I am grateful that in your invitation to me to address this forum that you specifically requested that I identify how the Christian community may assist the Judiciary in the fulfilment of our role. I am particularly attracted by the implication of the title of this week’s symposium which recognises that our responsibility towards effecting transformation begins but does not end with prayer. I hope during the next half hour to articulate and put some context to what I see as our shared responsibility, as well as to offer some practical suggestions for action.

I will confess to you that being a judge often generates internal conflicts, many times requiring one to take decisions which uphold the rule of law but may grate against one’s personal sense of justice. But this is the dilemma to which I said ‘yes’ when I responded affirmatively to the call to serve in this capacity and, as I enter my seventeenth year of shouldering this burden, I do not complain. I only recognise with increasing humility that in as much as the judiciary is the arm of the State with responsibility to oversee the administration of justice- it is quite apparent that we cannot do so optimally without the support of the church. This is the reason I have elected to address you on the notion of ‘partnership’, and more particularly, the nature of the partnership which might be cultivated between the church and the judiciary.

I am well aware that the term ‘partnership’ has to be used with care these days, however, my focus is inspired by the guiding scripture for this symposium located in Matthew 7:7-8, which begins, ‘Ask and it shall be given to you, seek and you shall find, knock and it shall be opened unto you’. The verse, in context, is not talking about material things, it is about entering and living in the kingdom. It hearkens back to that great partnership between GOD and mankind first referred to in Genesis. God partnered with man- He created the earth but he placed the responsibility to exercise dominion and control, to establish peace and make the earth bring forth fruit with man. That mandate, which was to administer HIS kingdom here on earth has never been revoked. Asking or praying invokes God but there yet remains a responsibility for us individually and collectively that extends beyond prayer, to discover and engage in appropriate actions, roundly described as seeking and knocking. Matthew 7, along with many other passages, provides sufficient basis, if not a clear mandate for the church to extend beyond merely praying for the Judiciary and the administration of Justice. In truth, the church has a legitimate role in the governance structure, which requires that it not be an detached observer but that it monitor issues engaging the attention of the national community and make meaningful contributions to the national debate, assert itself where it perceives injustice and participate in organisations and
initiatives geared towards the resolution of conflict and the protection of the vulnerable in society.

There is a sobering epitaph on the Holocaust Memorial in Washington DC and it reads like this: “Do not be a victim; do not be a perpetrator; but above all do not be a bystander.” It is a good motto to adopt, it has defined my life mission. So today I want to talk about how, as the church, we can stop being bystanders.

There are many causes of violent crime and disintegration of society as we used to know it but if I were to choose three that the church can affect directly I would go with:

1. Failure to Manage Expectations (subtitled: Discovering meaning and purpose in Life) – this has led to a culture of entitlement and the hedonistic pursuit of pleasure and comfort;
2. Loss of Community – the swing of the philosophical pendulum towards individual rights and autonomy has come at the price of abandonment of the notion of mutual responsibility for and towards each other. We are discovering painfully that no man is an island and, sadly, the funeral bells of widespread violence has begun to toll for all of us;
3. The Divorcing of Moral and Ethical Principles from the Conduct of Public Duties – as a result, decisions are not taken in the interests of community, leaders and governance structures lose legitimacy in the eyes of citizens and there is no incentive to obey the rules.

Sadly, some in the church are often guilty of one or more to these shortcomings. So before I issue a call to action, permit me to issue a call to being. To self-examination and transformation. To clarity of motive and purpose. Why do we do good? I need to shake us up a bit because if we are to be more effective we must examine why we have not been effective enough so far. So let’s talk about expectations for a bit, how others see us and how we see them and ourselves. We cannot be effective unless we restore legitimacy in the eyes of believers and non-believers alike.

We take legitimate scriptural notions and distort them. So the wealth of the ungodly is laid up for the just – does that mean we are entitled to it because we have been good and they don’t deserve it or is it that God, because we know Him, expects us to be better stewards for the benefit of all? Has the obligation to honour leaders been turned into an entitlement to obeisance and obedience and are we irritated when we do not receive what we feel is due? I should not really be preaching to a room full of Pastors so let’s just say I am confessing. Yes disobedience may remove us from God’s protection but misfortune is not always occasioned by the victim’s sin, Jesus had to correct that notion, but even if it is, compassion is not conditional on their deserving it. When we say we love the sinner but hate the sin they don’t believe us because we don’t really live it and the condemnation remains in our postures and our culture and our vocabulary. The truth is that, as far as expectations go, the world expects little of us that is positive, and if our motive is to convert others to be more like us then they are right to be suspicious of our engagement.
Conversion and sanctification are the work of the Holy Spirit, ours is to love. Witnessing was never an intellectual exercise and we cannot persuade others of the goodness of our God by theological argument. There is a huge gulf between knowing about Him and knowing Him. In our acts of forgiveness, reconciliation and restoration others meet God. That is why in Genesis 33 Jacob was able to declare to Esau... “I have seen thy face as though I have seen the face of GOD”

Holiness and sanctification are not just about not stealing or committing adultery. At their core is the notion of dedication to purpose. Any choice that interferes with purpose becomes sin. Jesus did not come to enrol people in a church or commit to doctrines and creeds. He came to restore us to purpose. He called us to a new way of being. In doing so he engaged a new notion of community that included the ‘unjust’, one that we must emulate. Can we, like him, truly embrace the ‘sinner’ without the altar call? Then as now, the religious establishment shuns those who take that radical step. Our central purpose is the ministry of reconciliation that GOD has committed to us. Reconciliation begins here on earth, not when we get to heaven. We must never be so afraid of being contaminated by the world that we forget that our purpose is to infect it.

I want us to be clear on the why before we address the what and the how. The call to engagement is not to earn brownie points with God or to see how many souls ‘we’ can save. It is not to establish a theocracy – we live in a constitutional democracy in which everyone has the right to believe in any God or none at all. We cannot impose our beliefs nor should we. We have tried theocracies before and history shows that they descend into tyranny. At the last count there were something in the order of 40,000 different ‘Christian’ denominations in existence, all divided along doctrinal lines that are in many instances of little consequence. If we can’t even agree among ourselves, whose version should become normative for the law?

I know I am walking into controversy here but I will. GOD does not need a constitution to assert His supremacy. That debate is sterile. He wants a people to help build His Kingdom. If we enshrine a belief in and respect for our shared humanity and a recognition that that obliges us to be or brother’s keeper that is enough. Constitutions were never about what we want society to believe, they are about what we want society to be! I am trying to drop a broad hint here about where we must focus our efforts.

The call, therefore, is simply a call to love, to influence and to engage the political process not just through prayer and advocacy but by concrete action to restore community and the infusion of desirable moral values in the culture and consciousness of our society.

Now I know some of you may get nervous when I talk about engaging the political process so let me take a moment to clarify what I mean. I am concerned with the broader, non-partisan notion of politics as the practice and theory of influencing other people on a civic or individual level.

The principle of separation of church and state is a western notion that has taken root particularly in North America as a result of historical context. You will recall that many of the initial
European immigrants were fleeing religious persecution and so, for the founding fathers, it was very important that state structures did not promulgate or impose or sanction any particular religious belief or sect. They wanted to preserve religious freedom and it was important therefore that, in turn, no particular religious group should dominate and control state affairs and, critically, that there should be no religious test for appointment to public office. It was to protect the church from oppression by the government and vice versa. Both the state and the church have turned that on its head and both have lost legitimacy as a result.

Consider the history of the development of the doctrine of the separation of church and State in the United States of America. The first instance in which an American court declared that there was a separation between church and State was in a 1947 case (Everson v. Board of Education) in which the court stated, ‘The First Amendment has erected a wall between church and state. That wall must be kept high and impregnable. We could not approve the slightest breach.’ The doctrine of the separation of church and State has so evolved that verbal prayer has been ousted from American schools, including the disallowing of students from praying out loud over their meals. This has extended to kindergarten students being forbidden from reciting ‘We thank you for the flowers so sweet; We thank you for the foods we eat; we thank you for the birds that sing; we thank you for everything’. (deSpain v. Dekalb County Community School Dist. 1967). However, prior to 1947, the Fourteenth Amendment had not been used to forbid religious practices. To quote Justice Msoffe again, ‘Very often, laws are used against the very spirit of these laws and we allow people to use them without resisting them. Often people are paralysed when they face such abusive usage of rules and regulations. People in power should not be allowed to use the means of power against their own people who entrust them with these means to govern for their benefit. Church communities should be the defenders of the right and moral spirit of governance.’ This should give us food for thought. The Judiciary does not enjoy the liberty to speak on certain issues but a vigilant church can.

Unfortunately, in reacting to this distortion the church has too often granted or withdrawn support on the basis of leaders’ or politicians’ stances on one or two hot-button moral issues that we consider to be of primary importance as opposed to the capability and overall record of stewardship, which is why people ought to be elected in the first place. In doing so, we have imposed a religious litmus test that is the antithesis of the underlying philosophy of and the fundamental freedoms guaranteed by our constitution. There must be wisdom and balance in our approach and we must always be mindful that we are not to be pursuing our agenda but God’s. We know we are creating God in our image and likeness when He hates the same people that we do!

Why am I going through all of this? Well when you begin to act and to speak out you will be challenged on the legitimacy of your endeavour so we must be clear.

I appreciate that there has been a certain level of ambivalence on the part of the Christian community with respect to its role in civil society. There is always the fear that when we tackle
social issues especially in the face of oppressive or disapproving regimes, or organised crime, we become targets. The liberation theology struggle in Latin America illustrates that aptly. John Paul II in his Homily at San Salvador in 1983, cautioned, ‘Remember my dear brothers that...you are not social directors, political leaders or officials of a temporal order’. Pope Benedict XVI’s first Encyclical letter, God is Love stated that the Church ‘cannot and must not take upon herself the political battle to bring about the most just society possible’. And Archbishop Dom Helder Camara noted that when he, ‘...fed the poor, they called [him] a saint. When he asked why the poor had no food, they called [him] a communist’. Yet it is undeniable that Jesus, who being both God and man is the epitome of divinity working in partnership with humanity, spent much of his time engaging in debate on laws and challenging the social mores of his society. The current levels of crime and resulting national angst is such that there is an urgency which demands that every entity with the potential to wield strong positive influence must descend into the arena and I submit to you that the church can no longer be excepted.

My role model is Archbishop Oscar Romero who, with full knowledge of the risk he was taking said the following:

"Peace is not the product of terror or fear. Peace is not the silence of cemeteries. Peace is not the silent result of violent repression. Peace is the generous, tranquil contribution of all to the good of all. Peace is dynamism. Peace is generosity. It is right and it is duty."

And the day before his assassination:

"When the church hears the cry of the oppressed it cannot but denounce the social structures that give rise to and perpetuate the misery from which the cry arises."

And finally, seconds before he was shot and killed:

"I will not tire of declaring that if we really want an effective end to violence we must remove the violence that lies at the root of all violence: structural violence, social injustice, exclusion of citizens from the management of the country, repression. All this is what constitutes the primal cause, from which the rest flows naturally."

I am afraid I will have to bombard you with a few more quotes to cement my point. Take this statement that emerged from the Bishops of the Second Vatican Council:

“....men are not divided into believers and atheists, but between oppressors and oppressed, between those who want to keep this unjust society and those who want to struggle for justice.”

OR Father Frei Betto while being tortured by the Brazilian military:

"Our responsibility as Christians makes us tremble. The northern hemispheres, the developed area of the world, the 20% who possess 80% of the world’s resources, are of Christian origin. What impression can our African and Asian brethren and the masses in Latin America have of
Christianity, if the tree is to be judged by its fruits? For we Christians are largely responsible for the unjust world in which we live."

And finally Archbishop Camara again:

"Peace is not merely the absence of war; nor can it be reduced solely to the maintenance of a balance of power between enemies; nor is it brought about by dictatorship. Instead, it is rightly and appropriately called an enterprise of justice."

The Judiciary, to put it broadly, is engaged in dispensing justice. More importantly, we seek to partner with all who are in pursuit of the creation of a ‘just’ society. As a working philosophical model we have adopted the Nuremburg definition of justice which states that, “‘Justice’ is understood as meaning accountability and fairness in the protection and vindication of rights, and the prevention and redress of wrongs. Justice must be administered by institutions and mechanisms that enjoy legitimacy, comply with the rule of law and are consistent with international human rights standards. Justice combines elements of criminal justice, truth-seeking, reparations and institutional reform as well as the fair distribution of, and access to, public goods, and equity within society at large’.

I hope I do not shock you when I suggest that the voice of criminal justice is not always the voice of God. Good judges uphold the rule of law. The rule of law is paramount in the courts and is the supreme consideration to which every other personal persuasion, religious or moral must necessarily be subordinate. Happily, the Rule of Law as contemplated in modern times incorporates notions of fundamental human rights that are perfectly compatible with many religious beliefs, although approaches and interpretations vary. The point is that though they may have been influenced in part by the Judeo-Christian tradition, fundamental rights do not exist to promote any or any particular religion. Of course we all bring our personal convictions, biases and prejudices to the task of judging: of that we must be aware and wary. But let us disabuse ourselves of the misconception that Christian judges will render ‘Christian decisions’, that is, decisions which are necessarily reflective of biblical perspectives. What they will do is honour the oath of their office, operate in integrity both in the light and in the shadows and follow due process in judicial and administrative decisions. A good judge does not use his office to proselytise. He is the arbiter of the law both to the believer and to the non-believer.

The significance of this is that the church often considers that it has acquitted itself once it has ‘prayed persons of Christian persuasion unto the bench’. There yet remains the need for the voice of the church to be heard in national debate on constitutional reform, and the reform of laws concerning women and children, and other very pertinent issues which are being explored in the public domain. The Judiciary can only make determinations based on the laws as they exist but by your proactive advocacy you the church can influence and shape the nature of the laws which come before us.
Honourable Justice January Msoffe of the Court of Appeal of Tanzania stated in a paper delivered on ‘The Church and Civil Society in the Role of Building Social Conscience for Democratic Participation, that, ‘The Church community often fails to play its role in monitoring and encouraging just state institutions and practices...Citizens lack the will to use the available control systems to exercise a proper supervisory role. That is why we have the saying, ‘you deserve the leaders you have.’ We need first and foremost moral and spiritual attitude of conviction. Then we must build upon that the control structures. The latter will not work without moral and spiritual conviction. Religious communities should be experts and guarantors of the nation’s behaviour, customs and culture’.

So how is the church to discharge its responsibility? How do we structure this partnership?

I turn now to the role of the church in organisations which promote peace, family life, and conflict resolution. The Judiciary’s mission statement, is ‘the resolution of conflict in society by resolving disputes which arise out of the operation of laws and involve the application of remedies and the punishment of offenders’. We have taken a broad view of the mechanisms which can be utilised to resolve disputes including the use of court-annexed mediation and the establishment of a drug treatment court and the use of negotiation at the family court. No longer must we view ourselves as remote referees of a gladiatorial contest. We are in the business of conflict resolution and problem solving in a way that promotes peace, reconciliation and preservation of relationships and community.

The resolution of conflict is not the isolated mandate of the Judiciary. We in the Judiciary have long ago moved away from the notion that the resolution of conflict and the dispensation of justice is solely the preserve of lawyers and judges. What is justice for those we see at our doorsteps every day, those mothers and family members crying for revenge, family members engaged in bitter disputes, neighbours engaged in years of bitter warfare? These are our common disputes. Our search for justice is a drive to solve human problems within the law. We recognise that there is a pulse that beats in every dispute. There is a brother, a father, a mother, a sister, a child, a community, a society that is affected by most of the disputes that come to us. If we begin to look at this mandate of the resolution of conflict through a much wider lens as the restoration of peace we begin to understand that the Judiciary is but a partner in the search for justice.

Much crime and deviant behaviour has its roots in these underlying conflicts. The just resolution of disputes, this search for justice is and must be a joint enterprise with key institutions and leaders in our society. It is true that we take a leadership role in the resolution of disputes but I must emphasise like any good leader we must embrace the opportunities to empower others to help, to learn, and to also lead in this mission.

We have been doing so since 2005 with the Family Court, a truly multi door concept recognising that in the arena of family justice the need for support services of counselling, mediation and
other social services play a major part in the restoration of peace in families, the instilling of calm in a turbulent social matrix and a constructive focus on the future for the family unit.

By refashioning our notions of justice and what is needed by our nation to truly resolve conflicts and disputes we do not see justice simply as the punishment of offenders or merely a judicial sentence or final decision and then turning our back on society. What was the undercurrent for the dispute? What was the emotional content of that conflict? What was the human problem that has not been resolved? If we continue to treat symptoms and not deal with the root of conflict we will continue to see repeat offenders both in the civil and criminal justice system. Simply put for example if the human conflict between two neighbours over a dispute they may have over a parcel of land is not appropriately addressed it can result in continuous litigation or several criminal offences sometimes with fatal consequences.

Recognising then that the resolution of conflict and the search for justice is a much wider concept that affects every strata of society we see immediately the need to partner with, indeed empower no better an institution than the Church as a leader in this mission.

Faith based organisations play a fundamental role in our society and for many, the increase in lawlessness has been attributed, at least in part, to a loss of faith in those institutions. However one of your main advantages is that the geographical spread of the church encompasses every community in Trinidad and Tobago and you have ready access to their constituents. You already have your finger on the pulse of this nation. The Church can and must, like the Judiciary, re shape its mission and look at the mission of resolving conflict as a real and tangible objective that can be attained and in so doing ushering in the kingdom on earth as it is in heaven.

One of the fundamental tenets of faith based organisations regardless of our backgrounds, philosophies and dogmas is the search for peace. Indeed the building blocks of the process of peacemaking are already imbedded in our religious teachings. We are all peacemakers and advocates of peace by scriptural mandate. The virtues of love, compassion, understanding, empathy are not only common features of a conflict resolution process but these are the basic human virtues which our religious teachings instill in us. Despite what I may have said earlier, the following quote Jacob Bercowitch still largely holds true:

“There are two main areas where faith-based actors and religious mediators have a significant impact on any peacemaking process. One is of course the respect, legitimacy and trust accorded to religious mediators and their ability to use these to effect a settlement. Faith-based actors bring a new dimension of trust and legitimacy and thus leverage into the process. They are respected, often even admired, and readily followed. This gives them tremendous leverage over certain parties in conflict. Religion is here seen as a major resource, as a major source of leverage for good. Whereas states bring with them into the mediation process tangible resources such as power and money, faith-based mediators bring with them intangible resources such as
respect, trust and loyalty. Both can work effectively to transform a conflict. Religion may be used in conflict to build peace and reconciliation.”

In this way you already have the added advantage where your very philosophies promote the peace that we the Judiciary would like to see attained when a conflict is resolved. You already have the scriptural mandate in 1 Cor. 6:1

“When one of you has a dispute with another believer, how dare you file a lawsuit and ask a secular court to decide the matter instead of taking it to other believers!

Indeed we have seen international religious bodies play a very important role in the peace process in resolving conflict in Sierra Leone in parts of Africa and Asia. So too in Trinidad and Tobago you must partner with us in taking a leadership role in resolving conflict and restoring peace.

First examine ways in which your elders and your pastors or preachers can be equipped and trained in the skill of conflict resolution and open your institutions to the prospect of settling disputes amongst your congregation and non members. It may seem to be strange for the Judiciary to be telling you to settle your law suits. But in truth we tell our disputants that every day and indeed it is consistent with your own religious teachings.

What can you do? First, the Mediation Board has been encouraging faith based organizations to equip themselves with certified mediators in their own congregations and to set up mediation agencies or peace centre in their institutions to resolve disputes amongst their own members and members of the community.

Second take the lead in resolving human conflict. In a family dispute there can be no substitute for that moral authority of the church to lead and to help families through difficult periods of divorce and separation. Move beyond the family to the streets. In taking on such a responsibility not only do you help in providing a human solution to conflict you also provide lasting peace in family and community settings which can be effectively monitored due to the ease of access the family members and those within your communities may have to you and your other leaders.

Third re-examine our notions of criminal justice and restorative justice. In a criminal law setting what happens to the accused who has served his sentence. How can that person be re integrated in society and reformed so that he does not fall prey to the gang and other surrogate support groups with evil agendas? The church plays an important role in the reformation process and in the process of acceptance by society and a restoration of calm and harmony.

There are many programmes which can be supported by the Christian community which encourage rehabilitation of adult and youth offenders and the use of less adversarial techniques to confront problems. These programmes identify root causes and seek to address them before
they manifest through the justice and penal systems. Please allow me to highlight a few of the Judiciary’s initiatives:

The Family Court of Trinidad and Tobago is an initiative of which we at the Judiciary are particularly proud because it recognises that a ‘court building’ can provide an environment which supports families while engaging more conciliatory methods in the pursuit of justice. In keeping with the Court’s objectives to deliver justice while meeting the needs of families, the Family Court has also partnered with the United Nations in the delivery of the Holistic Opportunities for Personal Empowerment (H.O.P.E.) Programme. HOPE for Men is a violence intervention programme aimed at rehabilitating male perpetrators of domestic violence. Participants are equipped with conflict resolution skills to stop cycles of abuse. HOPE for Women is geared towards female survivors of domestic violence and facilitates healing and empowerment of former victims.

The Drug Treatment Pilot Court was launched in 2012 in San Fernando and offers a treatment alternative to incarceration for drug dependent offenders. The Judiciary recognises that a significant percentage of crime committed is related to alcohol and other drug abuse and addiction. The DTC therefore provides an alternative to drug dependent offenders who come before the courts by routing them along a path of treatment and rehabilitation. It aims to restore drug-addicted offenders as productive, law-abiding and tax-paying citizens. We expect to expand this project later this year by the establishment of a juvenile DTC which will specifically cater to the particular needs of minors.

I am also pleased to report that the Judiciary will soon embark on a juvenile justice project in partnership with the United Nations (UNDP and USAID). The project will establish pilot juvenile justice and youth courts and develop court-annexed diversionary programmes for youth. It targets at-risk youth and encourages peer accountability, youth leadership and the development of a strong sense of civic responsibility in young persons.

Common to all these initiatives is the theme of restorative justice which is really nothing more than a version of forgiveness; we endorse and obey Paul’s exhortation in Philippians 3:13, ‘… [to forget] those things which are behind and [reach] forth unto those things which are before…’ In other words, let us make room for repentance to take root and flourish. The Christian community can partner with us by providing facilities for drug offenders in need of residential care and women and children in need of protection during their critical time of recovery and restoration. Take the risk of providing employment in a supportive setting. We can also sensitise our congregations about the existence of these programmes so that full use will be made of them.

I urge the church to learn more about conflict resolution as it will help the Judiciary to settle disputes before they come to our Court. There may well be instances where we can refer some of our disputes for a just settlement and more importantly it can provide what the Judiciary cannot: the spiritual guidance so desperately needed by this nation.
I need to end now. It all sounds very noble but before you rush to sign up for the cause I must issue a caution. The first part is not so hard. But, as we take all of this to it’s logical conclusion, we cannot remain passive. We must go into the community; they will not automatically come to us. What we are ultimately talking about is redeeming the culture of the streets. Your competition for the influence and authority to settle disputes is the so-called “community leader”. You are trying to take his job and his workers. You will be stepping onto ground the enemy has stolen. He will not surrender his influence without a fight. Consider the price. As you begin to dismantle the infrastructure of violence, there will be push back. What do you do when you are threatened or shots are fired? How much are you prepared to risk? Pastor Dottin was on the mark when he challenged you to consider whether you are prepared to die for the cause of peace and justice. To take back the streets we must accept the possibility of bloodshed, including ours. On that score I leave you with the words of Archbishop Romero, who had faced his Gethsemane and come to acceptance of his imminent death. During his final homily, and minutes before being shot he said this:

"I am bound, as a pastor, by divine command to give my life for those whom I love, and that is all Salvadoreans, even those who are going to kill me."

Finally, although I have spent most of my time impressing upon you the need for partnership in more visible ways, I wish to end on the subject of prayer. One of the Judiciary’s core values is accountability to the people. Scripture also tells us that those who sit in the seat of judgment are accountable to God. There is an accounting for the good as well as the wrong that we do. May your prayers always be with us that we operate in reverential fear and never attract a negative audit report from God.

I thank you for your attention and your continued support.