



CHAIRMAN'S CHAMBERS

Opening Statement 2023/2024 Law Term

"Advancing Equality – One Complaint at a Time"

I extend warm greetings on the commencement of the 2023/2024 Law Term. It is an honour as the Chairman of the Equal Opportunity Tribunal to offer insights into its operations, the challenges faced, the advancements achieved, and the path for the way forward.

Dr. Eric Williams, a defining architect of the nation's identity, set the foundational vision for the Equal Opportunity Tribunal at the Independence celebration in 1962, when he passionately committed the country to democratic principles. As he graciously received the Constitutional instruments from HRH The Princess Royal, in 'harmonious cooperation' with distinguished national leaders of the imminence of Dr. Rudranath Capildeo, his profound message resonated with clarity and purpose. He indelibly etched these words in the embryonic spirit of nationhood –

*"...Democracy means the equality of all in the eyes of the law. Democracy means **equality of opportunity** for all, in education, in the public service and in private employment..."*

It would be almost another four decades before the Equal Opportunity Act that legislatively birthed the Equal Opportunity Tribunal was enacted, and almost another decade before the Tribunal became operative. This year the Tribunal celebrates just over 12 years of its existence as it continues on its upward path of growth and maturity.

The Tribunal: The Tribunal functions as a specialised court of law, possessing similar powers and authority to the High Court in its determination of complaints related to discrimination, victimisation, and offensive behaviour. The Tribunal operates in a manner akin to the High Court, adhering to the Civil Proceedings Rules 1998, which form the basis for its own Rules, practices, and procedures. Its authority to compel persons to appear before it, or to punish for contempt is comparable to that of the High Court, and its decisions carry the same enforceability. All the decisions of the Tribunal are made by the Chairman who holds a status equivalent to that of a High Court judge.

Rights Adjudicated by the Tribunal: The Tribunal's purview extends to a comprehensive set of rights integral to the very essence of human existence. From employment to education, housing to goods and services, the Tribunal adjudicates complaints of discrimination on grounds of race, ethnicity, sex, marital status, origin, disability, or religion.

The Tribunal's authority also encompasses the examination of victimisation and offensive behaviour, including acts intended to foment gender, racial or religious hatred whether publicly or communicated electronically.

Beyond adjudication, the Tribunal engages in proactive measures to educate the public, promote awareness, and build strategic alliances with shareholders and international bodies.

Maximising Resources for Financial Success: Financial prudence is at the forefront of the Tribunal's operations. A realistic acknowledgment of the limitations imposed by finite State resources guides its strategic planning. The Tribunal recognizes the imperative of prudently allocating resources to ensure growth and the unhindered delivery of its mandate.

The Tribunal has grown from a subsidiary financially dependent on the Office of the Attorney General and Ministry of Legal Affairs (AGLA) to a judicial institution that now boasts its own Head of Expenditure. This transition in 2013/2014 represented its fiscal independence, ensuring that its expenditure stands independent of the Ministry's budgetary allocation. Since then, the Tribunal's annual allocation for recurrent expenditure has been among the smallest in any State entity.

The 2022/2023 National Budget marked a watershed for the financial advancement of the Tribunal when for the first time it was endowed with its own allocation for development expenditure. Its topmost priorities include securing suitable court/office facilities, and the digitalisation of its operations. While recent financial allocations have been encouraging, the Tribunal must persist in its efforts to secure adequate funding for the continued realisation of its objectives.

Embracing the Digital Age: Cognizant of the pervasive influence of technology in modern life, the Tribunal is forging ahead with the implementation of a modernised E-court system through its digitalisation programme. Between 2020 and 2022, the Tribunal's operations were hampered not only by the exigencies of the COVID-19 pandemic but by an extended period of electricity interruption, resulting in damage to its infrastructure and equipment. However, resilience led to the introduction of an improvised system of electronic filings and virtual hearings.

The commencement of the digitalisation process in the past year saw the development of RFPs, Tender documents, and the sourcing of project management expertise for the project. With invaluable assistance from iGovTT, the issuance of tenders for case management software and essential electronic equipment are underway. While challenges were encountered,

notably as a result of ensuring adherence to the new procurement legislation, the process is active, and subject to the continued availability of funding, the Tribunal anticipates successful engagement of the suitable software providers by the end of 2023.

The transformation to an E-court includes:

- **Digital Case Management:** Streamlining the entire legal process of case management through an integrated digital platform, ensuring efficiency, transparency, and real-time tracking of cases.
- **Advanced Electronic Filings:** Enabling parties to file complaints, documents, and other legal materials online, removing geographical and time constraints.
- **Improved Virtual Hearings:** Offering the option for remote participation in hearings, allowing greater flexibility for those unable to attend in person.

Website: The Tribunal has undertaken a comprehensive overhaul of its official website. Designed with user-friendliness in mind, the new website offers clear navigation, succinct explanations of legal processes, and easy access to essential documents and resources. These changes not only facilitate a more engaging user experience but also serve as an educational tool for those seeking to understand their rights and the services provided by the Tribunal. The website can be accessed at www.equalrightscourt.org

Expanded Social Media Engagement: With the prevalence of social media as a primary source of information for many individuals, the Tribunal has set up its own YouTube channel and expanded its presence across various platforms – such as Facebook and LinkedIn. This expansion serves to reach a broader audience and provide real-time updates, insights, and explanations concerning its work, recent rulings, and pertinent legal issues. Its social media

channels are not merely informative but interactive, providing a platform for dialogue and feedback from the public.

A New Home: The search for a conducive, well-equipped environment for the home of the Tribunal is ongoing. We have been cohabiting with the Equal Opportunity Commission, a relationship dating back to 2012/2013. Its current premises are replete with health and safety concerns, rendering relocation imperative. While AGLA still covers its rent and utility bills, the Tribunal is actively seeking additional funding within its Head for Expenditure for the rental of suitable premises for the relocation process to advance.

The key features of the accommodation being sought are -

- **Strategic Location:** Physical accessibility through careful design is the key to the relocation quest. The Tribunal is seeking a location that is central, easy to locate and accessible by public transportation, ensuring availability to all.
- **Barrier-Free Access:** Ensuring that entrances, elevators, staircases and facilities are fully functional and readily accessible to any member of the public requiring its services.
- **User-Friendly Environments:** Creating spaces that are not only compliant with OSH requirements but are also welcoming and accommodating to all, regardless of ability or disability.

Decisions & Public Confidence: In the face of challenges, particularly the far-reaching impacts of the COVID-19 pandemic and other operational constraints, the Tribunal has not only maintained its efficacy but has, in fact, enhanced its capacity. Its case management system's efficiency has witnessed remarkable improvement.

A testament to its resilience and adaptability is in the resultant numbers: over the past five years, the volume of matters resolved by the Tribunal has

doubled. The Tribunal has dramatically reduced its backlog of cases and the duration of time taken to resolve matters has been considerably shortened. In the last year, the Tribunal has given landmark judgments, in areas of race and religious discrimination, as well as rendering decisions in complex matters of practice and procedure. There are currently 21 open matters before the Tribunal with four major judgments due to be completed within the next 6 months.

Its recent surveys have provided invaluable insight into the sentiments of the legal fraternity and other stakeholders. The overwhelming feedback is one of increased confidence in the Tribunal's staff, its refined procedures, its evolving processes, and its unwavering dedication to fairness and impartiality. This growing stakeholder confidence underscores its pivotal role in upholding justice in the face of discrimination.

Human Resources: The organizational framework allows for 40 staff members, but currently the staff complement is approximately at 50% (approximately 22 individuals), including permanent and contract workers. The absence of a Registrar since 2019 has created challenges, causing senior members of the team to take on additional responsibilities. Acting appointments have been made by senior management, but there are still several vacant positions that need to be filled. We are actively collaborating with the relevant State agencies to expedite the hiring process for these positions as soon as possible.

Legislative Progression: In light of the pressing and evolving challenges of its time, and in adherence to the foundational principles upon which the Tribunal stands, it is imperative that the Equal Opportunity Act as our guiding legislation continues to be reviewed, refined, and readapted. One significant area that merits immediate attention is the definition of 'sex' within Section 3 of the Act.

Just recently the prominent national organisations PrideTT and Caiso joined together to robustly advocate for equal rights for their communities.

I strongly recommend that consideration be given to the amendment of the Equal Opportunity Act to encompass and enhance protection for the diverse community of individuals whose sexual orientation or gender identity falls outside of the heterosexual and cisgender classifications. Such an amendment not only acknowledges the complexities of personal identity in contemporary society but also reiterates commitment to inclusivity, diversity, and the elimination of all forms of discrimination.

Additionally, it is crucial that individuals from all walks of life have easy access to the Tribunal, regardless of their socio-economic status. Currently, litigants before the Tribunal do not have the option of accessing Legal Aid. Hence, I firmly support an amendment to the Legal Aid and Advice Aid to include proceedings before the Tribunal, to permit the availability of Legal Aid to these litigants. This step is necessary for maintaining a fair and equitable justice system, where every person, regardless of their financial means, can obtain competent legal advice and guidance.

In advancing these recommendations, we do more than just amend texts and allocate resources; we echo the spirit of its forebears, like Dr. Eric Williams, who envisioned a nation rooted in democratic principles - A nation where justice is not a privilege but a fundamental right. It is a collective duty to ensure that this vision remains vibrant and flourishes in its contemporary context.

Closing Remarks

The path ahead is full of promise. With the advent of a modern E-court on the horizon, an upgraded digital platform and a new home, the Tribunal is helping to realise a future of a model society free of discriminatory practices. The

Tribunal, with the continued support of all stakeholders, is poised to make a significant mark in the realm of equal opportunity jurisprudence.

As we collectively embark on this new law term, we do so under the banner of "*Advancing Equality – one Complaint at a time*". May this new law term be a fruitful and productive era for the Tribunal and those persons who access its services.

HH Donna Prowell-Raphael, CEOT.
September 18, 2023.