



“JUDICIARY IN MOTION – JUDICIARY HERE, NOW AND IN THE FUTURE”

The Honourable Mr. Justice Peter Jamadar, Judge of the
Caribbean Court of Justice

155th Anniversary of the Administration of Justice in Suriname

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The High Court of Justice of Suriname

The High Court of Justice of Suriname (Dutch: Hof van Justitie van Suriname)
is the highest court of law in Suriname and is the head of the judicial branch.

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by
The Honourable Mr Justice Peter Jamadar, Judge of the Caribbean Court of Justice
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“Judiciary In Motion – Judiciary Here, Now And In The Future”

Introduction: The Meaning of Motion¹

In classical physics, in a Newtonian world of space and time, motion is the change in position of an object with respect to its surroundings in a given interval of time. Alternatively, motion is an act or process of changing place or position. In mechanics there are four general types of motion: (i) rotary motion, which describes anything that moves in a circle around a fixed axis (like a stationary spinning wheel or a fan blade or a propeller) (ii) oscillating motion, which describes something that repeatedly moves in a swinging motion back and forth (like a pendulum), (iii) reciprocating motion, which is similar to oscillating motion, but by which something moves backwards and forwards in a straight line (like a pneumatic drill or a saw blade, and (iv) linear motion, in which something moves in a straight line in a given direction. One common characteristic of these four types of motion is their predictability. However, there is a fifth type of motion, known as irregular or random motion. It describes any motion that has no fixed pattern. Bees and mosquitos fly in irregular or random patterns. But there is also in this world of space-time, the condition of a lack of motion – inertia!

When we contemplate a Judiciary in Motion, it begs a few questions: What kind(s) of motion are we describing? Is the Judiciary going around in circles, oscillating back and forth, moving randomly, or is there a clear and defined path in a given direction. Is there any motion at all, or is there predominantly inertia?

¹ Peter Jamadar, LLB, LEC, MDiv, DD, JCCJ, with assistance from Suraj Sakal, LLB, LEC, Judicial Counsel, CCJ, 6 May 2024.

An easy way to gain some quick, rough and ready, insight is to ask ourselves: Have things changed over time? How much have they changed? What has changed? Take a five-year period and use that as your evaluative time period – say the last five years. Then you can extend that comparative period in increments of say 10 years. If you feel that things are very much the same today as they were yesterday and a long time ago, as we say in Trinidad '*same old, same old*', then that probably gives a clue into what kinds of motion or non-motion are at play in a judiciary.

The point is, that we must not assume that because things are happening, even if a lot of things are happening in a judiciary, that we are necessarily going in a fixed, sustainable, or even desirable direction. Like a bee or a mosquito, we could be moving in a lot of random directions, influenced by a myriad of forces, but not really going anywhere that over time will count meaningfully as truly developmental. After all, meaning is tied to purpose, and in the case of a judiciary, that purpose is the delivery of efficient and effective justice, which includes qualitative considerations such as contextual relevance and responsiveness to changing societal conditions and needs, as well as insights and expectations. Indeed, the delivery of justice is really a service provided for all people and the good of the entire society, without discrimination, and as demanded in each changing moment in time. It is not static and is an ever-evolving process of discovery and adaptation.

Stability vs Motion

Stability and motion co-exist in a dynamic relationship. You may say that the lack of change, that the lack of motion, is a good thing for a judiciary, because there must be stability and certainty in the administration of justice. While this may be true, that is, stability and certainty are important values for a judiciary, we may need to interrogate the relationship between stability and motion more closely, and to discover what is the right balance in a given situation. We defined motion earlier as 'the change in position of an object with respect to its surroundings in a given interval of time', and as 'an act or process of changing place or position'. Consider the Judiciary as the object, moving in a space-time continuum, that is existing in past, present, and future historical contexts. And notice, that in the definition there is an interplay of forces – motion is the position of an object (the Judiciary) relative to its surroundings (its historical context). Thus, philosophically one may say that the 'Motion of a Judiciary' depends on the interplay between its purposes (its reasons for existence) and the contextual demands of the times (historical contexts) in which it finds itself. That is, motion

for a judiciary is the process of change in response to evolving circumstances – which is how I will define Judiciaries in Motion in this paper.

Because historical contexts are ever changing, and even though a judiciary may have basically the same core purposes over time – to resolve disputes according to law, how it goes about its business is always in motion because of these changing contexts. An easy and recent example is the impact of the Covid-19 pandemic on how Judiciaries went about their business. Among so many other things, the pandemic birthed the mainstreaming of virtual court proceedings and hearings. A response to a changing context. This has continued post-pandemic in some jurisdictions and become the norm (not just an exception). For the Caribbean Court of Justice (CCJ) it has become the normal practice; and court users are asked in their pre-hearing questionnaires whether they would like to appear in-person or virtually and have a choice. The judges of the CCJ can also appear virtually from remote sites and there is no requirement that they attend the seat of the Court when presiding in matters.

Indeed, in the sphere of judicial education the very same phenomenon has occurred, and virtual training is now also normative in the region. In fact, most jurisdictions will now offer a blend of in-person and virtual training over the course of their training programmes. Facilitators are also ‘brought in’ virtually and conduct sessions remotely. The Caribbean Association of Judicial Officers (CAJO), of which your very own Judge Sandra Nanhoe-Gangadin (Judge of the Court of Justice, Suriname) has been a long-standing member of its Management Committee, has incorporated as a standard part of its regional outreach judicial education programming, virtual judicial education sessions.

As Judiciaries in Motion, the ones that succeeded best at continuing to fulfil their core purposes during the Covid-19 pandemic had the capacity to be flexible and to pivot effectively and efficiently in times of unexpected change. Any judiciary that could not adapt, that was too rigid and wedded to the ‘old ways’, fell behind. Linear motion had to bend to unplanned (random) interventions in a fluid context of ever-changing forces, and to be able to develop on-the-run ‘new ways’ of going about their business, and to embrace new technologies to achieve this.

Open Justice and the Rule of Law

Judiciaries in Motion must be flexible and able to respond to changing contexts, but in doing so they must also comply with democratic constitutional standards - especially human rights standards. Let us consider as illustrative the matter of Open Justice.

The eighteenth-century English philosopher Jeremy Bentham, who was more inclined to the civilian legal traditions than to the common law, in writing about ‘Publicity in Courts of Justice’, stated:

In the darkness of secrecy, sinister interest and evil in every shape have full swing. Only in proportion as publicity has place can any of the checks applicable to judicial injustice operate. *Where there is no publicity there is no justice. Publicity is the very soul of justice.* It is the keenest spur to exertion and the surest of all guards against improbity. It keeps the judge himself while trying under trial.²
(emphasis added)

More recently, former Canadian Chief Justice Beverley McLachlin would describe the rationale for open justice rather succinctly: ‘The law belongs to the people. Access to the legal system is a basic right and a public good.’³

Open justice is an essential part of democratic governance and of republicanism. In Suriname, as throughout the region, the pandemic-led embracing of virtual hearings has posed a particular challenge to this core principle of open justice. A challenge that regional Judiciaries are still reconciling. I am informed, that whereas during the pandemic the Surinamese Judiciary shifted to more virtual hearings, that as of 2023 it has mostly switched back to in-person hearings.

Suriname stands within the civil law traditions. Chapter XV of the 1987 Republican Constitution of Suriname (rev 1992) addresses ‘The Legal System’. Dealing with the Judiciary, art 136:2. provides that ‘The court sessions shall be public, subject to exceptions made by the law.’ And art 136:4 provides that ‘The pronouncement of sentence shall take place in public.’

² John Bowling (ed), ‘Works of Jeremy Bentham’ (1843) vol 4, 316–17, quoted in J J Spigelman, ‘The Principle of Open Justice: A Comparative Perspective’ (2006) 29 UNSW Law Journal 147.

³ Beverley McLachlin, ‘Openness and the Rule of Law’ (Annual International Rule of Law Lecture, United Kingdom, 8 January 2014).

In common law traditions the idea of open justice is jealously guarded as a core principle. It recognises that the administration of justice must take place in courts that are open to public viewing and conducted with openness - evidence must be presented and decisions and sentences handed down publicly. It is linked to the principles of judicial independence and impartiality. It facilitates judicial accountability and transparency. It is also one of the fundamental attributes of a fair trial. Indeed, in court settings, it is only circumscribed in exceptional circumstances and in order to protect special needs, the public interest, and to secure the due administration of justice.

Some of the key rationales for the notion of open justice in both legal traditions are as follows. One rationale is that court proceedings should be subjected to public scrutiny. This is because there is a concern that without such scrutiny ‘abuses may flourish undetected’.⁴ Another is that fair and accurate reporting on, and critique of court proceedings (including of judgments and judicial officers), and as well on and of institutional court performance, is a vital aspect of access to justice, the rule of law, and core democratic values, and are to be welcomed. A third is that open justice promotes public trust and confidence in the administration of justice and respect for the rule of law. In all of these aspects, the role of the media is considered vital, and therefore the media’s unheeded access to court proceedings is viewed as democratically sacrosanct.

These demands are not always easy to reconcile. The Media as Fourth Estate and as a guardian of democracy is often critical of judiciaries for not allowing enough access to courts and court proceedings. This can become especially testy in high profile cases where the public and the Media are all very interested in following every detail in court proceedings. However, a judiciary may for good cause feel justified in restricting and limiting that access. How is this balance to be negotiated in Suriname as you move into the future?

As I pointed out in *Ministry of Planning and Sustainable Development v Joint Consultative Council for the Construction Industry*:⁵

⁴ Russell v Russell (1976) 134 CLR 495 at [8] (Gibbs J).

⁵ TT CA, 28 October 2016) at [47].

It is maybe worth reminding ourselves, that whereas freedom, transparency and accountability are the hallmarks of a participatory democracy, secrecy lies at the heart of dictatorships.

Yet these are sometimes difficult balances to reconcile. The one thing I could say, is that ideally all limitations should be explained. And, ideally, wherever possible movements in the direction of having court proceedings live-streamed enhances open justice and courts of the future should incorporate this.

What then is the right movement post-pandemic in relation specifically to virtual hearings? This is a matter for each jurisdiction to work out for themselves. I suggest however, that whatever is decided the design must meet the democratic constitutional standards of open justice. At the CCJ all of our proceedings, including our virtual hearings, are live-streamed and recordings stored on the Court's worldwide website. Prior to a matter being heard, notice is published both on the Court's website and on its social media platforms. The world is informed, and the world can view the proceedings – live or at any subsequent time. In this way the key objectives and standards of open justice are satisfied.

Regrettably, there are some Caribbean jurisdictions that have uncritically and even unresponsibly,⁶ retained the use of virtual hearings post-pandemic, but which, from all reports, in their continued use do not fully meet the minimum requirements of open justice. For example, the public and media may not be enjoying the free and unhindered access that democracy demands. What may have been justifiable in the emergency and exceptional circumstances of the pandemic no longer prevails. Judiciaries in Motion must also adhere to the constitutional standards that govern the administration of justice, or else they may run afoul of the rule of law. The price can be a loss of legitimacy, public trust, and an undermining of participatory democracy.

Of course, the rule of law goes beyond just open justice and includes, for example, access to justice, equality of treatment, and fair hearing and timeliness as core minimum

⁶ As coined by Trinbagonian philosopher Lloyd Best, to describe persons who unknowingly act without responsibility.

constitutional performance standards that the judiciary of the future must always facilitate and meet.

Duty of Care? Why DATA matters.

No one knows what the future holds! The Covid-19 pandemic proved this to us all. Yet, Judiciaries in Motion must be concerned with, plan for, and implement changes to address current and foreseeable needs and concerns.

The Republican Constitution of Suriname, in its Preambular statements, is future facing and developmental, motivated by a civic spirit of deep care and concern for People and country:

inspired by the love for this country ...

assured of the will to determine our economic, social and cultural development in full freedom ...

inspired by a civic spirit and by the participation in the construction, expansion and maintenance of a society that is socially just ...

How do Judiciaries in Motion fulfil these aspirations? How do they satisfy the duty on them to become and be Judiciaries of sustainable excellence?

Two overarching thoughts are apposite. Firstly, what is involved is a process, which is a never-ending journey towards excellence. One never arrives, if only because circumstances and standards are constantly changing. Secondly, reliance on relevant research and available developmental resources are critical. For example, international developmental frameworks and best practices, currency with tried and tested court management methods and technological tools, local needs analyses and social context awareness, and continuing judicial education and training, are all vital for appropriate Judicial innovations and initiatives that lead into futures that are uncertain.

Data is an invaluable asset for Judiciaries in Motion. Local Judiciaries need to engage in research-based data collection, collation, and analysis. The Word Justice Project (WJP) is an independent, multidisciplinary organisation working to create knowledge, build awareness, and

stimulate action to advance the rule of law worldwide.⁷ Without assuming that any of this data is to be considered territorially robust, I cite it illustratively, if only to make the point that if local Caribbean jurisdictions are not willing to do the relevant research, international organisations are doing so, and they will therefore determine the narratives about our jurisdictions. Judiciaries in Motion thus have a responsibility to research, collate, and analyse relevant local data.

As illustrative, the WJP's 2023 'Corruption in the Caribbean Report' shows that a majority of Caribbean people believe that public officials in the region are corrupt. Fourteen Caribbean countries were polled, and Suriname was among them.⁸ For example, regionally and on average 80% of respondents believe that public officials frequently award government contracts to friends or relatives, and 66% believe that public officials regularly request bribes.⁹

For Suriname the following is reported for selected groups. 'Perceptions of Corruption among Actors in the Public Sector' (percentage who reported that, among the following people, 'all of them' or 'most of them' are involved in corrupt practices): (i) 82% political parties, (ii) 63% members of parliament/congress, (iii) 61% customs officers, (iv) 55% police (v) 30% prosecutors, (vi) 29% public defence attorneys, (vii) 27% judges and magistrates.¹⁰ The WJP Rule of Law Report for Suriname (2022)¹¹ also reveals the following information in two key areas:

- (i) **Fundamental freedoms.** Compared to respondents in regional peer countries, Surinamese respondents, on average, had more positive perceptions of the State's respect for freedoms.

When asked about respect for fundamental freedoms in Suriname, respondents had more favorable views on freedom of religion, with 93% of respondents agreeing

⁷ Founded by William H Neukom in 2006 as a presidential initiative of the American Bar Association (ABA), and with the initial support of 21 other strategic partners, the World Justice Project transitioned into an independent 501(c)(3) non-profit organisation in 2009. Its offices are located in Washington DC, Singapore, and Mexico City <worldjusticeproject.org> .

⁸ Antigua and Barbuda, The Bahamas, Barbados, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, St Kitts and Nevis, St Lucia, St Vincent and the Grenadines, **Suriname**, and Trinidad and Tobago.

⁹ Said Aarji and others, 'Corruption in the Caribbean: Insights from the General Public 2022' (World Justice Project 2023) <<https://worldjusticeproject.org/sites/default/files/documents/Corruption-in-the-Caribbean-report-v4.pdf>> accessed on 1 May 2024.

¹⁰ Ibid at 32.

¹¹ Said Aarji and others, 'The Rule of Law in Suriname: Key Findings from the General Population Poll 2022' (World Justice Project 2023) <<https://worldjusticeproject.org/our-work/research-and-data/rule-of-law/suriname-2022>> accessed on 1 May 2024.

that religious minorities can observe their holy days. Conversely, Surinamese respondents had less favourable views on electoral freedoms, with 27% of respondents agreeing that local government officials are elected through a clean process.

Perceptions of the State's respect for overall fundamental freedoms deteriorated in Suriname between 2018 and 2022. The most significant declines include decreases in the perceptions that the media can expose cases of corruption (down 22 percentage points), civil society organisations can express opinions against the government (down 22 percentage points), and political parties can express opinions against the government (down 20 percentage points).

- (ii) **Criminal justice.** Surinamese respondents were most confident that the criminal justice system ensures equal treatment of victims (51%) and gives appropriate punishments (51%). Surinamese respondents were least confident that the criminal justice system ensures timeliness (24%) and safeguards the presumption of innocence of defendants (33%).

Between 2018 and 2022, Suriname's most significant trends in public opinions on the criminal justice system include an improvement in the perception that the criminal justice system gives appropriate punishments (up 12 percentage points) and declines in the perceptions that the criminal justice system safeguards the presumption of innocence (down 18 percentage points) and ensures timeliness (down 16 percentage points).

Right away (and accepting that this data may be challengeable) we can see the usefulness of data collection, collation, and analysis. Accurate and relevant data can help identify strengths and weaknesses and reveal the gaps that need to be addressed by Judiciaries in Motion. For example, based on this data, timeliness in the delivery of criminal justice is a gap that needs attention and maybe urgently so, as public perceptions in this area indicate an increasing deterioration in meeting satisfactory performance standards. Thus, applying a Strengths, Weaknesses, Opportunities, and Threats (SWOT) analysis to any proposals, and bearing in mind local contexts and realities, a Judiciary in Motion can come up with an informed strategic plan to address the issues concerning deficits in timeliness.

Structural Approaches to Achieving Court Excellence

Let us consider two structural approaches which Judiciaries in Motion can utilise to achieve sustainable standards of court excellence.

(i) Developing Strategic Plans

First, the establishment of periodic strategic plans (for recurring intervals of time) based on court related performance standards. Assuming that there has been some relevant whole system data collection, a Judiciary in Motion needs to come up with a strategic plan to move forward for the immediate interval of time. Such a plan should identify and be based on core institutional values and standards, that will serve as both strategy drivers and goals.

The CCJ follows this model. Its current strategic plan is for the period 2019 - 2024¹² (a five-year interval), and steps are underway to develop the next one for an upcoming interval beginning in 2025. The current plan identifies four core values for the interval: (i) excellence, (ii) courtesy and consideration, (iii) industry, and (iv) integrity. It also identifies six (6) strategic issues to be addressed over the interval: (i) communication, (ii) independence and accountability, (iii) high performance environment, (iv) equality, fairness, integrity and promoting the rule of law, (v) organisational capacity for caseload growth, and (vi) enhanced regional justice capacity and performance. Of course, the CCJ as a regional domestic apex and the Caribbean Community (CARICOM) International Court would have developed these to suit its particular needs and stages of development. Each jurisdiction ought, ideally, to develop a customised plan to suit its unique developmental needs and circumstances.

(ii) Adopting Benchmark Measures for Court Performance

Second, the identification and adoption of appropriate standards and measures for court performance. In this regard, I will draw on the International Framework for Court Excellence (IFCE),¹³ and I acknowledge that there are other resources that can be usefully deployed to

¹² 'Strategic Plan 2019-2024' (Caribbean Court of Justice, 2019) <<https://ccj.org/about-the-ccj/ccj-strategic-plan/>> accessed on 1 May 2024.

¹³ See, 'International Framework for Court Excellence' (International Consortium on Court Excellence, 2020) <<https://www.courtexcellence.com/>> accessed on 1 May 2024.

achieve the same aims.¹⁴ It is an internationally acclaimed quality management system designed to help courts improve their performance. It represents an all-encompassing approach to achieving court excellence. It consists of a framework of universal core values, seven areas of court excellence aligned with those values, as well as concepts and tools by which courts worldwide can voluntarily assess and improve the quality of justice and court administration. Notice the Framework's three building blocks: (i) core values, (ii) strategic areas necessary for achieving court excellence, and (iii) tools to achieve measurable results. The framework also includes and incorporates eleven focused, clear, and actionable core court performance measures aligned with the values and areas of court excellence.

The CCJ subscribes to the measures and methods of the IFCE and was the first Caribbean court to meet its qualification standards. The Judiciary of Jamaica has also very recently achieved this distinction. The eleven actionable Core Measures (Global Measures) are considered international benchmark standards for and the foundation of all court operations. They constitute a 360-degree developmental model for excellence in the delivery of judicial services. The Eleven Core Measures:¹⁵

1. **Court User Satisfaction.** The per cent of court users who believe that the court provides procedural justice, i.e., accessible, fair, accurate, timely, knowledgeable, and courteous judicial services.
2. **Access Fees.** The average court fees paid in civil cases.
3. **Case Clearance Rate.** The number of outgoing cases as a proportion of the number incoming cases.
4. **On-Time Case Processing.** The percentage of cases disposed or otherwise resolved within established timeframes.

¹⁴ For example, the 'CourTools' (National Center for State Courts, 2023) < <https://www.ncsc.org/courtools> > accessed on 1 May 2024. The CourTools present a set of 10 measures for Trial Courts and six measures for Appellate Courts to create performance targets and metrics around court case processing, service provision, organisational efficiency, and employee satisfaction.

¹⁵ 'Global Measures of Court Performance' (3rd edn, International Consortium for Court Excellence, 2020) <https://www.courtexcellence.com/_data/assets/pdf_file/0030/54795/GLOBAL-MEASURES-3rd-Edition-Oct-2020.pdf> accessed on 1 May 2024.

5. **Duration of Pre-Trial Custody.** The average elapsed time criminal defendants who have not been convicted of crime are detained awaiting trial.
6. **Court File Integrity.** The percentage of case files that can be located and retrieved in a timely manner and meet established standards of accuracy, organisation, and completeness.
7. **Case Backlog.** The proportion of cases in a court's inventory of pending cases that have exceeded established timeframes or time standards.
8. **Trial Date Certainty.** The certainty with which important case processing events occur when scheduled expressed as a proportion of trials that are held when first scheduled.
9. **Employee Engagement.** The per cent of employees of a court who, as measured by a court-wide survey, are passionate about their job, committed to the mission of the court and, as a result, put discretionary effort into their work.
10. **Compliance with Court Orders.** The total amount of payments of monetary penalties (fines and fees) collected by a court or court system, expressed as a proportion of the total amount of monetary penalties ordered by a court in a given period of time.
11. **Cost Per Case.** The average cost of resolving a single court case, disaggregated by level and location of court, and by case type.

As you can see these are a comprehensive set of court measures, that include a clear focus on court users as a central concern. Indeed, the very first measure is 'Court User Satisfaction'.

Modernising Judicial Systems – Looking into the Future

(i) Technology

'... that we can and should find ways of using technology to improve the practice of law and the administration of justice.'¹⁶

¹⁶ Richard Susskind, *Online Courts and The Future of Justice* (Oxford University Press 2019).

A Judiciary in Motion has to anticipate the already present unfolding future. It is clear that pre-Covid-19 regional judiciaries have been engaged in implementing procedural reforms. Post-Covid-19, integrating relevant technology has become an earnest imperative. The mainstreaming of generative Artificial Intelligence (AI) in the legal sphere has only nuanced the focus on modernising judicial systems and approaches based on emerging technologies. For example, in December 2023 the Federal Court of Canada released guidance on the use of AI in court proceedings.¹⁷ Similarly and also in December 2023, the United Kingdom issued guidelines for the use of AI in courts and tribunals.¹⁸ The National Center for State Courts (NCSC), as early as 2020, developed an ‘Introduction to AI for Courts’.¹⁹ And as recently as November 2021 UNESCO produced the first-ever global standard on AI ethics – the ‘Recommendation on the Ethics of Artificial Intelligence’ in November 2021. This framework was adopted by all 193 Member States.²⁰

All of these developments are revolutionising the legal field, not only through avenues for greater research, but very practically as applied technology for the drafting of legal letters, opinions, contracts, pleadings etc. What is the role of the modern lawyer? The modern judge? What resources are now available? What are the potential benefits and dangers?

Caribbean Judiciaries need to address these matters and Judiciaries in Motion with an eye on the future that is already here, need to develop guidelines and information resources to assist Judiciaries in negotiating this relatively new and fast changing technology.

On this note, there are in the region Caribbean experts with regional experience in developing and deploying technology suited to Caribbean judicial needs and aspirations. One such agency, that the CCJ actively works with, is the Caribbean Agency for Justice Solutions (CAJS).²¹

¹⁷ ‘Artificial Intelligence: Interim Principles and Guidelines on the Court’s Use of Artificial Intelligence’ (Federal Court of Canada, 20 December 2023) <<https://www.fct-cf.gc.ca/en/pages/law-and-practice/artificial-intelligence>> accessed on 1 May 2024.

¹⁸ ‘Artificial Intelligence (AI): Guidance for Judicial Office Holders’ (Courts and Tribunals Judiciary, 12 December 2023) <<https://www.judiciary.uk/wp-content/uploads/2023/12/AI-Judicial-Guidance.pdf>> accessed on 1 May 2024.

¹⁹ See, Joint Technology Committee ‘JTC Resource Bulletin: Introduction to AI for Courts’ (National Center for State Courts, 2020) <https://www.ncsc.org/_data/assets/pdf_file/0013/20830/2020-04-02-intro-to-ai-for-courts_final.pdf> accessed on 1 May 2024.

²⁰ See, ‘Ethics of Artificial Intelligence’ (UNESCO, 2022) <<https://www.unesco.org/en/artificial-intelligence/recommendation-ethics>> accessed on 1 May 2024.

²¹ See, <https://caribbeanjustice.org/>. The Caribbean Agency for Justice Solutions (CAJS) is a non-profit, regional development agency established by the Caribbean Court of Justice in 2016 to provide dedicated technology-enabled solutions to the Caribbean’s justice sector. The institution was established on two foundational

CAJS represents itself as follows: ‘In Service of Justice. We partner with the justice sector to build and implement digital technology and AI solutions that transform the delivery of justice for all.’

Judiciaries in Motion need to lean into the use of relevant technologies assertively and diligently. To incorporate and deploy new available and tested tools to increase efficiency, reduce costs, and build up public trust, all the while improving environmental friendliness. Understanding the positive outcomes technology has enabled for legal professionals as well as court-users (citizens) is a critical factor to also consider, so that its use can be incorporated and expanded.

(ii) Court User-centric, Citizen-centric

In a world and region where there is declining trust in governmental institutions including judiciaries, there is a pressing need to re-focus on court-users and citizens. Indeed, this is first measurement standard in the IFCE – court user satisfaction. What can be done differently?

Technology can support court processes, such as virtual and hybrid court proceedings, but Judiciaries in Motion must think carefully about how these are used so as to build trust, rather than erode it. The issue of open justice is a case in point and has already been discussed.

Thus, digital hearings can hinder public access to courts, and diminish transparency around court proceedings, decisions and underlying motivations. Also, whereas the shift to e-courts, digital hearings and more accessible online court services can provide court-users with greater access to justice and afford Judiciaries increased flexibility in their delivery of services, there could be pitfalls. Are our Caribbean populations, especially those in remote areas and who are less well-off socio-economically, able to actually access these services, or will they instead become barriers to justice? That is, do all of our citizens, especially those made most marginalised and vulnerable, have access to the necessary technologies or possess the digital literacy to effectively make use of these technologies. If not, their deployment can operate to alienate them, deny them justice, and erode trust in the rule of law (one law for all).

convictions. First, the sustainability of programs for justice improvement requires the involvement, buy-in, and active participation of all stakeholders. Second, that the Caribbean has the creativity, intellectual capacity and competencies necessary to support and develop its Justice Sector.

A Judiciary in Motion will also realise that it is necessary to develop more collaborative developmental models for how they do their business. A key element of reform is creating the right structures and mechanisms for effective collaboration among all stakeholders (eg prosecutors, judges, attorneys, police, and citizens). Citizen involvement is critical and effective collaboration is essential to ensure that court proceedings are experienced as fair, accessible, transparent, and trustworthy.

There is Caribbean research that demonstrates that citizens feel alienated from the justice system and consequently experience it as unfair.²² Collaborative models that meaningfully incorporate citizens can ameliorate this. And as well, developing practices and protocols that establish and monitor compliance with procedural fairness standards are important. Tools have already been developed in the Caribbean to map and monitor these standards.²³

Special attention to groups that need accommodations to enjoy the fullness of their rights must also be addressed. In the Caribbean, for example, attention to the special needs of persons with disabilities, and for indigenous groups has been lacking. Again, there are Caribbean resources that address these matters. The CAJO published in 2023 ‘Disability and Inclusion Awareness Guidelines for Judiciaries and Judicial Officers’.²⁴ It is a resource that is available to all Judiciaries in Motion. As well, the CAJO supports improving access to justice for indigenous and Tribal Peoples.²⁵

Article 1 of the Republican Constitution of Suriname states: ‘The Republic of Suriname is a democratic State based on the sovereignty of the people and on respect for and the guarantee of fundamental rights and liberties.’ What applies to persons with disabilities and indigenous

²² See, Judicial Education Institute of Trinidad and Tobago (JEITT), *Proceeding Fairly: Report on the Extent to which Elements of Procedural Fairness Exist in the Court Systems of the Judiciary of the Republic of Trinidad and Tobago* (2018) <https://www.ttlawcourts.org/jeibooks/books/Proceeding_Fairly_Report.pdf> accessed on 1 May 2024.

²³ See, Judicial Education Institute of Trinidad and Tobago (JEITT), *Procedural Fairness A Manual: A Guide to the Implementation of Procedural Fairness in the Court Systems of the Judiciary of the Republic of Trinidad and Tobago* (2018) <https://www.ttlawcourts.org/jeibooks/books/Procedural_Fairness_A_Manual.pdf> accessed on 1 May 2024.

²⁴ See, Caribbean Association of Judicial Officers (CAJO), *Disability and Inclusion Awareness Guidelines for Judiciaries and Judicial Officers* (2023) <<https://thecajo.org/newcajo/wp-content/uploads/2023/03/Consolidated-Disability-and-Inclusion-Awareness-Guidelines.pdf>> accessed on 1 May 2024.; and also see, Caribbean Association of Judicial Officers (CAJO), ‘Final Research Report: Disability Inclusion and Awareness’ (2022) <<https://thecajo.org/newcajo/wp-content/uploads/2023/03/JURIST-Research-Report-Finalv2.pdf>> accessed on 1 May 2024.

²⁵ See, Fergus MacKay, ‘Indigenous and Tribal Peoples’ Rights and Access to Justice in Six Caribbean Countries : Synthesis Report’ (Caribbean Association of Judicial Officers, February 2022) <<https://thecajo.org/newcajo/wp-content/uploads/2023/07/baseline-study-report-ver-2.073.pdf>> accessed on 1 May 2024.

groups, applies to everyone – hence a Judiciary in Motion must address issues such as intersectionality, gender, and sexuality to ensure the constitutional standard of equality is met. Of these we highlight attention to gender sensitive adjudication and gender equality. In post-colonial and historically patriarchal societies, righting historical gender inequalities is a rule of law imperative. There are available Caribbean resources.²⁶ A Judiciary in Motion that takes the rule of law seriously cannot have anyone left behind!

(iii) Court Staff

A Judiciary in Motion is a Judiciary with integrity. That is, it is an institution that treats all persons the same and according to constitutionally established standards of equality, non-discrimination, and fairness. This must be both outward and inward facing, and therefore it must be so for both court staff and court users.²⁷ Thus, equality and harassment policies should be a standard met by all Caribbean judiciaries. The CCJ has pioneered this in the region and its resources are available for all.

(iv) Codes of Conduct

All Judiciaries should have in place codes of conduct for judicial officers and staff, that include effective complaints mechanisms. This is an international benchmark established as the Bangalore Principles.²⁸ Several Judiciaries in the region have these codes in place.²⁹ However, not all have effective complaints mechanisms that are accessible and operational. Judicial independence, impartiality, and integrity are meaningless without judicial responsibility and accountability.

(v) Wellness

²⁶ There are in the Caribbean Gender Protocols to guide Judiciaries. See, Judicial Education Institute of Trinidad and Tobago (JEITT), ‘Justice Through a Gender Lens: Gender Equality Protocol for Judicial Officers’ (2018) <<https://juristproject.org/wp-content/uploads/2019/08/TT-GENDER-PROTOCOLS-eBOOKLET-NEW.pdf>> accessed on 1 May 2024., and Belize Judiciary, ‘Justice Through a Gender Lens: Gender Equality Protocol for Judicial Officers’ (2018) <<https://juristproject.org/wp-content/uploads/2019/08/Belize-Gender-Protocols-Web-compressed.pdf>> accessed on 1 May 2024.

²⁷ See, Elron Elahie and Peter Jamadar, ‘Assessing Responses to Caribbean Judiciary Staff: A Brief Exploratory Account of Regard, Respect, and Appreciation for Staff amid the COVID-19 Pandemic and in Relation to Caribbean Cultures of Classism, Status, Patriarchy, and Institutional Hierarchy’ (CAJO, May 2020) <<https://thecajo.org/newcajo/wp-content/uploads/2021/10/CAJO-Staff-COVID-Research-Paper.pdf>> accessed on 1 May 2024.

²⁸ See, United Nations Office on Drugs and Crime (UNODC), ‘The Bangalore Principles of Judicial Conduct’ (2018) <<https://www.unodc.org/documents/ji/training/bangaloreprinciples.pdf>> accessed on 1 May 2024.

²⁹ See, for example, Caribbean Court of Justice (CCJ), ‘Judicial Code of Conduct -Version 3’ (2020) <<https://ccj.org/wp-content/uploads/2021/03/CCJ-Code-of-Judicial-Conduct-REV-June-30.pdf>> accessed on 1 May 2024.

A Judiciary in Motion must be concerned about the wellness of all members of the organisation, judicial and non-judicial staff alike. The CAJO has championed this cause.³⁰ All judiciaries should do likewise. There is also a growing body of international research on the impact of stress on judicial officers, and the consequences for judicial performance. If a Judiciary in Motion, the judiciary of the future, is to be a healthy, living organism that can meet the needs of its customers, it has to be healthy. The quality of the service it renders is directly related to the wellness of its staff. Wellness is an imperative.

(vi) Continuing Judicial Education

A Judiciary in Motion must be committed to structured and resourced continuous judicial education. If change is inevitable once things are in motion, then judicial reform is part of the expected fabric of a Judiciary. Judicial education is a necessary component in all judicial reform. It supports it and makes it sustainable. Also, no judicial officer knows or can know all that is required to discharge the judicial functions with excellence. And no judiciary is ever institutionally perfect. Indeed, attaining judicial excellence, institutionally and individually, is an ongoing evolutionary process that is enabled through judicial education. The Caribbean has many Judicial Education Institutes and there are many qualified and talented judicial educators in the region. Together we must consolidate, nurture, harness, and utilise these resources now and in the future for the bettering of justice in our region.

Conclusion

Before the law sits a gatekeeper. To this gatekeeper comes a man from the country who asks to gain entry into the law. But the gatekeeper says that he cannot grant him entry at the moment. The man thinks about it and then asks if he will be allowed to come in later on. “It is possible,” says the gatekeeper, “but not now.” At the moment the gate to the law stands open, as always, and the gatekeeper walks to the side, so the man bends over in order to see through the gate into the inside. ... The man from the country has not expected such difficulties: the law should always be accessible for everyone, he thinks, but as he now looks more

³⁰ See, Elron Elahie and Peter Jamadar, ‘Exploring the Wellbeing of Caribbean Judicial Officers: Report on the CAJO’s Judicial Officer Wellness Survey’ (CAJO, July 2021) <<https://thecajo.org/newcajo/wp-content/uploads/2021/12/Exploring-the-Wellbeing-of-Caribbean-Judicial-Officers-Wellness-Survey-Report-July-2021.pdf>> accessed on 1 May 2024 and Caribbean Association of Judicial Officers (CAJO), ‘CAJO News Issue 13: Wellbeing In Caribbean Judicial Contexts’ (7 July 2021) < <https://thecajo.org/cajo-news-issue-13/>> accessed on 1 May 2024.

closely at the gatekeeper ... he decides that it would be better to wait until he gets permission to go inside.³¹

Suriname became a Republic on the 25 November 1975, about four decades ago. Today we celebrate One Hundred and Fifty-five years of the Judiciary in Suriname. There is a lot to celebrate, and a lot still to do. Suriname exists in a very different region and world today than existed 155 years ago.

Today the rule of law, which in post-colonial times is interpreted to include the incorporation of fundamental rights and freedoms as is acknowledged in art 131 of the Constitution, governs. Constitutional rights, and in particular the Chapter V ‘Basic Rights and Individual Rights and Freedoms’ have priority, and art 137 of the Constitution seems to make this clear.³² A Judiciary in Motion, the judiciary of the future must privilege human rights in all of its activities, not least of which is the interpretation and application of the law.

The Judiciary is the Gatekeeper of the law, and as we look into the future of Suriname, into what the next 155 years may bring, this one thing will likely remain – the gatekeeping function of the Judiciary. Who will you let in? What rights will you vindicate? What will you permit and what will you condemn? Indeed, one singular question, which is also a matter of sovereignty, is what shapes and directions the Judiciary will take. In an ever increasing and interrelated region and world, in which collaboration can function to improve excellence, will the Surinamese Judiciary remain as it has been since independence, or are there structural changes and new relationships that must be explored.

In a republican constitutional democracy as exists in Suriname the role of the Judiciary is paramount. Your country needs you, depends on you, and has entrusted its soul into your care. May you fare well!

³¹ Franz Kafka, ‘Before the Law’ in *Selbstwehr* (1915) and *Ein Landarzt* (A Country Doctor) (1919), (translated by Ian Johnston). See also, *The Trial* (1925) (published posthumously).

³² Article 137 of the Constitution of the Republic of Suriname states: ‘Insofar as the judge considers the application of a legal rule in the particular case brought before him to be contrary to one or more constitutional rights mentioned in Chapter V, the application in that case shall be declared unwarranted by him.’ Chapter V deals with ‘Basic Rights, Individual Rights and Freedoms.’