

## **THE HUMAN FACTOR: WHY WHAT WE DO MATTERS**

### PROTOCOLS

Good Evening,

I thank the Council of the Law Association for inviting me to speak at this event. And I especially thank them for giving me free reign to decide on what I wished to speak about.

Those of you who know me ,would, I am sure, have expected me to speak on my experience on how a Corporate Attorney becomes a Senior Corporate Executive in a financial services group; or even on what it takes for women to succeed in male dominated environments. And I guess this would have been particularly relevant had Hillary Clinton been successful in her bid to become the 45<sup>th</sup> President of the United States. Yet that was not to be...

In any event that is not what I decided to speak about this evening. Instead, I am going to speak about the human factor and why what we do matters.

Usually when one speaks about the human factor one is really referring to the manner in which humans influence the development of systems, processes and products that humans use. So, for example, the fact that employees in organizations may have to do work that requires being seated in front of computers for considerable periods of time, has driven the development of ergonomically designed chairs in order to alleviate long term injuries.

Similarly a changing customer base which does not want to come into the Banking Halls, drives the development of internet banking solutions that are accurate, efficient and user friendly.

This evening I want to look at the human factor in a slightly different way. I want to talk about how our behaviour as human beings, and indeed as Attorneys, affects the environment in which we live.

And why, what we **do** , matters.

So what is this environment in which we live. Trinidad and Tobago this land of immigrants, made up of those whose forefathers came by choice and those whose forefathers were forced to come. This land of steelband and calypso, chutney and soca, oil and gas, pelau and roti, kibby and pow, garlic pork and cassava bread. Some say we are among the happiest people in the world.

Yet there is a very dark side to this space.

- It is not just that so many of our young people are being killed on the streets.
- It is not just that some of our Police stand by while others break the law, so that notwithstanding the provisions of the Motor Vehicles and Road Traffic Act, the Police stand idly by while wreckers illegally remove vehicles while the owner is in plain sight either sitting in the vehicle or indeed, sitting on top of it.
- It is not just that our children and young women are disappearing from our streets and being trafficked as sex slaves in the human trafficking industry. Although this is something in respect of which we should all be deeply concerned.

But what really bothers me, and I dare say should bother all of you, is that the people of this country seem to be adopting a new value system of “Each man for himself.” Where what is important to us, in our individual space, takes precedence over everything else. Where we are moving away from the mandate of loving our neighbours as we love ourselves. And the way that we behave is creating an environment that has become, to borrow a phrase from Hobbes, “nasty, brutish and short”.

So we admit that speed and distracted driving is usually the cause of major accidents on our roads killing dozens each year- yet we object strenuously to laws which seek to regulate the speed limit ,because we drive cars which beg to be driven faster; In the same vein, we object to being forced to take breathalyzer tests – even boasting when we leave a fete drunk and get home without knowing how we got there.

We hire home help, or people in our offices and we do not make NIB payments on their behalf, some of us even deduct the employee portion and pocket it. And we really do not think about what will happen to these people when they need to claim their insurance benefits.

We collect VAT from the Clients and we do not pay it to the BIR. We lie about our earnings so that we do not have to pay the taxes that are due and owing. Yet we complain about the lack of provision of services by the Government not even caring to understand that it is tax dollars that help fund these services.

We use social media to say and do the nastiest things about people and to people because it feels good to vent, yet we have no regard for the fact that we are destroying our fellow human beings in the process.

And where does this leave us, the members of the Legal Profession? What role do we play in all of this?

The thing about the Legal Profession is that it is one that exerts significant influence over the lives of others. This is because the law touches some aspect of the lives of every single citizen.

Let's face it, to be an Attorney is a big deal. We even have Laws which provide that lawyers fall within that small and significant category of persons who could certify to the validity of a person's identity or character.

Therefore, how we, the members of the legal profession behave and how we are seen to behave, can have a direct and significant impact on the external environment. How we behave contributes in great measure to the setting of the tone for what is appropriate in our society.

And how do we behave? Do we also act in accordance with the value statement of “Each man for himself”? Regrettably sometimes we do. So for example :

There is a business in close proximity to the Law School, which copies the law books (some of which are written by past and present faculty at the Law School) allegedly without a licence to do so and therefore in clear breach of the provisions of the copyright laws of this country. These allegedly illegal copies are purchased by the students. The law student sees an opportunity to purchase a book at a reduced cost, never thinking about the person losing royalties or even the fact that if you are seen to be building your career on a foundation of illegal acts, what does that say about your profession, or indeed about you?

We hear about Attorneys appearing on behalf of clients whom they have not seen for years. And the reason that they have not seen them is because the client has died! What message are we sending about how we care about our Clients?

We do not take the time to educate ourselves on particular aspects of the law or to even write a properly constructed legal opinion. Yet we have no problem in charging fees, or in the corporate world ,earning a salary for unsatisfactory work. And our clients are not stupid – they know they are getting the short end of the stick – but what is more dangerous is that they start to feel that that behaviour is acceptable – that “it is what it is.” And that one should not expect anything else from an Attorney.

Many Attorneys that I spoke with felt that there was a real question to be determined about the full powers of the Elections and Boundaries Commission and that there was some merit in the election petitions. But these same people refused to publically enter the debate on this issue for fear of being branded a supporter of one particular party of traitor to another. Yet surely the society would have benefitted from well-reasoned and well researched debate on the matter. I am sure that many of you here have had the question asked of you on many occasions “ what does this legal situation mean?”

We object to a mandatory system of continuing legal education because we don't want to commit to the time and resources needed, yet many of us know nothing about FACTA, cyber security, corporate governance, identity theft, money laundering, intellectual property rights and thus we cannot warn our clients about potential pitfalls or even lobby the relevant authorities to pass appropriate laws. And because of this there are many in this country who feel that Attorneys create no real value and as one person said to me ““Lawyers in Trinidad and Tobago really lack relevance”

**This is not about assigning blame, it is about accepting responsibility.**

Every single one of us has within us the ability to influence our environment in some small way. Can you imagine therefore what influence we would have acting as a collective body?

There are indeed people in this country who do what is right and what is decent, without any expectation of reward. People, who simply, care. As Mother Theresa said “God does not require that we do great things – only small things with great love.”

So there is a teacher in a Government School who uses part of her salary to provide clothes and toiletries to one of her students who was removed from an abusive home and placed in one of the many child care centres which are struggling to keep its head above the water.

And what of the 19 year old supermarket employee taking the time to feed a 60 year old man, a stranger, with cerebral palsy who was in a wheelchair.

Then I had my own experience with how a simple act of kindness made me feel so special. A newspaper vendor, who I did not know and from whom I had never purchased a newspaper, handed me a free newspaper one day when I was stopped at a traffic light, saying “Congratulations on your retirement. This is my gift to you.”

And my neighbor who collects food items so that he can hold a monthly party for children who are in prison as a result of having killed another person; This is a man who regularly visits boys committed to state institutions to hug them and tell them that they are important. And these children finding it difficult to even understand why strangers would even care about them.

And what about those Attorneys who every year take in students from the Law School to do in service training and rather than putting them in a room just going through briefs actually spend precious time training the students on the hands on aspect of the job.

Unfortunately there are not enough of these people who carry out acts of selflessness everyday. Certainly not enough to form the critical mass whose behaviours can actually help create a major shift in our environment for the better.

In the Corporate World we believe that in any population 10% of the people are just plain “good” always doing what is right. 10% are just “bad” and there is very little that can be done to make them good. But the other 80% would behave in accordance with what is the norm. It is this 80% that must be influenced in order to change our society for the better. And all of us here need to do what we must to create the new norm. The norm, which dictates that we are all responsible for each other, that the notion of each man for himself is simply not acceptable

In Trinidad and Tobago there will always be differences, racially, economically, politically – but this only makes us who we are and in that diversity lies the seeds of all that we can become. We all need to take the responsibility of fixing this nation, one good deed at a time.

So what can be done? I would like to suggest just five things no doubt there are many more:

1. **Help someone without an expectation of financial return** – Many of you will laugh at this. But, just consider that a few weeks ago I went to the funeral of Allan Alexander. In giving the homily Father Clyde Harvey spoke about the fact that he always sent people who needed help to Allan and that Allan never turned them away. Even when they clearly could not pay for advice rendered. As a matter of fact he not only helped them but he remained in contact with them afterwards, so much so that some of them started to call Allan their friend. This is what good looks like.

And while I am not suggesting that Attorneys should **only** do pro bono work, I am saying that there are always ways to help someone.

This also applies to Corporate Attorneys. There may be people in your Company for example, who need a letter drafted (to frighten an errant Landlord) – help them.

2. **Respect others** – As a young Attorney, I was fortunate to work as a junior to many of the Seniors of the day. Tajmool Hosein was one of these. I remember clearly the first matter that I did with him. He told me that I had to build the case for the other side before I started working on our arguments. And he sat before his type writer recording everything as I set out my arguments . (and yes, to the young Attorneys here – a typewriter – and I am sure that if he were alive today he would type faster than most of you – on the same type writer). Yet I digress. As I built the case for the other side I realised that when you stand in another's shoes

you are strengthened. When I tried to see the case from the other side, it gave me the ability to build a stronger case for our side.

Building the case for the other side allowed me to look at things from another person's point of view. And to realise that matters that I may have rejected out of hand – actually had merit. If you think about it many times we dismiss people based on how they look or speak or for some other trivial reason, but if we stand in their shoes, if we listen to what they have to say – then that only strengthens us – not only as Attorneys but as human beings.

You will also discover that as you treat others with respect, that respect is paid back to you. I was delivering a presentation at a seminar in Tobago on Tuesday last. The MC told a story about how Anthony Smart was able to escape during the 1990 coup from the Parliament building when the staff in the kitchen told the insurgents that he was one of the kitchen staff. She made the point that the kitchen staff would have only done this for Anthony because he was a person who never lauded it over the staff, who never felt that he was better than the staff because he was the Attorney General and they worked in the kitchen. And so she said, his respect for others may well have saved his life. Think about that.

3. **Share your value** – As a young Attorney I benefited so much from the advice that I received from not only Queens / Senior counsel but also those senior to me in the profession. People who willingly helped a young State Attorney at the bar table when I started to falter under the unrelenting pressure of particular judges. And, believe me, there were some judges in those days to whom a State Attorney was like a red flag to a bull.

I know that there are so many more Attorneys in practice today than there were in the days when I started my legal career. I also know that some senior Attorneys will not just give the younger ones advice because they “fraid they get buff”. Give the advice anyway, because complaining about how standards have fallen, or



about how the younger ones are unethical or ignorant or whatever pejorative term you can find, helps no one and certainly does not strengthen the profession.

And to the Senior Counsel in the room – I ask what are you doing to share your value with those who are coming behind. Those who must stand on your shoulders to take the profession forward. It is simply not good enough to keep your head down. You must find ways to pass it on.

The advice that I received from Allan Alexander, Tajmool Hosein, Michael de la Bastide, Selby Wooding and so many others not only built my confidence as an Attorney and my love for the law but also was part of the foundation blocks upon which I built a very successful career.

4. **Understand that Greed is not good** – In the 1987 movies “Wallstreet” the main character Gordon Gekko declared that “Greed, for want of a better word is good. Greed is right.” It cannot be denied that many people become Attorneys to make money – and there is nothing wrong with that. But when the **how**, one makes money is secondary to **how much** money is made, problems arise; this is where greed comes in.

Contrary to Gekko’s statement, greed is not good and it is certainly not right. Greed left unchecked has been at the centre of every financial crisis the world has experienced, causing untold misery to hundreds of thousands around the world.

Greed hurts others and destroys reputations. And while it may see that some people may not care, the truth is it is human nature for us to want our time on this earth to be worth something. We want to leave some kind of legacy. We do not want to belong to a profession, the members of whom are not trusted and who are considered to be dishonest all because they are actuated by greed. And we certainly do not want to be thought of as such. This goes against the grain of what most of us want for ourselves and expect of others.

Bear in mind though, that it is in the nature of man to be greedy. As the prophet Jeremiah reminds us in the Old Testament, from the highest to the lowest we are all greedy for gain.

We therefore need to guard against greed by drawing our personal lines in the sand, and really deciding, even before an opportunity presents itself, what we will and will not do.

**5. Mark your work with excellence –**

Law, it is said, is a noble profession. If only because, as I said before, it touches the lives of each and every single person. So the advice that we give matters. We do a disservice to others when we produce work that is not well researched, or documentation that is not properly drafted. No one knows everything but everyone has the ability to learn something. We know that even something as small as a punctuation mark, wrongly placed, can affect our Clients rights in the future. We know that opinions based on law that is not well researched can cause our Clients to take decisions that are not in their best interest. We know that representing our Clients in court when we are not prepared can negatively impact on our Clients rights. At an early stage of my legal career as a State Attorney,, Russell Martineau was the titular head of Chambers. He was an extremely hard taskmaster. When we prepared an Opinion for him we had to ensure that cases quoted had not been overturned on appeal. This was really difficult to do especially with respect to recent cases in the English courts, because there was no Internet. Also we could not draft anything for him without first looking at a precedent. So we spent many hours in the library, and many more hours forming tight relationships with the Encyclopedia of Forms and Precedents and other similar books, but we learnt very early that this is what doing the best for your Client meant. This is what being an Attorney meant.

And so I end by reminding you all that what we do really does matter. This is the human factor. Each of us has a choice to make. Do we go with the easy road of just looking out for our own self interest or do we ,before we act, take the far more difficult road of considering the effect on others of what we are about to do?

Albert Pines said ‘ What we do for ourselves dies with us... What we do for others and the world remains and is immortal.”

I believe that if we make the right choice. If we practice our profession in a way that shows quite simply, that we care ,then we have the power to create a positive change in our twin island state. What will you choose?

Thank you