



JUSTICES AND REGISTRARS MEET FOR THE FINAL TIME



Front Row: L to R Hon Judge Silberman Abella, Supreme Court of Canada; Judge Austin Davis (Ret), Consultant COMSEC; Madame Anne Roland, Supreme Court of Canada; Mr Christopher Doogan, High Court of Australia; Hon Vice President Anthony Alfred Benin, ECOWAS Court of Justice; Mr Tony Anene-Maidoh, ECOWAS Court of Justice; Ms Paula Pierre, CCJ; Ms Sita Ramlal, High Court of Guyana; Hon Noel Anderson, Supreme Court of New Zealand; Hon Chief Justice Brian George Keith Alleyne, ECSC; Hon Judge Samuel Rugege, COMESA Court of Justice; Hon President Nzamba Kitonga, COMESA Court of Justice; Hon Judge Adrian Saunders, CCJ; Cheryl Thompson-Barrow, COMSEC; Kimberley Halder, COMSEC. **Back Row: L to R** Hon Chief Justice Sir David Simmons, Supreme Court of Barbados; Hon Judge M.C.C. Mkandawire, SADC Court of Justice; Hon Judge Dr Luis Antonio Mondlane, SADC Court of Justice; Hon Chief Justice Carl Singh, High Court of Guyana; Mr Kevin Maguire, COMSEC; Mrs Maureen Crane-Scott, Supreme Court of Barbados; Hon Judge Duke Pollard, CCJ; Mrs Kimberley Cenac-Phulgence, ECSC.

Meetings of Judges and Registrars of Final/Regional Appellate Courts were held in Europe from July 2 - 9, 2007. This was the culmination in a series of meetings from 2003 which were conducted pursuant to the mandate given by Commonwealth Law Ministers. Since 2002, the Commonwealth Law Ministers requested the Commonwealth Secretariat to assist Member States who were in various stages of Final/Regional Court formations to ensure that

Commonwealth standards were maintained and that best practices were adopted.

Since 2003, the Law Development Section of the Legal and Constitutional Affairs Division has hosted a series of undertakings, commencing with an Expert Group at Marlborough House in June 2003; a visit by delegates to the newly established Supreme

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RUSSIAN FLAG-PLANTING: A SIGNAL OF RACE FOR ARCTIC DEPOSITS

An expedition led by Russian lawmakers used a miniature submarine to plant a Russian flag on the seabed two miles under the North Pole in early August 2007, symbolically staking a claim to the vast mineral and energy wealth that lies under the ice cap.

A week later, the Canadian Prime Minister visited Canada’s far north and announced plans to build two military bases in its polar regions. And now two more claimants to the Arctic seas, the U.S. and Denmark, have launched their own polar mapping expeditions.

The U.S. Geological Survey estimates that about a quarter of the world’s undiscovered oil and gas lies beneath the Arctic’s waters. Until recently, these deposits were thought inaccessible.

But as the polar ice cap succumbs to global warming more quickly than expected and with new subsurface pumping technologies coming online, some experts believe the Arctic could go into production in a generation.

As the scramble for strategic resources beneath the ice begins to heat up, Norway, a country with deep Arctic roots takes the long view.

The Norwegian government has emphasized the need to structure a long-term system of international governance for the Polar Regions; its scientists and

researchers are calling for cooperation rather than competition.

The key dispute in the Arctic is whether the Lomonosov Ridge, a vast underwater mountain range stretching across the North Pole, is an extension of Russia’s continental shelf, or a part of Greenland, which belongs to Denmark.

Rather than point fingers at Russia, the Norwegian Deputy Minister of Foreign Affairs, Liv Monica Stubholt, said Norway would prefer to see the U.S. Senate ratify the 13-year-old UN Convention on the Law of the Sea, which would give the U.S. a seat on the Commission and a stake in a non-belligerent resolution of the competing claims.

Ratification in the U.S. has been blocked by a line of conservative lawmakers who fear that signing the treaty would cede too much control to the UN.

However, there is hope that this position will change in the near future as the Bush administration now favors signing the treaty.

Extracted from an article by Tom Hundley in the Tribune foreign correspondent of 24 August 2007.

www.chicagotribune.com/news/nationworld/chic-arctic_newaug24,1,3409421.story

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Court of New Zealand and the “older” High Court of Australia in February 2006 and interactions in the Caribbean in Jamaica, Barbados and Trinidad and Tobago, the seat of the Caribbean Court of Justice in January – February 2007.

The previous meetings allowed the visiting delegates to observe at first hand, the operations of Courts; have exchanges and discussions with the court officials; political directorate; local Law Societies and Bar Associations among others. The presence in the various jurisdictions enabled all delegates to understand and appreciate the imperatives of each country and region and the extent to which that would have a bearing on certain aspects of their laws and Court operations.

The meetings in Europe, as the final in the series afforded participants the welcome opportunity to visit the Courts in which the practice of international law was paramount. In this regard, the first leg on this sojourn was at the European Court of Justice in Luxembourg. Delegates interacted with the Court officials and were able to sit in on a hearing. The President of that Court Vassilios Skouris also made a presentation to the delegates.

This was a particularly instructive occasion for members of Regional Courts, where the concept and evolution of community law is of paramount importance in the development of the jurisprudence. The Meeting was further privileged to go to the International Criminal Tribunal for the Former Yugoslavia. There, the aspect of the operation of

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international criminal law the undertakings of a tribunal of that nature were well received.

The last stop on continental Europe was the home of international law – the International Court of Justice (ICJ). Members of the delegations held an interactive discussion with the President of the ICJ, Dame Rosalyn Higgins and Judges of the ICJ. Delegates exchanged ideas as they presented Papers, while the same was reciprocated from the Judges of the ICJ. The meeting finalised its sessions at Marlborough House in London, where the participants presented a set of best practices guide relating to: Public Awareness and Access to Justice; The Appellate Jurisdiction; The Regional and

International Law Jurisdiction and the Registry. These practices and recommendations involve aspects to improve efficiency of delivery of judgments; involving the public in the knowledge of the Courts and thereby also improving their access. Areas of improvements in the role of the Registry and dealing with technology to assist its efficacy were proposed. The areas of community and international law indicated the need to formulate areas of training at various levels, including the Law Schools and the Bench to ensure that its evolution within a community or region would be appreciatively developed. All the Courts visited were most gracious hosts to the Commonwealth delegates and these meetings will be regarded highly.

GLENEAGLES G8 COMMITMENTS ON DEBT RELIEF AND AID – TWO YEARS LATER

At the Gleneagles G8 Summit in July 2005, G8 leaders made commitments to increase foreign aid and provide debt relief, realizing that without such commitments poor countries will not be able to achieve the Millennium Development Goals (MDGs).

The Millennium Declaration was agreed at the UN Millennium Summit in September 2000. The Declaration established a series of targets aimed at reducing poverty and improving lives throughout the developing world, known as the MDGs. These goals are: (1) reducing poverty and hunger; (2) educating all children; (3) empowering women; (4) saving children; (5) caring for mothers; (6) combating disease; (7) using resources wisely; and (8) working together.

The G8 aimed to provide global aid by \$50 billion every year by 2010 (which would bring total world aid to around \$130 billion), and to double aid to Africa on the same time scale (increasing from around \$25 billion two years ago, to \$50 billion per year in 2010). After two years of its implementation the G8 has made an excellent progress. The UK is the second largest donor in the world and it is committed to making aid more effective and to encouraging all donors to provide untied aid. The UK signed up to the Paris Declaration on Aid Effectiveness in 2005 and is continuing to support its implementation. On debt relief: 22 countries now have had all multilateral debts cancelled. The savings from debt relief in the last two years amount to around \$38 billion and developing countries have been able to reap the benefits in development action. In Uganda, HIPC debt relief has helped make possible the removal of user fees for healthcare and in Zambia, to eliminate user fees for healthcare in rural areas.

However, whilst aid and debt relief, though important, are only part of the deal, developing countries must be given an opportunity to trade. Talks which will help to improve market access and reduce trade-distorting subsidies are very important. The G8 renewed commitments to help developing

countries use cleaner technology and adapt to climate change. And we agreed to commit to designing new mechanisms to reduce emissions from deforestation.

THE CHINESE AID SYSTEM

China is becoming a major source of foreign aid in Asia, Latin America and especially in Africa. The Chinese aid is becoming a concern to Western Aid Agencies. The question is on its impact on helping HIPC countries in attaining successful exit from unsustainable debt. It is projected that China will double aid to the African region by 2009. It is also, however admitted that the Chinese provide their aid largely without the conditions that are typical in Western aid contracts. The latter imposes more emphasis on strong economic management good human rights performance, environmental and political stability whereas the Chinese aid emphasises on infrastructure, which western aid donors are reluctant to fund. Chinese aid is typically in the form of concessional loans. Does however, this approach discourage the needed economic and political reforms in the African region? Will it burden the countries once again with debt when these countries have just benefited from debt cancellation? There is also the question of the amount of aid that China is providing to the world. It remains a secret as the Chinese officials state that the volume of their aid is a State secret. The Chinese aid is managed by the Ministry of Commerce and it appears that its data kept regarding debt is not as well managed as the Official Development Assistance (ODA). It is also a particularity of the Chinese government that it is not only the Ministry of Commerce which provides aid on the international level, but individual Ministries may also provide additional aid such as the Ministries of Health and Education. Whilst the exact amount of the Chinese Aid is not known it is however estimated to be \$1.5 to \$2 billion. However it is the Chinese belief that they are relatively still a poor country and that china classifies among smaller aid donors such as Australia, Austria, Belgium, Denmark and Switzerland.

(To be continued in next issue)

COMMONWEALTH LAW BULLETIN

The Commonwealth Law Bulletin (CLB), produced by the Law Development Section of the Legal and Constitutional Affairs Division, has come a long way indeed. From a modest 50-page publication addressing the specific issues raised at the Commonwealth Law Ministers meeting of 1973, the Bulletin today provides a comprehensive, peer-reviewed commentary and analysis of the law and legal developments in Commonwealth jurisdictions.

The Bulletin is nowadays professionally printed, published and marketed by Routledge, an imprint of Taylor and Francis Group. The extensive network of this international publishing company ensures that the CLB reaches judges, attorneys general, law ministers, law reform agencies, academics and private practitioners who must keep abreast of the law and legal developments in the Commonwealth.

Through its treatment of issues which are Pan-Commonwealth in scope, the Bulletin remains central to the Legal and Constitutional Affairs Division's role of disseminating legal information, developments and best practices in the Commonwealth. The CLB moreover helps foster a harmonised approach to new legal developments and fills the gap in those countries whose legal systems are based on common law precedent but lack the necessary jurisprudence on particular topics.

In July 2007, Aldo Zammit Borda took over the editorship of the CLB. Prior to joining the Law Development Section, Aldo was responsible for Legal and Counter-Terrorism Affairs at the Ministry of Foreign Affairs of Malta. He obtained a BA and LLD from the University of Malta and a MEconSc from the University College Dublin. He also completed a PostGrad Diploma in Contemporary Diplomacy under the Commonwealth Third-Country Programme.

Challenges Ahead

In an effort to make the CLB more informative and relevant to its readers, a number of challenges lie ahead. The first challenge relates to enhancing the online presence of the journal. Through the judicious use of Information and Communication Technology, readers will be given the opportunity to react to articles and the specific issues raised therein. Readers will be encouraged to interact with others, share their experiences and comment on articles published in the Bulletin. The CLB Online Forum will thus provide an additional space for the exchange and dissemination of ideas related to Commonwealth law. Attracting high-profile Commonwealth thinkers from both the professional and academic fields to write articles for the CLB will constitute another challenge. Contacts with, *inter alia*, universities, ministries, the judiciary and law reform agencies will have to be established and maintained.

Increasing institutional subscribers to the Bulletin will represent a third challenge. While the Bulletin will continue to be distributed free or at a heavily-subsidised price to those jurisdictions that cannot afford it, other institutions may subscribe to the journal through the publisher's website. There is also the option of a personal subscription. A number of concrete actions have already been taken to address these challenges. These have included updating the Editorial Advisory Board in order to enhance the geographic spread and effectiveness of the peer-review mechanism. Meetings have also been held with Commonwealth Web Team and Publishing Houses have been approached for their latest law books to be reviewed in the Bulletin.

For information on the Commonwealth Law Bulletin, including subscription details and guidelines for authors, please visit: <http://www.informaworld.com/RCLB> or contact the editor at legaeditor@commonwealth.int.

OTHER DEVELOPMENTS

INDIA – NEW INTERNET SERVICE PROVIDER (ISP) REGULATION

The government has reduced the foreign direct investment limit in internet services from 100% to 74%. Also introduced is a 6% revenue share clause which may result in costlier internet services for consumers. All ISPs are now permitted to offer internet telephony services against the earlier policy requiring a special licence for it. However, the new policy continues with the existing norm that bars ISPs from terminating internet telephony calls on landlines or mobiles within India.

MALAYSIA – DVD-SNIFFING DOGS HONOURED FOR WORK ON PIRACY

Malaysia has given a hero's send-off to two dogs. Lucky and Flo are the first two dogs in the world to be trained to identify optical discs by the scent of their chemicals. The dogs were loaned – for six months - to the Malaysian government by the Motion Picture Association (MPA) in the United States. The dogs are not able to distinguish between pirated and legal discs, but this role is taken by law enforcement officer once the dogs had unearthed the caches. In one instance, the dogs uncovered a secret room behind a false wall.

During their time in Malaysia, the two black Labradors helped unearth 1.6 million DVDs and other optical discs, three DVD replicating machines and 97 compact disc burners, worth US\$6 million. Twenty-six people were arrested in several raids. The operations were so successful that Malaysian movie pirates were reported to have placed a bounty of \$29,000 on the dogs, prompting them to be kept under close guard. At the ceremony honouring the dogs before their return to the US, the deputy trade Minister S. Veerasingham placed medals around their necks and thanked them for helping Malaysia in its commitment to wiping out piracy and pirates.

The trade ministry plans to set up a canine unit later this year to unearth pirated DVDs. Two new dogs will be trained in Ireland by the trainer who trained Lucky and Flo. According to the MPA a significant part of the USA's lost income resulting from piracy comes from the Asia-Pacific region.

KENYA: CYBER LAW BEING DEVELOPED

Kenya's cyber law, when enacted, could be adopted as a model law for other countries within the East African Community (EAC) - Tanzania, Uganda, Rwanda and Burundi - which are yet to enact such kind of legislation to give regulatory direction for ICT-related transactions.

Already, a process has been initiated under the auspices of United States Agency for International Development (USAID) Washington's Economic Growth Agriculture and Trade/Information Technology and Energy (EGAT/IT&E) Bureau to guide the process leading to the development of the legislation in Kenya.

The initiative, called e-Legislation policy development initiative for the East African Community (EAC) - Kenya Cyber Law model, is facilitated through the Digital Opportunity through Technology and Communications Partnerships (DOT-COM), policy component that is managed by the Academy for Educational Development (AED).

The process is run in collaboration with Kenya's Directorate of e-Government and implemented by Afrika ICT Strategies Inc., a consulting and research firm with head offices in Washington and a subsidiary office in Kenya.

Extracted from an article by Michael Ouma in the East African Standard (Nairobi) of 5 August 2007
<http://allafrica.com/stories/200708050013.html>

UK - MUSIC PIRATE BAG 20 MONTHS IN JAIL

A man has been convicted for 20 months after being caught in possession of a massive haul of bootleg CDs and DVDs at a record fair in Glasgow, Scotland. The CDs and DVDs were alongside other counterfeit materials of legendary bands such as the Rolling Stones, the Beatles and Led Zeppelin. All the materials were seized by the British Phonographic Industry (BPI). The accused was convicted with the help of Mr Page a member of Led Zeppelin who gave evidence against him. The court told the convicted man, Mr Robert Langley that his offence was so serious that a custodial sentence was inevitable.

Upcoming Activities

Meeting of Senior Officials of Law Ministries

October 1 - 3
London, UK

Meeting of Law Ministers of Small Commonwealth Jurisdictions

October 4 - 5
London, UK

Seminar for Debt Negotiation and Renegotiation for the Africa Region

December 3 - 7
Accra, Ghana

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