



Remarks by Justice Winston Anderson at the UWI Symposium

The Honourable Mr Justice Winston
Anderson, Judge of the Caribbean Court
of Justice

UWI Symposium on Simulating Solutions: Combating Crime and Criminality in Trinidad and Tobago

Daaga Auditorium, St. Augustine Campus
21 March 2024

For over 70 years, **the University of the West Indies (the UWI)** has provided service and leadership to the Caribbean region and wider world. The UWI has evolved from a university college of London in Jamaica with 33 medical students in 1948 to an internationally respected, regional university with near 50,000 students and five campuses: Mona in Jamaica, St. Augustine in Trinidad and Tobago, Cave Hill in Barbados, Five Islands in Antigua and Barbuda and an Open Campus

UWI SYMPOSIUM ON SIMULATING SOLUTIONS: COMBATING
CRIME AND CRIMINALITY IN TRINIDAD AND TOBAGO

DAAGA AUDITORIUM
ST AUGUSTINE CAMPUS

THE NEEDHAM'S POINT DECLARATION

HON MR JUSTICE WINSTON ANDERSON
CARIBBEAN COURT OF JUSTICE

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INTRODUCTION

Please permit me to express sincere gratitude to the organisers of this Symposium, and particularly Dr Indira Rampersad, for the kind invitation to me to participate in this colloquium on criminal justice reform.

Indeed, I am very pleased that this event is taking place. It is widely accepted that our criminal justice system is broken. Society is often traumatised by crime and criminality. Accused persons spend 5, 10, 15 years incarcerated, awaiting trial, so there is no direct and obvious correlation between the commission of crime and the legal response of society. This encourages even more crime. As was recently and poignantly put in the pulpit at funeral services for a young murder victim, “we just cannot go on this way”.

The **Needham's Point Declaration on Criminal Justice Reform**, adopted at the conclusion of the 7th Biennial Conference of the CCJ Academy for Law was born out of a similar realisation and resolution that there is something dysfunctional about our criminal justice system which must change if we are to live in a civilised society.

The Declaration contains **39 recommendations (“solutions”)** to reform the criminal justice system. I propose to look at just 1 solution for each of the stakeholder groups that attended the Conference and adopted the Declaration.

(1) PROSECUTION AND POLICE (*8 recommendations*)

There were eight recommendations made regarding the conduct of the prosecution and police. Recommendation 18 reads:

“That police and prosecution make greater use of forensic, scientific, digital, and expert witness evidence, digital recording of confessions and interviews, and DNA testing on the basis that this is preferable to prosecutions based solely on admissions and confessions.”

This is such an important point. There have been many allegations concerning the probity of the evidence used to convict persons of serious crimes. In one notable case, the CCJ overturned the murder conviction of two men where the only evidence against them was the alleged confession they had made to the police. The men stoutly denied making the confessions. There was no electronic or video recording of the confession and at the time, the mandatory death penalty was in place for murder. The standard of evidence used to convict, incarcerate, and potentially execute persons must meet a certain minimum threshold that measures up to international norms.

(2) THE ACCUSED (*5 recommendations*)

The Declaration contains 5 recommendations for how the justice system should treat a person accused of a crime. Perhaps most importantly, and self-explanatorily, the Declaration recommended at no. 19:

“That as a rule, trials should be held within one (1) year of the accused being charged for (indictable offences) and six (6) months (for summary offences) ...”

A transitional period is anticipated as being necessary to get to this ideal. During the transitional period it is proposed that trials occur no later than 2 to 3 years after detention.

(3) JUDICIAL INTERVENTIONS (*11 recommendations*)

There are 11 recommendations for action on the part of the judiciary. Among the most important for judges is recommendation no. 30:

“That courts view sentencing as an effective tool for deterrence and/or for rehabilitation and as such should use that tool appropriately in individual cases.”

Sentencing is a judicial function. Judges decide what the appropriate sentence is for a particular offender in respect of a particular crime. Many factors go into the ultimate decision, but the basic goals of punishment, deterrence and rehabilitation are critical to bear in mind. There must be a clear correlation in the mind of society between unacceptable criminal conduct and the public condemnation and opprobrium of that conduct.

(4) VICTIMS/SURVIVORS CHARTER OF RIGHTS (*5 recommendations*)

Too often the victim of crime and criminality is forgotten in the criminal justice system. The Declaration contains 5 recommendations that could form the beginning of a Victims Charter of Rights. Among the most important recommendation is no. 27:

“That consideration be given to the establishment of a Criminal Injuries Compensation Fund for the benefit of the victims/survivors of crime, particularly for those whose cases, because of abysmally low detection rates, are not pursued in the criminal justice system.”

In Caribbean society, there is little sense of societal responsibility to care for persons impacted by crime. As such, the Declaration recommends this measure to advocate for their recompense in these situations. This legal right is present in some form in other countries such as the UK.

(5) LEGISLATIVE INTERVENTIONS (*7 recommendations*)

The Declaration recognizes that in several respects, there will be a need for legislative interventions. There could be a significant overlap here with judicial interventions for e.g., in relation to judge-alone trials. Recommendation no. 5 could be a very effective tool for helping to curb the crime monster:

“That laws be [enacted] ... to provide for effective criminal and civil asset forfeiture to take money out of crime and out of the pockets of criminals.”

Already, there is legislation upon the subject in several countries. This has been accompanied by workshops meant to sensitize key stakeholders including attorneys who must report on certain activities of clients where there is suspicion of money laundering.

(6) EXECUTIVE POLICY INTERVENTIONS (*3 recommendations*)

Executive action remains essential to the success of the reform of criminal justice. A critical input by the executive is the provision of human, material, and financial resources to the criminal justice sector without which there can be no real progress. Hence recommendation no. 3:

“That there be urgent provision of adequate human, financial and other resources to criminal justice institutions and agencies including particularly, the police and prosecution services, the judiciary, and the prison services.”

CONCLUSION

The Needham’s Point Declaration on Criminal Justice Reform was a rallying cry for action. The Declaration has gained traction and is being increasingly used by the various branches of government to benchmark their activities in this area. Indeed, the CCJ Academy for Law has established a Monitoring, Evaluating and Facilitating Committee (MEFC) to encourage the rapid implementation of the recommendations adopted. We intend to proceed full steam ahead with that task for the two years envisaged by the Declaration for the adoption of its recommendations.