

## CJEI Patron Chief Justices Meet in Zambia

The CJEI's Patron Chief Justices' Meeting took place at the twenty first Commonwealth Law Conference in Livingstone, Zambia on April 8, 2019. The meeting was attended by the following: The Honourable Justice A.B. Tafa, Deputy Chief Justice, Botswana; The Right Honourable The Lord Burnett of Maldon, Lord Chief Justice, England and Wales; The Honourable Chief Justice Sophia A.B. Akuffo, Ghana; The Honourable Dr. Ahmed Abdhulla Didi, Chief Justice, Maldives; The Honourable Sir Declan Morgan, Lord Chief Justice, Northern Ireland; The Honourable Chief Justice Sir Gibbs Salika, Papua New Guinea; The Right Honourable Lady Dorrian, Lord Justice Clerk, Supreme Courts of Scotland; The Honourable Chief Justice Ivor Archie, Trinidad and Tobago; The Honourable Chief Justice Irene Chirwa Mambilima, Zambia; The Right Honourable Sir Dennis Byron, President, Caribbean Court of Justice and Chair, CJEI and The Honourable Madan B. Lokur, CJEI President.

The Honourable Chief Justice Irene C. Mambilima welcomed those attending and introduced The Honourable Madan B. Lokur, CJEI President. After greeting the attendees, The Honourable Mr. Justice Madan B. Lokur reported on CJEI's past two years' work and future work plans. The Right Honourable Sir Dennis Byron then led a discussion on a proposed programme for newly appointed Chief Justices. Justice Lokur then discussed AI and its role in the justice systems of the Commonwealth. This meeting also involved a private discussion by the Chief Justices on issues of interest to Commonwealth judiciaries.

The meeting ended with a luncheon hosted by The Honourable Chief Justice Irene C. Mambilima.

### **Remembering Prof. (Dr.) N.R. Madhava Menon (1935- 2019)**



Dr. N. R. Madhava Menon passed away this past May at the age of 84. Seen as the father of modern legal education in India, Dr. Menon lived a full life dedicated to legal education and service within his community. Dr. Menon was born on May 4, 1935 in the city of Thiruvananthapuram. He completed a degree in zoology as well as his law degree at Kerala University in 1955, eventually going on to attain his LL.M and Ph.D. from Aligarh Muslim University and an MA from Punjab University. Dr. Menon was passionate about legal education and was a founder and first director of the National Law School of India University in 1986. Dr. Menon began the University in a car shed and was equipped with a modest budget, yet through a great deal of perseverance the University flourished. Today, there are now 24 national law universities in India thanks to the help of Dr. Menon. Dr. Menon also supported legal education by becoming the Founder-Vice-chancellor of West Bengal National University of Juridical Sciences, he founded

the Menon Institute of Legal Advocacy Training, and was a professor of law at several universities including Delhi University.

Dr. Menon's impact on judicial education began with the establishment of the National Judicial Academy for which he was the founding director. As founding director, Dr. Menon would train senior judges and lead the experiment of judicial education in India. Dr. Menon was also a member of the Board of Governors for the International Organization of Judicial Trainers and was involved with numerous commissions and committees relating to judicial education. Dr. Menon was a great friend of CJEI and was a member of our Advisory Board, an avid support, as well as a frequent editor for the CJEI newsletters.

Dr. Menon's impact exceeded legal and judicial education as he actively sought to better the lives of the disadvantaged. He pushed for law schools to incorporate curricula which would cater to the needs of Indians living in rural and small towns and to also develop more clinics which focus on social justice. He also chaired the expert group that proposed the establishment of an Equal Opportunity Commission in India. In 2003, due to his outstanding work in the community the Government of India awarded Dr. Menon the Padma Shri, India's fourth highest civilian honour.

CJEI thanks Dr. Menon for his incredible work within the institution and would like to offer our condolences to his family and loved ones. If anyone would like to read more about the life and service of Prof. N.R. Madhava Menon they can read the autobiographical work titled "Turning Point".

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## 26<sup>th</sup> Annual Intensive Study Programme for Judicial Educators

The CJEI's twenty-sixth annual Intensive Study Programme for Judicial Educators (ISP) was held from June 2 – 21, 2019. The programme was directed by The Right Honourable Sir Dennis Byron, CJEI Chair and The Honourable Mr. Justice Peter Jamadar, CJEI Vice President (Programming) and Co-Directed by The Honourable Mr. Justice Brian Lennox, Ontario Court of Justice and Former Director of National Judicial Institute of Canada and The Honourable Madan Lokur, CJEI President. It was attended by 24 participants: Karen Sloan, National Judicial College, Australia; The Honourable Mr. Justice Ian R. Winder, Supreme Court, Bahamas; Dr. The Honourable Madam Justice Sonia L. Richards, High Court, Barbados; The Honourable Ms. Justice Tshegofatso Mogomotsi, High Court, Botswana; Her Worship Kamogelo Joyce Mmesi, Chief Magistrate, Botswana; The Honourable Justice Isaac Bahuma, Industrial Court, Botswana; Ms. Peggy Hamoonga-Madandume, Deputy Registrar, Industrial Court, Botswana; The Honourable Mr. Justice Tony Poon Siu-tung, Court of First Instance of the High Court, Hong Kong; Mr. Antonio Mario Da Roza, Director, Hong Kong Judicial Institute, Hong Kong; The Honourable Mr. Justice Anand Pathak, High Court of Madhya Pradesh, India; The Honourable Mr. Justice G.S. Sistani, High Court of Delhi, India; Mr. Reetesh Singh, Additional District & Sessions Judge, High Court of Delhi, India; Mr. Sanjay Shukla, District and Sessions Judge Jabalpur, India; Mr. Vishal Gogne, Additional Director, Delhi Judicial Academy, India; The Honourable Chief Justice Bryan Patrick St George Sykes, Chief

Justice, Supreme Court of Jamaica, Jamaica; The Honourable Mrs. Justice Marva McDonald-Bishop, Court of Appeal, Jamaica; His Honour Mr. Chester Crooks, Corporate Area Parish Court (Criminal Division), Jamaica; The Honourable Justice Ellenas V. Batari, National and Supreme Courts Papua New Guinea; The Honourable Justice Paniel Mogish, National and Supreme Courts, Papua New Guinea; Mr. Jack Kariko, National Judicial Staff Services, Papua New Guinea; The Honourable Justice Shiranee Tilakawardane, Retired Supreme Court Justice, Judge's Training Institute, Sri Lanka; The Honourable Mme. Justice Charmaine A.J. Pemberton, Supreme Court of Trinidad and Tobago, Trinidad; The Honourable Mme. Justice Andrea Smart, High Court of Trinidad and Tobago, Trinidad; The Honourable Lady Justice Prof. Lillian Tibatemwa-Ekirikubinza, Supreme Court of Uganda, Uganda.

Participants spent the first two weeks completing the study component of the programme at the Schulich School of Law, Dalhousie University in Halifax. The programme topics included: providing instruction for adults - understanding adult learners learning and teaching styles, learning outcomes and active learning forms and benefits; review of functions, objectives, definition and levels of judicial education; targets of judicial education; curricula development; judicial ethics and conduct; judicial performance feedback; unrepresented litigants; challenges for judicial academies; judgment writing; long range judicial education planning; increasing your effectiveness

by managing your time; impact of developing technologies on the law and court processes – e-filing, artificial intelligence; judicial role – a public service; judicial ethics and the appearance of bias in the world of social media; exploring judicial arrogance and judicial humility; dealing with different capability levels; and the importance and methodology of programme evaluation.

The final week of the programme was spent in Ottawa and Toronto. In Ottawa, the participants visited the Supreme Court of Canada, the Superior Court of Justice, the Office of the Commissioner for Federal Judicial Affairs, the Canadian Judicial Council and the National Judicial Institute. In Toronto, they visited the specialized courts at Old City Hall (Drug Treatment Court, Mental Health Court, Aboriginal Persons Court) and Osgoode Hall.

In addition to the rigorous academic sessions, social events included a reception hosted by The Honourable Mark Furey, Minister of Justice and Attorney General at

the Nova Scotia Archives; a reception hosted by His Honour The Honourable Arthur J. LeBlanc, ONS, QC, Lieutenant Governor of Nova Scotia at Government House; and sightseeing trips to Peggy’s Cove and Niagara Falls.

The evaluations received from the participants were very positive. Many participants commented on the expertise of the facilitators, expressing a desire to delve further into many of the topics covered. Several commented on the usefulness of the materials and discussions, noting that the experience will serve as a solid resource in their home countries and can be adapted to accommodate different legal systems. Specifically, the participants praised the informative and diverse content of the course and felt that their attendance at the Intensive Study Programme would directly improve their ability to face the challenges of judicial education / judicial reform in their home jurisdiction



*2019 Participants at Government House in Halifax, Nova Scotia*

### ***Governance Structure of CJEI***

The governing committee of the Institute consists of the Honourable Justice Madan B. Lokur, President; the Right Honourable Sir Dennis Byron, Chair; the Honourable Chief Justice Sophia Akuffo, Vice President (Special Projects); the Honourable Justice Abdu Aboki, Vice President (Outreach); the Honourable Justice Peter Jamadar, Vice President (Programming); the Honourable Justice Kashim Zannah, Vice President; the Honourable Roshan Dalvi, Vice President; retired judge Sandra E. Oxner, O.C., Founding President; the Right Honourable Beverley McLachlin, Canada; the Honourable Chief Justice Ivor Archie, Trinidad & Tobago; the Honourable Chief Justice Asif Saeed Khan Khosa, Pakistan; the Honourable Chief Justice Irene Mambilima, Zambia; the Honourable Mr. Justice Adrian D. Saunders, Trinidad & Tobago; the Honourable Justice Leona Theron, South Africa; the Honourable Judge Gertrude Chawatama, Zambia; Professor Michael Deturbide, Canada and Professor Emeritus John A. Yogis, QC, Honourary Treasurer and Ms. Sandra J. Hutchings, Secretary.

Chief Justices of the Commonwealth countries are Patrons to the Institute. The Executive Directors of Commonwealth judicial education bodies form an Advisory Board to the Institute.



## *Justice Peter Jamadar joins the CCJ Bench*

The Honourable Mr. Peter Jamadar was appointed as a Judge of the Caribbean Court of Justice (CJC) this past July. Justice Jamadar began his career working at a private legal practice before entering the judiciary as a Judge of the High Court of Trinidad & Tobago. In 2008, Mr. Justice Jamadar was elevated to the Court of Appeal of Trinidad & Tobago for which we worked up until his appointment to the CJC.

Along with his extensive contribution to the judiciary, Justice Jamadar has been heavily involved with judicial education nationally, regionally and internationally. Justice Jamadar is Vice President (Programming), a faculty member, as well as a Fellow of the Commonwealth Judicial Education Institute (CJEI). He is the Chair of the Caribbean Association of Judicial Officers. Justice Jamadar was Chairperson of the Trinidad & Tobago Judicial Education Institute (JEITT) from 2009 to 2019.



The Honourable Mr. Justice Adrian Saunders in regards to Justice Jamadar's appointment said that "Justice Jamadar has developed a well-earned reputation throughout the Caribbean and the Commonwealth for his well-reasoned judgments and his outstanding work as a judicial educator" and that "Mr. Justice Jamadar will undoubtedly be a welcome addition to our Bench."

CJEI would like to acknowledge Justice Jamadar's well-deserved appointment and wish him success moving forward.

## *Justice Madan Lokur sworn in as Judge of Supreme Court of Fiji*

Justice Madan B. Lokur, CJEI President and former judge of the Supreme Court of India, was sworn in as the judge of the non-resident panel of the Supreme Court of Fiji on August 12, 2019 by Fiji President Jioji Konousi Konrote in the presence of Chief Justice Kamal Kumar and others. Justice Lokur has been appointed in the new role for a three-year term. This is the first time an Indian judge is getting appointed as the judge of the apex court of another country.



Justice Lokur, one of India's most respected judicial figures is known for his far-reaching verdicts on human rights, especially with regard to children, women and victims of State and extra-judicial violence. He retired from the Indian Supreme Court last December. Referring to his new assignment, Justice Lokur said that "Procedures here are different but the substantive law is not radically different -- the principles of law are more or less the same in every common law jurisdiction. So adjustment will not be a problem". He will be sitting in a Bench of three judges and has to attend two sessions every year of two-weeks duration each.

## News and Notes

**NIGERIA** (submitted by The Hon. Justice Esohe Frances Ikponmwun, Chief Judge of Edo State Judiciary, CJEI Fellow 2018)

### **DEVELOPMENTAL STRIDES IN THE REPOSITIONING OF EDO STATE JUDICIARY OF NIGERIA**

The Edo State Judiciary came into existence when two States were carved out of Bendel State of Nigeria in 1991 to wit: Edo and Delta States. Under the Edo State Judiciary, we have the High Court of Edo State which is a superior court of record and has 28 Judicial divisions. We also have the Magistrate's Courts, Area/District Courts, presided over by Magistrates and Presidents and they perform complimentary role in the administration of Justice. Together, the High Courts, Magistrate's Courts, Area/District Courts carry out Judicial functions of the Judiciary in Edo State.

The Hon. Chief Judge is the head of the Edo State Judiciary. Coincidentally, I am the incumbent Chief Judge of Edo State and I assumed office as the 13<sup>TH</sup> Substantive Chief Judge of Edo State on the 26<sup>TH</sup> day of January, 2017. I am currently head the administration of the Edo State Judiciary. The Edo State Judiciary comprises of the Civil Division, Criminal Division, Customary Court Division, Family Court Division, Multi-Door Court House and the Election Petition Tribunal.

#### **DEVELOPMENTS IN THE EDO STATE JUDICIARY**

- Recently, the Edo State Judicial Service Commission approved the establishment of a Judicial Education Centre to train Judicial Officers of the Edo State Judiciary.
- A new and modern High Court complex located in Benin City is under construction and it is near completion. In the New High Court Complex a space has been designated for use as the Edo State Judicial Education Centre. This will be the first of its kind in the history of the Edo State Judiciary. We are hoping that the Commonwealth Judicial Education Institute (CJEI) will partner with the Edo State Judiciary in terms of technical support in trainings, training materials and resource persons. Find below pictures of the New High Court Complex under construction.



- Two new Courts were commissioned on the 16<sup>TH</sup> July 2019 at Ekpen and Igueben.
- Two Hon. Justices were appointed last year in the Edo State Judiciary; Hon. Justice Abiose Oluwatoyin Irobosa Omotoso and Hon. Justice Aigbona Terry Momodu.

- The entire High Court complex which is in use, is undergoing massive renovations. Both the offices and court halls are being renovated. Find below pictures of the on-going renovations at the High Court Complex.



- The Edo State Judiciary has established a functional Multi-Door Court. It is a court connected Alternative Dispute Resolution Centre, comprising of a nine-member governing Council with the Chief Judge of Edo State as the Chairman and a Body of Neutrals. Cases are filed as Walk-ins and Court referred matters. Seventy-Seven Walk-in cases and One Hundred Court referred cases have been resolved amicably with settlement agreements signed as consent judgment by the ADR Judge. The foremost challenge is the unwillingness of Lawyers to submit to ADR Process when their matters are referred by the Court.
- We have also reviewed the Edo State High Court Civil Procedure Rules, The Magistrates Courts Civil Procedure Rules and the Area Customary Court Civil Procedure Rules.
- A technical committee on the development of Edo State Sentencing Guidelines has been constituted to develop and adopt Sentencing Guidelines for all the Courts with Criminal jurisdiction in Edo State. The objective is to set out the appropriate standards and guidelines for the sentencing process to ensure reasonable uniformity and fairness in Sentencing in Edo State.
- Work on the establishment of Small Claims Court in Edo State has been completed awaiting formal inauguration. The Small Claims Court will be presided over by Magistrates and the Court will entertain civil matters involving small claims. Under the Small Claims Court, judgment shall be delivered within 60 Days. This will promote speedy dispensation of Justice.
- These are some of the developmental strides and innovations geared towards repositioning Edo State Judiciary for effective and efficient Justice delivery.

### **Independence/Financial Autonomy of the Judiciary**

It is expedient to raise the issue of the Independence and Financial Autonomy of the Judiciary in Nigeria which is becoming more of a myth rather than a reality. It is regrettable that the Judiciary in Nigeria is not truly independent. If the Judiciary has to go cap in hand to beg for its entitlements from the Executive, then the Judiciary is not truly independent. Financial autonomy of the Judiciary is yet to be implemented since March 22<sup>nd</sup> 2019 when a Presidential Implementation Committee was inaugurated. Implementation of financial autonomy will make the Judiciary in Nigeria become self-sustaining and function optimally.



**PAPUA NEW GUINEA** (submitted by Mr. John Carey, Executive Director, Papua New Guinea Centre for Judicial Excellence, CJEI Fellow 2018 and Ms. Debbie Laudiwana, Research and Publications Manager, Papua New Guinea Centre for Judicial Excellence)

### International Mediation & Arbitration Conference



The Second South Pacific International Mediation and Arbitration Conference was held for the first time at the Stanley Hotel, Port Moresby on the 25 – 29 of March 2019 with the theme **“Enhancing Rule of Law and Increasing Business Confidence in a Globalized Economy”**. The conference was organized by the Asian Development Bank in conjunction with the Papua New Guinea Government, the United Nations Commission on the International Trade Law and other development partners.

The objective of this conference was to promote the importance of international arbitration in attracting more cross-border trade and investment (including climate finance) in the South Pacific region and to assist remaining South Pacific countries accede to the New York Convention, put in place implementing law, and ensure effective implementation through capacity building.

The Arbitration Conference is a component of the wider International Mediation and Arbitration Conference organized by the PNG Government. The Deputy Chief Justice of Papua New Guinea, Justice Ambeng Kandakasi, CBE is the Chairman of the PNG Judiciary’s Alternative Dispute Resolution Committee, and presently oversees the development and implementation of court annexed mediation in the country.



In his keynote address, the Chief Justice of Papua New Guinea, Sir Gibbs Salika, GCL KBE CSM OBE stated that the Papua New Guinea Judiciary is mature, vibrant, independent and impartial and has been delivering services of conflict resolution effectively and efficiently through mediation. He further stated that the upkeep and maintenance of the Rule of Law now and in to the future for PNG, is in good hands. This assurance was not only directed to the 500 plus international delegates who attended the conference, but also for the 8 million people of Papua New Guinea.

## Client Services and Judicial Protocol Workshop

The Supreme and National Courts of Papua New Guinea along with the Papua New Guinea Centre for Judicial Excellence (PngCJE) and the Pacific Judicial Strengthening Initiative (PJSI) hosted the Client Service and Judicial Protocol Workshops from the 16<sup>th</sup> to 25<sup>th</sup> July, 2019 in Port Moresby, Papua New Guinea. The Facilitators were Mr. John Carey, JP, Executive Director, PngCJE and Mr. Mitchell Hughes, Australian Consultant.



The workshops aim to prepare court staff for meeting the needs of clients in modern courts with a view to improving access to justice for all citizens of the country. Further, the workshops provided training for court staff to meet and exceed the expectations of the VIP delegates at the

upcoming Commonwealth Magistrates' and Judges' Association 2019 Conference to be held in Port Moresby from 8 – 12 September. These workshops are the first type of training that addressed these topics which are necessary for further developing the skills of the PNG court staff.

Participants include a variety of court staff with different roles and responsibilities from the Supreme and National Courts. All participants applied their new knowledge and skills in role plays and interactive sessions.

The workshops are one of many held by the Pacific Judicial Strengthening Initiative within the Pacific which is a Programme implemented by the Federal Court of Australia. The Initiative is funded by the New Zealand Ministry of Foreign Affairs and Trade, which has supported promoting the rule of law across the Pacific over recent years.

## Commonwealth Magistrates' and Judges' Association Conference

On the 8 to 12 September 2019, the annual Commonwealth Magistrates' and Judges' Association Conference was held in Port Moresby with the theme "**Parliamentary Democracy and the Role of the Judiciary**". The aim of the conference was to:

- *promote better understanding amongst judicial officers of all ranks and from all parts of the Commonwealth of judicial independence issues and to explore the approach to those issues in different parts of the Commonwealth;*
- *promote greater awareness amongst the magistrates and judges of the Commonwealth of international treaties and law relating to the development and access to justice and to consider the practical application of the body of law; and*
- *enhance networking within the Commonwealth Magistrates' and Judges' Association on judicial developments and challenges.*

CMJA President and judge of the Higher Court of Malawi, Justice Charles Mkandawire said the Association was grateful to Papua New Guinea Judiciary for hosting the conference for the first time and for being able to take on the challenges that came with it in terms of preparation and financing.

Chief Justice of Papua New Guinea, Sir Gibbs Salika, Deputy Prime Minister and Minister for Justice and Attorney General, Honourable Davis Steven and Justice Mkandawire were present to welcome close to 300 Judges, Magistrates, senior court personnel and guests from more than 40 Commonwealth countries.



## **SRI LANKA – SUPREME COURT DECISION STABILIZES POLITICAL LANDSCAPE**

In the Fall of 2018, Sri Lanka saw the rise of political instability due to clashes between the Executive and Legislature, and such instability was resolved thanks to the swift ruling by the Sri Lankan Supreme Court. The political clash derived from an incident which took place on October 26, 2018 where President Maithripala Sirisena appointed former President Mahinda Rajapaksa as Prime Minister before removing the standing Prime Minister, Ranil Wickremesinghe. On November 9, 2018, after a failed attempt to garner support for former President Rajapaksa within Parliament, President Sirisena announced a proclamation in which he ordered Parliament to be dissolved. Many labelled the situation a constitutional crisis and demanded the dissolution of Parliament to be annulled.



*Judge Sandra E. Oxner (left), Chief Justice H.N.J. Perera (middle), Judge Rya Zobel (Right)*

Following the enactment of the 19<sup>th</sup> Amendment in 2015, any person has a right to ‘make an application under Article 126 [of the Constitution] against the Attorney-General in respect of anything done by the President, in his official capacity’. Accordingly, the challenge to President Sirisena’s proclamation was heard in the Supreme Court of Sri Lanka on December 13, 2018. Chief Justice H.N.J. Perera held that the proclamation contravened Article 70 (1) of the Constitution and that it also violated the Petitioner’s rights under Article 12(1) of the Constitution, rendering the dissolution of Parliament null and void. Through using the guiding principles of statutory interpretation, it was found that although the President was correct in relying upon Article 33(2) of the Constitution, in that he holds the power to dissolve Parliament, he failed to account for the importance of Article 70 of the Constitution which lays restrictions upon how Article 33(2) may be exercised. The Supreme Court in finding that President Sirisena’s exercise of power was arbitrary and illegitimate also concluded that the proclamation violated Article 12(1) of the Constitution.

This case is an example of how the judiciary has the capacity to ensure political stability, all the while strengthening respect and confidence in the judicial system across a nation. The decision by the Sri Lankan Supreme Court assured the nation that the Courts would not allow unfettered discretion upon any public authority, even the President. Lastly, this case decision reinforced the concept of constitutional supremacy and the division of powers of the arms of the state of Sri Lanka.

### ***INTENSIVE STUDY PROGRAMME FOR JUDICIAL EDUCATORS HALIFAX, OTTAWA AND TORONTO, CANADA***

CJEI’s 27<sup>th</sup> annual Intensive Study Programme for Judicial Educators (two weeks or three weeks) will be held June 7 - 26, 2020 in Halifax, Ottawa and Toronto, Canada. A programme to teach skills and techniques to produce and present effective judicial education programming that measurably and positively impacts judicial performance.

For information, contact CJEI at [cjei@dal.ca](mailto:cjei@dal.ca).

## Upcoming events

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| UNODC High Level Meeting of the Global Judicial Integrity Network   | Doha, Qatar<br>24 - 27 February 2020                    |
| CJEI Intensive Study Programme for Judicial Educators               | Halifax, Ottawa and Toronto, Canada<br>7 - 26 June 2020 |
| National Association of State Judicial Educators' Annual Conference | New Haven, Connecticut<br>9 - 12 August 2020            |
| CMJA's Annual Conference  | Cardiff, Wales<br>13 - 17 September 2020                |
| CJEI Biennial Meeting of Commonwealth Judicial Educators            | Gaborone, Botswana<br>22 - 25 October 2020              |

*We are eager to share in the CJEI Report news on judicial education developments, judicial reforms, elevations, honours, or obituaries and other news related to the judiciary such as new innovations to tackle arrears and delays, strategies to improve access to justice, landmark judgments, or recent judicial education initiatives in your country.*



### **Contact us:**

Room 306, 6061 University Avenue  
Halifax, Nova Scotia, B3H 4H9 Canada  
Tel. +1 902 494 1002  
Fax: +1 902 494 1031  
[cjei@dal.ca](mailto:cjei@dal.ca)

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