

PRESS RELEASE



FOR IMMEDIATE RELEASE

Date: 23 September 2013

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Justice Quin Addresses Eastern Caribbean Judicial Symposium

Eastern Caribbean Judges and barristers grappling with balancing the rights of defendants against the need for the fair administration of justice in an increasingly complex world had the latest legal and judicial developments deciphered for them in an address by a Cayman Grand Court Judge.

Exploring recent developments in criminal practice and procedure, the Hon. Mr. Justice Charles Quin was addressing a joint symposium of the Judicial Education Institute of the Eastern Caribbean Supreme Court and the OECS (Organisation of Eastern Caribbean States) Bar Association. The three-day symposium was attended by OECS judges, led by Chief Justice Dame Janice Pereira, and more than 100 members of the OECS Bar Association.

Justice Quin's focus for his presentation was non-jury trials and witness anonymity orders. Other symposium topics included safeguards for minors and other vulnerable defendants and the filing and prosecution of civil and criminal appeals.

Surveying recent developments, Justice Quin examined changes in law practices in Northern Ireland, England and Wales, and in regional territories such as Belize, Jamaica, the Turks and Caicos Islands, and the Cayman Islands. His review extended to respective constitutional provisions, political and civil unrest impacting changes, and compatibility of newly emerging ideas and practices with European Human Rights Conventions. He discussed these latest developments in the context

of balancing fairness to rights of defendants against the need to administer justice equitably and justly in the growing complexity of contemporary life.

Prefacing his presentation with an acknowledgement of trial by jury as the “jewel in the crown” or “the cornerstone of justice,” Justice Quin traced the more recent developments in trial by judge alone back to the 1973 Northern Ireland Emergency Provision Act. That modification evolved from the pressures arising from Northern Ireland’s civil unrest and the potential impact on juror intimidation.

In 2003 England & Wales, Justice Quin noted, introduced for the first time trial on indictment without a jury in two different sets of circumstances – fraud trials and jury tampering. The provision relating to fraud trials was never used and was later repealed.

Closer to home, Belize passed legislation in 2011 for the introduction of non-jury trials, a provision it made mandatory for serious crimes such as murder, attempted murder or conspiracy to murder. Interestingly, Belize’s Constitution makes no reference to a constitutional right to jury trial, he said.

Meanwhile, the Turks and Caicos had its own political troubles, resulting in the suspension of the islands’ Constitution, effectively removing a defendant’s right to a jury trial, a provision that had been enshrined in that territory’s constitution since 1976, he explained. When the Turks and Caicos’ Constitution Order, 2011, came into force on 15 October, 2012, the right to jury trial had been omitted.

Neighbouring Jamaica, whose Constitution does not recognise jury trials as a right, also had its turn under the microscope of Justice Quin. Since 1974 that territory had “adopted both the *traditional* jury system and a unique system know as the Gun Court which renders gun crime offences subject to a judge-only hearing” (with exceptions including murder and treason, for which a jury trial is necessary).

Turning to his home turf, the Cayman Islands, Justice Quin detailed the 1995 legislation which allows defendants to elect trial by judge alone.

Following his analysis of these notable developments, Justice Quin spoke to the duties of a judge in a judge-alone trial.

Turning to the topic of witness anonymity, Justice Quin spoke of the growing need for such provisions with rising crime, while balancing the rights of defendants. Larger countries are able to respond to these issues with provisions such as witness-

protection programmes or variations, but such options have no practical value in smaller territories, he noted.

With consequent growing pressure for solutions, the House of Lords in the UK delivered a landmark ruling in 2008 that declared that “the use of anonymous evidence was not in all circumstances incompatible” with the European Conventions of Human Rights. The House of Lords asserted that the “defendant’s right was to be assessed by reference to the proceedings as a whole,” as to whether defence had in any way been handicapped by having an anonymous witness.

Within a month of that decision, Justice Quin noted, the UK parliament issued legislation abolishing the common law right that a defendant in criminal proceedings be confronted by his accusers and introducing a new procedure for Witness Anonymity Orders. Nevertheless, the Lord Chief Justice of England & Wales, Lord Judge, declared that “an Anonymity Order should be regarded as a special measure of last practicable recourse.”

The procedures for making these orders were detailed in Justice Quin’s presentation.

Justice Quin’s invitation to speak having been issued by the organisers of the symposium, all his expenses were borne by them.

Justice Quin’s address to the symposium is at

<http://www.judicial.ky/publications/speeches>

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