

## **PRESIDENT'S ADDRESS**

“Economic medicine that was previously meted out by the cupful has recently been dispensed by the barrel. These once unthinkable dosages will almost certainly bring on unwelcome after-effects. Their precise nature is anyone’s guess, though one likely consequence is an onslaught of inflation.” (Warren Buffett)

In the aftermath of the global financial crisis, the World Bank has forecast 2.5% growth in the global economy in 2012. Developing economies are forecasted to grow by 5.4% and advanced economies by 1.4% in 2012.

One cannot deny that this forecast shows a somewhat soft recovery of the global economy. Experts in many developed countries have reported little growth or no sign of recovery, and it is becoming somewhat more apparent that the anticipated global recovery is faltering. Many economists have agreed that there is in fact a global recession.

This small snapshot of the global economy brings into sharp focus the economic and industrial relations climate of this country.

It is commonly accepted that the financial crisis began in 2008. In fact, our statistics at the Court show a direct relationship between the crisis and the number of disputes before the Court. Before the

crisis in the year 2007, there were four hundred and eighty-one (481) new disputes filed at the Court. The post-crisis figures are very revealing: in 2009, six hundred and ninety-two (692) new disputes, in 2010, seven hundred and eighty-one (781) new disputes, in 2011, seven hundred and eighty-eight (788) new disputes. As at 18<sup>th</sup> September 2012 a reported five hundred and sixty-six (566) disputes had been filed year to date. However on 25<sup>th</sup> September, 2012 a further one hundred and fifteen (115) disputes were filed at the Court's Registry. This brings a total of six hundred and eighty-one (681) disputes filed so far in 2012. These figures show a steady increase of unresolved disputes between unions and employers and it also speaks to the increasing volatility of the industrial relations climate in this country.

Trinidad and Tobago's economy has for a long time been regarded as the main engine of the CARICOM region. It has expanded significantly over the past two decades driving business and investment in the region, but the engine appears to be losing steam. A look at the reported retrenchment statistics show five hundred and fifty-three (553) reported retrenchments in 2007, one thousand four hundred and twenty-one (1421) in 2008, two thousand one hundred and twenty-five (2125) in 2009, six hundred and thirty-eight (638) in 2010 and one thousand one

hundred and twenty-four (1124) in 2011. The statistics show the Manufacturing Sector with the highest number of reported retrenchments.

There is no doubt that an unhealthy labour climate can prove disastrous for this country in these times of economic uncertainty. Unions and employers have a crucial role to play in maintaining social stability in these times of recession and recovery. The need for social dialogue and a conciliatory approach towards problem solving between parties on both sides of the table is even more pertinent now than before. I want to also suggest that parties (Union and Employers) re-examine the timeline for the negotiation of new collective agreements. It has become the norm for negotiations and the registration of new collective agreements to take place some years after the period in review. This delay usually frustrates workers and leads to industrial action. Negotiations and the signing of collective agreements should be contemporaneous to the period in review and a greater effort should be made by employers and Unions in this regard. I am sure you, the practitioners, will agree that the provision of continuous labour and services, innovation in business and a stable labour climate is critical to boosting this economy and to improving the quality of life for citizens.

As citizens of this country and practitioners in the field, we should

be committed to the peaceful and speedy resolution of disputes. We should also be committed to increasing jobs and services and creating innovative ventures to boost the economy.

The role of the Industrial Court to maintain good balance and stability in industrial relations in Trinidad and Tobago is very important in these times of economic uncertainty. In 1965, when this country's progress was retarded by strikes and low productivity, measures were put in place to prevent civil unrest and to ensure economic stability and growth - the Industrial Court was one such measure. The Industrial Court, as the final arbiter of employment issues in this country continues to serve as an invaluable instrument for social justice. This Court, from my perspective, continues to be the glue of human dignity, equity and fairness which permeates into this mosaic of employment relationships in Trinidad and Tobago and holds it together. It is therefore important for us to always remember the history of the Court and the importance of its role in this society.

As you know, I was recently appointed to the Office of President of the Court and I have not publicly stated the strategic direction in which I wish to guide the Court. This opening of the law term provides me with the opportunity to address the Court, its stakeholders and the public and to share insights of my vision for a modern, professional Industrial Court. Nine months is a short

time to speak about achievements but I will report on some of the initiatives which I have begun and in so doing share my vision for the Court.

Under my stewardship, increased focus will be placed on improving the delivery of justice and on adopting a more professional approach to the resolution of Disputes before the Court. I do believe that in serving the people of the nation, our duty as members of the Court is to ensure speedy delivery of decisions as well as efficient and effective court administration. This will ultimately strengthen public trust and confidence in the system and also lend support to the country's economic and social development and stability.

### **Strengthening systems**

Justice and fairness can only be measured by how well we as a Court administer the system. In the past months, I have been engaged in identifying weaknesses within the administrative system, in measuring the rate of delivery of judgments and in finding solutions that can enable this Court to function as a modern, professional organization. I had several meetings with the Judges of the Court about the delivery of judgments and about tackling some of the backlog in that area. I can report that one hundred and eleven (111) judgments have been delivered since I have assumed office. There are still some judgments

outstanding but I wish to report that I have the full support of the members of the Court to deliver those judgments and all judgments expeditiously.

## **Training**

I am very mindful in these times of globalization and economic volatility; that it cannot be business as usual at the Court. It is imperative that the staff and judges be properly trained to equip themselves to face today's challenges. There is a need, in my view, for a standard and professional approach when staff interacts with our stakeholders. Their general deportment at the workplace must be beyond reproach. In addition to this, there is need for continuous training for our Judges so that they can become familiar and knowledgeable on current regional and international issues and trends, as the Court assists in resolving the myriad issues at the workplace. Training of staff and judges of the Court is critical to increasing the delivery and quality of justice. To this end, a two day training programme has been designed for all members of staff at the Industrial Court. This training programme is centered mainly on the professional approach in a modern business environment and on self-development. This, I hope, will improve the level of efficiency and professionalism at the Court and the way in which we interact with our stakeholders. Twenty (20) members of staff received this training in April this

year and a further twenty (20) were trained earlier this month. It is intended that each and every member of staff will receive this training in professionalism at the work place by September 2013. Apart from this training, some members of staff received training in their specific area of expertise during the period in review, a list of all training can be found in the Court's Annual Report.

Several training initiatives for Members of the Court were undertaken this year in an effort to improve the efficiency of the Court. A workshop for members of the Industrial Court together with members of the Environmental Commission, the Equal Opportunities Tribunal and the Tax Appeal Board was held on May 4<sup>th</sup> 2012. This is the first collaborative training venture of all the specialist Courts in the country. The topics which were discussed were Recusal, Judicial Ethics and Contempt of Court.

The facilitators for this workshop were members of the Caribbean Court of Justice in the person of the Mr. Justice Rolston Nelson and Mr. Justice Adrian Saunders. We thank the learned judges for their very interesting and invaluable contributions.

The Court held its first judicial education training programme for judges from July 27 to 31, 2012. This was an intensive four day training programme which was designed for members of the court to take a closer look at the Industrial Relations Act, opinion writing

and the law of evidence. We also had a very interesting presentation on macroeconomics and the workings of the Central Bank of Trinidad and Tobago. Members benefitted tremendously from the remarkable presentations of two (2) distinguished presenters - Dr. Leighton Jackson, Senior Lecturer in the Faculty of Law at the Mona Campus, Jamaica and Dr. Shelton Nicholls, Deputy Governor, Research & Policy at the Central Bank of Trinidad and Tobago . The judicial education training was a very satisfying exercise which, I am certain will resonate with all members as we continue to fulfill the objectives of the Court.

I wish to personally thank the Chairman of the Judicial Education Institute of Trinidad and Tobago, Mr. Justice Peter Jamadhar for inviting two members of the Court to attend a one day training on the “Use and Delivery of Oral Judgments” in July this year. Their Honours Mrs. Heather Seale and Mr. Herbert Soverall represented the Court at this training.

In July this year, their Honours Mr. Rambally, Mr. Jack, Mr. Dabideen, Mr. Jhinkoo and Mr. Khan attended training on International Labour Standards. This training was facilitated by the International Labour Organization (ILO).

Last week, all members of the Court received training from the International Labour Organization on Conciliation. Although



training in this area is not new to some members of the Court, the intention is to have each member equipped with conciliation skills, as we tackle the increased workload at the Court.

My thanks to Dr. Giovanni Di Cola, Director of the ILO Sub Regional Office and Mr. Rainier Pritzer, Senior Specialist for Social Dialogue and Labour Administration and to the staff of the ILO; for their support and input to the training of Members of the Industrial Court.

### **Initiatives of the Court**

In an effort to modernize the operations of the Industrial Court and to create better efficiency I wish to inform practitioners and the public of the following initiatives:

#### ***Samples of Evidence and Arguments and Witness Statements***

On Monday 17<sup>th</sup> September 2012, specimen of Evidence and Arguments and Witness Statements of Unions and Companies were posted on the Court's Website. This I hope will streamline and standardize the approach to documents which are filed at the Court's Registry and will present a clearer picture of the nature of the claims which are before the Court.

#### **Access to Justice**

Unfettered access to Justice to citizens of all walks of life is one of

my goals as President, particularly in these times of economic volatility. To this end, the number of weekly sittings at the San Fernando Court has increased and we now sit on an average of three (3) days per week at that Court. We hope with an increase in human capital and financial resources to convene court daily in San Fernando.

On the week of 6 August, 2012, I chaired 2 Coram of Judges in Tobago and we heard and determined seventeen (17) trade disputes. The following week the Vice President chaired a Coram and determined nine (9) trade disputes. In the period of September 4 to 7, 2012, the Court determined a further twelve (12) trade disputes at sittings in Tobago. This brings to thirty eight (38) the number of disputes which were resolved in less than three (3) weeks in Tobago.

I wish to thank the learned Chief Justice for affording the Court the use of the Supreme Court's facilities at Scarborough, Tobago. I also extend thanks to Mr. Derrick Ali, Attorney at Law, Mr. Teddy Stapleton Executive Vice President OWTU, Mr. Codrington Winchester, Consultant, Mr. Lindhurst Murray, Consultant, for their support and attendance at the Tobago hearings. It would be remiss of me not to recognize the efforts of Their Honours Mr. Lutchmedial, Mr. Aberdeen, Mr. Rabathaly, Miss Mahabir, Mr. Rambally, Dr. Samaroo, Mr. Dabideen and Mr. Jack who took time

from their respective vacations to preside on matters in Tobago. These developments signal my commitment as President to increase access to the Industrial Court for all citizens of Trinidad and Tobago. I am actively engaged in discussions with the relevant authorities to secure a more permanent presence in Tobago.

### ***Wages and Productivity Computation***

As you may know, the decision-making process and the dispensation of justice by the Industrial Court depends on evidence, of which up-to-date information on wages and productivity is an important component. As mentioned earlier, given the increase in the quantum of labour market disputes that are coming before the Court, some specific focus needs to be placed on strengthening the country's information base on wages and productivity across all sectors in the economy. To be more pointed, I am aware that efforts are underway to enhance the statistical information provided by the Central Statistical Office and I would certainly like to see greater attention being placed on the provision of quarterly labour market statistics, especially wage and productivity indices by the industrial sector. This would not only go a long way in helping the judges of this Court form a solid picture of emerging trends in our labour market, but would place us in a better position to evaluate the impact of these changes on

our industrial climate. As you can well appreciate, these pockets of information are critical inputs that inform many of the final judgments of our Court.

In the meantime, we have begun a process of re-organizing our in-house statistics on wages and productivity and have sought some assistance from the Central Bank to help us refine our labour market data and methods. I am looking forward in the not too distant future to the issuance by this Court of a statistical bulletin that could provide the public with further information about the state of the industrial relations environment.

### ***Electronic Signage***

The Industrial Court has introduced Electronic Signage in its efforts to better serve its customers. The Electronic Signage at the Court can be viewed on forty-two (42) inch screen monitors located at the Port of Spain and San Fernando Courts. Each monitor displays the trade disputes and case management conferences which are listed daily, the court room where the matter is heard and the names of the presiding judges.

### ***Digitization***

The Court has embarked on the digitization of both its judgments and newspaper articles. Digitization is “the process of transferring information content from a traditional format into a digitally

readable version.” This process is one of the modern techniques for the preservation of documents. Fragile original documents need not be handled afterwards except in special circumstances. When this exercise is completed the Court’s Library will increase and improve its offering to stakeholders.

### ***Video Conferencing***

Video Conferencing is also now a feature of the Court as we strive to modernise our service delivery. The video conferencing service at the Port of Spain Court is linked to that of the San Fernando Court and it allows the Court to communicate with external parties.

### ***The Industrial Court Law Report***

On 17<sup>th</sup> May, 2012 the Court launched the first volume of its Law Reports at the National Academy of Performing Arts. This volume contains a collection of judgments which have been delivered by members of the Industrial Court of Trinidad and Tobago and the Court of Appeal of Trinidad and Tobago during the period of 1965 to 1975.

### ***Challenges***

#### ***Inadequate space***

Space at the Court’s Port of Spain building is a perennial problem. Judges and staff occupy spaces in this building which are less

than ideal and which are certainly not adequate. This lack of space has stymied the operations of the Court and has prevented the Registry, the Library, the Accounts Department, the Verbatim Note Taking Section, the IT Unit, the Secretariat, the Research Unit and the Security Unit from properly functioning. In fact due to the lack of space the staff of the Library has been removing older books from the shelves and storing these books at an external warehouse in an effort to find space for new volumes which have been purchased. This greatly affects the quality of service which the Library can provide. The Staff of the Registry currently make use of one of the Witness Rooms to perform duties daily due to the cramped conditions at the Registry. Each department can share reports of some of the ways in which they have attempted to deal with the cramped space in their department. While I do not in any way want to be an ungracious and rude neighbor there is need for the Industrial Court to take control of and occupy all floors of the Port of Spain building, a building for which we provide funds for all of the operations. I urge the authorities to give active consideration to this problem which is a continuous hindrance to the smooth operation of the Court.

***The continued occupation of the Court's car park by UDECOTT***

Another pressing and disturbing problem is the sore sight at the

Queen Street entrance to the Court and along the periphery of the Court. You may have noticed the “galvanise” and “fish net” fences which border and enclose the Court. While this may be the source of amusement or concern to a curious observer, for members of the Court it is not only a sore sight but a major inconvenience at the beginning of each day of work. Since 2006, Cabinet decided to allow UDECOTT to occupy a portion of the Court’s car park to facilitate the construction of buildings on two sides of the Court. This decision has created several problems over the past six (6) years; some judges vehicles have been damaged by falling debris, some judges have to park their vehicles at the Parkade and walk to the Court, those who park on the compound are faced with very cramped conditions and experience problems daily in maneuvering their vehicles in the compound; when delivery vehicles come to the Court it is a virtual nightmare. We now have one gate to enter and to exit the compound which inherently poses serious security concerns. The former President of the Court made several requests for the space to be reverted to the Court, I also made a request for the restoration of the Court’s car park this year, UDECOTT has indicated in writing in February 2012 that it is in the process of outfitting the new buildings. It stated that the area is crucial for “the fit-out phase due to the quantum of furniture which will be required for the 21 floors of the

Ministry of Education Complex”. This fit out phase was scheduled to take place from March 2012 with a completion date of December 2012. Well, despite our diligent scouting of activities at the new buildings we have failed to see one piece of furniture lifted into these buildings. Six years is a long time. I urge the authorities to address this issue as a matter of urgency.

Despite these challenges, I am committed to making this Court relevant and modern as we embrace change.

When I was appointed President of the Court in December 2011, I inherited a rich legacy and a foundation which was laid by former Presidents, Sir Isaac Hayatali, Mr. J A M Braithwaite, Mr. L P E Ramchand, Mr. Addison M. Khan, Mr. Cecil Bernard and all the members who have previously served the Industrial Court.

I am resolved to continue in their footsteps, to ensure that this vehicle of social justice navigates the sometimes rocky road with a cadre of competent, independent professionals who are committed to providing fair and equitable determination of disputes. I wish to thank the current members of the Court and the members of staff for their unwavering support, hard work and continued dedication to duty. I also thank the stakeholders; the government, unions, employers, practitioners of this Court and the public in general for their support of me at the helm of the Court.



A new Vice President was appointed to the Court in February this year and on the 1<sup>st</sup> May 2012 there were four (4) new appointments of members to the bench.

I congratulate His Honour Mr. Ramchand Lutchmedial on his appointment as Vice President and welcome their Honours Mr. Robert Linton, Mr. Brian Dabideen, Mr. Nizam Khan and Dr. Selwyn Samaroo as members of the Court.

Our mandate as members of this Court is to uphold social justice and to make decisions and rulings in accordance with the principles of equity, good conscience and the substantial merits of the cases before us. As the global economy forces more and more matters to come before the Court we are better equipped to meet the challenges ahead so that social justice, industrial harmony and economic development can prevail in Trinidad and Tobago.

May God Bless you all.

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President