

# TAKING THE COURT HOUSE TO THE PEOPLE

Will Travelling Courts bring access to Justice?

# An Examination of Experiences in the Commonwealth

## England and Wales

- The English Circuit System, a procedure where English judges travel from London to every part of the country to sit in the Assize Courts of the country's towns to administer the law in the criminal and civil Courts.
- The Courts of Assize, or Assizes, were periodic criminal courts held around [England and Wales](#) until 1972, when together with the [Quarter Sessions](#) they were abolished by the Courts Act 1971 and replaced by a single permanent Crown Court. The Assizes heard the most serious cases, which were committed to it by the [Quarter Sessions](#) (local county courts held four times a year), while the more minor offences were dealt with summarily by Justices of the Peace in petty sessions (also known as Magistrates' Courts).
- The county paid the bill for the quarter sessions whilst the central government paid for the assizes. In order to reduce the burden on county funds local magistrates might commit as many prisoners to the assize as they thought reasonable. So there was flexibility for work arounds there too.

## Canada

- “ Ontario Court of Justice and Ministry of the Attorney General Joint Fly-In Court working Group. Report on Fly-In Court Operations. held in the First Nations communities in the North West and North East Regions of Ontario. The paper looked at 10 areas - but the one I want to focus on given the current climate we live in is - is the impact of technology on delivering justice by travelling courts.
- Advance video and telephone conferences serve two important functions.
- The first is that the court on fly-in days can focus on the core business requiring judicial intervention.
- The second is, it encourages the parties to talk to each other, and encourages alternative dispute resolution.

## Native Courts and Customary Law of Sabah, Malaysia

- In a helpful book of the same name written by the then Judge of the High Court of Borneo, the State Government had to grapple with setting up District Native Courts which were grounded in the Constitution, to enforce native/customary laws. He writes of one of the aims of setting up the courts in these terms, and I quote, :- “ that the standard of justice be raised so as to attain a universal norm understood and accepted by the community.”
- To achieve this, training courses for district and native chiefs and officials were conducted.
- The role of the local justice of the peace was underpinned by legislation. This meant that in the native laws of the State of Sabah, “ native community” was defined as a group or body of persons the majority of whom are natives with the meaning of the Act.

## The Caribbean

Law was introduced into the English speaking Caribbean by either adopting the English common law which settlers brought with them; or in the case of conquered territories, the law found by the conquerors remained in force until they altered it. This is one of the theories to explain the differences in laws across the Caribbean region. St Lucia for example is a hybrid system of civil law and common law, with civil law remaining particularly in areas of property and civil rights. Over the years the combination of civil law, common law, roman civil law, dutch statutory law and statues which characterised the laws in some of the islands gradually moved towards a common law structure, although in for example the Bahamas, its tax law are based on the Canadian Income Tax Act, its Family law Act of 1981 on the Australian Family Law Act of 1975 and its 1979 Charities Act followed the new Zealand Charitable Trusts Act 1957, just to give a few examples. In Guyana, land law continues to be governed by roman civil law, and Belize civil law.

## The Caribbean Court of Justice -

- Its motto , Your people, your region , your court - began operations in 2005.
- Like the European Court of Justice, the Caribbean Court of Justice was conceived and granted original and exclusive jurisdiction to interpret and apply the Revised Treaty of Chaguaramas Establishing the Caribbean Community, and so the CCJ is the centrepiece of the Caricom Single Market and Economy (CSME).
- It has a unique double jurisdiction
- an itinerant (travelling ) court which means it can travel to and operate in the state of any contracting party.
- uses advance technology and since 2017 cases are filed electronically through a system called CURIA.
- Cases are also heard via video and live streamed on youtube.
- engages with the educational, social, political, business, and legal community of the region.

## Australia

- In 2000 Victoria launched the first Aboriginal Justice Agreement (AJA) (External link), an agreement between the Victorian Government and the Victorian Aboriginal community to work together to improve Aboriginal justice outcomes.
- In 2002 the First Koori Court pilot was launched in Shepparton Victoria. The Koori Court was created under the Magistrates Court Act 1989 and it operates as a division of the Magistrates' Court.
- Aboriginal Elders or Respected Persons, the Koori Court Officer, and Aboriginal defendants and their families can contribute during the Court hearing.
- The Children's Koori Court was established at Melbourne's Children's Court in 2005 to address the over-representation of young Aboriginal people in the criminal justice system.
- In 2008 the County Koori Court was established as a Division of the County Court. It draws on the successful implementation of the Koori Court model in both the Magistrates' Court and the Children's Court.

## Conclusion

### Lessons for the future - possible solutions

#### Would remote communities be better served by a locally based justice of the peace?

- engagement with the local community and getting their buy in.
- provision needs to be made to meet language and cultural barriers.
- fund technology hubs in remote areas to be used specifically as travelling courts.
- greater participation by local communities, reduces offending behaviour and promotes access to justice and the rule of law.



ANY QUESTIONS?

## Contact Details



Desiree A A Artesi

Barrister

Thomas More Chambers

Email: [dartesi@thomasmore.co.uk](mailto:dartesi@thomasmore.co.uk)

Telephone: +44(0) 207 404 7000