



MINISTRY OF LABOUR AND SMALL ENTERPRISE DEVELOPMENT

**ADDRESS BY THE HONOURABLE JENNIFER BAPTISTE PRIMUS
MINISTER OF LABOUR AND SMALL ENTERPRISE DEVELOPMENT**

AT THE WORKSHOP:

“CONTRACT EMPLOYMENT – REDUCING THE DEPENDENCY”

APRIL 13, 2016

GRAND BALLROOM, HILTON TRINIDAD AND CONFERENCE CENTRE

9.00 A.M.

Ms. Claudia Coenjaerts, Director, International Labour Organization Decent Work Team and Office for the Caribbean and other representatives of the ILO;

Ms. Sandra Jones, Permanent Secretary in the Office of the Prime Minister and Head of the Public Service;

Ms. Jennifer Daniel, Permanent Secretary, Ministry of Labour and Small Enterprise Development; other Permanent Secretaries;

Mr. Beresford Riley, Chief Personnel Officer;

Ms. Anastasius Creed, Director of Personnel Administration;

Ms. Marcia London-McKellar, Deputy Permanent Secretary, Ministry of Labour and Small Enterprise Development and other Government officials;

His Honour Mr. Albert Aberdeen, Judge at the Industrial Court of Trinidad and Tobago;

Esteemed representatives of Labour and Business (Mr. Ancel Roget - Leader, JTUM; Mr. James Lambert – President, NATUC; Mr. Joseph Remy – President, FITUN; Ms. Catherine Kumar – CEO of the TT Chamber of Industry and Commerce, Ms. Joycelyn Francois Opadeyi- Executive Director of the ECA; Dr. Thackwray Driver, President and CEO of the Energy Chamber; Dr. Nirad Tewarie, CEO of AMCHAM; Dr. Mahindra Ramdeen, CEO, TTMA);

Representatives of the legal fraternity;

Representatives of academia;

Specially invited guests;

Members of the media;

Ladies and gentlemen.

Good morning. I am happy that so many of you representing a wide cross-section of interests could join us today to begin an important national conversation on the issue of contract employment. This Workshop represents the start of our collective efforts to understand the phenomenon of contract employment in Trinidad and Tobago, its impacts, and strategies to address the challenges associated with contract employment as well as possible alternatives. I am pleased that you have accepted our invitation to dialogue in an atmosphere of openness and frank engagement. I am therefore very delighted to address you this morning.

You would observe that we have titled this event as a **Workshop**. I wish to emphasize the word “work” so as to set the tone for the day’s activities. You would appreciate that given recent developments on the economic and labour fronts, particularly with the growing spate of retrenchment, issues pertinent to employment and decent work must assume greater prominence.

Contract employment has been a growing and burdensome issue that many have been speaking about but little action has been taken to facilitate genuine dialogue and serious examination of this issue in Trinidad and Tobago. Indeed, there is much work to be done.

Permit me to briefly provide some context in which this Workshop is organized. The Government of Trinidad and Tobago, in its Official Policy Framework, committed to

“review and reform the use of contract labour in all sectors.” I must say that when we assumed office, all Ministers across all Ministries were faced with the disturbing and appalling reality of large numbers of workers in the Public Service who were on so called “short-term contracts” or “month to month” contracts. We recognized that charity must begin at home and if we are to hold true to our commitment to reforming the use of contract labour in all sectors we must start with the Public Service. We must lead by example.

To this end, one of the early actions taken by this Government since assuming office has been the establishment of a Committee on Contract Labour. The Members of this Committee include representatives from the Office of the Prime Minister, the Chief Personnel Officer, the Director of Personnel Administration, the Ministry of Public Administration and the Ministry of Finance. This Committee, which is also part of today’s Workshop, is no doubt very much interested in the discussions which will assist it in making recommendations to move forward in regularizing the employment situation of many workers in the Public Sector.

We are mindful that contract employment is not unique to the Public Sector. Contract work, involving both contract of service and contract for service, has been a defining feature of the private sector.

In Trinidad and Tobago, we have been raising concerns about the conditions of employment of workers engaged in contract work for many years. In 1969, an ad hoc

Committee was appointed to investigate conditions of employment of workers in contract employment. Arising from recommendations made, a Commission of Enquiry was appointed in 1971 to enquire on contract employment and its practices with respect to workers. The Commission focused on the undesirable features such as exploitative use of contract labour which was largely due to acute competition for contracts, especially among small contractors.

Further, in 1997, the Standing Committee of Ministers Responsible for Labour produced a Discussion Paper on “Contract Labour in the Region – Initial Discussions on the extent of and issues related to Contract Labour in the Region”.

The Paper was intended to guide discussion on contract labour with a view to identifying issues within the Region and exploring a regional approach to contract labour. It further sought to engender discussions for input at the 85th Session of the International Labour Conference in 1997.

In 1998, a survey of contract labour in Trinidad and Tobago was conducted by Dr. R.D. Thomas which sought to provide information on the extent of contract labour utilization and the employment patterns and labour relations practices associated with the utilization of contract labour. The report of this survey was one of the items discussed at a National Tripartite Symposium on Contract Labour which was held in March 1998.

Interestingly, many of the issues and concerns surrounding contract work over the past three or four decades in Trinidad and Tobago still persist today. For example, the definition of “contract labour” is still open to interpretation in many instances. We often hear about **contract of service** versus **contract for service** with the distinction becoming more difficult as employers seek to have less permanent relationships with employees by utilizing “flexible” work arrangements such as part-time work, seasonal work and temporary work. There are still concerns about abusive practices where workers engaged in contract employment, especially those in non-unionized environments, are paid sub-standard wages and are required to work under unfair and inequitable terms and conditions.

Ladies and gentlemen, these issues are not unique to Trinidad and Tobago. The ILO, in its World Employment and Social Outlook Report 2015, noted that there has been a global shift to more insecure jobs from the traditional employment relationship to more non-standard forms of employment since the financial crisis of 2008/2009 which fuelled growing inequality and higher rates of poverty.

The Report revealed that it is estimated that only a quarter of the world’s workers, that is one in four workers, are on permanent contracts with the remaining three quarters employed on temporary or short-term contracts, working informally often without any contract, are self-employed or are in unpaid family jobs.

This worldwide trend away from secure jobs risked “perpetuating a vicious circle of weak global demand and slow job creation” that has dogged many countries since the crisis according to the ILO. The Report also highlighted a rise in part-time employment, especially among young women noting that although some workers welcome the flexibility of part-time jobs and self-employment, often such roles are down to lack of choice. The Report concludes that “these trends risk perpetuating the vicious circle of weak global demand and slow job creation that has characterised the global economy and many labour markets throughout the post-crisis period.”

There are a number of factors that continue to fuel the thrust towards contract work globally. Policy-induced structural change in the economy and organizations, economic and technological changes, changes in production methods and systems especially with the growth of transnational corporations and labour market challenges such as rising unemployment, increasing youth unemployment and the growing number of women and older workers in the labour market who may prefer non-standard patterns of employment to allow better reconciliation between work and family responsibilities, are just a few.

However, it can be argued that the shift away from permanent and full-time forms of employment is driven by changing employer needs, rather than by changing worker preferences. Whatever the causes, the growth in contract employment has been a major development and there is a serious concern that contract employment is not viable to all workers, many of whom would not choose it as a first option.

The less favourable dimensions of contract employment include job insecurity, variability in earnings, reduced or no on-the-job training, less opportunity for mobility and increased instability. According to Wayne Lewchuk, Professor of Labour Studies at McMaster University in Hamilton, a lot of workers in contract employment are caught in a treadmill of insecurity, with little training and a limited career path. **In my humble view, contract employment, where it is not sought after or preferred by the employee, does not augur well for the promotion of decent work.**

Work, as we all know ladies and gentlemen, is at the core of people's existence. It is a means not only for providing for oneself and one's family but also self-fulfillment and personal growth and development. Workers want to be assured that they retire with some level of comfort and try to give their children a meaningful life. Even if circumstances make work impossible, people must still have the means to live in dignity. Whether it is employment in the private or public sectors, our citizens want to be afforded the opportunities to progress ahead.

I also understand that sometimes the standard offering of full-time permanent work may not be suited to the diversity of the modern workforce and business operations today, owing to reasons of work and family life balance, flexibility, expertise and the like. There are times in the lives of many people when they want less 'consuming' forms of employment, to accommodate study, family needs, health limitations and phased retirement. However, given my many years of serving at the forefront in representing

the interests of workers, I can undoubtedly say that many workers would prefer permanent employment.

The situation is particularly worrisome for workers employed on contract (fixed, short-term or month to month) for indefinite periods, in some cases many years, performing a full time role. Clearly, if a worker's contract is renewed for subsequent periods, in some cases spanning ten to twenty years, that job is a permanent one which should be filled by a permanent worker. The logic and rationale is quite easy to see.

I know of employees who have been working on rolled over contracts for as long as 6 or even 10 years – the employers excuse being that "it is not yet decided whether or not to make that post a permanent one". Many times there are a number of such employees employed in one organisation. What happens to the employee if the employer cannot make up his mind in 6 years? Remember that for 6 years these employees have been denied benefits and entitlements. Where does that leave the employee?

Such workers struggle to plan financially, as they are unable to take out credit, obtain loans, afford a mortgage, or reward themselves with luxuries such as a holiday. In many instances contract employment also lack the most fundamental of employee benefits such as sick and vacation leave with pay.

Some judgments by the Industrial Court of Trinidad and Tobago have addressed this issue of contract employment. In the case involving OWTU and Schlumberger (1996),

the Court “lifted the veil and discovered that mischief of breaching the service of workers to avoid the payment of severance, and in so doing addressed the issue of abuse of power.” Recently, the Court pronounced that the issuance of “month to month” contracts is contrary to good industrial relations practices and created in the minds of the workers the legitimate expectation that their original contracts of employment would be renewed.

In addressing the issue of contract employment in Trinidad and Tobago, we are also guided by international labour standards, particularly the core Conventions of the ILO and Recommendation No. 198 on *Employment Relationship*. Recommendation No. 198 provides guidance to ILO Member States in determining the existence of an employment relationship and in combating disguised employment relationships and setting standards applicable to all forms of contractual arrangements.

Ladies and gentlemen, this Government also recognizes the inadequacies of our labour legislative framework in protecting the rights and promoting the responsibilities of workers and employers in the employment relationship. We have started the process of reviewing key pieces of labour legislation in consultation with the tripartite partners. Our national conversation on the amendment of the Industrial Relations Act started in February of this year with the first Consultation in Trinidad. Last Friday we held a consultation on the IRA in Tobago.

We intend to commence dialogue on the Retrenchment and Severance Benefits Act which is also quite pertinent to our discussion today. This Act is severely inadequate and excludes important categories of workers considered to be contract employees.

The Workshop today is being held at a critical juncture in our nation's development. It is my hope that we take stock of recent developments and engage in open and frank discussions on how contract employment can be addressed in the present situation so as to afford decent work to all.

The success or failure of any road map to transition from temporary to permanent employment depends on the **implementation**. The solutions may nowhere be easy and will take careful consideration. Improving employment quality and prospects, investing in human capital development, and tripartite engagement are necessary ingredients in the implementation process.

Ladies and gentlemen, we are honoured to have with us at this Workshop many experts and professionals in industrial relations and human resource management from the public and private sectors as well as independent resource persons and persons from academia. The wealth of knowledge and expertise resident in this room today will no doubt steer us toward developing progressive recommendations and strategies that could place our country, our workers and our employers on a sustainable path. May God continue to bless us and may God bless our nation. I thank you.