

INTERNATIONAL
CONVENTION
ON THE ELIMINATION
OF ALL FORMS OF
RACIAL DISCRIMINATION



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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

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

Second periodic reports of States Parties due in 1976

Addendum

TRINIDAD AND TOBAGO^{1/}

[24 August 1978]

It will be appreciated by the Committee that new policy initiatives in this field are not normally required at regular intervals especially where existing measures continue to provide a solid basis for promoting the harmonious development of relations between the peoples of diverse ethnic background which make up our cosmopolitan society. The need for continuous vigilance in this area has been recognized at the highest political level in Trinidad and Tobago. In an address to a Special Party Convention of the People's National Movement (the ruling party) on 27 to 29 November, 1970, entitled "PNM's Perspectives in the World of the Seventies", the Political Leader, Dr. Eric Williams pointed out "that the experience of multiracial societies in the world in the past twelve years should warn us in Trinidad and Tobago as to the dangers of racial conflict, and should incline us to make every effort to avoid such dangers."

The Government of Trinidad and Tobago is resolutely opposed to the policies of racial segregation and apartheid as practised by the Government of South Africa. The Government of Trinidad and Tobago does not honour travel documents, passports, etc. issued by the Government of South Africa. More recently the Government of Trinidad and Tobago has communicated to the Secretary-General its intention to comply fully with the provisions of Security Council Resolution No. 418 (1977). The importation from or exportation to South Africa of any products has for many years been prohibited under Trinidad and Tobago customs legislation. The Government of Trinidad and Tobago continues to make a financial contribution to the United Nations Trust Fund for South Africa as well as to the Trust Fund for Publicity against Apartheid. We have also offered educational facilities at all levels, technical, vocational and University to members of the Liberation movements in Southern Africa and who are recommended to us by the Organization of African Unity.

The Government of Trinidad and Tobago does not sponsor, defend or support racial discrimination by any person or organizations. Insofar as sport is concerned, National teams that visit South Africa are not welcome in Trinidad

^{1/} The present document contains the supplement to the second periodic report of Trinidad and Tobago reproduced in CERD/C/29 and Corr.1.

and Tobago. The Government of Trinidad and Tobago has stated that under no circumstances will visas be issued to South African players, nor will any competition to which South African players are invited be held in Trinidad and Tobago. Furthermore, sporting organizations in Trinidad and Tobago or members of those organizations taking part in any sporting activities in South Africa or with racially selected South African teams will be denied official sponsorship and financial support. With respect to similarly organized cultural events, nationals wishing to participate in them are advised of Government's firm opposition to apartheid and they receive no financial or other support from Government.

The Government of Trinidad and Tobago acknowledges the undertaking to prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, groups or organizations. The Trinidad and Tobago Bureau of Standards on 2 September, 1977 published a Standard referred to as TTS 2120 500 Part I - 1977 under section 19(3) of the Standards Act 1972 relating to the general requirements for the contents of advertising in any medium or by any means in Trinidad and Tobago. Section 3.1.2 thereof states that 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; and Section 47.1 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. These standards have been published as Government Notice No. 188 supplement to the "Trinidad and Tobago Gazette" Vol.17, No.11 of 12 January 1978.

The Government of Trinidad and Tobago continues to adopt measures particularly in the fields of teaching, education, culture and information with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnic groups. All schools are encouraged to set aside special periods on the International Day for the elimination of Racial Discrimination through arrangements with the School Broadcasting Division of the Ministry of Education and Culture, for teachers to give a talk on the significance of the Day and for the purpose of holding discussions with their pupils. The mass media are also invited to publicize the Day by means of editorials or articles on the subject. An effort is also made to have special religious services held around that time in all places of worship with sermons stressing the significance of the International Day for the Elimination of all forms of Racial Discrimination. In addition the Minister of External Affairs addresses the nation. Attached to this report is an address to the nation made on 18 March 1976 by the then Minister of External Affairs, Dr. the Honourable Cuthbert Joseph.

In the area of culture, greater understanding is promoted among the people of Trinidad and Tobago by publications of the Division of Culture of the Ministry of Education and Culture outlining some of the contributions made to contemporary Trinidad and Tobago society by the different cultures that have settled in Trinidad and Tobago over the centuries. Such publications deal with folk music, painting, sculpture, theatre, and folk dances of African, Indian, French, Spanish and British origin.

In the following paragraphs an attempt is made to provide the Committee with clarification on the several matters which had been raised when the initial report of Trinidad and Tobago was submitted in 1975.

Firstly, Mr. Partsch of the Federal Republic of Germany (at page 6 of Doc. CERD/C/SR.254 of 12 August, 1975) sought to ascertain the provisions of sections 3, 4 and 5 of the Trinidad and Tobago Constitution of 1962. It will be recalled that section 2 of the Constitution (1967) provided that "subject to the provisions of sections 3, 4, and 5 of the Constitution, no law shall abrogate, abridge or infringe ... any of the rights and freedoms hereinbefore recognized and declared (e.g. the right to life, liberty, security of the person etc.) and in particular no Act of Parliament shall, for example, authorize or effect the arbitrary detention, imprisonment or exile of any person etc." Sections 3, 4 and 5 of the Constitution of 1962 accordingly deal with:

(i) Saving as to certain laws

Sections 1 and 2 of this Constitution shall not apply in relation to any law that is in force in Trinidad and Tobago at the Commencement of this Constitution (S-3(1)).

(ii) Acts passed during a period of emergency

An Act of Parliament that is passed during a period of public emergency and is expressly declared to have effect only during that period shall have effect notwithstanding sections 1 and 2 of this Constitution, except insofar as its provisions may be shown not to be reasonably justifiable for the purpose of dealing with the situation that exists during that period (Section 4).

(iii) Acts at variance with Chapter I of the Constitution
(The recognition and protection of Human rights and fundamental freedoms).

An Act of Parliament to which this section applies may expressly declare that it shall have effect notwithstanding sections 1 and 2 of this Constitution and, if any such Act does so declare, it shall have effect accordingly except insofar as its provisions may be shown not to be reasonably justifiable in a society that has a proper respect for the rights and freedoms of the individual (S 5 (1)). Such an Act of Parliament requires in addition an affirmative vote of three-fifths of the members in both Houses of Parliament.

Similar provisions are also contained in the constitution of the Republic of Trinidad and Tobago (which superseded the 1962 constitution) which came into force on 1 August 1976, and are contained in sections 5-13 of the said Republican Constitution. Under the heading "Savings as to certain laws" (1962 constitution) now "Exceptions for existing Law" (The Republican constitution), note should be taken of Section 18 of the Constitution of the Republic of Trinidad and Tobago Act, 1976 (No. 4 of 1976) which provides as follows -

VALIDATION OF CERTAIN ENACTMENTS

"18. All enactments passed or made by any Parliament or Person of Authority under or by virtue of the former constitution and not before the appointed day declared by a competent court to be void by reason of any inconsistency with any provision of the former constitution including in particular sections 1 and 2 thereof and that are not repealed, lapsed, spent or that had not otherwise had their effect, shall be deemed to have been validly passed or made and to have had full force and effect as part of the law of Trinidad and Tobago immediately before the appointed day, even if any such enactments were inconsistent with any provision of the former constitution including in particular sections 1 and 2 thereof."

Secondly, Mr. Ortiz Martin of Costa Rica (Doc. CERD/C/SR. 254 of 12 August 1975) asked on what basis was divorce obtained by persons who married under the Hindu Marriage Ordinance or the Muslim Marriage and Divorce Ordinance. It would appear that persons who were married under the Hindu Marriage Ordinance are able to seek a divorce under the general law namely the Matrimonial Proceedings and Property Act of 1971 which applies to the population at large. However, the Muslim Marriage and Divorce Ordinance No. 7 of 1961 (Ordinances and subsidiary legislation of Trinidad and Tobago 1961) provides in Parts III and IV thereof a separate divorce procedure. In short the Act provides for the appointment by the Muslim bodies in Trinidad and Tobago of a panel of not less than three and not more than five persons provided that at all times at least one Divorce Officer on each panel shall be a barrister or solicitor of at least three years standing. Either party to a marriage is at liberty to apply to the Muslim body to which he or she belongs for the dissolution or annulment of the marriage by filing the necessary application with the Secretary of that body. A copy of the application certified by the Secretary and notice of the time and place of the hearing is served by the Secretary on the spouse of the person making the application. Every such application shall be determined by a Council consisting of three Divorce Officers, one of whom, who shall be a barrister or solicitor of at least three years standing, shall be the Chairman. The Council shall hear the applicant, and in contested suits the respondent, and such other evidence as either party may wish to adduce and shall determine the application in accordance with the principles of Islamic law. The determination of the Council shall be final and conclusive between the parties. A copy of every application filed under these regulations and of the decision of the Council thereon shall be transmitted by the Secretary to the Registrar General and to the Secretary of each of the other Councils.

Thirdly, Mr. Tomko of Czechoslovakia had enquired as to the reasons for the small Carib population (Doc. CERD/C/SR.254 of 12 August at page 7). At the time of the consideration of the initial report, the Trinidad and Tobago representative (Doc. CERD/C/SR.255 at page 3) had stated that the figure in the report referred in particular to the Carib Community in Arima which was the only place where a certain number of Caribs were concentrated. Many of them he furthermore pointed out, had been integrated into other Communities through marriage. On this question one should like to quote the opening sentences from the Encyclopaedia Britannica Vol.22 (1967) -

"When Christopher Columbus discovered Trinidad in 1498, the island was well populated by various tribes of the Carib-Tamanaco group. Few survived the intervening centuries of Spanish occupation and frequent warfare"

The Prime Minister of Trinidad and Tobago in one of his earlier works entitled "The History of the Peoples of Trinidad and Tobago" points out that in Trinidad, Spanish colonization began with the enslavement direct or indirect, openly avowed or causistically concealed of the Amerindians and even of a slave trade in Amerindians. The Amerindians who constituted the labour supply of the Spaniards became decimated by colonial exploitation. Some efforts were also made at that time by prominent persons to protect the Amerindians from the general maltreatment meted out to them. Wilfred Cartey in his book "The West Indies - Islands in the Sun" published by Thomas Nelson and Sons, Camden, New Jersey, points out that "before the coming of the Europeans, the islands had been peopled by Indian tribes, the Arawaks and the Caribs. We know, too, that their lot was a tragic one; and now little remains to remind us of the earliest settlers of these islands - cassava, some pottery and basketry, the pirogue (a small canoe in which they sailed from island to island) and two things that have constituted much to man's comfort and perhaps to his decay - the hammock and tobacco". In Trinidad, there are several Carib place names such as Chacachacare, Guayaguayare, Tamana, Arima, etc.

The Committee therefore appreciates that the Caribs have either been assimilated or have become extinct over the centuries. In 1797 out of a population of 17,643 there were only 1,082 Amerindians.

Fourthly, Mr. Tomko (Czechoslovakia) had also sought information on whether marriage between a Hindu or Moslem and a person of another faith was invalid or even forbidden. Such a marriage was neither invalid nor forbidden under the laws of Trinidad and Tobago. Because of the legal requirements that parties wishing to marry under the Muslim or Hindu Ordinances must profess the same faith, such a marriage would have to take place under the general marriage law (Chap. 29 No.2 Laws of Trinidad and Tobago 1950).

Fifthly, Mr. MacDonald of Canada (Doc. CERD/C/SR.254 of 12 August 1975) requested information (i) on whether cases connected with racial discrimination had ever come before the Courts or Administrative Tribunals; and (ii) whether there exists any Human Rights Commissions or agencies. There have been no cases before the Courts whose subject matter dealt with allegations of racial discrimination. With respect to the existence of Human Rights Commissions or agencies in Trinidad and Tobago there has recently been formed a private non-governmental association called the Bureau on Human Rights.

Sixthly, Mrs. Warzazi of Morocco (Doc. CERD/C/SR.254 of 12 August at page 10) sought to ascertain the criteria for granting a licence to an alien who acquired land under a will or an intestacy. The Provisions regarding the acquisition of land by an alien under a will or an intestacy are contained in paragraph (b) of subsection (2) of section 3 of the aliens landholding ordinance, Chapter 21 No.3 which states as follows:

3 (1) Subject to the provisions of this ordinance, neither land in the Territory nor any share, debenture, nor other interest in a company nor a mortgage on land in the Territory shall, after the commencement of this ordinance, be held by, an unlicensed alien and any land or mortgage, or share, debenture, or other interest in a company so held shall be forfeited.

(2) Provided that:

(A)

(B) Land acquired by an unlicensed alien under a will or an intestacy shall not be forfeited if, within one year from the death of the testator or intestate or within such extended time, if any, as the President may decide to be reasonable, the land is sold or the alien obtains a licence to hold the land;

However, under section 4 of the Ordinance,

"The President may, if he thinks fit, grant to any alien a licence to hold land as owner or tenant or mortgage for any estate or interest, either subject to conditions or not."

In the exercise of his functions under this ordinance the President is required to act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet. It will be noted, therefore, that the exercise of the Power conferred on the President under this section is regulated since He is required to act in accordance with advice as abovementioned. Since no guidelines are set out it would appear that the grant or refusal of an application may be discretionary in keeping with the spirit and intentment of the ordinance namely the regulation of the holding of land by aliens and companies under alien control.

Finally, several experts on this Committee were of the opinion that the existing provisions of Trinidad and Tobago's legislation namely the Sedition Ordinance Chapter 4 No.6 of the Laws of Trinidad and Tobago (1950) as amended by the Sedition (Amendment) Act 1971 did not fully comply with the undertaking in Article 4(b) of the Convention. That provision requires parties to the Convention to declare illegal and prohibit organizations and also organized and all other propaganda activities which promote and incite racial discrimination and to recognize participation in such organizations or activities as an offence punishable by law. Pursuant to operative paragraph 2 of Decision 3 (VII), A/CO18 Chapter X, Section A, this Committee has requested the States parties, where no such specific legislation has been enacted to inform the Committee of the manner and the extent to which the provisions of the existing penal laws as applied by the Courts effectively implement their obligations under Article 4(a) and (b). The provisions of the Sedition Ordinance Chapter 4 No.6 of the Laws of Trinidad and Tobago as amended by the Sedition (Amendment) Act 1971 (Section III E of the initial report of Trinidad and Tobago) make it a criminal offence to preach racial or class hatred in Trinidad and Tobago. The Honourable Attorney General and Minister for Legal Affairs at the time of the second reading of a bill to amend the Sedition Ordinance on 5 November 1971 said "I do not think that any responsible person in this multiracial society would be against any measures which seek not only to remove but to banish from the face of society any trace or vestige of racial hatred". The law provides for both fines and imprisonment on summary conviction (TT\$1,500 and/or 2 years imprisonment) and on conviction on indictment (TT\$10,000 and/or imprisonment for five years). There are no associations in Trinidad and Tobago whose object is to incite racial discrimination or acts of violence against the inhabitants of Trinidad and Tobago distinguished by colour, race, ethnic origin etc. and it is unlikely that any such association could be incorporated under law. The legal prohibition in the criminal law against engendering or promoting feelings of ill will towards, hostility to or contempt for any class of inhabitants of Trinidad and Tobago as well as the prohibition against advocating or promoting genocide would in any event render totally ineffective any association which sought to promote or incite racial discrimination in Trinidad and Tobago. Moreover the Government of Trinidad and Tobago enacted in 1977 (Act No.1 of 1977) legislation which would give effect in Trinidad and Tobago to the United Nations Genocide Convention i.e. the Convention on the Prevention and Punishment of the Crime of genocide approved by the General Assembly on the 9th day of December, 1948. That legislation provides that a person who commits any act falling within the definition of "genocide" in Article II of the Genocide Convention is guilty of an offence and is liable on conviction on indictment -

- (a) to the same punishment as is provided for murder if the act committed was the one specified in paragraph (a) of the said Article II; or
- (b) to imprisonment for fourteen years in any other case.

Article II of the Genocide Convention, it will be recalled states that in the present Convention genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such, by:

- (a) killing members of the group;
- (b) causing serious bodily or mental harm to members of the group;
- (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) imposing measures intended to prevent births within the group;
- (e) forcibly transferring children of the group to another group.

AN ADDRESS TO THE NATION BY THE HONOURABLE
MINISTER OF EXTERNAL AFFAIRS, DR. CUTHEERT JOSEPH
TO Commemorate INTERNATIONAL DAY FOR THE
ELIMINATION OF RACIAL DISCRIMINATION
ON THURSDAY 10TH MARCH, 1976

Fellow Citizens, ladies and gentlemen:

Tomorrow, Friday, the peoples of the United Nations will commemorate International Day for the Elimination of Racial Discrimination. This is a day for reflection. We should reflect upon the plight of the peoples of Southern Africa who are still suffering under the yoke of racial oppression - in Zimbabwe, in Namibia, and in South Africa. We should reflect on the progress made so far, both abroad and at home, towards the goal of racial harmony and racial equality.

2. In 1960 on 21st March, sixty-nine black South Africans were shot down when police opened fire on a group of men, women and children. They were unarmed. They had gathered in peaceful demonstration against the humiliating pass laws of the apartheid system. This tragic incident came to be known as the Sharpeville massacre. It shocked the conscience of mankind. It highlighted the ruthlessness of racial oppression. It brought home the lesson that apartheid is a threat to peace. It led the United Nations to demand that South Africa terminate forthwith its policy of apartheid.

3. From its foundation in 1946, the United Nations has sought an end to racial discrimination. The United Nations Charter provides for the promotion of human rights and fundamental freedoms without distinction as to race, sex, language or religion. In 1948, the General Assembly of the United Nations adopted the Universal Declaration of Human Rights. Under this Declaration, all the nations of the world assume a permanent obligation and responsibility for the protection of human rights and fundamental freedoms for all.

4. Since Trinidad and Tobago became independent in 1962, the United Nations took many measures to fight racism and apartheid. I wish to highlight four of these measures and to indicate very briefly the contribution of Trinidad and Tobago.

5. First, in November 1962, the General Assembly created a Special Committee against Apartheid. The work of this Committee includes the following:

- (a) Keeping South Africa's racial policies under constant review;
- (b) reporting to the General Assembly on South Africa's racial policies;
- (c) making recommendations regarding publicity and diplomatic and economic pressures that should be brought to bear against South Africa.

For many years, Trinidad and Tobago's representatives at the United Nations have been active members of this Committee.

6. The General Assembly passed a number of resolutions against the racist régimes in Southern Africa. Trinidad and Tobago, in implementing these resolutions, has applied several measures against South Africa and Rhodesia. These include a total embargo on trade, and an official embargo on all cultural relations, including sport. Visas are not normally issued for South Africans and Rhodesians to visit Trinidad and Tobago. Government has refused to give financial support to any group wishing to participate in cultural activities, including sport, involving South Africa.

7. Second, in November 1963, the United Nations adopted unanimously a Declaration on the elimination of all forms of racial discrimination. In Article 1 of this Declaration the United Nations assert that "discrimination between human beings on grounds of race, colour or ethnic origin is an offence to human dignity". Article 2 forbids states, institutions, groups or individuals from discriminating in matters of human rights and fundamental freedoms in the treatment of persons, groups of persons or institutions on the grounds of race, colour or ethnic origin. On the basis of the principles set forth in the Declaration, the United Nations adopted in December, 1965, an international Convention on the elimination of all forms of racial discrimination. Trinidad and Tobago signed the Convention in June 1967 and ratified it on November 3rd, 1973.

8. Under this Convention, Government recently reported to the United Nations on the measures that have been adopted within Trinidad and Tobago to promote racial harmony and racial equality. These measures include:

- (a) the protection of human rights enshrined in the Constitution;
- (b) the provision of laws against discrimination: for example, the Education Act makes it a criminal offence to refuse to admit any person to any public school on account of social status, language, religion or race;
- (c) the creation of independent Commissions to select persons for employment in the Public Service, the Police Service, the Fire Service, the Prison Service and the Teaching Service;
- (d) the enactment of special laws for Hindu marriages as well as Muslim marriages and divorces;
- (e) the declaration of public holidays to mark the main religious festivals of the major religions;
- (f) the promotion of the Prime Minister's Best Village Competition, particularly in folklore, with its racial and cultural admixture; and
- (g) the fostering of multi-racial organizations and activities of an economic, political, social or cultural nature.

9. The third United Nations measure I wish to mention is the institution in December of 1973 of the Decade for Action to combat racism and racial discrimination. Government has responded to this call by offering to members of African liberation groups twenty scholarships annually at our educational institutions: e.g. Teachers' Training Colleges, the John Donaldson Technical Institute, the Eastern Caribbean Farm Institute. This offer is still being processed through the Organization of African Unity. In addition, Government has provided facilities for the education of members of liberation groups by contributing directly to the United Nations Trust Fund for South Africa, and the United Nations High Commission for Refugees. Only today, Cabinet approved contributions to these funds for the year 1976. Cabinet also agreed to a grant towards the United Nations Trust Fund for publicity against Apartheid.

10. The fourth and most recent United Nations measure to combat racism relates to the adoption by the General Assembly, in November, 1973, of the International Convention on the suppression and punishment of the crime of Apartheid. This Convention declares that Apartheid is a crime against humanity and that inhuman acts resulting from the policies and practices of apartheid constitute a serious threat to international peace and security. The Convention deems an international crime apartheid and certain acts associated with it. Trinidad and Tobago signed the Convention in 1973.

11. This year, as we celebrate International Day for the elimination of racial discrimination, war clouds hang low over Southern Africa. The oppressed peoples of Southern Africa have risen. They are on the move. Peace-loving nations everywhere have a moral obligation to increase the pressure on the Governments of South Africa and of Rhodesia to dismantle now their minority racist system. To delay is to invite greater bloodshed. The people of Trinidad and Tobago can do no less than express solidarity with the peoples of Southern Africa, still suffering under the yoke of racial oppression. While we continue the struggle in the United Nations and in other forums, it is our duty to show by deed and by example our belief in human dignity based on racial equality. We cannot be too vigilant. Dangers loom everywhere regardless of ideology. Many are the subtle forms of racial discrimination and domination, apartheid, and even genocide.

12. This year, as we commemorate International Day for the elimination of racial discrimination, we are in the midst of the historic exercise of converting our country from a Monarchy to a sovereign democratic Republic. It is gratifying to us (and I am sure I echo the sentiments of an overwhelming majority of our citizens) that the new Constitution makes ample provision for the safeguard and protection of fundamental human rights and freedoms, without discrimination as to sex, colour, origin, religion or race. The multi-religious and multi-religious and multi-racial character of our society imposes on each and every one of us the duty to work for a world befitting the words of our National Anthem:

"Here every creed and race find an equal place".

Goodnight.
