



# Swearing in Ceremony of Mr Justice Andrew Burgess

The Honourable Mr Justice Andrew Burgess,  
Judge of the Caribbean Court of Justice

## **The Swearing in Ceremony of Mr Justice Andrew Burgess to the Caribbean Court of Justice**

Government House, Barbados  
18 January 2019

The Caribbean Court of Justice (CCJ) was inaugurated in Port of Spain, Republic of Trinidad and Tobago on 16 April 2005 and presently has a Bench of seven judges presided over by CCJ 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. 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 being Barbados, Belize, Dominica and Guyana.

## **REMARKS**

**By**

**The Honourable Mr Justice Andrew Burgess, Judge of the Caribbean Court of Justice,**

**on the occasion of**

**The Swearing in ceremony of the Honourable Mr Justice Andrew Burgess**

**18 January 2019**

### **Protocols and Greeting:**

Your Excellency, Dame Sandra Mason, Governor General of Barbados

The Right Honourable Mia Amor Mottley, Prime Minister of Barbados

Sir Marston Gibson, Chief Justice of Barbados

The Right Honourable Dale Marshall, Attorney General of Barbados

His Honour Justice Adrian Saunders, President of the Caribbean Court of Justice

Justices of Appeal; other distinguished Ladies and Gentlemen; Members of the Media

You have just witnessed me take an oath before God and to Him I give thanks and praise for making this occasion possible and to him alone is the glory.

You will recall that the oath I took is that I will “faithfully exercise the office of Judge of the CCJ”.

In this short address, I propose to share with you what I understand to be entailed in the office of judge of the CCJ and why I believe that I will be able to fulfil the obligations cast on me by that oath.

Let me begin by defining what for me is the CCJ. For me, the CCJ is an amalgam of fundamental aspirations of us Caribbean people which are aimed at bending the arc of the history of the common law towards the development of a truly Caribbean system of law that is respected regionally and internationally. As enunciated in the vision statement of the Caribbean Court of Justice, four such aspirations are embraced in the CCJ idea. These are that the CCJ be:

- (i) a leader in providing high quality justice;
- (ii) responsive to the challenges of our diverse communities;
- (iii) innovative, fostering jurisprudence that is reflective of our history, values and traditions, and consistent with international legal norms; and
- (iv) inspirational, worthy of the trust and confidence of the people of the region.

As you can see, this vision embraces frighteningly lofty ideals indeed. That notwithstanding, I have taken the oath this morning in the firm belief that the vision of the CCJ mirrors my life-long career vision and that the experience which I have been fortunate to gain in pursuing my career vision will assist me in attempting to further each and every aspiration enunciated in the vision statement of the CCJ.

Taking each plank of the CCJ's vision statement in turn, I will attempt to explain why I believe that I can make a contribution to the work of the CCJ in the pursuit of its vision. I will take, first, the CCJ's aspiration to be "a leader in providing high quality justice".

For the last eight years or so, I have had the privilege and honour of serving as a Justice of Appeal in the Court of Appeal of Barbados. In that time, I have had the opportunity to author upward of thirty-five (35) judgments many of which are cited by practitioners as precedents in our courts.

Of course, it goes without saying that I was only able to achieve this because of the outstanding generosity of my colleagues in the Court of Appeal in sharing with me their superior judicial experience which as you know is the life of the law. In this regard, I would like to thank, in particular, Your Excellency during your tenure as a Justice of Appeal, Justice Moore, and Justice Goodridge and, more recently, Justice Chandler and Justice Reifer. Thank all of you very much.

I believe that the experience I gained in my working with you will go a long way in assisting me in making a contribution to the CCJ's vision of being a leader in providing high quality justice in that Court's appellate jurisdiction.

I also believe that the experience I gained from serving as a judge in two international tribunals will facilitate my making a contribution to the CCJ's vision of providing high quality justice in its original jurisdiction. For the last five years, I have been sitting as a Judge on the World Bank Administrative Tribunal and from 2004 to 2010, I sat as a Judge of the Inter-American Development Administrative Tribunal. These Tribunals administer international administrative law and international labour law and, like the CCJ in its original jurisdiction, are courts of first and last resort. Accordingly, my experience in dispensing justice in these Tribunals will stand me in good stead in contributing to the work of the CCJ in its original jurisdiction.

Secondly, I will deal with the CCJ's aspiration to be "responsive to the challenges of our diverse communities".

Prior to my appointment to the Court of Appeal in Barbados, I was a student for three years in the Faculty of Law of the University of the West Indies and later served as an academic in the Faculty for thirty-five years. I was appointed Dean of that Faculty and served in that post from 1989-1992 and 1995-2004. In that post I also served as a member of the University Senate, as a member of the University Council, as a member of the Council of Legal Education and as an observer at the Legal Affairs Committee of CARICOM. During this time also I served on a number of national and regional Committees including as chairman of the Commission of Enquiry into Law and Practices Surrounding the Diplomatic Bag in Trinidad and Tobago.

These experiences brought me face to face with my Caribbean brothers and sisters and the challenges of our diverse communities. One example of such a challenge was the problem of widening access to legal education in the Commonwealth Caribbean region to take account of the difficult economic circumstances in Guyana at that time. As a response to this challenge, I, as Dean of the Faculty of Law, conceptualized and developed with Sir Keith Hunte, then Principal of Cave Hill Campus, the UWI/UG Collaborative Legal Education Agreement, 1995, which has been commended by the Ministers for Legal Affairs and by the Committee of Experts set up by the Heads of Government Conference to review legal education in the region. It is experiences like this which encourages me to believe that I can make a contribution to the CCJ's vision of being responsive to the challenges of our diverse communities.

Thirdly, I turn to the CCJ's aspiration to be "innovative, fostering jurisprudence that is reflective of our history, values and traditions, and consistent with international legal norms."

This is perhaps the most challenging aspiration in the CCJ's vision statement. The challenge for the CCJ as the apex court in the region to be innovative must be approached with utmost caution. This is because in the common law tradition, courts are not supposed to make law. Innovating law is the function of Parliament. However, there is room for the CCJ to develop the law as expressed in its precedents. The aspiration to be innovative therefore involves a delicate balancing of the CCJ's role in developing precedents and Parliaments' role in making law.

In my more than 35 years as an academic in the Faculty of Law, my research and writing has been focused on the problem of developing a coherent Caribbean jurisprudence within the context of our common law tradition. This started with my first international journal publication entitled *Judicial Precedent in the West Indies* and continued throughout time in the Faculty of Law.

The quest for a regional jurisprudence continued in my work in the Barbados Court of Appeal. There, my colleagues in the Court of Appeal and I, have taken every opportunity to reflect our Barbadian law, history and culture in our judgments.

I believe that my work in the Faculty of Law and in the Court of Appeal will greatly facilitate my contributing to the CCJ's vision of fostering the development of a Caribbean jurisprudence of international quality.

Fourthly, I take the CCJ's goal to be inspirational institution, worthy of the trust and confidence of the people of the region.

I had the good fortune of witnessing the development of the Faculty of Law into an institution which enjoys the confidence and trust of the region. This development occurred to a large extent as a result of the experience of Deans like Professor Patchett, Professor Carnegie and Dr. Nick

Liverpool, but also because of the enthusiasm and commitment of newly trained regional academics like Dr. Francis Alexis, Ms. Dorcas White, Mr. Endell Thomas and Dr. Derek Mckoy.

I was also present in the Faculty to witness the growth of a new crop of academics such as Prof. Rose-Marie Antoine, Prof. Winston Anderson, Ms. Tracy Robinson, Mr. Jeff Cumberbatch and Ms. Lesley Walcott.

It is my experience in participating in the Faculty's development into an inspirational institution which enjoys the trust and confidence of the people of the region that assures me that I can make a contribution to this plank of the CCJ's aspiration.

Let me conclude by underlining that I am aware that the CCJ is perhaps the most important postindependence regional initiative. In my view, the CCJ has so far established itself as an exemplary Caribbean institution. I am also aware that to protect and build upon this is not a task meant for the faint-hearted. All that said, I am confident that with the continued support of Sandra, our boys and their families, my friends especially at Paragon Tennis Club and my colleagues I will meet the demands of the oath which I have sworn this morning. I have to. For, with apologies to Barack Obama, the CCJ is the dream of our mothers and fathers.

**The Honourable Mr Justice Andrew Burgess**

