WHEN THE ROBES COME OFF: Judicial Ethics, Independence and Accountability—A Cautionary Tale

Good afternoon, I bring greetings from the southernmost end of the archipelago, specifically from Chief Justice Boodoosingh of Trinidad and Tobago, and the Judges of our Supreme Court. it is both a pleasure and a privilege to have been invited to address you on the occasion of your Distinguished Guest Lecture Series 2026. It is a particular honour to be the first Caribbean jurist to contribute to this stellar event on your Judicial calendar.

INTRODUCTION

On 9 August 2026, after more than two decades of smooth operation, the Caribbean Court of Justice (CCJ) found itself in the full glare of a very public spotlight. Apart from a minor administrative kerfuffle circa 2014, it had for the most part operated unobtrusively, attracting the attention of few outside of litigants and counsel appearing before it and zealous academics. On that date, a Trinidad and Tobago media house published an exposé alleging serious dissatisfaction among CCJ judges, as evidenced by extracts of a series of leaked emails authored by the judges themselves. The central revelation was that five of the six sitting justices had reportedly expressed concerns about aspects of the President's leadership.

What distinguished this instance from other occasional rumours and murmurings of disaffection within a judiciary—a not unfamiliar phenomenon—was that the allegations came, as it were, straight from the horse's mouth. The effect was immediate—member jurisdictions, regional governments, bar associations, CCJ proponents and critics alike sat up and took notice.

Not only did the imbroglio occasion a tremor in public confidence, but the unseemly exchanges brought into stark focus, the overarching issue of judicial leadership with its concomitants: judicial independence, ethics, and accountability.

A perennial question raised its head. Were our independent jurisdictions mature, sophisticated, and possessed of sufficient intellectual rigour to manage our own indigenous Caribbean final appeal court? One view was that the quagmire laid bare inherent weaknesses in the very structure and composition of the Court and was proof of what naysayers had been saying from the very beginning: that the CCJ could not be fully insulated from political and institutional influence within the region; that its governance arrangements left room for questions about accountability; and that a "home-grown" Court might ultimately struggle to command public confidence in its competence and professionalism.

On the other hand, champions of the Court, while not minimising the ramifications and repercussions of the situation, held fast to the idea that the institution was sound and resilient and would, through self-regulation, arrive at an amicable and acceptable resolution of its challenges.

By 12 August 2026, heads of Judiciary from Barbados, The Bahamas, Belize, Guyana, the Eastern Caribbean Supreme Court, Jamaica, and Trinidad and Tobago in a joint statement expressed grave concern about the breach of confidentiality but declined to express a view on the merit of allegations attributed to individual judges. They stressed that judicial authority ultimately rests upon public confidence in judges' independence, impartiality, integrity and competence.

Consternation spread beyond the Caribbean. On the 25th of August, the Commonwealth Lawyers Association, headquartered in the UK, expressed concern that the allegations raised fundamental issues of judicial independence, impartiality, propriety, governance and accountability. While welcoming the CCJ's remedial measures, including

en banc sittings, it considered them insufficient, and called for the allegations to be addressed independently, fairly and promptly to preserve public confidence in the Court.[1]

But why should these matters be of more than passing interest to you, given that the Cayman Islands are but an Associate Member of the Caribbean Community (CARICOM), not subject to the jurisdiction of the CCJ, and with your own apex court, the Judicial Committee of the Privy Council? You could be forgiven for shrugging your shoulders and thinking "not my circus, not my monkeys". After all, why should these untidy-at-best, notorious-at-worst affairs of judges way down south cause you more than a perfunctory tut-tut.

We have a saying in Trinidad and Tobago "When yuh neighbour house on fire, wet yuh own." It would be naive and indeed unwise to think that any judiciary is immune or exempt from internal rumblings and I advance the view that "CCJgate", my own expression, can serve as a cautionary tale to any hierarchical institution – a case of "There but for the grace of God go I."

Before we begin an interrogation of the issues in play, I want to be clear about one thing—I do not have any opinion as to the truth or validity of these allegations. The CCJ narrative serves only as a springboard for our discussion which you have so generously described as a lecture.

The issues to be examined, and the prescriptions we seek are pertinent to judiciaries across the board and their implications extend beyond the bench. The bar too has a vested interest in ensuring that the principles, practices and safeguards that underpin the administration of justice remain robust and effective.

[1] Commonwealth Lawyers Association, *Statement of Concern regarding the Administration of the Caribbean Court of Justice*, 25 August 2026, https://www.commonwealthlawyers.com/wp-content/uploads/2026/08/260825-CLA-Statement-of-concern-CCJ_final.pdf

Your Legal Services Code of Professional Conduct 2026[2] imposes an onerous duty on the bar in respect of judicial independence:

"Attorneys-at-law shall, as officers of the Court, in compliance with the overriding duty to the Court, uphold the rule of law and the proper administration of justice in the course of their professional duties and the provision of legal services."

There is your mandate.

THE CARIBBEAN COURT OF JUSTICE

To frame the issues, it is necessary to understand the ethos of the CCJ and its relationship to CARICOM.

CARICOM was established in 1973 with four founding members Barbados, Guyana, Jamaica and Trinidad and Tobago. Broadly, its vision is an integrated, inclusive and resilient Caribbean Community that promotes human rights, social justice, security and shared prosperity, while strengthening the region's global competitiveness.

Today, twenty-three countries comprise CARICOM–fifteen Member States and eight Associates of which the Cayman Islands is one, having joined in 2002.

The CCJ, one of the CARICOM's 17 Institutions, and its crown jewel, was established in February 2001 by the 'Agreement Establishing the Caribbean Court of Justice'. The Agreement provides, among other things, for the establishment of the court, its memberships, the establishment of its seat, the establishment of a Regional Judicial and Legal Services Commission, (RJLSC), and the tenure of office of its judges.

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[2] The Cayman Islands Legal Services Council, *The Cayman Islands Legal Services Code of Professional Conduct, 2026*, https://gov.ky/documents/35692/0/The+Cayman+Islands++Legal+Services+Council+The+Cayman+Islands+Legal+Services+Code+Of+Professional+Conduct%2C+2026..pdf/c5ef10e9-531c-f257-d557-0a39c1c9e3cb?t=1777062129654

At the time of its inauguration in Port of Spain on 16 April 2005 there were 12 contracting parties: Antigua & Barbuda; Barbados; Belize; Dominica; Grenada; Guyana; Jamaica; St. Kitts & Nevis; St. Lucia; St. Vincent & The Grenadines; Suriname; and Trinidad and Tobago. Its seat was established in Trinidad and Tobago.

The CCJ's aims are consistent with the wider thrust of regional integration. Its vision of being "a model of judicial excellence" gives rise to the expectation that it would exemplify judicial independence, ethics and accountability.

The Court, on its own website is described as "a unique court, as it functions as two courts in one". It has two jurisdictions. In its Original Jurisdiction, it functions as an international court with compulsory and exclusive authority to interpret and apply the Revised Treaty of Chaguaramas where disputes arise between member states concerning the free movement of people, goods, services, capital and skills, and the right of establishment.

The Original Jurisdiction applies to all 12 Contracting Parties.

In its Appellate Jurisdiction, the CCJ serves as the apex court in civil and criminal matters for those CARICOM states which have acceded to that jurisdiction: Barbados, Belize, Dominica, Guyana and Saint Lucia.

Its decisions are final.

In its 21 years of existence, 464 matters have been filed in the Appellate jurisdiction of the CCJ—341 civil and 123 criminal. In its Original Jurisdiction 41 matters have been filed.

CCJ judges are appointed by the independent, broadly constituted RJLSC,[3] while the President is appointed by the Heads of Government on

[3] The RJLSC comprises the President of the Court, who serves as Chairman; two persons nominated by the OCCBA and OECS Bar Association; one Chairman of a Judicial Services Commission and one Chairman of a Public Service Commission, selected by rotation; two civil society representatives nominated by the CARICOM Secretary-General and OECS Director General;

the Commission's recommendation. Candidates must meet substantial judicial, legal or academic experience requirements and demonstrate high standards of integrity and ability. Eligibility extends beyond Caribbean nationals, allowing the Court to combine Caribbean expertise with legal experience from outside the region.

Regional judges, apart from familiarity with local laws have intimate knowledge of the judicial landscape, its mores, current social and political tensions, and history and customs, while judges from further afield can introduce comparative jurisprudence, offer different perspectives and lens through which to view the matters before the Court and generally contribute to the richness of the Court's deliberations and general functioning.

The inaugural Court comprised President Michael de la Bastide of Trinidad and Tobago, along with two Justices from Guyana, and one apiece from Trinidad and Tobago, the United Kingdom, the Netherlands and St Vincent and the Grenadines.[4]

The present Court comprises Winston Anderson (President), Maureen Rajnauth-Lee and Peter Jamadar of Trinidad and Tobago, Denys Barrow of Belize, Chantal Ononaiwu of Jamaica, Chile Eboe-Osuji of Nigeria and Arif Bulkan of Guyana.

Justice Anderson is a Jamaican-born jurist and academic, the first Jamaican appointed to the CCJ. Before his appointment, he was a Professor of Law at the University of the West Indies and served as General Counsel of CARICOM. He has written extensively on Caribbean,

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two distinguished jurists nominated by senior regional legal academics and the Chairman of the Council of Legal Education; and two persons nominated by the Bar or Law Associations of the Contracting Parties. Article V(1) of the Agreement Establishing the Caribbean Court of Justice accessible at http://www.sice.oas.org/trade/ccme/ccj1.asp

[4] The inaugural Court comprised President Michael de la Bastide of Trinidad and Tobago; Justice Rolston Nelson of Trinidad and Tobago; Justices Désirée Bernard and Duke Pollard of Guyana; Justice David Hayton of the United Kingdom; Justice Jacob Wit of the Netherlands; and Justice Adrian Saunders of St Vincent and the Grenadines.

international, environmental and maritime law. The CCJ was his first judicial posting.

THE BACKSTORY

Grasping the full extent of the saga requires that we trace the unfolding of the controversy in some detail. The timeline will be occasionally murky since much of the information is contained in email threads which may not have been set out in chronological or sequential order by the media.

The disquiet began innocuously enough, on 10 June 2026, with what seemed to be a mere difference of opinion between the President and one of the Justices over what was appropriate attire where judicial robes were not required for a sitting of the Court. There was no “codified” rule governing this issue.

Justice Eboe-Osuji had, on at least two previous occasions, worn his traditional national dress during CCJ proceedings and the President, in his own words, “sought to persuade the judge” to follow what he regarded as the Court's established practice concerning judicial attire” i.e. business suit and tie.

On the Court’s YouTube channel, one can view sittings of the Court at which robes were not required. In one clip, Justice Eboe-Osuji is seen wearing a traditional Nigerian cap, the style of his jacket cannot be clearly seen. The other judges, including the President, appeared in jacket and tie, or in the case of the female justices, jacket and blouse.

The judge responded that, except where judicial robes were required, he would appear either in national dress or a suit and tie. The President subsequently described this position as "totally unacceptable".

We now go to the 22nd of June, when the President, via email, circulated a proposed "Judicial Dress Code" and informed his judges that the draft would be placed before the RJLSC which was due to meet on the 26th. The

draft sought to codify the CCJ's "traditional practice of wearing either our judicial robes or Bench jackets when exercising the judicial function".

Justice Eboe-Osuji immediately objected that any policy governing judges should first be discussed and agreed by them before being sent forward. Four other justices expressed their concerns about the process, protesting that they had not been afforded sufficient time for meaningful consultation.

The President disputed this suggestion, contending that from 22 June he had offered his colleagues several opportunities to meet collectively before the RJLSC meeting, but those opportunities were not taken up.

Later in June, Justice Bulkan stressed that consultation was essential to collegiality and questioned whether a rigid dress code adequately accommodated religious and cultural differences. His concerns broadened beyond attire to judicial independence and collective appellate decision-making, warning against what he described as an "anti-democratic path."

Returning to the question of dress, he noted that Guyanese lawyers had been permitted to wear Nehru-style attire since the 1970s, replacing the European suit and tie with a more "culturally and environmentally appropriate mode of dress." He lamented that Guyana appeared to have "reverted to the colonial style." He referred to a 2012 Trinidad and Tobago Court of Appeal judgement in which Justice Jamadar held that, in respect of attorneys appearing before the Magistrates Court, a nehru jacket was befitting the dignity of the court.

Within the email thread, Justice Rajnauth-Lee, who had joined the bench in 2015, reminded her colleagues of the Court's previous consultative practice, contrasting the proposed dress-code process with the manner in which the CCJ's Code of Judicial Conduct had been revised under its immediate past-president. She noted that the exercise involved meetings over several months and successive revisions before the judges agreed upon a text for submission to the RJLSC. The current President, whose

tenure predated Justice Rajnauth-Lee's by 5 years, would have been part of that exercise.

During this exchange, Justice Jamadar introduced matters which intensified the discussion. He described an increasingly "toxic" working environment, alleging attempts to influence judicial decision-making, including in a politically sensitive matter. He expressed a "deep-felt sense of disregard" for his judicial functions and warned of what he perceived as "creeping patterns of anti-democratic approaches" affecting judicial independence.

On 26 June, the RJLSC considered the proposed judicial dress code and agreed that the draft should be returned to the judges for review and comment before further action. The President later indicated that it was he who had proposed this course.

On the same day he emailed Justice Eboe-Osuji and another judge advising them that he had found it desirable to change the panel scheduled to hear a procedural application in the following month. Justice Eboe-Osuji was removed from the panel.

On 3 July, the President asked him for an assurance that he would wear the traditional business suit and tie for upcoming hearings, and that that assurance was needed before final decisions could be made concerning panel composition.

The following day, Justice Eboe-Osuji replied, describing Anderson's approach as highly inappropriate towards a judicial peer and alleging that such conduct was poisoning the workplace.

He then circulated an email to all his fellow judges explaining his position regarding wearing traditional Nigerian clothing on the bench.

Later that month he endorsed Justice Jamadar's wider concerns, and alleged that he had never previously witnessed such a level of "dictatorship in the administration of a judiciary".

He reportedly recalled the President telling the judges shortly after assuming office in 2025 that he did not regard himself as "running a democracy" and would administer the Court as he considered appropriate.

Justice Eboe-Osuji alleged that in two separate matters the President had acted unconventionally. In one he sought, without prior consultation, to depart from established CCJ practice governing how disagreements among judges were handled, and in the other, he had intended to announce the Court's decision at a time and in a manner that a clear majority of the judges considered inappropriate. He called for an urgent meeting, warning that disenchantment among the judges was approaching "crisis point".

On 15 July, the decision in the first matter referred to was delivered. The President was among the majority with Justice Eboe-Osuji and another judge dissenting.

25 July: The entire court met at the request of the judges, and, with the President's agreement, the agenda was changed from the proposed dress code to a discussion about governance concerns. Four days later, the President transmitted a written response to the judges, addressing issues raised at that meeting.

On the same day, the Full Bench delivered judgment in the second case referred to by Justice Eboe-Osuji. The panel unanimously dismissed the appeal, delivering three separate sets of reasons.

By the time the controversy entered the public domain on 9 August, the debate had coalesced into three main issues: authoritarian governance, interference with judicial decision-making, and manipulation of panel composition.

On 10 August, the RJLSC issued a statement acknowledging that allegations concerning the administration of the Court and independence of its judges had been brought to the fore and that the issues should be

addressed through internal governance mechanisms and a "transparent and independent review". It expressly stated that it had not confirmed the truth of the allegations, attributed them to particular judges, or made findings against the President.[5]

On 14 August, the President issued a lengthy public statement in which he categorically rejected allegations that he had attempted to influence judgments or manipulate panels to secure preferred outcomes. He defended the panel change as arising solely from the judicial attire controversy, and continued, “I understand and appreciate the view that I may have approached the matter of the handling of the dress code issue too strongly. I did so because I regarded it as an institutional issue concerning the appearance, consistency and tone of the Court, rather than a question directed at any individual Judge.” He also strongly condemned the leaking of confidential judicial correspondence, positing that it damaged judicial collegiality and public confidence.

On judicial deliberations, he stressed that robust exchanges and disagreement are normal features of appellate adjudication and should not automatically be interpreted as improper interference or an attempt to influence judicial reasoning.

In the interest of time, I have had to truncate the President’s statement. You may wish to read it in its entirety.[6]

On 19 August, the CCJ issued Practice Direction No. 1 of 2026 which provided that “All panels in the Appellate and the Original Jurisdictions of the Court, whether Case Management Panels or Hearing Panels, and whether for the making of a decision on either a procedural matter or a

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[5] Regional Judicial and Legal Services Commission, *Statement by the Regional Judicial and Legal Services Commission,* 10 August 2026, https://rjlsc.org/wp-content/uploads/2026/08/Holding-Statement-RJLSC.pdf

[6] Caribbean Court of Justice, *Statement by the President of the CCJ,* Media Release No. 31:2026, 14 August 2026, pp.3–6, https://ccj.org/wp-content/uploads/2026/08/Media-Release-Statement-by-the-CCJ-President-August-2026-3.pdf

substantive matter, shall be *en banc*, comprising the President and all the Judges of the Court." The Court said the arrangements were intended to promote consistency, transparency and flexibility.

JUDICIAL INDEPENDENCE

The first qualification of a judge is the ability to make independent and impartial decisions, free from improper internal or external influence.

Your judicial Code of Conduct,[7] which embodies the Bangalore Principles, includes Independence as one of its six core values. It provides that "Judicial independence is a prerequisite to the rule of law and a fundamental guarantee of a fair trial. A judge shall therefore uphold and exemplify judicial independence in both its individual and institutional aspects."

It bears repeating that judicial independence is not a perquisite or privilege of office but an essential part of the constitutionally guaranteed right of the citizen to have their disputes heard and decided by impartial judges.

Judicial Codes invariably state that it is the duty of Judges individually and collectively to defend, protect and encourage judicial independence.

The CCJ's Judicial Code of Conduct expresses it this way:

"Judges shall exercise the judicial function independently on the basis of their assessment of the facts and in accordance with a conscientious understanding of the law, free of any extraneous influences, inducements, pressures, threats or interference, direct or indirect, from any quarter or for any reason.

[7] Judicial and Legal Services Commission, *Code of Conduct for the Cayman Islands Judiciary*, 9 March 2012, https://judicial.ky/wp-content/uploads/Code-of-Conduct-APPENDIX-C.pdf.

Judges shall reject any attempt improperly to influence their decision in any matter before them."[8]

External or institutional attack on judicial independence, usually from the Executive, is an easily recognised boogeyman and circling the wagons is standard operating procedure. Judges close ranks, judiciaries far and near rally in support, law associations, civil society, academics and occasionally even the media guard the flanks to ward off the enemy. All parties know and understand what is at stake and will not countenance any breach of this sacred principle.

Incursions from within are far more insidious, elusive and difficult to repel and there is a marked difference between an infringement by a co-equal and one by the Chief Justice or President of the Court. In the former case, one can easily ignore or brush off the improper approach, but the latter presents a far more thorny dilemma requiring considerable strength, optimism and courage.

When judges believe, rightly or wrongly, that their leader is breaching their individual or collective independence what are they to do? This would be a convenient point at which to let you know that I will not be providing answers for the many questions that I will ask. I leave that to you.

Where there are no or no effective mechanisms even well-intentioned judges might be tempted to adopt unusual, and perhaps undesirable, strategies.

The Cayman Islands has a standard procedure for lodging complaints against judges.[9] A complaint concerning the Chief Justice or President of the Court of Appeal must be referred by the JLSC to a Special Investigator

[8] Caribbean Court of Justice, *Code of Judicial Conduct*,10, https://ccj.org/wp-content/uploads/2026/08/CCJ-Code-of-Judicial-Conduct-REV-June-30_pgs-removed.pdf

[9] Judicial and Legal Services Commission, *Complaints Procedure in Relation to the Cayman Islands Judiciary*, revised 3 June 2025, https://www.judicialandlegalservicescommission.ky/upimages/commonfiles/JLSCComplaintsProcedureJune2025_1748971849.pdf.

appointed by the Governor. The final report is submitted to the Governor and other parties, and the Governor may then dismiss the complaint, order further investigation or refer the matter back to the JLSC for appropriate action.

The process does not provide for absolute confidentiality. The complainant must consent to the use and disclosure of the complaint, its subject matter and any additional information necessary for the investigation. The signed complaint form must also acknowledge that all relevant documents will be disclosed to the person against whom the complaint is made.

Without safeguards a judge might, for obvious reasons, be reluctant to lodge a formal complaint. What if the Governor dismisses it? This is a particularly relevant concern in small judiciaries where judges work together frequently and must operate in close quarters.

The CCJ Agreement establishes a strict, multi-stage process for removing its President. Removal is permitted only for inability to perform the functions of office or for misbehaviour. At least three Heads of Government must jointly initiate the process, following which an independent tribunal of at least three qualified current or former judges investigates and advises whether removal is warranted. If removal is recommended, the RJLSC makes the relevant recommendation, and the President may ultimately be removed only by a three-quarters majority of the Contracting Parties.

The Judicial Discipline Regulations governing this procedure are temporarily unavailable on the CCJ website while under review. However, the Regulations approved in 2021 set out the process in some detail. Although they repeatedly refer to “confidentiality” they contain no apparent provision for concealing the identity of the complainant from the person who is the subject of the complaint.

The right of confrontation, which provides that one against whom allegations are made must have the opportunity to face and cross-examine witnesses testifying against him, cannot be disregarded in judicial

disciplinary procedures, but is it not likely to act as a disincentive to a judge making a complaint against his Chief Justice or President of the Court?

What legal safeguards can be put in place to protect those who make a complaint?

In many non-judicial spheres, there are provisions to safeguard the identity of an individual making the complaint or reporting misconduct in the workplace. It is common that whistleblowing legislation contains prohibitions from disclosing information that identifies, or may lead to the identification of the whistleblower, unless the whistleblower expressly consents. Those receiving, investigating or otherwise dealing with a disclosure shall regard and deal with as secret and confidential the identity of the person making the disclosure.

Is there a way to incorporate similar or other effective safeguards for complainants in judicial disciplinary processes?

These processes are the ultimate step that can be taken by a concerned judge, but before we get to the stage of official complaint is there an intermediate step that the judge can engage? We will return to this notion when we consider judicial ethics.

In a related question, when do views strongly held and expressed by the leader morph into an encroachment on judicial independence? Is it necessarily a subjective question depending on the sensibility and sensitivity of the individual judge?

The President's position appeared to be that the appellate process necessarily involves "robust exchanges and disagreements" and that a strongly expressed view by the President, even when contrary to that of another judge, should not automatically be regarded as an attempt to overbear that judge's will.

But when is it to be so regarded? What is the benchmark?

What is certain is that the leader must be keenly aware that rank and power dynamics—how privilege, status and authority shape the relationships and interactions between people—obliges him to tread softly and diplomatically: to be mindful that even though the members of the panel understand their parity, forceful arguments on his/her part might come across as being an attempt to improperly influence an outcome.

Maybe where the leader has strong views which are obviously opposed to those of another member or members of a panel, a special meeting can be convened with all members to discuss the points of contention. On a case-by-case basis it can be determined by the assembly whether an *aide-memoire* should be generated.

Another interesting question raised is whether judicial independence has a place in administration or is it reserved for judicial matters? Can a strictly administrative action, however dictatorial, impact judicial independence?

The issue of panel-fixing sits at the intersection of this analysis. Is it a question of judicial independence or one of judicial leadership? In the opinion of Justice Eboe-Osuji, his removal from the panel constituted an assault on his judicial independence as he claimed it was prompted by a disagreement on particular legal issues. The President on the other hand, insisted that his removal from the panel was occasioned by Justice Eboe-Osuji's refusal to commit to the Court's established practice concerning judicial attire. In support of this point the President relied on the fact that Justice Eboe-Osuji was included in the full bench for the substantive matter where it was accepted by all that judges must be robed.

It is indisputable that it is a judicial leader's prerogative to establish the manner in which panels are selected, but inexplicable eleventh-hour changes can reasonably give rise to a suspicion of interference, especially where there is an unresolved difference of opinion between the leader and a judge on a legal issue. A clearly-established method of panel selection that is transparent and consistent, and deviated from only in cases of

necessity, would go some way to mitigating any disquiet or anxiety felt by the judges. Both the panel and the process by which it is constituted must be and appear to be impartial.

With the benefit of hindsight, the CCJ on the 19th of August put such measures in place. Those of us seeking to extract practical wisdom from their experience might want to consider whether it would be helpful to settle on and document a process that puts the matter beyond doubt.

JUDICIAL LEADERSHIP

The immortal words of Shakespeare in Henry IV, "Uneasy lies the head that wears a crown" are most apt to describe the situation in which the President of the CCJ has become enmeshed.

A President or Chief Justice of a court must keep many balls in the air—administrator; colleague; institutional guardian; judge; and public representative of the judiciary, among others. Judicial leadership is further complicated by the fact that the leader must also defer to the imperative of judicial independence all the while navigating judges' differing personalities, backgrounds, egos and idiosyncrasies.

Effective leadership requires resolute decision-making, excellent communication skills, empathy, self-awareness, sound judgment, clear vision and adaptability, and is invariably fraught with tension—between autonomy and accountability; autocracy and consultation, leadership and control.

At what point is decisive leadership perceived as authoritarian? Must every issue that affects judges, even when peripheral to their core function, be the subject of consultation? Should consultation be the default position? When can excessive insistence on consensus render effective judicial administration impossible?

When Justice Rajnauth-Lee referred to the process employed in a previous consultation, she was referring to a discussion on the CCJ's Code of Conduct, a matter of substance impacting the very functioning of the Court. Is the dress code issue to be set at the same bar? Is autocratic decision making in administrative matters ever acceptable?

It is worth noting that apart from his impressive academic accomplishments and administrative experience, Justice Eboe-Osuji is an international jurist who brings expertise in criminal and human rights law to the CCJ and was previously a Judge of the International Criminal Court from 2012-2021, and for his last three years the Court's fourth President. Could it be that his leadership style was at odds with President Anderson's?

When conflict arises between judges, their leader is tasked with finding a mutually agreeable resolution. That can be a tall order, worse yet when the conflict is between the leader and a member of his bench. Can he or she exercise leadership without domination, prevarication or compromise? Is there a need for proportionality of administrative responses?

When, on receipt of the President's proposed judicial dress policy, Justice Eboe-Osuji replied that he strongly urged that the matter not be tabled before the RJLSC until the judges had discussed and approved it, the President's immediate response was "Do you have any response on the draft please?" Justice Eboe-Osuji persisted, saying that these concerns and more required discussion by judges and it might be that upon discussion they might agree to adopt the code, in which case it would have been the decision of the judges. He urged the President to withdraw the proposal and allow the judges to discuss it at their next meeting. Shortly thereafter the President responded, "I do not intend to engage you on this, except to say that any comments you might have will be considered by the RJLSC." Might this have been a situation requiring proportionality of administrative response?

It is seldom the case that Caribbean heads of judiciary receive orientation and/or continuing training in leadership. Somehow it is expected that solely by virtue of experience and expertise as jurists, they have the competence to lead the institution. Anyone who has been around or within a judiciary for any length of time will know that that is a complete fallacy. Some of the very qualities that make for an excellent judge may be inimical to successful leadership.

As a veteran judge who has served under three chief justices in my 20 years on the bench, I have seen my fair share of judicial leadership. Each Chief Justice had his own strengths and weaknesses and achieved varying levels of success. They all struggled to find that perfect balance of qualities and skills required of a consummate leader.

In past years, psychometric assessments, which can consist of aptitude, cognitive ability, traits and personality tests have been used in the vetting and recruitment of judges in Trinidad and Tobago. Up to the most recent advertisements for High Court judges, the requirement remains. In April 2025, Jamaican Chief Justice Brian Sykes at a swearing-in ceremony announced that their Judicial Services Commission was to consider the use of psychometric testing to reform the recruitment of judges. It appears that the practice has not yet been instituted.

I have been unable to find evidence that it has been used in the Cayman Islands, or in any other Caribbean judiciary, but my question is this. Can psychometric assessment be a useful tool in determining the suitability of a judge for leadership within the institution? Can we afford to continue with the lottery method we currently employ?

Additionally, do we not throw our leaders in the deep end when we ask them to assume the mantle without any preparation or customised help? Formal leadership training, access to confidential therapeutic care, and regular peer-to-peer forums where issues peculiar to heads of judiciary can be considered are essential for their support and development.

I once attended a judicial education conference at which an American psychiatrist gave a presentation on the peculiar stresses that judges undergo and ways to ameliorate them. His specialty was providing counselling for judges, in-person, online and by phone. He offered his services to judiciaries to provide the confidentiality, and anonymity judges need to feel safe. This was particularly attractive for smaller societies in which everybody knows everybody.

The CCJ's broad eligibility criteria promote diversity in legal experience, professional background and culture. While this diversity enriches the Court, it can also pose leadership challenges when judges bring different cultural norms, expectations and approaches to judicial practice.

It seems that until Justice Eboe-Osuji joined the court, jacket and tie was the standard for sittings at which robes were not required. He sought to introduce a practice that would allow that norm to embrace "national dress", which of course would be peculiar to the individual judge. Other judges may have different forms of national dress, so where would the line be drawn? How is cultural identity, nationality and difference to be accommodated within a diverse court? I suggest, sensitively.

The stand-off between the President and Justice Eboe-Osuji over judicial attire may, at least in part, reflect differences in cultural perspective and organisational norms. At least three of the six CCJ judges had expressed views on what constituted appropriate court attire when robes were not required. Although Justice Jamadar's 2012 judgment and Justice Bulkan's comments related specifically to attorneys' attire, both suggest some movement away from the European conventions of dress that Justice Bulkan described as "the colonial style".

Can judicial leadership always accommodate cultural variation and at what cost?

In Trinidad and Tobago where all 60 of our judges are nationals, even though with distinct African and East Indian heritages, we are homogenous

and what diversity there is has, not to my knowledge, created any disharmony.

Here in the Cayman Islands, you have judges from this jurisdiction, the United Kingdom, Trinidad and Tobago and Jamaica—not quite as varied as the CCJ—but representative of cultures that have noteworthy differences. Has it been smooth sailing? Even if this has caused no friction to date, as your Trini judges will explain “what eh meet yuh, eh pass yuh”. Perhaps you can be proactive and take steps to forestall such an eventuality.

Before leaving the question of diversity, let me share a recent discovery. While conducting a Judicial Comportment training session with judges in Barbados in August I was surprised to learn that a Barbadian judge participating in a Crop Over band would be unheard of and, I was told, would attract public disapproval. In Trinidad and Tobago, by contrast, a judge playing mas at Carnival would hardly raise an eyebrow.

Now imagine a Trinidadian judge appointed to the Barbadian bench who decides to don a costume and “wuk up” in a band! There, in a nutshell, is the challenge of cultural diversity: two Caribbean jurisdictions barely an hour apart, yet with quite different expectations of what constitutes appropriate judicial comportment.

JUDICIAL ETHICS

Judicial independence, ethics and accountability enjoy a necessary synergy: they are inextricably linked. None is a stand-alone concept and if any component is absent or deficient, the administration of justice can be adversely affected and may even topple. Public acceptance of, and support for, court decisions depends on public confidence in the integrity, independence and accountability of the bench. Judicial ethics is not merely about avoiding wrongdoing: it is about maintaining the conditions in which

the public can reasonably trust that justice is independent, impartial and fairly administered.

The CCJ chronicle raises quite a few ethical issues, the most immediate and obvious being the leaking of the internal emails. If they were not leaked by a judge or judges, the point is moot and need be considered no further in respect of the bench.

However, the leak logically has to have come from within the institution and so, ethical training for staff at all levels should be mandatory. It is not unusual for non-judicial staff to be required on assumption to enter into confidentiality agreements and/ or swear an oath of secrecy. That is a salutary step but needs to be bolstered by continuous training in ethics, stressing particularly the deleterious effects that a breach at the administrative level can have on the institution as a whole.

Until an investigation is conducted and facts determined, the possibility remains open that the leak came from the bench itself and if this is so it is a matter of serious concern.

Your judicial code provides that Judges should not behave in such a manner as would or might, in the eyes of a right-minded member of the public, bring themselves, the judiciary or the administration of justice into disrepute**.** I think that we can all agree that any right-minded member of the public would consider the leaking of confidential information to the media by a judge to be unacceptable, even scandalous, and would lose confidence in the integrity and propriety of the judge, the institution and by extension, the administration of justice.

Were the circumstances existing at the CCJ such as could legitimately be considered a public concern or was it purely internal? If a judge genuinely believes judicial independence is being threatened internally, what is the ethically appropriate route for raising that concern?

Confidentiality of judicial deliberations, trust among judges and institutional loyalty all dictate that there can be no acceptable recourse but to follow the established protocols, awkward though that may prove to be. In short, the judge must himself behave ethically while complaining of a breach of ethics by another.

On the core value of integrity your code affords useful guidance.

"A judge who becomes aware of evidence which, in his or her view, is reliable and indicates a strong likelihood of conduct by another judge which falls below the standards required by this Code must give serious consideration to the action which he or she should take; and I emphasise, *having regard to the overriding need to maintain the public interest in the due administration of justice.* Appropriate action will depend on the particular circumstances; but may involve informal counselling, consultation with or a more formal report to the Chief Justice or the Judicial and Legal Services Commission."

The rule makes no distinction between member or leader judge.

These appropriate actions provided in your legislation[10] do not preclude an application of biblical wisdom[11] as an intermediate step before embarking on the ultimate recourse. The offended judge, summoning the necessary courage, can speak to the chief judge in private in an attempt to resolve any issue directly and confidentially. He might be surprised to find that the Chief Justice may not have understood how he/she came across and readily accept responsibility. If that does not work, the judge may consider asking a perhaps more senior and well-respected colleague to join in his appeal, and only if that too is unsuccessful, would he move forward to the formal process.

[10] Judicial and Legal Services Commission, *Code of Conduct for the Cayman Islands Judiciary*, 9 March 2012.
[11] Matthew 18:15-17

Another question is whether the alleged conduct of the President of the Court blurred any ethical lines? Given the way the information entered the public domain it is difficult to arrive at a conclusion. The allegations require rigorous examination and a full and transparent review with its report released to the appropriate stakeholders. Only then can we say. This leads us to the issue of judicial accountability.

JUDICIAL ACCOUNTABILITY

Judicial accountability is the willingness of a bench to accept responsibility for its actions, acknowledge its mistakes and transparently justify its results. This depends on the judiciary—the individual and the collective—upholding high standards of conduct.

The CCJ has added Accountability to the six Bangalore Principles in the crafting of its Code of Judicial Conduct and the code provides that "By the very nature of their judicial office, judges shall not be, except in accordance with the law, accountable for their decisions to any organ or entity within the jurisdiction of the Court or elsewhere but shall be accountable for their ethical conduct to the Commission."

Barbados has also adopted the same additional core value and included a similar provision:

"By the very nature of the judicial office judges are not, except in accordance with the law, accountable to any organ or entity of the state for their judicial decisions but they are accountable for their conduct and may be removed from office in accordance with the relevant provisions of the Constitution of Barbados."[12]

I place the provisions side-by-side only to observe that the CCJ version speaks of accountability "to the Commission" for their ethical conduct,

[12] Barbados Judicial System, *Guide to Judicial Conduct*, https://www.barbadoslawcourts.gov.bb/judicial-system/judicial-code-of-conduct

seeming to suggest that that is the sole entity to which they are accountable. The Barbadian variant simply speaks of accountability without any specification as to whom.

The following rule also appears in the CCJ's Code of Conduct. "Judges are entitled to expect that any complaint against them shall be considered in a manner that takes into account the universally recognised and hallowed principle of judicial independence, the need for judges to be afforded protection against vexatious and unsubstantiated accusations and due process of law."[13]

The what and why of this provision might be easily understood by jurists, but it may be a "hard sell" for members of the public who might cynically regard it as a convenient loophole in the accountability requirements.

Judiciaries operate under a unique constitutional framework. To protect judicial independence, judges are not accountable to politicians or the public for their judicial decisions. However, to prevent abuse of power, they are held strictly accountable for their conduct. There are constituencies to which judiciaries are commonly accountable.

The public is the primary beneficiary of judicial independence, and the legitimacy of the administration of justice ultimately depends upon public trust and confidence. Any perception that the judiciary is unwilling or unable to hold itself accountable can therefore seriously undermine that confidence.

Public accountability, however, does not mean adjudication by the media or in the court of public opinion. There are dangers at both extremes: secrecy that conceals misconduct, and publicity that compromises the confidentiality essential to judicial deliberation.

[13] Caribbean Court of Justice, *Code of Judicial Conduct*,10, https://ccj.org/wp-content/uploads/2026/08/CCJ-Code-of-Judicial-Conduct-REV-June-30_pgs-removed.pdf

The public is entitled to expect assurance that the judiciary has effective mechanisms for identifying, reporting and addressing internal disputes and alleged misconduct; that those mechanisms will be applied faithfully, conscientiously and consistently; and that, where wrongdoing is established, appropriate consequences will follow.

Judges are also accountable to the internal disciplinary mechanisms established to safeguard judicial standards and institutional integrity, as reflected in CCJ's Code of Judicial Conduct. Such bodies provide a structured process through which allegations of misconduct can be received, investigated and determined fairly, independently and consistently, while respecting both procedural fairness and the confidentiality appropriate to judicial office. Their effectiveness depends not merely on the existence of rules and procedures, but on the willingness to invoke them when necessary and to apply them without fear, favour or selective treatment. A credible disciplinary system therefore serves both as a mechanism of accountability and as an important safeguard of judicial independence and public confidence.

A judiciary must also maintain a relationship of accountability with the legal profession and, in the case of the CCJ, with the regional Bars. The Bar is expected to be a strong defender of the Bench and a partner in protecting the administration of justice, and that relationship requires openness and mutual trust. Regular engagement through Bench-Bar committees, conferences and ad hoc forums should therefore extend beyond the familiar concerns of court delays, backlogs, procedural inefficiencies and continuing legal education. These forums should also provide space for candid discussion of issues that strike at the heart of the justice system, including judicial independence, accountability and threats to the rule of law.

Transparency is an important element of accountability; it is not to be confused with washing dirty linen in public. It is the consistent practice of

openness and honesty in communication and decision-making. It means sharing information clearly and completely – without hiding essential facts – to build trust and credibility in relationships. Has the CCJ been accountable in this predicament?

The President's lengthy statement which has in a manner of speaking, lifted the veil on this case study, together with the RJLSC's acknowledgment of serious allegations concerning the Court's administration and judicial independence and calling for a transparent, independent review, are steps in the right direction.

To satisfy the core value of accountability, the CCJ and/or the Commission must publish the outcome of the review in sufficient detail to assure stakeholders that the concerns raised have been fully examined, any shortcomings identified have been acknowledged and addressed, and sustainable corrective measures have been put in place. In doing so, the Court can reaffirm its commitment to the fundamental values of judicial independence, integrity, propriety and accountability.

CONCLUSION

As we wait in keen anticipation for the final report into this troubling state of affairs, we would be well advised to put our own house in order.

It would be easy to look across the Caribbean Sea and examine the fault lines in the CCJ, but this is not an occasion for judgement. Instead of asking what went wrong there, you need to ask, "are we sure it cannot happen here?" If the answer is any but an unequivocal yes, then you must do what you can to ensure that your judiciary is strong enough, your leadership wise enough and your ethical moorings secure enough to weather any storm.

Over the course of our discussion, I have posed many questions for your consideration, some more weighty than others–questions which I hope outlast this afternoon and provoke serious reflection. Discussions of this

nature usually concentrate on the relationship between judge and litigant, judge and counsel or judge and the public. We have explored the less-examined territory of judge and Chief Justice or President.

The CCJ story serves as a warning that calm judicial waters can easily and swiftly become turbulent. But it can also teach other judiciaries to anticipate potential triggers, implement sustainable preventative and curative systems and to trust that with the necessary goodwill its core values will prevail.

I wish you well.

Thank you.

THE END