

Justice Revisited

The controversy about Bill No 27 hovered around one central pivot. In this day and age, with litigation sprouting as a result of the increased pace of modern life, can we afford to have all disputes, large and small, referred to courts or tribunals even when they are uncontested? Government's resounding reply was, and still is : NO! In my winding-up speech in Parliament I disclosed that Bill No 27 was no end, it was just the beginning.

The reason lies in the figures which speak for themselves. As on 1st August 2004, there were 11,400 cases pending before our civil courts; another 2,800 cases were pending before tribunals of civil jurisdiction e. g Small Claims Tribunal and Rent Regulation Board. Even though there has been a 18% decrease in pending cases since 1998, no Minister for Justice can feel comfortable with these figures; and yet, there is little he can do for any case is decided by autonomous members of the judiciary not by members of government. However, as I have stated on several occasions government will not shirk from its responsibility of introducing legislative measures where indicated, in order to remove anachronisms which have fouled the limpid waters of the justice machinery, however controversial or unconventional they may be.

In the criminal procedural sphere, while due respect will be held for the constitutional rights of the accused, this Ministry intends to persist in its plan to tip the scales more in favour of the community at large where loopholes or abuse of the system are letting guilty law breakers off the hook. There is no doubt that when these reforms will be announced there will be some who,

out of mere adulation of form over substance, will accuse government of trampling on the rights of the individual. The truth of the matter is that other countries, particularly the United Kingdom and Italy, from whose legal systems our legal structures and codes have drawn their inspiration, have reformed their laws years ago to prevent legal mechanisms and machinations from clouding the criminal process.

Government will also be publishing a Green Paper laying down its medium term objectives for general discussion. It is adamant in its purpose; it is flexible in the means required to achieve its ends; which explains why a general discussion will soon be launched where, it is hoped, the general and not narrow private interest shall prevail.

I regularly meet litigants who complain about the unduly lengthy procedures they encounter once they cross the threshold of our law courts; not that this problem is purely local. Indeed even during Shakespeare`s time, the ``law`s delays`` were particularly notorious. However, in a country of such modest size as ours, my expectations and aspirations for the settling of disputes within a reasonable time are somewhat higher than those prevailing in other countries which have different complex legal layers of jurisdictions and double appeals to deal with.

Is it fair that 16 % of all cases before the First Hall Civil Court have been pending for over ten years and 30% of all litigants in civil cases have been waiting for judgment for at least seven years? When figures are circulated, (indeed a list of pending cases before very single judge is updates on the Ministry of Justice`s website every month), accusations are hurled to the

effect that this Ministry is obsessed with statistics. Obsession is a hard word; but certainly statistics indicate a lethargic application of justice to litigants. Of course there are cases which merit a scrupulous examination and are complex in themselves; but most cases are run of the mill, and the delays in meting out justice are of course a bonus for those parties to a cause, who, knowing fully well that they do not have a leg to stand on in the eyes of the law, contest a claim which, in the normal course of affairs, ought to be decided within twenty four hours from the date of first hearing.

In 1980, our courts were presided over by eight judges and eight magistrates. Today, we have 17 judges and 16 magistrates, and 6 adjudicators in the Small Claims Tribunal. Government has done its part but will do more. Certainly there is no one cause to blame for these delays; dialogue and exchange of ideas are important but ultimately no government can remain immobile before certain injustices created by the law's delays.

To the extent that the law and our Constitution permits, this Ministry intends to face the challenges ahead, come what may.

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