

Law and Development: The Role of the Judiciary in implementing Agenda 2030

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The Commonwealth

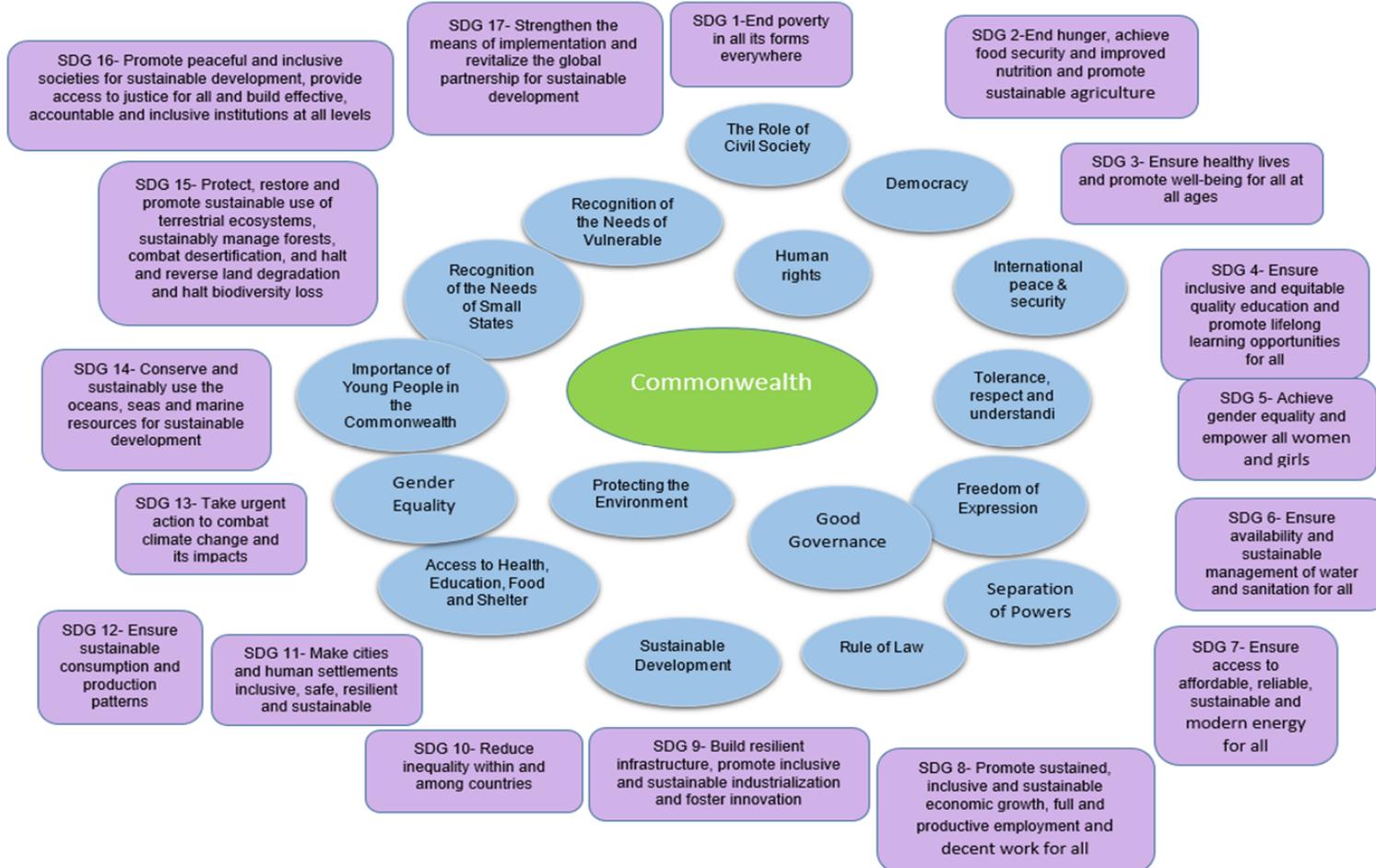
Transforming our world: the 2030 Agenda for Sustainable Development (Agenda 2030)

- 17 Sustainable Development Goals (SDGs), 169 Indicators
- seek to build on and complete what the Millennium Development Goals (MDGs) did not achieve.
- seek to realize the **human rights** of all and to **achieve gender equality** and the **empowerment of all women and girls**.
- are integrated, interlinked and indivisible and balance the three dimensions of sustainable development: the **economic, social and environmental**.
- will stimulate action over the **next 15 years** in areas of critical importance for humanity and the planet.
- Focus on five **Ps** [**People, Planet, Prosperity, Peace, Partnership**]
- Main theme: **Transformation**

Commonwealth values & the normative basis of the SDGs

- The 17 SDGs mirror the 16 core values and principles of the Commonwealth
- The SDGs are premised in shared principles and commitments [purposes and principles of the Charter of the United Nations, grounded in international legal instruments, international human rights treaties, informed by other instruments and the outcomes of all major UN conferences and summits, African Union's Agenda 2063, NEPAD etc.]

Commonwealth values & the SDGs



Commonwealth values & the normative basis of the SDGs

- **Country-specific challenges and vulnerabilities** are recognised [most vulnerable countries-**African countries, LDCs, landlocked developing countries** and small island developing States, countries in situations of conflict, as well as the specific challenges facing the middle-income countries.
- **Measurement of performance**-[recognize lack of baseline data for several of the targets, need to support strengthening data collection and capacity building]
- Promote **national ownership**: country-led and country-driven. - no 'one size fits all' approach

17 SDGs

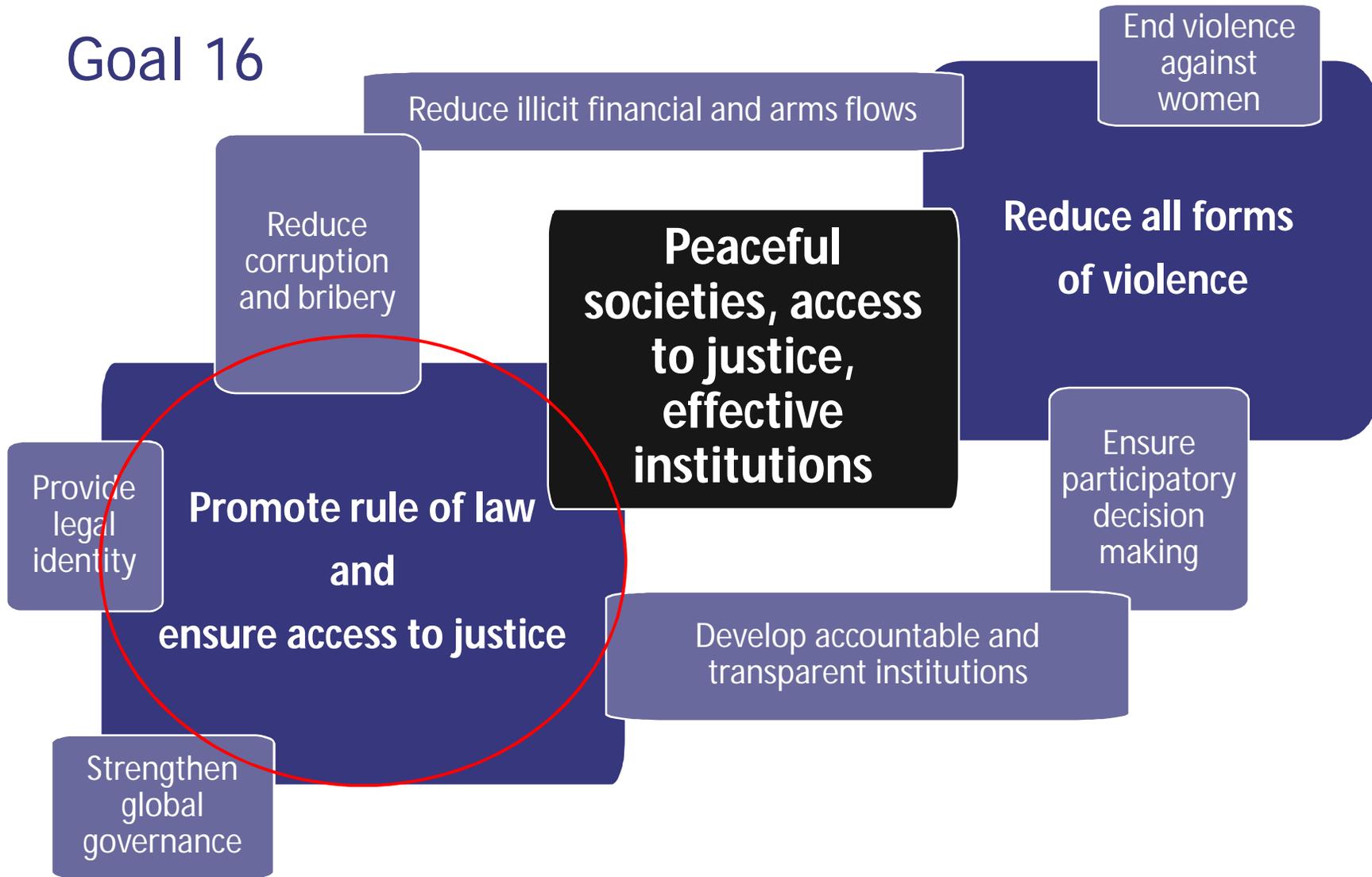
 **SUSTAINABLE DEVELOPMENT GOALS**



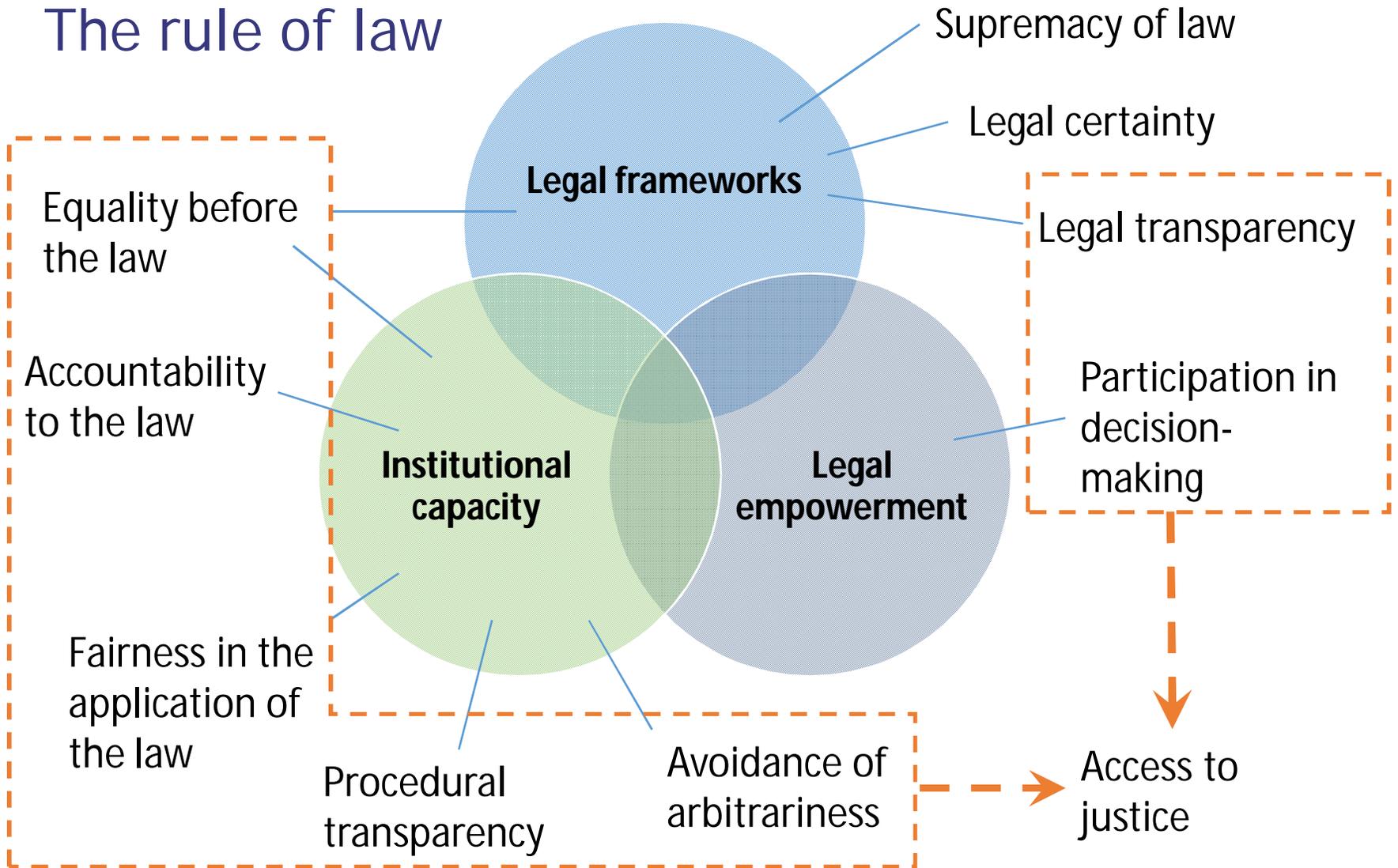
Institutional response to SDGs

- Show ability to drive progress across the entire 2030 Agenda.
- Development and implementation of national strategies to achieve SDGs
- Track and report own progress towards each target.
- Communicate to national leadership role for advancing national development priorities.
- Advocacy to ensure that resources needed are provided.

Goal 16



The rule of law



Judiciary and SDG 16: Direct role

- Reduce all forms of violence and related death rates;
- End abuse, exploitation, trafficking and all forms of violence against and torture of children;
- Promote the rule of law and ensure equal access to justice for all;
- Reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime;
- Substantially reduce corruption and bribery in all their forms;
- Develop effective, accountable and transparent institutions at all levels;
- Ensure responsive, inclusive, participatory and representative decision-making at all levels;
- Provide legal identity for all, including birth registration;
- Ensure public access to information and protect fundamental freedoms;
- Building capacity to prevent violence and combat terrorism and crime;
- Promote and enforce non-discriminatory laws and policies for sustainable development.

Judiciary and SDGs 1-15: Enabling role

- Example of Goal 13 on Climate Action:
- the judiciary, has a role to play in tackling climate change;
- providing equal access to justice;
- determining and not deferring climate change claims;
- upholding the rule of law;
- tasking and forcing all stakeholders to take climate change seriously;
- explaining and upholding the fundamental values underpinning the law;
- promoting environmental values and putting a price on them;
- assisting the progressive and principled development of climate change law and policy;
- making reasoned and evidence-based decisions.

Bold and Transformative Steps for Agenda 2030

- Need to integrate SDG governance in the existing paradigm
- Individual judicial officers
- Judiciary as an institution
- Judicial Training Institutions
- Judicial Service Commissions
- Planning and actions at **strategic**, **tactical** and **operational** levels

Conscious use of law

- Apply law to bring about development
- Embrace the holistic approach to socio-economic and environmental development and not focus only on a rights-based approach to judicial functions
- Contribute to and encourage the expansion of 'African jurisprudence' (study of general theoretical questions about the nature of laws and legal systems) of development

Leadership in law reform

- Provide leadership in escalating proposals for legislative reform, within the limits of the doctrine of separation of powers [guidance -The Commonwealth (Latimer House) Principles]
- Judicial activism - where vacuums exist in legal frameworks
- Institutionalise the practice-communicate a consolidation of recommendations for legislative reform advanced by the judiciary in case law, to the legislative authorities.

Promoting efficiency in the Judiciary for Dev't

- Well-functioning courts
- Accessible courts more efficient by [implementing electronic filing platforms; eJustice; to manage hearing dates; and even to hold certain hearings through videoconference; reduced physical distance between courts and users.
- Meaningful and enforceable laws (that means transparency, fairness, predictability in court decisions and confidence);
- When there are enforceable contracts (so that there's promotion of business and commerce);
- When there is basic security (that means personal safety and protection of property, and an independent judiciary that safeguards both);
- When there is access to justice (that means concrete ways to invoke that safeguard); guaranteed access to cheap credit and financing, etc.

Addressing Capacity Needs

- The Bangalore Principles of Judicial Conduct impress upon judicial officers to maintain competence and diligence by taking reasonable steps to maintain and enhance their knowledge, skills and personal qualities necessary for the proper performance of judicial duties, taking advantage for that purpose of the training and other facilities that should be made available, under judicial control, to judges and keeping themselves informed about relevant developments of international law, including international conventions and other instruments establishing human rights norms.
- Training in skills of judge-craft and other relevant topics (and other opinion writing, sentencing, dealing with certain types of litigants and evidence, media and public relations, understanding of the wider social context to litigation, personal welfare issues) helps increase efficiency.
- Investing in judicial education in areas that are directly relevant to economic, social and environmental aspects of development, such as public policy, development, etc. is worthwhile.

SDG Governance

- Action has to be taken at all levels of the judiciary, to ensure that performance is measured against the targets set, starting at the strategic level-heads of the judiciary.
- Self assessment to gauge SDG and Agenda 2030 readiness
- Developing benchmarks- a baseline study (more preferably from 2015, when MDGs were sunsetted) will provide benchmarks and development of performance indicators
- Position institution to benefit from the resources availed globally for SDGs governance-**SDG 17**.
- **SDG 17**-Global efforts to mobilise finance, promote capacity building in developing countries to support SDG implementation; promote policy and institutional coherence and multi-stakeholder partnerships (knowledge sharing, expertise, technology and financial resources).

Building and fostering partnerships

- Within lines of authority, can be initiated at all levels- operational, tactical and strategic.
- Partnerships with academia, professional organisations, development partners, non-governmental organisations, civil society organisations
- Potential areas for value addition-introducing more components into the justice process e.g. psychotherapy, development economics analysis, impact assessment, victim assistance, behaviour analysis, resource mobilisation, capacity building, etc.

Role of the Commonwealth Secretariat

- Example of the partnerships envisaged and encouraged under SDG 17
- Capacity building and provision of short and long term experts to aid in the development and drafting of national laws and law reforms;
- Developing and promoting best practice on various thematic areas of law in the form of toolkits, guidelines, manuals, legal handbooks, benchbooks and model laws;
- Supporting law reform, enhancing the capacity of law enforcement and other justice agencies on various thematic areas of justice;
- Promoting procedural and cross-cutting issues in the administration of justice, such as: witness protection, international cooperation on criminal matters, judicial independence, effective court administration.
- Placing and mentoring justice officials in equivalent justice agencies and brokering of twinning programmes between national justice institutions in the Commonwealth.
- Research and development on emerging issues
- Development of a Legal Knowledge Exchange Portal for Commonwealth staff and government counterparts

The Commonwealth Strategic Plan

Commonwealth Secretariat Strategic Plan

2013/14 - 2016/17

Public Institutions

2. More effective, efficient and equitable public **governance**

- 2.3 Effective mechanisms ensuring the autonomous and harmonious operation of the three **branches of government**
- 2.4 National institutions effectively facilitating the administration and delivery of the **rule of law** and **justice**
- 2.5 Enhanced **judicial independence** in member countries

Commonwealth Judicial Bench Book

- Example of provision of technical assistance to judiciaries in East Africa.
- One of the rule of law tools developed by judicial officers in East Africa immediately after the adoption of Agenda 2030 and to be replicated across the Commonwealth [Asia under process, Pacific to follow].
- To be supported by national case books
- seeks to promote integration of relevant international norms and standards in case law;
- provide guidance on management of the courtroom as a safe environment [anonymization of information to protect identity, protect vulnerable witnesses and complainants, manage defence counsel -no intimidation or harassment, manage the media];
- further extrapolate the role of a judicial officer as a resource mobiliser, a champion or voice for social and behavioural change, role model or educator in the community].
- CJEI to reduce the JBB into training modules to be used across the Commonwealth.

Thank You

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