



Celebrating Caribbean Jurisprudence: Intersects between Law, Politics, and Society

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

The Caribbean Association of Judicial Officers 8th Biennial Conference

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The Caribbean Association of Judicial Officers (CAJO) brings together the region's Chancellors, Chief Justices, Judges, Masters, Registrars, Magistrates, Tribunal Members, Executive Court Administrators, and other judicial staff. The first meeting of judicial officers across the region took place in June 2009 in Port of Spain, Trinidad and Tobago, and this marked the birth of the CAJO. With its own Constitution and membership, the CAJO is ably headed by Hon Mr Justice Peter Jamadar, Judge of the Caribbean Court of Justice (CCJ) and serves as Chair of the Association. The Management Committee comprises 15 members from almost all countries in the region. The CAJO provides a host of judicial education engagements for judicial officers across the region, including its Biennial Conference, training programmes and workshops on various topics and areas of law and practice, and a biannual Newsletter, CAJO News.

Feature Address
by
The Honourable Mr Justice Adrian Saunders, President of the Caribbean Court of Justice
On the occasion of
Caribbean Association of Judicial Officers 8th Biennial Conference
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Protocols

1. I have been a member of the Caribbean Association of Judicial Officers (CAJO)'s Management Committee throughout its 15-year existence. This Association is, therefore, very dear to my heart. I am extremely honoured to make this presentation.

2. This year has been a sad one for us. It was a year in which we lost several prominent Caribbean judges, each of whom was on the Caribbean Court of Justice (CCJ) or the Regional Judicial and Legal Services Commission (RJLSC) or was a regional Head of Judiciary. I would like us to pay homage to these stalwarts, who I list in no particular order –

The Honourable Mr Justice Jeff Cumberbatch – for many years a lecturer at Cave Hill (who here was taught by him?), a legal expert who educated the public on various aspects of the law, a former member of the RJLSC and, at the time he died, a judge of the Court of Appeal of Barbados.

The Honourable Mr Justice Jacob Wit – the most widely read judge I have known, our bridge to the Civil Law, Suriname, the Dutch Antilles, and so much more.

The Honourable Mr Justice Dennis Morrison – one of, if not the finest legal minds trained in the Caribbean; an extraordinary human being who was President of the Jamaica and Turks and Caicos Islands Court of Appeal and a Court of Appeal Judge in

several other Caribbean jurisdictions, including Belize and the Eastern Caribbean Supreme Court (ECSC).

The Honourable Mme Justice Désirée Bernard – The most highly decorated female judge of the English-speaking Caribbean; Rapporteur and later Chair of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW); a lady of many firsts; a truly wonderful person,

The Right Honourable Mr Justice Michael de la Bastide – Former Chief Justice of Trinidad and Tobago and first President of the CCJ. Another first-rate Caribbean legal mind with whom I had the great privilege to serve.

The Honourable Mr Justice Abdulai Conteh from Sierre Leone. He was the Chief Justice of Belize from 2000 – 2010 and a judge of the Court of Appeal of The Bahamas from 2010 - 2015. He was a judge well ahead of his time. Of the many outstanding judgments he authored that will resonate down through the ages, there is one I often cite—*Wade v Roches*, where he laid bare the difference between formal equality and equity in the sphere of gender.

We shall not forget these judges and their treasured role in developing our Caribbean jurisprudence. In their honour, I ask that you stand and join me in observing a moment's silence.

3. CAJO was carefully conceptualised by past Heads of the Caribbean judiciary, including some of those mentioned above whom we lost earlier this year. Shortly after the CCJ was inaugurated in 2005, Caribbean Heads of Judiciary resolved that there was a need for an association of judicial officers that would complement the CCJ in the grand task of refining and developing

our Caribbean jurisprudence. The Association was expected to provide a forum for exchanging and sharing ideas and views on topics and themes defined by Caribbean judicial officers. The first conference in 2009 was addressed by Judge Patrick Robinson and Sir Shridath Ramphal, whose recent passing we also deeply mourn.

4. On the last day of that inaugural conference, the Steering Committee that was elected to manage the Association included Tamara Gill, Christopher Blackman, Kenneth Benjamin, Ian Chang, Roy Jones, Marissa E Robertson, Victoria Harrigin, William Chandler, Bryan Sykes and myself.
5. In 15 years, CAJO has grown from an idea in the minds of regional Heads of Judiciary to an impressive organisation. With no real income stream, but guided by the Honourable Mr Justice Peter Jamadar's astute leadership, the dedication and voluntary efforts of successive Management Committees, the expertise and untiring work of a stream of current and past CCJ Judicial Counsel and Administrative Officers (I think of Debra Gibbs, Elron Elahie, Laurissa Pena, Suraj Sakal, Candace Simmons, Candis Cayona and so many more) an enormous job has been done in professionalising the organisation. I have seen many newsletters from judicial bodies across the world, and I can tell you that CAJO's interactive newsletter is second to none. CAJO's training and educational programmes are of the highest quality. I experience a sense of great pride when I see an applicant for a judicial position listed on their resume or Curriculum Vitae as an indicator of their outstanding achievements or their attendance at a CAJO Conference or training session. We must never take the existence and work of CAJO for granted. Much effort goes into them. Let's all give our Association and its leadership a rousing round of applause!
6. Last month, I was pleased to listen to impactful presentations by two of the region's foremost constitutional and legal thinkers. Professor Tracy Robinson delivered her inaugural professorial

lecture, and some days later, our Chairman, my CCJ brother, Justice Jamadar, gave the feature address at the Law Association of Trinidad and Tobago Annual Awards Dinner. Tracy spoke about the constrained sovereignty of Caribbean states. Peter spoke about lawyers applying outcome thinking to the pressing issues faced by the legal profession of Trinidad and Tobago.

7. Outcome thinking occurs when we pause the distractions of the daily grind and instead spend some time imagining a desirable future where our fundamental challenges are suitably addressed. Outcome thinking encourages individuals to envision the end goal and then work backwards to plot the best courses of action to get them there. Outcome thinking is conducive to more efficient problem-solving because it aligns short-term actions with long-term objectives, and it encourages solutions that directly contribute to achieving a desired end.
8. If we are not involved in outcome thinking, we may be engaged in process thinking. While outcome thinking focuses on the end goal or desired result, process thinking emphasises the steps, methods, and actions taken to go forward. Process thinking is detail-oriented. It involves paying close attention to how things are done and ensuring that each step is carried out properly and efficiently.
9. Both approaches are useful depending on the context. However, I suggest that while process thinking comes to us naturally and instinctively because it is forced upon us, outcome thinking is a relatively new and learned phenomenon. 15 years ago, for example, no judiciary in the Caribbean had a strategic plan. None had a defined and published mission and vision. We were all focused on enhancing the now. CAJO's challenge, our challenge (and that was the crux of Peter's address to the LATT), is to engage in more outcome thinking.

10. What is the future for Caribbean jurisprudence that we, as judicial officers, dream of? What is the environment in which we would like to operate in 15 years' time? And how do we work to achieve that goal, that dream?
11. We must start with a shared narrative, that is to say, a structured and coherent account of the sequence and meaning of key historical events. Shared narratives contribute to building the unity of purpose that is required to realise the vision. Framing the journey towards the goal as a meaningful, uplifting story helps us foster a mutual commitment to stay focused and overcome the inevitable obstacles we will encounter along the way.
12. So, what is my dream? And what is the narrative that informs that dream? By a remarkable coincidence, I came across an article by former Canadian Supreme Court judge Justice Bertha Wilson in preparing for this presentation. The article is in the 1988 volume of Public Law¹. This is how her article begins –

“On April 17, 1982, Canada entered a new phase in the evolution of its constitution with the proclamation ... of the Constitution Act 1982. *For the first time in our history, control over our constitution has passed exclusively into Canadians' hands, marking the final step in our journey towards fully independent status as a nation.*”

13. My dream is precisely *for control over our constitutions to pass exclusively into the hands of Caribbean people, thereby marking the final step in our journey towards fully independent*

¹ P.L. 1988, Aut, 370-384, The making of a constitution: approaches to judicial interpretation

status. The Honourable Mr Justice Duke Pollard says the same thing in different words. He wants to see us in the region complete the circle of our independence.

14. The narrative that explains where the circle starts and how, where, and why it *must* end begins, of course, with the pre-Colombian indigenous peoples. They were independent and free to make their livelihood however they pleased, constrained only by the forces of nature. No alien civilisation limited or thwarted their aspirations. They were, in that sense, independent ... that is until they suffered a holocaust, genocide. Genocide was followed by the imposition of colonial rule, the enslavement and transshipment of Africans to the Americas, followed by the importation of cheap indentured labour from Asia. This was a brutal system devised with the sole purpose of enriching Europe through the exploitation of human labour and fertile natural resources.
15. But throughout it all, the colonised people fought back. In the 18th century, Toussaint's brave Haitians successfully revolted and established an independent state. How dare they? Today, their descendants are still paying the price. David Rudder's lament resonates. Haiti, I'm sorry!² Elsewhere, emancipation from enslavement was eventually achieved, and indentureship ended. In the wake of the atrocities of the 2nd World War, colonised peoples benefited from and helped to shape carefully defined global rules that promoted principles of inalienable human rights, self-determination for all peoples and an abhorrence of crimes against humanity. In the latter half of the 20th century, adult suffrage was won, and Caribbean mini-states emerged from the clutches of colonial rule.
16. Independence, with a new flag, anthem, and constitution, should have symbolised a break, a new beginning for those countries that were able to proceed to independence on their own. It was an

² David Rudder, <https://www.google.com/search?client=firefox-b-d&q=Haiti+I%27m+sorry%2C+David+Rudder+youtube#fpstate=ive&vld=cid:78ba3a5a,vid:0PDuOxwAS3l,st:0>

opportunity for them to have control over their Constitutions and define fundamental rights and freedoms that did not necessarily mirror common law rights bequeathed by the coloniser. These Constitutions were supposed to have ushered in a new order in which government was distributed among three co-equal branches and in which a vital part of the judiciary's role was to ensure conformity with the Constitution by each of these three branches.

17. Justice Pollard's point was that this conception of Independence is not fully realised. There is still work to be done to complete it. Some territories have not been able to proceed to independence, and for too many that have, the UK still retains or has been permitted to retain a level of continued influence over critical aspects of the law and justice sector.

18. In this presentation, I would like to reference two aspects of this lingering imperial influence. The most obvious one, which I will address later, is overarching, deeply affecting the manner in which our Constitutions and laws are interpreted and how our common law evolves. It is the retention in the independent states of the Judicial Committee of the Privy Council (JCPC) as the final court of appeal even after there exists a suitable Caribbean alternative to that court. The second one is this. Upon independence, a new constitutional and legal order was superimposed on the old. A vexed question that, therefore, arises is what is the status of colonial-era laws that are inconsistent with the high ideals that underpin the new constitutional order?

19. From the early years of independence, it became obvious that the judges of the Privy Council did not share the narrative that independence signalled a new beginning. The view was taken that in the spheres of law and justice, independence was essentially a continuation of the old regime under a different flag and anthem; that the meaning of the new constitutional order was to be determined by reference to the content of the old and not by reference to the ideals that promoted self-determination and defined fundamental rights. It was said in the caselaw, for

example, that pre-independence laws “already embodied the most perfect statement of fundamental rights”³ and that it was impossible that they could ever conflict with the human rights provisions set out in the Constitution. The courts construed the meaning of a constitutionalised fundamental right so it could accord with the common law, even if the constitutionalised right was differently framed. This approach encouraged weak judicial review and was neither a faithful nor accurate reading of our Constitutions. It is illustrated in cases like *Director of Public Prosecutions v Nasralla*⁴, *King v Queen*⁵ and *de Freitas v Benny*⁶.

20. Courts are charged with the obligation to do justice according to law. That is the oath we take as judges. Justice is not done in an arbitrary manner. Justice must be done within the framework of the law. The rule of law is foundational to the achievement of justice. How, then, to eliminate or narrow any perceived gap between justice and the law? Common law judges have, over the years, developed well-recognised and universally accepted techniques to do so. When interpreting the law, Judges use devices such as "reading down" and "reading in", or judges may resort either to strict and narrow interpretations of the law or to generous and ample interpretation, all in order to meet what one considers to be the ends of justice within the framework of the law. What one considers to be just is partly influenced by the narrative we embrace.

21. In my narrative, after a former colony has become independent, logic dictates that these interpretative devices of "reading down" and "reading in" should be utilised to privilege human rights and to promote the self-determination of the formerly colonised people. If it is reasonably possible to *read in* or to *read down* a legal provision (whether contained in a statute, common

³ *Boyce and Joseph v R* [2005] 1 AC 400, [2004] UKPC 32 at [32].

⁴ [1967] 2 AC 238, (1967) 10 WIR 299.

⁵ [\[1969\] 1 AC 304](#)

⁶ [1976] AC 239.

law or the Constitution) for it to comply with constitutionalised human rights or the right to self-determination, then that is what I feel duty bound to do.

22. In the UK, parliament is supreme, but the judges rightly utilise these techniques of "reading down" and "reading in" to safeguard the rights of British citizens. Consider, for example, the House of Lords decision in *R v. A (No 2)*⁷. It is unnecessary to delve into the details of the case. It was a situation where provisions in the UK's Youth Justice and Criminal Evidence Act 1999, when read literally, came into collision with Article 6 of the European Convention on Human Rights, which speaks to the right to a fair trial. In order to avoid a finding that the law was incompatible with the Convention, the House of Lords used the technique of reading down to interpret the relevant provisions of the UK Act in a way that could render those provisions compatible with a defendant's right to a fair trial under Article 6 of the Convention.

23. An example of *reading in* is to be found in *Ghaidan v. Godin-Mendoza*⁸ where the House of Lords read words into the UK's 1977 Rent Act to be able to interpret that Act in a way that extended tenancy rights to same-sex partners. Here again, the purpose of reading in was to ensure compliance with the ECHR's Article 14 (anti-discrimination) and Article 8 (right to respect for home and family life).

24. Caribbean courts should take a similar approach to pre-independence laws. It is more than strange that Caribbean Constitutions should be interpreted in a manner as to suggest that courts are empowered to modify or render void post-independence statutes that infringe fundamental rights, but on the other hand, pre-independence laws must be construed to defeat the enjoyment of the same fundamental rights. It is a strange response to say that it is for Parliament to do

⁷ [2002] 1 AC 45

⁸ [2002] EWCA Civ 1533; [2004] UKHL 30

something about the existing anti-human rights law. Caribbean constitutions are not premised on Parliamentary supremacy. Responsibility for protecting the rights of the citizenry is specifically entrusted to courts, not to Parliament. Neither Parliamentary inertia nor parliamentary indifference to the deleterious consequences of an existing law provides an excuse for keeping that law in place if it tramples on constitutionalised human rights.

25. In the noughties, the Privy Council had to grapple with the issue of how to interpret constitutional savings clauses which purport on their face to exalt colonial or existing laws over the enjoyment of individual rights. One would think that this dilemma presents itself as a clear case for “reading down” *even if the savings clause is also part of the Constitution*. The human rights are also constitutionalised and, as I have stated judicially, if one part of the Constitution appears to produce an effect that denies an individual fundamental right, then, in interpreting the Constitution as a whole, courts should place a premium on affording the citizen her enjoyment of the fundamental right, unless there is some overriding public interest.⁹

26. In the Trinidad case of *Roodal*¹⁰, a 3-2 JCPC majority determined that courts were entitled to modify an existing colonial law – in that case, one that prescribes the mandatory death penalty for murder - to have the law comply with the Bill of Rights. The Privy Council later assembled a nine-member Bench in 2004 in the respective cases of *Watson*¹¹, *Matthew*¹² and *Boyce*¹³ to review the question of how existing laws should be treated. A bitterly divided Privy Council voted 5 -4 to reverse *Roodal* and not to read down the general savings clause. The majority persuaded itself that if existing laws were inconsistent with the rights and freedoms declared in the Constitution, it was for Parliament to provide the remedy.

⁹ See McEwan

¹⁰ *Roodal v Trinidad and Tobago* [2003] UKPC 78

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¹² *Matthew v The State of Trinidad and Tobago* [2004] UKPC 33; [2005] 1 AC 43

¹³ *Boyce & Anor v R (Barbados)* [2004] UKPC 32 (07 July 2004)

27. The CCJ has taken a different view. In a trilogy of cases - *Nervais*, *McEwan* and *Bisram* the CCJ has rejected what it regards as an un-generous interpretation of the general savings law clause. Caribbean narrative and outcome thinking are evident in the CCJ's framing and reasoning of its stance on the matter. At [58] of the CCJ judgment in *Nervais* the CCJ majority states that -

The general saving clause is an unacceptable diminution of the freedom of newly independent peoples who fought for that freedom with unshakeable faith in fundamental human rights. The idea that even where a provision is inconsistent with a fundamental right, a court is prevented from declaring the truth of that inconsistency just because the [provision] formed part of the inherited laws from the colonial regime must be condemned.

28. Faced with the *Nervais* and *McEwan* decisions, the JCPC had an opportunity to reconsider its 2004 decisions. Another nine-member Bench was convened in the Trinidad case of *Chandler*¹⁴. This second 9-member Bench held unanimously that the CCJ's approach in *Nervais* was "tenable", but the JCPC preferred to stick with the notion that the general savings clause should continue to be interpreted in a manner that would privilege colonial laws over fundamental rights. So, according to their Lordships, two interpretations of this dilemma are possible and tenable: one having the effect of promoting human rights and one denying human rights. Their Lordships were satisfied with adopting the latter because they considered it sounder and also because of the need to adhere to their earlier 2004 precedent. In support of the tremendous store they place on *stare decisis*, they cited the US Supreme Court judgment of *Planned Parenthood*

¹⁴ [2004] UKPC 32

v. *Casey* that had upheld *Roe v Wade* in relation to a woman's right to abortion services. The decision in *Chandler* was given in May 2022. The following month, in *Dobbs v. Jackson Women's Health Organization*, the SCOTUS spectacularly reneged on *Roe v Wade* and on *Casey*. So much for the value and importance of precedent!

29. When all the legal fluff is set to one side, decisions like *Matthew* and *Chandler*, unfortunately, feed a narrative that says that colonial laws are sacrosanct because the coloniser enacted them. The judgment of the Privy Council in the Saint Lucia case of *Hilaire v Chastanet*¹⁵ strengthens that perception. A brief paper has been written on the implications of this decision by my former Court of Appeal colleague in the ECSC, Mr Michael Gordon QC¹⁶. I have taken the liberty here to borrow from his analysis and also from the arguments of counsel who appeared before their Lordships.

30. In 1956, when Saint Lucia was still a colony, that country's Civil Code was amended to insert Article 917A. The amendment came into force in 1957. According to this amendment, subject to certain provisions of the article, it was stated that from and after the coming into operation of the amendment, "the law of England for the time being relating to contracts, quasi-contracts and torts shall *mutatis mutandis* extend to Saint Lucia."

31. The question which arose for determination in *Hilaire v Chastanet* was whether this provision automatically imported into independent Saint Lucia *mutatis mutandis* every statute enacted by the Westminster Parliament relating to contracts, quasi-contracts and torts; specifically, whether the Defamation Act 2013 of the UK formed part of the Law of Saint Lucia by virtue of Article 917A.

¹⁵ [2023] UKPC 22

¹⁶ Hilaire and Chastanet v The Civil Code 19 July 2023.

32. Senior counsel, Mr Anthony Astaphan, urged that this question be addressed against the background that Article 917A was enacted not by the sovereign parliament of Saint Lucia, but by the country's colonial legislature. Counsel argued that Saint Lucia's 1979 Independence Constitution grants *only* to the Saint Lucia legislature the power to make laws for Saint Lucia; the Saint Lucia Constitution, the supreme law of that country, stipulates how these laws are to be made, and the Constitution specifically declares that inconsistent laws shall be declared void to the extent of the inconsistency. Counsel submitted that Article 917A was an inconsistent provision because, effectively, it allowed the UK to legislate extraterritorially for sovereign and independent Saint Lucia without the request or consent of Saint Lucia and that if Article 917A could not be suitably modified, it should be declared void to the extent of its inconsistency.

33. The Privy Council dismissed each of these arguments as, incidentally, did the Court of Appeal of the ECSC. The attitude of the JCPC to existing laws and to the manner in which those laws are to be construed is summed up in paragraph [18] of the judgment where the Court stated that

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“.. the grant of independence to Saint Lucia and the creation of a Parliament within the newly created independent sovereign State could not, without more, have the effect of rendering invalid within the new State existing laws which had previously applied within the colony...”

34. The reasoning in *Hilaire v Chastanet*, therefore, goes well beyond *Matthew and Chandler*. Apparently, even without an applicable constitutional savings provision, the courts of a former colony may not render invalid colonial laws inconsistent with self-determination, international law and the country's supreme Independence Constitution. The laws of the former coloniser,

however inconsistent they are with the new legal order created by the Constitution, must remain in place unless the sovereign parliament of the independent state alters them.

35. Time does not permit now an exploration of all the fundamental reasons why Independent Caribbean states that have not already done so should cease sending their final appeals to London. The reality is that judicial decision-making is compromised if and when, firstly, the adjudicating judges share a different narrative on the meaning and value of independence; secondly, the judges do not experience for themselves the consequences of the decisions they make because they do not reside in the Caribbean and are therefore unfamiliar with local conditions; and thirdly, the cost of appealing to the JCPC effectively shuts out most people of ordinary means.

36. As to the last of these, as I continually point out, when appeals to a final appellate court are too few or are choked off because people of ordinary means are unable to access it, the rule of law is undermined because several important disputes where the law is uncertain or in need of review by an apex court, are left unresolved or insufficiently or inadequately addressed. The cases are legion where the CCJ has heard cases that, in all likelihood, never would have reached the Privy Council. These were cases that have made a profound contribution to the development of the law and the Constitutions of the respective States.

37. In seeking to strengthen our democracies and or complete the circle of our independence, there's a role here for everyone - Governments, regional parliaments, lawyers, the public and, of course, us, judicial officers. I want to mention three things we can do as judicial officers. Firstly, we must never lose sight of our constitutional role to protect the Constitution and to promote fundamental rights. In this regard, I have sometimes seen judges lose the forest for the trees. They become overwhelmed by process thinking to the total neglect of outcome thinking. They fail to utilise the devices of reading in and down if and when these tools are open to them. They

allow themselves to be so mesmerised by the minutiae of the law that they become blind to just outcomes.

38. Secondly, even where a just outcome cannot be achieved, whether because there is no just outcome you can reach without breaking the law or because you are absolutely bound by a higher court, it is still possible to do as Justice Jamadar did in the case of *Sat Maharaj v The AG of Trinidad*¹⁷, the Trinity Cross case. The issue in that case was whether, in light of the multi-religious, multi-cultural nature of Trinidadian society, naming the country's highest award as "the Trinity Cross" was discriminatory and unconstitutional.

39. When Justice Jamadar sat down to write his judgment, he was very clear in his mind that given the experiences and religious beliefs of Hindus and Muslims, naming the country's highest award as The Trinity Cross amounted to indirect discrimination against those religious groups. He also was of the equally clear view (ultimately determined to be erroneous) that he was barred because of the Privy Council's decision in *Matthew* from declaring the unconstitutionality of this discriminatory practice. Technically, Peter's judgment could, therefore, have extended only to about five pages, in which he explained that he was bound by *Matthew* and *sin*, and he dismissed the case before him. Well, his judgment actually did say precisely that, and it did so in exactly five pages. But those five pages were preceded by as many as 75 pages in which he painstakingly set out how and why the Trinity Cross nomenclature was discriminatory and, but for *Matthew*, unconstitutional. He laid out a Caribbean narrative that underpinned that explanation, and he showed readers the outcome, even if, as he thought, the JCPC's judgment in *Matthew*'s case precluded that outcome. My point is that he didn't simply roll over and capitulate to *Matthew*. And as fate would have it, his 75 pages were ultimately fully justified

¹⁷ H.C.A. No. Cv. S. 2065/2004

because, as it turned out, *Matthew* was inapplicable. That is how I believe judges should treat with precedents that they believe create a yawning gap between law and justice when it is not possible to read in or read down and/or if you are bound to follow a decision of a higher court.

40. Chief Justice Brian Sykes recently illustrated the third thing judges in independent states can and should do. The Gleaner newspaper had him on their front page a few weeks ago. The article stated -

Chief Justice Bryan Sykes has questioned why a nation that has produced such strong figures of resistance and self-determination as Jamaica still clings to the colonial legacy of the United Kingdom-based Privy Council. Addressing the Norman Manley Law School Class of 1984, during a dinner in Montego Bay, St. James, Sykes critically examined the country's path towards decolonisation, juxtaposing the accomplishments of the country's national heroes with the current political leadership's reluctance to fully embrace Caribbean sovereignty.

Notice how he weaves our shared narrative and engages in outcome thinking!

41. Chief Justice Archie of Trinidad and Tobago is also on public record, making a stirring plea for his country to adopt the CCJ as its final court of appeal. These examples should, in my view, be emulated. Both the Commentary on the Bangalore Principles of Judicial Conduct and the Nauru Declaration on Judicial Wellbeing make the point that a serving judge does not surrender the rights to freedom of expression enjoyed by other members of the community. A judge may speak out on matters affecting the courts, the independence of the judiciary and fundamental aspects of the administration of justice, provided the judge acts with restraint to preserve the dignity of their judicial office and upholds the impartiality, integrity and independence of the judiciary.

42. If we are to ennoble our Caribbean jurisprudence, if we are to assure full access to justice for the people of the region, if we are to be able to say, as Canadian Justice Wilson said, “*For the first time in our history control over our constitution passed exclusively into [our] hands ... thereby marking the final step in our journey towards fully independent status as a nation*”, it is important that we be pro-active; that we keep our sights on the goal and that we continually play our part in promoting self-determination and human rights.