

## **Questionnaire on CERD from the Ad Hoc Committee on the elaboration of complementary standards to the International Convention on the Elimination of All Forms of Racial Discrimination**

- i) **Kindly provide information on the phenomena of xenophobia in your national context, including any general trends**

The phenomena of xenophobia or the fear and hatred of strangers or of anything strange and foreign have developed current trends of religious intolerances globally. There are however, no records of such specific cases or reports in the Ministry of the Attorney General. This fear may be derived from social, political, economic, religious or ethical perceptions. More intensive research properly disaggregated using both socio-political and socio-economic variables must be done before a statement of significance is made on this issue.

- ii) **How is xenophobia addressed in your country (include any legal and judicial frameworks and practices, substantive and procedural measures)?**

In Trinidad and Tobago, xenophobia is addressed by combating the issue of discrimination as well as the issue of violence against persons and racial hatred and superiority. The main pieces of legislation that address these issues directly include:

- 1) *The Constitution*
- 2) *The Equal Opportunity Act 2000*
- 3) *The Anti Terrorism Act, 2005*
- 4) *The Sedition Act, 1920*
- 5) *The International Criminal Court Act, 2006*

The Constitution guarantees fundamental rights and freedoms free from discrimination by reason of race, origin, religion or sex.

In addition to the Constitution, the *Equal Opportunity Act 2000* protects the status of a person from discrimination whereby “status of a person” is defined under the Act as (a) the sex; (b) the race; (c) the ethnicity; (d) the origin, including geographical origin; (e) the religion; (f) the marital status; or (g) any disability of that person.

Section 4 of *the Equal Opportunity Act* outlines the areas of discrimination which the Act protects. These areas include discrimination in relation to employment, education, the provision of goods and services and the provision of accommodation, where the discrimination is—

- (i) discrimination on the ground of status;
- (ii) discrimination by victimization;
- (iii) offensive behaviour

Where a person's rights are violated under the *Equal Opportunity Act*, he may lodge a complaint to the Equal Opportunity Commission also established under the Act, to receive redress.

*The Anti-Terrorism Act, 2005*, makes it an offence for any person to commit a terrorist act and such person is liable to imprisonment for twenty-five years. It is important to note that under the *Anti-Terrorism Act*, acts of political, ideological, or a religious nature that have a purpose of disrupting national security or public safety and also intimidates others or a particular section of the public may fall within the scope of a terrorist act and is punishable by law.

The purpose of the *International Criminal Court Act, 2006* as stated under section 3 is to make provision in Trinidad and Tobago law for the punishment of certain international crimes, namely, genocide, crimes against humanity and war crimes; and to enable Trinidad and Tobago to co-operate with the International Criminal Court established by the Rome Statute in the performance of its functions. Under the *International Criminal Court Act*, "genocide" is defined to mean acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, such as: killing members of the group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group; or forcibly transferring children of the group to another group. The penalty for genocide, or conspiring with, or agreeing with any person to commit genocide is the same as the penalty for murder, and in any other case, imprisonment for life or lesser term.

*The Sedition Act, 1920* is also an important piece of legislation in relation to the criminalization and elimination of racial hatred and superiority. The purpose of the *Sedition Act* is to provide for the punishment of seditious acts and seditious libel, to facilitate the suppression of seditious publications, and to provide for the temporary suspension of newspapers containing seditious matter. Persons who commit an offence under this Act are liable on summary conviction to a fine of three thousand dollars and to imprisonment for two years; or on conviction on indictment to a fine of twenty thousand dollars and to imprisonment for five years.

- iii) Which national mechanism(s) with competences to protect against and prevent all forms of manifestation of racism, racial discrimination, xenophobia and related intolerance does your country have in place? Kindly indicate the(ir) mandate(s) and powers, including any proposals for improvement on the basis of national experience.**

The main national mechanism which aims to combat discrimination is the Equal Opportunity Commission and the Equal Opportunity Tribunal established by the *Equal Opportunity Act, 2000*. The Commission is responsible, among other things, for receiving and investigating allegations of discrimination including racial discrimination

and, as far as possible, facilitating the conciliation of those allegations. When a person lodges a complaint with the Commission, the Commission may accept the complaint once it is lodged within six months of the alleged discrimination. The Commission is mandated under section 32 of the Act to investigate every complaint lodged with it, once it fulfils the six month requirement. In carrying out an investigation, the Commission may by notice in writing (a) require any person to furnish such information as may be described in the notice; (b) specify the time within which the required information is to be furnished; and (c) require the person to attend at such time and place specified in the notice and to give oral evidence about and produce all documents in his possession or control relating to, any matter specified in the notice.

In addition to its powers of investigation, the Commission may also facilitate the conciliation of matters in circumstances where it may be appropriate. Under section 36 of the Act, failure to comply, without reasonable excuse, with the notice of the Commission may result, in the case of an individual, to a fine of one thousand dollars on summary conviction, and in the case of a body corporate, to a fine of five thousand dollars for every day that the individual or body corporate refuses or fails to comply with any of the requirements of the notice.

Also, the Equal Opportunity Tribunal operates to adjudicate matters that have been referred to it by the Commission. The Commission may refer a matter to the Tribunal in circumstances where conciliation is unsuccessful or in cases where conciliation is considered to be inappropriate.

In 2011, the Government introduced *The Equal Opportunity (Amendment) (No. 2) Bill, 2011* which seeks to prohibit discrimination on the grounds of age and a person's HIV/AIDS status. It intends to remove the requirement of intention, motive or mala fides in the establishment of direct or indirect discrimination and to expand the categories of complainants. As such, the Bill aims to increase protection against vulnerable groups of persons.

On its election into office in 2010, the Government declared its commitment to ensuring equality of opportunity for all races and cultures when it announced the restructuring of the Ministry of Arts and Culture to become the Ministry of the Arts and Multiculturalism in order to give greater voice to the diverse cultural expressions of our common desires for individual and national identity. Further to this, in 2012, the Prime Minister introduced a new ministry to her Cabinet, the Ministry of National Diversity and Social Integration. One of the major objectives of this new ministry is the creation of a Council for the Development of an Integration and National Identity Policy.

- iv) **Kindly provide information or any comments your country might have on the issue of procedural gaps to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), including any legal and judicial frameworks and practices, substantive and procedural measures.**

N/A

- v) **Would your country have any comments on the issue of the impact of reservations on the implementation to the ICERD? Is there a need for reservations and why?**

N/A

- vi) **Would your country have any comments concerning Article 14 of the ICERD (declaration by State Party recognizing the competency of the Committee to receive/consider individual complaints)?**

N/A

- vii) **Which CERD recommendations has your country implemented with regard to national mechanisms and xenophobia, including any legal and judicial frameworks and practices, substantive and procedural measures? What has been your national experience (including challenges) in this regard?**

CERD General Recommendations, have not been specifically implemented in Trinidad and Tobago. However, certain principles and obligations within various recommendations are consistent in general legal and policy framework. For example, in General Recommendation XXX which speaks to “Discrimination Against Non-Citizens”, Trinidad and Tobago legislation ensures inter alia, that persons who are not citizens may apply for citizenship or residency on an equal basis regardless of ethnicity or nationality, but subject to concerns of national security. Non-citizens may also enjoy Constitutional fundamental rights and freedoms as well as the right of access to justice.

Also, since Trinidad and Tobago’s submission of its last CERD Report, it has received various recommendations from the Committee. These recommendations have been considered and several have also been implemented. Of particular note is the recommendation on the *Equal Opportunity Act, 2000* and the establishment of the Equal Opportunity Commission and the Equal Opportunity Tribunal. As regards this particular recommendation, the Government is pleased to inform that these institutions have been established and are fully operational as noted above.

Trinidad and Tobago has indeed faced certain challenges with respect to the implementation of recommendations. The most significant challenge relates to the lack of technical capacity which gravely affects the collection of statistical data on different sectors of society. However, with the advances in technological systems, Trinidad and Tobago hopes to improve its methods of data collection in the future.

**viii) How is assistance provided to victims and/or affected communities of racism, racial discrimination, xenophobia and related intolerance at the domestic level? How do victims and/or affected communities participate fully and effectively in relevant processes and national mechanisms?**

The Equal Opportunity Commission as detailed above, allows for persons to lodge complaints with respect to allegations of discrimination, to have their complaints investigated and resolved.

In addition, the Constitution establishes the office of the Ombudsman. The principal function of the Ombudsman 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 by officers or members of such a department or authority, being action taken in exercise of the administrative functions of that department or authority, where an injustice may have occurred. In other words, persons who may have suffered an injustice as a result of an act or omission by a Government authority may file a complaint to the Ombudsman to have his allegation investigated and resolved.

*The Mediation Act, 2004*, provides for the establishment of a Mediation Board as well as the establishment of community mediation. Under this Act, various community mediation centres are identified whereby persons may access mediation services for a wide range of disputes. Regulation 22 of the Community Mediation Regulations outlines the types of disputes which may be facilitated through the community mediation centres, although it is not limited to the matters listed, which include:

- (a) Landlord and tenant disputes;
- (b) Merchant and consumer disputes;
- (c) Organisational disputes;
- (d) Small claims;
- (e) Threat and harassment problems;
- (f) Neighbourhood conflicts;
- (g) Family and relationship disputes;
- (h) Small contractor and home owners disputes;
- (i) Community disputes; and
- (j) Juvenile conflicts (truancy, delinquent children beyond control and gang related activities).

These mediation centres provide a means whereby offenders and victims may work together to resolve conflict.

**ix. With regard to the topics of this questionnaire:**

- a) **Kindly indicate any possible recommendations your country would wish to provide; and,**
- b) **Are there any additional comments or information your country wishes to provide in relation to xenophobia, national mechanisms or procedural gaps?**

N/A

**Prepared by:  
The International Law and Human Rights Unit  
Ministry of the Attorney General**