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U.S. Department of State

Trinidad and Tobago Country Report on Human Rights Practices for 1998

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TRINIDAD AND TOBAGO

Trinidad and Tobago, a member of the Commonwealth of Nations, is a parliamentary democracy in which there have been free and fair general elections since independence from the United Kingdom in 1962. A bicameral parliament and a prime minister govern the country. Parliament elects a president, whose office is largely ceremonial. A 12-member elected House of Assembly handles local matters on the island of Tobago. The judiciary is independent.

The Ministry of National Security controls the police service and the defense force, which are responsive to civilian authority. An independent body, the Police Service Commission, makes all personnel decisions in the police service, and the Ministry has little direct influence over changes in senior positions.

Oil and natural gas production and related downstream petrochemical industries form the basis of the market-based economy. The service sector is the largest employer, although continued industrialization has created many jobs in the construction industry. Agriculture, while contributing only 2 percent to gross domestic product, remains an important employer, both at the subsistence and commercial level. Although per capita income is over \$4,200 annually, 13.4 percent unemployment contributes to a skewed income distribution, which has not improved in spite of economic growth of 3.8 percent. Government efforts to address this problem by further diversification into manufacturing and tourism have been only partially successful.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse. Nonetheless, poor prison conditions, long delays in trials, and violence against women remain problems.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing

There were no reports of political or other extrajudicial killing.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits such practices, and there were no reports that officials employed them.

Prison conditions at the women's prison and two of the three men's prisons meet minimum international standards. However, conditions are worse in the Port of Spain prison, which was designed for 250 inmates, but houses about 1,200. Diseases such as chicken pox, tuberculosis, AIDS, and other viruses spread easily, and prisoners generally must purchase their own medication. Overcrowding plagued the entire prison system, which placed 4,900 inmates in prisons built to accommodate no more than 1,800. A new maximum security prison, under construction since 1992, opened on September 1 with 200 inmates and, with an eventual capacity for 2,100, is expected to help alleviate the problem. Nonetheless, the prison was not expected to be fully functional until 1999.

The Government permits prison visits by human rights monitors.

d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest or detention, and the Government generally observes this prohibition.

A police officer may arrest a person either based on a warrant issued or authorized by a magistrate or without a warrant when the officer witnesses commission of the alleged offense. For less serious offenses, the authorities typically bring the accused before a magistrate within 24 hours; for indictable offenses, the accused must appear within 48 hours. At that time the magistrate reads the charge and determines whether bail is appropriate. Magistrates may deny bail to violent or repeat offenders. If for some reason the accused does not come before the magistrate, the case comes up on the magistrate's docket every 8 to 10 days until a hearing date is set. The courts notify persons of their right to an attorney and allow them access to an attorney once they are in custody and prior to any interrogation. However, the authorities do not always comply with these standards. Allegations of corruption among justices of the peace also raised concerns about compliance with these laws. The Government pledged to dismiss and prosecute any justice found to have violated these standards (see Section 1.e.).

The Minister of National Security may authorize preventive detention in order to prevent actions prejudicial to public safety, public order, or national defense, and the Minister must state the grounds for

the detention. A person detained under this provision has access to counsel and may have the detention reviewed by a three-member tribunal established by the Chief Justice and chaired by an attorney. The Minister must provide the tribunal with the grounds for the detention within 7 days of the detainee's request for review, which shall be held "as soon as reasonably practicable" following receipt of the grounds. There have been no reports that the authorities abused this procedure.

The Constitution prohibits exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government respects this provision in practice. The judiciary provides citizens with a fair judicial process.

The court system consists of a court of appeal, a high court, and a magistrate's court. A criminal offense is first sent to a magistrate's court for a preliminary inquiry to determine if it can be heard before a magistrate without a jury. If the magistrate determines that the offense is a serious one, it is referred to the High Court, where it is heard before a judge and jury. All civil matters are heard by the High Court. Appeals can be filed with the local court of appeal, and ultimately to the Privy Council in London. There was considerable support for abolishing appeals to the Privy Council.

The Constitution provides the right to a fair trial, and an independent judiciary vigorously enforces this right. All criminal defendants have the right to an attorney. In practice the courts sometimes appoint attorneys for those persons charged with indictable offenses (serious crimes) if they cannot retain one on their own behalf. The law requires a person accused of murder to have an attorney. An indigent person may refuse to accept an assigned attorney for cause and obtain a replacement.

Despite serious efforts to improve the judiciary, severe inefficiency remains in many areas. Several criminal cases were dismissed due to judicial or police inefficiency. In September a court dismissed an assault charge against a defendant who had to wait 19 years to be brought to trial. Despite significant progress, lengthy trial delays remain a serious problem. Spurred by a desire to implement the death penalty, and in order to comply with a ruling by the Privy Council, the Cabinet established time limits for the courts to dispose of capital appeals. To accomplish this goal, the Attorney General created a case management unit to track capital appeals. The Government also allocated additional resources to help the courts deal with the extra workload.

In addition, the Government moved against corruption in the criminal justice system. At year's end, the authorities had charged at least 35 persons with various offenses after a presidential commission's investigation found collusion among justices of the peace, bailiffs, and police officers in the granting and fixing of bail. Those charged included 8 justices of the peace, 19 bailiffs, 3 attorneys, and 2 police officers. The Government had obtained one conviction by year's end; a court found a justice of the peace guilty of accepting a bribe and sentenced him to 14 years' imprisonment.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence

The law prohibits such practices, government authorities generally respect these prohibitions, and violations are subject to effective legal sanction.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of the press, and the Government respects this right in practice. An independent press and a functioning democratic political system combine to ensure freedom of speech and of the press, including academic freedom.

Prime Minister Basdeo Panday has accused the media of being politically biased against his government. In May the Prime Minister said that he would not sign the Declaration of Chapultepec, a regional pledge of press freedom, unless it included a clause against "lies, half-truths, and innuendoes." At a ruling party rally in November, Prime Minister Panday criticized the media using some of his strongest language to date. An altercation between a government supporter at the rally (himself a journalist) and reporters covering the event was blamed by many in the media on the Prime Minister's rhetoric. The Prime Minister's comments and the incident at the rally received wide negative press coverage and led to a subsequent protest march by some members of the media and others in downtown Port of Spain.

Both before and after this incident, the three major daily newspapers freely and often criticized the Government in editorials. Widely read weekly tabloids tend to be extremely critical of the Government. All newspapers are privately owned. The two local television newscasts, one of which appears on a state-owned station, are sometimes critical of the Government but generally do not editorialize.

A Board of Film Censors is authorized to ban films it considers to be against public order and decency or contrary to the public interest. This includes films which it believes may be controversial in matters of religion, race, or that contain seditious propaganda. In practice films are rarely prohibited.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly, and the Government respects this right in practice. The police routinely grant the required advance permits for street marches, demonstrations, or other outdoor public meetings. In August the Government amended the Summary Offences Act to require that permits for public meetings and rallies be applied for 48 hours in advance instead of 24 hours. The fine for violation of the act was raised from about \$275 (TT\$ 2,000) to \$1,375 (TT\$10,000). The amendment makes it an offense to hold a public meeting without a permit under the guise of conducting an exempted religious, educational, recreational, or sports function. This new offense is punishable by imprisonment for 2 years or a fine of about \$1,375 (TT\$10,000). In practice, the law has not unduly restricted public meetings, demonstrations, or exempted events.

The Constitution provides for freedom of association, and the Government respects this right in practice. Registration or other governmental permission to form private associations is not required.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right in practice.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government respects them in practice.

There is no provision for persons to claim or be classified as refugees or asylum seekers; the Ministry of National Security's Immigration Division handles any such requests on a case-by-case basis. The issue

of the provision of first asylum did not arise. There were no reports of forced return of persons to a country where they feared persecution.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Parliamentary elections are held at intervals not to exceed 5 years. Elections for the 12-member Tobago House of Assembly are held every 4 years. The Constitution extends the right to vote to citizens as well as to legal residents at least 18 years of age who hold citizenship in other Commonwealth countries.

In the November 1995 general elections, the former opposition United National Congress (UNC) and the ruling People's National Movement (PNM) each won 17 seats in Parliament. The National Alliance for Reconstruction (NAR) won two seats and joined with the UNC to form a new government. Basdeo Panday became the country's first Prime Minister of East Indian descent. The PNM is primarily but not exclusively Afro-Trinidadian; the UNC is primarily but not exclusively Indo-Trinidadian.

There are no specific laws that restrict the participation of women or minorities in government or the political parties. Women hold many positions in the Government and political party leadership. Four of 36 elected members of the House of Representatives and 10 of 31 appointed Senators are women, with 2 women serving as ministers. Prime Minister Panday appointed the first woman to serve as Attorney General; she has since moved to the position of Minister of Legal Affairs.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are very cooperative and responsive to their views. An independent ombudsman receives complaints relating to governmental administrative issues and investigates complaints of human rights abuse. The Ombudsman can make recommendations but does not have authority to force government offices to take action.

The Government sought to curtail appeals by death row inmates to the Inter-American Commission on Human Rights (IACHR) and the United Nations Human Rights Committee. In May it gave the IACHR the required 1-year notice of its intent to withdraw from the American Convention on Human Rights. Also in May it informed the U.N. committee of its intention to denounce the Optional Protocol to the International Covenant on Civil and Political Rights in 3 months. However, it indicated its intent to reaccede immediately to the Optional Protocol with the reservation that the U.N. committee would not have jurisdiction over death penalty cases.

The Government's moves were prompted by a Privy Council ruling that failure to execute a condemned prisoner within 5 years of sentence constitutes cruel and unusual punishment in violation of the Constitution. To meet this 5-year deadline, the Government established time limits for appeals to courts and human rights bodies. Local appeals are now disposed of within an average of 16 months compared with the previous average of 7 years.

The Government asked the IACHR and the U.N. Committee each to agree to dispose of petitions within 8 months. According to the Government, both bodies responded that they could not provide such assurances. The Government stated that the conflict between a binding Privy Council ruling and its

obligations to the human rights organs had to be resolved in favor of the Constitution and the Privy Council. The Government has indicated that it would execute condemned prisoners who have exhausted all their appeals and have unresolved petitions pending more than 8 months before one of the human rights bodies.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Government respects in practice the constitutional provisions for fundamental human rights and freedoms to all without discrimination based on race, origin, color, religion, or sex.

Women

Physical abuse of women continued to be an extensive problem. However, there has been increased media coverage of domestic abuse cases and signs of a shift in public opinion, which held that such cases were a private matter. The Government has taken action to improve aid to victims. Murder, rape, and other crimes against women are frequently reported; 72 percent of adult female murder victims in 1998 were believed to have been killed by their husbands or lovers. Rape, spousal abuse, and spousal rape are criminal offenses. The 1991 Domestic Violence Act was intended to facilitate court-issued restraining orders to protect victims, and extended protection to common-law relationships, a frequent form of marital union. However, some observers say that the number of restraining orders issued has not increased at the rate expected since the enactment of the law. The establishment of a community police division improved police responsiveness to reports of domestic abuse, but some police officers are reputed to be unsympathetic or reluctant to pursue such cases, resulting in underreporting of crimes of violence against women. There were almost 3,000 reported cases of spousal abuse during the year; victims reported an average of 9 cases a day to police, with the actual incidence of such abuse considered to be much higher. Two government ministries, operating independently, direct the NGO's that run most of the country's social programs addressing domestic violence, including five shelters for battered women, and a rape crisis center offers counseling for rape victims and perpetrators on a voluntary basis. A Government-sponsored hot line receives between 200 and 250 calls each month. The Government has introduced legislation to strengthen the Domestic Violence Act, but Parliament had not yet voted on it by year's end.

The case of a woman convicted and sentenced to death for the 1991 murder of her husband, whom she claimed had abused her severely over a prolonged period, drew wide attention. Some women's groups asserted that the conviction represented a double standard that punishes wife-killers less severely than women who retaliate against abusive husbands. Her attorneys have appealed on the basis of new evidence that they assert shows she suffered from battered-wife syndrome at the time of the murder.

Many women hold positions in business, the professions, and government, but men tend to hold the most senior positions. There is no law or regulation requiring equal pay for equal work.

The Division of Gender Affairs in the Ministry of Culture and Gender Affairs is charged with protecting women's rights in all aspects of government and legislation. Several active women's rights groups also exist.

Children

The Government's ability to protect children's welfare is limited by a lack of funds and expanding social needs. Some parts of the public school system seriously fail to meet the needs of the school age population due to overcrowding, substandard physical facilities, and occasional classroom violence by

gangs. There is no societal pattern of abuse directed at children. The Domestic Violence Act provides protection for children abused at home. Abused children are usually placed with relatives if they are removed from the home. If there is no relative who can take them, there are several government institutions and nongovernmental organizations (NGO's) that accept children.

People With Disabilities

There is no legislation that specifically enumerates or protects the rights of disabled persons nor mandates the provision of access to buildings or services, although NGO's lobbied Parliament to pass such legislation. Lack of access to transportation, buildings, and sidewalks is a major obstacle for the disabled. The Government provides some public assistance and partial funding to a variety of NGO's which, in turn, provide direct services to disabled members or clients.

Indigenous People

Members of a very small group in the population identify themselves as descendants of the original Amerindian population of the island. They maintain social ties with each other and other aboriginal groups and are not subject to discrimination.

National/Racial/Ethnic Minorities

Various ethnic and religious groups live together peacefully, generally respecting each other's beliefs and practices. However, at times racial tensions appear between Afro-Trinidadians and Indo-Trinidadians. Each group comprises about 40 percent of the population. The private sector is dominated by Indo-Trinidadians and people of European, Middle Eastern, or Asian descent. Indo-Trinidadians also predominate in agriculture. Afro-Trinidadians tend to find employment in disproportionate numbers in the civil service, police, and military. Some Indo-Trinidadians assert that they are excluded from equal representation in the civil service due to racial discrimination. Since Indo-Trinidadians constitute the majority in rural areas and Afro-Trinidadians are in the majority in urban areas, competition between town and country for public goods and services often takes on racial overtones.

In October 1996, there were reports that several popular recreational clubs were refusing entry to Afro-Trinidadians and dark-skinned Indo-Trinidadians. The reports led to criticism of racism by the local press, and the Government pledged to implement a law banning racial discrimination in entry policies for private clubs. However, the Government has not yet taken such action.

Section 6 Worker Rights

a. The Right of Association

The 1972 Industrial Relations Act provides that all workers, including those in state-owned enterprises, may form or join unions of their own choosing without prior authorization. Union membership has declined, with an estimated 20 to 28 percent of the work force organized in 14 active unions. Most unions are independent of the Government or political party control, although the Sugar Workers' Union is historically allied with the UNC. The Prime Minister was formerly president of the Sugar Workers' Union.

The law prohibits antiunion activities before a union is legally registered, and the Ministry of Labor enforces this provision when it receives a complaint. A union may also bring a request for enforcement to the Industrial Court. All employees except those in "essential services," such as government

employees and police, have the right to strike.

The Labor Relations Act prohibits retribution against strikers and provides for grievance procedures if needed. A special section of the Industrial Court handles mandatory arbitration cases. Arbitration agreements are enforceable and can be appealed only to the Industrial Court.

Unions freely join federations and affiliate with international bodies. There are no restrictions on international travel or contacts.

b. The Right to Organize and Bargain Collectively

The Industrial Relations Act establishes the right of workers to collective bargaining. The Ministry of Labor's conciliation service maintains statistical information regarding the number of workers covered by collective bargaining agreements and the number of antiunion complaints filed.

The Industrial Court may order employers who are found guilty of antiunion activities to reinstate workers and pay compensation, or it can impose other penalties including imprisonment. When necessary the conciliation service also determines which unions should have senior status.

There are several newly organized export processing zones (EPZ's). The same labor laws apply in the EPZ's as in the country at large.

c. Prohibition of Forced or Compulsory Labor

The law does not explicitly prohibit forced or compulsory labor, but there were no reports that it was practiced. There were also no reports of forced or bonded labor by children.

d. Status of Child Labor Practices and Minimum Age for Employment

The minimum legal age for workers is 12 years. Children from 12 to 14 years of age may only work in family businesses. Children under the age of 18 may legally work only during daylight hours, with the exception of 16- to 18-year-olds, who may work at night in sugar factories. The probation service in the Ministry of Social Development and Family Services is responsible for enforcing child labor provisions, but enforcement is lax. The Government does not specifically prohibit forced and bonded labor by children, but such practices are not known to occur (see Section 6.c.). There is no organized exploitation of child labor, but children are often seen begging or working as street vendors.

e. Acceptable Conditions of Work

In June the Government passed the Minimum Wages Act which established a minimum wage of about \$1.10 (TT\$7.00) per hour. A minimum wage is not sufficient to support a worker and family, but most workers earn more than the minimum. The Ministry of Labor enforces the minimum wage regulations.

The new Minimum Wages Act also established a 40-hour workweek, time and a half pay for the first 4 hours of overtime on a workday, double pay for the next 4 hours, and triple pay thereafter. For Sundays, holidays, and off days the act also provides for double pay for the first 8 hours and triple pay thereafter. Daily rest periods and paid annual leave form part of most employment agreements.

The Factories and Ordinance Bill of 1948 sets requirements for health and safety standards in certain industries and provides for inspections to monitor and enforce compliance. The Industrial Relations Act

protects workers who file complaints with the Ministry of Labor regarding illegal or hazardous working conditions. If it is determined upon inspection that hazardous conditions exist in the workplace, the worker is absolved for refusing to comply with an order that would have placed him or her in danger.

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