

6 July 2018

The Honourable Mr. Faris Al Rawi,
Attorney General of Trinidad and Tobago,
Ministry of the Attorney General,
AGLA Tower,
Government Campus Plaza,
Corner London and Richmond Streets,
PORT-OF-SPAIN

**Law Association
of Trinidad and Tobago**

established by the
Legal Profession Act 1986



Dear Attorney General,

***Re: (i) The Criminal Division and District Criminal and Traffic
Court Bill***

(ii) The Payments into Court Bill 2018

***(iii) The Miscellaneous Provisions (Supreme Court of
Judicature and Children) Bill***

Thank you for your letter dated 3rd July 2018.

I appreciate the Government's decision to postpone debate on the second and third captioned Bills in order to give the Law Association an opportunity to provide its comments thereon. In my letters to you dated 29th June 2018, I had suggested the 6th July 2018 as the date by which we would provide our comments on the 3rd captioned Bill in order that you might adjourn the debate on the Bills to the following week. I did not know at the time that the intention was that Parliament would go immediately into recess. Now that you have adjourned the debate to September 2018, the short timetable which we had set ourselves is no longer necessary. We accordingly undertake to provide those comments by 20th July 2018, which would give your office ample time to consider them and make any adjustments of which you might have been persuaded.

I note that you made no mention in your letter of our agreement that you would convene a meeting with the Law Association to discuss the Bills and exchange our views face-to-face. I look forward to your intimation of a convenient date and time when that meeting will take place.

I note your observations concerning the opportunity which the Law Association had to comment on the Family and Children Division Bill 2016. However, we had no prior indication of the move to create a Criminal Division of the Supreme Court, or to introduce a court pay system prior to becoming aware of the captioned legislation. As a key stakeholder, the Law Association expected to have been consulted on the proposed changes to the system of administration of criminal

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140

justice prior to the first reading of the Bills in Parliament at least. In my letter dated 29th June 2018, I already pointed out that given the wider reach of the Criminal Division Bill, a fresh and detailed look at the institutional structures created is necessary.

I also note your observations that the members of the profession would have had some experience by now with the workings of the Children's Court and the Family and Children Division. That is precisely the point. Our experiences with that Division will better equip us to provide you with comments on the Criminal Division Bill.

I note as well your complaint and expression of deep concern that the Law Association was silent on the Opposition's "violent about face" on the Anti-Terrorism Bill and about the workings of the Children Court since the law was brought into force. From this, I can only conclude that you appear to have high expectations about the duties and capabilities of the Law Association, which makes it even more surprising that you chose not to seek our comments on the captioned Bills.

I feel constrained to make the following points.

The Law Association is an independent statutory body owing allegiance to no political party and beholden only to its membership and its statutory mandate. It is no business of the Association to enter into the political fray to comment on the strategy being adopted by any political party in Parliament. In relation to the Anti-Terrorism Bill, the Legislative Committee of the Association devoted significant time and submitted detailed comments in the discharge of its statutory function to inform the public on legal matters and to uphold the rule of law. Our responsibilities do not extend beyond that.

I note in passing that you made no mention of the Association's contribution in this or any other regard.

With regard to the operations of the Children's Court, I re-assure you that the Law Association will bring to the attention of the appropriate authorities, through the bench/bar facility and otherwise, any matters which we consider need to be addressed. As it happens, one such meeting took place on 27th June 2018 with the Acting Chief Justice and a number of matters concerning the administrative of justice were discussed.

I note and thank you for your observations on the proposed amendments to the law relative to judicial appointments and on the recommendations of the Judicial Appointments Committee established by the Law Association. Substantial work has been done by the Law Association towards improving the system of judicial appointments and I will be writing to you separately on that matter.

Lastly, I note your comments and unvarnished criticisms of the Law Association's record in responding to your requests for comments on Bills which are either on their way to Parliament or already there being debated.

You will no doubt recall my many conversations with you about the Law Association's capacity to respond in a timely fashion to your requests for comments. I have noted with great discomfort the numerous occasions on which both you and members of the Opposition have openly criticised the Association for failing to comment on Bills being debated. It seems that the Law Association is now considered to be an integral part of the legislative process. We are flattered that parliamentarians value our input when we have the time and opportunity to give it, and are anxious to meet the legislature's expectations.

But as you must know, the Council and Committees of the Law Association are made up of busy volunteers and there is a limit to the amount of time which we can reasonably expect them to devote to Law Association work. It is because of that realisation that the Council took the decision to employ a full-time legal officer to assist the Law Association's Committees with its work and with the litigation concerning the administration of justice into which it has been drawn. You are of course aware of the Law Association's participation in two matters which you have brought before the court, one concerning the part heard matters left behind on the appointment of the former Chief Magistrate, and the other concerning the entitlement of judges to sabbatical leave. Stretched as we are, we were nevertheless able to provide our comments on the Anti-Gang Bill which we understand led to amendments to the Bill being debated in Parliament, and to the Anti-Terrorism Bill, the impact of which we have not been informed.

But even with the able assistance of our legal officer, our Committees are nevertheless challenged by the increasing number of Bills on which our comments are requested. We of course congratulate you on your hectic legislative agenda which no doubt has been achieved by dint of the hard work of the many full-time public servants you have at your disposal, which the Law Association will never be able to match.

It is with all of this in mind that I suggested to you in the course of our conversations that you give the Association some indication of your legislative timetable and furnish us in a timely manner with Bills so that we may prioritise our work to ensure comprehensive comments are delivered before debate begins in Parliament. By way of example, while substantial work has been done by the Legislative Committee on the Evidence Bill and the Zone of Operators Bill, and by our Conveyancing Committee on your suite of proposed property law legislation, we note that other Bills are brought before Parliament on which our comments had previously been sought. Had we been apprised of the order in which your Bills were to be read in Parliament, we would have been better able to schedule our work.

By way of a further example, you will also recall the substantial comments which we made on your Bill to amend the Summary Courts Act, Chap. 4:20 and the Indictable Offences (Preliminary Enquiry) Act, Chap. 12:01 to address part heard matters left by a departing magistrate, which never saw the light of day.

I therefore look forward to greater cooperation with your office in the future so that we can prioritise our work in order to fully meet the expectations of Parliament.

I must close by expressing my deep disappointment at the tone of your letter. I get the distinct impression that you set out deliberately to embarrass the Law Association simply for having complained about your office's failure to consult the Law Association about Bills that so obviously impact on the administration of justice. While we will not be deterred from carrying out our statutory mandate to the best of our abilities, and from bringing to your attention matters which concern us, I do hope that we can continue the constructive relationship which we have managed to forge thus far.

As is the practice, this letter will be circulated to the membership of the Law Association to which the Council is accountable, as will your letter to which this is a response.

Yours sincerely,



Douglas L. Mendes S.C.
President