

**COLLECTION DEVELOPMENT FOR THE CARIBBEAN COURT OF
JUSTICE'S LIBRARY**

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ABSTRACT

The Caribbean Court of Justice (CCJ) is a unique institution and exercises two jurisdictions; an appellate and an original. The Court functions as a domestic final Court of Appeal shared by several sovereign States (appellate jurisdiction) and an international tribunal designed to settle disputes between the same sovereign States and, more generally, disputes related to the Caribbean Community (original jurisdiction). The Agreement Establishing the Court was signed by twelve states of the Caribbean Community (CARICOM): Antigua and Barbuda, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, St. Kitts and Nevis, St Lucia, St. Vincent and the Grenadines, Suriname and Trinidad and Tobago. At this time, only Barbados and Guyana access the Court in the appellate jurisdiction. However, all States access the Court in its original jurisdiction. The Court was inaugurated on 16 April 2005 in Trinidad and Tobago, the seat of the Court.

The Library of the Caribbean Court of Justice was established to provide access to information consistent with the present and anticipated research needs of the Court. The development of a library collection to meet the information needs of the Court is the focus of this research project. The research involved a review of the collection development priorities and standards for court libraries, and the tools and policy guidelines for building an international law collection. The areas of law most likely to be addressed by both of the Court's jurisdictions were reviewed. The research and information needs of the judges and other library users were examined and analyzed and the collection of law libraries of Member States were evaluated to determine the extent and availability of legal resources in the region.

Research revealed that an appellate court's library should provide a very strong collection of the law of its state including primary and secondary materials in both print and electronic

format. It should also provide primary and secondary materials for states that are closest to it as well as those that share the same legal history. Two survey questionnaires were administered, the first to librarians and para-professionals in court, government, the CARICOM Secretariat and law school libraries in the various CARICOM Member States, and the second to users of the CCJ's Library. The goal of the first questionnaire was to determine the resources and legal collections in the libraries in the CARICOM Member States. The second questionnaire was designed to assess the needs and preferences of the users of the CCJ's Library and the adequacy of its collection. An interview was conducted with the Court Executive Administrator who was involved in the set-up and development of the Court.

The results of the data revealed that the collections of most of the court libraries need updating. The law schools libraries are better equipped, especially the Faculty of Law Library in Barbados which is the premier law library in the Commonwealth Caribbean. The clientele of the CCJ's Library is generally satisfied with its collection and feels that it meets most of their needs.

The CCJ's Library, as the information arm of the Court, must provide the necessary resources in both print and electronic format for the Court to function efficiently in its two jurisdictions. Based on the findings, it is recommended that the Library maintains a core collection of primary and secondary legal materials (current and retrospective) in both print and electronic format for all CARICOM Member States as well as other countries that share the same legal history. Also, the Library needs to enhance the materials on some of the subject areas that address the original jurisdiction. Finally, a collection development policy needs to be developed to provide guidance and focus to those charged with the tasks of building the collection. The policy will also ensure continuity and consistency in the selection and revision processes and provide a sound foundation for future planning.

INTRODUCTION

A court library's primary goal is to select, organize, and make legal information available to the bench, bar, and other customers of the Court. The Internet and social networking tools such as podcasts, RSS feeds, blogs, and wikis have revolutionized the way the library makes this information accessible and has changed the delivery of its services. Wireless technologies have further revolutionized the delivery of services by enhancing the reach of law libraries and expanding the reach of the Internet.¹ The development of The Caribbean Court of Justice Library comes at an exciting time and provides the opportunity to implement many of these new communication technologies. However, the development of information resources for the Library requires a comprehensive understanding of the institution which it serves, the Caribbean Court of Justice and the wider community, the Caribbean Community.

Historical Background of the Caribbean Community (CARICOM)

The Commonwealth Caribbean is made up of both dependent and independent democratic states; many of them have formed into a loose political community, called the Caribbean Community (CARICOM).² CARICOM was established by the Treaty of Chaguaramas which was signed in Trinidad on July 4, 1973. The Treaty's principal objective was to create a viable economic community of English-speaking Caribbean countries.³ In 1989, the West Indian Commission, established by the Caribbean Community (CARICOM) Heads of Government, recommended widening the Caribbean Community and developing a Single

¹ Roy Balleste, Technology Trends in Law Libraries in Law Librarianship in the Twenty-First Century edited by Roy Balleste, Sonia Luna-Lamas and Lisa Smith-Butler. Lanham, Maryland: The Scarecrow Press, Inc. 2007, page 147.

² Rose-Marie Belle Antoine, Introduction: *The Anatomy and Context of Commonwealth Caribbean Law and Legal Systems*, 29 **Nov L. Rev.** 2005, page 142.

³ The English speaking countries are Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts and Nevis, St Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago.

Market and Economy as well as establishing a Caribbean Supreme Court with original jurisdiction to adjudicate disputes among Member States on economic integration; together with an appellate jurisdiction hearing appeals from domestic appellate courts.⁴ This led to the signing of the Revised Treaty of Chaguaramas (The Revised Treaty) in 2001 establishing the Caribbean Community,⁵ the CARICOM Single Market and Economy (CSME), and the Caribbean Court of Justice (CCJ) which serves as the adjudicatory body for matters arising out of the Treaty.

The Caribbean Court of Justice (CCJ)

Only the original jurisdiction of the CCJ is established by the Revised Treaty. The CCJ is fully established by the Agreement Establishing the Caribbean Court of Justice (The Agreement), which provides for both an original and appellate jurisdiction. In addition, the operational matters such as the establishment, authority, and running of the Court are provided for in the Agreement.

On February 14, 2001 the Agreement was signed by the CARICOM states of: Antigua and Barbuda, Barbados, Belize, Grenada, Guyana, Jamaica, St. Kitts and Nevis, St. Lucia, Suriname, and Trinidad and Tobago.⁶ Dominica and St. Vincent and the Grenadines, signed the agreement on February 15, 2003, bringing the total number of signatories to twelve. Haiti and the Bahamas, though members of CARICOM, have not signed the Agreement. Montserrat, because of its status as a British Overseas Territory, is in an unusual position. Unlike Haiti and the Bahamas, Montserrat is willingly to sign but is constrained by its lack of independence and

⁴ The Hon. Mme. Justice Désirée P. Bernard, O.R., C.C.H., the Caribbean Court of Justice: A New Judicial Experience.

⁵ Member states of the Caribbean Community include the original English-speaking countries: Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts and Nevis, St Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago as well as Dutch speaking Suriname which joined in 1995. Haiti later joined in 2002. This was in keeping with the intention to deepen and widen the integration movement.

⁶ <http://www.caribbeancourtjustice.org/> (follow "About the Court" hyperlink).

must await Letters of Entrustment from the United Kingdom in order to ratify. The Caribbean Court of Justice was inaugurated on April 16, 2005 in Port of Spain, Trinidad and Tobago, which is the seat of the Court.

The CCJ, as the judicial organ of CARICOM⁷, has a dual function to perform within the Community. Uniquely, it is both an international court with an original jurisdiction applying rules of international law in the interpretation and application of the Revised Treaty and a final appellate court ultimately determining the domestic law of a CARICOM State.

Jurisdiction of the Caribbean Court of Justice (CCJ)

Appellate Jurisdiction

In the appellate jurisdiction the Court is intended to replace the Judicial Committee of the Privy Council in London as the highest appellate court for the common law member states of CARICOM. Although the Agreement was signed by nearly all of the Member States of the Community, only two of those States, Barbados and Guyana, have enacted the required domestic legislation to access the Court. For the other states, there are a number of constitutional requirements that must be addressed in order to accede to the appellate jurisdiction of the CCJ. For some states referenda in addition to a qualified majority vote⁸ in Parliament will be required, and in others, a qualified majority vote in parliament.⁹ For Barbados and Guyana, the CCJ operates as the final Court of Appeal in respect of all civil, criminal and constitutional matters. For Barbados, the CCJ replaces the Privy Council as its final Court of Appeal, and for Guyana,

⁷ Sheldon McDonald, **The Caribbean Court of Justice: Enhancing the Law of International Organizations**, Kingston: The Caribbean Law Publishing Company Ltd, 2005, page 29.

⁸ A qualified majority vote in parliament would require the support of opposition parties.

⁹ Cheryl Thompson-Barrow, **Bringing Justice Home: The Road to Final Appellate and Regional Court Establishment**, London: Commonwealth Secretariat, 2008, page 30.

which had its own Court of Appeal, creates for the first time a third tier since they delinked from the Privy Council in 1970.

Original Jurisdiction

In its original jurisdiction, the Caribbean Court of Justice is the institutional centerpiece of the CSME¹⁰ and so all Member States have to access the CCJ in this jurisdiction. The CCJ has compulsory and exclusive jurisdiction to hear and determine disputes concerning the interpretation and application of the Revised Treaty including:

- a. Disputes between Member States to the Agreement;
- b. Disputes between Member States parties to the Agreement and the Community;
- c. Referrals from national courts of the Member States parties to the Agreement;
- d. Application by persons in accordance with Article 222¹¹, concerning the interpretation and application of this Treaty.

The Court also has exclusive jurisdiction to deliver advisory opinions concerning the interpretation and application of the Treaty at the request of any Member State or the Community.¹²

In the exercise of this jurisdiction, the Court applies relevant rules of international law or decides a dispute *ex aequo et bono* (in the interest of justice).¹³ The Court is also disallowed from refusing to make a decision on the grounds of silence or obscurity of the law.¹⁴ It cannot make a finding of non liquet as generally available to tribunals established by treaty. The CCJ

¹⁰ Duke Pollard. *The Original Jurisdiction of the Caribbean Court of Justice*, Lecture delivered at the Thirtieth Course of International Law, Brazil, 18 – 19 August 2003.

¹¹ Revised Treaty of Chaguaramas Establishing the Caribbean Community including the CARICOM Single Market and Economy. Georgetown, Guyana: Caribbean Community Secretariat, 2002, Article 222 “Locus Standi of Private Entities” outlines the conditions under which private entities may be allowed to appear as parties in proceedings before the Court in its original jurisdiction.

¹² Agreement Establishing the Caribbean Court of Justice (2001), Article XII.

¹³ Ibid, Article XVII.

¹⁴ Ibid, Article XVII.

must make a decision. The law of the Community needs to be fleshed out and the best way for this to happen is to have all the possible cases decided.¹⁵

Judgments of the Court are legally binding precedents for parties in proceedings before it. While the Revised Treaty provides for the application of stare decisis, it also provides a mechanism in the Treaty for the CCJ to revise its judgments.¹⁶ As Sheldon McDonald posits, this means from the outset that all Member States, Community Organs and Bodies, as well as natural and legal persons operating within the CSME, are bound by all its judgments, orders, etc., and have to think twice about ignoring Advisory Opinions. Since there is no appeal from any determinations the CCJ makes; it has been argued that the adoption of stare decisis, which is not a doctrine of international law, provides consistency and certainty in its decisions.¹⁷

The CCJ has exclusive jurisdiction on Treaty matters, so if a national Court of a Member State has to adjudicate on an issue which involves the interpretation or application of the Treaty, and considers that a decision on the issue is vital to enable it to deliver judgment, the national court must refer the issue to the CCJ for determination before delivering judgment.¹⁸ This ensures that any questions relating to its operation and interpretation of rules are accorded consistent elucidation since these will be removed from national jurisdictions. The implications of this will not only afford uniformity of interpretation and the level of respectable assurances necessary for investment and development in the region, but will nurture the true development of a regional Caribbean jurisprudence.¹⁹

¹⁵ Weston Edison, *The Caribbean Court of Justice: An Institution whose Time has Come*, 8 **Chi-Kent J. Int'l & Comp. L.** page 166

¹⁶ *Ibid*, Article XX of the Agreement.

¹⁷ See Note 7 *supra*, page 40.

¹⁸ See Note 10 *supra*, Article 214.

¹⁹ See Note 7 *supra*, page 39.

The original jurisdiction of CCJ has the full support of all the Member States of CARICOM that signed the Revised Treaty and are parties to CSME. As Article XVI of the Agreement states “the Member States agree that they recognize as compulsory, ipso facto, and without special agreement, the original jurisdiction of the Court.”

JUDICIAL SYSTEMS OF CARICOM MEMBER STATES

The legal systems of most of the CARICOM Member States are based largely on the common law legal tradition, one of the legacies of British colonialism. However, some of these member states were governed by more than one imperial power and even though they were finally colonized by Britain and received the common law of that country, they nevertheless retained some aspects of the law of the other imperial powers. Guyana, which had a Dutch colonial past, still applies Roman-Dutch law in the law of real property; and St Lucia, with a French colonial past still uses the French Civil Code, which has resulted in a “legal mix” of common law and civil law. Suriname’s and Haiti’s legal systems are based on Dutch and French civil law respectively.

IDENTIFYING THE PROBLEM

The Library of the CCJ was established in February 2005 to provide access to information consistent with the present and anticipated research needs of the Court. The Library supports the information needs of the Court and the practicing bar in the contracting member states of the Caribbean Community. It aims:

- To provide adequate and timely legal information to the judges and staff of the Caribbean Court of Justice and to the legal profession throughout the Caribbean Community, in the

form most comprehensible to all types of users; bearing in mind that ready and convenient access to such information is vital to the efficient functioning of the Court;

- To collaborate with existing organizations to maximize the delivery of legal information and to avoid costly and ineffective duplication; and
- To use information technology to deliver legal information wherever appropriate.

The provision of high quality judicial library services is indispensable to the efficient functioning of the Court in the dual jurisdictions it has assumed. The establishment of the library comes in an era when the lawyer's tools are no longer restricted to the traditional textbooks, law reports and other specialized sets. Technological developments are having a major impact on the development of law library collections and the delivery of library services. CR-ROMs and online data bases are now standard features within any serious judicial library facility.

There are peculiar challenges confronting those charged with the responsibility of collection development for the library to serve the court. On the appellate side, Barbados and Guyana are the only two states which use the CCJ as the final court. It is uncertain if and when, and in what capacity other states will accede to this jurisdiction.

The range of material to be selected for the appellate jurisdiction can on a narrow basis be selected with the present constraint in mind. However, such a narrow approach can be faulted on two grounds. First, it cannot be assumed that other countries will not accede; secondly, the Court must have, if it is to discharge its function effectively, a wide array of pertinent material at its disposal. Therefore, material is required from throughout the common law world.

Proceeding on the assumption that all, or a majority, or just some of the member states of the Caribbean Community will ultimately accede to the appellate jurisdiction, there is a need to

have a selection of material that addresses the peculiar features of the Roman-Dutch system in Guyana, the Napoleonic code in St. Lucia and the civil law principles on which the Suriname's legal system is based.

The Court is an itinerant court and can therefore sit in any other Member State. Library services in some of these States are good, in some average, and in others nonexistent. There are law libraries with good collections in the major states of Barbados, Jamaica, and Trinidad and Tobago. The University of the West Indies Faculty of Law Library in Barbados is the premier law library in the Commonwealth Caribbean. The Norman Manley Law School in Jamaica, and the Hugh Wooding Law School in Trinidad, have good collections and attorneys-at-law are allowed access. The Judiciary of Trinidad and Tobago has the best court library in the region. Court libraries in Barbados and Jamaica have good collections but they are not always up-to-date because of budgetary cuts. In most of the other jurisdictions, there is a basic collection of legal material, but many of them are not up-to-date because they do not have a separate budget line to maintain the collection, and fall under the general budget of the Court. Therefore, it is important that the CCJ Library develops collections in all formats to meet the research needs of the Court. Suriname's position is unique, the majority of its legal literature is in Dutch and this material will have to be translated, if it is to be accessible.

The provision of material to meet the needs of the Court in its Original Jurisdiction in dealing with the myriad trade and competition issues likely to arise out of the interpretation of the Revised Treaty of Chaguaramas also constitutes a serious challenge. These are relatively new areas of law. The Court will have to rely heavily on the jurisprudence of other international tribunals concerned with the interpretation and application of regional economic movements

especially the courts of the European Community. The Library will be the main resource in the region for all these new areas of law.

Thus the Library's mandate will be to maintain a comprehensive collection of materials that will serve the needs for current legal information and legal research. The collection will emphasize and be responsive to the practice and interpretation of the law.

This project seeks to identify the resources required to develop the collection of the Library to serve the CCJ. It examines the research and information needs of the judges and other library users. It also looks at the collection development priorities and standards for court libraries, and the tools and policy guidelines for building an international law collection. The collection of law libraries of Member States will be evaluated to see what resources are available. Recommendations will then be made based on what is needed, what is available, and in what format.

LITERATURE REVIEW

To identify the information needs of the Court, the author reviewed literature on areas of law most likely to be addressed by both jurisdictions of the Court. Material on collection development, and standards for courts in the Caribbean, United States, and Canada were also reviewed.

Collection development refers to the process of systematically selecting, acquiring and maintaining information resources to serve the needs of the library's patrons and parent institution. The process "includes selection and deselection of current and retrospective materials, the planning of strategies for continuing acquisitions, and the evaluation of collections to determine how well they serve user needs."²⁰

James Heller, a collection development specialist, states that the most important guideline when determining what a library's collection should have is that it meets the needs of its users.²¹ A library's mission statement is an essential starting point for this determination since it reflects what the organization is, who it serves, what it does and what it can accomplish. All decisions regarding selection, acquisitions, and removal of materials from a collection must ultimately be traceable back to the library's mission, which at its core, will support the legal information needs of the institution and its patrons.²²

Today, legal and law related information is available in basically three different formats:

²⁰ Julius J. Marke, **Legal Research and Law Library Management** 2nd ed. New York, New York: Law Journal Press, 1990 (2009), page 3-5.

²¹ James S. Heller, Collection Development, Licensing, and Acquisitions in Law Librarianship in the Twenty-First Century edited by Roy Balleste, Sonia Luna-Lamas and Lisa Smith-Butler. Lanham, Maryland: The Scarecrow Press, Inc. 2007, page 89.

²² See Note 14 supra, pages 3-9.

printed, compact disc (CD-ROM) and online, (on the Internet).²³ The access to, and dissemination of legal information was revolutionized from the 1970s with the advent of LEXIS, a full-text on-line legal database providing a plethora of legal information, as well as other databases, such as Quicklaw (1967), and Westlaw (1975).²⁴ This revolution continued with the application of optical disc technology such as the CD-ROM in the 1980s which allowed access to legal information with the ability to search related documents and cross references without having to incur charges of going on-line to the databases. This was followed by the Internet in the 1990s.²⁵

The advent of widespread Internet access saw a proliferation of web sites offering access to legal information for free. By 1992, the first legal information network, Cornell's Legal Information Institute, was providing legal information on the World Wide Web. This was followed by others such as AustLII, the Australasian Legal Information Institute in 1995, BailII, the British and Irish Legal Information Institute in 2000, CanLII, the Canadian Legal Information Institute in 2000 and WorldLII, the World Legal Information Institute, a collaborative network of Legal Information Institutes and Law Schools in 2002. In 2005, CommLII, the Commonwealth Legal Information Institute was launched. These networks provide core legal information – case law, legislation, treatises, law journals and law reform reports - from various countries and territories. As stated by Justice Michael Kirby, these databases are essentially the foundations of the common law in all the countries that share their

²³ **BIALL Handbook of Legal Information Management** edited by Loyita Worley Aldershot, Hants: Ashgate, 2005, page 77.

²⁴ Joan Brathwaite, **The Provision of Legal Information in the Commonwealth Caribbean with Specific Reference to the UWI/USAID Caribbean Justice Improvement Project: Legal Imperialism or West Indian Legal Liberalization?** Aberystwyth: University of Wales, 2003, page 21.

²⁵ *Ibid*, page 22.

roots in the English legal system. They will be of great assistance to the Court in researching the law of these territories.

In the Caribbean, several court web sites have been launched and access to court decisions and legislation are available, and at least one Parliamentary web site can be assessed for a variety of different types of information. In 2003, the Caribbean Law Database, Carilaw, hosted by the Faculty of Law Library and providing access to over 20,000 unreported court decisions from throughout the region was launched.²⁶ These databases, with the exception of Carilaw, form part of the Commonwealth Legal Information Institute.

A major collection development focus in any law library is the management of information in multiple formats and the need to balance print and electronic collections²⁷. This means choosing between formats or maintaining the same information in multiple formats. While many of the new databases and online services provide added value over print resources, many libraries cannot afford a subscription to both digital and print. In addition, many electronic resources are available only for license rather than purchase, thus the Library must also look at providing the means to access the content of these resources. Not only are there more nonprint materials, the print materials are also changing format – e.g., hard-bound treatise to loose leaf, so that more titles are supplemented.²⁸ In legal publishing, supplementation is becoming more frequent. As a result, supplemented titles' annual updating cost is often twice the cost of the original set. Eric Low recommends reducing these high supplementation costs by implementing a write-for-order system for the purchase and/or repurchase of loose leaf materials.

²⁶ Ibid

²⁷ Margaret Maes Axtmann. *The Best of Times, the Worst of Times: Collection Development in the 21st Century*, 6 **AALL Spectrum** 2001-2002 page 6.

²⁸ **Loc. Cit.**

Although, there is a continuing reliance on print for certain types of legal information such as monographs, Westlaw, Lexis and a number of other publishers have an increasing number of their treatises in their online databases. However, the Library will have to answer several questions in deciding whether to substitute electronic for print: (1) Can the library afford the updates? (2) Are the electronic versions easy to use, download, and print? and (3) How confident is the Library that the materials will remain online?²⁹ In the Caribbean, where older editions are often needed, the Library will need to know whether the vendor provides access to older editions. In addition, several universities and other centres provide specialist collections of materials in areas such as constitutional law, trade law, the law of the sea, and human rights, and there are texts to more than 200 journals on the internet.³⁰ A number of resources are also available on CD-ROM. However, unless CD-ROM resources are used on a frequent basis, they may not be cost-effective sources of legal information.³¹ There are also problems in using them to archive material. No one knows the life expectancy of CD-ROMs and they should be used to replace low-use, space-consuming sets of legal materials that can be easily replaced; they should not be used to archive materials that would be difficult to duplicate.³²

While access to primary materials for United States, Canada, Great Britain, etc. is available through Westlaw and Lexis and freely on other web sites, this is not so for the Caribbean and law libraries must still maintain print collections of these materials. Since court libraries tend to have a very strong collection of the law of their state, including both primary and secondary materials, the CCJ must ensure that these materials from all the CARICOM states are

²⁹ See Note 14 *supra*, page 101.

³⁰ See Note 23 *supra*, page 24.

³¹ Erick B. Low. **The Prince William County Law Library Observations and Recommendations: Technical Assistance Final Report**, March 4, 1992 page 22.

³² **Loc. Cit.**

available, because they are the fundamental resources around which the Library will build its core collection.

However, access to Westlaw, Lexis as well as Hein-On-Line is critical and cost effective.³³ The content of these databases is kept very current and they provide access to a large number of law reports, journals, newspapers, certain digests, as well as other law-related material. In fact, Westlaw's online digest covers more cases than the print version.³⁴ Access to these databases conserves valuable stack space, and they provide an excellent means of supplementing hard copy collections by permitting access to infrequently used resources that are not cost-effective to purchase. Erick Low states that one of the most cost-effective uses of online databases is to consult them to update information in treatises, loose leaf services, journals, and even CD-ROM resources, which are updated on a quarterly or monthly basis.³⁵ In addition, the increasing number of PDF's of decisions and articles published in Westlaw and Hein-On-Line give libraries more flexibility in deciding how to balance their collections between print and electronic formats.³⁶

Therefore, while online technology will provide a fundamental baseline for research platforms of future law libraries, certain print collections will always be needed and should be retained as part of the library's holdings as a balance against countless deficiencies inherent in today's electronic media.³⁷ Books become a permanent part of a collection, and, unlike CD-ROM and online services, do not carry any restrictions on multiple uses or multiple users.³⁸

³³ Edmund P. Edmonds, Margaret Maes Axtmann, A Law Library in the New Century: The Creation of the University of St. Thomas Law Library in Law Library Collection Development in the Digital Age, editors: Michael Chiorazzi and Gordon Russell. New York: The Haworth Information Press, 2002. Co-published simultaneously as Legal Reference Quarterly, Volume 21, Numbers 2/2 and 4 2002, page 183

³⁴ See Note 15 *supra*, page 99

³⁵ See Note 23 *supra*, page 21.

³⁶ **Loc. Cit.**

³⁷ *Ibid*, pp. 3-48.

A review of the literature on court standards reveals a core collection for all court libraries in any jurisdiction. The interpretation of these standards require that the collections be complete, current, and in sufficient quantity or with sufficient access to meet patrons needs.³⁹ Velma Newton in her **Standards for Court Libraries** (1988) recommended that all court libraries in the Commonwealth Caribbean should provide series of primary materials, journals and treatises relating to the particular jurisdiction. She listed the following core material:

- Primary Legal Materials

1. Up-to-date sets of statutes and subsidiary legislation of the jurisdiction;
2. Copies of the Court Rules of the state, with all amendments;
3. Up-to-date sets of the West Indian Reports and national report series such as the Jamaica Law Reports;
4. Organized and indexed sets of unreported decisions of the courts of the state;
5. Law reports both of a general and specialized nature of England, Canada and other Commonwealth countries which had a legal history similar to the Commonwealth Caribbean.

- Reference Books

A collection of up to date reference works including legal encyclopedias, digests, form books and dictionaries.

- Textbooks and Treatises

Books published on any aspect of law relating to the Commonwealth Caribbean should be purchased, along with standard English texts and treatises. Newton

³⁸ **Loc. Cit.**

³⁹ See Note 15, **supra**, page 111.

pointed out that older editions may be more relevant to some aspects of law in the region than the newer ones, and that in such cases the older editions should be acquired as well as or instead of the newer.

For book stock selection, Newton recommended her publication **Commonwealth Caribbean Legal Literature** (1987) and **the Standards for Law Libraries** published by the British and Irish Association of Law Librarians in 1984. At present, these standards are in revision.

- Periodicals

West Indian Law Journal and any other legal periodical published in the region, and a few leading English periodicals. Generally, she did not recommend a large periodical collection for practitioners.

- Law Reform Committee Reports

Usually not needed by practitioners, but can be useful in that they are often the only place in which background information on legislation can be found. Court libraries could acquire some of those published in Commonwealth countries.

However, Newton stated that the titles held, and the size of the collection will be influenced by the number and needs of users, physical size of library and most of all, by availability of funds.

The list of materials recommended as the core of a strong appellate court library print collection in the American Association of Law Libraries (AALL) **Appellate Court Libraries & State Libraries Standards** (March 2005) was more detailed than Newton's and included administrative materials from the various states as well as finding aids such as citators and other

secondary resources. These Standards were issued as guidelines for appellate courts to follow, to assure that their law libraries have high quality collections.⁴⁰

The Canadian Courthouse and Law Society Library Standards (1998) provides guidelines for court libraries to take into consideration in providing a relevant, dynamic collection of materials in various formats to service the court library's main clientele. These include the same list of materials enumerated in the above two standards as well as the format of these materials.

It states that:

1. The collections of the court library should be held in the format, or combination of formats, that best serves the needs of its users and the administration of justice in that jurisdiction/region/area.
2. It is for the court librarian to determine within the general framework of these standards, what mix of formats - paper, remote online databases, in-house databases (CD-ROMS), microforms to select.
3. Material in frequent use should not be in microform.
4. The format of material chosen by a courthouse library will depend on several factors, which include but are not excluded to the following:
 - a. Degree of computerization in the library and its governing body;
 - b. The physical attributes of a particular electronic version, i.e., whether stand-alone or network versions are available, the operating system, the availability of archival disks, whether the item may be purchased outright or if licensing is the only possibility, and, whether it is compatible with the courthouse library's computer situation;

⁴⁰ American Association of Law Libraries, Appellate Court Libraries & State Law Libraries Standards, March 2005

- c. The quality of the electronic product and its ability to improve legal research;
- d. The availability of similar materials online and the accessibility by the courthouse library's user population;
- e. The availability of equivalent print materials in the courthouse library;
- f. Remote access for the branch or satellite libraries and the user population; e.g., cost of the item and/or its licenses.

The Caribbean Development Bank Report – Financing The Caribbean Court of Justice (August 2002), prepared by MCT and Associates Limited outlined the role of the Library as the designated access point for legal information to the Court.⁴¹ It indentified the potential users, the collection objectives and the role of the library in terms of the other libraries in the region. It saw the users as Justices of Appeal, legal and administrative staff, members of the Bar who appear before the Court and inter-library users.

Like Newton, its collection recommendations included:

Primary Material: Statutes of the Commonwealth Caribbean including subsidiary legislation,

1. Bills and parliamentary papers.
2. Statues of the Commonwealth
3. Law Reports of the Commonwealth Caribbean
4. Law Reports of the Commonwealth
5. Unreported judgments of the Commonwealth Caribbean

Secondary Material:

1. Legal Encyclopedias
2. Legal Forms

⁴¹ MCT & Associates Ltd, Caribbean Development Bank, **Financing the Caribbean Court of Justice – Final Report**, August 2002.

3. Digests and Indexes
4. Dictionaries
5. Legal Periodicals
6. Textbooks and treatises - major legal texts on Caribbean Law and from other commonwealth countries.

On-line Access to Internal and External Databases:

1. LexisNexis
2. Westlaw
3. Internet/Intranet facilities for Judicial and Legal staff of the Court

The Report also dealt with the state of other libraries in Trinidad and Tobago, the seat of the Court, as well as libraries in other Member States. It identified the libraries with good collections such as the court libraries in Trinidad, Barbados and Jamaica and the libraries at the Norman Manley Law School in Jamaica and the Hugh Wooding Law School in Trinidad, as well as the collection at the Faculty of Law in Barbados which compares favorably to other leading law libraries in world. Also identified were law libraries in close proximity, with general or specific legal collections that the resources can be shared. It was recommended that the CCJ Library should be given legal sanction, which would enable collections/or smaller libraries to be established in the Member States. This would enable the Court to adopt policies for the establishment of a system of law libraries; these policies would also include the minimum collection standards and provide professional management of the libraries.

APPELLATE JURISDICTION

It has been argued that the concepts of constitutional, public and international law will form the jurisprudential core of the CCJ in its appellate and original jurisdiction respectively and

will require clear articulation. Thus the Court will require legal material from England and other common law countries, as well as the Caribbean.

Saunders in **the Caribbean Court of Justice and the Legal Profession: Promoting our Caribbrisprudence**⁴² notes that the CCJ is not bound by the determinations of the Judicial Committee, but this does not mean that it intends to disregard their precedents. In the promotion of Caribbean jurisprudence, the Court shall naturally consider very carefully and respectfully the opinions of the final courts of other Commonwealth countries and particularly, the judgments of the Judicial Committee of the Privy Council which determine the law for those Caribbean states that accept the Judicial Committee as their final appellate court.⁴³ Access to judgments of Member States will also be very important to the development of this Caribbean jurisprudence. Most judiciaries have websites on which they place their judgments. However, there is great value in being able to access a single source from which one can get all unreported Caribbean judgments. CARILAW, the online database of the Faculty of Law Library Barbados, comes closest to filling this need and it is a reservoir of Caribbean materials and judgments.⁴⁴

Saunders lists a number of truly outstanding Caribbean legal texts that are a wonderful source of Caribbean material. Lloyd Barnett, Dana Seetahal, Rose-Marie Antoine, Albert Fiadjoe, Margaret Demerieux, and many others have all written excellent legal texts. In addition there are many scholarly pieces by Caribbean Professors such as Professor Emeritus A.R. Carnegie. They all make a profound contribution to the development of Caribbean jurisprudence.⁴⁵

⁴² Adrian Saunders, **The Caribbean Court of Justice and the Legal Profession: Promoting our Caribbrisprudence**, Address to the OECS Bar Association, Grenada, 2007, page 8.

⁴³ Ibid page 13.

⁴⁴ Ibid, page 13

⁴⁵ **Loc. Cit.**

At present, Suriname and Haiti do not access the appellate jurisdiction of the CCJ because of their civil law systems. Pollard in **The Caribbean Court of Justice: Closing the Circle of Independence** points out that the differences in the civil law systems will raise specific issues if and when these states opt to become members of the Court in this jurisdiction.⁴⁶ However, he notes that should they access the appellate jurisdiction, the Supreme Court of Canada as the court of last resort for both common law and civil law jurisdictions of Canada will provide an excellent precedent for the Caribbean Court of Justice.⁴⁷

ORIGINAL JURISDICTION

There is no Privy Council or other international precedents here to adopt, discard or massage. The CSME jurisprudence starts with a blank slate.⁴⁸ However, many of the provisions of the Revised Treaty of Chaguaramas derive from the European Union treaties. There is, of course, a considerable body of case law of the European Court of Justice (ECJ).⁴⁹

Sheldon McDonald is also of this view. He states that there is almost no jurisprudence indigenous to the Caribbean Community and as a result, the CCJ will have to rely heavily on the jurisprudence of other international tribunals concerned with the interpretation and application of the constituent instruments of regional economic integration movements and to a lesser extent, on tribunals with wider membership concerned with general international law or international law in a specific context.⁵⁰ These tribunals include:

⁴⁶ Duke Pollard, **The Caribbean Court of Justice: Closing the Circle of Independence**, Kingston: The Caribbean Law Publishing Company Ltd, page 154.

⁴⁷ Ibid, page 66.

⁴⁸ See Note 34 *supra*, page 8.

⁴⁹ Ibid, page 8.

⁵⁰ Sheldon McDonald, *Signposts to the Development of Judicial Institutions in the Caribbean Community: The Advisory Opinion Jurisdiction and the Referral Procedure of the Agreement Establishing the Caribbean Court of Justice*, **Caribbean Court of Justice - Issues and Perspectives**, Vol. 1. Georgetown, Guyana: CARICOM Secretariat, 2001, page 1.

- The International Court of Justice
- The International Tribunal for the Law of the Sea
- The Dispute Settlement Body of the World Trade Organization
- The Court of Justice of the European Communities and the Court of First Instance of the European Communities
- The European Free Trade Area Court
- The Court of justice of the Andean Community
- The Central American Court of Justice
- The Court of Justice of the Common Market for eastern and Southern Africa
- The Judicial Tribunal of the Economic Community of West African states.

McDonald in **Signposts to the Development of Judicial Institutions in the Caribbean Community: The Advisory Opinion Jurisdiction and the Referral Procedure of the Agreement Establishing the Caribbean Court of Justice** states that the relevance of each for the work of the CCJ will vary. The tribunals which treat with Developing Country disputes will be of importance from the point of view of how they apply the law flexibly, given the levels of development of the participants. The Dispute Settlement Body of the World Trade Organization (WTO) will assist in the interpretation and application of universal trade law norms in a non-sympathetic context. The International Court of Justice and the International Tribunal for the Law of the Sea will be able to give guidance in terms of general international law, and the law of the sea.⁵¹

However, McDonald points out that the potentially greatest contributors to the growth and development of the new and still emerging legal order of the Caribbean Community will be the European Court of Justice, and the Court of First Instance of the European Communities. Also of relevance will be the Court of the European Free Trade Area.

⁵¹ **Loc. Cit.**

Delano Franklyn sees the CCJ playing a critical role in ensuring legal certainty in the Community and the CSME and in this respect is a regional commercial court, which adjudicates on trade and CSME matters that cannot be resolved at the diplomatic and political levels. The CCJ will have to adjudicate upon the following critical areas:

- Rules of Origin
- Discriminatory import duties
- Application of export drawback schemes
- Quantitative restrictions
- Rules of competition
- Dumping and subsidies
- Rights of establishment and
- Free movement of services.⁵²

As a result, the CCJ will provide a vehicle for the expeditious and satisfactory resolution of a wide range of commercial disputes.⁵³ It will have a vital role to play in ensuring the efficient and smooth operation of the CSME.⁵⁴ De la Bastide sees the Court as having a role to play in protecting the guarantee given to the Member States and their nationals that the CARICOM Single Market will accord them free movement of goods, services, capital and the right of establishment of businesses. He expects many such issues of access to economic and social benefits to come before the Court.⁵⁵ He also sees room for judicial interpretation in areas

⁵² Delano Franklyn, **We Want Justice: Jamaica and the Caribbean Court of Justice**, Miami: Ian Randle Publishers, 2005, pages 24-25.

⁵³ Duke E. Pollard, *The Caribbean Court of Justice in Regional Economic Development*, Georgetown, **The Caribbean Court of Justice- Issues and Perspectives** (2001) Volume 1, Georgetown, Guyana: CARICOM Secretariat, 2001, page 20.

⁵⁴ See Note 49 *supra*, page 25.

⁵⁵ The Rt. Hon. Mr. Justice Michael de la Bastide, **The Caribbean Court of Justice as a Regional Court**, Presentation to the Central American Court of Justice, Nicaragua, (2007), page 8.

such as *locus standi* of private citizens before the Court and contingent social and economic rights and human rights. In this regard the jurisprudence of other regional courts would be of great assistance. It is also expected that in relation to the freedom of movement of persons, regional courts will have to deal with issues relating to health, housing and other contingent social and economic rights as well as the applicability of human rights in trade courts.⁵⁶

The Court will also address issues from the CARICOM Competition Commission which is established under Article 171 of the Revised Treaty to administer and enforce Competition Law within the region. The Commission is authorized to investigate claims and, where appropriate, issue instructions for corrective action with respect to the Determination of Anti-Competitive Business Conduct which is regulated by Article 175 of the Revised Treaty.⁵⁷ If an enterprise cannot comply with the time period specified [in the instruction] and fails to inform the Commission, the Commission may apply to the Court for an order.⁵⁸ “A party which is aggrieved by a determination of the Commission under paragraph 4 of Article 174 in any matter may apply to the Court for a review of that determination.”⁵⁹

There is no doubt from the literature reviewed that the CCJ in exercising its original jurisdiction, will deal with issues with respect to trade in goods and services generally, the free movement of capital, competition policy, inter-institutional disputes, disputes between Member States and the Organs and Institutions and disputes between regional organizations established by Inter-Governmental Agreements and the Community. In this regard, it will apply rules and principles of public international law, law of treaties, international trade and economic law,

⁵⁶ Ibid, page 10.

⁵⁷ See Note 7 *supra*, page 36.

⁵⁸ See Note 10 *supra*, Article 175, para. 11.

⁵⁹ Ibid, Article 175, para. 12.

international investment law and human rights law.⁶⁰ Thus the collection of the Library of the CCJ must contain material on these areas of law.

Mary Rumsey in **Going Global: Developing an Electronic Foreign and International Law Collection: Part 1** considers the extent to which libraries can and should use electronic databases to build international law collections. She notes that public international law deals with relations between sovereign nations, human rights, humanitarian law and international criminal law. She states that libraries that support research in this field must have treaty collections, yearbooks of international law, decisions of international tribunals, decisions of national courts on international law, documents of inter-governmental organizations, and scholarly commentaries on all the above.⁶¹ She points out that the availability of several major databases such as the United Nations Treaty collection; ODS, UN database of documents; UNBisnet index; UN's Yearbooks (1946 – 2005), key sources for tracking the evolution of a treaty or identifying key documents, has made it possible for a library to construct an international law collection primarily of electronic resources.

For access to treaties, LexisNexis and Westlaw each has excellent treaty collections. Canada, France, Australia, the United Kingdom and the United States make their treaties available free on the web. Also inter-governmental organizations such as the Council of Europe and the Organization of American States, and non-governmental organizations such as Hague Conference on Private International Law provide treaty databases. Current decisions of international tribunals can nearly all be found on-line for free. In addition, Westlaw and LexisNexis have created databases of International Court of Justice cases, WTO decisions,

⁶⁰ See Foreword to **The Caribbean Court of Justice - Issues and Perspectives-** (2001) Volume 1.

⁶¹ Mary Rumsey, *Going Global: Developing an Electronic Foreign and International Law Collection: Part I, Trends in Law Library Management and Technology*, 32, Vol. 18 2008, page 32.

NAFTA reports, decisions of the ICTY and the ICTR.⁶² For other key public international law resources, Hein Online Foreign and International Law Resources database is an excellent source. This should be complemented by access to International law reports which are available on Justis.

Rumsey further states that the final component for public international law research is commentary and this is the hardest to acquire electronically. Westlaw, LexisNexis, and Hein Online offer databases of law review articles, but serious researchers will also demand treatises – classics of international law and current monographs. Some of these treatises are available online Brill, Cambridge University Press and AspenKluwer. However, Rumsey notes that the key building block is the database of **Max Planck Encyclopedia of Public International Law, from Oxford University Press**, which should be in every public law collection.

Lesley Dingle states that international law in recent years has been become very specialized and fragmented. As a result there are now subjects such as international human rights law, international environmental law and international investments law. Like Rumsey, he has listed a number of electronic as well as print sources of international law needed to develop a collection.⁶³

Developing a collection for the CCJ's Library requires compliance with the international standards for court libraries. These standards dictate a strong collection of legal materials both primary and secondary in various formats. They recommend a core print collection of the law of the host state.⁶⁴ However, in developing a collection, there needs to be a balance between the print and electronic resources.

⁶² Ibid, page 33.

⁶³ Lesley Dingle, *Sources of Public International Law*, **Legal Information Management** 9 (2009) page 273. This article covers the major sources, both paper and electronic, of international law.

⁶⁴ See Note 38 *supra*, page

In the appellate jurisdiction, the Court will require legal material from the Caribbean and other common law countries. In the original jurisdiction, the Court will rely heavily on the jurisprudence of other international tribunals notably the European Court of Justice and the Court of First Instance of the European Communities. In this regard, it will apply rules and principles of public international law, law of treaties, international trade and economic law, international investment law and human rights law. As Sheldon McDonald points out the Revised Treaty provides fertile ground for the CCJ to develop an indigenous body of Community law.⁶⁵ Areas such as trade in goods and services, the free movement of capital, completion policy, inter-institutional disputes, disputes between Member States and Organs and Institutions and disputes between regional organizations established by Inter-Governmental Agreements and the Community qua Community will be addressed.⁶⁶ Access must be provided to these materials.

⁶⁵ See Note 7. **Supra**, page 35.

⁶⁶ *Ibid*, page 35.

METHODOLOGY

A combination of qualitative and quantitative approaches was applied. The qualitative methods involved the examination of source material such as books and articles written on the Court and its role, as well as the regulatory instruments which encompassed the treaty documents and legislation applicable to CARICOM and the Member States. This exercise also involved a longitudinal study comprising content analysis of existing statistical data on the status of laws within the Member States of the Community.

The quantitative methodology of the project was approached through the use of surveys via the distribution of two questionnaires and an interview. The Court Executive Administrator, Master Christie-Ann Morris-Alleyne was interviewed since she has responsibility for the administrative functions of the institutions and is also a qualified legal professional with knowledge of and experience with the operations and resource needs of both the Court and those of the CARICOM Member States.

Survey Instruments:

The first survey questionnaire was designed to determine the resources and legal collections in libraries in the CARICOM Member States, and the second to assess the needs and preferences of the users of the CCJ's Library and the adequacy of its collection.

Survey One: To determine the resources and collections that exist in the law libraries:

This survey questionnaire was administered to librarians and para-professionals in court, government, the CARICOM Secretariat and law school libraries in the various CARICOM Member States. The questionnaire consisted of seven questions. Questions 3, 4, and 5 dealt with the non Caribbean materials: access to online databases, types of material and from which

countries and the collection intensity levels in various subject areas. Additional comments were also solicited. The survey questionnaire is provided in Appendix A.

Before it was administered, the questionnaire was reviewed by three fellow librarians and then pre-tested by two others to determine whether the questions developed were understandable and capable of being answered by the different levels of persons who were in charge of the various libraries. Initially, the levels of collection intensity which were used proved to be problematic. Many of these libraries were government and court libraries and were unlikely to have collections that were inordinately strong in particular subjects.⁶⁷ The collection intensity levels were then modified.

Questionnaires were emailed to twenty libraries. Three libraries did not respond. Of these three, two did not have any library staff with one being manned by a judge's secretary. Eight questionnaires were self-administered, the others were administered by telephone. The questionnaires were administered over a two week period. Questionnaires were sent to the libraries in the Bahamas and Montserrat because they are members of CARICOM, even though they are not signatories to the Agreement Establishing the Court. No questionnaire was sent to St. Kitts and Nevis because there is no functioning law library.

The intent of the survey questionnaire was to use the data gathered to determine what is available and the currency of the collection in the law libraries in the various Member States.

Survey Two: An assessment of the needs and preferences of the users of the CCJ Library.

This survey questionnaire was administered to the users of the CCJ Library. These users included judges, judicial research assistants, staff, attorneys-at-law and members of the public.

⁶⁷ See Note 15, *supra*, page 92

The questionnaire was pre-tested on a judicial research assistant, two attorneys-at-law and two members of the public. Question 8 was modified and the column “do not know” was added. Many of the Library’s users come from outside of Trinidad and Tobago which is the seat of the Court, and in such cases information requested from the Library is emailed to them. In some cases, the information is obtained from outside of the Library, so some users may not be in a position to determine the adequacy of the Library’s collection in certain subject areas. This survey questionnaire is provided in Appendix B.

This questionnaire consisted of 10 questions. The questions sought to determine the needs of the users and to discover the various areas of research and whether these needs were met by the Library. Questions were also posed to address the preferred research format of the user, whether print or electronic, and within the realm of the electronic, the importance of resources such as Westlaw, LexisNexis, and free internet web sites.

Thirty questionnaires were distributed: twenty-one to attorneys-at-law and members of the public, five to judges, two to the judicial research assistants, and two to the Registrars. All of the questionnaires given to judges, judicial research assistants and Registrars were completed and returned. Of the other twenty-one questionnaires distributed, one member of the public and fifteen attorneys-at-law responded. Ten attorneys-at-law questionnaires were administered by telephone. Three of the attorneys who did complete the questionnaire did not consider themselves in a position to address the questions posed. Even though they had appeared before the Court on several occasions, they had only visited the Library once. Their use of the resources was restricted to one subject area, criminal law, and the information requested was always emailed to them. The other two attorneys could not be contacted.

The two survey questionnaires were distributed to all target groups and a two-week timeframe was given for the return of the questionnaires. The data was then entered on a computer for analysis.

Interview: Seeking Qualitative Information on her vision of the Library

An interview was held with Master Christie-Ann Morris-Alleyne, Court Executive Administrator at the Caribbean Court of Justice to determine her view of the Library's collection and services and her vision for the Library. Prior to her present post, Master Alleyne held a similar position at the Judiciary of Trinidad and Tobago and was head of the Court Administration Unit which was asked by CARICOM to provide information relative to the start-up operations of the Court (CCJ) as envisioned by CARICOM. As an active participant in the development of the Court, Master Alleyne is quite knowledgeable about its history and vision.

Master Alleyne was asked about:

- her use of the collection and any weaknesses that she could identify; as well as,
- her use of electronic and print resources.

The interview, which was approximately one hour in duration, then centered on the overall development of the Library. Apart from this interview, several discussions were held over the period of research.

FINDINGS

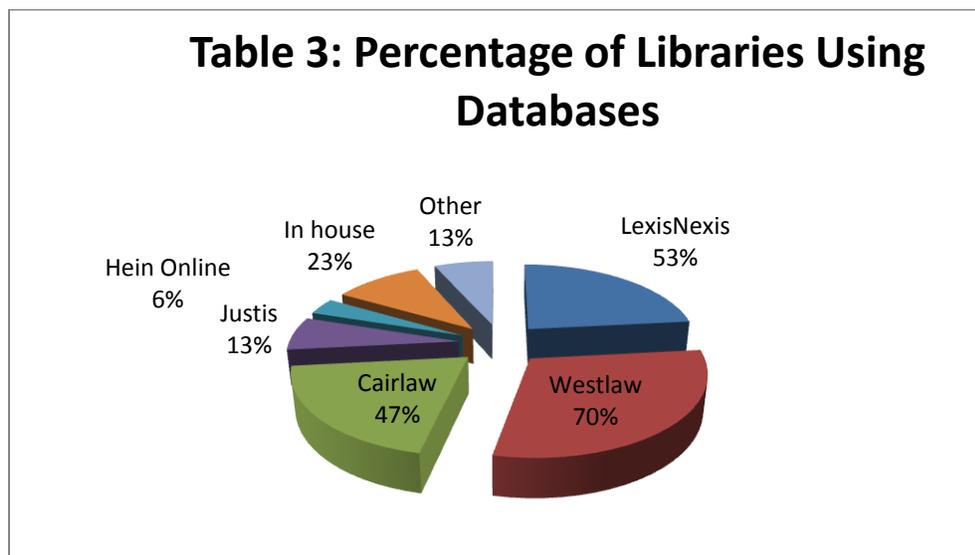
Survey 1

Twenty questionnaires were distributed and sixteen were returned. Of the sixteen returned, two were from Attorney-General libraries, two from government departments , two from law schools, nine were from court libraries and the other from the University of the West Indies Faculty of Law Library, Cave Hill.

Number of Surveys Distributed		20
Number of Surveys Returned	Attorney General	2
	Government Libraries	2
	Law School	2
	Law Faculty	1
	Court Libraries	10
Total Number of Surveys Returned		17

Thirteen of the libraries have access to electronic databases. Most of them, twelve or 70 percent have access to Westlaw and nine, or 53 percent to LexisNexis. Only 8 or 47 percent have access to Carilaw, the database of Caribbean primary materials. Four or 23 percent have in house databases. Only 1 or 6 percent subscribe to Hein Online. The libraries without access to any electronic databases were the court libraries of Guyana, Jamaica, and Antigua.

Databases	No of Courts
LexisNexis	9
Westlaw	12
Carilaw	8
Justis	4
Hein Online	1
In house	4
Other	2



Results showed that only the Faculty of Law Library in Barbados collected all Caribbean primary and secondary materials. Most libraries collect and keep up-to-date the legislation and legislative indexes of the host state. The Norman Manley Law School in Jamaica holds legislation for most states, but only keeps current legislation for those states which are in the Law School’s zone, as does the Eugene Dupuch Law School in the Bahamas. The Eastern Caribbean Supreme Court Library collects legislation for the Eastern Caribbean states.⁶⁸ However, none of the libraries has complete sets of legislation for each state.

⁶⁸ The Eastern Caribbean states are: Anguilla, Antigua and Barbuda, Commonwealth of Dominica, Grenada, Montserrat, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines and the British Virgin Islands.

All libraries except the two government libraries collect the unreported judgments from their state. The Faculty of Law Library, Barbados collects all the unreported judgments from the Commonwealth Caribbean jurisdictions and these can be accessed through its online database, Carilaw – the Caribbean Law Database of Judgments, Treatises and Legislation or directly from the Library. The Eastern Caribbean Supreme Court Library which is located in St. Lucia collects all the unreported judgments from its Member States and the two law schools, Norman Manley and the Eugene Dupuch collect the judgments from the states within their zone. Eight of the libraries access unreported judgments from the various Member States online through Carilaw. Unreported judgments for Barbados, Belize, the Eastern Caribbean States, Jamaica (a few) and Trinidad and Tobago can also be accessed through their Court’s website. Court Rules and other legal information are also available on some of these websites.

All of the libraries collect Caribbean textbooks, but some at a higher collection intensity than others. Thirteen collect periodical material. The Court Services Unit of the Judiciary of Trinidad and Tobago has the best Caribbean collection of periodicals and textbooks among the court libraries, followed by Jamaica. The Norman Law School in Jamaica and the Attorney General’s Library in Barbados also have good Caribbean collections. However, the Faculty of Law is the only library with an excellent Caribbean periodical and textbook collection.

With reference to the non-Caribbean materials, all libraries have holdings of law reports from the United Kingdom with some libraries having selected reports from India, Canada, Australia, New Zealand and the United States. These print collections are supplemented and enhanced by subscriptions to commercial databases such as Westlaw, LexisNexis and Justis. The periodical collection is enhanced by access to Hein Online.

In terms of publications, thirteen libraries produce Current Awareness Bulletins; four legislative indexes, two journals, and six bibliographies and digests. Law Reports are available for Jamaica, Guyana, Barbados, Belize, Trinidad and Tobago, Organisation of Eastern Caribbean States, Cayman Islands, Bermuda and the Bahamas. However, publication of a number of them has lapsed. Unlike other jurisdictions, only the Cayman Islands Law Reports is published annually. The only regional law report, the West Indian Reports, is available in all libraries, but in some libraries the series is not up-to-date. This series covers decisions from all of the Commonwealth Caribbean jurisdictions, and also includes those from the Caribbean Court of Justice. The other law report covering Caribbean decisions is the Law Reports of the Commonwealth. This series is available in most libraries.

The Faculty of Law Library produces the legislative indexes for eighteen Commonwealth Caribbean jurisdictions. Two states, Trinidad and Tobago and Belize as well as the Cayman Islands and Montserrat produce their own. Most libraries have the legislative index of the host state. The Court Services Unit of Trinidad and Tobago is the only court library that collects all of the legislative indexes for the eighteen Commonwealth Caribbean jurisdictions. The law schools collect for jurisdictions within their zone.

Summary of Survey1

The results show that the larger libraries especially the academic law libraries at the Faculty of Law Library in Barbados, the Norman Manley Law School in Jamaica and the Court Services Unit of Trinidad and Tobago have better collections, and provided more services. Some of the libraries have established websites and unreported judgments, legislation, Court Rules and other information can be accessed. At the Eugene Dupuch Law School, the focus of their collection development is on those titles which support the teaching goals for a very small

student population and because of budgetary constraints efforts to expand as a research collection is limited. The collections in other courts are irregular and need up-dating.

Summary of Survey 2

This survey sought information on the needs and preferences of the users of the CCJ Library and the adequacy of its collection. Results revealed users were generally satisfied with the collection, but felt it needed developing in some areas. CCJ judges, judicial research assistants and registrars, the main users, felt that the Library satisfied about 80 percent of their research needs. Materials which had to be sourced elsewhere were mainly older editions of textbooks and legislation from some Caribbean countries.

Table 4: Surveys Distributed by User

Survey Information		
Number of Surveys Distributed		30
Number of Surveys Returned	Public	1
	Judicial Research Assistants	2
	Staff	2
	Judges	5
	Attorneys	15
Total Number of Surveys Returned		25

In response to the questions on the preference of format for researching, six preferred print and nineteen electronic. Although five preferred electronic, for them format was not important.

Table 5: Format Preference for Conducting Searches		
	Print	Electronic
Public	1	0
Judicial Research Assistants	0	2
Staff	0	2
Judges	3	2
Attorneys	2	13
Total	6	19

Table 6: User Search Format Preference

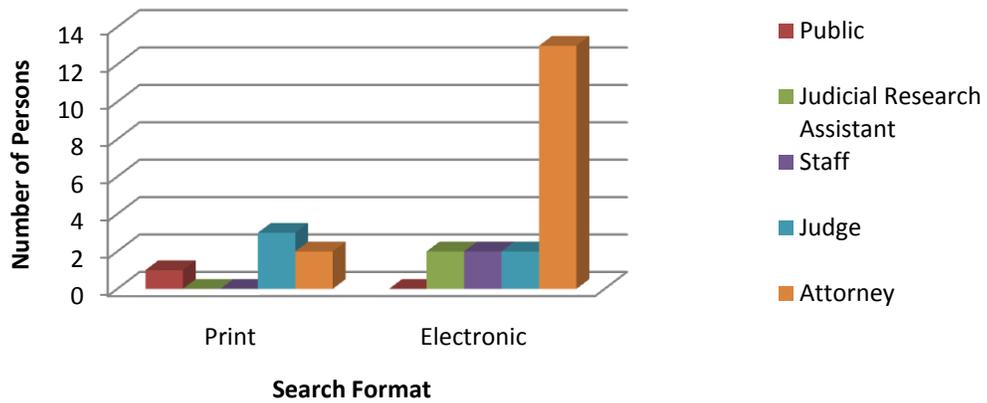


Table 7: Search Format Preference Total

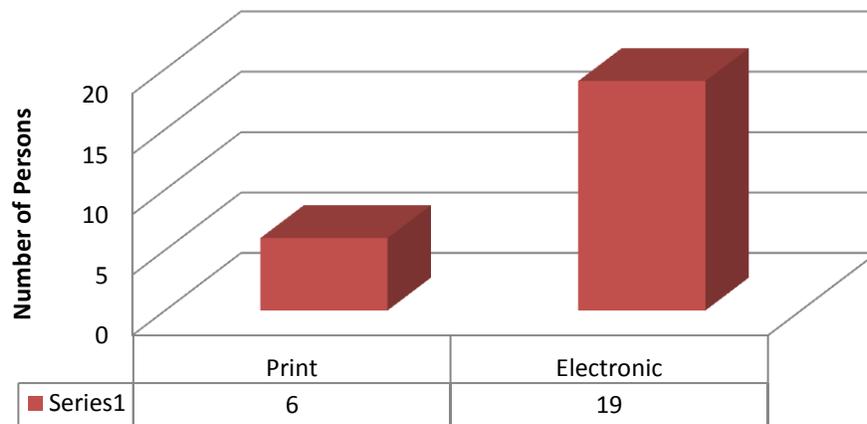


Table 8 below illustrates the importance of electronic databases. Westlaw and Bailii are identified as the two most essential databases for research. Eighteen considered Westlaw essential and six thought it was important. Sixteen thought Bailii essential and five important. Eight preferred LexisNexis and thirteen thought it was important. Three considered Carilaw essential and fifteen thought it was important. Two deemed courts website as essential and eleven as important. A fairly high proportion did not consider Justis, Justcite, the websites of regional parliaments and law commissions to be particularly important for their research needs.

Table 8: Importance of Electronic Resources for Conducting Research				
	Essential	Important	Not Important	Total
Westlaw	18	6	1	25
LexisNexis	8	13	4	25
Justis	2	6	17	25
Justcite	2	3	20	25
Carilaw	3	15	7	25
Reg'l Parliaments Website	2	4	19	25
Reg'l Courts Website	2	11	12	25
Bailii	16	5	4	25
Law Comm. Website	1	3	21	25

Most persons felt that the materials on the subject areas on which they conducted research were adequate. Areas recommended for improvement were Constitution Law, Administrative Law, Civil Law, Commercial Law, Competition Law and Treaty Law. Not all clientele singled out these areas. Of high importance for the respondents, was the demand for older editions of textbooks and Caribbean primary and secondary materials.

Interview with Master Morris Alleyne

Master Alleyne stated that the Library supported 85 percent of her legal research needs. Similar to other Library clientele, she highlighted the inadequacy of the older materials and some

Caribbean legislation. She also pointed out that the Administrative Law and Treaty Law materials were inadequate. The Library has a small Court Administration collection which she suggested needed enhancing. She preferred to use electronic resources but emphasized the need for a core print collection of primary materials from all Commonwealth Caribbean countries and major law reports from other Commonwealth countries. Master Alleyne noted that CCJ's Library must be the standard bearer for the court libraries in the Member States. In all of them, with the exception of Trinidad and Tobago, there is a continuing need to have more complete and up-to-date collections. She sees the Library as the premier institution in the region for materials on International Law, International Trade, Treaty Law and Competition, areas of law addressed by the Original Jurisdiction of the Court.

CONCLUSIONS AND RECOMMENDATIONS

The collections in most of the court libraries in the Member States need updating especially the law reports. In some libraries, this deficiency was corrected by subscribing to online commercial databases such as Westlaw and LexisNexis and using the free databases such as Bailii. In Jamaica, Antigua and Guyana, the libraries do not provide access to any of these commercial databases. There are no Internet services in the Libraries in Guyana and Jamaica. Guyana is a party to the Court in both jurisdictions and it is imperative that the CCJ's Library provides materials for its judges and its clientele in Guyana. There is an inadequacy of legal materials, especially new editions of treatises and monographs in most of these libraries. The collections have not been maintained at the level required to provide efficient and effective services to their clientele and many of the attorneys-at-law have to resort to the UWI Faculty of Law Library, Barbados for current materials. The main problem identified by this study is that many of these libraries do not have a budget line to maintain their collections and also libraries are considered very low priorities by many of these governments.

The CCJ's Library, as the information arm of the Court, has to provide the necessary resources for the Court to function efficiently in the two jurisdictions it has assumed. So far, it has started to build the core of materials which will form the collection with a balance in format between print and electronic. Access to Westlaw, LexisNexis, Carilaw, Hein Online and Justis have been provided.

RECOMMENDATION 1: Establish a core collection of primary and secondary legal materials for all CARICOM member states.

It is recommended that the Library maintains a print collection of primary and secondary materials from all Commonwealth Caribbean states. A court's library should provide a very

strong collection of the law of its state/jurisdiction including both primary and secondary materials. It should also collect primary and secondary materials from states that are close to it. The Library's state is the fifteen Member States of CARICOM and the other states closest to it are the five Associate Members of CARICOM⁶⁹ which share the same common law background. As noted in the literature review, the primary materials for most of these states especially the legislation are not all available in any database. Only the Revised Edition of the Substantive Laws of Belize, the Bahamas, Trinidad and Tobago, Barbados, Jamaica, Guyana, Antigua & Barbuda, Bermuda, and Montserrat are also available on the Internet.

Survey 1 revealed that most libraries in Member States collected legislation only for their state. Only the Faculty of Law Library, Barbados collected and kept up-to-date the legislation for all Commonwealth Caribbean States. Survey 2 revealed that these materials are most requested; some are not available in CCJ's Library and have to be obtained from the Faculty of Law Library, Barbados.

RECOMMENDATION 2: Comply with international standards for appellate courts.

Appellate Court Standards recommend that the Library maintains a print core collection of primary materials, journals and treatises relating to its particular jurisdiction. As Newton pointed out, in addition to core collection of primary and secondary Caribbean materials listed in Recommendation 1, these materials include secondary sources and law reports both of a general and specialized nature of England, Canada and other Commonwealth countries which have a legal history similar to the Commonwealth Caribbean. These materials are heavily used and must also be available in electronic format because the Court is an itinerant one and as Survey 1

⁶⁹ The five Associate Members of CARICOM are Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands and the Turks and Caicos Islands.

revealed in three of the major states, Antigua, Guyana and Jamaica, the libraries do not subscribe to any online databases. CCJ's jurisdiction also includes Suriname and Haiti, two countries with civil law systems. Most of their legal material is in Dutch and French and must be translated and made accessible.

RECOMMENDATION 3: Provide older/superseded legal materials.

Article 74(2) of the Revised Treaty provides that the Member States shall harmonise their laws and administrative practices. The Unit for Harmonisation of Laws, CARICOM Legislative Drafting Facility, in collaboration with the Chief Parliamentary Counsels of the region has produced draft model legislation to meet these objectives, but this is only in relation to certain subject areas.

In other areas such as property, bankruptcy, evidence, family and landlord, the legislation in many of these states is still outdated and weeded to early English statutory concepts in the first half of twenty century. The Commonwealth Caribbean does not have a strong publishing industry and 96 percent of its legal materials come from outside of the region especially from the United Kingdom. The superseded editions of the textbooks which address these areas of law are invaluable and are no longer published. They must be obtained from a second hand book dealer. The library must try to obtain copies of these publications. Arrangements have already been made with a secondhand book dealer to purchase these editions when they become available.

RECOMMENDATION 4: Maintain a balance between print and electronic sources.

Standards recommend that court libraries must maintain a core collection of primary and secondary sources in print. In the Caribbean where a steady supply of electricity is not a guarantee, this is highly recommended. As pointed out in the Literature Review, access to electronic sources is critical and cost effective and supplements hard copy collections by

permitting access to infrequently used resources that are not cost-effective to purchase. In addition, court libraries require the most current possible materials to ensure that they are following existing precedent and this level of currentness cannot be met by print, even with monthly updates, because of the time needed for the updates to be printed, mailed and filed.⁷⁰ However, there must be a balance between the print and electronic sources. It should be noted that many of the electronic resources are leased and not owned. As Edmonds points out materials that are leased from an electronic provider can disappear for any number of reasons. A library that owns a capital asset, a book or a piece of microfiche, can always provide access to that item as long as it remains in a useable state.⁷¹

RECOMMENDATION 5: Enhance the current collection.

Many of Survey 2 respondents suggested that subject areas such as International Law, Commercial Law, Treaty Law, Competition Law and International Trade need to be enhanced. These are areas addressed by the Original Jurisdiction of the Court. Within the realm of the original jurisdiction it is the responsibility of the Court to interpret and apply the provisions of the Revised Treaty of Chaguaramas.⁷² To this end it is therefore imperative that the Library, as the arm of the organization responsible with supplying this information, maintains materials such as treaties; texts and decisions of international tribunals. Such material provides guidance and functions as aids to interpretation as the Judges of the Court seek to resolve issues that come before them in this jurisdiction.

⁷⁰ Jonathan A. Franklin, *One Piece of the Collection development Puzzle: Issues in Drafting Format Selection Guidelines*, **86 Law Libr. J.** page 753.

⁷¹ Edmonds See Note, **Supra**, page 183

⁷² Article 211.

Recommendation 6: Write a collection development policy.

The structure of the CCJ is unique. It is the first court in the world which exercises both an appellate and an original jurisdiction. The Court functions as a domestic final Court of Appeal shared by several sovereign States (appellate jurisdiction) and an international tribunal designed to settle disputes between the same sovereign States and, more generally, disputes related to the Caribbean Community (original jurisdiction). Unlike other international tribunals, CCJ combines in its jurisdiction a competence to deal with domestic or municipal law issues of a civil and criminal nature.⁷³ This project examined the collection which the CCJ's Library is developing to service with these two jurisdictions. It highlighted the strengths and weaknesses of the Library's collection. It also examined the scope and nature of the collection of other libraries in the Member States to identify possible areas of resource sharing and cooperative acquisitions. The community which the Library serves was also examined. In terms of diversity of language, the Library's community is a multilingual one with languages comprising of English, Dutch and French. Countries such as Suriname (Dutch speaking) and Haiti (French speaking), maintain a civil law legal system. Guyana, which once had a Dutch colonial past, still applies Roman Dutch Law in the law of real property and Saint Lucia, with a French colonial past still uses the French Civil Code, which has resulted in a "legal mix" of common law and civil law. All of these elements must be considered when developing the collection of the CCJ's Library and should be captured in a policy document to guide the selection and acquisition processes. Therefore, it is recommended that a formal collection development policy should be developed which will provide important guidance for the focus of the library collection.

⁷³ Edwin Carrington, *The Challenges of Globalisation: The CARICOM Response – The CSME, The Caribbean Court of Justice and the Role of Public Servants within the Process*, Georgetown, **The Caribbean Court of Justice – Issues and Perspectives** (2001) Volume 1, page 5

APPENDIX A:

**COLLECTION DEVELOPMENT FOR THE CARIBBEAN COURT OF JUSTICE
LIBRARY**

QUESTIONNAIRE

1. Name of Library: _____

Address: _____

Tel. No.: _____

Fax.: _____

Email: _____

2. Year established: _____

3. Collection: _____

1. Types of material (please state quantity)

Books: _____

Law Reports: _____

Periodical Titles: _____

Databases

YES

NO

LexisNexis

Westlaw

Carilaw

Justis

Hein Online

In house

Other

2. Caribbean Materials (tick holdings)

	Legislation	Law Reports	Unreported Cases	Legislative Indexes	Monographs, etc.	Journals	Electronic /Database
Anguilla							
Antigua							
The Bahamas							
Barbados							
Belize							
Bermuda							
British Virgin Islands							
Cayman Islands							
Dominica							
Grenada							
Guyana							
Jamaica							
Montserrat							
St. Kitts and Nevis							
St. Lucia							
St. Vincent							
Suriname							
Trinidad and Tobago							

3. Non- Caribbean Materials

	Country	Print	Electronic Resource/Database
Legislation			
Law Reports			
Treaties			
Journals			
Secondary materials			

4. Please indicate the collection intensity level at which you collect material in the following subject areas.

Out of scope: Does not collect in this subject.

Level 1: Collects selected editions of major monographs both current and retrospective, a few journals and reference works.

Level 2: Collects a wide selection of the major monographs both current and retrospective, journals, and important reference works such as dictionaries, encyclopedias, etc.

Topic	Out of Scope	Level 1	Level 2
Administrative Law			
Administration of Trusts and Estates			
Admiralty and Maritime Law			
Arbitration and ADR			
Aviation Law			
Banking and Finance law			
Bankruptcy			
Civil Procedure			

Commercial Law			
Competition Law			
Consumer Law			
Constitutional Law			
Construction Law			
Contracts			
Copyright Law			
Corporations(Company Law)			
Criminal Law and Procedure			
Damages			
Education Law			
Employment Law			
Entertainment Law			
Environmental Law			
European Union Law			
Evidence			
Family Law			
Franchising			
Health and Safety			
Human Rights Law			
Immigration			
Income Tax			
Insurance Law			

International Law			
International Trade			
Internet/E-Commerce Law			
Landlord and Tenant			
Negligence			
Patent Law			
Procurement			
Product Liability			
Real Property			
Securities Law			
Sports Law			
Torts			
Trademark Law			

5. Publications:

YES

NO

1. Current Awareness Bulletin
2. Bibliographies
3. Newsletter
4. Directories
5. Indexes
6. Law Reports
7. Digests

7. If you have any comments or suggestions that you wish to make, please use the space below.

THANK YOU FOR TAKING THE TIME TO COMPLETE THIS QUESTIONNAIRE.

Jacinth Smith
Librarian
Caribbean Court of Justice

August 2009

APPENDIX B

**COLLECTION DEVELOPMENT FOR THE CARIBBEAN COURT OF JUSTICE
LIBRARY**

QUESTIONNAIRE

1. Please describe your status as a library user:
 - Judge
 - Attorney-at-law
 - Staff
 - Judicial Research Assistant
 - Member of the public

2. How often do you use the Library?
 - Daily Weekly Monthly Seldom

3. What resources do you usually use when you visit the Library? (Check all that apply)
 - Legislation
 - Law Reports
 - Unreported judgments
 - Periodicals
 - Treatises
 - Encyclopedias
 - Indexes
 - Online databases

4. What percentage of your research is met by the Library? What materials does the Library lack that you frequently have to get elsewhere?
 - _____
 - _____
 - _____
 - _____
 - _____

6. In what format do you prefer to search for information?
 - Print
 - Electronic

7. How important are the following electronic resources in conducting legal research?

Electronic Resource	Essential	Important	Not Important
Westlaw			
LexisNexis			
Justis			
Justcite			
Carilaw			
Website of Regional Parliaments			
Website of Regional Courts			
Bailii			
Website of Law Commissions			

8. Please indicate the areas that you regularly conduct research by placing a check in the appropriate boxes. Then indicate whether the library's collection in that area is adequate, inadequate, or you do not know.

Topic	Area	Adequate	Inadequate	Do not know
Administrative Law				
Administration of Trusts and Estates				
Admiralty and Maritime Law				
Arbitration and ADR				
Aviation Law				
Banking and Finance law				
Bankruptcy				
Civil Procedure				
Commercial Law				
Competition Law				
Consumer Law				

Constitutional Law				
Construction Law				
Contracts				
Copyright Law				
Corporations (Company Law)				
Criminal Law and Procedure				
Damages				
Education Law				
Employment Law				
Entertainment Law				
Environmental Law				
European Union Law				
Evidence				
Family Law				
Franchising				
Health and Safety				
Human Rights Law				
Immigration				
Income Tax				
Insurance Law				
International Law				
International Trade				
Internet/E-Commerce Law				
Landlord and Tenant				
Negligence				
Patent Law				
Procurement				
Product Liability				
Real Property				
Securities Law				
Sports Law				
Torts				
Trademark Law				

9. Please list any materials that you would like to see added to the Library's collection in any areas of research.

10. If you have any further comments or suggestions that you wish to make, please use the space below.

THANK YOU FOR TAKING THE TIME TO COMPLETE THIS QUESTIONNAIRE.

Jacinth Smith
Librarian
Caribbean Court of Justice

August 2009

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