



**Presentation by**

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William G. Demas Memorial Lecture  
56th Annual Meeting of the Board of Governors of the  
Caribbean Development Bank

1-5 June 2026

## **ADVANCE COPY**

### **Contributions of the Courts to Caribbean Development: The Enduring Importance of Strong Institutions**

1. The Caribbean Development Bank's (CDB) strategic plan, 'Transforming the Caribbean for Resilience: The 10-Year Strategy 2026–2035'<sup>1</sup> earns high tributes for the digestible and credible analysis it presents. Its appeal includes its grounding in reality and recognition of our regional achievements and progress, while also acknowledging shortfalls and challenges.
2. Targets for improved performance identified by the Bank, classed as operational priorities, comprise 'Investing in Youth', 'Strengthening Institutions' and 'Accelerating Climate Action'. The plan recognises popular trust and credibility as essential for policies, plans, initiatives, programmes and institutions to be accepted and supported as legitimate in member countries.

### **Development**

3. It is appropriate to distil what it means when we talk of 'development', as that word encompasses more than what is captured in the core considerations of, say, economists and

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<sup>1</sup> Caribbean Development Bank, 'Transforming the Caribbean for Resilience: The 10-Year Strategy 2026–2035' (February 2026) <<https://www.caribank.org/sites/default/files/publication-resources/Strategic%20Plan%202026.pdf>> accessed 28 May 2026.

engineers. The word means<sup>2</sup> the process of growth, differentiation, or improvement; it includes the moving of something towards a more advanced or mature state. Its wide-ranging contexts include human growth, economic expansion, structural changes in societies, and technical advancement. It represents both the process of change and the state of being developed.

4. The breadth of considerations that are included in the Bank's mission of development is echoed in other expressions on development. In a recent lecture<sup>3</sup>, the now-President of the Caribbean Court of Justice (CCJ), the Honourable Mr Justice Winston Anderson stressed the importance of locating the region's criminal justice reform agenda within the wider context of national and regional respect for human rights and the drive towards sustainable development. He referred to article 1 of the 1986 *United Nations Declaration on the Right to Development* which declares that

‘...the right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all

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<sup>2</sup> See definition of 'development' *Merriam-Webster Dictionary* (2026) <<https://www.merriam-webster.com/dictionary/development>> accessed 28 May 2026.

<sup>3</sup> Winston Anderson, Judge of the Caribbean Court of Justice, 'Criminal Justice Reform: Achieving a Modern Criminal Justice System' (16th Annual Dr the Honourable Lloyd Barnett Lecture, Hyatt Regency Hotel, Trinidad and Tobago, 5 September 2024).

human rights and fundamental freedoms can be fully realized.’<sup>4</sup>

He also referenced the 2015 *United Nations Sustainable Development Goals*, which require the promotion of peaceful and inclusive societies for sustainable development. The goals call for access to justice for all and building effective, accountable and inclusive institutions at all levels.<sup>5</sup> As he observed, these goals are to be achieved by 2030!

5. The universal appreciation of values such as human rights and justice as essential to development is seen in the expressions by an earlier CCJ President, Sir Dennis Byron,<sup>6</sup> who said that the very existence of the Caribbean Court of Justice as an apex court contributes significantly to economic growth and social development because the judicial system is one of the key factors considered in foreign direct investment. Investors are assured when there exists an independent and efficient judiciary to settle commercial disputes. A demonstration of the importance of a credible judiciary is provided by the series of appeals from Belize to the CCJ by a foreign investor, a British billionaire, arising out of that Government’s nationalisation of the telecommunications

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<sup>4</sup> United Nations General Assembly (UNGA) Res 41/128 ‘Declaration on the Right to Development’ (4 December 1986) UN Doc A/RES/41/128, art 1.

<sup>5</sup> See Goal 16, UNGA Res 70/1 ‘Transforming our World: the 2030 Agenda for Sustainable Development’ (25 September 2015) UN Doc A/RES/70/1.

<sup>6</sup> Sir Dennis Byron, President of the Caribbean Court of Justice, ‘The Caribbean Court of Justice and the Evolution of Caribbean Development’ (15th Annual Sir Arthur Lewis Institute of Social and Economic Studies (SALISES) Conference, Hyatt Regency Hotel, Trinidad and Tobago, 23 April 2014).

company.<sup>7</sup> In a less newsworthy way, the role of the courts is even greater in the assurance they provide to our everyday people that they have an independent and efficient judiciary on which to rely.

## **Assurance**

6. The Bank has contributed significantly to strengthening that assurance by its contribution, from the inception, to the very existence of the CCJ and its functioning as a pillar of development. The Bank helped to establish the CCJ's widely celebrated independent funding mechanism, through the creation of the Caribbean Court of Justice Trust Fund. The Fund was capitalised at the outset with USD100 million to finance the Court's operation over the decades to come and the Bank was instrumental in arranging and facilitating loans to member states to enable the capitalisation of the fund, which is deposited with the Bank.
  
7. There can be no overstating the significance of this funding structure that Caribbean leaders crafted when this is contrasted with the fact that judicial financing across the region is currently done by way of an annual subvention from the national budget. The standard structure across our region is for the judiciary to prepare an annual budget which is forwarded to the Government

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<sup>7</sup> *Boyce v A-G of Belize* [2016] CCJ 20 (AJ) (BZ); *Boyce v A-G of Belize* [2017] CCJ 15 (AJ) (BZ); *Boyce v A-G of Belize* [2017] CCJ 16 (AJ) (BZ); *Boyce v A-G of Belize* [2018] CCJ 1 (AJ) (BZ).

for approval through the Attorney General. This model of financing, which on the cynical view evokes the metaphor of ‘going cap in hand’ to ask for money, is not easily reconcilable with the notion of the independence of the judiciary. In contrast, the financing of the CCJ followed a different path. The CCJ Trust Fund is designed to fund the Court in perpetuity and it is managed by a professionally staffed board with a wide array of competencies as set out in the Trust Fund Agreement.<sup>8</sup> This ensures that the Court is insulated from the political influence which can erode public trust and confidence in the administration of justice; a risk which is heightened in smaller countries like those of the Caribbean region. For these reasons, this model for financing has been put forward as warranting ‘serious consideration for wider adoption by the community of international courts.’<sup>9</sup>

8. This arrangement is offered as an excellent example of the importance and value of having strong institutions, and of the contributions they make to our development.

## **Improving Life in the Community**

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<sup>8</sup> Revised Agreement Establishing the Caribbean Court of Justice Trust Fund (adopted 12 January 2004, entered into force 27 January 2004) 2324 UNTS 231 (‘CCJ Trust Fund Agreement’). Article VI of the Agreement Establishing the Caribbean Court of Justice Trust Fund provides that the Board be comprised of the Secretary General of Caricom, the Vice Chancellor of the University of the West Indies, the President of the Insurance Association of the Caribbean, the Chairman of the Association of Indigenous Banks of the Caribbean, the President of the Caribbean Institute of Chartered Accountants, the President of the Organisation of Commonwealth Caribbean Bar Association, the Chairman of the Conference of Heads of the Judiciary of Member States of the Caribbean Community, the President of the Caribbean Association of Industry and Commerce, and the President of the Caribbean Congress of Labour.

<sup>9</sup> Kate Malleson, ‘Promoting Judicial Independence in the International Courts: Lessons from the Caribbean’ (2009) 58 Int'l & Comp LQ 671, 678.

9. It is to be kept in mind, when discussing development, that it is the development of the community that must be the ultimate focus and beneficiary of our efforts and that projects, targets for growth, and methods of improvement are markers along the path to community development and not ultimate goals. The structures, organisations and facilities we create have as their objective the improvement of conditions of life for the individuals in the community. That predicate of improving life in the community may be seen in efforts directed not only at physical but at organisational structures, systems and approaches as reflected, for example, in recent crime control initiatives.
  
10. In April 2023, a meeting of Caricom Heads of Government in Port of Spain, Trinidad and Tobago, resolved to treat Crime and Violence as a Public Health Issue. That framework shifted the focus of Caribbean crime policy from solely law enforcement and punishment to *preventing violence before it occurs*, treating it much like an infectious disease or epidemic. Heads referenced the regional homicide rate of three times the global average as an embodiment of their concern. The larger picture was presented in the referenced lecture by CCJ President Anderson<sup>10</sup> who cited the alarming pandemic of serious crimes in the region: murder, rape, manslaughter, armed robbery, assaults, burglary, human trafficking, money laundering and trafficking in narcotics.

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<sup>10</sup> Anderson (n 3) 2.

11. As the Heads noted, our countries are among the most murderous in the world. It has been observed<sup>11</sup> that our two most populous English-speaking countries have dreadful murder rates as shown by the statistics for the decade beginning 2013. There have been an average of 468 murders per year in Trinidad and Tobago, making for a total of roughly 5,616 homicides in a country of 1.5 million people. There have been, on average 1,300 homicides every year in Jamaica with 2.8 million people, making for a grand total of 13,000 murders in the decade. By comparison, Singapore, a country with a population of approximately 5.8 million people had, over a similar decade, approximately 719 murders.
  
12. This reminder of our sorrows is not intended to depress but to recognise the value to Caribbean development of initiatives such as produced at the Seventh Biennial Law Conference of the CCJ Academy for Law in Bridgetown, Barbados in October 2023. That conclave of Prime Ministers, Attorneys General, Ministers of National Security, Heads of Judiciaries, judicial officers, Directors of Public Prosecution, Commissioners of Police, Commissioners of Prisons, criminal defence attorneys, law students and members of civil society from across the region adopted *The Needham's Point Declaration on Criminal Justice Reform*. It sets out a comprehensive framework for modernising criminal justice systems across the Caribbean in response to

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<sup>11</sup> *ibid.*

rising crime, court delays, prison overcrowding, and declining public confidence in justice institutions.

13. As regards court delays, against the commonplace that criminal trials sometimes take 5 or 10 or 15 years to conclude, the Declaration called for it to be established as a rule that trials should be held within one (1) year of the accused being charged (for indictable offences) and six (6) months (for summary offences). During the necessary transitional stage to this ideal, trials should be held within two (2) to three (3) years of the accused being charged (for indictable offences) and twelve (12) months for summary offences.
14. The delay in the disposal of cases is not purely historical as demonstrated by a currently pending appeal to the CCJ against sentence<sup>12</sup> arising out of mass killings in Guyana that occurred in 2008. The delay in this example should not be regarded as of any lesser significance to the administration of justice or the society because the appeal is against sentence<sup>13</sup> and because it is the fate of a guilty person in issue. Such a view of a lesser significance fails to recognise that (a) delay affects guilty and not guilty persons without distinction and (b) beyond the interests of accused persons, victims, witnesses, and family members, the

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<sup>12</sup> *Caesar v The State* (GY CA, 11 March 2026).

<sup>13</sup> *ibid.* The appellant pleaded guilty to manslaughter in October 2016.

society as a collective has an overriding interest in the avoidance of unreasonable delay.

15. Declining public confidence in justice institutions was mentioned as a specific factor that the Declaration sought to address, and the measures it proposes for eliminating the delay of trials have as a premise the value to the society of the early acquittal of the innocent; of swift justice for the guilty; and of the correlation between crime and punishment. The early conclusion of criminal and civil trials is important to more than only the parties to the case—to more than the prosecutor and accused, the claimant and defendant. It is intriguing to sometimes see criminal offenders being as earnest as innocent persons in their expectations of the courts and the justice system to be fair and to give them due process.
16. To close on this aspect, the Declaration presented delay reduction not simply as an ambition but as a target that was achievable by the use of the measures identified. The Declaration's target of delay elimination gives content to the CDB thesis that strong institutions, able to offer such a contribution, are vital to Caribbean development.

## **Development of our Humanity**

17. It is not a familiar view that it is a development function that the courts perform in imposing punishment on offenders, but that appreciation emerges when it is considered that the society's moral code has moved beyond the (once?) popular refrain to 'lock them up and throw away the keys.' The courts, it is now accepted, must continue to balance the opposing interests of the offender versus the victim and the wider society: the courts must manage the continuing tension between retribution and rehabilitation.
  
18. Another horrific case that was appealed to the CCJ<sup>14</sup> involved the throwing of a Molotov cocktail in the course of a robbery that caused the deaths of six innocent young women and required close consideration of the classical principles of sentencing: retribution, deterrence, prevention and rehabilitation.<sup>15</sup> The CCJ upheld the six concurrent sentences of life imprisonment that were imposed, thus satisfying the society's need for retribution -- on one view, its desire for revenge. More broadly, the Court upheld the need for sentencing decisions to consider and to balance other sentencing principles, including rehabilitation, against retribution.

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<sup>14</sup> *Alleyne v R* [2019] CCJ 6 (AJ) (BB), (2019) 95 WIR 126.

<sup>15</sup> *ibid* at [44].

## **Investing in Youth**

19. It is not only penological considerations that are implicated here but, as well, the very object that ‘Transforming the Caribbean...’ targets for improved performance— the ‘operational priority’ of Investing in Youth. This is so because the vast majority of offenders for crimes of violence are our youth; often teenagers. The existential truth is that our nations cannot simply treat our young men as lost and write them off. Our societies invest in our youths when our institutions, such as the legislature and the courts, apply themselves to develop the law so as to maintain rehabilitation as a primary goal in the sentencing of offenders.
  
20. In one recent appeal before the CCJ, it can be seen where the Court balanced competing sentencing considerations to produce a sentence that recent local legislation had determined were those that should be considered to lead to a just result. The case<sup>16</sup> was a murder of the worst kinds, as the legislation categorised it, because the offenders were paid money<sup>17</sup> to kill a harmless old lady. The horror led the trial judge to impose a sentence of imprisonment for 81 years without the possibility of being considered for parole before 45 years.
  
21. The problem with imposing this undoubtedly heartfelt sentence was that the legislation set as the most severe punishment, short

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<sup>16</sup> *Hinds v The State* [2023] CCJ 1 (AJ) GY, (2023) 104 WIR 300.

<sup>17</sup> Criminal Law (Offences) Act, Cap 8:01, s 100 (1)(d) (GY).

of the death penalty, imprisonment for life. It is a long-established penal practice across Caribbean countries (and elsewhere) that a sentence of life of imprisonment will not necessarily, or even usually, result in imprisonment until the prisoner dies – although it can. How long a convict remains imprisoned is certainly a matter that is decided by a court, but it is subject to review at a later stage as provided by the criminal law, including parole laws and prison rules. Therefore, the sentence of a ‘lifer’ may be reduced by an authorised person or body, in the exercise of a discretion given by law, after they have served a number of years - say, 15 or 20 or 25 years. It may be deduced that the trial judge in this case, aware of that reality, thought this case was so heinous that the standard practice should not be applied. Hence: 81 years imprisonment, with no parole before 45 years.

22. On appeal to the Court of Appeal, the sentence was reduced to 50 years. On further appeal to the CCJ, the sentence was altered to life imprisonment, and the period was set at 20 years before eligibility to be considered for parole. The legislation in this case mandated that for a ‘worst murder,’ such as this, the minimum period the court could set before eligibility to be considered for parole was 20 years. A court can set a longer period before eligibility for parole but it guides the courts and the society to have a scientifically guided determination of an appropriate figure. It is important to mention in passing that parole is not

granted automatically nor is it granted promptly upon the passing of the eligibility period; it may not be granted at all.

23. The relevance to Caribbean development of this review about sentencing is the focus that it brings to the principle that the courts exist to provide to the society the assurance that, even (or especially) in a case where popular opinion is outraged, our justice institutions must be trusted to apply the law, guided by the foundational duty to society to deliver justice impartially. Our society is strengthened by requiring victims and their grieving families to accept that their desire for retribution must be subject to the rule of law in the same way that the rule of law applies to the wish of the offenders for a lenient sentence and the early opportunity for rehabilitation. It is a mark of our development that we should be able to rely on our lawmakers to pass appropriate laws to produce fair sentencing outcomes, and on our courts to correctly interpret and apply such laws.

### **Trust and Confidence**

24. For there to be development, there must be trust and confidence in institutions and the strategic plan, ‘Transforming the Caribbean ...’ expresses recognition (para 4.21) of the importance of effectively functioning institutions to deliver essential services and to build citizens’ trust in government. The strategic plan recognises that weak and inadequate governance can undermine

inclusion, public trust, competitiveness and environmental stewardship.

25. It is a fundamental proposition and a predicate of our existence that we trust the courts to deliver justice. People bring their disputes to the courts for them to decide. Persons accused of crime participate in their trials and accept the authority of the court to decide both verdict and punishment. We must remain conscious that this is not unshakable ground because we are all too familiar with news reports of a murder in the streets followed shortly by the announcement of a police crackdown and, in some societies, the declaration of a State of Emergency to prevent revenge and retaliation killings. What is sought to be prevented is the resort to street justice, the unravelling of the bounds of law and order. We would do well to remember that it is no big step for victims and families living at the edge of mainstream society to yield to the attraction of turning to street forces for the attainment of justice. Because, all too often, they have no confidence that the police and the courts will provide justice.
  
26. In a presentation by another former CCJ President, the Honourable Mr Justice Adrian Saunders,<sup>18</sup> he told of a survey that he conducted in March 2000 in which 56 per cent of those polled said they had no trust in the judiciary and only 26 per cent said

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<sup>18</sup> Adrian Saunders, Judge of the Caribbean Court of Justice, 'The Role of the Court of Appeal in Developing and Preserving an Independent and Just Society' (2nd JEITT Distinguished Jurist Lecture, Convocation Hall, Port of Spain, 12 July 2012).

they had. In another survey conducted in 2006, only 7 per cent said they had a ‘great deal’ of confidence in the judiciary, while 25 per cent said they had ‘quite a lot.’ Close to half (49 per cent) confessed to having little confidence in the judiciary with another 20 per cent having no confidence in the courts at all.

27. In a later, more sophisticated and scientific survey<sup>19</sup>, respondents<sup>20</sup> were polled to gather their assessment of the integrity of the judiciary of the Republic of Trinidad and Tobago as measured by the respondents’ appreciation of the procedural fairness they received when dealing with the judiciary. Procedural fairness as the marker of integrity was determined to be essential for there to exist public trust and confidence in the administration of justice. Its components were stated to be legitimacy of legal authority, voluntary and cooperative compliance with court orders, directions and regulatory systems, and reduced recidivism.<sup>21</sup> These were regarded as essential for the survival of a vibrant and orderly democracy - for the flourishing of a just and fair society where justice for all is experienced and expected as normative. It was concluded that, though present, ‘the levels of these four elements of Procedural Fairness are alarmingly low.’<sup>22</sup>

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<sup>19</sup> Peter Jamadar and Elron Elahie, *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* (Judicial Education Institute of Trinidad and Tobago 2018) <[https://www.ttlawcourts.org/jeibooks/books/Proceeding\\_Fairly\\_Report.pdf](https://www.ttlawcourts.org/jeibooks/books/Proceeding_Fairly_Report.pdf)> accessed 28 May 2026.

<sup>20</sup> *ibid* 47. It is enlightening to see that those surveyed were Court users, attorneys, court staff and judicial officers and responses were categorised according to groupings. The variance in perceptions is seen in the grading of Respect for Court Users: 95 per cent of judicial officers thought Court Users were given respect while only 28.2 per cent of Court Users thought so.

<sup>21</sup> *ibid* 87.

<sup>22</sup> *ibid* 86.

28. The value of that survey is that it documents how the courts are perceived as performing and, even more importantly, the credibility they are given and hence the trust and confidence the society reposes in them. When a judiciary, such as that of Trinidad and Tobago, undertakes such a study with the objectives of learning and correcting itself, the process of institutional improvement and the removal of obstacles to development can proceed. By such an effort, trust can increase in the performance of the courts in their role as a vital institution for the preservation of order and the improvement of our societies.

### **Development of a Region**

29. The CCJ has earned much trust and confidence across the region, in the exercise of its original jurisdiction as the court established to interpret and apply the rules of the Caribbean Community (or CARICOM). The rules are contained in the *Revised Treaty of Chaguaramas*, which establishes the community for the better pursuit of common development. The objectives of the Community include improving standards of living and work, accelerated economic development and convergence, enhanced levels of international competitiveness and many more. Five freedoms comprise pillars of the Treaty being Free movement of goods, of services, of capital, of nationals and of establishment.

30. While decisions interpreting and enforcing the rules intended to produce the enjoyment of these freedoms have been well received, sometimes it involves a real fight to overcome insularity and separateness and vindicate Treaty rights. Thus, in one landmark case<sup>23</sup>, the court upheld the right the Treaty gives to nationals of one Caricom state to be permitted hassle free entry into another state and automatically to remain for six months. It was a clearly stated right in the Treaty as one that is natural for a regime of uniting for development, but it took this decision to make Caricom countries alter their immigration entry practices and now to routinely accord the right. In other cases,<sup>24</sup> the court has upheld the right, conferred by the Treaty, of a Caricom state to receive preferential treatment for its exports to a fellow Caricom state by paying a lesser tariff than that which Caricom has agreed must be charged on extra-regional imports. In one case the Caricom product was regionally grown brown sugar and in the other it was regionally manufactured soap. As this distinguished gathering will know, sometimes it takes strong effort to guide development.

## **Conclusion**

31. The Theme of this year's conference is *Forging the Caribbean's Future: Strategic Solutions for Uncertain Times* and this captures the truth that crafting solutions is integral to development -

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<sup>23</sup> *Myrie v State of Barbados (No 2)* [2013] CCJ 3 (OJ), (2013) 83 WIR 104.

<sup>24</sup> *State of Belize v State of Trinidad and Tobago* [2022] CCJ 1 (OJ); *DCP Successors Ltd v State of Jamaica* [2024] CCJ 1 (OJ).

integral to expansion, change, and advancement, as we have defined development to mean. It may be reasoned that the solutions on which we will rely will come not only or even largely from new institutions, but also very much from our existing institutions.

32. It is hoped that this select review of the activities of the courts will have revealed them to be an institution that contributes significantly to development by helping to hold our societies together, by fostering the rule of law. It is hoped the courts will vigorously continue to meet the expectations the Bank places on Caribbean institutions as contributors to development.