



Family Court in Jamaica Committed to Building Strong Families

The Family Court in Jamaica is a special Court established under the Judicature (Family Court) Act in 1975. It is responsible for all legal proceedings relating to family life, except divorce. It differs from other courts in that it provides social services. Despite daily challenges related to insufficient resources – human and financial – the Judges of the

Family Court and their staff remain committed to providing clients with the best range of services possible and to building strong families in Jamaica.

Her Honour Mrs. Paula Blake-Powell, Senior Parish Court Judge and Judge of the Kingston and St. Andrew Family Court, said that the Family Court was born out of the great demand for its specialised services which include adoption, child care and protection, custody and testamentary guardianship of children, declaration of paternity – live (DNA) and deceased, domestic violence, maintenance, property rights of spouses, and youth delinquency.

“We want to get to the root of the problems: we want to reach the delinquent child, the abusive parents and guardians who are having problems coping because cumulatively, they all impact the change the Family Court is working towards,” she said in an interview.

She added that the Court is not about locking up children or pulling families apart, but rather to restore the family structure with the help of the professionals who work at the Court.

The Family Court is the only Court in Jamaica that offers counselling as well as court room services under one roof. The social work team may direct a client, along with his or her partner, to a Family Counsellor to discuss their problems, as many times as is necessary. When a resolution is reached this way it diverts a potential new case from the court room.

Additionally, the Court works with many partner agencies such as the Child Protection and Family Services Agency (CPFSA) – formerly known as the Child Development Agency – that is responsible for children involved in matters within the Family Court system. Judge Blake-Powell explained that Children’s Officers from the CPFSA provide voluntary supervision to help children and their families solve their problems in cases where Court action is not required. For court cases, they conduct investigations, prepare social inquiry reports and offer supervision for 1-3 years after a final order is made.



Her Honour Mrs. Paula Blake-Powell, Senior Parish Court Judge and Judge of the Kingston and St. Andrew Family Court



(L-R) Her Hon. Mrs. Paula Blake-Powell, Senior Parish Court Judge and Judge of the Kingston and St. Andrew Family Court, Mrs. Rosalee Gage-Grey, CEO, Child Development Agency (CDA), Rev. Osbourne Bailey, Senior Coordinator, Victim Support Unit (VSU) and The Honourable Dr. Justice Zaila McCalla, former Chief Justice of Jamaica in the Children’s Room at the Kingston and St. Andrew Family Court

In this Issue

Dear Reader,

Welcome to Issue 8 of *JURIST News*.

We are pleased to feature the Family Court of Jamaica in this issue and the significant work they are doing in building strong families and enhancing family life in general.

During the past four months, the JURIST Project in collaboration with various judiciaries across the region, launched the *Model Guidelines for Sexual Offence Cases* in the Caribbean Region in Barbados, Belize, Guyana, Jamaica, and Antigua.

The Project also announced the establishment of a Sexual Offences Model Court in Antigua and Barbuda in 2018 in collaboration with the Government and the Eastern Caribbean Supreme Court (ECSC). It is hoped that Court will implement the Guidelines, test their effectiveness and, provide an improved system for dealing with sexual offences.

We hope you enjoy reading the articles in this issue. As always, we take this opportunity to remind you that we welcome and appreciate feedback from our readers. We encourage contributions, information or material that we can include in future issues of the Newsletter.

- *The JURIST Project Team*

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Sexual Offences Court to be set up in Antigua and Barbuda



Recipients of copies of the Guidelines with Her Excellency Marie Legault, High Commissioner of Canada to Barbados and the Eastern Caribbean (first row, third from left); Dr. Penny Reedie, JURIST Project Director (second row, second from left); The Honourable Steadroy Benjamin, The Attorney General and Minister of Legal Affairs, Antigua and Barbuda (second row, third from left); The Honourable Mme. Justice Maureen Rajnauth Lee, CCJ Judge (second row, second from left); the Honourable Mr. Justica Iain Morley, High Court Judge, ECSC; and Ms. Cecile Hill, Registrar of the High Court, Antigua and Barbuda, (first row, middle)

Family Court cont'd from page 1.

Within the Court there are also Probation Aftercare Officers who work with persons who are given Probation Orders or adults who apply for custody/access and maintenance orders.

Another special feature of the Court is the Children's Room that offers a safe, private and child friendly space in which child witnesses, children coming from Places of Safety and Children's Homes, and even those who accompany their parents to Court, can wait in comfort, away from adults and the typical busy environment of the Court. It is furnished with cribs, seats, toys, educational literature and a television.

In 2014, the Kingston and St. Andrew Family Court embarked on an initiative to launch a pilot Children's Drug Treatment Programme (CDTP) that would provide an alternative to incarceration for youngsters who abuse drugs. Judge Blake-Powell noted that while adult drug treatment courts have existed in Jamaica since 2001, there was an obvious need for a similar programme for children. The children are supervised by a team including a judge, probation aftercare officers, and treatment providers specialising in substance abuse counselling, drug detoxification and rehabilitation.

The Court's partners in the CDTP include the National Council on Drug Abuse and RISE Life

Management Services. "There is equal emphasis on educational attainment and skills training and certification of the children as there is on addressing their substance abuse/misuse problem," she assured.

She continued: "the CDTP has highlighted the fact that the solution is not always to lock up people and throw away the keys. The focus should also be on trying to give them hope in the midst of their adversity and circumstances."

The Court also provides students from various institutions who are studying social work or related disciplines with placements for their mandatory in-service and practicum training. These students observe court sittings, intake interviews and counselling sessions, and interact with clients under the supervision and guidance of personnel from the Social Work Department.

Apart from its in-house services, the Court seeks to have a positive impact on communities through several outreach programmes which include: The School Tour Programme, Teen Pregnancy Project, Family Court Attendance Centre, Parenting School and Annual Parent's Month Exposition.

Her Honour said the Court is constantly improving the way it interacts with the people it serves and how information is disseminated to ensure that the public understands what services are offered and how they can be accessed.

The JURIST Project in collaboration with the Government of Antigua and Barbuda and the Eastern Caribbean Supreme Court (ECSC) will establish a Sexual Offences Model Court in Antigua and Barbuda in 2018.

The announcement was made by Dr. Penny Reedie, JURIST Project Director, at the launch of the Model Sexual Offence Guidelines for the Caribbean Region, held on Thursday, January 11, 2018 at the Trade Winds Hotel in St. John's, Antigua.

Dr. Reedie explained that the establishment of a Sexual Offences Model Court in Antigua and Barbuda forms part of JURIST's comprehensive approach to the management of sexual assault cases and the provision of support for complainants and witnesses, including children. "The Model Court is intended to provide a timely, gender responsive and coordinated response to complainants and vulnerable witnesses involved in sexual offence cases," she said.

The Honourable Steadroy Benjamin, Attorney General, Antigua and Barbuda welcomed the initiative and pledged the Government's support. "We are very pleased that Antigua and Barbuda was selected as the country to establish the Sexual Offences Model Court. The Government recognizes the need to have effective systems in place to deal with sexual violence," he noted.

Mr. Benjamin added that the Government was committed to reducing sexual violence in their country and to this end a number of projects were being implemented. He said the establishment of the region's first Support and Referral Centre (SARC) by the Directorate of Gender Affairs (DoGA) for victims of gender-based and sexual violence (GBSV) was one example of how the Government was dealing with sexual violence.

The Honourable Dame Janice Pereira, Chief Justice, ECSC, expressed her delight on the establishment of such a Court within the Organisation of Eastern Caribbean States (OECS).

She said in Antigua and Barbuda and the wider OECS, there have been improvements in the justice system's response to the survivors of sexual violence who seek redress from the courts.

For example, the Chief Justice stated that the law in Antigua and Barbuda now places strict limits on the ability of defence attorneys to use the sexual history of the complainant to attack the survivor's credibility and that judges are no longer required to warn the jury about relying on the uncorroborated evidence of the complainant.

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Model Guidelines for Sexual Offence Cases Launched in the Caribbean

Following a successful launch of the Model Guidelines for Sexual Offence Cases in the Caribbean Region at the Caribbean Association of Judicial Officer's (CAJO) 5th Biennial Conference in Curaçao on September 28, 2017, the JURIST Project launched the Guidelines in Barbados, Belize, Guyana and Jamaica respectively. The launches were followed by sensitisation workshops from a cross section of justice sector stakeholders in each country, who work along the justice chain with complainants and witnesses in sexual offence cases.

BARBADOS

The Honourable Sir Marston Gibson, Chief Justice of Barbados officially launched the Guidelines on October 17, 2017 at the Marriott Courtyard Hotel, Bridgetown, Barbados.

Speaking at the launch, Dr. Penny Reddie, JURIST Project Director, said the guidelines are intended to provide internationally accepted best practices for the management of sexual offence cases, and offer a

rights-based approach to the treatment of complainants and vulnerable witnesses, including children, involved in sexual assault cases.

Sir Marston Gibson welcomed the initiative and admitted that the length of time sexual offence cases take are indeed too long.

He noted that some of these cases, which most of the time involve females, endure such lengthy delays that the victims become adults and move on with their lives, only to be advised by the Office of the Director of Public Prosecutions (DPP) that the matter is up for trial.

"Now she has to relive the trauma of that incident which happened many years ago. And what we are discovering is that a lot of those victims say 'no' and the result is that the victims end up losing their rights," he lamented.

He continued: "What I am grateful for in the launch of these Guidelines, is that they are first and foremost, rights-based. They ensure that the victim is not reduced to being part of the backdrop. We refuse to relegate the victim to the backdrop."

Her Excellency Marie Legault, High Commissioner to Barbados and the Eastern Caribbean said the Guidelines were not only timely, but a step in the right direction. Legault stressed that sexual offence cases are serious offences because they have a lifelong impact on victims and the accused, especially if the defendant is wrongfully accused. She asserted that: "It should never be acceptable for a human being to harass another human being for whatever reason. That is a human right."

Ms. Alicia Bailey, herself a survivor of sexual assault and now an advocate for others who have experienced similar incidents, said she was cautiously optimistic about the Guidelines. She warned that nothing would change for victims of sexual assault unless the people who work within the justice system apply these Guidelines.

"My hope is that the different individuals who work within the justice system will not only hear the words of the Guidelines, but will do what they say," she added.

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Sexual Offences Court cont'd from page 2.

"These are just some of the improvements being made to ensure that survivors of sexual violence receive justice. I have no doubt that the Sexual Offences Model Court in Antigua and Barbuda will make a positive contribution to the development of the judiciary," she said.

Her Excellency Marie Legault, High Commissioner of Canada to Barbados and the Eastern Caribbean, in congratulating all parties involved in the establishment of the Court, said that this was a very timely initiative.

She made reference to a 2017 UNDP/UN Women study which found that even though the CARICOM region has made progress in promoting gender equality, sexual violence perpetrated against women, girls and boys remains a significant problem. The High Commissioner also highlighted an earlier 2007 World Bank Report, which stated that "the Caribbean had three of the top ten countries with the highest incidence of rapes. The report also revealed that in nine Caribbean countries, 48 percent of adolescent girls' first sexual encounter was either 'forced' or 'somewhat forced'.

"The launch of the Guidelines and establishment of the Court is a solid example of the Government of Canada's Feminist International Assistance Policy in action. Our goal, among others, is to strengthen legal systems and promote reforms that eliminate all forms of discrimination against women and girls that prevents them from realizing their economic, political and social rights," she stated.

“These are just some of the improvements being made to ensure that survivors of sexual violence receive justice. I have no doubt that the Sexual Offences Model Court in Antigua and Barbuda will make a positive contribution to the development of the judiciary”

The Sexual Offences Model Court will test the effectiveness of the prescriptions outlined in the Model Guidelines for Sexual Offence Cases in the Caribbean Region. Antigua and Barbuda was the fifth Caribbean country to launch the Guidelines and follows Barbados, Belize, Guyana and Jamaica.

The Guidelines, provide internationally accepted best practices for the management of sexual offence cases, and offer a rights-based approach to the treatment of complainants and vulnerable witnesses, including children, involved in sexual assault cases. The Guidelines form part of a comprehensive approach to address issues faced at the investigative, pre-trial and adjudicatory phases, as well as offenders' rehabilitation and management.

The establishment of the Court is aligned to the JURIST Project's immediate outcome of improving the capacity of courts to deliver gender responsive and customer focused services.

The JURIST Project will support the Antigua and Barbuda Supreme Court in the establishment of the Model Court by:

- Training a cadre of professionals including judges, court personnel, police, lawyers, prosecutors and victim support personnel from the government and NGOs, to effectively manage sexual assault cases and provide care and support to complainants and witnesses;
- Introducing technology into the Model Court and providing equipment and material to operationalize special measures for complainants and witnesses in sexual assault cases;
- Developing a framework to monitor and evaluate the Model Court's performance;
- Developing case management processes to ensure the expeditious handling of sexual offence cases as well as special protocols for the treatment of complainants and witnesses; and
- Conducting a public sensitization campaign on the objectives and benefits of a Sexual Offences Model Court.

*Model Guidelines Launch cont'd from page 3.***BELIZE**

Following on the heels of the launch in Barbados, Belize was the second country to unveil the Guidelines. The Belize launch took place on October 26, 2017 at the Radisson Fort George Hotel and Marina in Belize City, Belize.

The Honourable Mme. Justice Michelle Arana, Supreme Court Judge, said many sexual offence cases in Belize, unfortunately do not make it through to completion, as victims are often intimidated by the very idea of having to recount their experience and, in the process, relive the agony of the harrowing ordeal in court before a group of strangers.

“The present approach by the justice system to persons who have been sexually assaulted in many cases leaves the survivor with a sense of betrayal. It is therefore necessary for the justice system to find ways to improve the delivery of justice to these survivors, so that the system becomes more responsive to their needs,” she said.

Ms. Judith Alpuche, Chief Executive Officer (CEO), Ministry of Human Development, said unfortunately they have not made significant progress in dealing with sexual offence issues. “In terms of moving to a more victim-centered approach, there have been champions in the judiciary, people like judges and magistrates who have been great allies. But I’m talking about from a system’s perspective, it’s been a bit slower. What we want is a system that doesn’t re-victimise, that doesn’t blame the victim,” she explained.

She said the Guidelines were a great effort in providing the momentum and the framework that is needed to ensure that sexual offence cases are dealt with in a victim-centred manner.

GUYANA

Guyana was the third country to launch the Guidelines. The Guyana Sexual Offences Court was also announced on November 13, 2017 and Court 6 of the Georgetown Supreme Court was designated to deal with sexual offences cases. The launch was held at the Pegasus Hotel, Georgetown, Guyana.

The Honourable Mme. Justice Yonette Cummings-Edwards, Chancellor of Judiciary, said that it was her hope that more sexual assault victims would seek justice through the courts as the judiciary moves to change the way it deals with such cases.

“Victims of sexual assault are often terrified of reporting their experiences to the police because of how insensitive the cases are addressed and the slow pace at which investigations are done. And when the matters do reach the court, victims are reluctant to continue with the matter because of how long it takes and how traumatizing the experience can be,” she noted.

The Chancellor said with the implementation of the Guidelines, she expects that more victims will feel safe to come forward with their reports. “Because of these

Guidelines, many more persons will come forward. Not only will they want to come forward, but they will be treated in a way that will respect their dignity and their privacy,” she stated.

Justice Cummings-Edwards promised that no longer will victims be “retraumatized” by giving their evidence in court.

Ms. Amna Ally, Minister of Social Protection, noted that Guyana was in the process of conducting a comprehensive review of its national plan of action to deal with sexual offences. She added that an inter-agency task force will have specific responsibilities for the development and implementation of the national plan for the prevention of sexual violence.

Social activist and Director of Red Thread, Ms. Karen De Souza stressed the importance of having a multi-stakeholder approach to sexual offences. The social activist noted that it was not only the judicial arm alone that needs to play a part in addressing cases of sexual abuse. She expressed hope that the new Guidelines will aid in expediting the legal process for such cases.

The Honourable Mme. Justice Maureen Rajnauth-Lee, Judge, Caribbean Court of Justice (CCJ) explained that even though the CARICOM region has made progress in promoting gender equality, sexual violence perpetrated against women, girls and boys remains a significant problem.

The region, she said, experiences high levels of sexual violence – the majority of which is under-reported and ineffectively dealt with by the justice system. She noted though, there have been improvements in the justice system’s response to sexual assaults and the survivors of sexual violence who seek redress from the courts.

“The Guidelines will provide guidance to justice sector stakeholders involved in the reporting, investigation, prosecution and adjudication of sexual offences,” Justice Rajnauth-Lee said.

JAMAICA

The Honourable Dr. Justice Zaila McCalla launched the Guidelines on November 24, 2017 at the Jamaica Pegasus Hotel in Kingston, Jamaica.

She said the creation and implementation of these model Guidelines will go a far way towards the improvement and management of sexual offence cases and the treatment of witnesses and survivors of sexual offences throughout the region.

“The crafting of these guidelines will assist in the removal of anomalies and facilitate the achievement of consistency, predictability and transparency in how sexual offence cases are handled. These Guidelines are therefore another important milestone in the continued modernization of not just the courts but our wider justice system,” the Honourable Chief Justice stated.

Her Excellency Laurie Peters, High Commissioner of Canada to Jamaica noted that according to a 2007 World Bank Report, the Caribbean had three of the top ten countries with the highest incidence of rapes. The report also revealed that in nine Caribbean countries, 48 percent of adolescent girls’ sexual initiation was ‘forced’ or ‘somewhat forced.’

She continued: “a 2016 International Development Bank (IDB) funded report on Crime and Violence in Jamaica revealed that 59% of all sexual assault victims were girls between the ages of 10 -19 and almost 50% of women were forced into intercourse by age 20. These and other reports demonstrate that the region and Jamaica experience high levels of sexual violence - the majority of which is underreported and ineffectively dealt with by the justice system.”

The High Commissioner added though that there have been improvements in the justice system’s response to sexual assaults and the survivors of sexual violence who seek redress from the courts. For example, the law in Jamaica now places strict limits on the ability of defence attorneys to use the sexual history of the complainant to attack the survivors’ credibility and judges are no longer required to warn the jury about relying on the uncorroborated evidence of the complainant.

Noting that Jamaica was fully cognizant of the need for a coordinated and sustained approach in addressing the serious, prevalent and deeply entrenched problem of sexual offences, the Honourable Olivia Grange CD, MP, Minister of Culture, Gender, Entertainment and Sports said that sexual violence affects women, girls, men and boys. “All too often, the victims face a life of shame and stigma, while several cases languish in the legal system for several years,” she lamented. She said the Guidelines represent the shared understandings and commitment of the Government of Jamaica around the imperative of eliminating violence.

Stating that from a gender perspective, girls are overwhelmingly sexually victimised in Jamaica, Ms. Claudia Fletcher, Executive Director, Eve for Life, provided some sobering statistics. She indicated that the Office of the Children’s Registry (OCR) reports that girls are up to 12 times more likely to be victims of sexual abuse than boys. Annually, Jamaica receives more than 3,000 reports of girls being sexually abused. Data from the OCR show that in 2013, there were 3,403 reports of sexual abuse cases. Of the reported cases, 88.4 percent were girls. More than half (1,895 of all reported cases) were carnal abuse (sex with girls or children under the age of 16). There were 374 cases of child rape and 129 cases of incest.

Participants at the launch also heard first-hand about the devastating effects of sexual violence from Ms. Monique McDonald who is a survivor of this heinous crime.