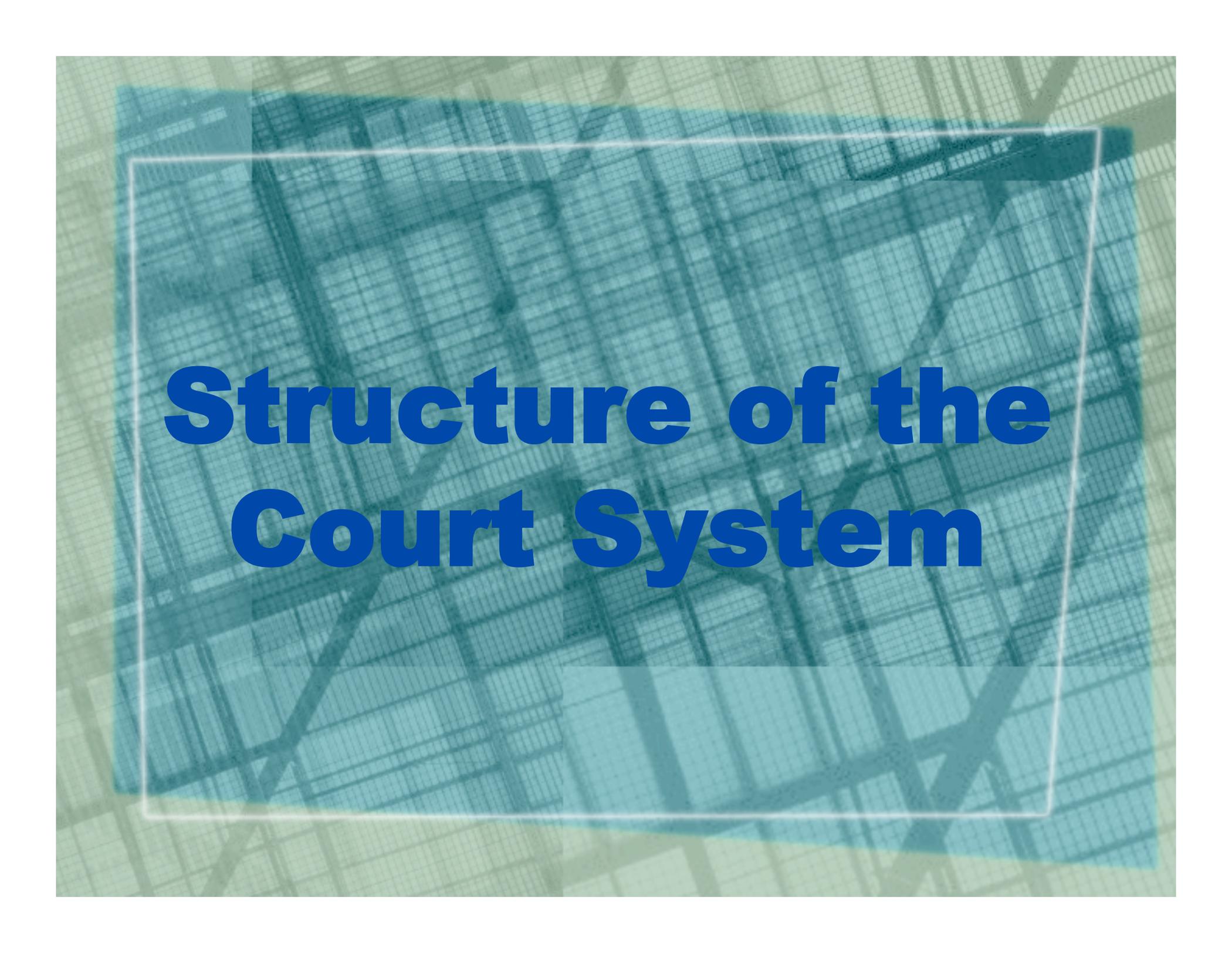


# **Bahamian Jurisprudence**

**Sheryl Clark  
ACLI 2008  
Stetson University College of Law**

# **Topics to Cover**

- Structure of Court System
- Alternative Dispute Resolution
- Legal Aid Opportunities
- Education System
- Legal Opportunities for Non-Bahamians

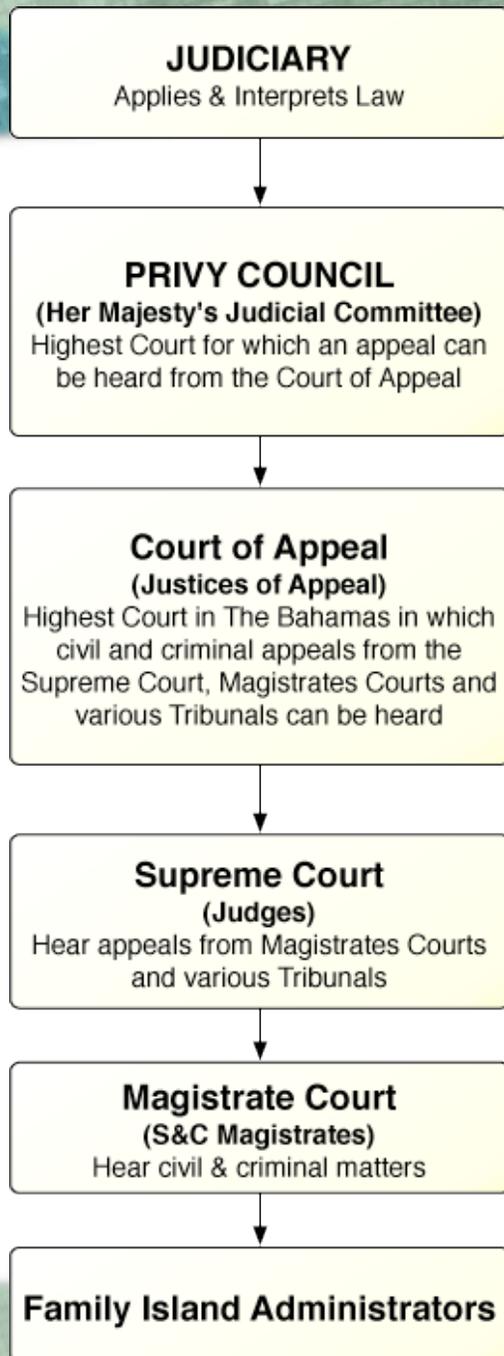
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# **Structure of the Court System**

# Overview of Bahamian Court System



- The Bahamas' legal system is based on English common law
- The Judicature, along with the Executive Branch and Legislature, forms the branches of Government
- Article 15 of the Constitution states, "Whereas every person in the Bahamas is entitled to the fundamental rights and freedom of the individual, that is to say, has the right, whatever his race, place of origin, political opinions, color, creed or sex, but subject to respect for the rights and freedoms of others and for the protection of the public interest, to each and all of the following namely -
  - (1) life, liberty, security of the person and the protection of the law;
  - (2) freedom of conscience, of expression and of assembly and association; and
  - (3) protection for the privacy of his home and other property and from deprivation of property without compensation;
- While the Constitution implicitly provides that the Judicature comprises the Judicial Committee of Her Majesty's Privy Council (the highest Court of Appeal for The Bahamas), the Court of Appeal and the Supreme Court, it also includes subordinate courts presided over by magistrates.



# Structure of Court System

## HIGHEST TO LOWEST INSTANCE

- Privy Council
- Court of Appeal
- Supreme Court
- Industrial Tribunal
- Magistrate Courts

# Magistrate Court

- Courts of first instance. There are seventeen (17) Magistrates Courts in The Bahamas: fourteen (14) in New Providence; two (2) in Freeport, Grand Bahamas; and one (1) in Eight Mile Rock, Grand Bahamas
- Magistrates must have been members of the English, Irish, Scottish or Bahamian Bar and have practiced for at least five (5) years.
- Has summary jurisdiction in criminal matters and civil matters worth less than \$5,000
- Various juvenile and domestic matters are also heard in the Magistrates' Court

# The Logotype of the Magistrate Court

- Weighing scales superimposed upon a cross-hilted sword, balanced on an open book
- Encircled with “Magistrate” at the top and “the Commonwealth of The Bahamas” at the bottom
- Scales are the symbol of judgment and the sword expresses authority and power to give effect to edicts
- The open book represents the statute laws through which all magistrates derive their authority



# Industrial Tribunal

- This is a specialty court that hears:
  - Trade Disputes
  - Matters Related to Industrial Agreements
- Declares orders and awards based on what is proven
- Made up of 3 members, appointed by the Governor-General acting on the advice of the Judicial and Legal Service Commission

# Supreme Court

- 2<sup>nd</sup> highest court in the Bahamas
- Consists of 12 Justices, including a Chief Justice, appointed by the Governor-General
- Appointed Justices can maintain office until the age of 65-67
- Has unlimited original and appellate jurisdiction in civil and criminal cases based on the Supreme Court Act of 1996
- Justices must be a counsel, attorney, and member of the Bahamas Bar (or a Commonwealth's Bar) for at least 10 years prior to being appointed

# **Constitutional Provision for the Supreme Court**

- 93.(1) There shall be a Supreme Court for The Bahamas which all have such jurisdiction and powers as may be conferred upon it by this Constitution or any other law.
- (2) The Justices of the Supreme Court shall be the Chief Justice and such number of other Justices as may be prescribed by Parliament.
- (3) No office of Justice of the Supreme Court shall be abolished while there is a substantive holder thereof.
- (4) The Supreme Court shall be a superior court of record and, save as otherwise provided by Parliament, shall have all the powers of such a court.

# The Logotype of the Supreme Court

- Weighing scales superimposed upon a cross-hilted sword, balanced on an open book, surmounted with an owl
- Encircled with “The Supreme Court of the Commonwealth of the Bahamas”
- Scales are the symbol of judgment and the sword expresses authority and power to give effect to edicts
- The owl, a species of Bahamian fauna, symbolizes vigilance, wisdom, and prudence and distinguished the Supreme Court as the Court with inherent powers
- The open book represents the corpus of law



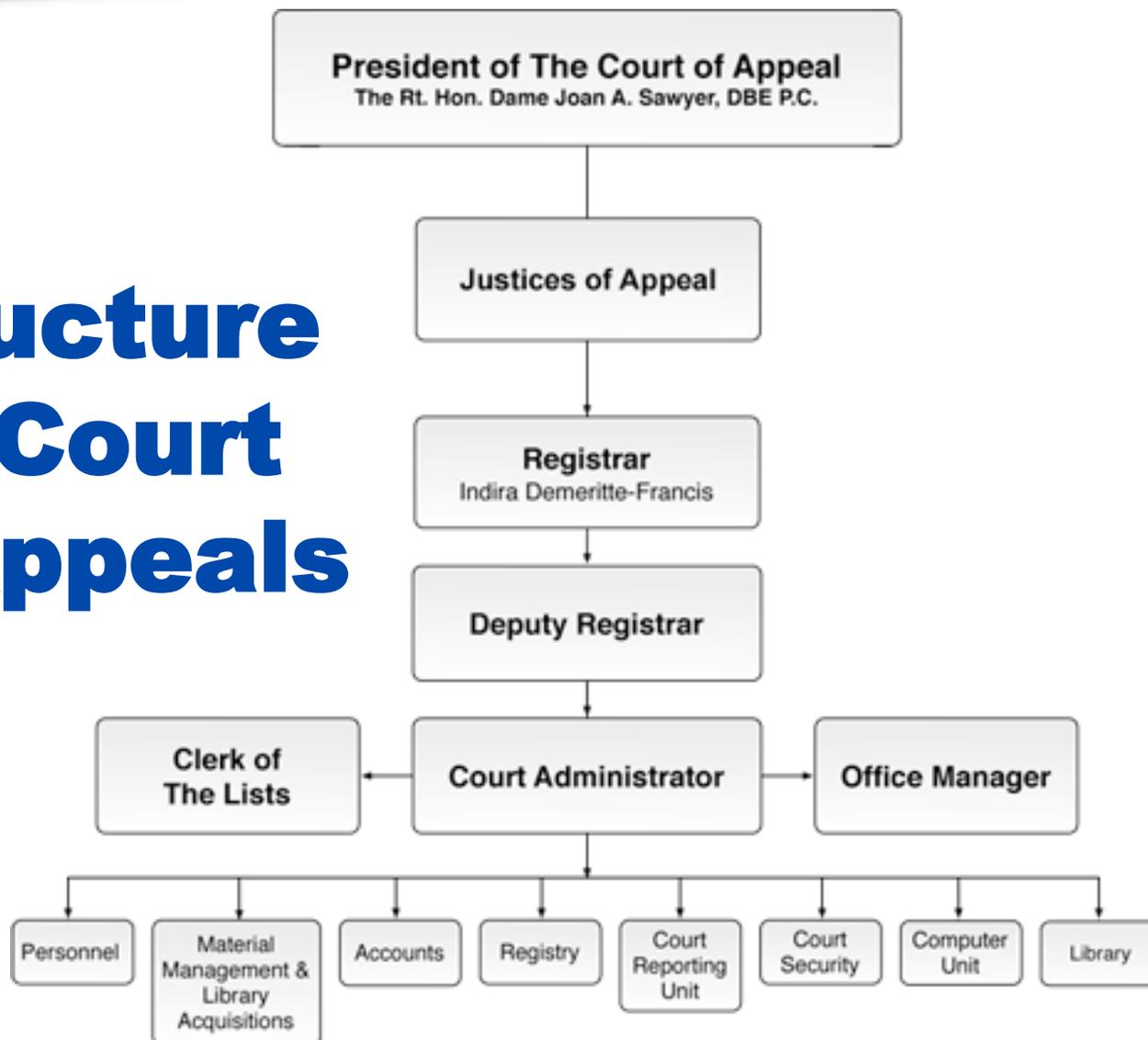
# Overview of Court of Appeals

- This is the highest judicial instance in the Bahamas
- Total of 5 Justices, 3 sitting on a panel at a time
- Appointed justices can maintain office until the age of 68-70
- Justices must have been in a judicial office before

# Jurisdiction of the Court of Appeals

- Has jurisdiction to hear appeals from interlocutory decisions in civil cases in the Supreme Court
- Has appellate jurisdiction over the Magistrate Courts and the Supreme Court as well as in constitutional, criminal, and civil matters
- Has jurisdiction to hear appeals from judgments, orders, and sentences made by the Supreme Court
- Has jurisdiction to hear appeals from matters in a magisterial court in respect of indictable offences triable summarily on the grounds that -
  - (i) the court had no jurisdiction or exceeded its jurisdiction in the matter;
  - (ii) the decision was unreasonable, could not be supported by the evidence or was erroneous in point of law;
  - (iii) the decision of the magistrate or the sentence passed was based on a wrong principle;
  - (iv) some material illegality occurred affecting the merits of the case; or
  - (v) the sentence was too severe or lenient.

# Structure of Court of Appeals



# Constitutional Provision for the Court of Appeals

98. (1) There shall be a Court of Appeal for The Bahamas which shall have such jurisdiction and powers as may be conferred upon it by this Constitution or any other law.
- (2) The Justices of Appeal of the Court of Appeal shall be-
- (a) a President;
  - (b) the Chief Justice by virtue of his office as head of the Judiciary but who, however, shall not sit in the Court of Appeal, unless he has been invited so to sit by the President of the Court; and
  - (c) such number of other Justices of Appeal as may be prescribed by Parliament.
- (3) No office of Justice of Appeal shall be abolished while there is a substantive holder thereof.
- (4) The Court of Appeal shall be a superior court of record and, save as otherwise provided by Parliament, shall have all the powers of such a court.

# Caribbean Court of Justice (CCJ)

- Court of original jurisdiction and last resort for most Caribbean countries
- Appellate jurisdiction for civil and criminal cases
- **ONLY** accepts appeals from common law courts within its jurisdiction of member states of the community **and** which are parties to the agreement establishing the CCJ
- **The Bahamas is NOT a party to this agreement, so its last resort for appeals is the Privy Council**

# Privy Council



- The Judicial Committee of the Privy Council in London the Court of Highest Instance
- The Judicial Committee of the Privy Council serves as the ultimate Court of Appeal in all matters where appeal is permissible
- The Judicial Committee consists of the Lord President of the Council, the Lord Chancellor, ex-Lord Presidents, the Lords of Appeal in Ordinary and such other members of the Privy Council as from time to time hold or have held high judicial office and two other privy counselors who may be appointed by the sovereign.

# Constitutional Provisions for the Privy Council

- 104.** (1) An appeal to the Court of appeal shall lie as of right from final decisions of the Supreme Court given in exercise of the jurisdiction conferred on the Supreme Court by Article 28 of this Constitution (which relates to the enforcement of fundamental rights and freedoms).  
(2) An appeal shall lie as of right to the Judicial Committee of Her Majesty's Privy Council or to such other court as may be prescribed by Parliament under Article 105(3) of this Constitution from any decisions given by the Court of Appeal in any such case.
- 105.** (1) Parliament may provide for an appeal to lie from decisions of the Court of Appeal established by Part 2 of this Chapter to the Judicial Committee of Her Majesty's Privy Council or to such other court as may be prescribed by Parliament under this Article, either as of right or with the leave of the said Court of Appeal, in such cases other than those referred to in Article 104(2) of this Constitution as may be prescribed by Parliament.  
(2) Nothing in this Constitution shall affect any right of Her Majesty to grant special leave to appeal from decisions such as are referred to in paragraph (1) of this Article.  
(3) Parliament may by law provide for the functions required in this Chapter to be exercised by the Judicial Committee of Her Majesty's Privy Council to be exercised by any other court established for the purpose in substitution for the Judicial Committee.
- 106.** References in this Part to "the Court of Appeal" include references to a shared court of appeal established under Article 100(1) of this Constitution when exercising jurisdiction in respect of The Bahamas.

# Privy Council – Appeals to Her Majesty in Council

An appeal lies from the undermentioned countries of which The Queen is head of State and from UK overseas territories as follows.

- (1) By leave of the local Court of Appeal. The circumstances in which leave can be granted will depend on the law of the country or territory concerned. Leave can usually be obtained as of right from final judgments in civil disputes where the value of the dispute is more than a stated amount and in cases which involve issues of constitutional interpretation. Most Courts of Appeal also have discretion to grant leave in other civil cases.
- (2) By special leave of Her Majesty in Council. The Judicial Committee has complete discretion whether to grant special leave. It is mostly granted in criminal cases (where leave cannot usually be granted by the Court of Appeal) but it is sometimes granted in civil cases where the local Court of Appeal has for any reason refused leave.

COMMONWEALTH OF THE BAHAMAS

IN THE COURT OF APPEAL

Criminal Appeals Nos. 79 & 79A of 2004

and 17 of 2006

Trevor Thomas Roberts

Appellant

vs

Minister of Foreign Affairs, et al.

Respondent

**CRIMINAL**

COMMONWEALTH OF THE BAHAMAS

IN THE COURT OF APPEAL

Civil Appeal No. 42 of 2005

**&  
APPEALS**

Minister of Foreign Affairs, et al.  
Respondents/Appellants

and  
Trevor Roberts,  
and  
Devroy Moss  
and  
Sheldon Moore  
and  
Bryan Deal  
and  
Lynden Deal  
and  
Shanto Curry  
and  
Gordon Newbold

Applicants/Respondents

**CIVIL**

## **Example: *Roberts v. The Minister of Foreign Affairs (Bahamas)***

- Mr. Roberts et al were arrested at their residence in the Bahamas on June 23, 2004 at the request of the U.S. for extradition
- The extradition arrangements between the Bahamas and the U.S. was subject to the Extradition Treaty entered into on March 9, 1990
- Mr. Roberts et al filed a motion on September 30, 2004 seeking declarations that the Treaty, along with the U.S. Order and the Foreign States Order put in place to give effect to the current Extradition Treaty had no binding force and, as such, is null and void
- Mr. Roberts et al also requested a declaration that they were hindered in their enjoyment of their freedom of movement without consent when taken into custody

## **Example: *Roberts v. The Minister of Foreign Affairs (Bahamas)***

- As the judicial procedure continued, Isaacs J. issued a judgment declaring that the Minister of Foreign Affairs was empowered to enter into the Treaty
- However, he also found that Article 18 created a permanent financial obligation for the Bahamas, which would require the Treaty to be submitted before Parliament in accordance with Article 130 of their Constitution
- On May 11, 2005, the Minister of Foreign Affairs appealed to the Court of Appeal of the Commonwealth of the Bahamas
- The appeal was heard by the Court of Appeal on June 21-22, 2005 and, the Court of Appeal allowed the appeal and ordered that the committal proceedings should continue with expedition before the magistrate
- On March 27, 2007, the Court of Appeal granted final leave to appeal against its decision to their Lordships' Board
- While the CCJ would typically be the appellate body for a civil or criminal case in this situation, the Bahamas is not a signatory to the CCJ's creation documents, so the Bahamas' final appellate body is the Privy Council

## **Example: *Roberts v. The Minister of Foreign Affairs (Bahamas)***

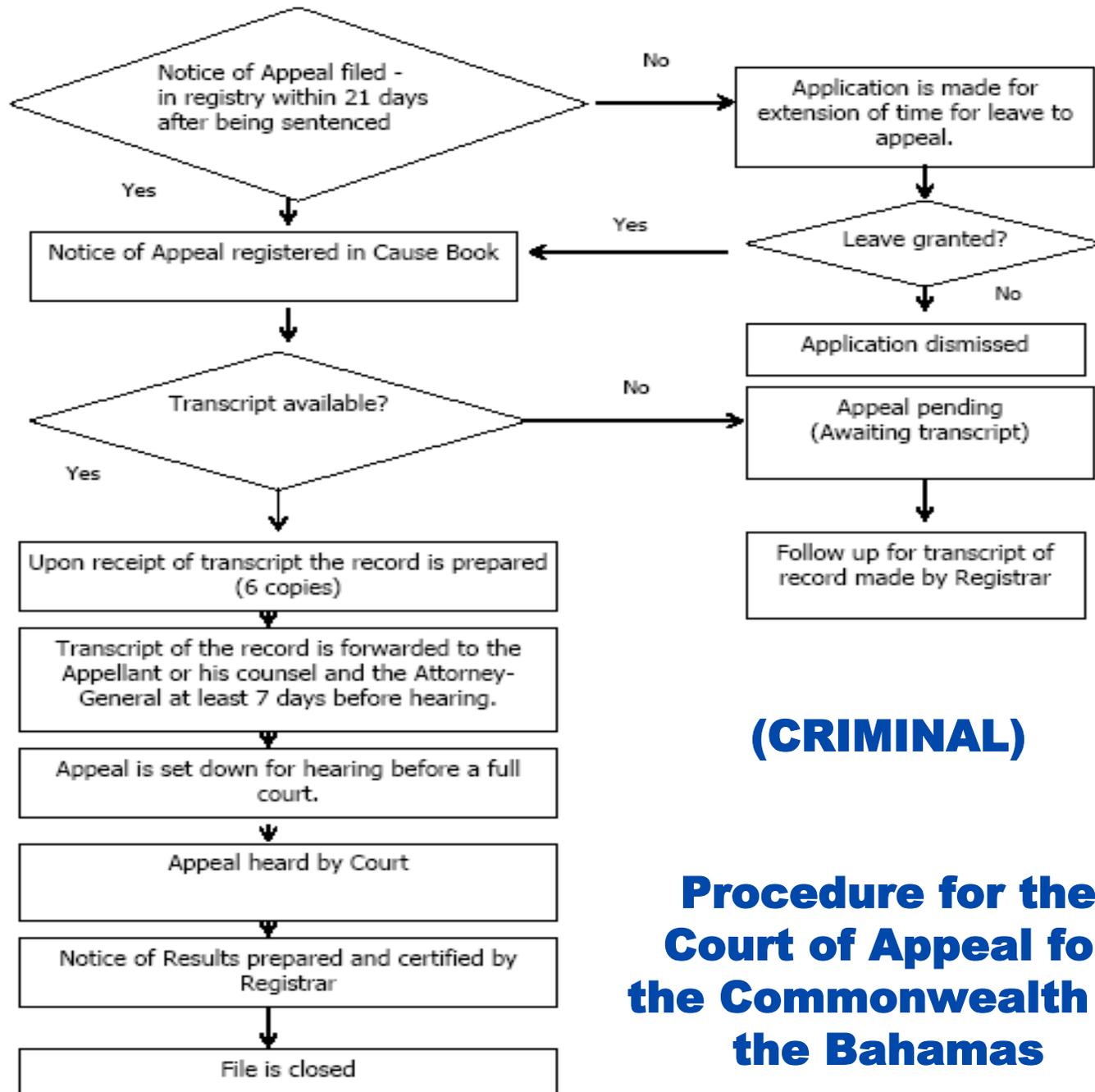
- On appeal to the Privy Council, it was noted that the Treaty itself was enforceable at the time Roberts was arrested
- Moreover, the Privy Council pointed out that Section 9(1)(b) of the 1994 Act provides that a “provisional warrant may be issued” in circumstances such as this
- Concerning the financial obligation created under Article 18 of the extradition treaty, it was noted that Article 130 of the Bahamas’ Constitution affords a way for the Parliament to submit a supplementary request for approval by the House of Assembly.
- Accordingly, the Lordship rejected all of the claims brought about by Mr. Roberts et al

# Criminal Proceedings

Proceedings are instituted in the name of the Queen in the Supreme Court and in the name of the Commissioner of Police in the Magistrate's Court.

- The Magistrate's Courts hear summary matters or indictable matters which may be heard summarily. Stipendiary and Circuit Magistrates have jurisdiction to impose a maximum sentence of five (5) years. They also conduct preliminary inquiries in indictable matters to determine whether a prima facie case has been made against an accused person. If a prima facie case is made out, the accused is committed to the Supreme Court to stand trial.
- If the person is tried and convicted in the Magistrate's Court, an appeal lies to the Supreme Court or to the Court of Appeal, depending on the nature of the offence.
- An appeal may lie from the Court of Appeal to the Judicial Committee of Her Majesty's Privy Council, which is the highest Court of Appeal in The Bahamas.

# PROCEDURE FOR APPEALS TO THE COURT OF APPEAL IN CRIMINAL MATTERS



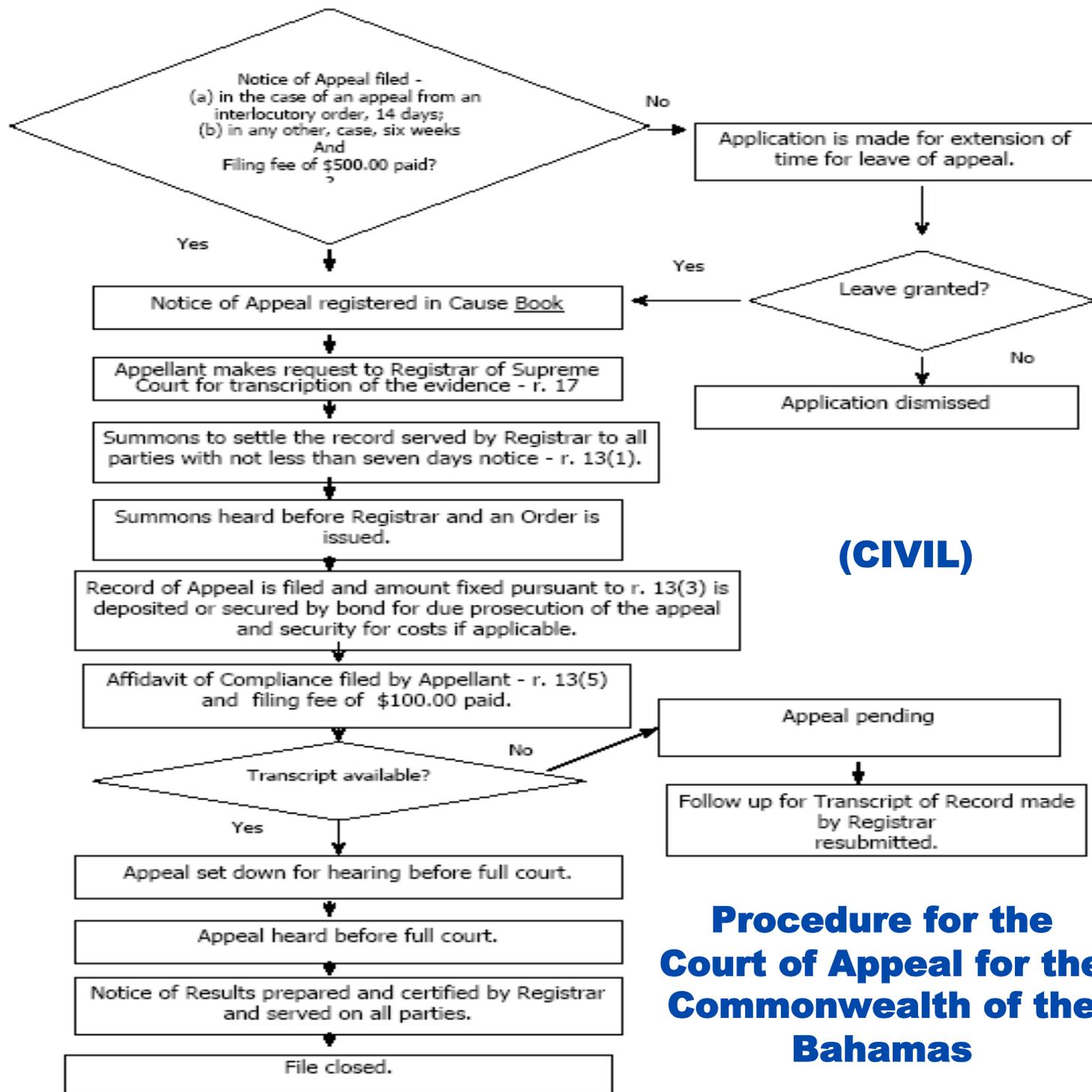
**(CRIMINAL)**

**Procedure for the  
Court of Appeal for  
the Commonwealth of  
the Bahamas**

# Civil Proceedings

- Civil cases are generally heard by a Judge alone
- Appeals from final judgments of the Supreme Court in civil cases lie as of right to the Court of Appeal, and with the leave of the Court of Appeal and Supreme Court in some interlocutory matters or further appeals from Tribunals
- Stipendiary and Circuit Magistrates can also hear and determine Civil cases if the amount claimed does not exceed \$5,000.00
- Appeals lie to the Supreme Court.

# OF APPEAL IN CIVIL MATTERS



**(CIVIL)**

**Procedure for the  
Court of Appeal for the  
Commonwealth of the  
Bahamas**

# Compare & Contrast

## CRIMINAL MATTERS

Proceedings are instituted in the name of the Queen in the Supreme Court and in the name of the Commissioner of Police in the Magistrate's Court.

The Magistrate's Courts hear summary matters or indictable matters which may be heard summarily. Stipendiary and Circuit Magistrates have jurisdiction to impose a maximum sentence of five (5) years. They also conduct preliminary inquiries in indictable matters to determine whether a prima facie case has been made against an accused person. If a prima facie case is made out, the accused is committed to the Supreme Court to stand trial.

If the person is tried and convicted in the Magistrate's Court, an appeal lies to the Supreme Court or to the Court of Appeal, depending on the nature of the offence.

An appeal may lie from the Court of Appeal to the Judicial Committee of Her Majesty's Privy Council, which is the highest Court of Appeal in The Bahamas.

## CIVIL MATTERS

Civil cases are generally heard by a Judge alone.

Appeals from final judgments of the Supreme Court in civil cases lie as of right to the Court of Appeal, and with the leave of the Court of Appeal and Supreme Court in some interlocutory matters or further appeals from Tribunals.

Stipendiary and Circuit Magistrates can also hear and determine Civil cases if the amount claimed does not exceed \$5,000.00.

Appeals lie to the Supreme Court.

# Dress Code

- Dark clothing with wig and gown in open Court
- Dark business clothing in Chambers in the Supreme Court
- Persons wishing to view the court proceedings must adhere to the dress code; Casual dress is permitted but sports dress is not





# **Legal Aid Opportunities**

# Legal Aid

- Criminal defendants have the right to an attorney, *but government appointed counsel is provided only in capital cases*. There is also a right to be brought before a magistrate within 48 hours, a right to bail, a presumption of innocence, and a right to appeal
- The constitution prohibits torture and other cruel punishment. However, in 1991, corporal punishment was reinstated after having been abolished for seven years. Capital punishment is still used despite protests from the United Kingdom, which has requested its former colonies to eliminate the death penalty.

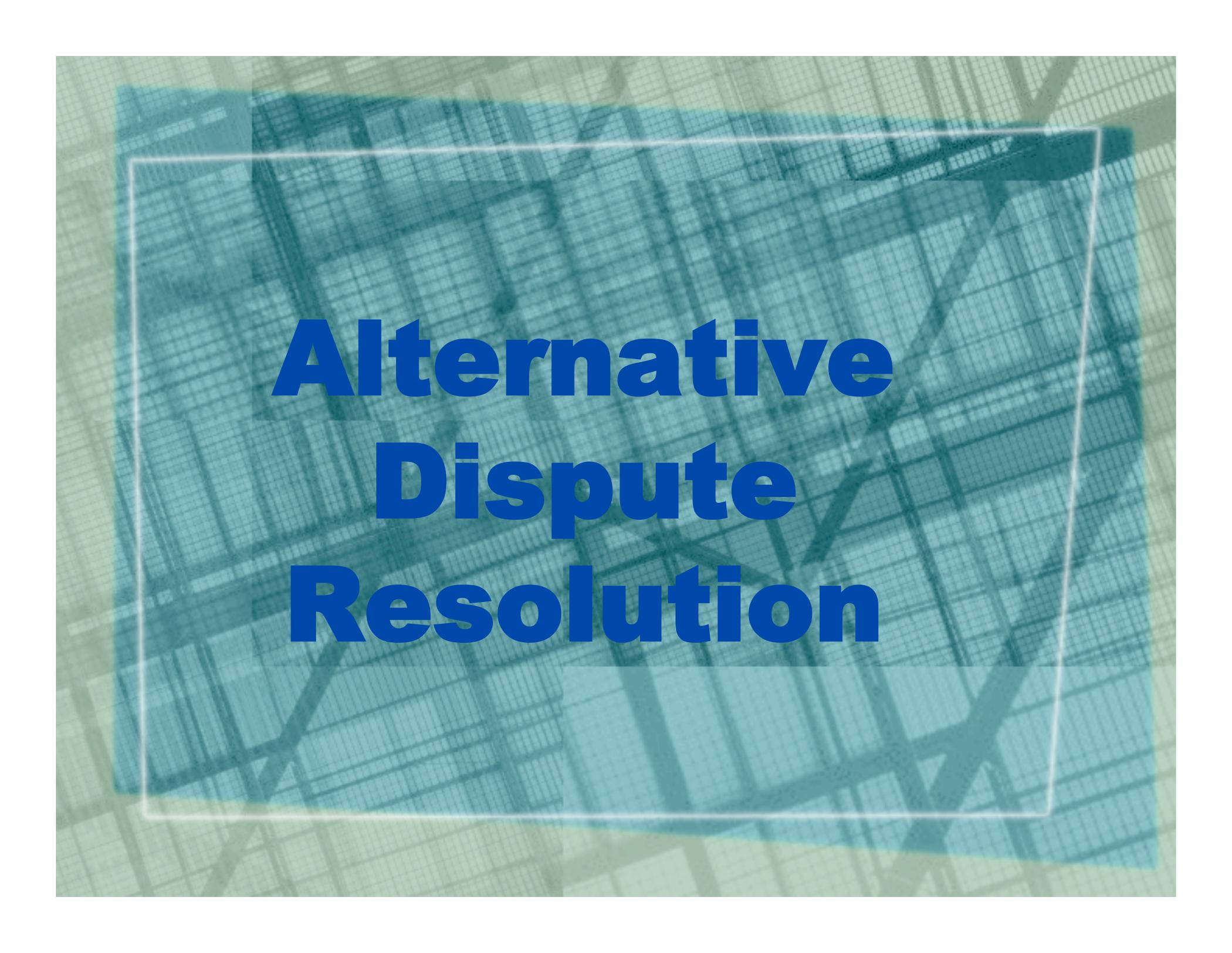
# **Legal Aid – Eugene Dupuch Law School**

## **LEGAL AID CLINIC**

- Training facility for students under the direction of full-time faculty member, Mr. Arthur Dion Hanna Jr.
- Operated for the benefit of members of the public, who in the opinion of the Director are entitled to legal aid, with due regard being paid to matters of educational interest and value to the students.

### **The opening hours of the Clinic are:**

Mondays - Fridays: 9.00 a.m. to 5.00 p.m.

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# **Alternative Dispute Resolution**

# ADR – International Agreements

- Signatory to International Commercial Arbitration Agreements:
  - Convention on the Execution of Foreign Arbitral Award 26th September 1927. (Arbitration Foreign Awards) Act (Chapter 170) Statute Law of The Bahamas 1987 Revised Edition
  - Protocol on Arbitration Clauses, 24 September, 1923 (Arbitration Clauses (Protocol) Act (Chapter 169) Statute Law of The Bahamas 1987 Revised Edition
- Limitations on Disputes Subjected to Arbitration:
  - Chapter 169, Schedule, paragraph 1: Commercial matters or any other matters capable of settlement by arbitration

# ADR – Sources of Law

- Sources of Law for Commercial Arbitration:
  - Arbitration Act, Chapter 168: allows partner to make a submission rewritten agreement to submit present or future differences to arbitration, whether on arbitrator is named there or not. Act applies to any Arbitration to which Her Majesty the Queen is a party.
  - Arbitration Clauses (Protocol) Act Chapter 169: gives effect to the Protocol on Arbitration Clauses of September 24, 1923, by which states are parties.
  - Arbitration (Foreign Awards), Chapter 170 applies to awards made pursuant to an agreement for arbitration to which the protocol set out in the Arbitration Clauses (Protocol) Act, Chapter 169 relates
  - Subsidiary Legislation, Chapter 170: Arbitration (Foreign Awards)
  - Subsidiary Legislation Chapter 67, Reciprocal Enforcement of Judgments
  - Reciprocal Enforcement of Judgments Arbitration (International Investment Disputes Act 1966 of the United Kingdom
- Choice of Laws for Arbitral Proceedings:
  - Schedule, Chapter 169 Arbitral Procedure shall be governed by the will of the parties and by the law of the country in whose territory the arbitration takes place.

# ADR – Role of the Court

- Court Involvement and Intervention
  - (i) Appellate body with power to set aside judgment: Chapter 168, Section 11 (2)
  - (ii) Jurisdiction to remove arbitrator: Chapter 168, Section 11 (1)
  - (iii) Appoints arbitrator, umpire, or third arbitrator: Chapter 168 Section 5
  - (iv) Arbitrator, Chapter 168, Section 16
  - (v) Power to stay the proceeding on application of a party
- Encouragement to use ADR
  - *ADR is not mandatory*
  - *Out of Court settlement in Civil Proceedings is encouraged.*
  - *If an ADR is attempted after a submission is made under Section 1 of the Arbitration Act, Chapter 168, leave of the Court must be sought in order to revoke the submission*

# ADR – Court Setting Aside an Award

- **Interim relief is available from the court**
- **Court's decision to set aside an award**
  - 1. Chapter 168 Arbitration Act, Section 11: Power to set aside award:
    - (i) where the arbitrator or umpire has misconduct himself or
    - (iii) an arbitration or an award has been improperly procured; the court may set the award aside.
  - 2. Power to decline enforcement: Chapter 170 Schedule, Article 2. Chapter 170 section 4(2)
    - (i) award annulled in country where made
    - (ii) party against whom made was not given notice of arbitration proceedings in sufficient time to present his case, or was under some legal incapacity or was not properly represented
    - (iii) award does not deal with all the questions referred or contains decisions on matters beyond the scope of the agreement for arbitration.
  - 3. Chapter 170, Schedule, Article 3: if the party against whom the award has been made proves that, under the law governing the arbitration procedure, there are other grounds entitling him to contest the validity of the award in a Court of law, the Court may, either refuse recognition or enforcement of the award.

# ADR – Qualifications

- Qualifications of Arbitrators
  - Section 21, Chapter 168
    - provision may be made by Rules of Court conferring on the Registrar, or other officer of the Supreme Court, all or any of the Jurisdiction conferred by this Act on a Court or a Judge
  - Section 16, Chapter 168
    - Court to have power as to reference by consent. Section B 14 parties may agree on arbitrator or Court may refer submission to official referee or officer of the Court
  - Section 3, Chapter 168
    - any official referee may hear and determine the matters agreed to be referred to arbitration
- Decision Making as the Arbitrator
  - Rules are prescribed Section 2, Chapter 168 Arbitration Act
    - (a) two arbitrators may appoint an umpire;
    - (b) written award;
    - (c) award must be made three months after entering on the reference or, as enlarged by the arbitrators in writing. No form is prescribed.

# ADR – Award Enforcement

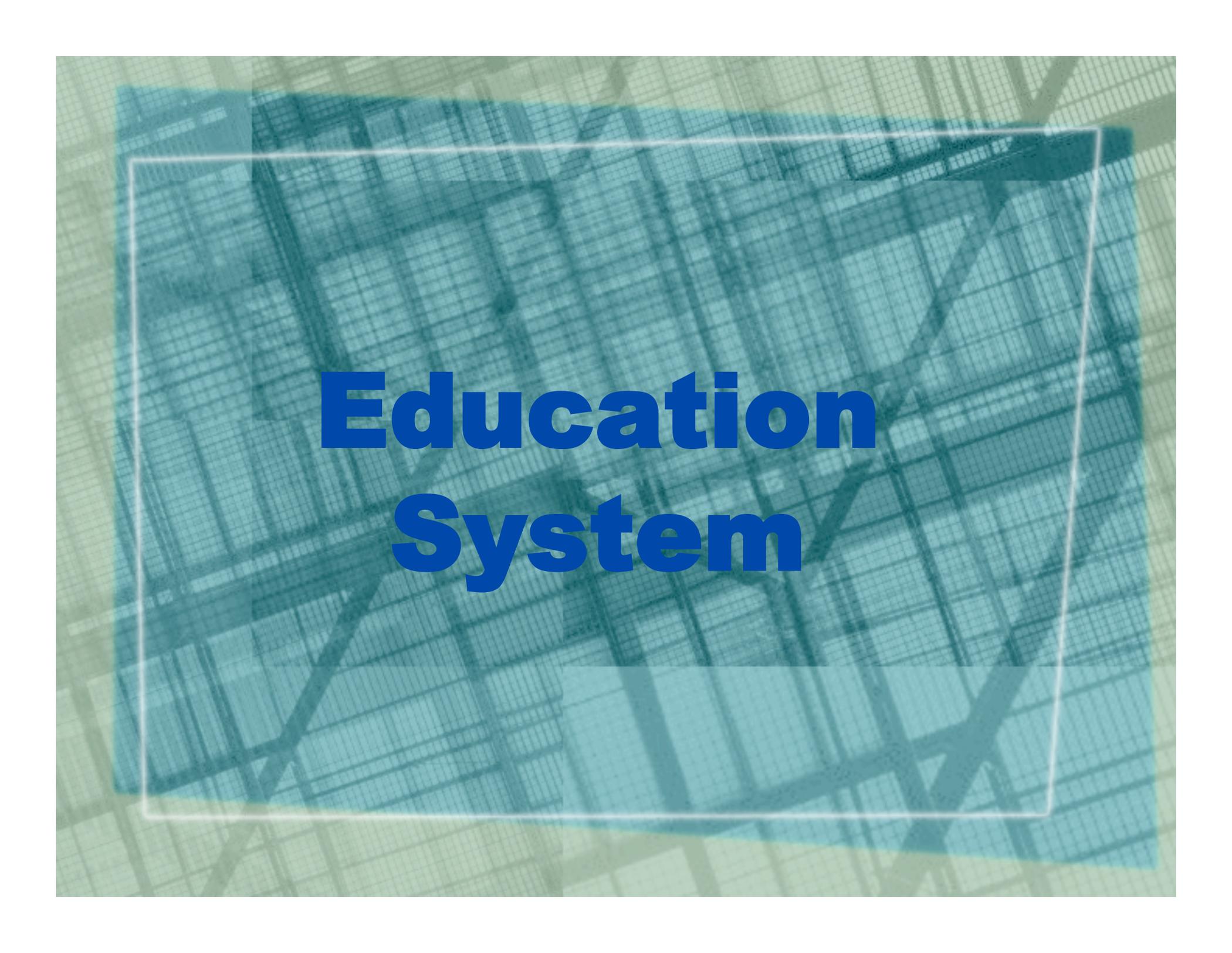
- Enforcement of Awards - Schedule 67 Part III (Section 5) (Rules of Court Reciprocal Enforcement of Judgments)
  - 1. Rule 2. Application: Ex Parte or by Summons supported by Affidavit to see Judge to register judgment.
  - 2. Judge issues Summons
  - 3. Service of Summons for leave to register
  - 4. Service of Order on judgment debtor where made on a Summons; if on Ex Parte application, no service necessary.
  - 5. Rule 8: judgment registered in Register of Judgments kept in Nassau
  - 6. Rule 10: written notice of registration of judgment to be served on judgment debtor (personal, substituted or out of jurisdiction)
  - 7. Rule 12: Service must be indorsed on the notice within three days of service.
  - 8. Affidavit of service required. Rule 13 - judgment debtor may apply by summons to set aside registration.
  - 9. Rule 15: Execution of judgment may not take place before expiration of time limited by Order for registration.

# ADR - Training

- **There is no “Formal” Training Process, but several facilities offer training:**
- **The Stitt Feld Handy Group** - an Alternative Dispute Resolution firm specializing in professional development training and dispute resolution services
  - The Stitt Feld Handy Group conducts four-day public workshops on negotiation, mediation and dispute resolution (ADR) using an interactive approach
  - Has trained over 17,000 people in mediation, negotiation and communication skills through workshops in North America, Europe, Africa, Australia, and Asia.
  - Upon completion of our public workshops, participants earn a Certificate from the University of Windsor, Faculty of Law (Canada).
- Customized workshops for clients in both the private and public sectors, developing an appropriate curriculum
- The members of the Stitt Feld Handy Group are alternative dispute resolution trainers, mediators, arbitrators, and negotiation consultants.

*"This workshop has provided me with the skills that are required to deal with issues that arise in the workplace. It has given me the tools to reshape the future. I really liked the role plays and the varied opportunities I had to mediate."*

- Miriam Samaru, Eugene Dupuch Law School, Nassau, Bahamas

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# **Education System**

# General Education Structure

- Pre-higher education
  - Primary
  - Secondary
    - Junior
    - Senior
- Higher Education
  - Non-University Level
  - University Level

# Pre-Higher Education Overview

- Age of Entry: 5
- Total Duration: 11 years
- General Structure:
  - Primary School
  - Secondary School
    - Junior Secondary School
    - Senior Secondary School

# Pre-Higher Education Structure

- **Primary** (Primary School)
  - Age of Entry: 5
  - Duration: 6 years
  - Exam: Grade Level Assessment Test (GLAT)
- **Junior Secondary** (Junior High School)
  - Age of Entry: 11
  - Duration: 3 years
  - Exam: Bahamas Junior Certificate Exam
  - Certificate: Bahamas Junior Certificate (BJC)
- **Senior Secondary** (Senior High School)
  - Age of Entry: 14
  - Duration: 2 years
  - Exam: Bahamas General Certificate of Secondary Education
  - Certificate: Bahamas General Certificate of Secondary Education (BGCSE)

# Higher Education Overview

- **Law Governing:** College of the Bahamas Act of 1995
- **Responsible Authority:** Ministry of Education (responsible for education policy and development in the Bahamas)
- **Academic Year:** September – June
- **Language of Instruction:** English
- **Grading Scale:**
  - Bachelors (Honors) Degrees: Class I, Class II upper division, Class II lower division (if performance is not high enough for Honors, the degree is awarded as a pass)
  - University of West Indies: A: Distinction (70-100%), B+: Pass (60-69%), B: Pass (50-59%), F: Fail (0-49%)
- **General Structure:**
  - Non-university level
  - University level

# Higher Education Structure

- **Non-University Level**
  - The College of the Bahamas
  - 2 – 4 year programs
  - Associate, Bachelors, and a few Master Degrees
  - Admissions Requirements: Bahamas General Certificate of Secondary Education (for entry to Colleges)
- **University Level**
  - University of the West Indies
  - Admissions Requirements: GCE Advanced “A” level (or equivalent) (for entry to the University of the West Indies)

# Higher Education Institutes

- In The Bahamas, higher education institutions are either publicly or privately managed
- There are no local universities, and the highest qualification local institutions offer is the Bachelor's level
- The College of The Bahamas and the Bahamas Technical and Vocational Institute are the only publicly funded institutions
- The College of The Bahamas is the predominant higher education institution in the country; however, other, non-state funded institutions offer courses at the post-graduate level
- Two of these are religious institutions and all accept non-traditional aged students
- Overseas-based institutions have satellite campuses in the country that offer postgraduate qualifications as well

# The Council of Legal Education

- Has been training legal practitioners in the Commonwealth Caribbean for over 30 years
- Mission Statement:
  - " To facilitate the development of competent legal practitioners for the region who, appreciating their responsibility as members of an honorable profession and recognizing the needs of their socio-economic environment, are inspired in the pursuit of excellence, the maintenance of high ethical standards, the promotion of social justice and the strengthening of the rule of law."
- Pursuant to Article 1 (a) of the Agreement Establishing the Council of Legal Education, the Council is made up of the following members:
  - the Attorneys General of member Governments
  - the Judiciary (the Chief Justices of member Governments)
  - the practicing legal profession (chosen by the relevant professional associations)
  - the Dean of the Faculty of Law of the University of the West Indies
  - the Principals of the Council's three Law Schools.

# Legal Education

## Typical Admissions Requirements:

- (1) Before admission to the Law School a student must have obtained one of the following:
  - (a) the Degree of Bachelor of Laws from The University of the West Indies;
  - (b) a university degree in law approved by the Council of Legal Education after consultation with the Dean of the Faculty of Law of The University of the West Indies;
  - (c) a university degree from an approved University in which the courses leading to that degree involved a study of law and other disciplines.
  - (d) a university degree in a discipline other than law, together with a certificate under the hand of the Dean of the Faculty of Law of The University of the West Indies that the student has satisfactorily pursued a course of study in law over a period of not less than two years in the Faculty of Law of The University of the West Indies and is a fit and proper person for admission to the Law School.

## Two Year Program

- For persons who hold a degree of Bachelor of Laws from the University of the West Indies or another university approved by the Council of Legal Education
- Successful completion of the course of study results in the award of the Certificate of Legal Education, enabling the holder to practice law throughout the Commonwealth Caribbean, subject to the municipal law in the various territories.

# Legal Education

## Law Schools within the Council of Legal Education

- Hugh Wooding Law School (Trinidad)
  - Established in 1973
- Norman Manley Law School (Jamaica)
  - Opened its doors in September 1973
- Eugene Dupuch Law School (Bahamas)
  - Established in 1998, the 3<sup>rd</sup> law school established within the Caribbean Community





# **Legal Opportunities for Non-Bahamians**

# The Bahamas Bar – Statutory Qualifications

- Currently over 600 “counsel and attorney” officers of the Supreme Court
- The Bar Council determines whether an applicant for admission to practice is qualified

## **The statutory qualification for admission:**

- (1) a call to the Bar of England, Scotland, Northern Ireland or Eire, or of such other country as may be specified;
- (2) admission to practice as a solicitor in any of the above countries; or
- (3) receipt of a Legal Education Certificate from the Council of Legal Education of the West Indies.
- Applicants who meet requirements (1), (2) or (3) above, must also serve for 12 months under the tutelage of a lawyer in actual practice in the Bahamas before being admitted to practice.
- *All applicants for admission to practice must be Bahamians, and must not have been disqualified or suspended from practice in the courts of any place outside the Bahamas*
- *The Bar Council may agree to the special admission of a person who is not a Bahamian for the purpose of conducting particular proceedings so long as the person is qualified as above.*
- *Also, a person entitled to practice before a court of unlimited jurisdiction in any country may become a "registered associate" and agent of a counsel and attorney.*
- Any person, not admitted to practice, who acts as counsel and attorney is guilty of a *criminal offense*

# **The Bahamas Bar – Educational Qualifications**

- The qualification for admission to any of the law schools is the possession of a University of the West Indies law degree or a law degree of a University or Institution which is recognized by the Council and the successful completion of an examination set by the Council
- The Legal Education Certificate is awarded after satisfactory completion of the two year program, or in the case of persons who possess law degrees from other jurisdictions, completion of the six month conversion program

# Legal Education – Eugene Dupuch Law School

## SIX-MONTH PROGRAM

- Training for common law professionally trained persons who have obtained a degree of a University or Institution which is recognized by the Council of Legal Education as being equivalent to the degree of Bachelor of Laws of The University of the West Indies and -
- (a) hold a qualification which, had it been obtained prior to 1st October 1972, would have been recognized by all of the participating territories as a qualification to be admitted to practice as a barrister or solicitor in those territories; or
- (b) hold a qualification obtained in a common law jurisdiction for admission to practice law in that jurisdiction and which qualification is approved by the Council and furnish a certificate of good standing from the competent authority in the jurisdiction where they have been admitted to practice
- The course of training runs from the commencement of the academic year of the Law School and ends six months thereafter.
- Courses taken are:
  - (a) Constitutional Law
  - (b) Law and Legal Systems of the Caribbean
  - (c) Criminal Practice and Procedure
  - (d) Law Office Management, Accounting and Technology.
- The Principal may add to or exempt a student from any of the foregoing subjects having regard to his professional qualification and experience. On successful completion of the course of study, the student is awarded the Council's Legal Education Certificate (L.E.C.). This entitles him or her to be admitted to practice law.

## Students in the six- month program are also required to

- (i) attend at court under a program of court attendance (to be drawn up by the Principal) and
- (ii) perform exercises and the observation of practices and procedures in a legal aid clinic or law office.