



**EQUAL
OPPORTUNITY
TRIBUNAL**
Trinidad & Tobago

OPPORTUNITY KNOCKS

Issue 004

Newsletter

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The Power of Fairness

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Opening Statement 2023/2024 Law Term

"Advancing Equality: One Complaint at a Time"

Caption: HH Madam Justice Donna Prowell-Raphael, Chairman and Judge of the Equal Opportunity Tribunal.

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.

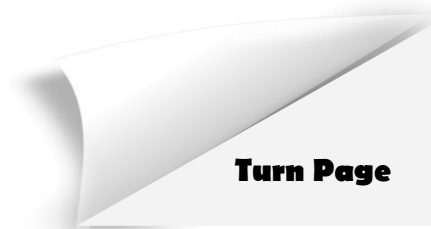
Rights Adjudicated by the Tribunal: The Tribunal's purview extends to a comprehensive set of rights integral to the very essence of human existence. From employment to education, housing to goods and services, the Tribunal adjudicates complaints of discrimination on grounds of race, ethnicity, sex, marital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

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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

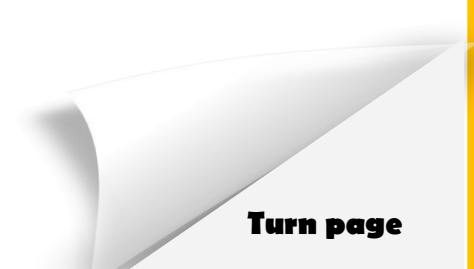
are replete with health and safety concerns, rendering relocation imperative. While AGLA still covers its rent and utility bills, the Tribunal is actively seeking additional funding within its Head for Expenditure for the rental of suitable premises for the relocation process to advance.

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.



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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.



An Internal Unveiling of the Law Term

In a spirit of unity and gratitude, the Equal Opportunity Tribunal marked the commencement of the Law Term on September 18, 2023, with a joyous staff luncheon celebration.

The event served as a moment for members of the Tribunal to come together and express thanks for the past year through prayers and thanksgiving.

The occasion was not merely a ceremonial observance but a heartfelt acknowledgment of the diverse backgrounds and beliefs that enrich the fabric of the Equal Opportunity Tribunal. Recognizing the importance of fostering inclusivity, the staff chose to commemorate the opening of the Law Term by embracing the cultural and religious diversity within their team.

The celebration began with a sense of anticipation, as tribunal members gathered to reflect on the significance of their work and the impact it has on the community. Against the backdrop of the new Law Term, the event took on added significance, setting a positive tone for the challenges and opportunities that lay ahead.



Caption (above L-R): Ms. Lou Ann Vidal, Ms. Bianca Cummings-Griffith and Ms. Jannel Naimool-Graham are all smiles during the luncheon. **(R)** Ms. Urvashi Ramsawak saying a word of prayer and Ms. Victoria Benicourt.



Three Superior Courts of Records Open their Law Term

Besides the Equal Opportunity Tribunal, three (3) Superior Courts of Records Open their Law Term with a special sitting of their courts. These include the Industrial Court of Trinidad and Tobago; the Judiciary of Trinidad and Tobago and Tax Appeal Board who held their openings on the September 19, 2023, October 6, 2023 and October 12, 2023 respectively.



The Special Sitting of each court provided past successes, a roadmap to future plans and the unique challenges faced by each court. Her Honour Donna Prowell-Raphael, Chairman and Judge of the Equal Opportunity Tribunal (EOT) attended all three (3) sittings. See photos from these auspicious occasions.



Photo 1 (L-R): Her Honour Elizabeth C. Solomon, Judge of the Industrial Court; Her Honour Deborah Thomas-Felix, Former President of the Industrial Court and Her Honour Madame Justice Donna Prowell-Raphael, Chairman of the EOT

Photo 2 courtesy of Newsday (L-R): Her Honour Madame Justice Donna Prowell-Raphael, Chairman of the EOT; His Honour Anthony Gafoor, Chairman of the Tax Appeal Board; Her Honour Deborah Thomas-Felix, Former President of the Industrial Court and His Honour Sunil Sookraj, Chairman of the Environmental Commission.

EQUALITY



JUDICIAL

Ruling in the Samuel Johnson v. the Tobago Regional Health Authority

On December 8, 2023, the Chairman and Judge of the Tribunal, Her Honour Madame Justice Donna Prowell-Raphael, issued a ruling in the case involves the Complainant (Samuel Johnson) and the Respondent (Tobago Regional Health Authority).

Despite receiving an extension of time, the complainant failed to comply with the order's stipulations, prompting a second extension request objected to by the respondent. The Chairman of the Tribunal decided against dismissing the proceedings but imposed consequences, requiring the complainant to bear fixed costs of \$7,500.00 and setting deadlines for further filings.

The Tribunal considered differences between procedural rules, the power to impose sanctions, and factors for relief from sanctions, ultimately prioritizing the interest of justice in its decision.

For the full Ruling, please visit: <https://www.equalrightscourt.org/judgements>.

Breaking Barriers: A Case of Race and Sex Discrimination

Three (3) matters are before the Equal Opportunity Tribunal which challenge the very foundation of workplace equality. These cases are:

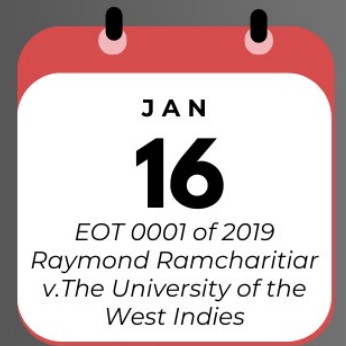
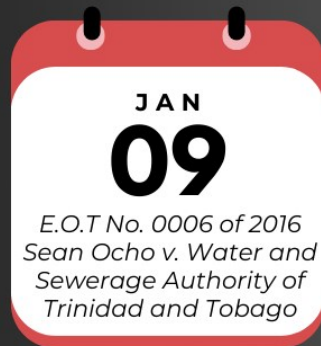
- ⇒ Kamal Mungaroo v. Trinidad and Tobago Defense Force
- ⇒ Raymond Ramcharitar v. the University of the West Indies
- ⇒ Rishi Persad Maharaj v. Cascadia Hotel Limited

The matter between the Complainant (Kamal Mungaroo) and the Respondent (Trinidad and Tobago Defense Force) is an alleged case of discrimination by race. Similarly the matter between Raymond Ramcharitar (Complainant) v. the University of the West Indies (Respondent) also focuses on an alleged matter of discrimination on the basis of race, ethnicity, origin and victimisation. The Complainant (Rishi Persad Maharaj) v. Respondent (Cascadia Hotel Limited) focuses on an alleged case of sexual harassment and discrimination on sex.

The Equal Opportunity Act of Trinidad and Tobago serves as the legal framework for addressing discrimination and victimization based on various grounds, including race, sex, disability, origin, marital status, religion and ethnicity. The Act aims to eliminate discrimination and promote equal opportunities for all citizens.

As the case unfolds before the Equal Opportunity Tribunal, it carries the weight of addressing not only the grievances of Complainant but also shaping the contours of future anti-discrimination efforts. Members of the public are encouraged to visit the Equal Opportunity Tribunal's website at www.equalrightscourt.org and Facebook page for future developments.

Upcoming Court Matters



Caption: Her Honour Madame Justice Donna Prowell-Raphael Chairman and Judge of the Equal Opportunity Tribunal presenting a token of appreciation.

Let's Talk

The Equal Opportunity Tribunal continues its Let's Talk with two meetings with the Caribbean Court of Justice and the American Embassy on October 13 and November 27, 2023 respectively.

In a significant meeting of legal minds, Her Honour Madame Justice Donna Prowell-Raphael, Chairman and Judge of the Equal Opportunity Tribunal, embarked on a courtesy call to His Honour Mr. Justice Adrian Saunders, President of the Caribbean Court of Justice (CCJ) on October 13, 2023.

During the visit, Her Honour was granted an insightful tour of the CCJ's Court and Library, gaining a firsthand understanding of the institution's operational dynamics. This was complemented by engaging discussions with President Adrian Saunders and other senior officials of the CCJ.

The focal points of the discussions centered around crucial areas that bear significant legal and societal implications. These areas included the CCJ's Referral Process, Reparation, Discrimination, and Equality. The discourse reflected the commitment of both judiciaries to grapple with complex legal issues that impact the region.

In the meeting with the American Embassy Her Honour met virtually with Ms. Jenifer de Ortiz Neidhart, Deputy Head of Missions. The meeting aimed to foster understanding, promote collaboration, and address key issues related to equal opportunities and social justice. The meeting commenced with an exploration of shared goals and values in promoting equality and justice. Her Honour Donna Prowell-Raphael provided insights into the opportunity and challenges faced in the local context.

Ms. Jenifer de Ortiz Neidhart, expressed a keen interest in the work of the Tribunal and finding potential areas for collaboration. The meeting provided a platform for exchanging ideas and collaboration in advancing equal opportunities.



Caption (L): Ms. Denise R. Douglas, Court Information and Protocol Officer showcasing key artifacts at the CCJ including the Treaty of Chaguaramas to Her Honour Madame Justice Donna Prowell-Raphael and Mr. Damian Gangerbisoon.



“Bridging History with the Festival of Lights”

As the New Moon heralds the resplendent glow of Divali, we connect not just in celebration but in reflection of the unity and diversity that embodies our beloved Trinidad and Tobago.

Divali, with its profound universal message, celebrates the triumph of light over darkness, knowledge over ignorance, and unity over division. It compels us to acknowledge and nurture the light within each of us—a light that can guide us toward unity and collective strength. During this auspicious time, the historical tapestry of our nation is not merely lit with deyas but also with the promise of a brighter future, a moment when every Trinbagonian, irrespective of their ancestry can contribute their unique spark to the radiant display of our shared humanity.

Our nation’s heartbeat is the melody of India, the rhythm of Africa, and the harmonies of the many other ethnicities that are interwoven into our society. These diverse narratives, from slaves to indentured labourers to free migrants, have blended to form a society where descendants of all backgrounds strive to stand shoulder to shoulder as equals, as countrymen, and as the Trinbago family. So, it is not surprising that in Trinidad and Tobago, Divali has transcended beyond a religious festival, becoming a cultural bridge that connects individuals across the entire nation—from Penal across the Caroni plains to Matelot, from Waterloo straddling the hills of the Central Range to Manzanilla, from Port of Spain across the waters to Charlotteville – the nation joins in the Festival of Lights.

Divali is a special time when we, irrespective of our ethnic roots, come together to light deyas, visit homes cleaned and decked in festive luminescence, enjoy soulful bhajans, indulge in the richness of delectable sweets and cuisine, and revel in the spirit of inclusiveness. Central to this celebration is Mother Lakshmi, the Hindu goddess of wealth and prosperity, whose blessings we seek, to ensure not just material abundance but also the prosperity of goodwill and unity among all our people. In this collective mantra, we find the true spirit of Divali, where every light kindled is a prayer for harmony, and every shared moment is a step toward mutual understanding.

As head of the Equal Opportunity Tribunal, I see the Festival of Lights as more than a tradition; I see it as a reaffirmation of our commitment to equality and understanding across all ethnicities and communities. Divali’s ethos mirrors our mission to uphold fairness and to celebrate the unique contributions of each community that beautifies the mosaic of our society. In every spark that ascends from the deyas, there is recognition of our complex history—both the pains of the past and the triumphs that have brought us to this moment. Each light represents the enduring strength of our ancestors and the bright future we aspire to craft together.

May Divali remind us that while our paths may be different, our destination is the same - a nation where every person can achieve their fullest potential, buoyed by the winds of equality and justice. As we celebrate Divali, let us also celebrate every ethnicity that enriches our land, and let it be a time to renew our dedication to building a Trinidad and Tobago that stands as a symbol of harmony and prosperity in the Caribbean, a nation where the lights of diversity, equity, and fellowship outshine any darkness of division.

My family joins me in wishing you all a radiant and joyous Divali. May the Festival of Lights usher in a year of peace, prosperity, and togetherness for us all.

HH Donna Prowell-Raphael, CEOT



A Night of Appreciation and Festivity: Staff Christmas Dinner

As the holiday season unfolded its magic, the Equal Opportunity Tribunal embraced the spirit of gratitude and camaraderie by hosting a spectacular Christmas dinner for its dedicated staff. The evening was a celebration of hard work, dedication, and the invaluable contributions of every team member. The event was not just about feasting and merriment but also a heartfelt gesture to express gratitude and appreciation. Staff were given tokens of appreciation from Her Honour Donna Prowell-Raphael, Chairman and Judge of the Equal Opportunity Tribunal. See pictures from the festive celebration.

Merry Christmas!

and Happy
New Year...

2024

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