



ADDRESS BY

**HER HONOUR MRS.
DEBORAH THOMAS-FELIX
PRESIDENT OF THE INDUSTRIAL
COURT OF TRINIDAD AND
TOBAGO**

**at the 'Meet with the Court'
Symposium "5"**

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Participation in the Process

The very wording of the Industrial Relations Act (IRA) Chapter 88:01, contemplates a conciliatory, democratic process, a process which redounds to the stabilisation, improvement and the promotion of labour relations in this country. This is the process which is used by the Court to facilitate the smooth resolution of disputes and also to advance the national interest. I have observed that in a number of hearings in Court employers are absent and do

not take part in the process, as a result these matters determined ex parte and some employers cry foul. The non-participation of any stakeholder does not help the process nor does it facilitate the amicable resolution of disputes. The Court therefore continues to encourage the participation and input of all stakeholders in this process.

Fixed Term Contract

The public service is the single largest employer in Trinidad and Tobago with a workforce of upward of fifty thousand public officers comprising members of the Civil and Teaching Services, the Police, Fire and Prison Services and the Judicial and Legal Service.

At the opening of the Law Term in 2013, I made mention of the proliferation of fixed term contracts in the public service and the attendant problems.

There appears to be what can be termed the quiet establishment of a parallel public service with portions in this parallel service being filled by use of contract employment in the various Ministries throughout the public service.

This parallel system appears to be dismantling and weakening the traditional public service and creates a dilemma for a number of citizens who now live their lives with a great deal of uncertainty about the sustainability of their incomes, their livelihood and their very existence.

As you will appreciate there are advantages to be had by the employment of persons on fixed-term contracts in the public sector. Generally speaking, the public sector has been characterized by bureaucracy at all levels. Bureaucratic management procedures in the public sector have created a widespread perception of inefficiency in the performance of its functions. When there is a specific task or project to be performed, it may be more cost-

effective and prudent to engage the services of an expert in a particular area, to add value and achieve results in a specific, time-bound task or project.

However, over the past few years, persons are engaged on fixed term contracts in the public service to perform the same duties which other public officers perform, duties which are not time bound and which can only be described as regular duties.

In some Ministries persons on fixed term contract are offered more attractive remuneration packages than the officers in established positions in the public service although they perform the same tasks. This not only puts officers in the public service at an economic disadvantage to their “contract” colleagues, but it also has a demoralising effect on these officers.

The converse can also be said about some persons on fixed term contract who are paid substantially less than public officers although they perform the same tasks.

A large number of these fixed term contracts are for very short duration, such as for three months, six months and twelve months as opposed to longer-term contracts. As a result, the recipients of these contracts do not enjoy job security and the continuous use of these contracts are disruptive to the workflow in any organisation.

An obvious disadvantage to the person who is on a contract in the public sector is that he or she is not considered to be a public servant. The person therefore does not enjoy the same benefits and security of the tenure which traditional public servants enjoy. Moreover, though they can seek and obtain representation of a Trade Union for rights matters, they cannot get representation by a Trade Union in interest matters. The denial of the legal right to representation and to collective bargaining to anyone who is employed is not something which, in my view, should not be overlooked or be taken lightly.

In fact, Trinidad and Tobago has ratified and adopted the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), and the Right to Organize and Collective Bargaining Convention, 1949 (No.98). These are fundamental labour conventions which ought to be adhered to across all sectors of the working community and their contribution in promoting good and equitable labour relations worldwide cannot be overstated.

At the social level, a number of citizens, many of them young persons, who are on short fixed-term contracts (3 and 6 months contract), cannot open bank accounts and secure mortgages. Indeed some of them do not meet the criteria to rent an apartment due to the very short duration of their employment contracts. The implications for social inclusion and quality of life are evident.

In a case study on contract employment in the public service of Trinidad and Tobago titled “Alternative Recruitment Strategies”,

Sandra Marchack, former Head of the Public Service, stated as follows:

“The practice of acquiring staff through the contract route was becoming popular, possibly because the procedure was so much quicker than that of recruitment through the Service Commissions and, all over the Public Service, small units were being established and positions advertised, many of them bearing job description identical to established public service positions, especially in the clerical, secretarial and junior administrative ranks. Junior officers were accepting contract positions in units established within their own Ministries and Departments at terms and conditions far superior to the ones they had left behind. This emerging practice ran contrary to the spirit of the arrangement, which made it clear that contract appointments were an option only where the need for the services was urgent and it was not

possible to find suitable candidates for permanent appointment to pensionable offices”.

Good and equitable labour relations and social justice delivery within the public sector must, in my respectful view, become a major priority to us as a people. This is the precondition if public services, such as education, health and sanitation, are to effectively fulfill their fundamental mission in the service of this nation. They are services that are critical to economic development, social inclusion and equity.

The question then is: does the very silent yet growing use of fixed-term contracts in the public service assist in providing effective and efficient service from the public service to our people? Should we continue to follow what is being done over the past ten to fifteen years or should we instead, as a fifty-five year old nation, re-examine what we have inherited from colonial days and introduce

systems which are suitable to our local needs and our national development goals?

In my respectful view, there are compelling reasons to revisit the persistent and widespread use of fixed-term contracts of employment in the public sector with a view to examine the social and economic impacts of the use of these contracts, given their consequences for a significant number of citizens, for Government as employer as well as for productivity and the quality of public services.

I leave these thoughts, respectfully, for your consideration at this Symposium today.