



3 Hare Court Chambers put in a major presence at this year's Commonwealth Law Conference in Cape Town, South Africa from 14-18th April 2013. The biannual conference draws together lawyers from across the Commonwealth to discuss matters of common interest, concern and opportunity. The importance of the Commonwealth



cannot be overestimated. Comprising 54 countries, almost a third of the world's population, the opportunities are many and varied. The emerging markets of India, South Africa, Malaysia as well as a many other African, Caribbean and Asian countries means an ever

increasing need for quality legal services, both in the UK and internationally. 3 Hare Court is proud to be at the forefront, providing advice and advocacy services in a range of areas including international commercial arbitration, appeals to the Judicial Committee of the Privy Council (civil, commercial as well as constitutional and public law), as well as appearing before international courts within Europe and further afield. Members have been called to the Bars of various Commonwealth jurisdictions and regularly appear in local courts as well as providing legal advice and assistance to governments and private organisations.

The following members of 3 Hare Court Chambers attended this year's Conference:

- * [James Dingemans QC](#)
- * [James Guthrie QC](#)

- * [Peter Knox QC](#)
- * [Professor Satvinder Juss](#)
- * [Thomas Roe](#)
- * [Sara Ibrahim](#)
- * [Hafsah Masood](#)
- * [Rowan Pennington-Benton](#)

We were fronted by [James Donovan- Senior Clerk](#).

James Dingemans, QC spoke as part of a panel discussing the role of regional appellate courts across the Commonwealth. James's paper addressed in particular the continuing role of the Privy Council, the high reputation of its legal decision-making maintaining confidence in the political institutions and encouraging foreign investment.

However, "the process" noted James "has been far from one way"; the Privy Council having benefitted enormously from dicta from the local Commonwealth courts, much of which has helped to develop the common law and the depth of legal and social understanding across our varied jurisdictions. Solutions to the potential downsides to the



Privy Council, such as geographical distance and costs, were also suggested and discussed. James was joined by a distinguished panel including Chief Justice of Trinidad and Tobago, Mr Justice Ivor; Professor Sir Jeffrey Jowell, QC; Professor Mia Swart and Mr M Sheikh, Senior Advocate of the Supreme Court of Pakistan. The panel also considered the role of the Caribbean Court of Justice and the East African Court of Justice.

Thomas Roe spoke about international investment law and in particular the role of precedent in international investment arbitration. Thomas discussed the potential

limitations of binding precedent in the context of an international treaty, the meaning of which ought perhaps not to be decided by a single arbitral decision. On the other hand, there is concern in some parts at the extent of inconsistency between decisions. Whilst there are number of examples of core terms and values in the various investment and related treaties in respect of which there is broad agreement, there are continuing differences in the interpretation and application of the same in individual cases. Thomas advocated the introduction into investment law of elements of the common law methodology, including a system of precedent developed to suit the particular field. Thomas was joined on the panel by Mr Michael Kuper, Senior Advocate; Mr Babajide Ogundipe of Nigerian law firm Sofunde Osakwe and Ms Funke Adekoya, Chairperson of the Chartered Institute of Arbitrators, Nigeria.

Professor Satvinder Juss spoke about Immigration, Migration and Refugees in the Commonwealth. He was joined by Mr Anton Katz, advocate of the Cape Bar; Mr Chris Watters, South African Attorney; Professor Rosalind Croucher of the Australian Law Reform Commission. The lively discussion was chaired by Lady Lester, an English Immigration Judge. Profess Satvinder Juss also spoke on Monitoring and Enforcement of Human Rights in the Domestic Context. He was joined by Professor Firoz Cachalia, University of Witwatersrand, South Africa and Ms Toni Hancox, Director of Legal Assistance Centre, Namibia. The discussion was chaired by Lord Lester, QC.

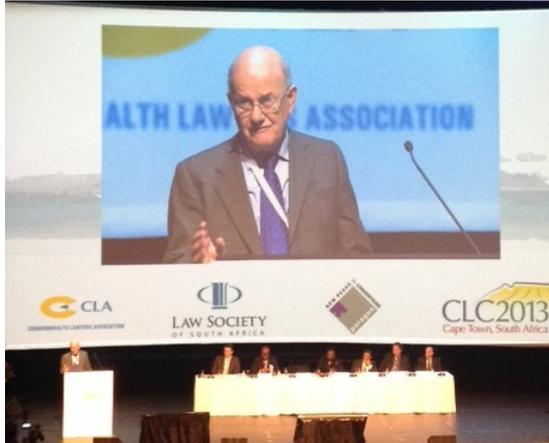
3 Hare Court members were joined by a number of solicitors from the UK, including Charles Russell LLP – a key player in the Commonwealth operating in, amongst other fields, international commercial arbitration, capital markets, banking and energy as well as regularly appearing before the Privy Council. David Berry, partner at Charles Russell and Head of the Corporate Commercial group spoke on Regulatory Reform of Financial Institutions Post the Financial Crisis. He posed the question as to whether regulation had the potential to change the culture within lending institutions.

Mr Berry began with a summary of the causes of the so called credit crunch and its effects. He considered the regulatory response, including within the UK the disbanding of the FSA and proposed ring fencing measures within investment arms. He embarked upon a comparative analysis of the responses from key international players, how these interacted with each other, and whether they could lead to a change in business culture within the banking industry. David suggests that prudence is the cardinal value and something that needs to enter the everyday consciousness of lenders. He was joined on the panel Charles Flint, QC, barrister from Blackstone Chambers; Mr Nnamonso Ekanem, lawyer from Nnamonso and Co. The discussion was chaired by Mr J B Daudu, Past President of the Nigerian Bar Association.

Mr Patrick Russell, Senior Partner at Charles Russell LLP and expert in sports law, spoke as part of a panel discussing sports law in the Commonwealth. The essence of sport, Mr Russell explained, is a contest of uncertain outcomes, governed by rules. Sport is a serious business. It generates huge amounts of revenue, not least from gambling on the results of sporting contests. With that comes the risk of interference, including threats and bribes. Mr Russell pulled no punches, stating that "...many sports, especially in the post amateur period, have in my view long since corrupted their own essence by an endemic and accepted culture of deliberate, cynical cheating". There is, he says, an accepted level of cheating and a cloud of dishonesty over many sports. What is needed is a change in culture. Investigation, detection and prosecution is resource intensive and ineffective by itself. The rules also need to be tightened up with stiffer penalties for breach. International federations need to take their responsibilities more seriously and lobby governments to offer greater protection against corruption. "Strong leadership and action not words" is required.

The closing key note address was given by Lord Judge, Chief Justice of England and Wales, who delivered a speech on the meaning of the Rule of Law. The Rule of Law, he said, requires everyone to be treated equally. That means focusing on individuals and their particular circumstances when exercising judicial functions, such as sentencing. It

raises difficult issues as to the relevance of a defendant's social or financial background; should a judge treat a thief from a poor background more leniently than one from a rich? The issue of equality is of course something of acute relevance to South Africa and it's not too distant past. Lord Judge celebrated the success of modern South Africa, and its traditional Ubuntu sense of community winning through. His Excellency Obong Godswill



Akpabio, Executive Governor of Akwa Ibom State, Nigeria, Chairperson, also addressed the delegation at the closing ceremony. He agreed with Lord Judge's sentiments, adding that equality before the law underpinned all human rights and was indeed the Gospel of the law. The price to paid for the Rule of Law was said to be eternal vigilance, amongst

lawyers, judges and politicians.

The Conference closed after a week of fascinating discussions, lectures and social events bringing lawyers from all over the Commonwealth a little closer together. If you would be interested to hear any more about the Conference or any of our speakers, please get in touch with our Head Clerk, James Donovan.

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