

**INTERNATIONAL
CONVENTION
ON THE ELIMINATION
OF ALL FORMS OF
RACIAL DISCRIMINATION**



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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Fourth periodic reports of States parties due in 1980

Addendum

TRINIDAD AND TOBAGO^{1/}

[17 June 1981]

1. The Fourth Periodic Report of Trinidad and Tobago to the United Nations Committee on the Elimination of Racial Discrimination is presented in three parts. The first part deals with the policy of the Government of the Republic of Trinidad and Tobago for the elimination of racial discrimination. The second part answers specific questions raised by members of the Committee when consideration was given to the Third Periodic Report of Trinidad and Tobago and gives further information on the ways in which Trinidad and Tobago gives effect to the provisions of the Convention, while the third part consists of annexes and reference documents.

PART I

2. The Committee is fully aware of the Government of Trinidad and Tobago's continuing commitment to the elimination of racial discrimination and racial prejudice at the national, regional and international levels.

^{1/} The fourth periodic report of Trinidad and Tobago was due on 4 November 1980. For previous reports submitted by the Government of Trinidad and Tobago and the summary records of meetings of the Committee at which such reports were considered, see:

- (1) Initial report - CERD/C/R.63/Add.6 (CERD/C/SR.254-255);
- (2) Second periodic report - CERD/C/29 and Corr.1 and Add.1 (CERD/C/SR.393);
- (3) Third periodic report - CERD/C/17/Add.3 (CERD/C/SR.463).

3. Exemplifying this commitment at the national level the late Prime Minister, Dr. Eric Williams, in his recent statement, as Political Leader, to the 25th Anniversary Celebration of the Ruling People's National Movement said:

"As we survey our record of the past 25 years and prepare to rededicate ourselves to the service of our community for the next 25, in one major respect 1981 is for us a replay of 1956. That is in respect of our pledge to promote and maintain interracialism and interracial harmony and to respect all religions and freedom and equality to all, individuals, races and faiths, is enshrined in the Constitution of our Republic and, more than that, is the normal practice."

He added as follows:

"Our Party has consciously lived up to this pledge of 1956 and our Government practises no discrimination on grounds of race or religion in our public service, our protective service, our job recruitment, our admission to schools and universities; we have no residential segregation, no discrimination in respect of professions or occupation, no wage differentials on grounds of race or religion."

4. The Government of Trinidad and Tobago's commitment to the promotion of racial harmony is further exemplified at the regional level by paragraph 12 of a Memorandum of Understanding signed by the Prime Ministers of Trinidad and Tobago and Barbados, on 30 April 1979, which states:

"Conscious of the importance of the proper functioning of a multi-racial society to the promotion of stability within their territories and aware of the demise of the Centre for Multi-Racial Studies at Cave Hill, Barbados, agreed to take all necessary action for the early revitalization of a Caribbean Centre for Multi-Racial Studies and specifically for the preservation of the Richard Moore Library in the interest of West Indian scholarship and the availability of these records to the widest possible audience."

5. This policy of the Government of Trinidad and Tobago also extends to the international sphere. Measures reflecting the Government of Trinidad and Tobago's abhorrence of the evil of apartheid which is practised by South Africa have been elucidated in previous reports to the Committee. In 1979 the Government of the Republic of Trinidad and Tobago increased benefits to the victims of apartheid by contributing to a third fund for victims of apartheid - the United Nations Educational and Training Programme for South Africa. In addition, Trinidad and Tobago agreed to extend its continuing programme of assistance to southern Africa by awarding 15 scholarships in Agricultural Science and Engineering for use by the Government of Zimbabwe. The Government of the Republic of Trinidad and Tobago's position of support for the liberation struggle in southern Africa is unequivocal. This position was expressed in the Joint Communique issued on Consultations between the Government of Trinidad and Tobago and the Mission of the United Nations Council for Namibia which paid an official visit to Port of Spain on 13 May 1980. The Communique declared, inter alia, "that the Government of Trinidad and Tobago shared the view of the Mission that at this juncture the International Community must carefully examine the progress of the liberation struggle in South Africa and the implementation of the Maputo Declaration in order to give maximum support to the forces of liberation in South Africa."

PART II

Query regarding the Ombudsman's Scope of Action and the
Types of Complaints Received

6. In response to the Committee's questions as to whether the Ombudsman can take any action other than reporting to Parliament after investigation of complaints, it may be useful to note here the full scope of the Ombudsman's mandate. The Ombudsman's Act, 1977 (No. 23 of 1977), was promulgated to give effect to Part 2 of Chapter 6 of the Constitution i.e. the creation of the Office of the Ombudsman.
7. The principal function of the Ombudsman (as detailed in Section 93 (1) of the Constitution) is to investigate any decision or recommendation made, including any advice given or recommendation made to a Minister, or any act done or omitted by any department of Government or any other authority to which S93 applies, or by officers or members of such a department or authority, being action taken in the exercise of the administrative functions of that department or authority (S.93 (1)).
8. Upon the completion of the investigation, the Ombudsman shall inform the department of government or the authority concerned of the results of the investigation and if he is of the opinion that any person has sustained an injustice in consequence of a fault in administration, he shall inform the department of government or the authority of the reasons for his opinion and may make such recommendations as he thinks fit. The Ombudsman may in his original recommendation, or at any later stage if he thinks fit, specify the time within which the injustice should be remedied (S.96 (2)). Where the matter is in the opinion of the Ombudsman of sufficient public importance, or where the Ombudsman has made a recommendation under subsection 2 of Section 96 and within the time specified by him, no sufficient action has been taken to remedy the injustices, then, subject to such provisions as may be made by Parliament, the Ombudsman shall lay a special report on the case before Parliament, Section 96 (4).
9. It should be noted that Government departments view with the utmost seriousness the laying of a report against them before Parliament. Furthermore, it is to be noted that the aggrieved party's right of recourse to the Courts is not prejudiced. Section 10 of the Ombudsman Act which provides:
- "10. A person is liable on summary conviction to a fine of one thousand dollars or to imprisonment for six months who --
- (a) without lawful justification or excuse wilfully obstructs, hinders or resists the Ombudsman or any other person in the exercise of his powers under this Act;
 - (b) without lawful justification or excuse refuses or wilfully fails to comply with any lawful requirement of the Ombudsman or any other person under this Act;
 - (c) wilfully makes any false statement to or misleads or attempts to mislead the Ombudsman or any other person in the exercise of his powers under this Act; or
 - (d) in a manner inconsistent with his duty under section 6 (a), deals with any documents, information or things mentioned in that paragraph."

Query regarding complaints made to the Ombudsman

10. With respect to the request for information about the types of complaints brought to the Ombudsman and the investigations and measures of redress relevant thereto, the Ombudsman's Second Annual Report reveals that in the period 6 December 1978 to 5 December 1979, a total of 966 complaints were received by the Ombudsman with 408 complaints brought forward from the previous review period. A total of 1,185 complaints were proceeded with. Of these 620 were concluded. A breakdown of complaints made against various government departments is given at pages 22-58 of the Second Annual Report. Twenty-six examples of complaints are given at pages 59-71 of the Report. Examples of cases cited include failure by a government department to prevent nuisance, denial of severance pay and refusal of application for old age pension. No complaint involving racial discrimination has been brought before the Ombudsman.

Query regarding the Constitutional Provisions Concerning Exceptions from Existing Law

11. With regard to the question as to how a law can continue to be valid while offending against provisions of the Constitution, the following may be noted.

12. The 1962 Independence Constitution provided in Section 3 (1) that Section 1 and 2 (dealing respectively with recognition and declaration of rights and freedoms and with protection of rights and freedoms) shall not apply in relation to any law that is in force in Trinidad and Tobago at the commencement of this Constitution. The 1976 Constitution of the Republic of Trinidad and Tobago provides similarly that nothing in Section 4 and 5 (dealing respectively with recognition and declaration of rights and freedoms and protection of rights and freedoms) shall invalidate an existing law. This course was followed for reasons of legal certainty and continuity so as to avoid litigation that uncertainty could have given rise to. The post independence experience of Trinidad and Tobago has justified the course followed because there has been no demand for the repeal of pre-independence laws or for the repeal of the existing laws provisions thought to offend against the Constitution.

Query regarding the distinction made between "race" and "ethnic origin" in the Sedition Ordinance as amended

13. The distinction made between race and ethnic origin in Section 3A of the Sedition Ordinance was queried by the Committee.

14. The Constitution of Trinidad and Tobago, like many other modern constitutional instruments, specifically provides against discrimination on the grounds of race or origin. Moreover the United Nations Declaration on the Elimination of All Forms of Racial Discrimination states in Article (1) that discrimination between human beings on the ground of race, colour or ethnic origin is an offence to human dignity The International Convention itself in Article 1 defines racial discrimination to mean any distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin etc. The reference to both race and ethnic origin in the Trinidad and Tobago Sedition Ordinance would therefore appear to be in accordance with existing constitutional law and practice as well as international legal instruments in the field of human rights.

Query regarding any Sanctions applicable for violation of advertising standards

15. With respect to the query about any legal sanctions applicable if any of the media violates Trinidad and Tobago advertising standards the Committee is informed that the Standards Act No. 38 of 1972 provides in Section 28 that the Bureau shall investigate complaints regarding ... practices ^{2/} referred to it by consumers and users and may institute legal proceedings against ... (a) person engaged in the defective ... practice. Whereupon representations made by the Bureau, the Court is of the opinion that any ... practice is dangerous to the Public, the Court may order ... the person ... engaged in such ... practice to cease operations.
16. In addition the Bureau of Standards has indicated that the standard TTS 2120 500 Part I 1977 (a voluntary standard) is being well observed by advertisers. Section 4.7.1 of the Standard states that "an advertisement offering employment shall not include statements implying discrimination against any applicant on grounds of race, or favouring applicants of a particular race."
17. Section 3.1.2 of the Standard TTS 2120 500 states: "No statement or visual representation shall be used in advertising which is likely to offend a majority of consumers, or any ethnic or religious group in Trinidad and Tobago."
18. Since the introduction of the standard, racially-discriminatory advertisements have virtually disappeared. For example advertisements for Chinese cooks have tended to be replaced by those requesting cooks in Chinese restaurants. With regard to Section 3.1.2 of the Standard, the Bureau of Standards has received no complaints about racially-offensive statements and has observed none.
19. The Standards Act covers practices that would not be caught by the Sedition Ordinance in that the element of intent has been omitted hence the right to prosecute has been left with the Bureau. Where the element of intent is present the offence will be caught by the Ordinance and a person shall not be prosecuted under the Ordinance without the written consent of the Director of Public Prosecutions. In this regard every person shall be deemed to intend the consequences which would naturally follow from his conduct at the time and under the circumstances in which he so conducted himself.

Query relating to implementation of Conventions

20. With regard to the Committee's query relating to the implementation in Trinidad and Tobago of treaty obligations, it should be noted that such obligations are entered into on behalf of Trinidad and Tobago by the Executive and do not require the prior or subsequent approval of Parliament. In appropriate cases where legislation is required to give full force and effect internally to treaty obligations entered into by the Government of Trinidad and Tobago, Parliament is asked to enact such legislation.

^{2/} "Practice" includes advertising, labelling or packaging (S.2 of the Standards Act, 1972).

Query relating to implementation of Articles 4 (a) and (b)
of the Convention

21. The view was expressed by the Committee that existing legislation does not satisfy Article 4 (a) and (b) of the Convention. The Government of Trinidad and Tobago is of the opinion that Trinidad and Tobago's common law as well as its criminal legislation (e.g. the Sedition Ordinance as amended) have so far provided an adequate framework within which Trinidad and Tobago's obligations under Article 4 (a) and (b) of the Convention are satisfied.

22. The Committee also enquired whether any legislation existed to cover the problems of just and adequate reparation for injury or damage suffered as a result of racial discrimination (in accordance with the second part of Article 6 of the Convention).

23. The relevant provisions of the Constitution of the Republic of Trinidad and Tobago provides that if any person alleges that any of the provisions of the Constitution relating to the recognition and protection of fundamental human rights and freedoms has been, is being, or is likely to be contravened in relation to him, then without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to the High Court for redress by way of originating motion and the High Court shall have original jurisdiction to hear and determine any application made by any person in pursuance thereof and may make such orders, issue such Writs, and give such directions as it may consider appropriate for the purposes of enforcing or securing the enforcement of, any of the provisions of the Constitution in relation to the recognition and protection of fundamental human rights and freedoms to the protection of which the person concerned is entitled. Provision is also made for appeals to the Court of Appeal against the order or decision of the High Court, with an ultimate appeal to the Privy Council. It is submitted that these provisions provide adequate safeguards to an aggrieved person since the Court apart from adjudicating upon the rights of such an aggrieved person can, in addition, award damages, if any, suffered by such aggrieved person injured thereby. These provisions it is further submitted fully satisfy Trinidad and Tobago's treaty obligations under Article 6.

Query regarding involvement of the Carib-Indian population
in the development of Trinidad and Tobago

24. The queries regarding the functions of the Ombudsman were dealt with at paragraph six. With regard to the request for information concerning programmes enabling the Carib-Indian population to participate in the country's development, it should be noted that the Carib-Indian population is both small in number and not readily distinguishable as a separate ethnic group in contemporary Trinidad and Tobago. The population of Trinidad and Tobago at the time of the 1970 census was composed of the following groups: African 42.8 per cent; East Indian 40.1 per cent; White 1.2 per cent; Chinese 0.9 per cent; mixed (parents of different races) 14.2 per cent; other races 0.9 per cent.

25. A co-operative association comprising people of Carib-Indian extraction was, however, formed in the borough of Arima and the Government's Community Development Division assists in its activities in the preservation of those remaining elements of Carib-Indian culture by aiding positively in the teaching and sale of handicraft of Carib-Indian origin.

26. The Committee expressed the desire during consideration of the Third Periodic Report for more information under Article 7. This information is provided hereunder.

A. Combating prejudices which lead to racial discrimination

School Curriculum

27. Recognizing the importance of education as a medium for developing harmonious relationships the Government of Trinidad and Tobago incorporated in its school curriculum, topics designed to promote understanding of Trinidad and Tobago's historical pasts and an appreciation of its cultural diversity. The curriculum guides for infant and primary schools include the topic Customs and Festivals in the Community and prescribed study of the main religious festivals of Trinidad and Tobago - the Hindu Divali, the Muslim Eid-ul-Fitr and the Christian feast of Christmas. The traditional customs of Trinidad and Tobago and the cultural features of the country's life (including a study of their ancestral backgrounds) are also subjects of study at primary level. At primary level the curriculum guide also includes study of a project entitled The Cosmopolitan Nature of the Peoples of Our Country - Trinidad and Tobago.

28. In 1980 the Government of Trinidad and Tobago took the decision that Hindi be included as a subject in the school curriculum. This is in recognition of the importance of that language to the development of Indian culture and religion (the Indian sub-continent being the ancestral home of 40 per cent of the Trinidad and Tobago population).

29. The programme for junior secondary schools also includes the following topics of study:

1. Home, School and Country
2. The Peoples of our country - multi-religious and multi-racial aspects of life here
3. The former people of Trinidad and Tobago - Caribs and Arawaks
4. The peoples who came and their cultural influences on life in Trinidad and Tobago
 - (a) Peoples: Spanish, French, English, Chinese, Africans, East Indians
 - (b) Cultural influences on such aspects of life language, dress, celebrations, customs, etc.

Information

30. In the field of information the approach is similar to that illustrated by the school curriculum, emphasis being placed again on the various customs and festivals in the national amalgam.

B. Promotion of Understanding, Tolerance and Friendship

31. The Government-appointed Standing Committee under the Chairmanship of a Minister in the Ministry of Education and Culture was established in 1980 in order to plan the observance of all national and religious days and festivals. Christmas, Easter, Eid-ul-Fitr and Divali are national holidays in Trinidad and Tobago. The Committee comprises representatives of government ministers, State corporations, businessmen's organizations, service clubs, trade unions and inter-religious organizations. The aim of the Committee is to give citizens greater opportunity for cultural expression leading, it is hoped, to greater understanding and social integration.

32. In addition the Community Development Division of the Ministry of Education and Culture initiated a planned programme of activities of the celebrations of Republic Day (Wednesday 24 September 1980) involving all sections of the nation in a co-operative effort designed to assist nation-building.

C. Propagating the purpose and principles of the Charter of the United Nations, the Universal Declaration on Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and the International Convention on the Elimination of All Forms of Racial Discrimination

33. The Government Broadcasting Unit - a division of the Prime Minister's Office is the chief agency used by the Government of Trinidad and Tobago to disseminate public information.

34. During Anti-Apartheid Year (21 March 1978 to 21 March 1979) three programmes were broadcast delineating the history of South African apartheid and the participation of the Government of Trinidad and Tobago in the international campaign against it.

35. In the months of July, August and September 1980, the Government Broadcasting Unit also broadcast three programmes dealing with the evils of apartheid. Two of these programmes concentrated on the position of Women under Apartheid and included relevant extracts from the United Nations Conference for the United Nations Decade for Women, held in 1980 in Copenhagen, Denmark. A third programme utilized first-hand experiences of a cast of black actors who performed in Trinidad in 1980.

36. From time to time discussions on apartheid have been broadcast utilizing the experiences of Black South Africans resident in Trinidad and Tobago.

PART III

ANNEXES^{3/}

- A. Constitution of the Republic of Trinidad and Tobago Act, 1976
- B. Trinidad and Tobago Sedition Ordinance as amended
- C. The Ombudsman Act, 1977 (No. 23 of 1977)
- D. The Standards Act 1972 (No. 38 of 1972)
- E. Standard TTS 2120 500 Part I - 1977
- F. Communique issued on Consultations Between the Government of Trinidad and Tobago and the Mission of the United Nations Council for Namibia at Port of Spain on 13 May 1980

^{3/} These documents are available for consultation in the files of the secretariat in their original (English) language as received from the Government of Trinidad and Tobago.