



ADDRESS BY THE HON. MME JUSTICE MAUREEN RAJNAUTH-LEE

The Honourable Mme Justice Maureen
Rajnauth-Lee, Judge of the Caribbean
Court of Justice

Launch of the Model Guidelines for Sexual Offence Cases in the Caribbean Region

KINGSTON, JAMAICA
24 November 2017

The Judicial Reform and Institutional Strengthening (JURIST) Project is a multi-year (2014-2023) regional Caribbean judicial reform initiative funded under an arrangement with the Government of Canada. The Project is being implemented on behalf of Global Affairs Canada (GAC) and the Conference of Heads of Judiciary of CARICOM (the Conference), by the Caribbean Court of Justice (CCJ), which was appointed by the Conference as its Regional Executing Agency (REA). The JURIST Project commenced activities on April 1, 2014 after the signing of a Contribution Arrangement between the CCJ and GAC.

A key component of the JURIST Project was the Sexual Offences Project. The two key initiatives of the Sexual Offences Project were, one, the development of the Model Guidelines for Sexual Offences Cases within the Caribbean Region. The JURIST Project hosted the Launch of the Model Guidelines for Sexual Offence Cases in the Caribbean Region in Kingston, Jamaica. And two, the establishment of a Sexual Offences Model Court (in Antigua and Barbuda) to assess the effectiveness of the Model Guidelines.

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by

The Honourable Mme Justice Maureen Rajnauth-Lee, Judge of the Caribbean Court of Justice,

on the occasion of

The Launch of Model Guidelines for Sexual Offence Cases in the Caribbean Region

24 November 2017

Introduction

I bring greetings to all from the Caribbean Court of Justice.

You will undoubtedly notice that we have broad smiles on our faces. It is not only because we are in the beautiful land of Jamaica; but because we have just come from Guyana, where we were privileged to witness the launch of the Sexual Offences Court in Georgetown. With much judicial leadership and vision shown on the part of the Honourable Chancellor and Chief Justice of Guyana, and with funding from UNICEF, Guyana became the first country in the region to establish a sexual offences court. That court seeks to enable the survivors of sexual offences to be treated with dignity as they access justice and to have the best evidence obtained in those cases whilst ensuring that the trial process remains fair for both defendant and complainant. We trust that this vision and leadership will be reproduced in other Caribbean countries, where other sexual offences courts will be established.

As Chair of the Sexual Offences Advisory Committee, it was indeed a pleasure to support the development of this groundbreaking document, the Model Guidelines for Sexual Offence Cases within the Caribbean Region. The Guidelines are the first of their kind in the CARICOM region to put forward a comprehensive, collaborative, and systematic approach to the investigation, prosecution and adjudication of sexual assault cases.

Composition and Role of the Advisory Committee

As you have heard, the problems faced by the justice system in its management of sexual offence cases and in the treatment of complainants are multi-faceted and therefore require a multi-sectoral solution. It is, for this reason, the Sexual Offences Advisory Committee was established to provide advice and support to the JURIST Project in the development of the Guidelines.

Let me say a few words about the Advisory Committee. The Committee is made up of experts and professionals who have significant experience working with complainants and witnesses at every stage of the justice chain for sexual offences. They represent a broad cross-section of stakeholders with a vested interest in improving the management of sexual offences and are committed to ensuring that survivors of sexual violence receive adequate redress and protection within the justice system. The Advisory Committee comprises judicial officers from around the region, a criminal psychologist, and experts from UN Women, the Faculty of Law UWI Mona, the CARICOM Secretariat and UNICEF. We are pleased to acknowledge the presence today of one of the members of the Committee, who hails from Jamaica – Her Honour Paula Blake Powell, Senior Parish Judge of the Family Court of Kingston and St Andrew.

The Process of the Regional Consultations on the Model Guidelines

To undertake the task of developing the Guidelines, the JURIST Project engaged a Consultant, Ms. Diana Shaw, Attorney at Law, Jamaican by birth and practising in Belize. In keeping with the multi-sectoral approach, the JURIST Project, with the assistance of Ms Shaw, held regional consultations with justice sector stakeholders in several CARICOM territories and conducted focus group discussions with survivors, persons with disabilities and persons from indigenous populations.

Thirteen countries participated in three sets of regional consultations and one national consultation. Each of the three regional consultations had multi-sectoral stakeholder representation from four countries. Over one hundred stakeholder representatives participated in the first round of consultations.

The only national consultation was held in Belize in November 2016. The first of the three regional consultations were held in Antigua and Barbuda, with stakeholder representation from

Antigua and Barbuda, St. Kitts and Nevis, Dominica and Montserrat. The second was held in Barbados and included representatives from Barbados, Jamaica, St. Lucia, and St. Vincent and the Grenadines. The third was held in Trinidad and Tobago, and stakeholders from Trinidad and Tobago, Guyana, Suriname and Grenada were present.

The methodology for these consultations employed participatory approaches to facilitate the collection of qualitative and quantitative data from the country representatives on:

- Existing legislative and policy frameworks in their respective countries.
- Existing institutional mechanisms for the prosecution and adjudication of sexual offence cases as well as existing support mechanisms for survivors.
- Gaps and challenges in each country as identified by these key stakeholders.
- Best practices from each country on the prosecution, adjudication of sexual offence cases, as well as existing support mechanisms as identified by participants.

Focus group discussions were held with survivors of sexual violence in four countries. Survivor representation included:

- Men and women from indigenous communities.
- NGO representatives working with survivors of sexual assaults, including trafficked persons.
- Male survivors of sexual assaults.
- Female survivors of sexual assaults.
- Persons with disabilities who were survivors of sexual assaults.
- Persons who had experienced sexual assault and interacted with law enforcement and the court process as children.
- Persons who had experienced sexual assaults and interacted with law enforcement and the court process as adults.

Over fifty survivors and NGO representatives participated in these consultations. Four sets of consultations were held, one in Belize, one in Barbados, one in Trinidad and Tobago and one in Guyana.

The consultations with survivors used focus groups as well as one-on-one interview methods; and adhered to WHO and UN Guidelines for research/interviews with vulnerable persons. The questions that were utilized had been pre-approved by the Advisory Committee. All appropriate consents were obtained, and protocols for confidentiality and prevention of re-traumatization were followed.

The consultations with the survivors informed the regional model guidelines and also informed the content of the Survivor's Rights Charter, which was also developed under this consultancy.

The findings of the regional consultations as well as the consultations with survivors, provided a comprehensive overview of how sexual offence cases are adjudicated in the region. Priority subject areas for the Model Guidelines were identified. These findings also provided rich data to supplement the desk review conducted by Ms Shaw at the beginning of the consultancy and the 2016 Baseline Study which had been commissioned by the JURIST Project and undertaken by UN Women.

The first draft of the Model Guidelines was then submitted to the second round of consultations with several stakeholders, including representatives from the Bar Associations of the region and Prosecutors. Their comments and feedback were used to strengthen the document and produce a draft ready for editing.

To facilitate and oversee the editing process, the JURIST Project convened an Editing Sub-Committee chaired by me. That Sub-Committee comprised Justice Adrian Saunders of the CCJ; Justice Iain Morley, High Court Judge of the Eastern Caribbean Supreme Court; Ms Candice Wallace-Henry, former JURIST Project Coordinator; and Ms Shaw, the Consultant. We are indebted to the Editing Sub-Committee and especially to Justice Morley for his contribution to streamlining and vetting the document with a view to strengthening both its user-friendly as well as its technical-accuracy components.

The document you now have is the result of the direct contribution and input of over two hundred persons and over fifteen months of intensive work. It is robust, comprehensive and most applicable to current realities in respect of the adjudication of sexual offence cases in the Caribbean. It is intended that by its effective application, it will facilitate the provision of the

best evidence in sexual offence cases while minimizing any attendant trauma on complainants and witnesses as a result of their participation in the adjudication process. We are pleased to announce that the Model Guidelines contain a wealth of best, good and promising practices from various jurisdictions in the Caribbean and across the globe.

The Next Steps

Now it is one thing to have a beautiful document, but we want to ensure that it is not only being used by the justice sector actors who work with complainants and witnesses in sexual offence cases but that it will facilitate radical changes in how we as a region approach the management of sexual offences, and in particular, the treatment of survivors. The Model Guidelines, therefore, constitute the first prong of the JURIST Project's four-pronged comprehensive approach to the treatment of sexual offences.

The other three prongs are:

- Building a skilled cadre of professionals, including judges, court personnel, police and attorneys, who are trained to effectively handle sexual violence cases.
- Establishment of a model sexual offences court in a selected CARICOM country to put into operation the prescriptions set out in the Model Guidelines. The Report from this pilot project will then be shared with other CARICOM countries wishing to implement the Guidelines.
- Development and implementation of a regional public education campaign to educate the public on, among other things, the content of the Model Guidelines, the rights of survivors, the meaning of consent, and the importance of rehabilitation and management of sexual offenders, including child offenders.

THERE IS STILL SO MUCH TO BE DONE. LET'S GET TO WORK!

Thanks so very much for your kind attention.