

Comment

Ayers-Caesar—a case for re-engineering

CHIEF JUSTICE Ivor Archie's first degree was engineering. He was appointed by former president Max Richards, another engineer.

Good lawyers fight tough for their client—but could happily work for the other side.

A good engineer completes a project to time, within budget. Problems surface; can they be fixed? These are objective measures.

Engineers don't always design from fresh. Too often, there's a rickety inherited system like WASA's. Leaks must be fixed by yesterday. Infrastructure and technology are needed, also by yesterday. Your team? The existing personnel.

Lawyers are stars. Ask a maxi driver who are T&T's five top lawyers, and you'll get five names. Ask for five top engineers, and you'll draw a blank.

T&T's criminal justice system needs re-engineering. Big cases and small crawl painfully through the courts. In the real world, blood flows.

Prisoners waste a decade on remand, in foul conditions, innocent until proven guilty. Witnesses forget, die or change their minds.

Close to 62 per cent of T&T's prison population is on remand. That's 2,229 lives on hold. And the lives of their families.

Last month, new criminal procedure rules kicked in. They're designed to maintain justice, and radically speed the flow.

Case management conferences

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map the road ahead, and set timetables. A determined judge can push through a couple dozen in a morning.

Both sides must complete a certificate of readiness for the case to proceed. They must list witnesses and evidence in advance, and

give notice of an alibi. Time is not wasted establishing agreed facts.

Advance information on sentencing guidelines encourages time-saving guilty pleas.

Lawyers who ask for a three-month adjournment will be lucky to get three weeks; at times, three days.

The new procedures are the big picture. They have barely been reported.

The Marcia Ayers-Caesar trouble stems from judicial delays. She had a backlog of 50-plus cases. Six prisoners on murder charges who led the April 25 courtroom riot have been on remand for seven years, with the high court years away.

The 16 cases she dismissed in Couva had been knocking around for ten years or more.

So, what went wrong? The Judicial and Legal Service Commission (JLSC) asked her at several stages about time needed to clear unfinished work.

Astonishingly, magistrates court records are still paper-based and hard to search. Plans for an electronic system should now get a vigorous push.

The JLSC took the chief magistrate's word at face value—which seemed reasonable, but as it turned

out, was unwise.

As I write, we're yet to hear Ayers-Caesar's side of the story.

So, what happens next? First, her 50-plus derailed cases; lawyers disagree, as they sometimes do. One common-sense approach would be to fast-track them with a different magistrate, on the new procedure rules.

And her career? On a personal level, that's tough. It looks like she can't function as judge or magistrate, and can't practice as an attorney for ten years. But in the big scheme of things, that's not the issue.

And the JLSC?

Devant Maharaj and Anand Ramlogan have chosen this moment to launch a legal challenge to its composition.

That's because it has four members, not five; because two members are over 65; and because the mix of qualifications is not right.

They want the JLSC blocked from meeting or making new appointments. I have no idea whether the legal arguments are valid; but in practical terms it's hard to see how that would help.

Israel Khan argues that appointments made by the current JLSC are illegal. Hmm. Would that affect cases already heard by illegally-appointed judges?

But should the JLSC's membership be broadened, and its procedures be more transparent? For that, there's a strong case.

Adding a Law Association nominee and a non-lawyer sounds sensible. As a constitutional amend-

ment, that would require a special majority and Opposition support.

The case for transparency is highlighted by Avason Quinlan-Williams, appointed alongside Ms Ayers-Caesar, and the acting Police Commissioner's wife.

She gave bail in 2009 to two alleged drug dealers turned down by another magistrate earlier that day. Two years later, the JLSC asked Anthony Carmona—in his pre-presidential days—to report. After almost a further two years he reported. She was in the clear.

The original bail decision raised alarms. The *Express* reported that an inquiry was in progress. But the JLSC told the public precisely nothing.

The lack of information left a shadow over Ms Quinlan-Williams, which a little more transparency could have cleared up.

And the Chief Justice? He's under fire. Israel Khan says the President should call him in, to check for possible misbehaviour in public office. Those are strong words. It's hard to see how they apply.

At least 61 lawyers have signed a petition calling for a vote of no-confidence and his resignation. It talks of "irreparable" damage to public confidence. The JLSC was "reckless." Strong words, again.

The Law Association meets on June 5. It has no power to force CJ Archie's resignation—but a clear vote against him could make his job difficult.

Would that help the end-users of the judicial system? That's another question.