



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/1989/31/Add.3
19 December 1988

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Forty-fifth session
Item 16 of the provisional agenda

IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE SUPPRESSION
AND PUNISHMENT OF THE CRIME OF APARTHEID

Reports submitted by States parties
under article VII of the Convention

Addendum

TRINIDAD AND TOBAGO

[29 January 1988]

1. The Government of the Republic of Trinidad and Tobago sees apartheid as a system of institutionalized racial discrimination and exploitation. Yet, there are no specific provisions in any legislation which deem apartheid, as it exists in South Africa, a crime against humanity.
2. With regard to article II of the Convention, however, guarantees are enshrined in the Constitution of the Republic of Trinidad and Tobago which provide for an egalitarian society, the essence of which is antithetical to the spirit of apartheid.

3. Those rights are expressed in the Constitution as follows:

"The Recognition and Protection of Fundamental
Human Rights and Freedoms

Part I

Rights Enshrined

...

Section 4

"It is hereby recognized and declared that in Trinidad and Tobago there have existed and shall continue to exist without discrimination by reason of race, origin, colour, religion or sex, the following fundamental human rights and freedoms, namely:

- (a) the right of the individual to life, liberty, security of the person and enjoyment of property and the right not to be deprived thereof except by due process of law;
- (b) the right of the individual to equality before the law and the protection of the law;
- (c) the right of the individual to respect for his private and family life;
- (d) the right of the individual to equality of treatment from any public authority in the exercise of any function;
- (e) the right to join political parties and to express political views;
- (f) the right of a parent or guardian to provide a school of his own choice for the education of his child or ward;
- (g) freedom of movement;
- (h) freedom of conscience and religious belief and observance;
- (i) freedom of thought and expression;
- (j) freedom of association and assembly;
- (k) freedom of the press."

4. Except as is otherwise provided in chapter 1 of the Constitution and in section 54, no law may abrogate, abridge or infringe or authorize the abrogation, abridgement or infringement of any of the rights and freedoms recognized and declared in section 4 (sect. 5 (1)). Without prejudice, however, to subsection (1), but subject to chapter 1 and to section 54, Parliament may not, inter alia, authorize or effect the arbitrary detention, imprisonment or exile of any person; and deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations.

5. Parliament may, however, alter any of the provisions of the Constitution or (in so far as it forms part of the laws of Trinidad and Tobago) any of the provisions of the Trinidad and Tobago Independence Act, 1962. Section 54 (2) provides as follows:

"In so far as Parliament alters:

(a) Sections 4 to 10, 20 (b), 21, 43 (1), 53, 58, 67 (2), 70, 83, 101 to 108, 110, 113, 116 to 125 and 133 to 134;

or

(b) Section 3 in its application to any of the provisions of this Constitution specified in paragraph (a),

a Bill for an Act under this section shall not be passed by Parliament unless at the final vote thereon in each House it is supported by the votes of not less than two thirds of all the members of each House."

6. In addition to the Constitution there are a number of legislative provisions which seek to ensure that systems like apartheid are not developed. Of particular note are the following:

- (1) Summary Offences Act (chap. 11:02) - sections 49, 50 and 51
- (2) An Act to give effect to the Genocide Convention (chap. 11:20)
- (3) Sedition Act (chap. 11:04) - sections 3 and 4.

The relevant sections are attached. */

7. The only legislative provision which seeks to restrict contact with South Africa is recorded in Government Notice No. 140 which was proclaimed on 29 November 1976. This Notice makes it an offence under the Customs Act (chap. 78:01) to import goods from or export them to South Africa.

8. The Sedition Act (chap. 11:04) enables effective measures to be taken in restraining those who seek to promote the practice and policy of racial discrimination in the Republic of Trinidad and Tobago. Its provisions are adequate to handle effectively the fostering of activities which tend to subvert the constitutionally guaranteed rights of each citizen and provides at section 3 (1) for action to deal with incitement against any class of inhabitants.

9. The protection of the rights guaranteed under the Constitution is ensured by virtue of section 14 of the Constitution. This section provides that if any person who alleges that any of the provisions of chapter 1 of the Constitution 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.

*/ These documents, submitted by the Government of Trinidad and Tobago in English, may be consulted at the United Nations Centre for Human Rights.

10. The Extradition (Commonwealth and Foreign Territories) Act, No. 36 of 1985, in further pursuance of those rights, has included genocide and any direct and public incitement to commit genocide as extraditable offences. Genocide is defined in the Genocide Act (chap. 11:20) as, inter alia:

"any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such ...

...

(c) deliberately inflicting on the group conditions of life to bring about its physical destruction in whole or in part".

It is important to note that clause (c) above reflects article 11 (b) of the Convention.

11. The Division of Information also actively participates in the anti-apartheid campaign. It has begun on the broadcast media a systematic programme which is designed to educate the public regarding the policies and reality of South Africa. It is aimed not only at the wider population but also specifically at the primary school level where the Ministry of Education, through the Schools Broadcasting Unit, has prepared documentaries to educate the pre-teenage population.

12. The scourge of apartheid is further highlighted by commemorative programmes which recall the Sharpeville massacre and the recognition of 21 March as the International Day for the Elimination of Racial Discrimination.

13. The Republic of Trinidad and Tobago has followed a consistent stand in international forums. The record shows Trinidad and Tobago taking an active role in efforts to eradicate apartheid having served on the Special Committee against Apartheid. The Republic of Trinidad and Tobago has supported numerous United Nations resolutions against South Africa and most recently expressed strong disapproval at the latest attack of South Africa on the three front-line States of Angola, Mozambique and Zimbabwe.

14. The Government of the Republic of Trinidad and Tobago continues to deplore the existence of the inhuman régime of apartheid in South Africa in the international community and endorses requests to the Security Council to impose economic sanctions against South Africa. Indeed, it is the Government's view that the ignoble and unhappy South African régime, which flouts every basic human right of the black man, can be brought to heel only through decisive, direct action that will stem the flow of investment and goods, including petroleum and petroleum products, and other essentials to that country. The Government also expressed regret at the re-imposition of a state of emergency on 12 June 1986 prior to the commemoration of the 1976 Soweto riots. The Republic of Trinidad and Tobago also welcomed the endorsement by the Security Council of the proposal contained in Security Council resolution 385 (1976) regarding the accession of Namibia to independence.

15. In the matter of sporting links with South Africa, Trinidad and Tobago, as a signatory of the Gleneagles Accord, has taken a stand which disapproves of such contacts. In the Gleneagles Accord, Heads of Government in the Commonwealth considered the question of apartheid in sport and agreed on a

statement to restrict sporting ties with South Africa. In discharging its commitment under the Accord, the Government has stated that any sportsperson who consorts with South Africa will be banned from participation in any sporting activity for life.

16. In addition to the Gleneagles Accord, the Government of Trinidad and Tobago has signed the International Convention against Apartheid in Sports. A policy has also been formulated to punish citizens who go to South Africa for sports purposes.

17. This active policy of the Government against the apartheid régime is matched by various groups of private citizens. The Anti-Apartheid Association of Trinidad and Tobago is among the more articulate and aggressive of these groups in the campaign against the racist Republic of South Africa.

18. Despite these progressive policies advocated by both the Government and private citizens on the issue of apartheid, it may seem curious that apartheid per se has not been written into the law as a crime against humanity. In fact, it may be surmized that the non-formulation of any law which specifies apartheid as a crime against humanity is a circumstance which may have emerged from the unique social situation of the Republic of Trinidad and Tobago which aspires increasingly to higher levels of cultural and racial tolerance.

19. Indeed, there are no records of crimes within the scope of article II of the Convention and, with the recent awareness campaign on apartheid, one may well be assured that the possibility of any such crime will be even less.

20. At the 2,601st meeting of the Security Council on Friday, 26 July 1985, the representative of Trinidad and Tobago in his address stated that "the repressive system of apartheid, the non-compliance by South Africa with United Nations resolutions and decisions and the acts of aggression committed by the racist régime constitute a threat to international peace and security".

21. At the VIIth Caribbean Community Heads of Government Meeting held from 29 June to 4 July 1987, the Prime Minister of Trinidad and Tobago, the Honourable A.N.R. Robinson, noted that the steps taken so far to express the Government's abhorrence of the system of apartheid:

"have demanded untold sacrifices from our youthful sportsmen and sportswomen to the extent of loss of income and career. While they have made these sacrifices willingly, should we not recognize the special contribution they are called upon to make in the vanguard of the struggle against apartheid? How can we repay them for the sense of pride and identity they have given our Caribbean region?"
