



## **ADDRESS**

of

**THE HONOURABLE THE CHIEF JUSTICE  
MR. JUSTICE IVOR ARCHIE, O.R.T.T.**

### **Opening of the 2019/2020 Law Term**

**Convocation Hall  
Supreme Court**

**Hall of Justice  
Knox Street, Port of Spain**

**Monday 16<sup>th</sup> September, 2019**

CHIEF JUSTICE IVOR ARCHIE: Before we begin, I would like to acknowledge, with sadness, the passing of a very distinguish daughter of our beloved country, Dr. Linda Baboolal.

Many of us, myself included, would have wished to pay our final respects today, but, of course, one doesn't have control over these things, and at this time, final rights are being conducted, so some have been forced to make the difficult choice of choosing between this ceremony and Dr. Baboolal's farewell. But I would like to take this opportunity on behalf of myself, my immediate family, and, of course, the extended Judiciary family, to extend condolences to the family of Dr. Baboolal, and to, of course, thank and acknowledge those of you who have come.

Your Excellency, Mr. Anthony Thomas Aquinas Carmona O.R.T.T, Senior Counsel, former President; Honourable Attorney General, other members of Cabinet, and of the Parliament of the Republic of Trinidad and Tobago, Your Excellencies, Heads of Mission and representatives of the Diplomatic Corps, Honourable Justices of Appeal, Judges and Masters and Judicial Officers of the Supreme Court of Trinidad and Tobago, Judges of the Caribbean Court of Justice, Chief Magistrate and other Magistrates, Members of other superior courts of record, Heads and representatives of religious bodies and international organisations, Representatives of the legal fraternity, Members of the Court Administration of the Judiciary, Distinguished representatives of the public and private sectors, other specially invited guests, Ladies and Gentlemen. Here we are again.

It sometimes helps to lighten the mood of a captive audience, I'm told, by starting a speech with a bit of humour. I suppose most of you will have heard and be tired of the old joke about Henry the VIII saying to his wives "I shall not keep you long". But, perhaps, after all this time, less well-known and more apt for me at this juncture is the reputed reply of his last wife, "I have a pretty good idea of what I'm supposed to do. I'm just not sure how I can do it any differently." However, I am privileged and honoured to be given the opportunity to address you in my capacity as Chief Justice for what is now the 12<sup>th</sup> time since my appointment. That makes me the longest serving post-independence Chief Justice. I am aware that that fact alone presents challenges for some people, but we all have to suck it up and do the job we are assigned to do.

As with many other things during that period, as Charles Dickens has said, "It was the best of Times, and it was the Worst of Times." But as Chief Justice, I have had the privilege of overseeing, with the assistance of the many our stakeholders, the most expansive period of Judicial reform in Trinidad and Tobago.

As I have reiterated in many previous speeches, the implementation of these reforms has been hampered by both the lack of financial resources and lack of the technical capacity to fully effect the transition of the Judiciary into an institution that is relevant and responsive to the needs of our evolving society. All fundamental transformation requires three basic components: People,

Plant and Process, undergirded, of course, by appropriate technology, and I shall try to address all of those today.

I want to start with people for two reasons. The first is that as Chief Justice, my only accountability, after GOD, is to the Constitution and to the people of Trinidad and Tobago. But getting people to accept change even when everyone complains bitterly about the *status quo* is often the hardest challenge of any leader. Change can be scary especially when we have to leave our comfort zones and learn new ways of doing things. We can be made to believe that power we never had is being taken away from us and, in that regard, there is no profession -- and I belong to it -- that is more egocentric and tradition bound than the legal profession.

This organisation comprises over 2000 persons with complex interlocking functions, and much of the criticism, internal and external, comes from people who have never managed anything bigger than their chambers, are not management professionals, do not respect other professions and, frankly, do not appear to comprehend that evolving technologies, including artificial intelligence, machine learning algorithms, are already beginning to displace us from some areas of practice, such as due diligence, contract review and even divorce settlement, requiring lawyers to re-skill and to re-learn. Sometimes, we don't appear to understand that law is practiced and adjudication conducted in a historical, social, cultural and economic context, as well as a rapidly evolving and global technological space.

I make no apology for my approach that, in all of this, the most important people are not the lawyers or even the Judges, but the people whom we serve, hence our theme of "Transformation for Enhanced Delivery".

Why am I going there? It is because much of the vitriol coming at us and at the JLSC is about who gets selected for the Bench, and how and what kind of people, and organizational structures are needed to support them.

But interestingly, the last round of appointments to the High Court Bench has produced an outstanding group of Judges who have contributed in great measure to the increased productivity that we are experiencing. As I have intimated in an earlier address, I see no direct role in the recruitment process for the Law Association, partly to preserve the confidentiality of applicants, and partly because the JLSC cannot be seen to abdicate or delegate its constitutional remit. However, the process does involve a written examination in which candidates are required to attain a minimum standard in all sections. And we do set the Bar fairly high.

Recently, the JLSC had to abort a recruitment exercise for the High Court Bench at the stage of the written assessment that has been ridiculed in some quarters because no one met our stringent requirements in all of the sections.

I want to emphasise that success or popularity at the Bar, however that may be measured, is no guarantee of a successful transition to the Bench. I can do no better than to quote excerpts from the report of the independent external examiner, who is, himself, a renowned jurist and academic, and I quote:

***“The third section of the examination evidenced a lack of critical thinking and legal analysis skills. Only three answers were structured in an acceptable manner, dealing with the issues presented in a sequential and orderly fashion... they also have weak writing and analytical skills, and the lack of these skills does not augur well for a successful career on the Bench. Based on this performance, it appears that many attorneys-at-law do not keep abreast of recent developments in the law.... The results of this examination emphasise the need for greater focus to be placed on analytical writing and thinking skills within the legal profession. As a general observation, the performance of the candidates presents a strong case for the need for continuing legal education.”***

We do have a problem. As goes the Bar, so goes the Bench.

I pause here to remind you that continuing legal education has been a feature of this Judiciary for at least two decades, as indeed has compulsory continuing education for practising attorneys in Jamaica and other progressive jurisdictions, as a pre-condition to renewal of the practicing certificate. The Judicial Education Institute, now generally acknowledged to be the premier small-jurisdiction Judicial Education Institute in the Commonwealth, stands committed and ready to support and partner with the Law Association, once it rediscovers its statutory moorings, so that the Judiciary and the public will be better served, and we will have a better prepared pool of aspirants to the Bench from which to choose, because, whether temporary or permanent, appointees will have to hit the ground running from day one since they will be affecting lives, livelihoods, property and families. This job is not about profiling in the media or storming big people party. Forgive me for speaking frankly when I say that if you are power or status-driven, you could be as bright as you want, you are not unsuitable.

That brings me to the other people challenge. That there is a malady that has infiltrated the psyche of our country over, at least, the past two decades, and which can best be described as a disdain towards institutions of the State and a general and overt hostility towards the occupants of public office. Today, we feel empowered as a people to tear down our leaders, the institutions they lead and even those that we belong to as stakeholders. We lose sight of the fact that, in doing so, we undermine our own legitimacy, weaken the society, while eroding our own independence and sovereignty. It produces an environment that breeds division, disunity, self-loathing and the perpetuation of tribalism with all its negative connotations.

We in the Judiciary, as a key stakeholder and one of the three arms of the State have not been immune from this assault. The issues we face have little to do with the publicly articulated disputes between Judges but speak to a general decay within the society as a whole, and one that is typified by a sense of entitlement, selfishness and lack of faith in, and respect for, the institutions of the State.

On the issue of loss of trust and confidence, let me say that I fully appreciate the sense of alarm and insecurity felt by the population about the crime situation. Many among us continue to view, with consternation, the reports of matters only coming to court after ten or more years; of prisoners awaiting trial on remand for periods in excess of the sentences they would receive if convicted, and the Judiciary is usually blamed as being inefficient. It is assumed that in these matters, we are at fault.

To the contrary, the Judiciary does not determine when or who to prosecute. It does not make a determination on what cases are deserving of plea bargain. It does not gather evidence or conduct forensic examinations. Those responsibilities and attendant inefficiencies in the management of outcomes in the criminal justice system are outside the purview of the Judiciary. I don't mention this out of a desire to cast blame. We understand that other stakeholders labour under similar financial, structural and environmental constraints. This is rather a clarion call to deepen dialogue and constructive partnership in the interests of our nation. And yet when reforms are proposed to address the malaise, what we get from some quarters is a series of reasons why they can't work.

Well, today, I am proud to tell you that many of the things that were greeted with derision and skepticism, such as Maximum Sentence Indications, Judge alone trials and Criminal Case Management Rules are already beginning to bear fruit. Between the close of the 2017/2018 law term, in July last year and the end of July this year, there has been a 43 per cent increase over the previous year in dispositions of indictments in the High Court. We look forward to the imminent and complete elimination of Preliminary Inquiries once we can find the Judges and Masters to case manage them to just and effective disposition.

The transformation of the Judiciary for Enhanced Delivery is therefore a matter of the Judiciary being resolute in the pursuit of its strategic objectives while simultaneously resisting attempts at de-construction of the fundamental institutions of the society and responding to a changing social and legislative environment.

There are those throughout our society whose agenda is to break down those institutions that are fundamental to the cohesiveness of our society and to do so with one goal, to further their own personal ideologies and political interests. What is lamentable is that despite statistics that show increased productivity across the board -- and I will refer to them briefly later -- the reality is that fact is now overshadowed by perception, influenced by political affiliation, and its associated tribalism.

This is aided by the abandonment of the fourth estate of its responsibility to educate and inform or even to act responsibly at times. One must first inform oneself accurately before criticising. Reliance on uninformed so-called "reliable but anonymous sources" is hardly enough. We have a Protocol and Communication Department that is willing to respond to any reasonable queries that anybody has, if you really want to know what is happening and why we do what we do.

At the risk of the criticism of being arrogance, I have to say, I am too busy doing the people's work to keep replying to direct enquiries, when they are based on false premises and often impertinent, so please don't waste any of our time. The Judiciary is engaged in meeting the challenge of implementation of procedural and substantive justice in an environment in which participants and commentators pre-suppose the existence of bias and accordingly see that bias in all things. There is a danger in judging people by your own yardstick. Uninformed and malicious comment does not help. We in the Judiciary will continue to address the legitimate concerns of our citizens while maintaining our institutional objectivity.

Permit me now to segue into some aspects of process and technology that will assist that effort. The systems that we are putting in place to Transform the Judiciary for Enhanced Service Delivery are, as well, an attempt to transform our working environment to strengthen the institution that is the Judiciary and to ensure that it cannot be undermined, usurped or be subjected to the influence of a few. You will be seeing the montage appearing on either side, gives you an idea of the kind of activity and stake holder engagement that we have been actively engaged in. But this is little-known. So I will now to share with you by way of a video presentation. The initiatives that we will highlight to you by way of the short video presentation exemplify those attempts that we are making to improve efficiency and secure the independence of the Judiciary well into the future as a fundamental bulwark and last bastion of independence and justice within our society.

[CLICK HERE TO VIEW VIDEO](#)

CHIEF JUSTICE IVOR ARCHIE: As you can see, improved service delivery requires major organizational and process reform. At the Macro level, the creation of the Family and Children Division has now been followed by the proclamation of the District Criminal and Traffic Courts Act, 2018 through which the Criminal High Courts and the District Criminal and Traffic Courts have now been brought under a single governance structure. The District Courts, formerly called Magistrates' Courts are now more closely aligned to their Supreme Court counterparts with the introduction of Magistracy Registrars and Clerks of the Court as well as on-site Court Managers. This is in fulfillment of my promise to focus on the Courts of summary jurisdiction, which are the face of justice for over 95 per cent of our population. This will enable the District Judges to focus on their core function of case management and adjudication while all ancillary and supporting services, often referred to as case flow management but which encompass everything from security to buildings to ICT and registry processes are managed by trained professionals. The old linear, hierarchical, colonial style management structure is gone for good. It is being replaced by a 'matrix style' organisation in which key leaders share responsibility for case-flow management, performance management, time and attendance management, planning and budgeting, court office functions and tools of trade, technology and space management. The TT.jim Case Management Information Software that you have just seen referenced is just a part of our e-services suite that is already reaping benefits as orders can move virtually through the courts for verification and perfection and ultimately to lawyers and litigants. TT.jim, which is the product of our collaboration with the NCSC and the Nigerian Judiciary, is fast becoming the gold standard in the commonwealth. We have had expressions of interest from Barbados, Guyana, the Bahamas and as far afield as the African continent. As a matter of fact, I

travel tomorrow to Zambia to sign a memorandum of understanding with their Judiciary and the NCSC for the use of the platform. Any further refinements by any of the other parties to the MOU, will redound to our benefit at no cost. The job of Chief Justice is not just being head judge, but also CEO of a large, dynamic and complex organisation that is mandated to deliver a variety of services. And all we ask is for you to understand the job before pronouncing on stewardship.

Another major ongoing initiative is the build out of the Family Court, which goes live in Tobago this month with a full formal launch to follow early next month. I have been dismayed at the perception in some quarters that the assignment of a judge to the Family Court implies a demotion or loss of seniority. In the first place we have only one Supreme Court and judges may be assigned to any division at the discretion of the Chief Justice in the best interests of the Judiciary. In the second place, judicial officers assigned to the Family and Children Division are required by statute to possess, in addition to the gazetted qualifications for appointment to the High Court Bench, such experience, temperament and qualities that suit them for appointment to that division. Only a special type of Judge goes there. It would be very short-sighted indeed if we thought we could fix the crime problem in this country without fixing our families. As we say in the Children Court, ***"It is easier to build strong children than to repair broken men"***.

I don't want you to think that South Trinidad is being left out too. In fact, we are engaged in an extensive building program and we have finally gotten Cabinet approval to source funding for the San-Fernando District Criminal Court and anxiously await the final go-ahead for the Family Court in San-Fernando which is long overdue. And I am putting the AG under some pressure here. I see him nodding in the front row. We also expect to bring new court buildings online in Princes Town and Arima.

We are confident of our ability, once we are given access to funding, to effect savings and to deliver on time and within budget. Happily, I discern a growing realization from the executive of our ability to manage effectively. One example of what effective collaboration can achieve is the fact that we are nearing completion of the judicial officers' quarters in Tobago, and you may have seen them on the montage, even though there was originally no money in the budget for this purpose. We were supported by the Ministry of Finance in the virement of funds from areas where we were able to eke out savings through efficient management. I remain forever optimistic that this will soon lead to the full adoption of the Framework for Judicial Autonomy that has been languishing for far too long despite the absence of any known reasoned objections.

Now, as you know, we have long since outgrown the Hall of Justice and many of our support units are scattered all over Port of Spain in rented accommodation. And so we were thrilled to receive the news that when Parliament vacates Tower D at the Waterfront Complex it will be handed to the Judiciary for immediate occupation. This will enable us to retain the Hall of Justice with its cells and appropriate circulations for criminal trial and appellate courts, while fitting out 11 trial courts and 10 hearing rooms, mediation rooms, Civil Appellate Courts and judicial officers' chambers along with supporting services and the JEI at the Waterfront location. We expect to complete that move during this law term. It will also give us the opportunity to fit out the first of several fully equipped technology courts with state of the art recording and presentation

technology including facility for virtual appearances. This is indeed an exciting time for the Judiciary. Our only constraint is our ability to get all the people on-board and trained in record time especially the judicial officers. So I do need to sound a word of caution that due to attrition, promotions and the need to restart the appointment process the High Court will be a little undermanned for the first part of this year but we expect to recover that ground eventually through increased productivity.

In all of this, I don't want you to get the impression that all of this transformation is about us. It is about you, our customers. After all, the purpose of enhanced efficiency is better service delivery. So, for example, you would have heard about CourtPay, mainly in the context so far of maintenance payments but it is much more than that. Our E-services platform is about making access easier for Attorneys and litigants. We are marrying the buildings with appropriate technology and intensive staff training so that you will get a faster and more seamless experience. A lot of thought and work is going on behind the scenes. Some of the pictures appearing on the montage behind me speak eloquently to the energy and dynamism of our Judiciary family.

I wish I could have some of these young people speak to you directly, because this is what the Trinidad and Tobago Judiciary that you do not see or hear is all about. It is about people from all walks of life, working hard to improve how we do, what we do. It is your Judiciary working for you. Why is the media not interested in reporting this? Why are we focusing on bacchanal? Contrary to the impression that is being deliberately propagated, we are not in a crisis or a shambles.

Now, I have deliberately left the statistics for last because they only paint a partial though important picture. But I am duty-bound to report on them. But I wanted you to see that we are a vibrant, thriving and rapidly evolving institution. And the statistics actually bear that out. As has been my practice in recent years I will only give an overview and leave you to a more leisurely detailed perusal of the annual report if you so wish. In what follows, the comparisons that now follow are between the 2017/2018 law term and the recently concluded 2018/2019 law term.

### **COURT OF APPEAL**

At the Court of Appeal filings have been up 25 per cent from 636 to 796. Dispositions were up 32 per cent from 437 to 577, for a total clearance ratio of 72 per cent. On average 58 per cent of matters were determined within 1 year of filing and 78 per cent within 2 years.

### **HIGH COURT [CIVIL]**

Civil High Court, Filings increased by 16 per cent from 4,285 to 4,967. Dispositions are also up a modest 4.5 per cent from 3,739 to 3,898. The Judges are working hard. I am told by the statistics department that the average age of matters now, at the time of disposition is just about 13 months.

## **HIGH COURT [CRIMINAL]**

Well I already told you the good news. In keeping with the thrust to reduce the backlog, we have been up 43 per cent in dispositions.

## **FAMILY COURT**

At the Family Court, a total of 4,568 matters were determined of which 44 per cent (or 2021) were divorces and 31 per cent maintenance. We continue to make inroads into the backlog with 75 per cent of applications determined in less than 1 year from filing and 87 per cent within 2 years. I spoke earlier of the importance of the Family Court to societal healing. Consistent with that philosophy is the wrap around service that we provide. We observed a 23 per cent increase in matters referred to the Social Services Department for psycho-social intervention. Mediation is also an important alternative dispute resolution strategy and we had 291 matters referred 74 per cent from judicial officers and the remainder directly from our intake officers.

## **CHILDREN COURT**

Our proud baby, the Children Court. As many of you are aware, the Children Court is a sub-division of the Family and Children Division. Operations were commenced in Trinidad in March 2018 and in Tobago in December 2018. It is a problem-solving Court whose primary customers are persons 18 years and under who are involved in matters before the Courts. It provides targeted interventions to address their needs with a focus on rehabilitation and reintegration of child offenders into society. For the 2018/2019 law term, which was our first full year, a total of 1050 matters were filed of which 51 per cent were criminal matters, 36 per cent Children in Need of Supervision, and 8 per cent, and 5 per cent, respectively, being brought by the Children's Authority or by private application. A total of 731 matters were determined. And for these purposes a determination means that the matter was closed, it was dismissed or transferred to another court or the child would have received a custodial or non-custodial sentence and is in post-sentence monitoring.

## **PROBATE**

In case you missed it there is some really good news coming out of the Probate Registry. Non-contentious probate dispositions are up 35 per cent from 1842 to 2483 with an overall clearance rate of 61.5 per cent. It was 47 per cent the previous year. 82 per cent of small estates are now being disposed of within a year and 80 per cent of large estates within 2 years. We still have to work on the outliers, but as e-probate reduces the number of queries we expect the positive trend to continue. As those of you who practice in that arena know, a perennial complaint has been the inordinate length of time taken to complete searches in the past. With the introduction of E-Probate searches, 97 per cent of queries have met the time standard of 3 days. This is just one example of the power of technology to improve service delivery.

So there you have it, ladies and gentlemen. I could keep you longer but that would be cruel and unusual punishment. I hope you have been able to get a sense of where we are headed and the optimism and commitment that still characterizes this remarkable organisation.

All that remains for me to do this afternoon, is to thank all of you who have contributed to the success of today's events. We are thrilled to be able to return to the Cathedral Church of the Holy Trinity for our service of divine worship and we are grateful as always to the Dean and our Bishop for hosting us. It feels like coming home again after the temporary arrangements that we had to make last year. A special thanks to our guest speaker, Professor Rosemarie Belle-Antoine, for her thoughtful and stimulating address. May I say

Professor Belle-Antoine, you have challenged us. And we hope that collectively, both Bench and Bar, would be able to take up that challenge and meet it. I was also proud and thankful for the opportunity to showcase our guest choir, the Port of Spain Youth Choir, led

Ms. Granderson. I hope that some of you who were blessed by their Ministry will take some time to learn their story and to find the wherewithal to extend material support. Those are the kinds of efforts that we want to encourage so that we do not lose our youths. Thanks also goes out the Commissioner Griffith and the TTPS who gave us a very smart display and injected a very special feature this year with the horses. And, of course, MTS, our Security Personnel, Audio-Visual technicians and my deep, heartfelt and personal thanks to those judicial officers and Judiciary staff who have continued to support the vision, who have given their all and enabled me to deliver a positive report. And last but not least, ladies and gentlemen, thanks to you our listening audience whether physically or present virtually for the courtesy of your attention.

This court now stands adjourned.