

**The Caribbean Centre for Human Rights
Trinidad and Tobago**

**Universal Periodic Review
Stakeholder Submissions**

**Submission to the Universal Periodic Review
39th Session of the Working Group
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INTRODUCTION

Founded in 2006, the Caribbean Centre for Human Rights (CCHR) is an independent, nonprofit, non-governmental organization (NGO), dedicated to the empowerment of human rights activists, organizations and the Caribbean communities. CCHR' engages in public education and awareness campaigns, legal advocacy and building strategic partnerships to advance human rights in Trinidad and Tobago (TT) and the Caribbean. CCHR's work focuses on advocacy for better prison conditions, lengthy stay in remand, migrant and refugees and police use of force.

The Trinidad and Tobago government continues to engage in measures to improve the human rights situation particularly with respect to gender based violence and children. However several other human rights issues persist. The crisis in Venezuela has presented serious human rights challenges that the government has been slow to respond to and have failed with respect to their international obligations. The prison situation has remained largely unchanged if not worse since the last review and the cracks in the criminal justice system are evident more than ever given the delays in the criminal justice system.

METHODOLOGY

Due to the lack of transparency by the government on several human rights issues and lack of data this report has been compiled based on observations, first and secondhand accounts, information from other civil society organizations, media articles and reports.

REFUGEES

The humanitarian crisis in neighboring Venezuela has exploded in the last five years and TT has experienced an influx of Venezuelans seeking protection. Trinidad and Tobago is a party to the 1951 Refugee Convention and its 1967 Protocol however it has not been integrated into local legislation. A draft "National Policy to Address Refugee and Asylum Matters" was adopted in 2014 but has not been enacted into law thus protection is limited for asylum seekers and refugees. Migrants and refugees are treated under the 1976 Immigration Act which lacks provisions to deal with asylum seekers and refugees and to address their particular vulnerabilities and needs. The government of TT established a National Registration Process in June 2019 where 15 653 Venezuelans were registered over a two week period. This national registration allows Venezuelans to legally live and work in TT and is renewed on a six month basis. However there are several thousand more Venezuelans that were not able to register under this program. There are over twenty nationalities, apart from Venezuelans, that seek asylum in TT and they have not been able to participate in the national registration process.

The situation for asylum seekers and refugees seeking protection in TT is dire. There is tremendous xenophobia towards Venezuelans, which is promoted by statements by government officials who brand them as "illegal immigrants". The government continues to disregard their international obligations under the Convention and place persons seeking international protection in TT at risk. Trinidad and Tobago continues to return asylum seekers which may constitute refoulement and CCHR has received reports of persons registered with UNHCR also being returned. Anyone found entering the country irregularly is charged with illegal entry, detained and either released after a bond is paid and issued an Order of Supervision or they are deported to their country of origin. The Immigration Act does not recognize the non-penalization principle of the Refugee Convention. Refugees do have access to basic medical services however asylum

seeking and refugee children are not able to access education in local schools. Some refugee children are able to access education through the Catholic Board and via the Equal Place project which is a collaboration with UNHCR, UNICEF and Living Water Community.

In June 2019, the government of Trinidad and Tobago established a visa requirement for Venezuelans wishing to enter Trinidad and Tobago. The establishment of a visa requirement has further challenged their ability to seek international protection in TT. In response to the COVID-19 pandemic, the Government of Trinidad and Tobago closed its borders in March 2020 however, Venezuelan migrants and refugees continue to seek international protection in Trinidad and Tobago and continue to enter the country irregularly making the perilous journey by boat. They also face risks of human trafficking, human smuggling and piracy. COVID-19 restrictions have made seeking international protection more challenging for asylum seekers and refugees in Trinidad and Tobago. Border closures due to COVID-19 mean that all persons entering the country are branded as illegal and the asylum process is further criminalized. The returns of migrants and asylum seekers is particularly concerning in the context of COVID-19 and a report by Amnesty International on state run quarantine facilities in Venezuela which have been described as inhumane and a breeding ground for the spread of COVID-19. The recent report by the UN Human Rights Council which accuses Venezuelan government officials of crimes against humanity adds to the belief that persons are returned to a place where their lives and freedom are at risk. Persons that are deported from Trinidad and Tobago are often not allowed the opportunity to challenge the deportation orders which may be considered a violation of rights enshrined in Trinidad and Tobago's Constitution that are also applicable to foreigners. The current practice of detaining persons and charging for irregular entry means that persons are not allowed access to asylum procedures and when they are deported, they are sent back to the risky situation from which they fled and they are also forced to take the risky journey back to Venezuela. The Minister of National Security and other state officials repeatedly refer to Venezuelans as illegal immigrants which engenders a hostile environment towards asylum seekers and xenophobia within the local population. Closed borders have been touted by the government of Trinidad and Tobago as a primary reason for keeping the infection rate low. Thus it's easy for the government to justify deportations of Venezuelans who may be perceived as bringing COVID-19 into the country. The public is led to believe that they are breaking the law, when in fact asylum seekers are forced into illegality due to the lack of a refugee policy.

RECOMMENDATIONS

- Implement a refugee policy which is even more critical now given the scale of the crisis and the large flows that TT has experienced. Unmanaged flows place not only vulnerable persons at risk but also threaten national security, peace and development.
- Engage with the stakeholder and wider international community
- Amend the Children's Act to include migrant and refugee children and allow them access to education
- Engage with the International Labour Organization to conduct analysis of labour market gaps to see how these populations can be effectively absorbed into the labour market.

IMMIGRATION DETENTION

Immigration detention has deteriorated especially in light of the Venezuelan influx and is the source of a number of human rights abuses with respect to the Refugee Convention and the ICCPR. In response to the Venezuelan crisis the Government expanded detention facilities. Foreign nationals found entering irregularly or having exceeded their stay in TT are placed in immigration detention facilities at Aripo or Chaguaramas. The facility at Aripo has been described by detainees as unsanitary and inhumane. There have been a number of protests by detainees about the conditions. Additionally persons are held for indefinite periods without legal basis. This violates our Constitution, the Refugee Convention and contradicts principles in our draft refugee policy which states that persons may not be held for more than ten days without sufficient legal basis. There are unverified reports of lack of Covid testing, no separation of women from men or children from adults. Of particular concern is that children have also been held at the Chaguaramas facility for extended periods even after calls were made by civil society to engage in measures that seek the best interest of the child. CCHR submitted a FOIA requesting information on various policies and procedures with respect to Immigration Detention in September 2020 but as yet to receive a response.

RECOMMENDATIONS

- Engage with stakeholders to develop a coordinated response and establish proper mechanisms to screen persons at the border so that protection is provided to persons that need it.
- Increase the use of alternatives to detention. Detention particularly with respect to children should always be the last resort.
- Implement the national refugee policy so that persons that are legitimately seeking asylum can be screened and identified and guided to safe asylum procedures

HUMAN TRAFFICKING

In spite of existing legislation to deal with the issue of human trafficking and the establishment of a countertrafficking unit, human trafficking networks have exploded in light of the humanitarian crisis in Venezuela which has seen increased flows of vulnerable persons who are lured by traffickers under false promises of jobs. The US State Department has maintained its Tier two ranking of Trinidad and Tobago in relation to its ability to meet the minimum standards to protect the rights of trafficking victims. A Cariforum report has linked the Trinidad and Tobago Police Service and government officials to human smuggling and human trafficking rings between Venezuela and TT. 'Most victims of human trafficking into this country are targeted for sexual exploitation at 85 per cent, compared to a global average of 59 per cent'. There has been some strengthening of the mechanisms to deal with the issue as arrests have been made and suspected police officers are under watch.

In light of this increasingly dire issue, Prime Minister Keith Rowley has indicated that stiffer penalties are imminent and there is recognition that gaps still exist in the legislation. However more must be done to curb these activities.

RECOMMENDATIONS (US STATE DEPARTMENT)

- Increase efforts to investigate, prosecute, and convict traffickers, including complicit officials and staff.
- Provide adequate funding for robust trafficking investigations and victim services, including accommodations.
- Train law enforcement and prosecutors in proactively identifying, obtaining, preserving, and corroborating evidence of trafficking.
- Increase proactive victim identification, screening, and protection among migrants, asylum-seekers, and refugees so that they are not penalized for crimes traffickers compelled them to commit.
- Reduce court delays and pretrial detention and ensure that private video testimony facilities are offered to victims.
- Improve cooperation between the Counter Trafficking Unit (CTU), prosecutors, judiciary, and NGOs to increase the number of cases that proceed to trial.
- Strengthen oversight, regulation, and inspections of private labor recruitment agencies and domestic work locations.
- Increase trauma-informed training on trafficking for NGO, shelter, social services, and law enforcement staff to improve their ability to identify and care for potential trafficking victims.
- Increase civil society representation on the anti-trafficking task force.
- Draft a national action plan for the period beginning 2021.

POLICE USE OF FORCE

There has been a disturbing increasing trend of police brutality in the police service. From 2019 to 2020 there was an 86 percent increase in extrajudicial killings. The government has taken several steps to increase oversight of police conduct by the Police Complaints Authority (PCA), through legislation. However in spite of this there are still delays in timely investigations and the issue persists. The PCA has stated that they do possess the legislative authority to conduct investigations however there still remains challenges to the PCA's ability to expand the scope of its work due to limited resources and limited evidence to allow the PCA to proceed with investigations. Legislation that governs police use of force, in the Criminal Law Act is limited and vaguely defined. Departmental Order No. 170/63 provides for the guidelines for the use of firearms, which broadly adhere to international standards. Neither the Police Service Act, the Police Service Regulations or the Special Reserve Police Act provide guidelines for the use of force that conform to international minimum standards.

RECOMMENDATIONS

- Enforce the use of bodycams
- Trinidad and Tobago should enact legislation to govern police use of force
- Amend the Criminal Law Act to specify use of force in accordance with minimum international standards, particularly firearms, that complies with international law.

PRISONS

The situation in the prisons has remained largely the same since the last review and still fails to meet the minimum international human rights standards that prisoners are entitled to. Trinidad and Tobago's prison system has not evolved to keep up with modern more effective systems of criminal justice. The remand population remains at around sixty percent of the prison population. The average stay in remand for males is around four years and for females it is around two years. Lengthy stay in remand can be directly linked to the inefficient and painfully slow criminal justice system. Other factors that contributes to lengthy stay in remand is that 'a number of inmates continue to go unrepresented since the appointment process at the Public Defender's office is slow', Legal Aid is severely under resourced which means that cases drag on for months and multiple adjournments because of police no-shows or other reasons that the state is not ready to proceed with the case.

The lengthy stay in remand contributes to the severe overcrowding of prisons where there are five to ten persons per cell and the prison conditions are severely unsanitary and inhumane. It should also be noted that the numbers in some of the prisons exceed the capacity for which it was built. There have been several protests by remandees and convicted persons on the issue of lengthy stay in remand, the quality of the food being served, the risks of Covid-19 due to overcrowding and unsanitary conditions.

The government has engaged in some measures to deal with these challenges however implementation has been slow and has been compounded by the pandemic. The Attorney General (AG) , Faris al Rawi, announced plans in April 2020 to reduce the prison population by almost 1000 persons to mitigate the risk of Covid in the prisons but the releases have been limited. Rehabilitation programmes are limited and reintegration programmes are almost non-existent. The rate of recidivism which is relatively high at around fifty percent is attributed to the lack of educational programmes in the prisons which limits their employment opportunities already a challenge due to the stigma of being incarcerated and support for reintegration of prisoners.

It should be noted and is cause for concern that remandees are only allowed one hour airing time as opposed to eight hours compared with convicted inmates. This is a particularly harsh penalty for persons that are yet to be found guilty of a crime.

RECOMMENDATIONS

From the last periodic review, several recommendations were made to encourage TT to meet the minimum standards. We reiterate these recommendations

- Enact comprehensive prison and related judicial reform to ensure that conditions of detention are in conformity with the United Nations Standard Minimum Rules for the Treatment of Prisoners, so as to address overcrowding and prison conditions,;
- Provide sufficient resources for rehabilitation and reintegration of prisoners
- Work to relieve the judicial backlog that has contributed to the detention of over 2,000 people in remand awaiting a trial, many who have been in custody for several years.

CRIMINAL JUSTICE

The issues within the prison system, lengthy stay in remand and prison overcrowding, can be directly linked and is significantly impacted by the painfully slow, inefficient and arguably ineffective criminal justice system. This has also led to a backlog of cases at the magistrates' and high court and there are delays before these cases arrive at the Director of Public Prosecution's (DPP) office for trial. The backlog of cases which has been attributed to police no-shows, numerous adjournments for various reasons have impacted the administration of justice, continues to pose a problem for overcrowding and conditions and most critically, lengthy stay in remand. The DPP's office is also severely under-resourced which is also another contributor to the delays in the criminal justice system. A critical factor that has been identified for delays is no-shows by police officers for court matters and multiple adjournments at the magistrates' courts. There is limited judicial scrutiny placed on judicial decisions to remand individuals in custody, this allows magistrates and judges a great deal of discretion, which may be subject to bias.

The government has been making some effort to alleviate these issues. The Miscellaneous Provisions (Trial By Judge Alone) Act 2017 will allow for more expedient trials, as jury only trials were identified as a source of delay and is an important development given the challenges the pandemic has placed on court hearings. Accused persons are electing trial by judge alone and the length of these trials are dramatically shorter, demonstrating a significant reduction in demand for judicial resources.' The AG also announced plans to expand the judiciary, hire more judges and magistrates to speed up system and clear backlogs

RECOMMENDATIONS

- Direct more resources to the DPP's office to ensure that more matters can be brought before the High Court
- Greater scrutiny of the judiciary. Judiciary is entrusted with broad powers which may be subject to bias
- Remand should be the exception rather than the rule. Implement other non-custodial measures to reduce prison population.