



# Tribute to Retired Justice Désirée Bernard at the Special Sitting in Guyana

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

**Special Sitting in Honour of the late Mme Justice Désirée Bernard by the  
Supreme Court of the Judicature Guyana**

Court of Appeal Guyana  
21 May 2024

**The Judicature of Guyana** comprises of the Supreme Court of the Judicature which consists of the Court of Appeal and the High Court (both of which are superior courts of record). The Court of Appeal, which came into operation in 1966, consists of the Chancellor, the Chief Justice, and such number of Justices of Appeal as may be prescribed by the National Assembly. The High Court of the Supreme Court consists of the Chief Justice as President of the Court and Puisne Judges. Its jurisdiction is both original and appellate. A magistrate has jurisdiction to determine claims where the amount involved does not exceed a certain sum of money, specified by law. Appeal lies to the Full Court.

## **Remarks**

**by**

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

**on the occasion of the**

**Special Sitting in honour of the late Honourable Mme Justice Désirée Bernard in Guyana**

**21 May 2024**

Protocols

First of all, on behalf of the CCJ I would like to thank Chancellor Cummings-Edwards and the Guyana judiciary for extending an invitation to me to join the Guyana Bench at today's sitting. I very much welcome this opportunity to pay respects to our dear departed Madame Justice Désirée Bernard. My tribute is an adaptation of an address I gave some weeks ago when the CCJ had its own ceremony to honour her memory.

I had, of course, known Justice Bernard well before we were both selected among the first cohort of CCJ judges. I had met her at various judicial conferences in and outside the region, and I was aware of her impressive reputation both as a judge and as an ardent champion of the rights of women. In the latter realm, she has rightly been credited, with establishing a remarkable number of "firsts". For example, she was the first female Chief Justice, not just of Guyana but I believe throughout the entire British Commonwealth. And, of course, she was the only woman to be appointed a judge of the CCJ among the first cohort of seven judges. Since then, we have been blessed to have Justice Maureen Rajnauth-Lee, and in time to come, we will have many more women sitting as CCJ judges.

The mere recounting of all the various occasions Justice Bernard shattered the glass ceiling gives us a wonderful insight into her accomplishments and calibre. It does not by itself, however, convey the full picture of the breadth of her contribution to the region. To get that picture we must ask and answer some piercing questions.

How is it that she was invariably the first? It is certainly not the case that there were no other women around from whom to select or appoint. What did the appointing or electing body see in her that made her at the relevant time better or more qualified or more fitting than any other

woman? What are the qualities of hers that so stood out, nationally, regionally and internationally, that, time and time again, she outshone all other women?

If we are to truly assess her legacy, these are questions that deserve answers. Since her passing, I have been reflecting on my own personal experiences with her and, in the process, reading through some of the speeches in her book *Reflections and Opinions*, which she published in 2018.

Anyone who knew Justice Bernard and, even if you were not fortunate enough to know her if you merely read her book, the attribute of hers that is immediately evident is her humility. Although she attained the highest judicial post in Guyana, she carried herself no differently from the way she might have if she were, say a judicial clerk. She carried herself with quiet dignity, pride, confidence but entirely without airs, arrogance, or affectations of any kind. She never craved the limelight. Indeed, when she was the obvious star she always tried to find a way to turn the spotlight away from herself. In this regard her book itself is interesting. It is not an autobiography. There's no chapter in which she speaks at any great length about herself or calls attention to her groundbreaking and spectacular achievements. It is a publication of papers she has authored or speeches she has given, and in these writings, the pronoun "I" is sparingly to be found.

Justice Bernard was always approachable, and so, of course, people from all walks of life approached her. She moved easily among the masses and gave freely of her time and wisdom. In those early days at the CCJ, I remember a group of us judges attending a carnival tent one night. To my surprise, when we got there, we discovered that she was well-known to a few of the performers as she had been there on a couple of occasions previously and had personally interacted with some of them.

Some weeks, when we had the funeral service of the first President of the CCJ, Justice Michael de la Bastide, the presiding Archbishop, in his homily, made the very salient point that mercy is inseparable from justice, that a vital ingredient of justice is mercy. Désirée understood this well and I was privileged to see her repeatedly put this concept into practice. She and I were together members of the West Indies Cricket Disciplinary Tribunal. One day, we had a charge against a particular player before us. The offence was a very serious one and it was admitted. It would have been an easy fix simply to impose upon the player the severe punishment the offence

warranted. Principally, through Désirée's instrumentality, the proceedings took a different turn. We did impose a proportionate disciplinary sanction, but Desiree's searching questions and the empathy and humaneness with which she looked at all the circumstances impelled us to look beyond the offence. Ultimately, influenced by her, we agreed to instruct the West Indies Cricket Board to offer professional psychological services to the player. When the player indicated that their two cricketing heroes were Viv Richards and Chris Gayle, we requested the Board to make these two legends available to meet with and mentor the player. Progress on the mentorship and professional psychological services were to be reported on periodically. In short, justice was served by the penalty imposed, but in the interests of the player and West Indies cricket, the Tribunal tempered justice with mercy. The experience was a learning occasion for the player who profited immensely from it. That player went on to serve West Indies cricket in an excellent manner for quite some time.

That experience typified one of Désirée's enduring qualities, that is, the extent to which she looked out for others. She especially looked out for those who were vulnerable: women, the powerless, and those in need of protection from the law. Throughout her entire professional life her stellar achievements were always cast by her in the light of how they facilitated others better to succeed. Consider for example, when she responded briefly to the many accolades bestowed upon her by the members of the Bar at her first sitting as a High Court judge right here in Georgetown on 3 October 1980. She began by thanking all the persons who had helped her achieve the significant milestone, and then she stated in typical fashion  
...It is my sincere hope that my appointment will be the forerunner of many more appointments of women in the legal field and all top-level and managerial positions in our country.

In her finest hour she was not thinking of herself, she was not thinking of other female lawyers. She was thinking of all the women in Guyana who, whether through prejudice or otherwise, were not being afforded the "top-level and managerial positions" many of them so eminently deserved.

Undoubtedly, Justice Bernard's worldview was significantly influenced by the international movement to rid the world of all forms of discrimination against women. The United Nations launched this movement with a women's conference held in Mexico City in 1975. That conference designated 1975–85 as the UN Decade for Women. A set of goals was proclaimed for countries to attain over that ten-year period in order to advance women's rights around the

world. The measures were geared at opening a worldwide dialogue on issues that impact women, such as pay equity, gendered violence, discriminatory laws and practices in land holding, and other shortfalls in extending all the human rights to women.

Justice Bernard threw herself into the achievement of these goals. She served as both rapporteur from 1982 – 1984 and Chair from 1985 – 1989 of the UN’s Committee on the Elimination of Discrimination Against Women. Through her exposure to these experiences she in turn impacted and influenced many of her progressive colleagues in the region, both male and female.

It would be a grave mistake to think of Desiree as solely preoccupied with or only championing the cause of women’s rights. That is far from the case. In her calm and understated manner, she was an ardent supporter of the development of a Caribbean jurisprudence that was, in her words, “peculiar to our needs, culture, traditions and regional objectives”. This is a battle that still needs to be waged, given the common law we have inherited and the statute law, and we must constantly ensure measures up to the human rights laid out in the Constitution.

Justice Bernard was always the first because she was well ahead of her time. She considered that Caribbean judges should not feel obliged faithfully to follow English common law or decisions of the House of Lords, which did not appreciate the uniqueness of our own local conditions. Several decades before the inauguration of the CCJ, she championed the move for the region to establish its own final Court of Appeal. Her magnificent address in Tortola in 1991, titled – The Impact of the English Common Law on Caribbean Society – should be required reading for every judge and legal professional in the region. In that address, she painstakingly went through several areas of case law to demonstrate the anomalies and bizarre consequences that resulted from an unquestioning genuflection of all English common law. She concluded that “One can never over-emphasise the urgency for the courts of our region to develop a jurisprudence of our own by modifying or expanding the common law to meet local situations and the justice of a particular case”.

She also recognised, again well ahead of her time, that international human rights treaties serve an excellent purpose in assisting us in better understanding and interpreting our fundamental rights and she called on judges to apply these treaties in a manner that would provide remedies for wrongs suffered by citizens.

It was also in this speech in Tortola that she boldly stated that the Privy Council “is a court whose swan song must be sung. Several of England’s former colonies have severed the umbilical cord and established final courts of their own, but we in the Caribbean ... seem reluctant to leave the nest and fly away with our own wings. Our failure so far to have established our own final court demonstrates our lack of faith and confidence in our jurists and legal academics...”

With progressive views like this being held by its top judicial officer, it is no wonder that Guyana immediately acceded to the appellate jurisdiction of the CCJ as soon as the opportunity arose.

When the CARICOM Secretariat introduced the CARICOM Triennial Award to acknowledge the landmark contributions of inspiring and distinguished Caribbean women, unsurprisingly Justice Bernard was selected to receive this award. She did so in 2005. It was fitting recognition of her service to the region as a whole.

Her passing is indeed a monumental loss to the Caribbean Community. We must always remember her contribution to exalting and dignifying our civilisation. I extend deepest condolences to her daughter, Carol Ann and to the people of Guyana. Justice Bernard was truly special. May she rest in peace.