

TRINIDAD AND TOBAGO

CCPR A/40/40 (1985)

84. The Committee considered the initial report on Trinidad and Tobago (CCPR/C/10/Add.9) at its 550th, 551st and 555th meetings, held on 25 and 29 October 1984 (CCPR/C/SR.550, 551 and 555).

85. The report was introduced by the representative of the State party who expressed her Government's regret that its submission, which had been due in 1980, had been delayed. Since the report did not provide sufficient information, particularly with regard to the actual situation of human rights in the country and the implementation of the provisions of the Covenant, the representative provided additional information in her introduction about the relationship between the Covenant and her country's constitutional system and legislation, as well as measures that had been adopted by the Government to give effect to the rights recognized under various articles of the Covenant.

86. By way of general background, the representative of the State party noted that Trinidad and Tobago had achieved its independence on 31 August 1962 and had inherited all its basic laws from the British tradition. It had retained the Westminster system of government with a bicameral legislature, a titular Head of State, a party system which provided the Executive, and an independent judiciary. The country had remained a constitutional monarchy from 1962 until 1976, when a Republican Constitution was promulgated and the Queen was replaced as Head of State by a President. The Republican Constitution had maintained and continued to guarantee the fundamental and human rights that had been enjoyed earlier by the citizens of Trinidad and Tobago and also guaranteed the independence of the judiciary. The Government of Trinidad and Tobago had observed those fundamental rights and freedoms scrupulously the past two decades and her country took pride in being an open and tolerant society.

87. With regard to article 2 of the Covenant, the representative stated that, while the Covenant itself had not been given the effect of law in her country, there was nevertheless a direct juridical relationship between the country's domestic legislation and the provisions of the Covenant. Moreover, the Constitution established the responsibilities, rights and freedoms of nationals without distinction as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

88. Although there were no specific laws expressly prohibiting discrimination, equality before the law was ensured by provisions of the Constitution, in legislation, international conventions and common law. The concept of equality before the law was also deeply rooted in the legal practice and institutions of Trinidad and Tobago. No one was precluded on grounds of race, colour, sex or religion from initiating legal proceedings, and legal practitioners could not refuse their services to a client on any ground except personal unavailability or the existence of a conflict between their duty and their interest.

89. Under the Legal Aid and Advice Act, the Legal Aid and Advisory Authority had been established in 1977, which made it possible to make legal aid and advice readily available to persons of small or moderate means, with the costs of such assistance being wholly or partly defrayed by

funds provided by Parliament. That had made it possible to grant wider public access to the courts, without distinction as to race, colour or ethnic origin.

90. The creation of an ombudsman under the Constitution could also contribute to implementation of the rights recognized in the Covenant, although the ombudsman's powers were limited to administrative actions. After investigating any alleged act of injustice by public authorities the ombudsman could make such recommendations for redress as he saw fit to the public agency or authority concerned. Where, in his opinion, sufficient remedies had not been proved within the time he had specified, the ombudsman could submit a special report to Parliament - a potential step that was clearly viewed with the utmost seriousness by government departments.

91. The possibility of resort to the ombudsman did not in any way restrict the aggrieved party's right of recourse to the courts. Any person alleging that his rights were being or were likely to be denied could apply to the High Court, which had original jurisdiction in such cases and could provide appropriate protection or remedy. Appeals against orders or decisions of the High Court could lie to the Court of Appeals or ultimately to the Judicial Committee of the Privy Council in London.

92. The Bureau on Human Rights, a private non-governmental organization, had been established in 1978. It monitored the observance of human rights in the country and served to ensure their continued enjoyment under the law.

93. Regarding article 3 of the Covenant, there had been no serious charges of inequality of the sexes in Trinidad and Tobago. There was a National Commission on the Status of Women whose members were drawn from both the private and the public sector and which served as an advisory body to the Government. The Commission met on a monthly basis and concentrated on such areas as the situation of rural women; education, training and employment; health and welfare; the legal status of women; and the improvement of the status of women generally. Some of the Commission's special activities related to the question of women in the workplace, women and the laws, domestic violence, the changing role of women in society, the portrayal of women by the media and women in small business. The Commission was also actively promoting the establishment of child welfare centres.

94. The Commission had recently submitted comments on the Occupational Safety and Health Bill as well as on the Sexual Offences Bill, also under active consideration by the Government. It had also updated a publication originally issued in 1975, entitled Legal Status of Women in Trinidad and Tobago, which served to educate women about their legal rights and how such rights could be enforced.

95. The women of Trinidad and Tobago were generally and fully protected under the country's laws and that was exemplified also through their participation in the Government and in the conduct of both private and public affairs. The equal role of women in the country's political, economic and social development was quite significant and public service was open to all without sexual discrimination.

96. Trinidad and Tobago had not yet signed the Convention on the Elimination of All Forms of

Discrimination against Women since not all of the relevant agencies in the Country had submitted their views and opinions upon its provisions. Trinidad and Tobago was a party, however, to the ILO Discrimination (Employment and Occupation) Convention, 1958, as well as to the Slavery Convention of 1926 and to the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery.

97. With regard to article 4 of the Covenant, the representative noted that, in apparent derogation of sections 4 and 5 of the Constitution, certain exceptional powers had been conferred on the President and Parliament in the interest of preserving the common good during periods of public emergency. To minimize the possibility of abuses, the exercise of such exceptional powers was expressly circumscribed under the provisions of sections 7 to 11 of the Constitution. During a state of emergency in 1970, when the country had been temporarily disoriented by an attempt to introduce change by unconstitutional means, all of the provisions embodied in the Covenant and guaranteed under the Constitution had been observed.

98. The death penalty was still applicable in Trinidad and Tobago in cases of premeditated murder or treason. The provisions of article 6 of the Covenant were well respected and the rights of the accused were amply protected. Public debates regarding the abolition of the death penalty in recent years indicated that opinion was almost equally divided on the subject. Currently, some 15 to 20 persons were either awaiting trial for murder or the execution of death sentences.

99. Turning to article 9 of the Covenant, the representative of the State party noted that the right to liberty and security of person was fully guaranteed in the Constitution, the device of habeas corpus offering an important safeguard in that connection.

100. With regard to articles 12 and 13 of the Covenant, the representative stated that the right of freedom of movement was fully ensured under the constitution and could be curtailed only for reasons of State security or of public health, as provided for by relevant immigration, nationality and public health laws, which also covered the expulsion of aliens.

101. As to articles 14, 15 and 16 of the Covenant, the representative stated that Trinidad and Tobago's legal machinery was almost entirely in conformity with the Covenant's provisions.

102. The rights affirmed in articles 17 to 19 of the Covenant were widely accepted and understood in Trinidad and Tobago. The Government took continuing action, particularly in the fields of education, culture and information, to combat prejudices and to promote understanding, tolerance and friendship among the population of differing racial and national origins. Topics designed to promote understanding of Trinidad and Tobago's history and cultural diversity had been incorporated into the school curriculum as a further means of developing awareness of fundamental rights and freedoms. In 1980, Hindi had been included in the school curriculum in recognition of the importance of that language to the development of the Indian community which represented over 40 per cent of the population.

103. With regard to article 20 of the Covenant, incitement to racial hatred was punishable under the criminal laws of Trinidad and Tobago. Meetings, marches and processions that could promote national, racial or religious hatred or incite discrimination, hostility or violence were dealt with

under the Summary Offences (Amendment) Act. There were no associations whose purpose was to promote discrimination or violence on the basis of colour, race or ethnic origin and no such association could be legally incorporated.

104. As provided in articles 21 and 22 of the Covenant, the right to peaceful assembly and the right to form or to join trade unions were both enshrined in the Constitution and were fully applied and respected.

105. The fundamental right to protection of family and children, covered under articles 23 and 24 of the Covenant, was also guaranteed under the Constitution and its enjoyment was ensured by the Government. Marriage was covered by the Marriage Ordinance, the Hindu Marriage Ordinance and the Muslim Marriage and Divorce Ordinance - none of which made reference to distinctions based on race or colour. All children born in the country were required to be registered and were automatically entitled to citizenship.

106. Turning to article 25 of the Covenant, the representative of the State party noted that participation in the conduct of public affairs at any level and access to public service were open to all citizens. There were no laws prohibiting persons of any race from standing for election, which the multi-ethnic composition of the country's legislative bodies clearly confirmed.

107. Finally, with regard to article 26 of the Covenant, the representative reaffirmed her Government's resolute opposition to discrimination of any kind and its commitment to racial, cultural and religious equality, equality before the law and equality of opportunity.

108. Members of the Committee welcomed the report, expressing particular satisfaction with the additional information contained in the representative's introductory statement - a most useful supplement to the written report, which did not give sufficient details on laws and practices. Several members noted with special satisfaction that the provisions of the Covenant had been generally well observed in Trinidad and Tobago.

109. With regard to article 1 of the Covenant, given the international importance of the right of self-determination, information was requested regarding the State party's solidarity with peoples struggling for independence, in particular the peoples of Palestine and Namibia. Additional information was also requested concerning the degree to which economic independence had been achieved by Trinidad and Tobago.

110. Members of the Committee noted, in connection with article 2 of the Covenant, that each State party undertook both to respect and to ensure the rights recognized in the Covenant. While those rights seemed to be generally respected in Trinidad and Tobago, members wished to know how they ensured. They wondered whether the provisions of the Covenant had been incorporated into domestic legislation and, if not, what their legal value was and by what procedures they could be incorporated. They asked whether the Covenant could be invoked in the courts and vis-à-vis the authorities and how and by whom treaties were approved.

111. With regard to article 3, additional information was requested as to whether both sexes enjoyed equal opportunities at all levels and as to the proportion of the sexes in the educational system, in

the civil service, at the management level and in political life.

112. Questions were raised concerning the compatibility of the constitutional emergency powers with article 4, paragraph 2, of the Covenant. Trinidad and Tobago's reservation of the right not to apply article 4, paragraph 2, of the Covenant in full was seen as a serious inconsistency with the object and purpose of the Covenant within the meaning of article 19 (c) of the Vienna Convention on the Law of Treaties and it was asked whether the Government would consider withdrawing that reservation; whether there were any legal remedies that could be pursued by detainees during a period of public emergency if the writ of habeas corpus had been suspended. Additional information was also requested about the nature of emergency powers referred to in article 7, paragraph 1, of the Constitution.

113. With regard to article 6 of the Covenant, members asked for additional information about the rate of infant mortality and about the Government's progress in reducing it. They also asked what regulations governed the use of firearms by the police; whether incidents involving the use of firearms by the police had been investigated; and whether the Government of Trinidad and Tobago could keep the possible abolishment of the death penalty under continuing review.

114. In connection with article 7 of the Covenant, members asked whether police or prison officials had ever been charged with violations of human rights such as cruel or inhumane treatment of detainees and, if so, what the outcome had been.

115. Members of the Committee noted that at times long delays occurred between a person's arrest and trial, which was not consistent with article 9 of the Covenant and which could give rise to serious miscarriages of justice. It was asked what steps had been taken to remedy that situation. In addition, members wondered whether there had been any instance in which the right to compensation for unlawful arrest or detention, recognized under article 9, paragraph 5, had been invoked.

116. With regard to article 10 of the Covenant, members requested information on whether the United Nations Standard Minimum Rules for the Treatment of Prisoners were being observed and whether any problems had arisen in that respect; whether detainees were made familiar with those Rules and whether there were adequate procedures for ensuring that their complaints received due consideration. It was also asked whether there was a system in Trinidad and Tobago for prison inspections to be carried out by persons independent of prison authorities, whether accused persons were segregated from convicted persons, and whether accused juveniles were separated from adults and otherwise treated in accordance with article 10, paragraph 3.

117. Referring to article 12 of the Covenant, one member asked what effect "citizenship of the Commonwealth" had on the right to travel and whether there were any restrictions on the freedom of citizens to leave the country or to emigrate.

118. Members of the Committee requested information, in connection with article 14, on several aspects of Trinidad and Tobago's judicial structure and judicial processes, including: the number of judges, how many of them were women, what the qualifications were for appointment to judgeships and to what degree different sectors of society were reflected in the judiciary; whether

judges could be removed from office; whether the Director of Public Prosecutions was subject to the authority of the Attorney-General; what the Supreme Court's relationship was to the High Court and the Court of Appeal; whether, in addition to habeas corpus, other procedures such as mandamus or certiorari also existed; whether there was some type of means test to determine the eligibility of persons for legal aid through the Legal Aid and Advisory Authority; and whether the ombudsman was sufficiently independent and enjoyed sufficient status and prestige to be taken seriously.

119. Referring to article 18 of the Covenant, members of the Committee requested additional information regarding the enjoyment of the right to freedom of thought, conscience and religion, particularly as to whether all religions were treated equally by the State.

120. One member noted, in connection with article 19 of the Covenant, that, while the Constitution of the State party prohibited discrimination on the grounds of race, origin, colour and sex, it did not do so on the grounds of political opinion. Since that appeared to be an essential matter, an explanation was requested.

121. In connection with article 22 of the Covenant, one member, noting that labour law in Trinidad and Tobago appeared to be based on the Industrial Relations Act, asked what law was applicable to labour in the agricultural sector.

122. Referring to article 23 of the Covenant, members of the Committee wondered whether family law applicable to Hindu and Muslim marriages was in keeping with the provisions of the Covenant. Information was also sought as to the exact situation regarding the status of illegitimate children. It was also asked whether marriage laws guaranteed free and full consent to marriage, whether they fulfilled the conditions required under article 23, paragraph 4, and whether they assured the equality of rights and responsibilities of spouses. Members further inquired whether de facto marriage was recognized in Trinidad and Tobago as common law marriage with all its legal consequences.

123. With regard to article 25 of the Covenant, information was requested as to how a criminal conviction affected a person's status as a citizen, whether there was a limitation of political rights, and, if so, whether it was based on the gravity of the offence or the penalty imposed.

124. Members of the Committee asked for information on how Trinidad and Tobago interpreted article 27 of the Covenant, in particular whether minorities existed in the country or whether all groups were seen as forming part of the same society or nation; if there were minority groups, whether the Government helped them actively in preserving their culture and autonomy and whether any special legislation had been enacted on their behalf?

125. Replying to questions raised by members, the representative of the State party first addressed the suggestion that her Government should consider withdrawing its reservation concerning article 4, paragraph 2. In view of the serious nature of the question, she said that it would have to be referred to the relevant Ministry in her country which would supply a timely answer. She was certain that her answers to the numerous questions that had been raised, together with further written replies to be submitted later, would establish the prerequisites for initiating a dialogue between her country and the Committee.

126. In answer to the question about the use of firearms by law enforcement officers, the representative noted that traditionally the police in Trinidad and Tobago had been unarmed, but that more recently they had been issued weapons, particularly when investigating certain criminal matters and drug trafficking. When such firearms were used the circumstances were always investigated.

127. As to the possible abolition of the death penalty, the representative informed the Committee that the subject had been discussed recently at a seminar convened by her country's Bar Association, but that her Government was looking for a wider public debate on the matter and a larger degree of consensus before taking any further action. She stressed, however, that no convicted prisoner on death row had been executed in her country within the past five years.

128. Responding to questions about the treatment of prisoners, particularly young offenders, the representative explained that children under 16 were tried by a juvenile court, access to which was restricted to those directly involved in the case. If convicted, young offenders were sent to industrial schools where they received further education, skills training and rehabilitation. New regulations were being drafted currently which would further liberalize access to educational opportunities and training and permit juvenile offenders to spend a weekend at their homes every two months. A new Youth Training Centre had been under construction since 1981 and its programme would be designed to train, instruct and counsel young offenders and develop their potential as well as a sense of discipline.

129. The standard minimum rules of the Prison Service conformed to the United Nations Standard Minimum Rules for the Treatment of Prisoners. Prisoners had the legal right to address confidential complaints about their treatment to the ombudsman who could investigate and recommend corrective action. No information was available to suggest that prisoners had complained of non-compliance with standard minimum rules nor had any of the ombudsman's reports to Parliament indicated negligence in complying with those rules.

130. However, complaints had been voiced against the long delays in bringing serious cases to trial, which were due mainly to the shortage of judges and the difficulties the Government had experienced in recruiting persons of suitable background and calibre for appointment to the bench. The Chief Justice had continued to draw attention to the problem in his annual addresses but no definitive solution had as yet been found.

131. Concluding her replies to questions concerning prisoners, the representative noted that, except for being deprived of their liberty and not being entitled to vote or to stand for election if serving sentences in excess of one year, prisoners had the same rights as other citizens.

132. Turning to the questions raised by members of the Committee concerning the judiciary, the representative of the State party recalled that the appointment, qualifications, tenure and oath of office of judges were covered in sections 104 to 107 of the Constitution and that such appointments were made by the President, acting on the advice of the Judicial and Legal Service Commission. There were at present 19 judges, one of whom was a woman - the second to become a judge in Trinidad and Tobago. The removal from office of judges - a complex procedure - was covered in sections 136 and 137 of the Constitution, but no judge had as yet been removed from office. Judges

could neither be transferred to another court nor downgraded during their terms of office and their salaries could not be lowered but only increased by statute.

133. The High Court sat in Port-of-Spain, San Fernando and Tobago and judges were rotated on a monthly basis according to the case-load. The independence of the judiciary was guaranteed both by the Constitution and in practice, with the Bar, the opposition parties, the press and the public acting as watch-dogs to ensure that there was no breach of such a hallowed principle.

134. In response to questions concerning freedom of religion, the representative of the State party reiterated that freedom and equality of all religions were guaranteed by the Constitution, that the Church and the State were separate and that all rights and freedoms covered in the Covenant were fully recognized and observed in practice.

135. Trinidad and Tobago's population, broken down by religions affiliation, consisted of: Roman Catholics - 33.6 per cent; Anglicans - 15 per cent; Hindus - 25 per cent; Muslims - 5.9 per cent; Presbyterians - 3.9 per cent; and others - 16.6 per cent. Religious instruction was compulsory in primary schools with the various denominations providing their own instructors.

136. Responding to questions raised by members concerning the legal system and arrangements for legal aid, the representative noted that the Legal Aid and Advisory Authority maintained a list of about 200 lawyers in private practice who could act for clients under the legal aid system. There was a means test, with qualifying income being set at \$7,000 net of rent, maintenance and household expenses. Upon direct application to the Legal Aid Authority, legal aid could be obtained for cases leading up to the Privy Council. In criminal cases, accused persons with legal counsel were referred to the Legal Aid Authority by the court. In order to provide better service, the Authority had opened area offices throughout the country; the number of applications had nearly quadrupled since 1978.

137. Regarding the status of the Director of Prosecutions, the representative referred to section 90 of the Constitution, which dealt with the appointment, tenure and functions of that officer, emphasizing that the Director acted entirely independently of the Attorney-General in the conduct of criminal prosecutions.

138. Turning to questions concerning the ombudsman, the representative noted that sections 90 to 98 of the Constitution contained the relevant constitutional provisions and that the current incumbent was a distinguished lawyer and a highly respected retired judge. While it was true that failure to implement a recommendation of the ombudsman was not punishable, in cases where the complaint involved a government department or authority the ombudsman was bound to submit a special report to Parliament. Concerned officials could ultimately be subjected to severe disciplinary actions including summary dismissal, reduction in rank or pay and reprimands or fines, which made it quite evident that the ombudsman's proceedings were taken very seriously by officials and government departments.

139. Concerning Trinidad and Tobago's commitment to self-determination and to solidarity with the peoples of Namibia and Palestine, the representative pointed out that her country had consistently joined with other third world nations in supporting measures adopted in the United Nations and the specialized agencies - and indeed in numerous other forums - for the self-

determination of peoples. In particular, consistent support had been given to the struggle for the independence of Namibia and for due recognition of the rights of the Palestinian people.

140. With regard to questions concerning the signing and ratification of treaties, she noted that such acts were the responsibility of the Executive and did not require prior or subsequent Parliamentary approval. Where legislative action was required to give effect to treaty obligations, Parliament was requested to enact such legislation.

141. In response to members' questions concerning minorities, she noted that in her country's view the Carib Indian population - which together with the Arawaks had been the original inhabitants of Trinidad and Tobago - was small in size and not readily distinguishable as a separate ethnic group at the present time. However, the Community Development Division in the borough of Arima assisted in various activities aimed at preserving the remaining elements of Carib-Indian culture. If the term "minorities" were to be applied to elements in Trinidad and Tobago's population of African, East Indian, Chinese, Syrian, Lebanese, Portuguese, European or mixed origin, it would be clearly seen that members of such ethnic groups played equal and responsible roles in political, civil and cultural life, with all of them being represented in Parliament, the Senate, municipal bodies and county and village councils as well as in the public service and various State and private enterprises. Participation in political parties, in education and in every form of national activity also cut right across ethnic and racial lines.

142. Referring to questions posed by members regarding education in Trinidad and Tobago, the representative of the State party said that school was compulsory for children aged between 6 and 12, that despite limited school places and other difficulties every child of compulsory school age attended school in public or private schools, that there was equality of the sexes, although not all schools were mixed schools, and that, in the near future, the Government would be integrating nursery education fully into the existing school systems.

143. In reply to information which had been requested by a member of the Committee on the peoples' customs and practices in her country, the representative replied that Trinidad and Tobago, being an amalgam of peoples from every continent in the world, had continually worked to mould the various cultural elements into one nation and a distinctive people. The ethnic breakdown of the population was the following: Negro 40.8 per cent, East Indian 40.7 per cent, white 0.5 per cent, Chinese 0.9 per cent, mixed 16.3 per cent, and other 0.8 per cent.

144. Referring briefly to economic developments, the representative of Trinidad and Tobago stated that her country was moving away from a plantation economy towards industrialization. At the political level Trinidad and Tobago respected the principles and fundamental freedoms in its Republican Constitution and remained committed to the maintenance and promotion of human rights.

145. In conclusion, she expressed regret that she had been unable to reply to many important questions, but assured members that more comprehensive replies would be submitted in good time.

146. The members of the Committee expressed their gratitude to the representative of Trinidad and Tobago for her co-operation and the most interesting information she had supplied to the Committee

and said that they were looking forward to continuing the dialogue with her country.

CCPR A/43/40 (1988)

44. The Committee considered the second periodic report of Trinidad and Tobago (CCPR/C/37/Add.7) at its 764th to 767th meetings, held on 29 and 30 October 1987 (CCPR/C/SR.764-SR.767).

45. The report was introduced by the representative of the State party, who said that by electing a new Government, on 15 December 1986, the people of Trinidad and Tobago had changed a régime that had ruled the country for 30 years and had taken an important step towards achieving greater democracy. A Constitution Review Commission had been appointed to study possible amendments to the Constitution and the public had also been invited to submit its views on that subject. A number of potentially significant institutional innovations of relevance to human rights had been discussed at the Eighth Caribbean Community Summit, held in 1987 in Saint Lucia, including the possibility of establishing a Caribbean court of appeal and a Caribbean human rights commission. The Government was currently in the process of following up on a number of such proposals. On 1 July 1987, it had granted amnesty to eligible illegal immigrants from Commonwealth Caribbean countries. A new citizenship bill, providing for the possibility of holding dual citizenship, was also receiving consideration by Parliament as a matter of priority. Trinidad and Tobago took a great deal of pride in the peaceful political and civil evolution of the country's democratic system.

Constitutional and legal framework within which the Covenant is implemented

46. With regard to that issue, members of the Committee wished to know what significant changes, if any, had occurred that were relevant to the implementation of the Covenant since consideration of the initial report, what the legal status of the Covenant was compared with domestic law, particularly law existing when the Constitution had first come into force, whether the High Court of Justice was guided by the provisions of the Covenant in interpreting the Constitution, whether it was possible to invoke the Covenant before a court, whether any legal remedy could be sought on the basis of an alleged violation of the Covenant not covered by domestic law and whether there had been cases in which damages had been awarded for the infringement of human rights by the State. Members also asked whether activities relevant to the implementation of the Covenant had been undertaken by the ombudsman since the consideration of the initial report and with what results, what efforts had been undertaken to disseminate information about the Covenant and the Optional Protocol and what factors and difficulties, if any, had affected the implementation of the Covenant.

47. Regarding the reference in section 6 of the Constitution to "existing laws" which might affect rights and freedoms contained in sections 4 and 5 of the Constitution, members requested examples of such laws and asked what specific areas of law were involved in the findings of the Privy Council on two cases that had been referred to it. In addition, members wished to know to what extent the spheres of competence of the Court of Appeals and the Privy Council coincided and the extent to which the competence of the latter affected the interpretation of the Covenant, how many appeals there were each year to the Privy Council, how much such an appeal cost and to what extent the poor were able to avail themselves of that recourse, and how much time elapsed between a judgement by the High Court and its resolution on appeal to the Privy Council.

48. In her reply, the representative of the State party explained that the main difficulty in

implementing the Covenant was one of human resources, since there were many urgent issues requiring attention. The Covenant could not be regarded as constituting a sufficient basis in itself for redress in the courts, since no effort had been made to enact legislation to incorporate it in domestic legislation. While the courts would be aware of international law on a particular point, they would not be able to apply such provisions. Nevertheless, in a recent case, in order to determine whether a law was “reasonably justifiable”, a judge had referred to the Covenant in concluding that there had been an infringement of human rights. The term “existing law” referred to the body of common law which Trinidad and Tobago had inherited, as well as to the laws enacted under the 1962 Constitution. The judgements delivered in two 1979 cases heard by the Privy Council had indicated that existing law was not invalidated by the entry into force of the Constitution even where such laws appeared not to be in conformity with sections 4 and 5.

49. Concerning the dissemination of information relating to human rights, the representative said that the media, members of the legal profession and governmental and non-governmental organizations had alerted the population to their rights and to the procedures available for seeking redress. Social studies programmes in the schools highlighted the freedoms contained in the Universal Declaration of Human Rights. The fact that the Committee had currently before it a case of a prison inmate in Trinidad and Tobago provided an indication of the people’s awareness of the Optional Protocol.

Non-discrimination and equality of the sexes

50. With reference to that issue, members of the Committee asked why section 4 of the Constitution did not prohibit discrimination on the ground of political and other opinion and how a victim of discrimination on that ground would obtain effective redress, to what extent the Constitution and laws of Trinidad and Tobago were in conformity with articles 2, paragraph 1, and 26 of the Covenant, what the law and practice was to protect the various ethnic groups from discrimination in areas such as access to employment and housing and how the rights of aliens were restricted as compared with those of citizens. Regarding equality of the sexes, it was asked what difficulties, if any, were encountered by women with regard to the effective enjoyment of equal rights provided for in chapter 1, part 1, of the Constitution and whether the authorities at all levels were taking positive action to ensure that women were adequately protected. Members also requested statistical data on women’s participation in political, economic, social and cultural life, including their proportion in schools, universities, the civil service, and in parliamentary and other governmental organizations.

51. In her reply to the questions raised by members of the Committee, the representative of Trinidad and Tobago noted that neither the Constitution nor any other statutory measure contained any restriction on the right to freedom of opinion and expression, apart from statements which were in contempt of court, blasphemy, sedition and defamation, but that it might be useful in the future to incorporate into law a broad and positive enunciation of the right to freedom of political opinion. There was no discrimination based on race or religion and, in practice, the follow-up given to an application for housing was never based on ethnic or religious consideration. Aliens, once they acquired resident status, enjoyed equal treatment to the extent permitted by that status. Trinidad and Tobago did not regard itself as a country of asylum for refugees, owing to its economic and demographic situation, but applications for refugee status were examined with dispatch and

humanity.

52. With reference to the equality of the sexes, the representative said that the situation in Trinidad and Tobago was not entirely satisfactory, since men were at the head of most institutions and women had only limited access to promotion. The existence of some relatively eminent and influential women tended to convey an inaccurate impression of the real role of women in society. However, the Government had signed the Convention on the Elimination of All Forms of Discrimination against Women (General Assembly resolution 34/180, annex, of 18 December 1979) and would soon ratify it and even incorporate it into national legislation. It had also given its approval for an expert group meeting on women and development. Subsequent to the 1986 elections, there was one woman member of the Cabinet out of 11, three women Deputy Ministers, four women directors in the Civil Service, 18 women at the head of important departments and 10 women out of the 67 members of both Houses of Parliament. Women also occupied a prominent place in schools and universities.

State of emergency

53. With reference to that issue, members of the Committee wished to know what the current position of Trinidad and Tobago was with respect to its reservation concerning article 4, paragraph 2, of the Covenant, whether there had been a state of emergency since the entry into force of the Covenant during which one or more of the rights enumerated in article 4, paragraph 2, had been derogated from and what safeguards and remedies were available to the individual during a state of emergency, particularly in case the writ of habeas corpus was suspended. They also asked whether a person who had been detained during a state of emergency could apply to an ordinary court for a ruling on the lawfulness of his detention, whether a particular legal text declared not reasonably justified by a court was automatically annulled or was tabled before Parliament and what would happen if the President dissolved Parliament after the proclamation of a state of emergency. Clarification was also requested of section 13 of the Constitution, which seemed to permit derogation from fundamental rights even in periods other than states of emergency. Some members suggested that, in view of the serious implications of the State party's reservation to article 4, paragraph 2, the problem of possible derogations from the provisions of the Covenant during a state of emergency should be considered by the Constitution Review Commission.

54. In her reply, the representative of the State party said that her Government had not given consideration to withdrawing its reservation to article 4, paragraph 2, of the Covenant. The President was empowered under the Constitution to proclaim a state of emergency provided that the scope and nature of the disturbance was such as to be likely to endanger public safety or to deprive the community of essential services. During states of emergency, persons could be detained for up to six months, by virtue of a special Act that could be passed during that period, but such an Act had the force of law only during the state of emergency and became null and void thereafter. If a person was still in detention when the Act ceased to have effect, he could claim his release through the habeas corpus procedure. The Constitution stipulated that any law or executive action that infringed upon an individual's human rights could be declared null and void by the Supreme Court. In that connection, it was to be noted that the Constitution made provision for a person lawfully detained during a period of public emergency to have his case reviewed by an independent and impartial tribunal. No special tribunal currently existed, since the legal instrument establishing it had been

repealed in 1978. During periods of public emergency, the President was not empowered to override or amend provisions of the Constitution, such as those establishing Parliament and the Supreme Court. There had not been a state of emergency in Trinidad and Tobago since 1970.

Right to life

55. With reference to that issue, members of the Committee wished to know how many times the death penalty had been pronounced and how often it had been carried out since the entry into force of the Covenant for Trinidad and Tobago, how many people had been pardoned by the Amnesty Act promulgated in August 1986, how many were still awaiting execution and how long they had been waiting, whether the ruling by the High Court in favour of some convicted persons could be applied to other persons still under sentence of death and why the Government did not avail itself of its right to pardon such persons. It was also asked whether the list of offences involving the death penalty was restrictive and whether the sentence was always carried out in the same way.

56. Members of the Committee also requested additional information regarding article 6 of the Covenant in accordance with the Committee's general comments Nos. 6 (16) and 14 (23), the activities of the National Committee for the Abolition of the Death Penalty and the Government's attitude towards those activities. They wished to know further what measures had been taken by the Government in the field of health care, particularly with a view to reducing infant mortality and raising life expectancy, whether there were regulations governing the use of firearms by the police, how many persons had lost their lives as a result of the excessive use of firearms by the police, the military and other law enforcement agencies, whether investigations had been carried out to establish responsibility in such cases, whether those responsible had been prosecuted or disciplined and whether the Government had given thought to organizing special courses for law enforcement officials.

57. In her reply, the representative said that the issue of the death penalty was under discussion in her country and that since the entry into force of the Covenant in 1978 no death sentence had been carried out. On the twenty-fifth anniversary of independence, on 31 August 1986, the President had pardoned 12 persons although 8 were still awaiting execution. The Committee would be informed in due course of the outcome of the Constitution Review Commission's work, which would influence the direction of governmental policies relating to the death penalty and to amnesties.

58. On the measures taken to reduce infant mortality and to raise life expectancy, the representative stated that infant and maternal mortality had declined notably between 1970 and 1981, although rates were still far too high. Regarding the use of firearms by the police forces, the Government was determined to take action against unlawful killings by public officers. In 1985, a Commission had been appointed to investigate the factors leading to the unnecessary use of force by policemen and in 1986 the Commissioner of Police had been arrested. Members of the police and security forces received continuous training on all issues relating to the proper performance of police duties. Recommendations relating to the need for higher levels of training and for raising the level of qualifications required at the time of recruitment were recently put into effect.

Liberty and security of person

59. With reference to that issue, members of the Committee wished to know whether the practice in Trinidad and Tobago was consistent with article 9, paragraph 3, of the Covenant, whether there was a statutory maximum period of pre-trial detention, what measures had been taken to ensure that persons arrested or detained were brought to trial within a reasonable time or were released, what the average time was between arrest and trial in a case of murder or another serious offence, under what conditions release on bail could be granted, whether bail was available to all categories of the population regardless of their means and whether there were any other possibilities for release pending trial. It was observed that the heavy work-load of the courts could hardly justify excessive delays. Additional information was also requested on the remedies available to persons who believed that they were being detained wrongfully.

60. In her reply, the representative explained that magistrates and judges might grant bail to any person charged with an offence not involving the death penalty. In particular, offenders under 16 who could not be brought forthwith before a magistrate immediately could be released, with or without bail. Parliament had before it a draft bill for the refusal of bail in cases of trafficking in narcotic drugs, possession of firearms, armed robbery and rape. As to pre-trial detention, the representative stated that there was a statutory limit of 48 hours within which any person arrested had to be brought before a judge, and that any person falsely or wrongfully arrested could lodge a complaint against the official responsible for the arrest. Nevertheless, she acknowledged that the accumulation of cases on court lists and the attendant delays, obstacles and frustrations could lead to a loss of confidence in the administration of justice. Some improvement was expected to result from the establishment of a proposed family court and a small claims court. In addition, a jury amendment Act concerning preliminary inquiry procedures had been drafted and special courts had been established to deal with offence relating to narcotics and firearms. Parliament also had before it a draft bill designed to increase the resources of the judiciary to enable the Ministry of Justice to recruit judges in order to speed up the legal process.

Treatment of prisoners and other detainees

61. With reference to that issue, members of the Committee wished to know whether the Prison Rules established under the West Indian Prison Act of 1883 had been replaced, how prisons were currently organized, whether prison regulations were known and accessible to prisoners, what steps had been taken to improve prison conditions and whether prisoners could lodge complaints with a court or social agency. They also asked whether police and prison officials have been made aware of the United Nations Standard Minimum Rules for the Treatment of Prisoners, whether such officials had ever been charged for violating the rights of prisoners and, if so, what penalties or punishment had been imposed and under what procedures complaints of mistreatment could be lodged. It was also asked whether children under the age of 10 were subject to penal law and whether such offenders were placed in orphanages irrespective of whether or not they had parents, whether, in Connection with the Debtor's Act, the provisions of article 11 of the Covenant were fully respected, whether keeping condemned persons on death row for a prolonged period could amount to cruel and inhuman treatment and why it had been necessary to keep a special budget for the judiciary.

62. In responding to the questions that had been raised, the representative of the State party said that the question of prisons and prison rules was being examined under the general question of law

reform, for which a Law Reform Commission had been established. The Standard Minimum Rules for the Treatment of Prisoners had been adapted without deviation from their spirit and purpose. Most of the Rules had been applied and any problems encountered were likely to have been caused by budgetary, cultural and security constraints. It was universally recognized in the country that prison conditions left much to be desired and that had led to the establishment of two commissions of inquiry in the past. In his report tabled in Parliament in May 1986, the ombudsman had drawn attention to a number of practices which, in his opinion, were condemnable, and had made a number of relevant recommendations. The use of excessive force against a person was a criminal offence and offenders could be prosecuted. The normal liability of police and prison officials under civil and criminal law was supplemented by codes of discipline which specifically provided that prisoners were not to be subjected to any form of torture. However, some violations of the codes of discipline had recently been reported. All prisoners were interviewed on admission, when regulations concerning treatment and discipline, complaints procedures, and information on their rights and obligations were explained to them. Abstracts of the prison rules were posted at accessible points. The special budget for the judiciary had been requested in order to give the judiciary the flexibility to respond more rapidly to the requirements of justice.

Right to a fair trial

63. With regard to that issue, members of the Committee wished to receive additional information on article 14 of the Covenant in connection with the Committee's general comment No. 13 (21), legal guarantees for a fair and public hearing by a competent, independent and impartial tribunal, the organization and functioning of the bar and the provisions of the Legal Aid and Advice Act, particularly in respect of its compatibility with article 14, paragraph 3, of the Covenant. It was also asked how soon after arrest a person could contact his family or a lawyer, whether there was a special procedure for the removal of a judge of the Supreme Court and by whom and for what reasons he could be removed, whether the registry of the Supreme Court was completely under the control and supervision of the courts, through whom the necessary resources for the preparation of case records were provided and whether there had been delays in the provisions of such resources, whether women were allowed to sit on juries and whether in certain cases juries were sequestered until the end of the case and, if so, whether there was any special arrangement to allow women to opt out of jury service. In addition, one member asked why it was deemed necessary to amend the Constitution in order to allow for the appointment of judges, since it appeared that that could be done under section 104 of the Constitution.

64. In replying, the representative of Trinidad and Tobago explained that the salaries of judges were paid from the Consolidated Fund and could not be reduced. The procedure governing the removal of a judge from office was provided for in the Constitution but had never been utilized. Under the Jury Act, women were also required to serve on juries and juries could be sequestered on certain occasions. The previous Government had used retired judges and eminent members of the bar as temporary judges, but that situation had created problems and had therefore been stopped. The usefulness of reverting to that practice was recognized, but was not favoured by everyone and had accordingly been placed before the Constitution Review Commission for consideration.

Freedom of movement and expulsion of aliens

65. With reference to that issue, members of the Committee wished to know whether there were any restrictions on travel abroad other than those relating to tax payments, how many people had been denied the right to leave the country for being in arrears in the payment of their taxes or for any other reasons, how long it normally took to obtain a tax clearance exit certificate and whether departure taxes were levied on persons leaving the country. Noting that the measures taken to prevent tax evasion were clearly allowable under article 12, paragraph 3, of the Covenant, members asked whether on that basis the Government of Trinidad and Tobago envisaged the possibility of withdrawing its reservation to article 12, paragraph 2, of the Covenant.

66. Members also wished to receive additional information on the position of aliens, in accordance with the Committee's general comment no. 15 (27) and wished to know whether an appeal against an expulsion order had suspensive effect, whether aliens were entitled to have recourse to the courts to challenge decisions relating to deportation and whether, and under what circumstances, a citizen could be deported.

67. Replying to questions raised by members of the committee, the representative of the State party explained that the Tax Clearance Certificate procedure was simple and took less than an hour if the individual had no arrears; if there were outstanding taxes, the certificate was withheld until they were paid. The requirement of a certificate could be waived if the purpose of the trip was to obtain medical treatment. The taxes covered by the certificate related to income, property, interest and investment. The Government placed no other restrictions on travel abroad and the certificate itself was valid for every trip taken during one year.

68. Responding to other questions, the representative said that her Government was aware of the difficulties experienced by illegal aliens, especially those coming from the Commonwealth Caribbean and it had therefore decided that all citizens of those countries who had been in Trinidad and Tobago illegally before 16 December 1986 and who were not facing criminal charges would be granted an amnesty and a period of a year to apply for permanent residence leading to citizenship. The number of illegal aliens concerned was estimated at between 115,000 and 200,000. In addition, any alien against whom an expulsion order was issued had the right to appeal. While the appeal was being processed, the order was suspended. However, bail could be refused if there was justification for such refusal.

Right to privacy

69. With reference to that issue, members of the Committee requested details on protection against arbitrary and unlawful interference with privacy, family, home and correspondence, particularly with regard to postal and telephone communications. It was also asked whether evidence obtained in violation of the right to privacy could be used in the courts and, if so, whether such instances had occurred and what the reaction of the court had been whether authorities other than judges could order a house to be searched and under what circumstances and whether wire-tapping was authorized by law.

70. In replying, the representative of Trinidad and Tobago stated that the Constitution recognized the right to privacy. No authority had the right to interfere with the individual's right to privacy, family, home or correspondence, save as provided for by law. During a state of emergency

interference with privacy was not arbitrary if carried out in accordance with the provisions of the Constitution. In the case of Maharaj v. the Attorney-General it had been contended that evidence produced in court had been gathered illegally. The local courts had ruled in favour of the State but Mr. Maharaj had been granted permission to present his case to the Privy Council which had decided in his favour. Wire-tapping was not permitted. Search warrants could be issued by a justice of the peace, magistrate or judge.

Freedom of religion and expression, prohibition of war propaganda and advocacy of national, racial or religious hatred

71. With reference to that issue, members of the Committee requested further information on laws and regulations pertaining to recognition of religious sects by public authorities and on controls exercised on the freedom of the press in accordance with the law. They also asked whether the prohibition against publishing “blasphemous . . . matter” was consistent with the right to freedom of expression under article 19 of the Covenant, whether individuals could be arrested or detained for expressing political opinions, whether public funds were allocated to religious denominations and, if so, whether the criteria in that respect had been established in such way as to avoid any discrimination, whether any teachers at denominational establishments whose salaries were paid by the State enjoyed the status of civil servants and whether the criminal penalties for infringement of freedom of religion had actually been applied. With reference to two cases that had occurred in 1983, it was asked whether religious movements were protected against the false portrayal of their convictions.

72. In connection with freedom of expression, members asked whether any reforms were under consideration or before the Parliament, whether it was planned to establish an independent telecommunications authority, whether the foreign press was distributed in the country and whether it was possible to appeal against a decision banning a publication.

73. In her reply, the representative of the State party explained that the coexistence of different confessions and creeds was a fact of life in her country. Some religious denominations had entered into an agreement with the State in respect of education whereby the Government paid the emoluments of teachers in religious schools, but such funds were not intended for places of worship as such. Religious denominations could apply to the Parliament for approval and if accepted the denomination concerned was granted official status.

74. The Constitution provided that the rights to freedom of conscience, religious belief and observance, thought and expression could not be abrogated, abridged or infringed by law and that alterations of those constitutional provisions would require the support of two thirds of all the members of each House of Parliament. The Constitution also specified that the right of a parent to provide for the education of his child in the school of his choice was a fundamental right. There were no discriminatory restrictions on the establishment and maintenance of charitable and humanitarian institutions. Teachers at denominational establishments enjoyed the same opportunities for promotion as teachers at public schools, and they could request a transfer to the public education system.

75. Roman Catholics represented the largest percentage among Christians. There were no statistics

on the number of non-believers, atheists or agnostics. All members of the population were bound to respect the rights of others and the various religious groups were united in an inter-religious organization, which helped to enhance the atmosphere of non-discrimination and tolerance in the country. The construction of places of worship was guaranteed by the Constitution and was subject to approval by the planning authorities.

76. The press was not subjected to any governmental censorship or control. The Government was endeavouring to ensure equal access to the media and an independent authority had been established for that purpose. Some foreign publications could be prohibited if they were found to harm the national interests, but an appeal could always be lodged.

Freedom of assembly and association

77. With reference to that issue, members of the Committee requested clarification of the term “recognized majority union” used in paragraph 61 of the report. They also wished to know how many political parties there were in Trinidad and Tobago and whether they were all represented in Parliament, what the ideological, ethnic, religious or other criteria underlying their establishment were and why some persons had been disqualified from membership of the House of Representatives and some other public bodies. Regarding freedom of assembly, they wished to know whether any restrictions had been placed on the exercise of that right and whether the organizers of a public march or meeting could contest a decision of the police imposing conditions on or prohibiting such events.

78. In addition, it was asked how many registered trade unions there were, what their total membership and the proportion of their members in relation to the number of workers was, whether there were trade-union federations and who had the right to decide whether a union had broken the law. Members also requested information on the activity and the role of non-governmental organizations concerned with human rights.

79. Replying to the questions that had been raised by members of the Committee concerning political parties, the representative of the State party noted that about 20 parties were registered, but only 4 had presented candidates at the latest elections. At elections, the parties usually presented a candidate of the same ethnic origin as the predominant group in the constituency concerned; thus, some minorities might feel excluded although they could be represented in the parties and hold seats in the Senate. The disqualification of certain persons from membership of the principal public bodies had been based on the principle of conflict of interest since the persons concerned were in charge of services that were essential to the country.

80. A trade union could apply to the Registration Recognition and Certificate Board at the place of work for recognition by the employer concerned. The union that obtained the largest number of votes during a secret ballot would be recognized as the majority union. That did not prevent the registration of minority unions, but employers negotiated only with the majority union unless another union had obtained almost the same number of votes, in which case it would also be permitted to take part in the negotiations. As a general rule, workers were free to organize themselves in accordance with established procedures. Trade unions were all affiliated with the Trade Union Congress.

81. Referring to freedom of assembly and the means of recourse open to the organizers of meetings or marches, the representative acknowledged that if a prohibition was announced only 24 hours before an event was due to take place, very little could be done by way of recourse. In the exercise of that right, account had to be taken of considerations relating to security and any disadvantages to the general public. Authorization to hold demonstrations was not normally refused. Non-governmental associations were not subject to special regulations and the Government was determined to consult them to a greater extent in the future.

Protection of the family and children, including the right to marry

82. With reference to that issue, members of the Committee requested fuller information on the equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution and on the system of protection of children. In addition, they inquired whether discrimination was still practiced against children born out of wedlock, particularly in the matter of succession, and whether such children were entitled to full or partial recognition.

83. In her reply, the representative of the State party referred to certain legislative provisions whose purpose was to remove the legal disabilities of children born out of wedlock and to remedy the disadvantages faced by women and children stemming from their extramarital status. Efforts had been made to ensure respect for the rights of children, particularly when problems were encountered in regard to the exploitation of labour, child abuse and juvenile delinquency. The term "illegitimate" was no longer in use, and the principal concern of the authorities was to ensure that a child born out of wedlock received maintenance support. Such a child could also take his father's name. In cases where the father died intestate, his children had the same inheritance rights whether born in or out of wedlock.

Rights of minorities

84. With reference to that issue, members of the Committee observed that paragraph 75 of the report stated that there were no minority groups in Trinidad and Tobago. They wished to receive an explanation of that statement in the light of the fact that various ethnic and religious communities existed in the country.

85. In her reply, the representative pointed out that, while there were no minority groups in the country from a statistical standpoint, it could equally be claimed that all the population belonged to minorities. Two important groups constituted 81.5 per cent of the population. Likewise, although there were numerous religious groups, none of them was really predominant and it could well be said that the country as a whole was composed of religious minorities.

General observations

86. Members of the Committee expressed appreciation to the representative of the State party for their collaboration. Although they had not been able to reply to all the numerous and specific questions that had been raised, their responses had helped to supplement the very brief second periodic report submitted by Trinidad and Tobago. While progress had been made in Trinidad and Tobago regarding the recognition of fundamental rights, which was remarkable in a society of such

religious, cultural and racial diversity, a number of areas of concern still remained. These included questions relating to the death penalty and the lengthy period of waiting and uncertainty in prison to which persons sentenced to capital punishment were exposed, excessive use of firearms by the police, the length of pre-trial detention, states of emergency, the right to leave the country, the situation of women and of children born out of wedlock and the wide latitude enjoyed by the State in respect of derogations from certain fundamental rights. It was agreed that the Committee's concern and comments in the foregoing regard would be brought to the attention of the authorities of Trinidad and Tobago and that the required additional information would be supplied.

87. The representative of the State party thanked the members of the Committee for the keen and critical interest they had shown in her country's second periodic report and assured them that her delegation would do its utmost to provide replies to the questions that had remained unanswered.

88. In concluding the consideration of the second periodic report of Trinidad and Tobago, the Chairman reiterated the importance of maintaining an adequate dialogue between the Committee and the States parties and thanked the State party's representative for the assurances she had provided in that regard.

CCPR A/56/40 (2001)

72. Trinidad and Tobago

(1) The Committee considered the joint third and fourth periodic reports of Trinidad and Tobago (CCPR/C/TTO/99/3) at its 1870th and 1871st meetings, on 17 October 2000, and subsequently adopted its concluding observations and recommendations at its 1891st meeting, on 31 October.

Introduction

(2) The Committee regrets the delay in submission of these reports, but welcomes the information set out in the report and the accompanying material. Supplementary written answers were received in time for them to be considered by the Committee.

Positive aspects

(3) The Committee welcomes the setting up, in the Ministry of the Attorney-General and Legal Affairs, of a Human Rights Unit, its activities in clearing the backlog in reporting under the Covenant and the human rights treaties, and its other initiatives to improve the protection for human rights.

(4) The Committee commends improvements to the remedies provided in cases of domestic violence, together with specialized personnel now available to assist victims, including the Domestic Violence Unit set up by the Ministry of Culture and Gender Affairs.

(5) The Committee takes note with satisfaction of the institution of the independent Police Complaints Authority and looks forward to rapid proclamation of the Act extending its powers.

(6) The extension of legal aid, both in terms of geographical distribution and of the tribunals before which it is available, as well as raising of fees so as to attract higher quality advocates, increases compliance with article 14.3 (d).

Concerns and recommendations

(7) The Committee places on record its profound regret at the denunciation of the Optional Protocol. In the light of the continued existence of the death penalty, and despite assurances by the delegation that proposals to extend the death penalty have been rejected, it recommends that:

(a) In relation to all persons accused of capital offences the State party should ensure that every requirement of article 6 is strictly complied with;

(b) In the event of reclassification of murder being brought into effect for persons thereafter tried and convicted, those already convicted of murder should be entitled to similar reclassification, in accordance with article 15.1; and

(c) The assistance of counsel should be ensured, through legal aid as necessary, immediately on

arrest and throughout all subsequent proceedings to persons accused of serious crimes, in particular in cases carrying the death penalty.

(8) Upon ratifying the Covenant, the State party accepted obligations under articles 2.1 and 2.2 to ensure that all individuals subject to its jurisdiction should enjoy Covenant rights; and, insofar as not already in place, to take the necessary steps to adopt measures to give effect to those rights.

The State party may not rely on limitations in its Constitution as grounds for non-compliance with the Covenant but should put in place the necessary laws to achieve such compliance.

(9) The Committee is concerned that a thorough review of domestic law, to ensure compliance with the Covenant norms, has not yet been completed.

The State party should, for example, align the limitations imposed by article 4 of the Covenant with domestic measures to be taken in cases of public emergency, so as to:

- (a) Comply with the categorization of an emergency that it must threaten the “life of the nation”;
- (b) Respect the prohibition on derogation contained in article 4.2; the State party should establish that measures permitted under emergency powers are so compatible;
- (c) Ensure that any derogations from the State party’s obligations under the Covenant do not exceed those strictly required by the exigencies of the situation.

(10) The Committee is concerned at the lack of remedies under domestic legislation, including the Constitution, for victims of discrimination within the full ambit of articles 2.3 and 26 of the Covenant.

The State party should ensure that remedies are available for the full range of discriminatory situations falling within the protection given by those articles, and should include in its next report information on the extent to which this has been achieved.

(11) The Committee urges that priority be given to all necessary preparations, so as to bring into force by proclamation at the earliest possible date the Equal Opportunities Act 2000, particularly in respect to the advancement of women.

The State should, thereafter, introduce amending legislation to extend the provisions of the Act to those suffering discrimination on grounds of age, sexual orientation, pregnancy or infection with HIV/AIDS.

(12) In relation to sexual harassment in the workplace, the Committee notes the judicial decision in Bank Employees’ Union v. Republic Banks Ltd., Trade Dispute 17 of 1995, where it was held that a person had been properly dismissed from his employment where his conduct, on the facts of the case, was properly classified as sexual harassment.

The adequacy of judicial remedy should be kept under review and legislation passed if necessary.

(13) The Committee is disturbed to learn that, apart from prohibiting corporal punishment for persons under 18 years of age, the State party is still practising the punishments of flogging and whipping, which are cruel and inhuman punishments prohibited by article 7.

Sentences of flogging or whipping should immediately be abolished.

(14) The Committee regrets that problems relating to the police force (such as corruption, brutality, abuse of power and obstacles placed in the way of police personnel who seek to correct such practices), identified over the last decade, have still not been rectified. It is concerned that there is little reduction in the numbers of complaints of harassment and battery submitted in 1999 and 2000.

The Plan of Action now in preparation should reinforce reforms already made and ensure that the culture of the force genuinely becomes one of public service; dereliction of duty, harassment and battery (among other things) by police officers should be the subject of swift disciplinary or criminal proceedings (arts. 2.1, 2.2. and 7).

(15) The Committee supports the expressed concern of the Trinidad and Tobago Police Complaints Authority about the inadequacy of reports from the Police Complaints Division and failure of that Division adequately to report on continuing complaints in important categories.

The Complaints Division should improve the contents of its reports and accelerate its reporting process so as to enable the Police Complaints Authority thoroughly to fulfil its statutory functions, and so that violations of articles 7 and 9.1 may be properly investigated.

(16) The Committee is concerned about chapter 15.01 of the Police Act which enables any policemen to arrest persons without a warrant in a large number of circumstances. Such a vague formulation of the circumstances in the Act gives too generous an opportunity to the police to exercise this power.

The Committee recommends that the State party confine its legislation so as to conform to article 9.1 of the Covenant.

(17) The Committee expresses its concern over prison conditions; whilst accepting that the opening of and phased introduction of prisoners into the new maximum security prison, together with the impact of non-custodial sentences, will reduce the population held in out-dated establishments, the conditions in these establishments are incompatible with article 10.

The new Commission's report on giving effect to the Standard Minimum Rules for the Treatment of Prisoners should be given priority as to its publication and implementation.

(18) The Committee recommends that legal limitations on abortion be reappraised and that restrictions which may risk violation of women's rights be removed from the law, by legislation if necessary (arts. 3, 6.1 and 7).

(19) The Committee is concerned that the existing laws on defamation could be used to restrict criticism of Government or public officials.

The State party should proceed with its proposals to reform the law of defamation, ensuring a due balance between protection of reputation and freedom of expression (art. 19).

(20) The Committee has long awaited information on follow-up of its views as pressed in response to communications.

Complete replies should be given as to the grant of remedies as recommended by the Committee, in full compliance with article 4.2 of the Optional Protocol.

(21) The Committee requests that the fifth periodic report be submitted by 31 October 2003. It requests that the present concluding observations and the next periodic report be widely disseminated among the public, including civil society and non-governmental organizations operating in the State party.