



# Backlogs in the Civil Justice System- Perspective from the Caribbean and the Pacific

The Honourable Mr Justice Adrian Saunders, President of the Caribbean Court of Justice

***Webinar Series: Commonwealth Secretariat's Rule of Law Conversations 'Backlogs in the Civil Justice System – Perspective from the Caribbean and the Pacific'***

Virtual Event  
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## **Opening Remarks**

**By**

**The Honourable Mr Justice Adrian Saunders, President of the Caribbean Court of Justice**

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Protocols.

Thank you so much for inviting me to share in this important discussion. Covid-19 has exposed and aggravated deficiencies and gaps courts the world over have experienced, and opportunities like these for sharing experiences have a fundamental role to play in addressing these challenges and ensuring that we come out of the pandemic more resilient and better able to adapt to a new paradigm.

The invitation to me to speak today referred to highlighting key challenges brought on by case backlogs in the civil justice system. Such backlogs of course are more than mere court performance statistics. Each case whose resolution is delayed means that some person, some family, some business interest has not received timely justice and perhaps, more importantly, is unable to move on with their lives and/or livelihoods. Delay and backlogs can therefore have profound implications for social and economic life and the rule of law in general. Moreover, they exacerbate inequalities because, as with so much else, they affect most the vulnerable in our societies.

My court, the Caribbean Court of Justice (CCJ), is a hybrid apex and international court. It is therefore differently positioned from domestic courts. We therefore do not experience the same challenges with case backlogs as other courts might. This does not mean, however, that we do not cater to avoiding delays and backlog. I wish to share some strategies I believe can be utilised to eliminate and prevent backlogs.

### **The Court as a place and not a service**

The first is associated with a mindset which may have originated with the English Professor Richard Susskind. He has for decades implored us all to consider a court as being a service and not a place. The pandemic has confirmed the efficacy of this mindset and highlighted the imperative of transitioning to processes and systems that render courts more agile and more responsive to court users' needs and environmental risks.

### **Appropriate Dispute Resolution (ADR)**

The second strategy is the adoption of integrated Appropriate Dispute Resolution (ADR). To many, 'ADR' is regarded as *alternative* dispute resolution. However, in the Eastern Caribbean Supreme Court (ECSC) where I was a judge for some time, our Rules deliberately defined ADR as *appropriate* dispute resolution, the point being that litigation is merely one choice in a range of dispute resolution options. What is most appropriate in one type of civil dispute might not be so in another. Courts must therefore be geared not only to support the mechanism of litigation but must equally promote and provide avenues for other forms of dispute resolution, whether mediation, arbitration or some form of restorative justice.

### **Proactive judge-driven case management**

Thirdly, there must be proactive judge-driven case management that anticipates and interrogates the wide range of legal and administrative issues that may arise in each individual case. This entails firm judicial control of the litigation process. It is for the court to ensure that the resources and time allotted to each case are proportionate to its complexity, the amount of money at stake and the likely consequences of its result for the litigants and the society in general.

### **Strategic caseload management**

Fourthly, courts should adopt and implement a strategic approach to caseload management. Getting a case from initial filing to disposition involves a range of progressive steps. The life cycle of cases should be mapped and broken down into these discrete steps so that data is collected on the timeliness with which a case progresses through each step. It is only that kind of analysis that can help you to know where precisely to direct resources, effort and perhaps new policies when tackling delays and backlogs.

### **Appropriate technology**

Fifthly, there is the acquisition of appropriate technology to accompany the various processes referred to earlier. At the CCJ, we have invested heavily in leveraging technology to ensure that the work of the Court is conducted with optimal efficiency for the benefit of both our internal and external stakeholders. One need hardly spend any time on this imperative save to emphasise that, ultimately, technology is a mere tool. More important than the technology are the processes it supports.

### **Judicial accountability**

And finally, there is the need to underline the concept of judicial accountability. Judges must subscribe to performance standards that must be published so that the public can measure their performance against those standards.

I am sorry that time does not permit the development of these ideas but these are in a nutshell my views on some of the more impactful strategies that can be used to ensure efficient disposal of cases and address backlogs.

Thank you.