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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-eighth session

SUMMARY RECORD OF THE 15th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 8 May 2002, at 10 a.m.

Chairperson: Ms. BONOAN-DANDAN

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS (agenda item 6) (continued)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Second periodic report of Trinidad and Tobago (E/1990/6/Add.30; E/C.12/Q/T&T/1; HR/CESCR/NONE/2002/2; HRI/CORE/1/Add.110; E/C.12/CA/TRI/1)

1. At the invitation of the Chairperson, the delegation of Trinidad and Tobago took places at the Committee table.

2. The CHAIRPERSON welcomed the delegation of Trinidad and Tobago and invited it to introduce the State party's second periodic report.

3. Ms. RICHARDS (Trinidad and Tobago) welcomed the resumption of the dialogue between her country and the Committee after a hiatus of some 12 years.

4. Ms. SIRJUSINGH (Trinidad and Tobago) said that the Government of Trinidad and Tobago recognized that the report and written replies had been submitted late and prepared without the participation of non-governmental organizations. In order to remedy those shortcomings, the Government had created a human rights unit to prepare reports on the implementation of instruments ratified by Trinidad and Tobago, with the collaboration of non-governmental organizations. Since one of that body's tasks was to disseminate and publicize information on human rights instruments, it would be directing attention during the current year to human rights education in the context of a national plan of action, and intended to have its reports published on the Government's web site. It would seem that members of the public needed to be better informed about their rights under the Covenant since, although numerous allegations of violations of constitutional rights could be cited, no examples of case law relating to Covenant rights had been found.

5. Regarding the economic climate, the situation had improved since the crisis of the 1980s. Efforts had been made to diversify the country's economy by attracting investment in sectors such as tourism and manufacturing. As a result of that policy, growth in the non-energy sector had averaged 4 per cent a year, while tourism had risen by approximately 38 per cent between 1995 and 1999.

6. Between 1998 and 2000, the Government had enacted various pieces of minimum-wage legislation. Cases could now be heard by an Industrial Court. The Government recognized, nevertheless, that more remained to be done, since many private-sector employers continued to ignore the legislation. With regard to unemployment, it was encouraging to note that the rate was continuing its downward trend. In April 2002 the Government had launched a special on-the-job training programme which was geared to some 5,000 young people aged between 16 and 30 years who had graduated from secondary and tertiary institutions. The programme's

initial cost, spread over six months, was TT\$ 35 million. In addition, under a youth training and employment programme launched in May 2002, 5,000 participants could receive six months' training in various sectors such as construction, agriculture and business support services.

7. With regard to social security, a national insurance scheme, administered by an independent board, had been developed. There were some 300,000 active insured individuals, with just over 100,000 beneficiaries receiving in excess of TT\$ 375 million annually. Access to social security had been broadened, too, through reciprocal agreements concluded with Canada and several CARICOM partners. The sixth actuarial review of the national scheme was now being focused, inter alia, on extending coverage to self-employed persons currently not within the scheme. It was also planned to set up a number of programmes to benefit the elderly, including a three-month programme during which 700 young people aged from 17 to 25 years would learn to care for elderly persons. The old-age pension had, moreover, recently been increased to TT\$ 1,000.

8. In order to prevent an increase in domestic violence, a number of measures had been taken, including the adoption of a comprehensive programme, the setting up of a toll-free domestic violence hotline and the enactment, in 1999, of a new law on a par with international standards. A non-governmental organization had likewise made a toll-free telephone counselling service available specifically for children. In addition, in order to combat the increase in sexual offences against women, legislative measures had been taken to protect the victims and punish the perpetrators more severely.

9. In housing, the Government was applying a dynamic housing policy on a phased basis to alleviate the housing shortage and to provide shelter for lower and middle-income groups and make home ownership more affordable. Throughout the country 2,925 housing units would be built, and it was also planned to upgrade squatter settlements, with the help of a TT\$ 200 million loan from the Inter-American Development Bank. With regard to education, a programme aimed at making secondary schooling available to all children up to the age of 18 years had been successfully implemented, although classes remained overcrowded for the moment.

10. Health care was continuing to improve. However, health institutions were suffering from a chronic shortage of nursing staff, since many nurses were being recruited in countries able to offer more attractive terms of employment. For that reason, the Ministry of Health was drawing up a whole range of strategies to induce them to remain in the country and to speed up the training of new nurses. With regard to the campaign against HIV/AIDS, since April 2002 persons in an advanced stage of the illness could obtain the necessary medication at 10 per cent of the actual cost. An arrangement with the Government of Canada had enabled a national oncology centre to be set up in March 2002. Priority would be placed on prevention and screening to reduce the incidence of cancer, a leading cause of death among women in Trinidad and Tobago.

11. On the issue of discrimination, an equal opportunity act had been passed in 2000, to give effect to the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and would provide protection for public-sector and private-sector employees alike.

12. With reference to the political situation, in December 2001, following the general election, the two main parties had obtained exactly the same number of seats, and the lack of a majority had prevented a Speaker from being chosen to preside over Parliament. As a result, no new law could currently be enacted since there were no parliamentary sittings. To conclude, she reiterated her delegation's willingness to contribute to a constructive dialogue with the Committee.

13. The CHAIRPERSON thanked the delegation of Trinidad and Tobago, and invited the Committee members to put questions relating to articles 1-5 of the Covenant.

Articles 1-5 of the Covenant

14. Mr. PILLAY said he was surprised by the delegation's statement that it could not cite any case law based on the rights set forth in the Covenant; was it not possible to find examples concerning at least some of those rights? He pointed out that the Constitution should not stipulate that any law - including an international treaty - was invalid if not compatible with it. Since international treaties in fact took precedence over domestic law, it was the Constitution that should conform to international treaties, not the reverse.

15. On the subject of discrimination, the Equal Opportunity Act was too restrictive since it failed to mention several possible reasons, including sexual orientation, which might be a cause of discrimination in Trinidad and Tobago. He would, moreover, like to know whether the right to housing was embodied in the State party's legislation. Lastly, referring to the political impasse which prevented Parliament from sitting, he asked whether there was any hope of an improvement in the situation.

16. Mr. MARCHAN ROMERO, noting that civil and political rights could be invoked in the State party's courts, asked whether the Government was considering making economic, social and cultural rights justiciable also. As for the participation of non-governmental organizations, their role should not be limited to contributing to the preparation of reports. Lastly, he would like to know to what projects the funds received as part of international cooperation had been allocated.

17. Mr. MALINVERNI asked why the State party had not ratified a considerable number of ILO Conventions, including the Minimum Age Convention, 1973 (No. 138) and the Worst Forms of Child Labour Convention, 1999 (No. 182). He also thought it most regrettable that Trinidad and Tobago had rejected the Optional Protocol to the International Covenant on Civil and Political Rights as well as the American Convention on Human Rights. States parties were expected, in effect, to amend their legislation and practice on the basis of criticism received and not to denounce a treaty as soon as its implementation caused them a problem.

18. Mr. WIMER ZAMBRANO asked what the situation was regarding the Equal Opportunity Act, in view of recent racist incidents in which dark-skinned persons had found themselves denied access to public establishments.

19. Mr. AHMED said that he was concerned about the current political impasse in the country, which was preventing it from adopting laws necessary for the realization of economic,

social and cultural rights. He deplored the serious malfunctions in the legal system, including the fact that several criminal cases had been dismissed. He also regretted that the Constitution's provisions for the creation of an ombudsman had not been given effect. Lastly, he noted that no specific legislation safeguarded the rights of disabled persons, women (including against domestic violence), children (against exploitation for commercial or sexual purposes) or, indeed, blacks. Could an improvement in the overall situation be expected?

20. Mr. ATANGANA noted that the unemployment rate for women was well above that for men (19.5 per cent as against 11.6 per cent). With reference to the table on pages 16 and 17 of the report summarizing the employment situation by ethnic group and gender, he noted that there were only 34 Chinese in the category of professionals, and only 33 Syrians/Lebanese appeared in that of legislators, senior officials and managers. He wondered what percentage of the respective population those figures represented. It was regrettable that households headed by a woman had difficulty in obtaining social benefits. He asked whether the State party intended to take steps to remove such inequalities.

21. Mr. SADI said he wondered whether the explanation for the virtual non-existence of case law relating to economic, social and cultural rights was indeed that citizens were not sufficiently aware of their rights under the Covenant. In his view, it was more a question of whether those responsible for policy-making themselves attached enough importance to those rights. He also wondered whether decision-takers, when negotiating with the World Bank, IMF or other international institutions, fully kept in mind their obligations under the Covenant. The training of judges and other decision-takers in such issues should perhaps precede the raising of public awareness generally.

22. Having noted the multiracial character of society in Trinidad and Tobago, he remarked that it was not enough to pass legislation in order to combat discrimination. Was the State party conducting broad anti-discrimination campaigns aimed at fostering harmony among the races?

23. Mr. TEXIER asked why Trinidad and Tobago had not signed the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women or the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. He also wished to know for what reasons the State party had withdrawn from the American Convention on Human Rights in May 1998, having acceded to it seven years earlier. Did the Government intend to accede to it again and to ratify the Protocol of San Salvador on economic, social and cultural rights?

24. Mr. MARCHAN ROMERO observed that if developing countries evaluated the financial implications of acceding to an international instrument before doing so, as Trinidad and Tobago was doing when considering a possible ratification of the Optional Protocol to the International Covenant on Civil and Political Rights, very few of them would make the commitment, and that would indeed be regrettable.

25. With regard to employment, he voiced his disquiet at the lack of legislation to guarantee equal pay between men and women (the "equal pay for equal work" principle). Was the State party thinking of taking steps to mitigate and even eliminate such inequality? Lastly, he

wondered whether the delegation could provide further information about the Gender Affairs Division, including its exact functions and whether it received financial assistance from the Government.

26. Ms. SIRJUSINGH (Trinidad and Tobago) said that gender equality was enshrined in the Constitution of Trinidad and Tobago. The principle had been incorporated in equal opportunity legislation which stipulated that women must not be discriminated against, particularly in the areas of employment, housing and education. The Government had also established a Gender Affairs Division, funded in part by the Inter-American Development Bank, which conducted wide-ranging training and awareness campaigns to eradicate stereotypes that were often the cause of violence against women. The Division had also implemented aid programmes, including micro-loan programmes at local level, to help women start businesses. For women 35 years of age and older with few or no skills, a vocational training programme focusing primarily on woodworking, automobile mechanics and construction trades had been set up as part of a programme funded by the Inter-American Development Bank for four Caribbean countries.

27. There was no discrimination whatsoever against homosexuals in Trinidad and Tobago. However, the society, which was very religious, did not seem ready to accept legislation specifically aimed at protecting the rights of that population group.

28. As soon as the first racist incidents had occurred in bars and discotheques, her country had passed the Registration of Clubs Act, which required such establishments to obtain a licence and comply with strict regulations. The Act strengthened existing equal opportunity legislation prohibiting all forms of discrimination, in particular discrimination based on race. Disabled persons were also protected by the equal opportunity legislation, which ensured that they were treated equally in the areas of education and employment. The ministries concerned were applying legislation to facilitate the access of disabled persons to public places and public transport.

29. The political deadlock in the country had admittedly paralyzed the legislative system. National elections were to be held soon, however, to find a way out of that situation.

30. Pursuant to a decision by the Privy Council, the provisions of the Covenant must be incorporated into domestic law so that persons who considered that they had been wronged could invoke them directly in court. The Government was also considering again acceding to the American Convention on Human Rights.

31. In 1995, Trinidad and Tobago had ratified ILO Convention No. 144 concerning tripartite consultations to promote the implementation of international labour standards. In 1996, under the auspices of the Ministry of Labour, it had set up a tripartite committee composed of representatives of Government, national trade unions and the employers' association to promote the ratification of ILO conventions and ensure their subsequent implementation. The tripartite committee had recommended the ratification of Convention No. 182 concerning the worst forms of child labour and Convention No. 138 concerning minimum age for employment. The

Government had also ratified Convention No. 100 concerning equal remuneration, which had been followed at national level by the Basic Conditions of Work and Minimum Wages Bill, to be adopted when Parliament reconvened.

32. She agreed that it was particularly important to heighten the awareness of human rights questions not only in the public, but also among judges, policymakers and other decision-makers. To that end, the Government had recently sent such persons each of the reports submitted under the international instruments to which Trinidad and Tobago was a party. Judges also received human rights training.

33. Contrary to what had been said, Trinidad and Tobago had appointed an ombudsman to hear complaints of an administrative nature. A bill was under consideration to give the ombudsman greater powers and make his recommendations mandatory.

34. The Government was not at all opposed to the idea of ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. It had conducted a preliminary study to assess the financial implications of ratification and review what the Government would have to do to comply with its new obligations, in particular the drafting of reports.

35. Although the right to decent housing was not embodied in the Constitution, the Government, aware of the great shortages in that area, was making serious efforts to build affordable housing and renovate those structures administered by the National Housing Authority.

36. Mr. PILLAY said that the absence of any reference in the State party's Constitution to the right to housing, which was a directly applicable right, showed that its law was not in conformity with the provisions of the Covenant. He was concerned about the constitutional rule pursuant to which any legislation contrary to the provisions of the Constitution was without legal effect. Since the Covenant had not been incorporated into the Constitution, that might in some cases be interpreted to mean that the Covenant itself was without legal effect.

37. As the Committee had stressed in its General Comment No. 9 on the implementation of the Covenant at national level, as reflected in article 27 of the Vienna Convention on the Law of Treaties, "a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty". Consequently, it was unacceptable for the delegation to refer to the traditional practices of the society of Trinidad and Tobago to explain why the State party was not fulfilling its obligations under the Covenant in such areas as the prohibition of discrimination on the basis of sexual orientation or the abolition of corporal punishment.

38. The ombudsman's mandate did not currently seem to cover human rights, or even to mention economic, social and cultural rights. He would like to know whether it was planned to broaden his mandate to include such rights. Why had Trinidad and Tobago not defined a national plan of action for human rights?

39. Mr. SADI said that he was concerned that the progressive implementation of a number of rights embodied in the Covenant was proceeding at a slow pace and pointed out that other rights

must take effect immediately. He was also concerned about the delegation's assertion that it was a matter for the judicial authorities, and not the political authorities, to take the necessary steps so that the rights set forth in the Covenant could be invoked in the courts. It seemed obvious that judges could not invoke the rights enshrined in the Covenant unless legislation had been adopted in that regard by the political authorities.

40. The CHAIRPERSON, speaking in her capacity as a member of the Committee, asked whether the authorities of Trinidad and Tobago had taken note of the Committee's General Comments.

41. Ms. SIRJUSINGH (Trinidad and Tobago) acknowledged that the Government had not yet defined a national plan of action for human rights, but there were numerous programmes on that question, such as in the area of human rights education. The Committee's General Comments had been considered in detail by the competent authorities, but had been forwarded too late to be taken into account during the drafting of the second periodic report.

Articles 6 to 10 of the Covenant

42. Mr. TEXIER sought additional information on the current unemployment rate and on measures taken by the authorities to combat joblessness. The figures recently published by ILO for the period 1980-2000 were rather surprising, because they showed that, unlike what was usually observed, more women were working than men, who were more likely to be unemployed. It would also be interesting to have specific data on employment in the informal sector.

43. The ILO Committee of Experts had made a number of comments to the State party about forced labour, which could be observed in various sectors. He asked whether the Government intended to propose legislation prohibiting forced labour and take measures to prevent that practice in sectors where it was widespread. As in many other countries, Trinidad and Tobago faced a serious problem with child labour. There seemed to be legislative shortcomings, because no law set the minimum age for employment. According to corroborating reports, certain sectors employed 12-year-old children. Such a practice would be in violation of articles 6, 13 and 14 of the Covenant.

44. He was pleased that there was legislation on the minimum wage. The hourly minimum rate seemed, however, to have been set at such a low level that it was impossible for a worker to make a decent living. He would like to know according to what criteria the minimum wage could be regularly increased, whether there were cases in which the legislation had not been complied with and, if so, whether the employers concerned had been punished. He welcomed the adoption of equal opportunity legislation, but wondered whether equal remuneration for men and women for equal work was implemented in practice.

45. Too many restrictions appeared to have been placed on the right to strike. Although article 8 of the Covenant allowed States parties to restrict the right to strike, that restriction only concerned essential services, i.e. those relating to the public order. According to the ILO Committee of Independent Experts, however, such restrictions also affected such areas as sanitation services and school transport. It seemed that considerable restrictions were also

imposed on the right to bargain collectively, in particular as concerned criteria for the representativity of trade unions which were entitled to take part in collective bargaining. The practical consequence of those restrictions was that they prevented workers in minority trade unions from participating in negotiations. Did the authorities intend to amend the legislation on that subject?

46. Mr. KOLOSOV stressed that a high rate of unemployment had an impact on working conditions and employees, because employers were in a position of force and could dictate their terms to employees. Consequently, the State must participate actively in improving working conditions and ensure that the minimum wage was sufficient so that employees could provide for their families' needs, which was not the case in Trinidad and Tobago at the current time. Working conditions that were not favourable could also lead to a brain-drain and the emigration of qualified staff. As a result, Trinidad and Tobago had a shortage of teachers. He asked whether the authorities planned to increase the salaries of teachers substantially, which would help to remedy that situation.

47. He would also like to have more precise statistics on child labour, without which it was difficult to assess the progress made by the State party in that area. He also noted that women working in the private sector did not appear to be protected by adequate legislation; that resulted in wage discrimination. The Government of Trinidad and Tobago should consider ratifying ILO Conventions No. 138 concerning minimum wage for employment and No. 182 concerning the worst forms of child labour.

48. Mr. THAPALIA said that domestic violence as well as ill-treatment of and sexual violence against children seemed to be on the rise. There were still many homeless children, and the problem of child labour was worsening. He inquired what measures had been taken by the authorities to combat those phenomena.

49. Mr. MARCHÁN ROMERO sought information on the situation and legal status of children born out of wedlock. It appeared that cohabitation was fairly common in the society of Trinidad and Tobago and that such unions were not recognized by the courts until a couple had lived together for five years. What status did children born of such a union have before the five years had elapsed? Did they have the same rights as children born in wedlock?

50. Domestic violence was apparently a major problem in the society of Trinidad and Tobago, because according to certain statistics, 30 per cent of women who died a violent death had been murdered by their spouses. He also asked what measures had been taken to combat ill-treatment of children in the family and at school, where corporal punishment still seemed to be permitted.

51. Mr. ATANGANA sought further information on the status of children born out of wedlock. According to the State party's report, the marriage of the parents of an illegitimate child rendered the child legitimate. Was that automatic, or did it require court proceedings? The suicide rate among young people also seemed to be quite high. What were the reasons, and what measures had been taken by the authorities to deal with that problem? He also asked what was being done to help families with several elderly persons in their care.

52. Mr. CEAUSU asked about Government projects to make the most of the country's recent economic upswing and create new jobs. Noting that the petrochemical industry was experiencing rapid growth and seemed to offer attractive job opportunities, he inquired whether the local workforce was sufficiently skilled to be employed in that sector. If not, had training programmes been started and specialized schools opened? Referring to the written reply to question 16 in the list of issues (HR/CESCR/NONE/2002/2), he did not understand why the Government had been unable to implement legislation prohibiting gender discrimination in wages in the private sector. What difficulties had been encountered? He would also like to know why the Occupational Safety and Health Bill of 1998 had recently been amended and reintroduced in Parliament, as stated in paragraph 100 of the report (E/1990/6/Add.30), and whether Parliament had passed a new bill.

53. One of the conditions which must be fulfilled by trade unions to be officially recognized and participate in collective bargaining was that they represent more than 50 per cent of the workers of an enterprise. In many countries, no trade union could meet that condition, and he asked whether the Government planned to abolish the requirement.

54. Mr. WIMER ZAMBRANO said that there was no logical reason or legal justification for Trinidad and Tobago not to regard the persons listed in paragraph 132 of the report as workers. He inquired whether it was planned to amend the relevant legislation and whether there was no protest movement among the individuals concerned.

55. Mr. MARTYNOV asked whether the Government intended to intensify its efforts to address the problem of unemployment among young people and set up occupational training programmes for them. With regard to child labour, Trinidad and Tobago had stated in 1997 in the Committee on the Rights of the Child and again at the current session of the Committee on Economic, Social and Cultural Rights that it was considering ratifying ILO Convention No. 138 concerning minimum age for employment. Could the delegation provide more details on that subject? As to occupational accidents, ILO had noted in several reports that their numbers were on the rise, yet that was not the case according to the statistics in paragraph 117 of the report. Were the Ministry of Labour statistics reliable? Were they not indicative of shortcomings in the area of labour inspections? He would like, moreover, to know whether Trinidad and Tobago intended to withdraw its reservations to article 8 of the Covenant and also asked why the conditions for granting assistance to disabled persons (for example, to be 40 to 65 years of age and to have been resident in the country for the 20 years immediately preceding the claim) were so restrictive and whether it was planned to change them.

56. Ms. SIRJUSINGH (Trinidad and Tobago) said that, as of the first quarter of 2002, the unemployment rate had stood at 11.2 per cent. The Government had taken a number of steps to reduce unemployment, as outlined in the written reply to question 12 in the list of issues. The delegation did not have any statistics on work in the informal sector, but would try to obtain some from the Ministry of Labour. Forced labour was not an issue in Trinidad and Tobago, which was why no legislation had been passed in that area. The sole problem related to the minimum age for employment, which was, in fact, 12 years if the child worked in the family business and 14 years to 16 years for other sectors. Consultations were currently being held at national level to raise the minimum age of employment to 16 years for all sectors. Legislation on national defence had been amended to raise the minimum age for enlistment in the armed

forces and prohibit forced conscription. As pointed out in paragraph 177 of the report, the Children's Act (Chapter 46:07) placed very tight restrictions on child labour. Children could not be employed in industry.

57. With regard to the minimum wage, Trinidad and Tobago had stated in its written reply to question 15 that the rate had been increased, following review, to 8 dollars an hour to take into account the rise in the cost of a basic food basket. The trade unions were currently campaigning for it to be increased to 10 dollars an hour, but the employers were opposed. In any case, the situation in that area was expected to change soon.

58. With regard to unequal pay between men and women, she said that Trinidad and Tobago had ratified ILO Convention No. 100 concerning equal remuneration for men and women workers for work of equal value and was making every effort to enforce it. To that end, in 2000 it had prepared a bill on basic conditions in the area of employment, from which a number of provisions on non-discrimination at the workplace had been cited in the written reply to question 16. As to the conditions which trade unions must fulfil in order to be officially recognized, she did not think that the Government planned to amend the relevant legislation, but she would consult the Ministry of Labour to obtain more information on the subject.

59. With regard to domestic violence, the Gender Affairs Division had conducted a study which had revealed that the root causes were mainly cultural. On the basis of that finding, the Government had adopted numerous measures to combat common stereotypes about women, modify male behaviour and offer protection to the victims of violence. The measures taken were set out in detail in the written replies to questions 10 and 23 in the list of issues.

The meeting rose at 1 p.m.