Summary record of the 1870th meeting: Trinidad and Tobago. 10/23/2000.
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Convention Abbreviation: CCPR
ARTICLE 40 OF THE COVENANT

Third and fourth periodic reports of Trinidad and Tobago

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4)

Third and fourth periodic reports of Trinidad and Tobago (CCPR/C/TTO/99/3; CCPR/C/70/L/TTO)

1. At the invitation of the Chairperson, Mr. Maharaj, Ms. Sookram, Ms. Richards, Mr. Pursglove, Ms. Sirjusingh and Ms. Boodhoo (Trinidad and Tobago) took places at the Committee table.

2. The CHAIRPERSON, welcomed the delegation of Trinidad and Tobago, and explained the procedure to be followed during the dialogue with the Committee.

3. Mr. MAHARAJ (Trinidad and Tobago) said his Government recognized that cooperation with the Committee was essential for the proper discharge of its duties under the Covenant. Over the years, Trinidad and Tobago’s international reporting system had not worked well, hence the establishment following the election of a new Government in 1995 of a Human Rights Unit to ensure compliance with the State’s reporting obligations. Aside from the third and fourth periodic reports to the Human Rights Committee, the Human Rights Unit had submitted reports relating to other international instruments. With the submission of its report under the Convention on the Rights of the Child it would soon be one of the few States that were up to date with their reporting obligations.

4. The report under consideration (CCPR/C/TTO/99/3) showed the great strides his country had made in promoting the principles proclaimed in the Charter of the United Nations and the rights enshrined in the Covenant. With regard to the latter, the Government had not confined its actions to Trinidad and Tobago; it had also cooperated with Governments and NGOs in the Caribbean region and throughout the world to achieve those objectives. Good examples were the regional workshops organized in his country to assist CARICOM countries with model legislation for the implementation of policies relating to the International War Crimes Tribunal and the
International Criminal Court. His had been the second country in the world to ratify the statute of the International Criminal Court and the first country in the region to introduce legislation giving effect to it.

5. In 2000, Trinidad and Tobago had acceded to the Hague Convention on the civil aspects of international child abduction and had passed implementing legislation. It would shortly accede to the Convention relating to the Status of Refugees and to the Protocol relating to the Status of Refugees. Legislation had also been adopted to implement the Convention on the Rights of the Child, and thereby improve procedures for adoption, monitoring and regulating children’s homes, rehabilitation centres, foster homes and nurseries, and the establishment of a Children’s Authority.

6. Steps had been taken to comply with the United Nations Standard Minimum Rules for the Treatment of Prisoners through legislation introducing a system of community service orders and community mediation. As an alternative to imprisonment, the concept of community justice had been introduced in the rehabilitation process, and community mediation centres had been set up with mediators trained and funded by the State to resolve civil and criminal conflicts. Draft legislation had also been prepared with the aim of modernizing the prison and penal system; it dealt with matters such as prison conditions, inmates’ correspondence, prison visits, punishment, inspections and rehabilitation programmes. The Government was also considering the establishment of a prison inspectorate staffed by representatives of NGOs to visit prisons on a regular basis and make recommendations to the Minister of National Security.

7. Major legislative reforms included the repeal of the Legal Aid and Advice Act to increase the numbers of beneficiaries, and to extend the scope of legal aid. A Judicial Review Act had been passed in 2000 to allow NGOs and persons not directly affected by a public wrong to seek redress on behalf of poor persons. Recent legislation for the establishment of an Equal Opportunities Commission and Equal Opportunities Tribunal provided for mediation in the settlement of disputes and, if necessary, the bringing of cases before the Tribunal free of charge. A new Domestic Violence Act had been passed in order to improve social programmes and increase support and remedies available to victims. Laws dating from 1918 which discriminated against persons of the Baptist, Orisha or other non-Christian faiths were being repealed.

8. The Government’s success in promoting the rights enshrined in the Covenant and in pursuing policies aimed at sustainable human development had been recognized in several reports. In UNDP’s Human Development Report for 2000, Trinidad and Tobago had ranked fifth among the world’s developing countries and had a better ranking than the United States and the United Kingdom in overcoming poverty. According to UNDP’s Gender Empowerment Measure, Trinidad and Tobago came
ahead of countries such as Singapore, Italy and Japan. Unemployment had been reduced from 17.2 per cent in 1995 to 11.7 per cent at the end of 1999. As of September 1999 the Government provided free primary and secondary education for all and subsidized education at the tertiary and professional levels. New environmental laws allowed environmental institutions to take the necessary steps to protect the environment. Again according to the Human Development Report for 2000, Trinidad and Tobago was one of the leaders in Latin America and the Caribbean in ensuring that economic prosperity meant a better standard of living for its citizens.

9. The openness, transparency and accountability of the Government had improved in the past year through the radical reform of anti-corruption and integrity laws empowering an independent commission to investigate and prosecute public officials accused of corruption. The Government was in the process of implementing a Freedom of Information Act and a Constitution (Amendment) Act. The former created a statutory right in favour of individuals to receive government-held information. The latter empowered select committees representing a broad spectrum of political opinion to monitor all State sectors and investigate alleged improper or corrupt acts.

10. Trinidad and Tobago retained the death penalty. However, the Government had recently passed a Bill in the House of Representatives dividing the offence of murder into three categories. As a result, many unlawful killings would no longer be liable to the death penalty.

11. A report published recently by a government-appointed commission of inquiry comprising Commonwealth jurists and headed by Lord Mackay, the former Lord Chancellor of the United Kingdom, stated that there was no threat to the independence of the judiciary in Trinidad and Tobago and made wide-ranging recommendations for improvements in the administration of justice. The report also documented the great progress made since 1996 in the judiciary system.

12. In a world ravaged by ethnic and religious conflicts causing flagrant violations of civil and political rights, Trinidad and Tobago stood out as a model country in which people of different race and religion lived in harmony. A sentiment of national unity fostered peace, love, tolerance and service. However, the successful management of such diversity could not have been achieved without a Government which respected civil and political rights, observed due process, provided effective redress for human rights violations and upheld the rule of law.

13. The aim of the Government was to promote poverty eradication, sustainable development, a better environment, gender equality and good governance, for it believed that development not only generated growth but also ensured a more
equitable distribution of benefits and the empowerment of people. There was compelling evidence that Trinidad and Tobago had taken the lead in the region, particularly in the past five years, through its cooperation with NGOs and Governments and efforts in the promotion of justice and peace in the region and the entire world.

14. Mr. PURSGLOVE (Trinidad and Tobago) said, with reference to question 1 of the list of issues (CCPR/C/70/L/TTO), that in its decision on Pratt and Morgan v. The Attorney General for Jamaica (1994) the Judicial Committee of the Privy Council had established a very strict time-frame for consideration of petitions from condemned prisoners to ensure that they did not spend too long on death row, which constituted cruel and unusual punishment and was in violation of article 5 of the Constitution. The Government had taken steps to ensure that at the domestic level such a time-frame was complied with through the reforms to the judicial system and the appointment of new judges. However, it had no control over the deliberations of human rights bodies, which often took several years. If that trend continued and the overall period for consideration of petitions before domestic and international bodies exceeded five years death sentences would have to be commuted to life imprisonment, thereby undermining the administration of justice. Following the response by the Human Rights Committee and the Inter-American Commission on Human Rights that it was not possible to accelerate procedures for dealing with such petitions, his Government had entered a reservation to the Optional Protocol excluding capital cases from the jurisdiction of the Committee. Subsequently, in the light of the Committee’s majority decision that such a reservation was invalid, the Government had decided to denounce the Optional Protocol as a whole. By that stage it had also already denounced the Inter-American Convention on Human Rights.

15. There was some misunderstanding about the Privy Council’s Thomas v. Baptise ruling to the effect that it allowed an indeterminate amount of time for human rights bodies to review petitions relating to capital cases, the interpretation being that if the human rights bodies took more than 18 months to review the petition, it no longer counted as part of the 18 months established by the Pratt and Morgan ruling. That resulted in a contradictory situation in the sense that where a prisoner was held on death row for up to two years in the domestic system it was considered cruel and unusual punishment, but the same did not hold true for delays of longer than 18 months before a human rights body. In a recent Jamaican case the Privy Council had given a new interpretation to the Thomas v. Baptise case, effectively reapplying the Pratt and Morgan decision by stating that it had no intention of altering the overall five-year period for the review of petitions in domestic courts and before international human rights bodies. In the light of that interpretation, his Government still had a valid reason for its denunciation of the Optional Protocol.
16. Although there were no capital cases pending before the Human Rights Committee, there were approximately 45 cases before the Inter-American Commission on Human Rights, since cases rejected by the Privy Council were automatically referred to that Commission. Furthermore, while Trinidad and Tobago had denounced the Inter-American Convention on Human Rights, the Inter-American Court of Human Rights retained its jurisdiction over matters occurring before that denunciation. The average delay for the capital cases pending before the Commission was three years and there was still no sign of the Commission concluding its deliberations. In view of such considerable delays, the Government considered that there was justification for the action taken.

17. As detailed in the report, there was adequate provision for due process in the Constitution and laws of Trinidad and Tobago. No other State allowed its prisoners so many avenues of appeal or rights to bring constitutional motions against the Government. The ultimate court of appeal was the Judicial Committee of the Privy Council in England, which conferred a dimension of international jurisprudence. He did not wish to enter into a debate on the death penalty with the Committee, which did not fall within its sphere of competence. Trinidad and Tobago had not signed the Second Optional Protocol and thus there was nothing to prevent it from retaining capital punishment; however, it did strive to ensure that other relevant provisions of the Covenant relating to the death penalty were fully complied with.

18. Ms. SIRJUSINGH (Trinidad and Tobago), in reply to question 2, said that the Constitution of Trinidad and Tobago reflected many of the rights enshrined in the Covenant and expressly declared that such rights should exist without discrimination on the grounds of race, religion, sex or origin. A person alleging infringements of his constitutional rights could apply to the High Court of Justice for redress; he could also appeal to the Court of Appeal and the Judicial Committee of the Privy Council. Also, violations occurring in a tribunal or ordinary court could be referred to the High Court. A person directly or indirectly affected by the decision of an inferior court, tribunal, public body or public authority could also apply for leave to file judicial review proceedings. New legislation recently approved by Parliament set out substantive rights with respect to judicial review applications and would provide for public interest litigation. Labour disputes could be referred to the Industrial Court, which had the power of a superior court of record; there was also the right of appeal to the Court of Appeal.

19. New legislation relating to equal opportunities would provide remedies in cases of discrimination on grounds of race, religion, sex, origin, disability, marital status or ethnicity, in the fields of education, employment and the provision of goods, services or accommodation. Cases addressed to the Equal Opportunities Commission which could not be resolved through conciliation could be referred to the Equal
Opportunities Tribunal, whose decisions could be appealed to the Court of Appeal. The question of gender equality was also covered by existing substantive law, including the Maternity Protection Act, the recently amended Domestic Violence Act and the Sexual Offences Act.

20. Mr. PURSGLOVE (Trinidad and Tobago), replying to question 3, admitted that in the past there had been dereliction by his country in following up the Committee’s views and recommendations. Now, with the establishment of a Human Rights Unit in the Attorney-General’s Office, the situation should improve and the Committee would be notified of any action taken, as appropriate. Despite such dereliction he assured the Committee that the Government had tried to bring the Committee’s views to the attention of the competent bodies in Trinidad and Tobago. On occasion its findings had been considered in cases referred to the Judicial Committee of the Privy Council, particularly with respect to pre-trial delays and inhuman and degrading prison conditions. There had even been cases of sentences being commuted, resulting in payment of compensation. More often than not, however, the Privy Council would not concur with the Committee’s findings. Moreover, although remedy might not be granted immediately, the circumstances of all petitioners were reviewed on a regular basis every four years by the Advisory Committee on the Power of Pardon and during each review the Committee’s views were taken into consideration. In the right circumstances, its views might well tip the balance in a case, as was borne out by the release of a condemned prisoner the previous week.

21. The Attorney-General had provided information on new legislation, some of which had been instigated by the views of the Committee. His Government wanted to ensure that violations identified by the Committee in the past would not recur. It was also worth noting that to date the Government had never submitted its observations on petitions addressed to the Committee, which had therefore based its findings on the views of the petitioners only. It was to be hoped that, in future, when the Committee was able to examine the full circumstances of the cases referred to it, its findings might be different.

22. Turning to question 4, he said that there were currently 67 persons awaiting the death sentence in Trinidad and Tobago, 63 of whom were male. Ten prisoners had been executed in 1999 - the first executions to take place in five years. Since 1999, there had been no further executions on account of the Thomas v. Baptise ruling to the effect that the State could not carry out executions while petitions were pending before international human rights bodies. Owing to the number of petitions awaiting consideration by the Inter-American Commission on Human Rights, it was unlikely that there would be any more executions in the near future.
23. Ms. SIRJUSINGH (Trinidad and Tobago) said, in reply to question 5, that implemented recommendations by the Commissions advising on the Police Service included greater use of civilian staff, for instance to perform clerical duties, in order to release more trained police officers for work in the field. The management of the police had also been streamlined to ensure greater effectiveness. Clear job descriptions had been drawn up for the different posts concerned and training facilities had been improved. In response to the Scotland Yard report in 1993, a Police Complaints Authority had been set up. It was being widely used by the public to file complaints against the police, as shown by the figures for 1996 and 1997 of some 1,400 and 1,663 complaints under review respectively.

24. There had been marked improvements in various areas of police management style and practice, as recommended in the Scotland Yard report, which had led to increased public satisfaction. Police standing orders were currently under review with the aim of orienting them more towards serving the public. Written guidelines had been issued and training sessions organi