Is there room for 1700 more Attorneys?

BY JONATHAN BHAGAN

THIS ARTICLE PRESENTS a hypothesis and is not conclusive. I encourage the Council for Legal Education and the Law Association to conduct a comprehensive study into the market for legal services to ensure that Hugh Wooding Law School is producing enough graduates to meet demand.

My hypothesis is as follows: If the market for legal services in Trinidad grows at a similar pace to the economy as measured by Gross Domestic Product (GDP), then the growth rate of the market has exceeded the number of attorneys being admitted to the bar. This is an arguable hypothesis as Law plugs directly into every area of the economy. Let us now look at the numbers:

The number of attorneys on the rolls in Trinidad and Tobago as of 2013: 3836 with 253 attorneys being admitted in 2013. In 2000 there were 1953 attorneys on the rolls with 73 being admitted to practice that year. There was an increase of 1883 attorneys on the rolls for the period 2000 to 2013 or a 96.41% increase.

Now let us contrast this with the growth of the economy as exhibited by GDP. GDP is defined as the monetary value of all the finished goods and services produced within a country’s borders in a specified time period, including all private consumption, government spending, spending on business capital and the nation’s exports.

According to the World Bank this country’s GDP for the year 2000 was $8.15 billion US dollars. For 2012 the GDP was measured at $23.32 billion US dollars. There was growth of $15.17 billion US dollars or a 186.1% increase over the period 2000 to 2012. We can see that the growth rate of the economy as measured by GDP was vastly greater than the growth rate of attorneys on the rolls.

Now, assuming that in 2000 the demand for legal services was equal to or greater than the supply of legal services (as roughly measured by number of attorneys), and assuming the demand for legal services has grown at a similar pace to the GDP growth rate, how many attorneys would the market be able to accept today?

Based on a growth rate of 186.1% for the demand in the legal services market, Trinidad and Tobago should be able to accommodate at least 5587.5 attorneys on the rolls today. That is 1751.5 more than the number admitted to practice at the moment.

So despite all the naysayers who say the field of law is saturated, there may be space for 1751 more attorneys to join the profession. So what about the horror stories of new attorneys not getting jobs in the big firms and having to work as office clerks? If there is space in the market how could these things be happening? Unfortunately even though there may be room for new attorneys-at-law to

(Continued on pg.3)
COMMITTEE MEMBERS SAY FAREWELL TO THE GAVEL COMMITTEE!

WORKING UNDER PRESSURE, meeting deadlines, covering school events and conducting interviews with some of our best legal minds all while balancing assignments, tutorial preparation and a social life for those of us who still have one. While this may seem a bit overwhelming, being on the Gavel Committee was a much needed break in the monotony of reading cases or preparing for moots.

We were able to see our ideas transformed to a more permanent form in each issue of The Gavel. We thoroughly enjoyed being a part of this Committee and making our small contribution towards HWLS and working alongside reliable, capable students made it so much easier. We truly appreciated the importance of having a hobby or extra curricular activity to take our minds off exam stress or assignment woes.

As we prepare to leave the Law School and pass the baton to a new Gavel Committee, we wish them all the patience in the world with Microsoft publisher and endless perseverance when ‘running down’ articles and interviews from students or Attorneys-at-Law for the newsletter. A million thanks to an understanding staff, especially Mrs. Allahar, who faithfully organised our meetings and was constantly a burst of enthusiasm and positivity.

-Eileen Benjamin-Ryan, Karina Singh and Khadija Mac Farlane.
Is there room for 1700 more attorneys? (cont’d from pg 1)

BY JONATHAN BHAGAN

Care must be taken to ensure that supply does not exceed demand, which may result in a drop in the price of legal services. This in turn could make studying law fruitless investment for those seeking to join the profession. The onus is on the Council for Legal Education and the Law Association to steward the legal profession in Trinidad and Tobago towards a bright future.

Special thanks to Mrs. Jade Rodriguez, Deputy Registrar of the Supreme Court for generously supplying relevant statistics.

provide their services, there seems to be a lack of space in the traditional law firms. New attorneys will have to become entrepreneurs and start their own practices in order to exploit the demand in the market.

The limitations of these calculations are as follows:

1. GDP figures for 2013 do not seem to be available, although the economy reportedly grew by around 1.6% for 2013.
2. GDP values have not been adjusted for inflation.
3. These calculations use the number of attorneys on the rolls for 2013; some of these attorneys may not be practicing law at all as they may be retired or out of the jurisdiction. An in depth study is required to get more accurate figures.
4. The assumption that the market for legal services grows at the same rate as the economy is a big limitation on the study. There is no telling whether growth is faster or slower than what was used in these calculations.

Speculation aside, one thing is for certain, the growth of our economy has slowed significantly to around 1.6%, down from the heady years of 12.6% in 2006. The number of attorneys on the rolls is growing at about 7% a year which exceeds the growth of the economy.

Care must be taken to ensure that supply does not exceed demand, which may result in a drop in the price of legal services. This in turn could make studying law fruitless investment for those seeking to join the profession. The onus is on the Council for Legal Education and the Law Association to steward the legal profession in Trinidad and Tobago towards a bright future.

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Is there room for 1700 more attorneys?

‘Guess Who’ Competition Results

The winner of THE GAVEL’S “Guess Who” competition is Ann Marie Hinds who correctly identified all three persons in the photo:

L-R Principal, Mrs Miriam Samaru, Remedies Course Director, Michael Theodore and Master of the High Court, Ms Patricia Sobion.

Prize – a $200 value phone top up! To be collected in the Admin’s Office.

CONGRATULATIONS!!
lives are forever changed and our advocacy skills sharpened because of this experience. I’m sure we’d be better Attorneys because of it. We’d also like to thank our coaches Dana Seetahal SC and Roger Ramgoolam whose guidance and mentorship was invaluable. To Michael and Mrs Gosine from the administration office your assistance and support was greatly appreciated. We Solicit your continued support which we are sure will assist us in reaping even greater success at The Hague in May.

HUGH WOODING LAW SCHOOL ADVANCES TO THE HAGUE

BY LORIMER DENNY

ON MARCH 6TH 2014, four students of the Hugh Wooding Law School (HWLS), namely: Andrea Bhagwandeen, Saddam Hosein, Christie Borely and Lorimer Denny, accompanied by their esteemed coaches Dana Seetahal SC and Roger Ramgoolam, left the warmth of the beautiful Trinidad and Tobago and ventured into the biting cold of the ‘Big Apple’. What on earth possessed them to do such a thing? The PACE/ICLN International Criminal Court Moot Competition which was held at the Pace Law School in White Plains New York.

Not even the cold could quench our spirits. The excitement that burned inside us was inextinguishable! We were ready to demolish our competition; or so we thought.

One visit to the court room where we’d be mooting the following day changed everything. The reality of the moot finally hit us and the excitement and enthusiasm we were feeling quickly vanished. We all felt nauseous with nervousness. Our faces turned pale with fear as if we had seen ghosts. To be honest, at that moment, it was only a matter of time before we threw up. It wouldn’t have been a surprise if we all hopped in a taxi back to J.F.K Airport to take the next flight back to Trinidad!

But that wasn’t to be. Mr. Ramgoolam quickly assured us that we well prepared for the task at hand. We knew the material! We did the research! We practiced the orals! We were ready! Even our Head Coach Dana Seetahal SC encouraged us by letting us know that her very first court matter (an adjournment in the magistrate’s court) she was so nervous that she read rigidly from a piece of paper! Though we weren’t totally convinced by their respective pep talks, it was enough to get us back to our hotel and to temporarily postpone our plan to abandon the competition altogether.

Saturday March 7th was our day of reckoning. Five months of grueling research, writing and oral training had come down to this moment. It was our time to shine! And as Rihanna puts it “we shone bright like diamonds”.

By the time we started to moot the nerves magically disappeared and the confidence which lied dormant within us was activated! By the end of the day, it was clear that Hugh Wooding Law School would advance to the Semifinals.

The semifinal round of the competition was very tight. Even the judges told us that it was a very close round, the closest ever in the history of the competition. However we were narrowly defeated by Brooklyn College who were the eventual winners of this stage of the competition.

Of course we were disappointed that we didn’t bring it home but we certainly didn’t return empty handed. Team HWLS won the award for the Best Prosecution Brief, and though we all worked as a team on each other’s briefs, special mention must be made of Prosecution Counsel Saddam Hosein who was the mastermind behind its contents. This is a first for HWLS.

The success did not stop there. Team HWLS advanced as one of the Top 5 Teams to the International Round of the ICC Moot Competition, to be held in The Hague, Netherlands defeating schools like Columbia, Yale and Pace University for a place in the prestigious Top 5. This was another first!

Our Success this far would not have been possible without certain persons. Therefore, on behalf of the entire team, we wish to thank the Principal of the Hugh wooding Law School for believing in us enough to send us all the way to New York. Our lives are forever changed and our advocacy skills sharpened because of this experience. I’m sure we’d be better Attorneys because of it. We’d also like to thank our coaches Dana Seetahal SC and Roger Ramgoolam whose guidance and mentorship was invaluable. To Michael and Mrs Gosine from the administration office your assistance and support was greatly appreciated. We Solicit your continued support which we are sure will assist us in reaping even greater success at The Hague in May.
A SENSE OF relief and vindication flooded us as ‘From St. Augustine….Hugh Wooding Law School!’ was announced as the winners of the Americas Round of the Price Media Moot Competition. All our hard work and sacrifice paid off as we stared at the glimmering trophy which was now ours. In that moment, we felt like gladiators, having just slain New Brooklyn Law School in the finals, before a distinguished panel of judges. A numinous feeling had replaced the pre-final nerves and nauseating sensations.

Our journey started in early October when the three of us first met panicking and oblivious to the seven pages of the fact pattern that we had just read. However, week after week, we consistently met and slowly…very slowly the issues began to emerge. Soon ‘Prior Restraints’ and ‘Chilling Effects’ became casual topics of conversation among us. It was tedious and tiresome, to balance the preparation of the two competition memorials with assignments, many sacrifices had to be made as clear deadlines had to be met. Nevertheless, as a team, we decided it was all or nothing and gave our all in the preparations.

We arrived in New York in the bitter cold and to the even more bitter news that we would have to complete our four preliminary matches in one day. We found this to be highly prejudicial, since being a three-member team meant that, Rosana, a member on both the Applicant’s and Respondent’s Team would have to moot four consecutive times! However, Mr. Khan, who later became known as ‘Prophet’ for his optimistic (and usually correct) outlook was able to convince us that we could do it. By our sixth successful moot we all had nicknames. Anderson became known as ‘Watch dog’ for his ingenious analogy of the Press to a guard dog which wowed the judges, Rosana become known as ‘Scoff’ for the facial expressions and sometimes sounds she would make when an Opponent stretched an argument too far and Mukta became known as ‘Coin Toss’ because there was never a toss-up that he didn’t win.

Not only did we take home the coveted trophy but Mukta received the Prize for the Oralist with the highest Score in the Final Round. As we prepare for the Final leg of the Competition at Oxford in April, we profusely thank both colleagues and staff of the HWLS for your continued support and encouragement. We hope to make you proud once again.
TRINIBAGO NIGHT

BY ANDREW RAMSUBEIK

EPIC! FUN! BESS! Awesome! Some of the words to describe the Trinbago Night at Hugh Wooding Law School on the 15th March, 2014. Having been in attendance myself, I would safely say that these words are in no way any exaggeration and in some ways, they still don’t do it any justice. This writer however would describe it as being a collective success, in every way!

The night began as most island nights do, with some entertainment in the form of video, dramatic skits and song and dance. It was a segmented program with presentations being done by students of Trinibago who in their own collective and individual performances displayed dances and songs and illustrations of various aspects of Trinbago culture. The play was definitely the highlight of the night with a particular scene in question capturing the attention of all and making those who had missed it wishing they had been there. One of our male colleagues gave a quite dramatic and entertaining portrayal of a typical “ghetto fab” “huni in Trinibago”, dressing the part to boot. The next time you’re walking past the table tennis table, ask “Mr. Table Tennis” about this character portrayal. However, the actresses who played the “Trini” and the “Canadian” were fantastic as well and mention should be made of the doubles man who “had the sauce” and spoke of the “cloth in his dhoti”, but didn’t collect his money lol *wink*.

After the night’s entertainment was concluded, it was time to feast! Our colleagues from Trinbago had a nice variety of some local Trini favorites! FOOD!! Doubles from a professional doubles man (though not quite as entertaining), chicken pelau, HOT corn soup, potato roti, pholourie with mango chutney and some east indian sweets were all part of the menu. There were a few hiccups with the organizing of dinner, but I am sure all who partook of the delicious food would agree that it was worth the wait. The aroma of the various dishes engulfed the submoot area and when the warm soup and the channa from the doubles hit your taste buds it was an explosion of flavor and a soothing pleasurable journey down the throat and to the stomach. Yum yum yum!!! I almost forgot, there was also live entertainment while dinner was being served and enjoyed by a talented Parang Group and our Calypso Monarch 2014 as well as by some great entertainers.

Following the treat for the eyes, and the tease for the tongue, it was time for everyone to have some more fun. The Trinbago Night Fete, or, a typical weekend night for the students resident in the local jurisdiction. Good music, good company, and good drinks. The fete was held in the Dining Hall and all HWLS students and guests to the night’s earlier activities certainly had a GREAT time. The D.J. had the room going. The guys had a great time, and the ladies, an even better time. One of those nights you’d remember. If you weren’t there, there’s next year, so have no fear.

By the end of the night it was certain, everyone was a feter to their heart, the happiest law students alive and Trinbago night was too real!
MY EXPERIENCE AT the CCJ is epitomized by the words of the Honourable Mr Justice Boodoosingh, “we sounded like real lawyers fighting a case for our client and that is important.” Although we were the runners up, we also congratulated the winning team. It is always very important to gracefully accept defeat and conduct yourself with professionalism despite the result.

As team leader it was my honour and privilege to work with the respectful, intelligent, disciplined and dedicated members Miss Gina Maharaj and Mr Miguel Rawlins. We always observed the five p’s according to the Honourable Madame Justice Pemberton, Proper Preparation Prevents Poor Performance!

The CCJ moot experience afforded me with leadership opportunities, which enhanced my ability to organize and motivate others. I appeared before the Court with a positive mental attitude, always telling myself, yes I can! I had fun as I advocated pastorally before the CCJ.

HENRY CHASE

MOOTING! When we hear this word, our stomachs do somersaults, our hearts skip a beat, many of us have had a few bathroom trips before assessment and some, not all, but indeed some of us shake and cold sweat as nerves permeate through our blood vessels. Oh the horror of standing and speaking before an audience, but even worse, a judge of the highest Court! (save me now, where is the fire escape!).

Funny enough, these bundles of nerves are merely reflections of the fact that the future is unknown, as we are more comfortable when we know what the future holds. But such is life! There will always be uncertainty. When we have an understanding of our personal nature and no matter how we feel, choose to overcome our fears, life becomes a garden blossoming with endless possibilities and rewards. The journey of endless preparation inclusive of research and oral practice was one that was quite rewarding. It was more than an academic filter that stimulated our minds, but an emotional journey where we learned things about ourselves that we never thought existed.

This was the experience preparing for the CCJ Moot. Not only was the journey filled with laughter and good conversation (yes aside from law), it was one that enabled us to improve on all the aspects that this profession requires. It encouraged us to become more confident in ourselves, braver in our pursuit for achievement and most importantly, develop the conduct that is needed to work within a team. We felt first handedly what it was like to bring a claim on behalf of our client Mr. Abdul Azim Qasim, a human being, whose rights were trampled on by a State’s flagrant disregard for the law! With time we acknowledged and felt the huge responsibility this profession requires when giving voice to a person who is unable to represent himself.

We are humbled by this experience, grateful for the opportunity from the Hugh Wooding Law School and more confident in our abilities upon leaving and entering the doorway of the legal profession. Of course there was the added bonus of developing long lasting friendships that transcend the boundaries of academia and the great honour of gaining first hand guidance from our team advisor.

We would like to encourage everyone to grab every opportunity to moot. For it is an experience that will be permanently etched in your life, shaping your future and giving you the confidence to take on any challenge that life will present.

Best wishes.

Henry Chase, Gina Maharaj & Miguel Rawlins
Guided by the Honourable Mr. Justice Ronnie Boodoosingh
“WHAT KIND OF mangoes you like? would love to paint you on a background of mangoes…”

We will not disclose the identity of the team member whom the client wished to paint – we are, after all, equally inspiring to artists! Suffice it to say that each team was well-tested during the Lex Caribbean Client Interviewing Competition, as the actor endeavored to avoid direct questions and embarked on long tangential explanations with several inappropriate comments thrown in for good measure.

The competition was held on January 31, 2014 at the Norman Manley Law School. The day of competition was preceded by months of intense practice under the tutelage of Mr. Justin Junkère, who was ably assisted by our colleagues Delrene Liverpool and Michael Xavier. The training process allowed us to get our creative juices flowing as we took turns playing the client in various scenarios - Rocky took on the role of a champion sprinter with a secret drug habit, Fayola discovered just how difficult it was to cry convincingly on demand and the stately Corey shockingly transformed into a Jamaican dancehall artiste.

We are particularly grateful to Mr. Junkère who gave selflessly of his time in order to train us. Not only did he assist us in developing the skills we needed to be successful in the competition, but we also gained invaluable insight into professional decorum, good etiquette and style.

Both our school and our hosts in Jamaica made generous provisions for us. The legendary competitive spirit of the Norman Manley students was surpassed only by their warmth and hospitality. They spared no effort to ensure that our experience of Jamaica would be unforgettable. We arrived as competitors and left as friends.

This enriching experience has made an indelible mark upon our development as future attorneys-at-law, providing benefits which would not have been possible within the confines of the classroom. We encourage future students who may be afforded the opportunity to participate in competitions such as this one. We are certainly glad that we did!
WRITING ABOUT AN experience as tumultuous as the Hamel-Smith Appellate Mooting competition is not an easy one. This competition is defined by wit, creativity and teamwork; especially so because it takes a special chemistry for your team to perform in front of a formidable panel.

This year there was a lot of buzz and excitement surrounding the moots. People would come up in the halls or library and ask, “You in the Hamel-Smith?” All the usual sizing up and banter in the halls created such an electric atmosphere that when you met with your teammates we pushed each other to put our best foot forward on the day of the hearing.

Reading the cases was a task. Their Lordships were arguing complex points on the concept of legal privilege, what a joy on top of assignments! Yet, once you began to read it was a journey into a time long past where the protection of the right to counsel really meant life or death. Considering the past really made you ponder the implications of this concept in the modern world.

Teamwork certainly had its place, especially when it came time to write skeleton arguments. We learned to deal with different personality types and to evaluate arguments on its merits without allowing personal feelings to get in the way. I must admit that Cheryl and Andell had cut me down to size more than once for being too big for my britches, while also permitting my bad jokes and intermittent songs (thanks guys!).

We all deal with stress differently, but more importantly I saw a common theme through all the teams, support in adversity. Throughout, I saw times when faced with difficult questions and the awkward silence before impassive faces; teammates worked together waiting my turn. The chance came and I threw myself into the arguments before me.

It was an exciting time and we were happy to win, but the real victory was the opportunity afforded to us by the Hugh Wooding Law School and Hamel-Smith and Company. These institutions gave us the chance to be advocates at the appellate level and collaborate with colleagues at school in a spirit of camaraderie and respectful competition.

My deepest gratitude and respect goes to all my fellow competitors for their gusto and passion which inspired us all to be better advocates.
THE GAVEL CONGRATULATES HWLS TEAMS ON THEIR SUCCESS!

PRICE MEDIA LAW MOOT COURT COMPETITION
CHAMPIONS OF THE AMERICAS REGIONAL ROUND

LEX CARIBBEAN CLIENT INTERVIEWING COMPETITION
WINNERS OF THE COMPETITION

L-R Anderson Modeste, Rosana John, Mukta Balroop and Akhail Khan (coach).

L-R Rocky Hanoman, Justin Junkere (coach), Fayola Phillip & Corey Greenidge.

Margaret Forte Team: L-R Asante Brathwaite, Sonnel David-Longe and Dylan Martin.

ICC Mooting TEAM: L-R Dana Seetahal (Coach), Christie Borely, Lorimer Denny, Roger Ramgoolam (Coach), Andrea Bhagwandeen and Saddam Hosein.

HAMEL-SMITH APPELLATE MOOT COURT COMPETITION

INTERNATIONAL CHAMBER OF COMMERCIAL MEDIATION COMPETITION 2014

ICC Team: Yolander Persaud, Ronald J. Daniel & Giselle Yearwood Welch (coach)

L-R Andelle Arnold, Christopher Foderingham – Garaway & Cheryl Ann Peters. WINNERS OF THE MOOT
THE 9TH ICC International Commercial Mediation Competition hosted in Paris was the first year Hugh Wooding Law School (HWLS) was accepted to participate. In fact, it was the first time a Caribbean team was accepted to participate. Our two-member team, consisting of Ronald Daniels and I, progressed to the Finals Round, making it to the Eighth Finals to earn the distinction of being one of the top 16 mediation representation teams in the world, out of a field of 66 illustrious law and business school teams, from more than 40 countries. We scored the 10th highest points for the four preliminary matches. As the replacement team, we only had about eight weeks to train, as compared to the other teams with three months to spare. Our coach Mrs. Giselle Yearwood-Welch pushed us, encouraged us, sending long motivational messages when she felt our spirits were waning. It was like having our very own guardian angel.

The competition rounds were hosted at different prominent law firms around the city. We battled complex commercial disputes with teams from Italy, Switzerland, New Zealand and France during our preliminary rounds, to be bested by the NALSAR team from India in our Eighth Finals. Each round was a mock mediation session based on scenarios, which had some underlying truth in existence. The team members had to play the role of Client and Counsel, with roles including being a Mayor of a town hosting an International Cultural event; transforming into the head of a prestigious auction house; a dispute with the underlying issue of biological warfare; and even playing the role of the agent of a famous football player. There was never a dull moment! I remember in one round I was so surprised by the strategy of the other team all I could communicate to Ronald was “what the...?”

We were the first school announced into the Finals Round, receiving the confidential facts at 10 p.m. to prepare for the match at 8 a.m. the next day. The glass of champagne quickly disappeared! We went into that match having not slept for roughly 30 hours. It was a nail biting, but exhilarating round. The adrenaline rush and coffee somehow helped us to research the law and intricacies of the matter, preparing opening statements and a mediation plan to present to the judges.

The competition and its events were enchanting. The venues were exquisite and the gamut of cultural diversity in one room was truly astounding. The idea of going to Paris is a magical one (even in the dead of winter), but the truth is we spent most of the trip at the competition or preparing for our next mediation. We stayed right on the Champs-Bouling so just stepping out of the hotel felt like sightseeing. The Eiffel Tower and Arc de Triomphe were always in sight, a tempting vision that we only managed to come close to the day before we departed. We made many new friends - from hanging out in Frog XIV (the Competition Bar) to getting lost after a group of about 60 decided to find another hangout spot after the Competition party at 1am. I would do it all again if I could, sleepless nights and Sunday training sessions included.

Mediation Team Excels at ICC in Paris

BY YOLANDER PERSAUD

Members of the HWLS ICC Team Ronald J. Daniels,Mrs. Giselle Yearwood Welch and Yolander Persaud.
WINNING TEAM!!
2014!
Common Law vs. RPO System

BY AESHA NASSAR

IF YOU ARE a second year student in Mrs Allahar’s Conveyancing and Registration of Title class, you will remember her pleading “not to mix-up the systems”. She really has not been drilling this in our heads for her health, but because it is so important that you do in fact know the difference between the two systems. Many of the second years believe they understand the distinction. However a few of us only think we understand and are actually still “mixing up” the systems.

For those of you who may not be aware, the Legal Aid Clinic has extended their programme to include a Conveyancing Clinic. It is supervised by Mrs. Nisha Mathura-Allahar and Ms. Barbara Lodge-Johnson and accommodated only seven students in the second term. On February 6, the students of the Conveyancing Clinic were afforded the opportunity to tour the Land Registry and set out on a mission to see the process of the Common law and RPO systems in action.

Upon reaching the Land Registry Department at the Ministry of Legal Affairs in Port of Spain we were greeted by Ms. Rionne Boyke who not only works at the Land Registry, but is also a Conveyancing tutor at HWLS. She was extremely gracious and took time out of her busy schedule to give us a well-informed and thorough tour of the Land Registry.

When we approached the front desk two signs were visible: “Deeds” and the other “R.P.O”. Already we saw the divide between the two systems. One area to register documents under the Common law and another to register documents under the R.P.O. (Real Property Ordinance) System.

Ms. Boyke gave us a backstage pass, to allow us to witness firsthand what takes place behind the Land Registry’s counter. We started with the Common law system where she explained to us how Deeds of Conveyance, Mortgages and Power of Attorney, just to name a few are registered. We were introduced to PIMS (Property Information Management System) which is an online service provided by the Land Registry. This service allows you to search the digitised Land Registry records via the internet on land titles, for example deeds, bills of sale, judgements, lis pendens, deed polls and wills registered with the Land Registry.

We were then shown how Probate and Grants were registered and how those documents linked to those in the Common law system. We were shown Deeds of Assents, transferring the deceased’s property to the entitled beneficiaries from the appointed Legal Personal Representative. Ms. Boyke then took us to witness how instruments under the R.P.O are registered. This process is much more meticulous and strict compared to the Common law system. All necessary documents must be accompanied by the instrument to be successfully registered, otherwise the Registrar will return the instrument with queries and a form indicating the errors and missing documents.

In addition all errors and queries are recorded and we saw that certain attorneys were often recorded for making the same errors. This is an example to all upcoming attorneys that once you are thorough and draft your instruments well the staff at the registry will hold you to a particular standard and expect proper work from you. Better to develop a good reputation at the Land Registry than a poor one.

The R.P.O system in Trinidad and Tobago issues only two Certificates of Title; one is kept at the land registry and the duplicate is given to the proprietor of the land. Every transfer, death of proprietor, charge and discharge is endorsed on the two certificates and recorded. It is therefore important that the proprietor of the land takes care not to damage the duplicate. Whatever is endorsed on the Land Registry’s original certificate must also be endorsed on the duplicate.

A special thank you goes out to Ms. Boyke (and her staff) for taking the time out of her busy schedule to arrange and give us a tour of the Land registry as it helped to clarify the distinction between the two systems. It is advised that students take a tour of the Land Registry in their own jurisdiction and afford themselves a practical experience to see how the systems operate. It is one thing to read and study it but another to actually see it in practice.
Colouring Lives Outreach Project

BY JUNIOR NAGASSAR

AS PART OF the Human Rights Law Clinic, students are required to plan, conceptualise and execute a charitable project. Thus, a group of five students embarked on a charitable project entitled “Colouring Lives”, which was intended to educate children between the ages of 7-13 on human rights in a way that was both fun and informative.

To this end, the group produced a colouring book, “Rights of the Child” comprising 18 drawings depicting the rights of the child. These illustrations draw inspiration from the United Nations Convention on the Rights of the Child. Three artists generously gave of their time to assist with the drawings.

The official launch of this project took place at the Just Because Foundation on November 27, 2013. Just Because Foundation is an incorporated, non-profit, pediatric cancer support organisation operating out of the Eric Williams Medical Sciences Complex, Mt. Hope. They provide emotional, practical and social support for families of children with cancer.

Through sponsorship for this aspect of the project, $5,641 were raised which enabled the printing of 200 copies of the book. Approximately 140 packs of crayons and colouring pencils were distributed with the books through the kind generosity of the HWLS students.

Five families were also identified and given food hampers. The hampers consisted of non-alcoholic beverages, snacks, cereal, canned food and other necessities. The children and parents were very happy to receive these donations.

Copies of the book were also distributed to the St. Dominic’s Children Home for the Human Rights Committee’s Children’s Christmas Party held on December 22, 2013. The remaining copies were distributed to other charitable causes including the Hope Centre in San Fernando and Islamic Home for Children in Gasparillo.

The students who implemented this project were: Gina Maharaj, Nazia Mohammed, Junior Nagassar, Orinthia Schmidt and Kavita Sirjusingh.

L-R Gina Maharaj, Nazia Mohammed, Junior Nagassar, Orinthia Schmidt and Kavita Sirjusingh.
The Technology Adoption Problem

BY LEON KALICHARAN

THE LEVEL OF adoption of legal technology locally has fallen far short of the level achieved by our counterparts across the pond in the UK and the United States. The topic is gargantuan and cannot be adequately canvassed in a few paragraphs but some broad generalizations and recommendations will be made. This article posits that the change required will be driven by forces of change from several drivers:

The first lies with the practitioner - the overriding need to generate profitability in an economic situation where traditional methods of sourcing legal work have dried up or have been bundled into channels that profit only large entities (whether in size or stature).

The second is with the court, which by its very nature stands as a gatekeeper and regulator in our litigation culture. The third is from the complicated needs of clients to whom these services are delivered. Clients require faster, more cost effective work in increasingly sophisticated and voluminous litigation.

My hypothesis is that the limited engagement of technology is caused by a combination of factors. It is based on the bare assumption that the introduction of technology does have a positive effect of efficiency. Provided however that there will be a period during the changeover to a new system where there is a reduction in efficiency due to retraining and the return on investment will not immediately be seen.

These factors have been grouped into the following areas:-

The reliance on the old litigation culture – In a profession where fees are still calculated with reference to the time spent on the matter, practitioners with larger base multipliers do not find it worthwhile to expedite the conduct of litigation. In complex matters, the opportunity presents itself for the attorney to deliberately slow the pace of work in order to ramp up billable hours.

The court while moving apace to implement new systems is not actively encouraging the use of the technology by its patrons: – For example where there has been recognition of the legality of submitting and retaining documents in electronic format, the court is moving at a snail’s pace with regard to the adoption of systems such as e-filing. If systems exist to acquaint new practitioners with established systems, there are no corresponding training programmes to acquaint the users of the court with their availability and function. The unfamiliarity of the subject matter and the associated wastage of time and effort on the implementation of systems that are not being utilized– there are several well documented pitfalls in the acquisition of new technology. The most significant is the burgeoning number of contractors who will quickly foist off ill-suited technology on the consumer. A complete analysis by a competent independent consultant is indispensable.

The following are a few recommendations which can have an impact:-

Practitioners:

Actively establish internal technology policies and adoption timelines.

Identify crucial pain points (eg. Records management, redundancy of labour, the capturing and monetizing of new revenue streams) and actively work to address them.

Paperless Office

Purchase a good document scanner and a fast laser printer. Instead of maintaining paper copies of records and copying when you need a duplicate, maintain files in soft copy and print files when you need them. Canon document scanners have some of the lowest figures for total cost of ownership.

Document Management Systems

Establishing intake procedures for incoming paper documents is particularly important. Ensure that every document coming into your office is scanned and marked as such. Those documents which have to be retained in their original form should be the only paper copies actually retained and only so long as necessary. The choice between established titles such as Sharepoint or EMC Documentum and Open Source options such as Alfresco will be dependent on the capital expenditure capability.

Document Automation

If you’ve been in practice for several years, the likelihood that you’ve drafted the same Notice of Application, or letter more than four or five times is pretty high. Utilize systems such as those provided by HotDocs to create document templates that can be reused.

Practice Management Software

For transactional attorneys that are not always in the office, having a means to track and follow up on billed hours, work completed and to identify clients which have brought in the largest revenue can be accomplished by having practice management software such as those offered by LexisNexis such as TimeMatters or Amicus or Clio.

Print/IT Infrastructure Outsourcing

Attorneys routinely claim ignorance where it comes to the vagaries of information technology. It would be sensible to place those back office competences in a single contractor. Many attorneys still conduct the majority of their document generation in house, outsource those to specialized print shops.

Court:

• Implement the e-filing/e-signing component of the Judicial Enforcement Management software.
• Encourage the use of E-Discovery, and the filing of soft copies of bundles.
• Expansion and modernization of the online judgment libraries (WEBOPAC).
• Establish training programmes for practitioners and make the technology easily available for the patrons of the court.

My limited experience has shown that technology adoption is normally a top level driven endeavour. It is therefore incumbent on the masses who stand to benefit from the utilization of these investments to impress upon those that hold the purse to establish and maintain these systems. Without that positive pressure, there is a vacuum of opinion which results in large amounts of capital being expended on systems which fail to address the most pressing needs of the stakeholders.
The 9th ICC International Commercial Mediation Competition (2014)

BY GISELLE YEARWOOD WELCH

Hugh Wooding Law School — edges out 56 other teams, achieves 10th place among the top 16 Finalists of the 66 teams competing

IN 2014, THE Hugh Wooding Law School has left its indelible mark in its inaugural participation in the 9th annual International Chamber of Commerce’s (ICC’s) International Commercial Mediation Competition. Held during the week of 7-13th February, in Paris, this prestigious competition, attracted more than 500 participants with 66 teams of students as competitors (representing almost 50 countries worldwide from the continents of Africa, Asia, North and South America, Europe and Australasia).

Newcomers, Hugh Wooding, with its two-member team comprising Year 2 students, Guyanese nationals, Ronald J. Daniels and Yolander Persaud, ably represented the school. Placing among the top 10 Finalists, they edged out 56 other eminent law schools/universities and/or business schools (including several multiple past winners). Ludwig Maximillien University of Munich were the final winners in first place.

Mrs. Yearwood Welch has said:

“The 2014 team delivered an astounding performance record, under immense pressure. I am satisfied that the school’s initiative into yet another mediation advocacy forum has been well-served. To hear feedback from international mediators and judges that spoke to the impressive competence of the team, sends a loud and clear signal that we must do more of what we are doing.”

“The international competition forum provided a wealth of learning opportunities, with best practices exchanged for mediation advocates, embedding the learnings of the school’s Mediation Advocacy programme. Overall, the students were enabled to broaden their perspectives on mediation, problem solving and interactions as client and counsel, while gaining the respect of their peers at an international level.”

With several different fact patterns, during the several rounds of competition, competitors assumed the roles of the attorneys and clients to analyse and propose solutions to commercial problems in a mediation conducted by expert mediators. Each of the rounds was judged by a panel, comprising experienced, commercial mediation experts with the scoring assessment covering each team’s oral advocacy, negotiation skills, written mediation plan, team work, and the ability to use the power of the mediator and seize opportunities in the mediation process. The 2014 team received commendations from the judges for their lyrically articulate opening statements, insightful probing and great teamwork.

Read more about putting our school on the global map:


P A G E 18

The Bigger Picture

BY KARINA SINGH

FOR THOSE CURIOUS in deciphering the judiciary’s overall productivity, this serves as a synopsis for that purpose.

This article is based on the Judiciary’s Annual report 2012/2013.

Financial arena

How much is the Judiciary budgeted?
The Judiciary was allocated a budget of $440.5 million for the Law Term 2012/2013 in respect of recurrent (operational) and capital (developmental) expenditure.

Recurrent expenditure received 79.4% of this allocation. This type of expenditure is incurred each year for goods and services, salaries, operating expenses and training. The Capital allocation amounted to 20.6% and accounts for technology, security system acquisition and refurbishing and institutional strengthening.

Personnel expenditure for 2012/2013 accounted for $147,806,322 where 56.2% was reserved for salaries, allowances and wages whilst its expected/forecasted budget in 2013/2014 is at $198,835,317 where salaries, allowances and wages account for 39.8% of the requested sum.

What does the developmental programme entail?
For Developmental programme, this provides for the administrative services which involve:

- Computerization of the judiciary
- Development of and electronic court filing system
- Strengthening the records management in the judiciary
- Transformation of the court recording system in the judiciary
- Family court institutional strengthening

To fund these projects in 2013 cost $43.6 million and 32.5 million was requested for the year 2014.

How much of the budget is really spent?
For Public buildings, 56.6 million was spent in 2012/2013 and in 2014 170.1 million was requested. It is of relevance to note that 56.6 million was spent when allocated the sum of 76.9 million and the budget in 2014 stands at 170 million. It was observed that despite this increase the actual expenditure never exceeded this sum by a difference of 20-55 million as observed in (2010-2013).

The same can be said for expenditure for infrastructure, particularly in 2011/2012 where expenditure was budgeted for 105.7 million where only 35.8 million was actually incurred. For the law term 2011/2012 there was approximately 69.8 million difference from the budget and actual expenditure and in 2012/2013 a difference of 34.1 million. The forecasted expenditure for 2014 stands at 186.7 million so that it would be reasonable to conclude that more than likely there is to be a significant difference in the actual amount spent on infrastructure.

In making this conclusion, as evidenced in the Auditor General’s report 2012, the unspent allocation amounted to 78 million. This unspent allocation may be due to the over provision, changes in workplaces, failure to implement or finance planned activities.

Is there an independent body to assess the expenditure of the Judiciary? And what were their findings?
Yes, the Audit Report of the Auditor General states the Judiciary’s expenditure for the Financial Year 2012 was originally estimated at 429,971,620 million of which 430,871,620 million was the approved estimate. However, the actual expenditure for that year was 352,895,112.60 million. This is a 77,976,507.40 difference in the budgeted amount and the actual amount spent.

What about the efficiency of the Judiciary?
Departing from the financial aspect, the issue of how efficient the judiciary has always been at the forefront.

Court of Appeal

In the law term 2012/2013 60.8% of the appeals filed were civil matters whilst a mere 5.5% accounted for criminal appeals. In 2013 there was an increase in the number of matters being disposed of by 22.

However notable is that the number of appeals being allowed, dismissed and withdrawn are on the same level at 75, 70 and 72 respectively.

High Court

In relation to the High Court 5230 is the number of civil matters filed where 5245 were determined and 15 were backlogged (Not bad). The determination to filing ratio stood at 1.0 between 2011/2013 and 0.9 in 2009/2011 and at 1.3 in 2007/2008, an increase in the efficiency of the High Court.

More importantly, is that 60% of cases were determined in two years whilst 40% took more than two years.

In the civil arena, the order of majority of the matters were as follows:
1. Personal actions such as running down actions
2. Commercial
3. Land
4. Public Law

This has been the trend since 2007 along with the number of cases being filed steadily increased from 4,575 to 5,230 in 2013.

How long does majority of criminal matters last?
A total of 64.8% of all criminal matters were disposed of within a 3 year period from filing. The disposal to filing ratio stood at .52 over the 6 years, and in 2013, 0.27 ratio which is the lowest ratio thus far!

Was there an increase in probate matters?
In probate matters, 3488 matters were filed in 2012/2013 of and 3538 matters were disposed of in that term which consisted mostly of large estates. There has been an increase compared to the previous term.

How long did the probate matter last?
For large estates, 44.3% of large estate matters, took one to two years to be disposed of whilst 788 were disposed within a year and 491 of the matters took 2-3 years.

Overall, 1,500 matters were disposed of in one to two years, 982 matters were disposed of within one year and 497 were disposed of in 2 to 3 years.

Was there was an increase in family matters:
Yes, there was a significant increase in divorce cases in 2012/2013 which amounts to the highest number of divorce cases over the 6 years period; 2010-2012/2013.

Which family court had the most matters?
83% of these cases were filed in the Port of Spain High court which had increased by 162% (total of 2,922 cases in 2012/2013).

Was there an increase or decrease in family matters in the Magis-

(Cont’d on pg 19)
OPTION TO PURCHASE

BY A YR 1 STUDENT

ALLOW US TO tell you all about the covenant for option to purchase the reversion
It seems almost natural to start with at least a basic definition
This is where the landlord agrees to sell the property to the tenant at the end of the lease,
Once the tenant upholds all the terms and conditions, and leaves the property in one piece

The option to purchase the reversion is a collateral agreement
That is, it is not one of the usual terms of the lease, such as the covenant for quiet enjoyment
Rather, this covenant is purely incidental in nature
And the option to purchase is to be executed in the future

This is typically classified as a landlord covenant; and moreover
The parties to this agreement are the vendor and purchaser
The vendor is the landlord who is offering to sell the property
And the purchaser is the tenant who meets the terms of the lease with loyalty

The option to purchase the reversion creates an irrevocable offer
Once such offer is stated in the lease, it cannot be retracted after
This principle was established by Broadway Import and Export Ltd v Andre Leopold Lopez, the court held that it could not enforce the option
Because the tenant failed to uphold the term in the lease which required him to pay £500 in consideration

Remember for the option to be valid, the tenant must have upheld all the covenants in the lease.
For instance, rent must not be in arrears, and the premises should be in a tenable state at least
In Caribbean Asbestos Products Ltd v Andre Leopold Lopez, the court held that it could not enforce the option
Because the tenant failed to uphold the term in the lease which required him to pay £500 in consideration

There are two remedies available for breach of this covenant
The first is damages, and the second is specific performance.
The tenant who has upheld all the terms and conditions in the contract, the second assignee of the property by the landlord was allowed
Because since there was no contract, only an equitable right upon the tenant was endowed.

We thank you for your patience and hope that you enjoyed
All the creativity and hard work we employed
This brings us to a close of our presentation
On the covenant for the option to purchase the reversion.

The case of Griffith v Pelton examined whether the assignee of the lease was entitled to be granted such remedies
The assignee of the lease, in the case of Griffith v Pelton, was defined in the lease, making things much clearer
It was held that the administrator was acting as the personal representative of the deceased
And in that capacity, the assignee could challenge him for enforcement of the lease.

Plains perpetuity a little easier
Here, the assignee of the lease was defined in the lease, making things much clearer.
It was held that the administrator was acting as the personal representative of the deceased.
And in that capacity, the assignee could challenge him for enforcement of the lease.

The case of Woodall v Clifton, but may be difficult to understand
In this case, surrounding a lease for 99 years, the court explored the rule against perpetuities
To determine whether the tenant could exercise the option to purchase against the assignee.
The case of Griffith v Pelton et-
GUYANA NIGHT: A Longing Fulfilled

BY SIAND DHURJON & SASHA MAHADEO

ON THE NIGHT of 22nd February, 2014, the Hugh Wooding Law School was engulfed in the force field that is Guyanese nationalism. There wasn’t a section of the building’s interior that was left uncovered in the colourful symbols of Guyana. You see, this was the very eve of Her 44th anniversary as a Republic. In Guyana, the next day would be Mashramani - an Amerindian word which means celebration after hard work. This is a carnival affair where thousands come out to mash on the streets in dozens of colourful floats and costumes. And so, tonight, we shared in the celebration of Guyanese renewal with our friends of Hugh Wooding across the region.

The three months of fundraising and production that went into Guyana Night culminated in a spectacular presentation of dance, song and drama. In fact, at this point, one might have thought it was the Hugh Wooding Dance, Song and Drama School.

If previously unaware, after the prayers of the three major religions and the triumphant entry of the representatives of Guyana’s six constituent races, the audience then had no doubt that Guyana has a deeply faceted culture. But this was just the beginning. The audience was teleported to moments particular to Guyanese life. These included the daily scene at Stabroek market, the rum shop scene with Basil (pronounced like the herb - basil), the Queh-Queh dance and the wedding house soirée. As such, along with Grandfather Tej’s intermittent commentary, the audience was audibly delighted by the festive hilarity of the production. The dazzling dances and riveting songs also elicited the admiration of the audience. The talented Don Trent’s performance of his hit single Me and You and his rendition of Eddy Grant’s Dance No More was particularly enthralling.

After the show, it was time to eat. At this point, one might have thought it was the Hugh Wooding School of Culinary Arts because the food, most of which was laboriously prepared by the hosts themselves, was widely accepted to be an outstanding feature of the evening. Appetizers included cheese straws, cassava balls and white and black pudding. The main course was a plate-bending combination of any (or all) of your choice of fried rice, cook-up (similar to pelau), baked chicken, beef or pork pepperpot (an Amerindian dish unique to Guyana), curried chicken and roti, and garlic pork and macaroni pie. Regrettably, most didn’t have space for the dessert that was cakes.

The night wrapped up with a bang as the bashment was unforgettable uplifting. Everyone partied as one as they enjoyed the music and drinks.

Guyana’s culture draws abundantly from the riches of many cultures. On Guyana Night it was a longing fulfilled to share this and to experience the profound sense of community which permeated the air.
STUDENTS OF THE Human Rights Clinic were required to visit (in groups of 3), two secondary schools across Trinidad and Tobago, to deliver an one-hour presentation on human rights to fifth and sixth form students.

While the focus of these presentations was on human rights generally, several of the groups targeted specific issues such as the right to privacy, cyber-bullying and freedom of expression.

The sessions were interactive, and the students used several methods for the delivery of their presentations, including skits, songs and electronic slideshows.

The aim of this exercise was to develop public speaking and advocacy skills, and to teach students how to break-down complex human rights issues to their target audience. The group comprising Orinthia Schmidt, Junior Nagassar and Kavita Surjusingh conducted their presentations at St. Joseph’s Convent, St. Joseph and ASJA Girls College, Tunapuna.

The first presentation took place at St. Joseph’s Convent on November 6th, 2013 for upper sixth form students. It was based primarily on human rights in a general context, highlighting the goals and importance of human rights, the rights under the constitution, the recourse one has in the event that there is an infringement of one of their rights and reference to human rights advocates who have championed the cause for human rights in society such as the late Nelson Mandela, Mahatma Ghandi and Malala Yousafzai.

The presentation was so ‘mind-blowing’ that the school eventually allowed us 2 ½ hours to do our presentation. The students were very interactive and had many questions ranging from abuse of rights, policing, and constitutional reform. We were approached after the presentation to assist the school in setting up a club for human rights.

The next stop for us was ASJA Girls College on November 18, where the presentation was delivered to form 5 students. This presentation lasted approximately one hour and was again well received by both the students and teachers.

At the end of both these presentations, many of the students were inspired by our presentation and requested further contact information for guidance on becoming Attorneys-at-Law. One teacher said: “This was amazing… I didn’t know that I had so many rights… I think I want to become a Lawyer.”

The experience proved not only informative and educational to the students and teachers at both schools, but for us, as it acted as a gauge or ‘litmus’ test for our advocacy and public speaking skills, our ability to interact confidently in front of an audience and our ability to competently advise and answer questions.
BY KHADIJA MACFARLANE

Are you satisfied with the state of human rights legislation in the Caribbean? Are we where we should be and if not how do we get there or overcome barriers?

No there are many gaps. The Constitutions could be so limited in important areas such as gender, discrimination, sexual orientation and even interpretation of the Constitution could be seen as limited. It’s so effective in protecting convicted criminals but other basic rights like right to strike is not as protected. Economic and social rights are not protected enough even collective rights. Even discrimination legislation is limited in Caribbean.

More than legislation we need to educate people and create awareness. We still have a lot to do in changing the attitude of people. It’s like which comes first the chicken or the egg? Sometimes the law has to change other times it has to wait for the attitudes and mindset of people to change. Legislation has to go hand in hand with social dialogue.

While it is difficult to rank human rights in terms of importance, what do you think are some of the more urgent human rights violations that need to be addressed now in the Caribbean?

That’s a tricky question. If I say no I’m in trouble. (laughs). We are certainly not like Latin America and some parts of the world where people are losing their lives, a large extent of the population, is losing their lives daily because of human rights violations. That’s for sure. The Commission, for instance, our most important work has been in Latin America because of these dictatorships which characterised Latin America for a very long time. There’s even a term for it, “the disappeared”. We don’t have things like that, I mean people do disappear, people are shot at and so on things do happen but not on a large scale where we actually have a name for it. Or like indigenous peoples where companies come in and steal their lands, and kill them off or deprive them arbitrarily. We certainly do not have these large-scale violations.

But how do you measure the importance of a human right? A human right especially if you’re talking about fundamental human rights which are individualistic in nature. But if you are the victim, for example, if you are a homosexual, it is not important to you that you are not being killed, you might actually think kill me, because if you are being discriminated against, if you find it hard to get a job or even if you have a job and they blacklist you, or they sideline you or they call you names or even if they don’t but you could sense or you don’t feel that you have personhood or dignity, is that less important than somebody whose sister was murdered? I don’t know how to measure this which is why I said it was a tricky question but human rights by their very nature are fundamental. It’s difficult to say which human right is more important than the other. Sometimes we do say, okay, a right to life is the most important but there are many people who would argue that is not so because as I said if you’re placed in a position of subjugation or denial you may well be hurt so these are things that are all very subjective and I don’t want to compare. I think all human rights should be protected for all persons. But its certainly the case if you’re talking about right to life or right to property as the case may be that the commonwealth Caribbean has not violated these rights to the extreme that other countries have. It’s a relative thing.

As a human rights activist, do you think enough is being done to protect the rights of children in Trinidad and Tobago?

Well when you ask me these questions, because of my old work, I look at these things differently. Because law and legal systems is another hat that I wear, as you know, I have done a lot of research on juvenile justice and I’ve done a lot of consultancy work with UNICEF. I think these are one of the hidden issues that people don’t realise how terrible it is. Let’s talk about Trinidad and Tobago, a rich country, we still have children in TT who are just sort of thrown into homes, who are abused, when they are arrested they are not given the basic facilities they are entitled to so for example they are placed in cells with adults, they don’t have social welfare support they need. Horrible injustices. But I deliberately chose Trinidad and Tobago, why? I’m not even talking about that murder recently because that’s an exception. The thing is that most countries of the region, and I put it in my report too, oh this is related to resources, you know we don’t have resources. I recall when many years ago I as doing work with UNICEF in Dominica, a police officer told me you know when I arrest or apprehend a young person, the law says that person, child, should not be placed in a room with an adult, so that I have nowhere to put that child so I take him home. She has to take that child to her own house until the next day because there isn’t a facility. Then we have this huge problem in the region including Trinidad and Tobago, a rich country, where children who are brought in for their own protection, so children on the streets of which we have many, children who are in abusive homes of which we have many, the law entitles the state to take those children from these environments and place them in protection. What happens in reality? Nobody wants them and there’s nowhere to put them so they are placed in juvenile homes with so called “delinquents” so they end up being treated and it’s a great injustice.

These children are dumped into these delinquent homes called by different names, where children and juveniles have committed crimes and are being rehabilitated supposedly and these children who are, actually nothing is wrong, are dumped in these homes because who wants them? We don’t have a well-developed social system where children can be adopted, or we don’t have special facilities for them and they are treated as though they have committed a crime. They are not well educated. I’ve discovered in my own research that there’s a great correlation between dyslexia and those sorts of disabilities and children who commit crimes. A lot of those children, what they really had were learning difficulties and nobody really recognised it so they got frustrated and they end up… it really is tragic. So on the face of it yes we’re wonderful we can tell ourselves we’re not like Brazil where you see thousands of street children but how different are we? These things are so relative. And people just don’t know. That’s the greatest tragedy. The average West Indian is not aware. As a matter of fact, I’m sure lots of people would take in a child, they would find it in their hearts to bring that child into their homes, I would, if I knew this child was taken from a home. They might be more hesitant if they know the child has committed a crime but they might try to facilitate the child. But we are just no aware of these things, we just don’t have the systems in place to sort of deal with these issues and that’s why I said resources are not the only obstacle, it’s more than just resources.
UPHOLDING THE ETHICS OF THE LEGAL PROFESSION

BY IAN L. BENJAMIN

The Courts as Ultimate Arbiter

In Trinidad and Tobago the Disciplinary Committee does not have any power to suspend or strike off from the Roll a practicing Attorney-at-Law.

Pursuant to section 41, it is for the High Court, normally moved by the Law Association after disciplinary proceedings, to make an order removing from the Roll the name of an attorney or making order suspending such an attorney-at-law for such time as the Court deems fit.

Ethical Obligations

Disciplinary offences or professional misconduct covers a wide array of matters. Attorneys-at-Law are in general required to observe the Code of Ethics as well as maintain the integrity honour and dignity of the legal profession and to encourage their fellow attorneys-at-law to do so both in the practice of the profession of law as well as in their private lives. Attorneys are required to refrain from conduct which is detrimental to the profession and which may tend to discredit it. Many persons are surprised to learn that an attorney’s private conduct can have as much impact on his professional standing and his profession as well as his conduct within the four corners of professional activity.

Under paragraphs 2 and 4 of Part A of the Third Schedule of the LPA, attorneys-at-law are also required to expose “without fear or favour” before proper tribunals any unprofessional or dishonest conduct by their fellow attorneys-at-law and to protect the profession from the admission of candidates whose moral character or education render them unfit to be attorneys-at-law.

In relation to one’s clients attorneys-at-law are required to act in the best interests of their client and to do so honestly, competently and zealously and to endeavour by all fair and honourable means to obtain for him the benefit of any and every remedy and the defence which is authorised by law but they must do so within the law.

Ethics & Attorneys’ Compensation

The client’s interests and the exigencies of the administration of justice rank ahead of any right to compensation. Further an attorney is only entitled to reasonable compensation for services and must avoid charges which either overestimate or under value the services that have been provided; must have no regard to the wealth of a client but have regard to his poverty and must avoid any controversy with a client over compensation. Attorneys at law are prohibited from charging fees that are either unfair or unreasonable.

Ethical Conduct in Court

Attorneys-at-law are always required to maintain a respectful attitude towards the Court and to avoid engaging in undignified and discourteous conduct. They must be dispassionate and act as advocates never asserting their personal beliefs and they must never seek privately to influence directly or indirectly the judges of the court in favour of either the advocate or his client and must not curry favour with juries by fawning flattery or pretended solicitude for their personal comfort.

Other Mandatory Don’ts

Under the mandatory provisions attorneys-at-law cannot practise lawfully without a practicing certificate; they must not ever knowingly mislead the Court, they must not withhold facts or hide witnesses in order to establish the guilt or innocence of an accused, and quite clearly attorneys at law cannot knowingly use perjured testimony or false evidence in any way shape or form.

Attorneys-at-law must not solicit business, they must not advertise. They are prohibited from having any direct or indirect financial or other interest in the subject matter in which they are conducting. If an attorney at law has to withdraw from employment he shall refund promptly such part of the fees as are fair and reasonable having regard to the circumstances. Attorneys-at-law are required to ensure that they act without inexcusable or undue delay negligence or neglect.

Proving Misconduct

As a result of the grave consequences of a finding of professional misconduct the Privy Council in the person of Lord Brown in Wilston Campbell v Davida Hamlet [2005] UKPC 19 has set down standard of proof as proof beyond reasonable doubt. Lord Bowne explained that this does not mean that it is necessary for the Disciplinary Committee or the Court for that matter to find each and every sub issue proof beyond reasonable doubt, instead what is sufficient or required is;

“a sufficient number of strong probabilities (or even mere probabilities) can in aggregate amply support a finding of proof beyond reasonable doubt. That, indeed is how many a criminal case is proved in reliance principally upon circumstantial evidence.”

Conclusion

While it goes without saying that any allegation of misconduct is a grave violation of the public trust, it is important to observe that attorneys are obliged to observe a wide range of obligations both to their clients, the Courts and the State in upholding the administration of justice. In summary Attorneys must be courteous; they must be respectful; they must be straightforward; they must be prompt and they must be completely reliable and trustworthy. If they do this they will uphold the Rule of Law and improve the administration of justice throughout the Region.
Registrar to make such an application before the Disciplinary Committee in respect of and against the relevant attorney-at-law. The Disciplinary Committee has the power to the High Court in relation to the summoning of witnesses as well as the calling for the production of books and documents and the examination of witnesses and parties on oath. If an attorney-at-law commits a criminal offence such a conviction is admissible as proof of the commission of that offence. Once the Disciplinary Committee has heard the proceedings it may either dismiss the complaint or impose upon the attorney-at-law an appropriate fine or reprimand together with an order for costs as it thinks appropriate as well as orders for compensation.

(Cont’d on pg 23)