emphasise that the Court of Appeal should have considered only the hands of the First Respondent, and that there was no need to balance the misconduct of the First Respondent against that of the Appellants. For the foregoing reasons the CCJ dismissed the appeal and ordered the Appellants to pay the Respondents' cost.

The Queen v Calaney Flowers [2020] CCJ 16 (AJ) BZ

This is an Appeal from Belize:

This case concerns the right of the Director of Public Prosecutions (DPP) to appeal against the acquittal of Ms Flowers in a judge alone trial. Ms Flowers was tried before a judge sitting without a jury on an indictment for one count of murder, and one count of attempted murder. Counsel for Ms Flowers made a no case submission at the close of the prosecution's case, which was not upheld. At the end of the trial, the judge acquitted Ms Flowers.

The DPP in accordance with section 65C(3) of the Indictable Procedure Act applied to the Court of Appeal for leave to appeal against the acquittal and that court dismissed the application for want of jurisdiction. The court's reasoning was that

202[.]



Judgment Summaries (continued)

section 65C(3) was circumscribed by section 49(1)(a) of the Court of Appeal Act, and that the prosecution's right of appeal was limited to circumstances where the judge directed the acquittal of the accused at the close of the prosecution's case.

Before this Court, the DPP argued that section 65C(3) gave a clear right of appeal to the prosecution against acquittals in a judge alone trial. Counsel for Ms Flowers, on the other hand, contended that it could not have been the intention of the legislature to amplify the prosecution's right of appeal to circumstances other than those set out in section 49(1)(a) of the Court of Appeal Act as this interpretation would lead to an incongruous system for prosecution appeals and would expose the accused to double jeopardy.

This Court allowed the appeal. The main judgment of the Court was delivered by the Hon. Mr Justice Anderson who identified the main issue as whether section 65C(3) recognised the right of the prosecution to appeal only in the three circumstances set out in section 49(1)(a) of the Court of Appeal Act or whether that section created an additional right of appeal. The Court noted that apart from Belize several Commonwealth Caribbean States introduced prosecution appeals against acquittals. Based on the clear language used, the Court found that section 65C(3) conferred an additional right of appeal which did not conflict with section 49(1)(a); instead, it was pari materia with that section. As for the principle of double jeopardy, the Court noted that it only acted as a safeguard to acquittals which became final after being affirmed by an appellate court. Further justification for the interpretation that section 65C(3) created an additional right of appeal was the requirement that the judge furnish reasons for conviction or acquittal, as well as a review of the Hansard which revealed that it was the intention of Parliament to create an additional right of appeal.

The Hon. Mr Justice Saunders, President and the Hon. Mr Justice Wit delivered concurring judgments adding that it must be remembered that a criminal trial is also about the victim, their loved ones and society have a stake in ensuring that the reversible errors of a judge are addressed.

Hernan Manzanero v The Queen [2020] CCJ 17 (AJ) BZ

This is an Appeal from Belize:

Hernan Manzanero was convicted of murder in the Supreme Court of Belize, by Moore J, sitting without a jury. The prosecution evidence included two caution statements Manzanero had given to the police. The first was mainly exculpatory and was admitted into evidence. The second statement contained an admission of guilt. A voir dire was held during the trial to assess the admissibility of the second caution statement. After hearing Manzanero's evidence during the voir dire, Moore J, although finding that Manzanero was not wholly credible, ruled the second caution statement inadmissible. Manzanero appealed unsuccessfully to the Court of Appeal of Belize, challenging the conviction for murder. Manzanero then appealed to the CCJ. The appeal before the CCJ focused on the voir dire conducted by the trial judge. The critical issue was whether it could reasonably be said that an adverse finding on Manzanero's credibility, made by the trial judge at the conclusion of the voir dire, resulted in Manzanero having been denied a fair trial.

The judgment of the CCJ was delivered by the Hon. Mr Justice Saunders President and the Hon. Mme Justice Rajnauth-Lee. The CCJ held that accused persons should receive from a judge sitting alone, a trial that appears to be no less fair than they would have received at a jury trial. It did not automatically follow that, in a judge alone trial, where a trial judge has made an adverse finding on the credibility of the accused on the voir dire or has heard evidence which was prejudicial to or indicative of the guilt of the accused, the accused is denied a fair trial if the judge arrives at a guilty verdict. An appellate court must, however, be satisfied that the trial judge, in determining the guilt of the accused, did not carry over to their

Navigating Uncertainty



Judgment Summaries (continued)

deliberations on the main trial any adverse findings on the credibility of the accused, or was not improperly influenced in arriving at a guilty verdict by evidence which was prejudicial to or indicative of the guilt of the accused, and not ultimately admitted into evidence.

In this case, having ruled on the voir dire and proceeded on the main trial, the trial judge analysed very carefully and thoroughly the evidence of the prosecution. Moore J's analysis of the evidence could not be impeached.

In a concurring judgment the Hon. Mr Justice Jamadar explored the concept of fairness and the issues of actual bias and apparent bias. The Hon. Mr Justice Jamadar noted that the relevant test which should lead to disqualification in cases of a reasonable apprehension of prejudgment such as this, is: whether there is a real likelihood that the parties or the public could entertain a reasonable apprehension that the judge would not be able to decide the case impartially, in the context of the alleged pre-judgment and in the particular circumstances of the case.

The appeal was dismissed.

Kayman Sankar Investments Limited v Blairmont Rice Investments Inc. [2020] CCJ 18 (AJ) GY

This is an Application for Special Leave from Guyana:

This case involves an application for Special Leave to appeal against the decision of the Court of Appeal to grant leave to appeal to the CCJ.

The Court restated that there can be no special leave to appeal against the Court of Appeal's refusal to grant leave to appeal. Rule 10.12 of the CCJ (Appellate Jurisdiction) Rules 2019 describes what to do in such a case: a fresh application for special leave to appeal the lower court's substantive decision must be filed as this is sufficient to allow the Court to correct any wrong. Even though the Rules are silent with respect to the question whether a party should be permitted to appeal against the decision of the lower court to grant leave to appeal, the principle remains the same. Allowing such an application would cause unnecessary procedural complication and delay.

Special leave applications are characteristically, fresh applications. Their purpose is to permit the Court to do justice where the lower courts made a wrong decision. Special leave, however, must be necessary to achieve that goal. Where the court below has granted leave to a party and a notice of appeal has subsequently been filed in this Court, the entire matter is before this Court (including a possible argument that the Court should not entertain the appeal) and so, no special leave to deal with it is necessary. The special leave application can therefore not be used as a pre-emptive strike, or as a tool to appeal against a lower court's decision to refuse or grant leave to appeal. Consequently, the Special Leave Application was refused.

Ogle Airport Inc. v Competition and Consumer Affairs Commission [2020] CCJ 19 (AJ) GY

This is an Application from Guyana:

Ogle Airport Incorporated (OAI) brought judicial review proceedings against the Commission, in connection with a complaint made by a third party, challenging the decisions of the Commission that it has jurisdiction to hear the complaint and that it would decide the complaint without affording a fair hearing to OAI. The acting Chief Justice quashed the Commission's decision to adjudicate the complaint without affording OAI a fair hearing but did not interfere with the decision of the Commission that it had jurisdiction. OAI's appeal of the latter decision of the Chief Justice was dismissed by the Court of Appeal.

Responsive and Resilient



Judgment Summaries (continued)

The Court found that OAI wished to argue a purely academic issue, as it effectively won at the High Court. The Court then found that there was no issue of public importance that would justify hearing an appeal and therefore dismissed the Application for Special Leave.

Desmond Garrett Yard v The Queen [2020] CCJ 20 (AJ) BB

This is an Application from Barbados:

Mr Desmond Yard was convicted of manslaughter for the gruesome death of Ms Martina Gittens, his partner for three years and with whom he had a child. Ms Gittens died as a result of a fire in which the child was also injured. Mr Yard was sentenced to 25 years, but this was reduced to 20 years by the Court of Appeal.

On Mr Yard's Application for special leave to appeal the Court of Appeal's decision, the Court considered all five grounds of Mr Yard's Application but found no realistic prospect of success on any of them. The Application was thus dismissed.

Trish Bryan and Ors v AG of Barbados and Ors [2021] CCJ 1 (AJ) BB

This is an Application for Special Leave to Appeal from Barbados:

This dispute originated in a simple action between Norman MacDonald Nurse and Florence Norde, for possession and mesne profits in relation to a particular property. During the action Nurse's attorney, Tariq Khan applied to the court to prevent Norde's attorney, Vonda Pile from appearing in court alleging that Pile's practicing certificate was invalid since she had failed to pay the annual subscription fee to the Barbados Bar Association (the BBA) as prescribed by section 44 of the Legal Profession Act (LPA). The matter became constitutionally based when Pile, in response to Khan's application, argued that the requirement to pay such fees violated her fundamental right to freedom of association as secured by section 21 of the Constitution. The High Court Judge found that section 44 of the LPA violated Pile's right to freedom of association and dismissed the application to deny Pile a right of audience before the court.

Nurse appealed to the Court of Appeal and the Attorney General, and the BBA were added as Appellants. In a thoroughly reasoned judgment, the Court of Appeal allowed the appeal and set aside the impugned decision with no order as to costs. In short, the Court of Appeal concluded, section 44 of the LPA was not unconstitutional.

Subsequently, the applicants, five attorneys-at-law, who up to then had not been involved in the case but claimed to have an interest in the resolution of the constitutional issue that had been decided by the Court of Appeal, turned to the Court of Appeal to grant them leave to appeal to the CCJ, which that court refused. They then turned to the CCJ with an application for Special Leave to Appeal indicating that the intended Respondents would be the Attorney General, the BBA, Norde and Nurse. The Attorney General had no objection to the granting of Special Leave to Appeal to the applicants but the BBA and Nurse, objected. Nothing was heard from Norde.

The CCJ dealt with the special leave application on the papers and without an oral hearing. The CCJ refused the application for special leave. The CCJ in reasons delivered by the Hon. Mr Justice Wit explained that the possibility that non-parties, like the applicants, may be granted leave or special leave to appeal to the CCJ in a case in which they were previously not involved, was not entirely excluded. However, this occurrence would only be permissible in extraordinary circumstances. Although the decision of the Court of Appeal directly seemed to affect the interests of the applicants and they could have been named a party in the proceedings below, this did not properly allow them, without more, to become Appellants.

Navigating Uncertainty



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Judgment Summaries (continued)

Members of the legal fraternity have every right to challenge the constitutionality of the LPA, but they should do so in a case brought by them against the appropriate defendants.

Merlene Todd v Desiree Price [2021] CCJ 2 (AJ) GY

This is an Appeal from Guyana:

Allan Price owned lands in Georgetown. Ann Jennifer Jeboo, claiming to act on behalf of Price, used a Power of Attorney to sell the lands to Merlene Todd, who obtained a transport. It was subsequently discovered that the Power of Attorney was fake and Jeboo was convicted of fraud. Price sued both Jeboo and Todd in the High Court seeking to have the transport declared void. Under the Deeds Registry Act (DRA) a person loses his or her land once a transport is registered at the Deeds Registry, unless fraud is proved on the part of the holder of the new transport. Price died before trial and the claim was continued by his widow, Desiree Price. The High Court (Chang CJ) found that there was no evidence that Todd was privy to the fraud. Accordingly, Chang CJ refused to declare the transport void, but awarded Price damages.

Desiree Price appealed this decision and asked the Court of Appeal to find that Todd was a party to the fraud. Todd challenged the appeal by arguing that allegations of fraud had not formed part of the pleadings. The Court of Appeal allowed the appeal and found that Todd's gross negligence made her a party to the fraud. Todd appealed the Court of Appeal's decision.

The CCJ allowed the appeal. The judgment of the Court was delivered by the Hon. Mr Justice Anderson and the Hon. Mr Justice Barrow. The Hon. Mr Justice Barrow found that the allegations of fraud and gross negligence had not been pleaded and Todd was not given an opportunity to respond to or to defend herself against those allegations. The Court of Appeal erred in equating gross negligence to fraud. The Hon. Mr Justice Anderson expressed that an appellate court ought to be especially slow in overturning a trial judge's determination of the scope of the pleading, especially where it appears that the scope of those pleadings, as found by the judge, was accepted by the parties. In these circumstances the Court of Appeal was wrong to find that Todd was a party to the fraud. The Hon. Mr Justice Anderson and the Hon. Mr Justice Barrow also found that the Court of Appeal erred in drawing the inferences and finding the facts they did. Finding that the original landowner had been deprived of his land through no real fault of his own, the Hon. Mr Justice Anderson expressed that this showcased the need for legislative reform.

Separate judgments were delivered by the Hon. Mr Justice Wit and the Hon. Mr Justice Jamadar, who both reasoned that the approaches to the law as well as the outcome of this appeal, did not seem satisfactory or just. The Hon. Mr Justice Jamadar suggested that the DRA needs to be reviewed and an assessment made whether it passes constitutional muster, and if not, what modifications are required to do so, explaining why this should be done.

Air Services Limited and Ors v The Attorney General and Ors [2021] CCJ 3 (AJ) GY

This is an Appeal from Guyana:

On 9 May 2016, the Ogle International Airport was renamed as the Eugene F Correia International Airport. The name change was approved by the Minister of Public Infrastructure, but the Appellants did not agree with it. They contended that the Minister had a duty to consult with them before he proceeded with the renaming exercise, as such an undertaking would be harmful to them and their business interests. The Solicitor General conceded that the Minister owed a duty to consult with those who would be affected by his decision to rename the airport but submitted that this duty had been satisfied in this case.



Judgment Summaries (continued)

The Hon. Mr Justice Barrow, in delivering the judgment of the Court, found that the duty to consult in this case related to the question of whether the proposed new name should be approved or not. He noted that the Appellants were able to discuss the name change, among other issues, at a meeting with the Minister on 18 November 2015. Following that meeting, they provided a brief to the Minister of all the issues discussed, including the name change. In that brief, the submission in relation to the renaming required nothing more than to 'Leave Ogle Airport name as it is'. There was nothing provided by the Appellants that suggested that the Minister would not have understood the nature and substance of their objection. The Court found that the Minister took their concerns seriously enough that he commissioned a legal review of the lease.

The Court thus held that there was no need for further consultations, as advanced by the Appellants. This was a case where the Appellants disagreed with the merits of the Minister's decision, for which the law gives no remedy. In a separate, concurring opinion, the Hon. Mr Justice Jamadar emphasised that the duty of the Minister to consult is rooted in the Constitution of Guyana, distinct from any procedural rights based on other legal sources.

Roosevelt Skerrit and Ors v Antoine Defoe and Ors [2021] CCJ 4 (AJ) DM

This is an Appeal from Dominica

This case concerns the jurisdiction of a Magistrate to hear and determine a charge of treating against a member of the House of Assembly. The Respondents filed criminal complaints against the Appellants in the Magistrates' Court pursuant to sections 56 and 59 of the House of Assembly (Elections) Act, alleging that the Appellants were guilty of "treating." After the Magistrate issued the summonses, the Appellants sought judicial review of his decision to assume jurisdiction over the complaints. The High Court judge held that the Magistrate acted beyond his jurisdiction by issuing the summonses, because a charge of "treating" challenged the validity of the Appellants' election and as such, any action had to be brought by election petition to the High Court. The Respondents appealed and the majority Court of Appeal decided in their favour and reinstated the summonses.

The CCJ in a judgment delivered by the Hon. Mr Justice Anderson agreed with the majority Court of Appeal. The Court held that where a candidate was involved, there were two distinct modes of addressing elections offences, evident on a reading of the Elections Act. First, the summary offences procedure, where offences like treating are tried before a Magistrate. Second, the election petition procedure, which was concerned with the undue return or undue election of a member of the House and where one of the bases upon which such return or election can be found to be undue is the engagement in certain corrupt practices, inclusive of treating. The imposition of the disqualification from retaining a seat in the House set out in the section 61 of the Act did not fall within the summary jurisdiction mode of trial and therefore, was not within the Magistrate's power.

In this case, the summary offences procedure had been initiated, and this procedure was not concerned with the validity of the elections; it was concerned to vindicate the criminal law. Any argument that the Magistrate's jurisdiction does not include successful candidates must fail because on a reading of section 35(4) of the Constitution, it was clear that 'any person' may be convicted of treating and such conviction impacts, among other things, their membership, or prospective membership, in the House.

In a concurring judgment, the Hon. Mr Justice Burgess agreed with the decision of the majority that the appeal should fail but did not agree with all of the majority's reasons for that decision. Specifically, the Honourable Judge found that the seven constitutional grounds raised in the appeal were not properly before the Court. The Constitution has established a procedural



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Judgment Summaries (continued)

system for constitutional redress and interpretation which is reinforced by Parts 56 and 61 of the Eastern Caribbean Supreme Court Civil Procedure Rules (CPR). As such, any question relating to constitutional redress and interpretation can only be initiated in accordance with this procedural system and not by way of a segue as was done in this case, in a claim for judicial review.

Marjorie Ilma Knox v Deane and Ors [2021] CCJ 5 (AJ) BB

This is an Appeal from Barbados:

Marjorie Ilma Knox, deceased, was a judgment debtor of the Respondents by virtue of a court order to pay them costs. Payment of the costs remained outstanding, and Kingsland Estate Ltd (KEL) became indebted to Knox, one of its shareholders, on account of dividends due to Knox. The Respondents applied for an attachment order against the dividends (the application). The trial judge ordered that the payment of the costs should be satisfied by attaching the dividends due by KEL to Knox. One of the amounts the judge ordered to be satisfied from the dividends was the amount Knox owed to KEL as part of the costs. The trial judge ordered that KEL could "set off" this sum against its obligation to pay dividends to Knox. Knox appealed. The Court of Appeal took some four years to deliver its judgment. During this time two of the justices of appeal who heard the appeal demitted office. The Court of Appeal dismissed Knox's appeal. Both retired judges concurred with the reasons and the result and signed the judgment.

Knox appealed to the CCJ on two procedural grounds, submitting that the trial judge made errors by failing to order that certain identified third parties should be served with the application, and in making the order for "set off". Knox also appealed on one constitutional ground, concerning the right to a fair trial, judicial delay, and the separation of powers.

In respect of the alleged third-party rights, the CCJ in a judgment authored by the Hon. Mr Justice Barrow, found that the Court of Appeal correctly decided that the trial judge was right to refuse service of the application on the third parties. In respect of the "set off" order, the CCJ found that KEL was entitled, as of right, to withhold what Knox owed to KEL from what KEL owed to Knox. The CCJ found that on both procedural grounds the appeal fails.

The CCJ found that on the constitutional ground the appeal also fails. In a judgment authored by the Hon. Mr Justice Saunders President, the CCJ found that section 84(2)(b) of the Constitution empowers a person to sit as a Judge for the purpose of delivering judgment or doing any other thing in relation to proceedings which were commenced before them before they resigned, without re-appointment or re-taking of the judicial oath. The CCJ also found that the principle of separation of powers was not breached, and the Court of Appeal was independent and impartial. The CCJ, however, commented that the delay by the Court of Appeal in delivering the judgment was serious and unacceptable but found that the delay did not prejudice the ability of the Court of Appeal to render its decision. The appeal was therefore dismissed.

Solomon Marin Jr v The Queen [2021] CCJ 6 (AJ) BZ

This is an Appeal from Belize:

Solomon Marin Jr was convicted of the crimes of kidnaping and robbery and was sentenced to two concurrent ten-year terms. Marin appealed the conviction and sentences imposed. There was a nine-year delay between his conviction and the hearing and determination of his appeal. Marin subsequently withdrew his appeal against the sentences but maintained his appeal against conviction. On appeal Marin argued that the post-conviction delay breached his fundamental right to a fair hearing within a reasonable time and asked for his conviction to be quashed. The State admitted the delay breached Marin's



Judgment Summaries (continued)

fundamental right but argued that the conviction did not need to be quashed as it was otherwise sound. The Court of Appeal proceeded arguendo on the basis that Marin's fundamental right was breached but refused to quash his conviction. The Court of Appeal did not grant Marin a remedy for the breach of his fundamental right.

Marin appealed to the CCJ, arguing that after concluding that his right to a fair hearing within a reasonable time had been breached, the Court of Appeal should have considered what remedy was appropriate to vindicate the breach of his fundamental right. The CCJ needed to determine as a preliminary point whether the Court of Appeal and the CCJ had jurisdiction to decide the constitutional issue of the breach of Marin's fundamental right. If the CCJ determined it had jurisdiction, it had to decide whether Marin was entitled to any relief, and if so, what were the appropriate remedies.

The CCJ, in a judgment authored by the Hon. Mr Justice Jamadar explained the CCJ's approach to the interpretation of the Constitution and found that the Court of Appeal can, in certain circumstances, grant relief and a remedy for a breach of an individual's fundamental rights where the breach arises during a case before it, even if not directly related to the issues that may or do arise from the substantive criminal trial. In such instances there is no necessity for an aggrieved individual to seek such relief by way of a separate originating application in the Supreme Court.

Marin was granted relief for the breach of his constitutional right to a fair hearing within a reasonable time. In a judgment authored by the Hon. Mr Justice Barrow the CCJ explained why both a declaration and an order suspending any further execution of the sentences imposed were the appropriate remedies.

In a separate judgment, the Hon. Mr Justice Anderson found that the Court of Appeal possessed jurisdiction to pronounce upon Marin's claim of constitutional violations because that claim could properly be said to have arisen in the appellate proceedings before that court. The Hon. Mr Justice Anderson agreed that a clear breach had occurred and that a permanent stay of further enforcement of the sentences was the appropriate redress in all the circumstances of the case. The appeal was therefore allowed.

Blairmont Rice Investments Inc. v Kayman Sankar Company Ltd [2021] CCJ 7 (AJ) GY

This is an Appeal from Guyana:

This case involves two issues; firstly, whether the Appellant's breach of an instalment payment sub-clause was repudiatory and secondly, whether the Appellant, as a company that had been struck off the register could defend against a legal action brought by the Respondents.

The Appellant (Purchaser) and Respondents (Vendors) executed three agreements for the purchase and sale of lands. All three agreements provided for the payment of the balance of the purchase price in half yearly instalments (June and December) over nine years (the "instalment payment sub-clause"). The Appellant failed to pay their June 2010 and December 2010 instalments in respect of all three agreements. This resulted in the Respondents initiating legal action to have the agreements rescinded. At the time when this action began, the Appellant had been struck off the register of companies.

The lower courts decided in favour of the Respondents. The Court of Appeal determined that the instalment payment subclause was an "essential term" which made time of the essence and the failure of the Appellant to satisfy their payment obligations entitled the Respondents to repudiate the agreements.



Judgment Summaries (continued)

The CCJ, in a majority judgment delivered by the Hon. Mr Justice Burgess dismissed the appeal. The Court determined that the payment clause was an innominate term. The question was what a reasonable person would have understood the parties to mean by use of the language in the payment clause. Considering the language of that clause, it was clear that there were a variety of consequences which could be caused by the failure to make the payments. The Court then looked at the consequence of the breach and decided that it was a significant one because it deprived the vendors of the whole benefit of the agreements. That benefit was that the payments be made in a timely manner to prevent the vendors from losing their properties to the bank. The Court also decided that a company that has been struck off the companies struck off the register could not escape their liabilities and therefore a person could bring a legal action against a struck off company to hold it accountable.

The Hon. Mr Justice Jamadar in a concurring judgment added that innominate terms were part of Caribbean contract law even though this had not been widely explored. The classification of terms as "innominate" allows for flexibility and advances the development of Caribbean law. The Hon. Mr Justice Saunders, President in a minority opinion found that the payment clause was a condition. Also, he found that a struck off company could not ordinarily bring a legal action or have a legal action brought against it. However, section 488 of the Companies Act created an exception where a person could enforce a liability against a struck off company once that liability existed while the company was registered.

Dottin's Academy Incorporated v Beverley Norville [2021] CCJ 8 (AJ) BB

This is an Appeal from Barbados:

This is a case that called for determination of the single issue of whether the Appellant, Dottin's Academy Incorporated, had been the proper party to lay the information against Ms Norville.

Ms Norville had given three months' notice that she would be withdrawing her son as a pupil of Dottin's Academy (a private school) and a month later the school expelled her son without tendering a \$5,000.00 refund that she expected. In response, she went to the school and engaged in a "cuss-out" in the view of students and teachers. The Appellant company, Dottin's Academy Incorporated initiated criminal proceedings against Ms Norville in the Magistrates' Court through the laying of information. The Magistrate found Ms Norville guilty of offences involving her language, causing a disturbance, and threatening to burn down the place.

The Respondent then appealed to the Court of Appeal and persuaded that court that the school lacked the authority to bring a prosecution against her. Ms Norville had argued to the Court of Appeal that the owner of the school, the person registered with the Ministry of Education under the Education Act, was the person who (alone) had standing to lay the information. Therefore, it was argued, another person – in this instance, Dottin's Academy Incorporated – did not have standing to lay the information.

The CCJ in a judgment delivered by the Hon. Mr Justice Barrow highlighted the general principle that an information may be laid by any person, and they need no authorisation to do so. In this case any teacher or pupil could have laid the information. Dottin's Academy Incorporated certainly did not need to be authorised by any person to prosecute for the offences. The Court consequently allowed the appeal and restored the conviction, which had been set aside by the Court of Appeal on the ground of standing. Ms Norville's substantive, undecided appeal against the conviction would now be heard by that court.



Judgment Summaries (continued)

The Hon. Mr Justice Anderson in a concurring judgment highlighted the delay which accompanied this case at the lower courts. The complaints were laid at the Magistrates' Court over three months after the cuss-out. The Magistrate gave judgment over six years after the incident and failed to pass sentence. The judgment of the Court of Appeal was delivered over five years after the Respondent filed her Notice of Appeal. The Hon. Mr Justice Anderson stated that when a simple case such as the present one is brought at the Magistrates' Court, it ought to be decided within three months at most.

Grenville Ricardo Delpeache v The Commissioner of Police [2021] CCJ 10 (AJ) BB

This is an Appeal from Barbados:

Delpeache was the sole director of Ouch Boutique Ltd in whose store counterfeit Puma items were sold. Delpeache operated the store and was on the premises when the counterfeit items were seized by the police. He was subsequently charged with three (3) offences under the Trade Marks Act (TMA). At the trial in the Magistrates' Court, Delpeache was found guilty and appealed to the Court of Appeal which dismissed his appeal and affirmed his conviction and sentence.

The issues before the CCJ were (1) whether the charges brought against Delpeache personally, should have been brought against the company, which in law, is its own person, (2) whether Delpeache should have been charged for being complicit in the crimes that were allegedly committed by the company and (3) whether the Commissioner of Police should have obtained the direction of the Director of Public Prosecutions (DPP) before bringing the prosecution.

The CCJ, by a majority of three to two, dismissed the appeal. In a judgment authored by the Hon. Mr Justice Barrow, the CCJ decided that Delpeache was properly charged. The Hon. Mr Justice Barrow was of the view that where an individual, acting for and through a company, personally performs criminal acts in conducting the company's business, that individual may be prosecuted for those acts. The individual therefore gains no protection from the law which recognised that the company is its own person. As Delpeache personally committed the crimes, there was no need to charge him for being complicit in crimes that were allegedly committed by the company. The DPP's direction was therefore not needed before charging him. In a concurring judgment, the Hon. Mr Justice Wit and the Hon. Mme Justice Rajnauth-Lee agreed that Delpeache personally committed the offences and could be prosecuted. Where a person is prosecuted for offences, he personally committed, the direction of the DPP is not needed. In cases of prosecution for trademark offences, the statutory provision requiring such direction does not even apply.

The Hon. Mr Justice Burgess, in whose judgment the Hon. Mr Justice Anderson concurred, did not agree with the majority and was of the view that the company had, in law, committed the offences. The company was therefore liable for the commission of the offences as a principal offender and Delpeache, the director, was only liable to be prosecuted and punished as an accessory or secondary party. Consequently, Delpeache should not have been prosecuted as a principal offender nor held guilty of the offences charged. Further, the DPP's direction was required when proceeding against a director and should have been obtained in this case. As there was no evidence that the DPP gave his direction to charge Delpeache, he was not properly charged, prosecuted, and convicted for the offences. For those reasons, the Hon. Mr Justice Burgess, in whose opinion the Hon. Mr Justice Anderson joined, would have allowed the appeal.



Judgment Summaries (continued)

Trust Company (Guyana) Limited v Guyana Securities Council [2021] CCJ 11 (AJ) GY

This is an Appeal from Guyana:

The Guyana Securities Council (GSC) is responsible for regulating the securities market in Guyana. In 2010, the GSC wrote to Trust Company (Guyana) Limited (Trust) saying that it was a public company that should be registered with the GSC. Trust denied that it was a public company and refused to register. Trust subsequently filed an action in the High Court, seeking declarations that it was a private company and not a public company. Trust was unsuccessful at the High Court and before the Court of Appeal.

The main issue before the CCJ involved the interpretation of the Securities Industry Act (SIA). The SIA provides that where a company issues a security which is beneficially owned by more than fifty (50) persons, it is a public company. In 2009, Trust had issued shares to sixty (60) persons. The CCJ had to determine whether the issuance of shares to over fifty (50) persons made Trust a public company within the provisions of the SIA, and if so, whether Trust was compelled to register with the GSC.

The CCJ, in a judgment authored by the Hon. Mme Justice Rajnauth-Lee, was of the view that the legislature utilised two mechanisms for defining a public company. The first mechanism considers the company's direct dealings with the public, irrespective of the size of the public uptake. This mechanism however only captures the company's dealings with the public as it concerns shares and debentures. The second mechanism takes a broad brush "numbers game" approach to satisfy the test whether the company is a public company. It looks only at the number of persons who are beneficial owners of a "security" issued by the company. The Court considered that the reference to a "security" must naturally and ordinarily include the plural "securities". The term "security" has been defined and includes any "share". Therefore, a company that is the issuer of "shares" that are beneficially owned by more than fifty persons, is a public company under the Act.

Having regard to the plain meaning, the entire context and the main objectives of the SIA, Trust was a public company, as it had issued "shares" that were beneficially owned by more than fifty (50) persons. Having regard to the policy, clear purpose, and entire scheme of the SIA, the CCJ was also satisfied that the legislature in Guyana intended that by virtue of section 56(1) all public companies are to be treated as reporting issuers. As such, they are required to register with the GSC, whether they existed at the time the relevant legislation came into effect, that is 22 July 2002, or were established or became public companies after that date. Accordingly, a company which becomes a public company after 22 July 2002 must register as a reporting issuer within ninety days from the date on which it became a public company.

Trust's appeal was therefore dismissed.



STAFF ENGAGEMENT ACTIVITIES



Employees of the Finance and Accounting Unit get ready to display their artistic skills during the Court's 15th Anniversary staff celebrations.

For the Court's 16th Anniversary, employees were presented with various plants and succulents intended to boost productivity, increase creativity and reduce stress in office spaces.





There was fierce competition among the employees of the CCJ and the RJLSC when the Court hosted a mask-decorating competition to commemorate the Court's 15th Anniversary.





AUDITED FINANCIAL STATEMENTS

for the YEAR ENDED DECEMBER 31, 2020



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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, 2020, 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, 2020, 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.

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.

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Navigating Uncertainty



Independent Auditors' Report (continued)

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.
- 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.

July 2, 2021 Port-of-Spain, Trinidad and Tobago

Responsive and Resilient

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Statement of Financial Position As at December 31, 2020 (Expressed in Trinidad and Tobago Dollars)

	Notes	2020	2019
Assets			
Non-current assets			
Property, plant and equipment	3	3,459,224	4,734,964
Retirement benefits due from Trust Fund	4	116,646,839	101,253,149
Total non-current assets		120,106,063	105,988,113
Current assets			
Other receivables	5	626,859	870,293
Due from related parties	6	973,646	964,627
Cash and cash equivalents		3,070,823	7,619,749
Total current assets		4,671,328	9,454,669
Total assets		\$124,777,391	\$115,442,782
Accumulated fund and liabilities			
Accumulated fund			
Accumulated fund		7,013,110	12,522,992
Total accumulated fund		7,013,110	12,522,992
Non-current liability			
Retirement benefit liability	7	116,646,839	101,253,149
Total non-current liability		116,646,839	101,253,149
Current liability			
Other payables	8	1,117,442	1,666,641
Total current liability		1,117,442	1,666,641
Total accumulated fund and liabilities		\$124,777,391	\$115,442,782

See accompanying notes to the financial statements.

These financial statements were approved for issue by the Court President and an RJLSC Commissioner on July 2, 2021, on behalf of the Caribbean Court of Justice.

Court President

Commissioner



Statement of Comprehensive Income For the year ended December 31, 2020 (Expressed in Trinidad and Tobago Dollars)

	Notes	2020	2019
Funding from the Trust Fund	9	53,532,479	52,573,751
Other income	10	500,438	1,718,305
		54,032,917	54,292,056
Administrative expenses	11	(47,487,419)	(48,907,931)
Surplus for the year		6,545,498	5,384,125
Other comprehensive loss Re-measurement of defined benefit pension plans		(12,055,380)	(7,345,620)
Total comprehensive deficit for the year		\$(5,509,882)	\$(1,961,495)

See accompanying notes to the financial statements.



Statement of Changes in Accumulated Fund For the year ended December 31, 2020 (Expressed in Trinidad and Tobago Dollars)

	Accumulated fund
Year ended December 31, 2020	
Balance as at January 1, 2020	12,522,992
Total comprehensive deficit for the year	(5,509,882)
Balance as at December 31, 2020	\$7,013,110
Year ended December 31, 2019	
Balance as at January 1, 2019	14,484,487
Total comprehensive deficit for the year	(1,961,495)
Balance as at December 31, 2019	\$12,522,992

See accompanying notes to the financial statements.



Statement of Cash Flows For the year ended December 31, 2020 (Expressed in Trinidad and Tobago Dollars)

	2020	2019
Cash flows from operating activities Total comprehensive deficit for the year Adjustments to reconcile total comprehensive deficit for the year to net cash from operating activities	(5,509,882)	(1,961,495)
Depreciation	1,761,418	2,082,109
Gain on disposal of property, plant and equipment Interest income	- (32,743)	(1,101,275) (69,629)
Increase in retirement benefit due from Trust Fund Decrease in other receivables (Increase)/decrease in due from related parties Increase in retirement benefit liability Decrease in other payables	(3,781,207) (15,393,690) 243,434 (9,019) 15,393,690 (549,199)	(1,050,290) (10,128,660) 580,259 68,617 10,128,660 (42,843)
Net cash used in from operating activities	(4,095,991)	(444,257)
Cash flows from investing activities Interest received Acquisition of property, plant and equipment Proceeds from disposal of property, plant and equipment	32,743 (485,678) -	69,629 (4,468,111) 1,101,275
Net cash used in investing activities	(452,935)	(3,297,207)
Decrease in cash and cash equivalents for the year Cash and cash equivalents as at January 1	(4,548,926) 7,619,749	(3,741,464) 11,361,213
Cash and cash equivalents as at December 31	\$3,070,823	\$7,619,749

See accompanying notes to the financial statements.



Notes to the Financial Statements For the year ended December 31, 2020 (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

There were no new standards, amendments and interpretations which are effective from January 1, 2020, and have been adopted by the Court.

(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.

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.

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Notes to the Financial Statements For the year ended December 31, 2020 (Expressed in Trinidad and Tobago Dollars)

2. Significant accounting policies (continued)

(c) Use of estimates

The preparation of these financial statements in conformity with IFRS requires management to make judgments, 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 judgments 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 equipmentNote (g)Other receivablesNote (j)Financial assetsNote (k)Financial liabilitiesNote (m)ProvisionsNote (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 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

Navigating Uncertainty



Notes to the Financial Statements For the year ended December 31, 2020 (Expressed in Trinidad and Tobago Dollars)

2. Significant accounting policies (continued)

(e) Property, plant and equipment (continued)

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.

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.



2. Significant accounting policies (continued)

(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 recognized. For those 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.





2. Significant accounting policies (continued)

(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.

(I) 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.

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.

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Notes to the Financial Statements For the year ended December 31, 2020 (Expressed in Trinidad and Tobago Dollars)

2. Significant accounting policies (continued)

(n) Employee benefits (continued)

(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.

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3. Property, plant and equipment

	Computer and software	Furniture, fixtures and equipment	Flags, crests and seals	Library books	Security equipment	Leasehold improvements	Vehicles	Total
Year ended December 31, 2020 Cost or valuation As at January 1, 2020 Additions Disposals	11,857,341 76,224 (350,942)	12,385,740 56,613 (620,542)	428,470 10,650	15,117,618 64,231 -	1,749,459 - (151,750)	1,309,473 277,960 -	4,450,701 - -	47,298,802 485,678 (1,123,234)
As at December 31, 2020	11,582,623	11,821,811	439,120	15,181,849	1,597,709	1,587,433	4,450,701	46,661,246
Accumulated depreciation As at January 1, 2020 Charge for the year Disposals	(11,358,708) (264,927) 350,942	(11,631,918) (339,778) 620,542	(428,470) (2,669)	(14,971,297) (91,589) -	(1,315,026) (219,371) 151,750	(741,145) (66,084) -	(2,117,274) (777,000) -	(42,563,838) (1,761,418) 1,123,234
As at December 31, 2020	(11,272,693)	(11,351,154)	(431,139)	(15,062,886)	(1,382,647)	(807,229)	(2,894,274)	(43,202,022)
Net book value As at December 31, 2020	\$309,930	\$470,657	\$7,981	\$118,963	\$215,062	\$780,204	\$1,556,427	\$3,459,224
Year ended December 31, 2019 Cost or valuation As at January 1, 2019 Additions Disposals	11,648,071 391,003 (181,733)	11,929,727 470,458 (14,445)	428,470 - -	15,037,900 79,718	1,587,276 162,183	1,052,724 256,749 -	4,103,935 3,108,000 (2,761,234)	45,788,103 4,468,111 (2,957,412)
As at December 31, 2019	11,857,341	12,385,740	428,470	15,117,618	1,749,459	1,309,473	4,450,701	47,298,802
Accumulated depreciation As at January 1, 2019 Charge for the year Disposals	(11,061,592) (478,849) 181,733	(11,254,493) (391,870) 14,445	(427,485) (985) -	(14,858,513) (112,784) -	(1,086,573) (228,453) -	(651,402) (89,743) -	(4,099,083) (779,425) 2,761,234	(43,439,141) (2,082,109) 196,178
As at December 31, 2019	(11,358,708)	(11,631,918)	(428,470)	(14,971,297)	(1,315,026)	(741,145)	(2,117,274)	(42,563,838)
Net book value As at December 31, 2019	\$498,633	\$753,822	\$ -	\$146,321	\$434,433	\$568,328	\$2,333,427	\$4,734,964

4. Retirement benefits due from Trust Fund

	2020	2019
Retirement benefits due from Trust Fund	\$116,646,839	\$101,253,149

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

	\$626,859	\$870,293
Other assets	43,501	101,023
Due from the Caribbean Association of Judicial Officers (CAJO)	54,036	289,216
Employee advances	134,155	285,199
VAT recoverable	395,167	194,855
	2020	2019

6. Related party transactions

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

		\$973,646	\$964,627
	- JURIST Project	2,967	31,999
	- The Commission	970,679	932,628
a)	Due from related parties:		
		2020	2019

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	\$3,667,980	\$3,682,430
c)	Expenses charged to the Commission	\$54,576	\$54,055

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

Key management compensation:

 Salaries and other short-term benefits 	\$6,058,435	\$6,045,757
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7. Retirement benefit liability

	2020	2019
Judges Non-Judicial Staff	86,515,080 30,131,759	76,199,100 25,054,049
	\$116,646,839	\$101,253,149

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' serviceA gratuity of 20% of the pensionable emoluments at the time of
retirement for every year of continuous service.5 to 10 years of serviceA 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:

	2020	2019
Discount rate	2.2%	3.0%
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	4,161,180	3,753,090
Benefits paid	(4,161,180)	(3,753,090)
Fair value of plan assets as at the end of year	\$-	Ş-
Present value of obligation as at beginning of year	76,199,100	70,934,070
Foreign exchange loss on opening obligation		-
Interest cost	2,301,360	2,829,870
Current service cost - Employer's portion	2,481,990	1,639,050
Benefit payments	(4,161,180)	(3,753,090)
Actuarial loss on obligation	9,693,810	4,549,200
Present value of obligation as at end of year	\$86,515,080	\$76,199,100
Profit or loss		
Service cost	2,481,990	1,639,050
Interest cost	2,301,360	2,829,870
	4,783,350	4,468,920
	,,	,, -
Other comprehensive income		
Net actuarial loss recognized	9,693,810	4,549,200
Total expense	\$9,693,810	\$4,549,200

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7. Retirement benefit liability (continued)

Judges pension arrangement (continued)

	2020	2019
Opening liability	(76,199,100)	(70,934,070)
Total expense	(14,477,160)	(9,018,120)
Contributions paid	4,161,180	3,753,090
Closing liability	\$(86,515,080)	\$(76,199,100)

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.

	2020	2019
Present value of the obligation	(86,515,080)	(76,199,100)
Liability recognized in statement of financial position	\$(86,515,080)	\$(76,199,100)

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.

Movement in the present value of defined benefit obligation	2020	2019
Defined benefit obligation as at start of year	25,054,049	20,190,419
Current service cost	1,532,010	1,478,490
Interest cost	776,040	829,560
Contributions paid	809,490	829,560
Re-measurements:		
- Experience adjustment	1,859,820	1,973,550
- Actuarial gains from changes in demographic assumptions	-	120,420
- Actuarial gains from changes in financial assumptions	501,750	702,450
- Benefits paid	(401,400)	(1,070,400)
Defined benefit obligation as at end of year	\$30,131,759	\$25,054,049

Liability profile

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

	2020	2019
Active members	86%	84%
Pensioners	14%	16%

The weighted average duration of the defined obligation at the year-end was 16.5 years (2019: 3.2 years). 87% (2019: 92%) of the benefits accrued by active members were vested. Less than 1% (2019: 1%) of the defined benefit obligation for active members was conditional on future salary increases.

2021



Notes to the Financial Statements For the year ended December 31, 2020 (Expressed in Trinidad and Tobago Dollars)

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.

	2020	2019
Expense recognised in profit and loss Current service cost Net interest on net defined benefit liability	1,532,010 776,040	1,478,490 829,560
Net pension costs	\$2,308,050	\$2,308,050
Movement in fair value of plan assets/asset allocation		
Re-measurements recognised in other comprehensive income Experience losses	2,361,570	2,796,420
Total amount recognised in other comprehensive income	\$2,361,570	\$2,796,420
The Plan's assets are held by the Trust Fund in an amount equal to th	e Plan's liabilities.	
	2020	2019
Opening defined benefit liability Net pension cost Re-measurements recognized in other comprehensive income Employees salary deductions Benefits paid by the Court	25,054,049 2,308,050 2,361,570 809,490 (401,400)	20,190,419 2,308,050 2,796,420 829,560 (1,070,400)
Closing defined benefit liability	\$30,131,759	\$25,054,049
Summary of principal assumptions as at December 31		
Discount rate Salary increases	2.4% pa 1.0% pa	3.0% pa 1.0% pa
Assumptions regarding future mortality are based on published more underlying the value of the defined benefit obligation as at the year		
	2020	2019
Life expectancy at age 65 for current pensioner in years: - Male - Female	17.5 21.4	17.4 21.4

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, 2020

	1% pa higher	1% pa lower
Discount rate	\$802,800	\$970,050
Salary increases	\$(86,970)	\$(86,970)

Responsive and Resilient



Notes to the Financial Statements For the year ended December 31, 2020 (Expressed in Trinidad and Tobago Dollars)

7. Retirement benefit liability (continued)

Non-Judicial staff pension plan (continued)

Sensitivity Analysis (continued)

As at December 31, 2019

	1% pa higher	1% pa lower
Discount rate	\$970,050	\$(863,010)
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, 2020, by \$200,700 (2019: \$160,560).

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 \$267,600 in 2021.

8. Other payables

Pension contributions due to Trust Fund Accounts payable Accruals Deferred income Due to Caribbean Academy for Law & Court Administration (CALCA) Miscellaneous liabilities	2020 612,521 437,223 67,005 593 100	2019 516,017 920,500 208,260 593 13,723 7,548
-	\$1,117,442	\$1,666,641
9. Funding from the Trust Fund		
Funding received from the Trust Fund Pension income receivable from the Trust Fund	2020 39,169,049 14,363,430	2019 42,920,081 9,653,670
-	\$53,532,479	\$52,573,751
10. Other income		
Foreign exchange gain Miscellaneous income Interest income Memorabilia sales Gain on disposal of property, plant and equipment	2020 434,551 33,144 32,743	2019 513,949 9,443 69,629 24,009 1,101,275
	\$500,438	\$1,718,305



11. Administrative expenses

	2020	2019
Salaries and allowances	30,602,543	30,626,126
Pension cost and gratuities	8,326,909	8,158,223
Depreciation	1,761,418	2,082,109
Insurance expenses	1,746,503	1,648,528
Professional fees	1,222,986	717,991
Telephone and internet	759,272	809,976
Library materials	742,127	726,984
Repairs and maintenance	733,005	799,588
Janitorial expenses	698,295	694,723
Other administrative expenses	363,850	474,837
Entertainment expenses	122,867	330,115
Office supplies	111,405	88,552
Education and training	95,385	1,028,352
Uniforms	85,752	-
Motor vehicle expenses	65,229	130,639
Bank charges	33,174	42,073
Public education	16,699	210,734
CALCA expenses	-	276,832
Travelling expenses	-	61,549
	\$47,487,419	\$48,907,931
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.

	2020	2019
Assets Retirement benefit due from Trust Fund Cash and cash equivalents	116,646,839 2,014,647	101,253,149 5,655,446
Total assets	\$118,661,486	\$106,908,595
Net exposure	\$118,661,486	\$106,908,595

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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 (2019: 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.

	Effect on accum	ulated fund
Foreign exchange risk	2020	2019
Increased by 5%	\$5,933,074	\$5,345,430
Decreased by 5%	\$(5,933,074)	\$(5,345,430)

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
At December 31, 2020 Financial liabilities: Other payables	1,117,442	-	-	1,117,442
Total liabilities	\$1,117,442	Ş-	\$-	\$1,117,442
At December 31, 2019 Financial liabilities: Other payables	1,666,641	-	-	1,666,641
Total liabilities	\$1,666,641	Ş-	\$-	\$1,666,641

13. Subsequent events

Management evaluated all events that occurred from January 1, 2021, through July 2, 2021, 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.



SUPPLEMENTARY FINANCIAL INFORMATION

Expressed in United States Dollars

for the YEAR ENDED DECEMBER 31, 2020





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Independent Auditors' Report on the Supplementary Financial Information

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, 2020, and have issued our report thereon dated July 2, 2021.

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 supplementary 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.

July 2, 2021

Port of Spain, Trinidad, West Indies



Statement of Financial Position As at December 31, 2020 (Expressed in United States Dollars)

	2020	2019
Assets		
Non-current assets		
Property, plant and equipment	517,074	707,767
Retirement benefit due from Trust Fund	17,436,000	15,135,000
Total non-current assets	17,953,074	15,842,767
Current assets		
Other receivables	93,701	130,089
Due from related parties	145,538	144,189
Cash and cash equivalents	459,017	1,138,976
Total current assets	698,256	1,413,254
Total assets	US\$18,651,330	US\$17,256,021
Accumulated fund and liabilities		
Accumulated fund		
Accumulated fund	1,048,298	1,871,897
Total accumulated fund	1,048,298	1,871,897
Non-current liability		
Retirement benefit liability	17,436,000	15,135,000
Total non-current liability	17,436,000	15,135,000
Current liability		
Other payables	167,032	249,124
Total current liability	167,032	249,124
Total accumulated fund and liabilities	US\$18,651,330	US\$17,256,021

Translation rate used - US\$1.00: TT\$6.69 (2019: US\$1.00: TT\$6.69)



Statement of Comprehensive Income As at December 31, 2020 (Expressed in United States Dollars)

	2020	2019
Funding from the Trust Fund Other income	8,001,865 74,804	7,858,558 256,847
Administrative expenses	8,076,669 (7,098,269)	8,115,405 (7,310,603)
Surplus for the year Other comprehensive loss	978,400	804,802
Re-measurement of defined benefit pension plans	(1,802,000)	(1,098,000)
Total comprehensive deficit for the year	US\$(823,600)	US\$(293,198)

Translation rate used - US\$1.00: TT\$6.69 (2019: US\$1.00: TT\$6.69)



Statement of Changes in Accumulated Fund As at December 31, 2020 (Expressed in United States Dollars)

	Accumulated fund
Year ended December 31, 2020	
Balance as at January 1, 2020	1,871,898
Total comprehensive deficit for the year	(823,600)
Balance as at December 31, 2020	US\$1,048,298
Year ended December 31, 2019	
Balance as at January 1, 2019	2,165,095
Total comprehensive deficit for the year	(293,197)
Balance as at December 31, 2019	US\$1,871,898

Translation rate used - US\$1.00: TT\$6.69 (2019: US\$1.00: TT\$6.69)







The Caribbean Court of Justice 2020 Annual Report 2021

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