

# TRINIDAD & TOBAGO

## A summary of Concerns

**Briefing for the Human Rights Committee  
UNHCR, 70<sup>th</sup> Session, October 2000, Geneva**

Amnesty International welcomes the opportunity to submit a summary of its concerns on human rights issues in Trinidad and Tobago to the Human Rights Committee for the consideration of Trinidad and Tobago's combined third and fourth periodic reports submitted under article 40 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by the Government of Trinidad and Tobago on 21 December 1978. Amnesty International notes that the third and fourth reports were due in 1990 and 1995 respectively.

The organisation recently met with members of the Human Rights Unit, operating under the office of the Attorney General of Trinidad and Tobago. Amnesty International notes that the Unit's responsibilities include coordination of reports to the Human Rights Committee. Amnesty International welcomes this step as a means of ensuring that the state party's commitments under Article 40 are met. Amnesty also welcomes the commitment given by members of the unit to ensuring that Trinidad and Tobago is up to date with all its international reporting obligations by the end of the year.

Amnesty International reiterates its hope that the filing of the combined periodic report currently under examination by the Human Rights Committee is a signal that the Government of Trinidad and Tobago is prepared to take measures to ensure fuller implementation of the provisions of the ICCPR in line with the observations of the Human Rights Committee, to provide information to the Human Rights Committee and to implement recommendations of the Human Rights Committee in the context of individual cases.

Amnesty International conducted research missions to Trinidad and Tobago in February and September 2000. Amnesty International's requests for meetings with government officials were declined by the government, although a meeting did take place between the Human Rights Unit and AI researchers in September 2000.

This document summarises Amnesty International's concerns regarding human rights violations in Trinidad and Tobago.

### **Checklist of Concerns**

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Amnesty International's concerns in Trinidad and Tobago include the failure to fully implement Articles 2, 3, 6, 7, 9, 10, 12, 14, 16, 17, 19 and 26:

- ⌞ Death penalty;
  - ⌞ mandatory nature of the death penalty
  - ⌞ lack of legal representation
  - ⌞ fair trial concerns
  - ⌞ procedures for considering petitions of mercy
  - ⌞ time limits imposed on the consideration of petitions by international bodies
  - ⌞ conditions of confinement
  
- ⌞ Corporal Punishment
  - ⌞ imposition on women and men
  - ⌞ expansion of range of offences for which sentences may be given
  - ⌞ implementation of sentence before final determination of appeals
  
- ⌞ Use of excessive force by police officers
  - ⌞ use of lethal force, possible extrajudicial executions
  - ⌞ investigation, prosecution and oversight
  - ⌞ police training
  - ⌞ use of the army
  - ⌞ less-than-lethal weapons
  - ⌞ ill-treatment during/after arrest
  - ⌞ complaints of arbitrary arrest and detention
  - ⌞ Police Complaints Authority
  
- ⌞ Conditions of detention amounting to cruel, inhuman or degrading treatment;
  - ⌞ police lock-ups
  - ⌞ deaths in prison
  - ⌞ conditions in prison
  - ⌞ children's detention centers
  - ⌞ psychiatric hospitals
  - ⌞ lack of access to visitation rights
  
- ⌞ Discrimination
  - ⌞ criminalization of consensual homosexual acts between adults in private
  - ⌞ Equal Opportunities bill
  
- ⌞ Children

- ▭ adjudication procedures
- ▭ failure to separate children and adults in detention
- ▭ conditions of detention
  
- ▭ Right to an effective remedy
  - ▭ withdrawal from international human rights treaties
  - ▭ lack of legal aid for constitutional motions
  - ▭ failure to implement recommendations of HRC

**PROVISION OF AN EFFECTIVE REMEDY (see also under ‘DEATH PENALTY’)**

▭ **Article 2 (right to an effective remedy)**

**Constitution**

Under the Constitution, people are entitled to seek the protection of the rights safeguarded therein. The Constitution of Trinidad and Tobago provides for a range of rights, although Amnesty International notes that it is narrower in scope than the ICCPR.

However access to this remedy is effectively denied to people who cannot afford to pay for legal representation, because legal aid is not available for constitutional actions.

**Failure to implement recommendations of the Human Rights Committee on individual complaints**

Amnesty International also notes that, to its knowledge, the Human Rights Committee has examined at least 12 admissible communications from people complaining of violations of their rights under the ICCPR, mostly submitted by or on behalf of prisoners under sentence of death, and has been informed that the Human Rights Committee found violations of the rights of at least ten of those people, recommending remedies including commutation of death sentences and compensation.

The Human Rights Committee has noted in several cases over the years that the Government of Trinidad and Tobago has failed to respond fully to requests for information about an alleged violation. In many cases the government has failed to provide the grounds for its failure to implement the recommendations of the Human Rights Committee.

## **THE DEATH PENALTY**

- ▭ **Violation of Articles 2 (right to an effective remedy); 6 (arbitrary deprivation of life; right to seek pardon); 10 (fair and humane treatment); 14, 16 and 26 (non-discrimination, the right to recognition and equal treatment before the law).**

### **Withdrawal from international human rights bodies and treaties**

On 27 March 2000, the government of Trinidad and Tobago lodged its withdrawal from the first Optional Protocol to the ICCPR. This measure took effect on 27 June 2000. On 26 May 1999, the country also withdrew as a state party to the American Convention on Human Rights. The organisation notes that as a result of these withdrawals, all citizens of Trinidad and Tobago will be denied access to lodge petitions with international bodies. (In spite of this, the Human Rights Unit recently indicated that they were initiating a program to train for lawyers on Trinidad and Tobago's obligations under international law.)

These withdrawals have clearly occurred in an effort to expedite executions, in apparent contravention of article 6(6) of the spirit of the ICCPR.

### **Provision of information on individuals under sentence of death**

According to information, there are currently some 80 prisoners on death row. However, the government has not responded to the organisation's written requests for confirmation of this, and for details on the proportion of females and males. Last year Trinidad and Tobago carried out 10 executions - the highest per capita number of executions in the world, to Amnesty International's knowledge.

### **Right to a fair trial**

People are being sentenced to death following trials which did not meet international standards for a fair trial.<sup>1</sup> These concerns are detailed below.

In accordance with the Human Rights Committee's jurisprudence and General Comment 6, para 7, the imposition of a sentence of death on a person whose right to a fair trial has been violated when no further appeal is possible constitutes a violation of their right to life, under Article 6 of the ICCPR.<sup>2</sup>

### **Mandatory nature of death penalty**

The death penalty is the mandatory punishment for murder in Trinidad and Tobago under

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<sup>1</sup> The Human Rights Committee has considered a communication containing such allegations and concluded that Article 9, paragraph 3 and 14(3)(c) of the ICCPR had been violated. For example, Clive Smart v Trinidad and Tobago, UN Doc: CCPR/C/63/D/672/1995, views adopted on 19 August 1998).

<sup>2</sup> The Committee has concluded that Article 6 of the ICCPR has been violated in Trinidad and Tobago, for example, Irving Phillip v. Trinidad and Tobago, UN Doc: CCPR/C/64/D/594/1992, views adopted on 3 December 1998.

Chapter 11 of the Offences against the Person Act, introduced on 3 April 1952, which states that, “Every person convicted of murder shall suffer death” (8, s. 4).

This does not allow for discretion in sentencing, nor does it permit for any mitigating factors to be taken into account.

In April 1999 the Inter-American Commission on Human Rights concluded in the case of **Haniff Hilaire** that the mandatory use of the death penalty for murder had violated Haniff Hilaire’s right not to be arbitrarily deprived of his life, or to be subjected to cruel, inhuman or degrading punishment or treatment, in accordance with Articles 4(1) and 5(2) of the American Convention. The Commission recommended early release or commutation. Trinidad and Tobago has thus far failed to comply with these recommendations.

### **Failure to provide legal representation, including for constitutional motions**

The law of Trinidad and Tobago provides access to legal aid for those charged with indictable offences and whose disposable incomes are below TT\$3,500 or who have up to \$2,000 disposable capital. In spite of this, Amnesty International continues to receive reports that defendants charged with capital murder have appeared in court without legal representation in violation of Article 14 (3d). On 20 June 2000, **Sean Parris** appeared without legal representation before the San Fernando Second Court for a preliminary hearing. It is also understood that he did not have access to a lawyer during the time that he was held in a top-security prison prior to the hearing, where police interrogated him. Parris was subsequently sentenced to death.

US Department of State country reports documenting human rights practices in Trinidad and Tobago have consistently noted over the last seven years that, in practice, authorities often fail to comply inform individuals of their right to an attorney, and deny access to an attorney in custody and before interrogation.<sup>3</sup> Individuals have consequently had inadequate time and facilities to prepare their defence and inadequate representation at trial and/or appeal by counsel.<sup>4</sup> In 1994, a court awarded \$18,000 to three brothers whom the police had wrongfully arrested, detained for 3 days, threatened with beatings, and failed to advise of their right to an attorney.<sup>5</sup>

Fees for legal aid lawyers were increased as a result of the Legal Aid Amendment Act 1999. However attorneys confirm that no provision is made for payment for attorneys to conduct investigative work, including for in-depth psychiatric or forensic evaluation. If such work is undertaken, it is done at their own personal expense. This is in spite of the fact that, prior to the recent Amendment of the Legal Aid Act, recommendations were submitted from the Criminal Bar Association to the Attorney General that funds for investigative work be

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<sup>3</sup> This was cited in every Annual Report from 1993-2000.

<sup>4</sup> The Human Rights Committee has examined communications alleging such violations, and concluded that there were violations of Article 14 of the ICCPR in a number of cases, for example Irving Phillip v. Trinidad and Tobago, Communication No. 594/1992 Clive Smart v. Trinidad and Tobago, Communication No. 672/1995; Lal Seerattan v. Trinidad and Tobago, Communication No. 434/1990; Clyde Neptune v. Trinidad and Tobago, Communication No. 523/1992 and Leroy Shalto v. Trinidad and Tobago, Communication No. 447/ 1991.

<sup>5</sup> Cited in 1995 US Department of State report.

provided, particularly for access to expert opinion.

As already noted, access to constitutional remedies are effectively denied to indigent defendants, due to the lack of legal aid provision that exists for constitutional actions.

In a recent meeting, the Human Rights Unit, operating under the Attorney General's office, confirmed to Amnesty International that, in the absence of a state-administered scheme to ensure that legal aid is available for constitutional actions, those sentenced to death are reliant upon the goodwill of lawyers acting *pro bono*, to appeal against potential violations of their constitutional rights.

Included in the ten men executed in 1999 was Russell Sankerali. The Attorney General failed to make available to the Mercy Committee, to defence lawyers or to the courts, possibly exonerating evidence given to him on the eve of Russell Sankerali's execution. The evidence was in the form of a tape recorded conversation with one of the two main prosecution witnesses. Russell Sankarelli was executed on the morning of 5 June 1999; he continually maintained his innocence until his death.

#### **Case study - Darren Baptiste**

On 8 June 2000 Darren Baptiste's death sentence was quashed by the Privy Council. Following his arrest and detention, Darren Baptiste had signed a written confession in a police station on 24 January 1989, despite having no lawyer present and despite having difficulties with both reading and writing. Police evidence confirmed that he had been denied his constitutional right to be advised of his right to have a lawyer, to speak to one and to have one present when he was being questioned. At his trial, his defence objected to the statement on the grounds that, according to Baptiste, the police officer had promised him that he would be released if he did. In spite of this however, the confession was admitted by the judge following a *voir dire*. In quashing his conviction and sentence, their Lordships stated that they were influenced by the failure on the part of the police to inform Darren Baptiste of his constitutional right to a lawyer. In their judgement they noted that, "it is of particular importance where the person is suspected of a capital offence that his rights be fully observed and the significance of any infringement be considered by the judge."

#### **Case study - Everol Lawrence**

Everol Lawrence is currently awaiting a retrial after the Privy Council overturned his 1995 conviction and death sentence for murder. His confession was entered into evidence during his trial. He, however, alleged that he had been forced to sign blank pieces of paper after the police had tortured him by sticking pens into the gunshot wounds on his back and that he had complained of his treatment to the Justice of the Peace who had attended the police station. The Justice of the Peace testified at trial that Lawrence had made the statement voluntarily and had not complained of any ill-treatment. Since the trial, defence attorneys working for Everol Lawrence discovered that the Justice of the Peace had been charged on six counts of fraud, one count of forging documents, and two counts of conspiracy to pervert the course of justice. His commission as a Justice of the Peace had not been renewed. The same charges

were also filed against at least one of the police officers involved in Lawrence's case.

### **Time limits for consideration of appeals**

In 1997 the government of Trinidad and Tobago, acting *ultra vires*, issued instructions purporting to set time limits for the consideration by the Human Rights Committee and the Inter-American Commission on Human Rights of petitions filed by people under sentence of death. According to these instructions, if such time limits are not met by the international body or the person under sentence of death, the government could proceed with the execution, even before the international body reaches a decision. Relying on these instructions, Trinidad and Tobago scheduled the executions of 20 men in 1998.

Both bodies indicated their refusal to be bound by such restrictions. On 28 July 1999 the government proceeded with the hanging of Anthony Briggs, despite the fact that the IACHR had ordered the government of Trinidad and Tobago to preserve Anthony Briggs' life until "the court has considered the matter." The IACHR had decided in his case that his rights guaranteed by the American Convention had been violated and recommended that his death sentence be commuted. On 31 December 1999, the Committee ruled in the case of Rawle Kennedy (Communication No 845/1999) that such a reservation was invalid as it was discriminatory and ran counter to the entire spirit of the Treaty.

On 27 January 1999, the Privy Council ruled that persons under sentence of death who had lodged petitions with international bodies had a constitutional right not to be executed until the final determination of their petitions by international human rights bodies. In their ruling in the case of Darren Roger Thomas and Haniff Hilaire v. the Attorney General, the Commissioner of Prisons and the Registrar of the Supreme Court their Lordships stated that, "to carry out the death sentences imposed on the appellants before the final disposition of their respective applications to the Inter American Commission and Court of Human Rights would be a breach of their constitutional rights and order that the carrying out of the said death sentences be stayed accordingly."

On 12 May 2000, the Attorney General announced the government was considering reintroducing the *Constitutional Amendment Bill* (popularly known as the "Hanging Bill"). This Bill would further restrict the rights of individuals under sentence of death. A previous attempt to pass such legislation failed when the government did not secure the two-thirds majority required to amend the Constitution.<sup>6</sup>

It is expected that the recent landmark Privy Council of September 2000 will have implications for Trinidad and Tobago. The Privy Council ruled that the Jamaican authorities could not carry out executions while international human rights bodies are

<sup>6</sup>The Explanatory Note to the Constitutional Amendment Bill (1996) stated that, "...with respect to the sentence of death ... [the Bill] ... would declare that delay does not constitute a contravention of section 5(2)(b) [of the Constitution]" and that, "the Bill seeks to preclude the granting of redress under section 14 such as a permanent stay of execution or an alteration or remission of sentence of death because of a contravention of section 5(2)(b) as now amended occurring since sentence of death was imposed."



considering petitions by people under sentence of death. The Jamaican Privy Council (the body responsible for deciding whether to exercise clemency) is also required to consider their recommendations, giving reasons when they are not followed.

### **Procedures for the granting of Pardon**

Amnesty International is concerned that persons under sentence of death in Trinidad and Tobago have been denied meaningful opportunities to seek and obtain the power of pardon. Procedures for the granting of pardon fail to comply with reasonable concepts of fairness or to provide protection against arbitrary decision making by the courts.<sup>7</sup>

The two government ministers responsible for prosecuting and overseeing appeals - the Attorney General and the Director of Public Prosecutions - are members of the Advisory Committee on the Power of Pardon (the Committee).<sup>8</sup> All deliberations by the Committee are undertaken in private and members are not required to and do not give reasons for any decision on whether to grant clemency. Individuals sentenced to death have no right to review and challenge the written report which is forwarded from the trial judge to the Committee for their deliberations. Individuals have no right to appear in person or through counsel before the Advisory Committee on the Power of Pardon (the Committee) in order to make representations. No legal aid is available to prisoners sentenced to death to assist them in approaches to the Committee.

The recent Privy Council ruling in the case of *Neville Lewis and other v. AG and Commissioner of Prisons of Jamaica* may also have implications for Trinidad and Tobago. Following the Courts ruling the procedure for granting clemency will be changed. To ensure fairness the Jamaican Privy Council must consider representations from the sentenced person, provide them with details of the materials it is considering, consider the recommendations of international human rights bodies and provide reasons if it does not follow them. Their decision must be fair and can be challenged by judicial review.

### **Russell Sankerali**

In June 1999, the Attorney General failed to make available to the Committee, to defence lawyers or to the courts, evidence given to him on the eve of Sankerali's execution, which may have exonerated Russell Sankerali. The evidence was in the form of a tape recorded conversation with one of the two main prosecution witnesses. Russell Sankarelli was executed on the morning of 5 June 1999 along with nine other men over a three day period. He continually maintained his innocence until his death.

Russell Sankarelli had appealed to the Human Rights Committee (*Dole Chadee et al v Trinidad and Tobago*, Communication No. 813/1998) on the grounds that his conviction was based on insufficient evidence. The Committee denied his appeal on the grounds that "evidence is generally a matter for the courts of States parties...(unless) that evaluation was manifestly arbitrary and amounted to a denial of justice...the material before the Committee does not show that the trial suffered from such defects."

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<sup>7</sup>The UN Special Rapporteur on extrajudicial, summary or arbitrary executions has stated: "Appeals for clemency should provide effective opportunities to safeguard lives.", *Extrajudicial, Summary or Arbitrary Executions: Reports by the Special Rapporteur*, UN document No. E/CN.4/1998/68, 23 December 1997, paragraph 118.

<sup>8</sup>The Committee may be composed of up to seven members: the Attorney General, the DPP, a minister appointed by the Prime Minister and not more than four ministers appointed by the President.

## IMPOSITION OF CORPORAL PUNISHMENT

- ▭ **Article 7 (prohibition of cruel, inhuman or degrading punishment)**
- ▭ **Article 2 (right to an effective remedy)**

Amnesty International is concerned that Trinidad and Tobago violates the rights recognized in Articles 7 and 10(1) of the ICCPR by maintaining laws permitting sentences of corporal punishment to be imposed and inflicted. The courts in Trinidad and Tobago regularly impose sentences of flogging or caning in addition to terms of imprisonment. Sentences are carried out in the prison in which the person is confined. According to reports received, some people have required medical assistance after they were caned.

For example, in June 2000 Amnesty International requested that the government of Trinidad and Tobago refrain from carrying out a sentence of 15 strokes with a birch on Steve Williams, after his conviction for rape (see attached UA). Other people who have been sentenced recently to flogging include Robert Morenzie, sentenced on 8 March 1999 to receive seven strokes with a birch; Michael Amrow, sentenced on 23 April 1998 to 10 strokes with a birch, and Marcelle Skeete, who was sentenced to 15 strokes with a birch by the Court of Appeals in October 1998 when affirming Skeete's conviction.

Although the sentencing of women to corporal punishment is extremely rare, Myra Bhagwansingh, a 45-year-old mother of four, was sentenced to 10 strokes with the cat o' nine tails on 28 February 1996. This sentence appeared to violate the law allowing the imposition of corporal punishment, which specified that "any *male* offender over sixteen years" can be sentenced to flogged.

Amnesty International not received any substantive answers from the Government of Trinidad and Tobago to concerns regarding sentences of corporal punishment and requests further information.

The government also sought to extend the range of offences for which a sentence of corporal punishment could be imposed. Bill number 35 of 1999, "An act to amend the Sexual Offences Act, 1986" (clause 4), sought to impose the sentence of twenty strokes with the cat-o-nine-tails in addition to a term of imprisonment to those convicted of the offence of rape in certain circumstances. According to the text of the bill, such a term should be imposed if, "a) the complainant was under the age of 12 years; (b) the offence is committed by two or more persons acting ... with the assistance or in the presence, of a third person; (c) the offence is committed in particularly heinous circumstances; (d) the complainant was pregnant at the time of the offence; or (e) the accused had previously been convicted of the offence of rape."

Amnesty International has been informed that sentences of corporal punishment have been implemented before the final determination of appeals. On 26 August 1998, Edward Boucher received 15 strokes with a birch. Boucher, who was originally sentenced in 1992, was still appealing his sentence when he was birched. An Appeal Court judge criticised the birching and called for the Minister of National Security to investigate the incident. To Amnesty International's knowledge, no action was taken by the authorities.

Amnesty International welcomes the introduction by the government last year of legislation designed to repeal section 83 (g) and (l) of the Children Act, which permits the imposition of sentences of corporal punishment on children. Media reports stated that the government intended through this measure to bring the country, “in line with our obligations under article 37 of the UN Convention on the Rights of the Child not to subject children to torture, cruel or inhuman treatment or punishment.” Amnesty International previously documented the infliction of corporal punishment on an 11-year-old boy on 23 April 1993 (see *Trinidad and Tobago: Corporal Punishment: 11-year-old whipped*, AI index AMR 49/03/93, published May 1993). There have been reports of the continuing practice of non-judicial corporal punishment in children’s institutions in Trinidad and Tobago.

## **ILL-TREATMENT IN CUSTODY OR DETENTION**

- ▮ **Articles 2 (right to an effective remedy); 7 (freedom from torture and CID); 9 (rights of arrested persons and persons deprived of their liberty); 10 (treatment of detained and accused persons, including juveniles); 14 (presumption of innocence; minimum standards for treatment for those facing criminal charges); 26 (non-discrimination; equal treatment before the law).**

## **POLICE BRUTALITY**

Amnesty International notes a pattern of ill-treatment - including verbal coercion and beatings - by law enforcement officials upon arrest and/or in detention and during interrogation. This has resulted in allegations of coerced confessions. There have also been complaints of arbitrary arrest and detention, detailed below.

The organisation has received many reports from lawyers and others, including youth workers, social workers and individuals, expressing concern about statements from individuals arrested on suspicion of having committed a criminal offence by police officers obtained through coercion. In one case, an illiterate man signed a confession he did not understand which was later used at trial to convict him for murder, reportedly after police told him he would be able to go free if he signed (see 'death penalty' section for more information). Unconfirmed media reports earlier this year stated that Mark Teeluck, on trial for murder, had been beaten during interrogation and coerced into signing a confession.

Police Complaints Authority (PCA) statistics for the years 1996-97 and 1998-99 indicated that there had been complaints of arbitrary arrest and detention by the police (see below). A number of individuals have won the right to damages for unlawful arrest and imprisonment. On 13 December 1999, Edwin Huggins was awarded TT\$86,500 compensation for unlawful detention. He had been held for two days in a cell without being charged on suspicion of having stolen a car.<sup>9</sup> On 29 September 1998 a court ruled that Sookdeo Charman Algoo's constitutional rights had been violated. He had been arbitrarily deprived of his liberty in the course of his arrest on 2 May 1997 and subsequent detention until 3 May 1997. The judge also ordered an assessment for payment of damages.

In their first two reports (the only ones to be publicly released thus far), the Police Complaints Authority (PCA) recorded for the period of May 01, 1996 to April 30, 1997<sup>10</sup>, a total of 331 complaints of police harassment, defined as repeated verbal attacks and threats of incarceration. Of these, eight complaints of forced statements were recorded and 50 complaints were made of threats with guns.

In their First Annual Report, the PCA expressed concern at the frequency of complaints of harassment and battery, on which more complaints had been received than on any other issue. To reduce abuses, they recommended the introduction of programs to address the root causes of such behaviour by officers and improved public relations. They

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<sup>9</sup> Trinidad Express, December 15 1999

<sup>10</sup>First Annual Report of the Police Complaints Authority (1996-97)

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did not, however, recommend review of systems for disciplining and/or prosecuting officers. Although the PCA Annual Reports for 1999 period has not yet been released, in February 2000 it was reported in the media that the National Security Minister stated that a total of 769 complaints had been submitted and recorded by the PCA for 1999.

There have been a number of recently reported instances of the ill-treatment of journalists by police.<sup>11</sup> In May 1999 two journalists were beaten by the police while reporting on a street protest. Constitutional motions were filed and remain pending. In June 1999 a TV6 cameraman was beaten in San Fernando. Police disputed the incident, alleging he had hit his head when he got out of a police jeep. On 4 February 2000 a TNT Mirror reporter, NylnD Dwarika, was allegedly beaten by the police and charged with police obstruction in San Fernando, after he reportedly stopped to check a man lying on the ground who appeared to be unconscious.

In July 2000 the Police Commissioner was criticised by members of the Commission of Inquiry into the independence of the judiciary for his vehement public refutation of allegations made by a religious foundation regarding the ill-treatment of homeless children by police. He had accused the individual who reported the allegations to the enquiry, along with the media, of malicious fabrication.

#### **Police Complaints Authority (PCA)**

Amnesty International welcomes the establishment in 1993 of the Police Complaints Authority (PCA)<sup>12</sup>; a civilian oversight body designed to monitor police internal investigations for impartiality and police performance. Its five members are political appointees - appointed by the President - but no members may be current or recently serving parliamentarians or police. The PCA is empowered to receive complaints about any police officer, except Special Reserve Police or Municipal Police; to monitor the investigation of the complaints by the Police Complaints Division for impartiality and to monitor the Division's performance through reviews of its reports. It is also required to make periodic reports to the Minister for National Security and Justice.

However, a number of factors appear to have impeded the ability of the PCA to undertake its monitoring functions. These include:

- ▭ Low resolution of complaints, due in part to inadequate information supplied by the police Complaints Division on the final disposition of complaints, the status of investigations and monthly reports.<sup>13</sup> The PCA has no subpoena powers to obtain further information in respect of its review of complaints. It has no power to order witnesses to appear and its investigations may therefore be thwarted if the police or

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<sup>11</sup> See also *Amnesty International Annual Report 2000*.

<sup>12</sup> The Police Complaints Authority (PCA) was established by an Act of Parliament (Act No. 17 of 1993; An Act to establish the Police Complaints Authority and for matters incidental thereto) on 20 July 1993 by the Minister for National Security, proclaimed on 16 October 1995 and opened on 1 May 1996. The "Police Complaints Authority Act" established its terms of reference, including - its powers; funding; structure; functions and mechanisms.

<sup>13</sup> Under the PCA Act, this unit within the Police Service must investigate and recommend appropriate resolution of complaints referred to it by the PCA; submit a final report on all investigations to the PCA (and the Commissioner, who may then refer a case on to the DPP) and a monthly progress report on its work. The PCA may order that investigation of a complaint continues if dissatisfied with the decision of the CD not to pursue a complaint.

others refuse to cooperate.

- ↯ Insufficient resource levels, including staffing. The Chair of the PCA has publicly stated that resources for both the PCA and the CD remains inadequate, despite increases in staffing levels in the second year of operations.<sup>14</sup>
- ↯ The PCA has no power to initiate independent investigations and may only consider complaints brought to its attention by a member of the public. Although it may order the CD to continue investigating a complaint, it may only review the disposition of a complaint itself at the request of the complainant.
- ↯ The procedure for reporting complaints has been criticised as cumbersome and a cause of delay in expeditious processing. Complaints must be submitted on a required form, and requests to those who have submitted complaints by letter to resend their complaint using the appropriate form has resulted in delayed processing of complaints.<sup>15</sup>
- ↯ The failure to publish timely annual reports is discussed in section III. The chairman of the PCA reported to Amnesty International in February 2000 that a delayed publicity outreach campaign was due to start in the next few months, but the organisation is unaware whether this has been initiated.

Amnesty International notes that the Police Complaints Authority is not currently empowered to investigate complaints made in respect of officers from either the Special Reserve Police and Municipal (City) Police. It welcomes the introduction of recent legislation before parliament, designed to extend the remit of the Police Complaints Authority to allow for consideration of such complaints, and urges its speedy implementation.

### **ILL-TREATMENT IN PRISON**

Amnesty International has received some reports from prisoners who allege that they have been subjected to ill-treatment in prison.<sup>16</sup> Amnesty International received reports that on 21 February 1999 an inmate alleged that he was severely beaten by several prison officers at Frederick Street State Prison after he was accused of throwing water at a guard. Inmates alleged that, although he was examined by a medical officer and was in considerable pain, he was not given any medical treatment.

Amnesty International has received reports alleging that prisoners are denied the opportunity to make complaints in confidence to the Inspector of Prisons regarding conditions of confinement or alleged ill-treatment, despite the provision that exists under

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<sup>14</sup>Funding for the PCA, which currently has two investigators, is determined by the Minister of National Security, whilst the Police Commissioner determines the Division's staffing and funding levels. The 1999 budget did not contain any provision for an increase of funds.

<sup>15</sup> PCA 1996-7, pp. 14.

<sup>16</sup>Amnesty International notes that the Human Rights Committee has ruled that prisoners have been subjected to ill-treatment and brutality in violation of Article 7 of the ICCPR, e.g. Allen Henry v Trinidad and Tobago, UN Doc: CCPR/C/64/D/752/1997, views adopted 10 February 1999.

section 20 of the Prisons Act to give him or her the right to examine every prisoner, alone or in the presence of another person. In one case, a female prisoner was reportedly subjected to retaliation by prison officers after stating her wish to make a complaint to the Inspector of Prisons.

## CONDITIONS IN CUSTODY AND DETENTION

- ▭ **Article 2 (provision of an effective remedy); 7 (prohibition against torture and CID); 10 (humane treatment of deprived persons, including juveniles).**

Amnesty International notes the Human Rights Committee's General Comment 21 par 4 on Article 10 of the ICCPR that the obligation on states to treat all detained and imprisoned people with humanity and respect for the inherent dignity of the human person is a basic standard of universal application which cannot depend entirely on the material resources of a state. States are obliged to provide all detainees and prisoners with services that will satisfy their essential needs. Notwithstanding these obligations, the conditions in many places of detention and imprisonment fail to meet the Standard Minimum Rules for the Treatment of Prisoners.

### Conditions in police lock-ups

Amnesty International continues to receive reports alleging that sub-standard conditions in police lock-ups amount to cruel, inhuman or degrading treatment or punishment. In November 1999 police officers reportedly abandoned Besson Street Police Station, claiming that it was, 'not fit for animals.'<sup>17</sup> The Police Social & Welfare Association also reported that 32 police stations needed repairs. In October 2000 the media reported that police officers at the Belmont Police Station, among the 32, were to close their station because of deplorable and inhuman conditions. Reports state that these facilities are overcrowded and unsanitary, with detainees spending most of or all day locked in overcrowded cells. Reports allege that cells are not equipped with bedding, so detainees are forced to sleep on the concrete floor. Reports also allege that cells are equipped only with buckets for toilets.

The budget speech of 1999<sup>18</sup> announced that seven new police facilities were to be constructed, with new police divisional headquarters established at San Fernando and Sangre Grande, that a further five would be built and three refurbished.<sup>19 20</sup>

### Conditions in prison

Conditions in detention in prison have been the subject of internal investigations and reports by human rights bodies and organizations over a number of years, and have also been condemned in appeal court judgements. Indeed, in a number of cases, the Human Rights Committee has concluded that the conditions of confinement in various places where people are detained and imprisoned in Trinidad and Tobago violate Articles 10 and 7 of the ICCPR. In 1999 the Privy Council ruled in the case of Hilaire Thomas that "the prison conditions in which Mr Hilaire was detained were completely unacceptable in a civilised society, but did not amount to cruel and unusual punishment under the Constitution of Trinidad and Tobago".

On 15 September 1999 the Prison Officers' Association of Trinidad and Tobago issued a "Special Information Circular", detailing their concerns that conditions within the prison were jeopardising the health of both prison officers and inmates. They described the preponderance of serious infectious diseases, including TB. (The circular is attached as an

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<sup>17</sup>CANA News, 29 November 1999.

<sup>18</sup>House of Representatives, 1999-2000 Budget Statement, Presented by Senator the Honourable Brian Kuei Tung, Minister of Finance, Friday 8 October 1999.

<sup>19</sup>At Patna, Pinto Road, Longdenville, St. Babbs, Erin, Four Roads and Ste. Madelene.

<sup>20</sup>New facilities at Gasparillo, Arouca, Penal/Debe, Rio Claro and Tunapuna. The facilities planned for refurbishment were listed as Caroni, San Juan and San Fernando.



appendix.)

Amnesty International continues to receive reports which indicate that the conditions of confinement in Fredericks Street Prison fall well below international minimum standards. The prison is severely overcrowded having been originally built to house 175 inmates but currently containing approximately 1,300 prisoners. Reports indicate that cells where prisoners sentenced to death are confined most of the day (usually 23 hours), measure about six feet by nine feet. The cells are reportedly lit by a fluorescent strip light approximately two feet long that is continually kept on. As a result of the lighting, many prisoners have reported that they have suffered loss of vision and other problems with their eyes. The only ventilation comes through small high grilles, which are often caked with dirt and the unit is described as lacking in air. Sanitation is poor. Inmates are provided with buckets for toilets. They are forced to keep these buckets in their cells when they are locked-in each afternoon following their last meal, at about 4pm, until they are allowed to empty them the next morning. Such conditions do not comply with Rule 12 of the Standard Minimum Rules for the Treatment of Prisoners.

Many reports complain about inadequate and unpalatable food and lack of access to medical treatment. Prisoners report not receiving prescribed medicine. Reports also allege lack of access to specialized medical and health care such as eye doctors (and the provision of glasses) and dentists free of charge. These conditions do not comply with Rules 20 and 22 of the Standard Minimum Rules for the Treatment of Prisoners.

#### **Denial of visitation rights to detained women**

Amnesty International has received reports that indicate that incarcerated women, both those convicted and on remand, are routinely denied access to visits from their children and that visits from children are considered a privilege rather than a right.

In one case, a woman serving a charge for drug trafficking told Amnesty International that she had to select which of her two children could visit her, as she was not permitted to receive visits from both. She described to researchers how her relationship with the child who was prevented from visits had deteriorated.

Another woman, held on remand on a charge of manslaughter for three years and whose child had been placed in care during that time, reported that she was denied the opportunity to see or communicate with her child for the length of her imprisonment. Correspondence was routinely interfered with, and she received no letters throughout her stay in prison.

The *Recommendation of the Eight United Nations Congress on the Prevention of Crime and the Treatment of Offenders* noted that, “the use of imprisonment for certain categories of offenders, such as pregnant women or mothers with infants or small children, should be restricted and a special effort made to avoid the extended use of imprisonment as a sanction for these categories.”<sup>21</sup> Amnesty International has documented its concerns regarding the impact of incarceration on families as a whole and on individual family members, particularly parents who are primary caretakers and their children. See for example, “USA: *Not part of my sentence: Violations of the Human Rights of Women in*

<sup>21</sup>Report of the 8th UN Congress on the Prevention of Crime and Treatment of Offenders, UN Doc. A/Conf.144/28, rev 1 (91.IV.2), Res 1(a), 5(c), 1990.

*Custody*”, AMR51/01/99, March 199, Chapter III, ‘Mothers Behind Bars’.

Female prisoners have reported being denied requests for sanitary protection.

## **JUVENILE JUSTICE**

### **Allegations of ill-treatment in children's institutions, places of detention and psychiatric hospitals**

In its concluding observations in 1997, the UN Committee on the Rights of the Child expressed concern about the violation of the state party's obligations under the Convention on the Rights of the Child through legislation and practices.<sup>22</sup>

In 1997 a government report, never officially released, documented allegations of neglect and brutality in children's institutions in Trinidad and Tobago. It reported allegations of starvation, sexual abuse, molestation, discrimination on grounds of religion and of the confrontational manner of staff approached for information about allegations.

Amnesty International has received continuing reports of the ill-treatment of boys in St. Michael's School for Boys, Diego Martin. The school is a residential home for approximately 126 boys aged between 10 and 18 years of age. Its intake includes those with designated behavioural problems as well as those who have been in conflict with the law. In 1997 social workers submitted a report to the UN Committee on the Rights of the Child alleging that staff at the home regularly beat the children with their hands or unspecified implements for trivial reasons. Amnesty International has also received reports stating that boys have been forced to stand together in a line naked after showering, with clothes being distributed at times by a female member of staff. International standards expressly prohibit cross-gender guarding, except in certain circumstances.

In March 2000 Amnesty International received photographs and testimony showing that severely mentally retarded young men are kept naked in a locked cage in the Boys Ward of St. Ann's Hospital, Port-of-Spain. According to the authorities at the hospital this measure is taken to protect the patients from harming themselves and from consuming their own faeces. In a newspaper interview a nurse on the ward admitted that the confinement was not caused by any violent behaviour by the boys and further stated that she did not consider keeping the patients in a cage to be inhumane.

### **Lack of access to speedy adjudication procedures**

According to information received by Amnesty International, due to the lack of detention facilities existing in Tobago, children are frequently transported to Trinidad to be placed on remand in youth detention centres or prisons, often resulting in considerable delays in the processing of their cases. This also results in limits or preventions to access by family members and others, due to the factors of cost/distance travelling between the two islands.

### **Failure to separate children from adults**

Amnesty International considers that the legal protections which exist to ensure the separation of detained children from adults are inadequate. The Children's Act specifies that the Police Commissioner will arrange "as far as practicable" for children not to be held with

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<sup>22</sup>*Concluding Observations on the Rights of the Child: Trinidad and Tobago. 10/10/97. CRC/C/15/Add.82.*

Specific concerns that were cited included: the need to ensure consistency between national legislation and the provisions of the CRC; the lack of specific mechanisms to address complaints made from children regarding violations of their rights under the law; the need for improved training of law enforcement personnel and others as regards the rights of the child; the lack of qualified staff working in some care institutions; the detention of female child offenders alongside women offenders and lack of presentation of juveniles before court in a speedy manner.

adults in custody. In practice, the organization receives many reports of female children under the age of 18 years being held on remand with adult women and also of young men between 16 and 18 being held on remand with adults, thereby leaving them at risk of physical and sexual attacks by adults and exposing them to the corrupting influence of people with extensive criminal records.

## DISCRIMINATION

- ▭ **Article 17 (1) and 26 (right to privacy; prohibition of discrimination; right to equality before the law)**

### **Criminalisation of homosexual acts**

Amnesty International is concerned that sexual acts in private between consenting male adults and between consenting female adults remain criminalized and punishable by imprisonment, pursuant to Sections 60 and 61 of the Offences against the Person Act No. 10 (1925). Under the Sexual Offences Act No. 27 of 1986, such individuals can be charged under Sections 13 and 16. Article 16 punishes with up to five years imprisonment anyone convicted of committing any act of "serious indecency". "Serious indecency" is defined in law as, "an act, other than sexual intercourse (whether natural or unnatural), by a person involving the use of the genital organ for the purpose of arousing or gratifying sexual desire." The Act specifically excludes private acts of "serious indecency" between a man and a woman over 16 years of age.

Amnesty International considers that the existence of such laws violate the prohibition against discrimination, the right to privacy and the right to equal protection under the law enshrined, respectively, in Articles 2(1), 17 and 26 of the ICCPR.

Both the Attorney General and the Minister for Trade have recently issued strong verbal criticisms of Amnesty International because of the organisation's support for the repeal of laws criminalising consensual gay relations. In an interview on BBC World Service (Caribbean) on 28 September 2000, the Attorney General suggested that the existence of such a law was not a human rights issue and was a matter for the people of Trinidad and Tobago to decide.<sup>23</sup>

Amnesty International does not have information about recent successful prosecutions of men for consensual homosexual activity in private in Trinidad and Tobago. However, if a person were to be imprisoned under these provisions as a result of consensual sexual activity between adults conducted in private, the organization would regard him or her as a prisoner of conscience, imprisoned in violation of Articles 2, 17 and 26 of the ICCPR, and would call for the immediate and unconditional release of individual concerned.

### **Equal Opportunities Bill**

In 1999 the government of Trinidad and Tobago presented to parliament the *Equal Opportunities Bill*, designed to legally enforce the right to non-discrimination. However the bill contains a clause designed to exclude non-heterosexual individuals from its protections. Clause 7 specifies the following "*sex: excludes sexual preferences or orientation.*" The bill is currently still being debated in parliament and has not yet been enacted. In a debate on the bill in the Senate on 28 September 2000 all government senators voted against an amendment removing the clause.

Amnesty International considers that this clause is specifically designed to exclude

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<sup>23</sup>In his interview he stated that, "One of the things that AI is asking us to do is to relax the laws on homosexuality and we are saying that the questions of whether homosexuality is a criminal offence is a matter for the people of Trinidad and Tobago - and AI cannot try and transport or transplant the culture of Europe to the culture of TT and that has nothing to do with human rights and therefore AI is interfering in the internal affairs of the country to the extent that it wants to say what laws we should pass."

gay men, lesbians, bisexuals or transgendered persons from the protections afforded by this piece of legislation. Amnesty International considers that to exclude any group from protection against discriminatory treatment is in itself an act of discrimination, and is concerned that the retention of laws that treat people who are homosexual as criminals lends support to a climate of prejudice in which discrimination, physical attacks and other abuses against people who are or are believed to be gay or lesbian, occur. The media often prints stories of such reports occurring.

### **Discriminatory policing**

Amnesty International has received reports of the selective enforcement of certain laws, including those on indecent behaviour and serious indecency, to target members of the gay community and of the disproportionate targeting of such individuals for arrest. Individuals who provided testimony to Amnesty International in February 2000 were unwilling to have their cases summarised in a public document for fear of being identified and suffering further victimization.

Amnesty International has also received reports alleging that police officers routinely fail to take seriously, to make reports on and subsequently to investigate crimes reported by children and gay people, including allegations of child abuse by family members and of homophobic attacks. Amnesty notes that the failure to investigate<sup>24</sup> was rated the fifth highest issue about which members of the public made a complaint to the Police Complaints Authority (PCA) in their first Annual Report; 90 complaints were received for the period 1996-97.

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<sup>24</sup> Defined by the PCA as, "failure to take action on a report which was made."

## KILLINGS IN DETENTION

### ▮ Article 6 (right to life); article 2 (right to an effective remedy)

A number of deaths in police custody which have occurred in disputed or suspicious circumstances, including some allegations of extra-judicial executions, have been documented in previous reports published by Amnesty International, as well as by other sources.<sup>25</sup>

Several recently reported fatal shootings that have taken place in disputed circumstances have involved members of the Special Reserve Police. At the time of writing the civilian Police Complaints Authority (PCA) is not yet empowered by law to investigate complaints made against this unit. The Special Reserve Police is also reported to have been operating without the existence of regulations including procedures for discipline and for the use of force and firearms.

For example, on June 12 2000, Emerson Serrette, aged 20, was shot dead by a Special Reserve Policeman (SRP). Initial media reports stated that Emerson Serrette was unarmed and that he was not posing any physical threat when he was shot in the neck while outside the house of a friend. The officer who shot him reportedly stated to members of an internal police enquiry, launched after the shooting, that the shooting was an accident. Following directions laid by the head of an internal police investigation team, the officer concerned was to appear in court charged with manslaughter on 15 June 2000.<sup>26</sup>

A 17 year old girl, Anisha Neptune, was shot dead by Special Reserve Policemen in Diego Martin on 1 May 2000 outside the Four Roads Police Station, where she had gone following the arrest of her brother earlier in the day. According to newspaper reports, there were conflicting accounts of the shooting. The police officer involved allegedly recounted to the 3-person police team investigating the incident that Neptune and her mother attacked a police officer with stones, hitting him on his neck, foot and hands, and that during this confrontation his gun was discharged and Anisha was shot. Anisha Neptune's mother denied that such a fight took place, and claimed that she was gunned down in an extrajudicial-style execution. On 16 May 2000 it was reported that the initial police investigation had been returned to investigators for further follow-up.

Amnesty International is concerned by reports that the authorities have failed to initiate independent and impartial investigations or to prosecute those suspected of having used excessive force resulting in deaths. Reports of successful prosecutions are rare, despite the provisions that exist to punish such offences in the Constitution, criminal law and Police Service Regulations. Following receipt of reports of killings by law enforcement officials in disputed circumstances in Trinidad and Tobago, Amnesty International has urged the authorities to initiate prompt, independent, impartial and thorough inquiries, and to inform the organization and the public of the outcome of such investigations.<sup>27</sup> Amnesty

<sup>25</sup> For examples, see previous Amnesty International Annual Reports, including 1995, 1998, 1999 and 2000. See for example US Department of State Country Reports on human rights practices in Trinidad and Tobago - 1995; 1994; 1993; 1991.

<sup>26</sup> Trinidad Guardian, 15 June 2000.

<sup>27</sup> Amnesty International's calls are in accordance with international standards. Principle 9 of the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions for

International has also called on the authorities to bring to justice in the course of criminal and/or disciplinary proceedings any person reasonably suspected of having caused a wrongful death.<sup>28</sup> Police internal investigations into alleged abuses have been widely criticised as inadequate. Independent inquiries have concluded that investigations lacked thoroughness and that officers have been given the benefit of the doubt, even if there was corroborative evidence of misconduct. Disciplinary procedures have been criticised as ineffective and lengthy.<sup>29</sup>

In 1997 Amnesty International wrote to the authorities expressing concern at the fatal shootings in disputed circumstances of Marcus Antoine, Lawrence Jobity and Stephan Perreira by members of the Anti-Kidnapping Squad on 5 August 1997. An inquest was scheduled to be held in 1998. To date, however, Amnesty International has received no response to its request for information about developments in these cases and has been unable to ascertain whether criminal or disciplinary charges have been brought against any person in relation to these deaths. Newspaper reports stated that the Anti-Kidnapping Squad was subsequently disbanded.

Since 1958 there have been at least six government-appointed inquiries<sup>30</sup> into the Police Service in Trinidad and Tobago which have included findings on police accountability with regard to Covenant violations under articles 6, 7 and 10 of the ICCPR. Amnesty International notes with concern that none of the recommendations made in the course of such inquiries have ever been implemented. Recommendations have included the instigation of disciplinary or criminal proceedings against individual police officers; and the revision of policies, practice and training provision relating to the use of lethal force.<sup>31</sup>

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example provides that when there is a death in disputed circumstances involving the use of force by law enforcement officials, authorities are required to initiate an independent and impartial investigation. According to these principles, investigation should include examination of whether the use of force was in accordance with the (UN) Basic Principles on the use of Force and Firearms by Law Enforcement Officials.

<sup>28</sup> This is in accordance with Principle 18 of the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions and the opinion of the Human Rights Committee. For example, Bautista v. Colombia, UN Doc: CCPR/C/55/D/563/1993 at para 8.6 and Chaparro et al v. Colombia, UN Doc: CCPR/C/60/D/612/1995 at para 8.8.

<sup>29</sup> The four-member Police Service Commission is responsible for transfers, discipline of all officers, up to and including senior superintendents.

<sup>30</sup> Inquires have included the following:

- ↯ 1958 **Lea Committee**
- ↯ 1964 **Darby Committee**
- ↯ 1975 **Carr Committee**
- ↯ 1978 **Bruce Committee**
- ↯ 1990 **Police Executive Research Forum** study (sponsored by the US Department of State)
- ↯ 1986 **Commission of Inquiry** into drug crime amongst officers
- ↯ 1991 **O'Dowd Committee**
- ↯ 1993 **Investigation by Officers from the United Kingdom's New Scotland Yard in respect of allegations made by Rodney Murray and Others About Corruption in the Trinidad and Tobago Police Service**

<sup>31</sup> The 1993 investigation by a (UK) New Scotland Yard team found evidence within the Trinidad and Tobago Police Service of the failure to adequately investigate killings by police officers and to pursue



In January 2000, the Prime Minister announced that another inquiry would take place into the Police Service and convened an advisory committee to undertake this.<sup>32</sup> Its remit includes investigation, discipline and promotion systems and management. Its public critics have included members of the Police Association, who have noted that Sir David O'Dowd is a panel member. Criticism has focussed on the fact that none of the 300 wide-ranging recommendations made in O'Dowd's 1991 inquiry, which reviewed all aspects of the Police Service, were ever implemented, despite being endorsed in subsequent inquiries. The final report itself was never officially published.

Amnesty International is concerned about the apparent lack of transparency in police investigations into alleged violations. Amnesty International believes the secrecy of police internal investigations undermines public confidence in the complaints and disciplinary process as well as the investigative process itself. The first report of the PCA noted the very high levels of distrust of the Police Service,<sup>33</sup> particularly among the young Afro-Trinidadian sector of the population.<sup>34</sup>

This is in spite of expressions of support by some members of the Police Service for improved methods of investigation into allegations of brutality by law enforcement officials.<sup>35</sup> Results of investigations or police statements on alleged incidences of excessive force by law enforcement officials are rarely published, and if so, are rarely timely and detailed.<sup>36</sup> Police officials have frequently dismissed allegations of excessive force by law enforcement officials as media fabrication.<sup>37</sup> The civilian Police Complaints Authority have stated that their independent monitoring has been compromised by the failure on the part of the police Complaints Division to provide it with adequate, timely information. The authorities have failed to respond to requests for information on individual cases from Amnesty International.

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criminal allegations made against such officers; a breakdown in effective internal disciplinary procedures and a lack of accountability and supervision. Recommendations for the review of discipline and transfer procedures; administrative and record-keeping procedures; internal investigations and Coroner's inquests were made. Final Report published by Metropolitan Police, 20 July 1993, Reporting Officer Graham Seaby, LL.B., M.Phil, Detective Superintendent, New Scotland Yard.

32 The other members are: Chairman of the Law Commission; a former Police Commissioner; former Commissioner of the Jamaican Constabulary; a management consultant and the Permanent Secretary. headed by Sir Ellis Clarke, a retired judge. The Committee was appointed by a bi-partisan parliamentary team and was formed after the release of the findings of the September 1999 Hosein Commission of Inquiry, which investigated the circumstances surrounding the escape of a convicted drug dealer from police custody in 1999.

33 "These figures ... reflect the prevailing public perception that the police are a terrorizing force." PCA report, pp. 31.

34 A recent national survey carried out for the Trinidad Express for example, noted that 77% of Afro-Trinidadian young people did not trust the police; compared with 61% of young Indo-Trinidadians. Trinidad Express, 8 May 2000.

35 In a letter to the Trinidad Guardian, 31 August 1997, for example, the Police Association publicly supported the establishment of the PCA and called for the establishment of a stronger internal investigations unit.

36 For example, a San Fernando City Police Association spokesperson recently criticized individuals who had made public comments regarding a police shooting in Pleasantville in May 2000, reportedly stating that the police would make a public statement on the shooting, "when the time arises."

37 On a number of recent occasions, the Commissioner of Police has refuted allegations of brutality by police reported by the media, claiming that the media is involved in a campaign to demonise the Police Service.

The Coroner's Act provides for the holding of inquests into the causes and circumstances of death. However, such inquests are not mandatory.<sup>38</sup> Some inquests have lasted several years. There have been some reports of inquests being delayed up to five years in some cases. In a recent case, murder charges against a police officer and his brother were reportedly dropped, due to the inadequacy of the post-mortem report, undertaken by a government pathologist, condemned by the trial judge. The government pathologist is since reported to have had his contract terminated by the government.

The inquests into the fatal shootings in 1990 of Njisane Omowale and Franklyn John were concluded in 1997. The Coroner reportedly concluded that the death of Omowale resulted from commission of a felony and referred the case back to the Police Commissioner for further investigation to shed light on the alleged perpetrator/s. In December 1997, Amnesty International made a request to government to be informed of the results of further police investigation into his death and of any criminal proceedings brought in respect of the killing. Amnesty International understands from information received from other sources that the Coroner found that Franklyn John was unlawfully killed and recommended that the case be referred to the Director of Public Prosecutions. Amnesty International requested to be informed whether of criminal charges were brought, or were to be brought in the future, against any person in connection with the death of Franklyn John. The organisation did not receive a response to either of these requests.

Monitoring of police conduct in Trinidad and Tobago has been hampered by the lack of recent, accurate, reliable and comprehensive national data on police use of force, including on the numbers of people killed or injured through police shootings or other types of force.

#### **Police training on the use of deadly force**

Trinidad and Tobago's report to the Human Rights Committee states that the Police 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. The Police Service Regulation number 130 states that a report shall be made to the Commissioner setting out the circumstances relating to the discharge of any ammunition. The Commissioner and the Deputy Commissioner are the sole persons who may authorise the issuing of ammunition. In an interview following the shooting by a police officer of Vishnu Hansraj, the Deputy Police Commissioner of police was quoted as stating that, "it would be difficult for me to suggest any general guidelines" as to when a firearm should be used.<sup>39</sup>

Concern has been expressed in recent years regarding the lack of adequate training and psychiatric counselling and monitoring for officers, including by police officers themselves.<sup>40</sup> Some public criticism has also focused on the Police Service's alleged continuing self-perception as a paramilitary-style force. In a 1997 interview, the Minister of

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<sup>38</sup>Previous independent inquiries have recommended the separation of coroner's inquests from criminal court systems; the appointment of coroners on a full-time basis and the establishment of independent coroner's courts.

<sup>39</sup> Donna Yawching, *Trinidad Express*, May 8 2000.

<sup>40</sup>Conclusion drawn from interviews with police officers in the *Trinidad Express*, 17 August 1998.

National Security, whose responsibilities cover the Police Service, was quoted as saying that police training, "sometimes involves shouting at trainees and that makes young police officers feel they must also behave like this toward members of the public."<sup>41</sup>

The PCA has recommended the establishment of Employee Assistance Programs, as part of a strategy to deal with the number of reported cases of harassment and battery by police officers. On 23 April 2000, the Minister for National Security stated that the Trinidad and Tobago Police Service had in place a system to psychologically screen police recruits and to screen soldiers performing special duties. Following a number of highly publicized police suicides, it was also announced that a system was to be put in place to establish psychological screening throughout the Police Service, to include mandatory, annual testing.

Amnesty International urges that Police departments should establish early warning systems to identify and deal with officers involved in human rights violations. They should establish clear reporting systems and keep detailed records of every officers' conduct. They should conduct regular audits of these records in order to identify, and take remedial action in respect of, patterns of abuse, including discriminatory treatment. These audits should be open to inspection by independent oversight bodies.

#### **Army involvement in civilian law enforcement**

The Trinidad and Tobago Defence Force has been involved in civilian peace-keeping operations since the launch of Operation Leap in December 1998. Recent media reports have also indicated that the army has been performing civilian roles independently of the Police Service.

Amnesty International has concerns regarding the suitability of the involvement of the army in civilian law and order roles. Experience in other countries, including in the Caribbean region, has demonstrated that soldiers have perpetrated human rights violations in civilian law enforcement roles. (See for example, *Jamaica: The killing of Michael Gayle: authorities yet to hold police and army officers accountable*, May 2000, AMR 38/02/00 and *Jamaica: Prison violence by warders and soldiers must stop*, May 2000, AMR 37/006/2000)

#### **Less-than-lethal weapons**

According to a statement by the Deputy Director of Public Prosecutions in May 1999, the authorities of Trinidad and Tobago are considering the introduction of less-than-lethal weapons for use by law enforcement officials, including the taser gun, as a means of "apprehending dangerous or violent suspects."

The taser is a hand held device which shoots two barbed hooks into the subjects' clothing from a distance; an electric current is transmitted through wires. A high voltage "jolt", typically 50,000 volts, incapacitates the suspect. There have been several reported deaths following the use of such weapons, and weapons of this type have been used to torture victims in countries around the world. Medical research has shown they can be dangerous.<sup>42</sup> Stun weapons have been banned for law enforcement in countries including

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<sup>41</sup>On 17 July 1997, the Trinidad Guardian quoted National Security Minister Joseph Theodore as stating, "it is not a nice place to be [... for the new Police Commissioner] - at the head of a paramilitary uniformed organization."

<sup>42</sup>For example, Robinson, Brooks and Renshaw, "Electro Shock Devices and their Effects on the Human Body", *Medical Science and the Law* (1990), Vol. 30, No. 4, cited in Amnesty International, ***Amnesty International July, 2000AI Index: AMR 49/06/97***

Canada and most Western European countries, as well as in various states and cities of the USA.

International standards encourage the development of non-lethal incapacitating weapons, in order to decrease the risk of death or injury, but state that “the use of such weapons should be carefully controlled.”<sup>43</sup>

Amnesty International has produced numerous reports documenting its concerns regarding the taser, along with other forms of electro-shock weapons (see for example, *USA: Rights for All*, AMR 51/35/98, October 1998 and *Cruelty in Control? The Stun Belt and other Electro-shock equipment in Law Enforcement*, AMR 51/54/99, 8 June 1999.<sup>44</sup>

Amnesty International is concerned that the introduction of such technology may lead to instances of torture, ill-treatment or even deaths caused law enforcement officials. The organization has urged other countries to suspend the use of electro-shock equipment pending the outcome of a rigorous, independent and impartial inquiry into their use and effects.

#### **Police failure to protect witnesses**

In June 2000 the Justice Protection Bill was presented to parliament, purportedly seeking to instigate mechanisms to protect witnesses and others, including law enforcement personnel and jurors, from intimidation or violence. This initiative comes nearly four years after Caricom Attorney Generals approved in principal a proposal to instigate a regional witness protection program. Amnesty International does not have information on the current status of the bill.

Amnesty International has been concerned by reports alleging that the police have failed to protect the lives of a number of witnesses in criminal trials.

According to information received by the organisation, Clint Huggins was gunned down outside a club whilst under police protection in March 1996. Huggins, a former police officer, was one of two key state witnesses in the prosecution of Dole Chadee and eight others, who were later convicted for the murder of four people and executed in June 1999. He was also a witness in the cases against Naresh Boodram and Joey Ramiah for the murder of two people.

Police allegedly failed to respond to a request from a witness who was seeking police protection after being subjected to alleged death threats and other intimidatory behaviour prior to a scheduled court hearing. In November 1997, two days before he was due to testify in court as a state witness in a case of extortion against a police officer, Ramballie Mahadeo was shot twice in the stomach and killed by two men who broke into his house. He had reportedly made several previous appeals to the police for protection, after claiming that his life had been threatened since he became a witness in the corruption case. An internal

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*USA: Use of electro-shock stun belts*, 1996, (AI Index AMR 51/45/96).

<sup>43</sup>Principles 2 and 3 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

<sup>44</sup>See also, *Arming the Torturers: Electro-shock Torture and the Spread of Stun Technology*, ACT 40/01/97, March 1997 and *USA: Use of electro-shock stun belts*, AMR 51/45/96, 12 June 1996.

police investigation was launched by the then Commissioner of Police.

### **Deaths in prison**

Legislation pertaining to the use of force by prison personnel does not conform to international minimum standards governing the use of force. Legislation does not provide for reporting, investigation or monitoring in cases where deadly force has been employed.

Under section 13 of the Prisons Act, Chapter 13:01, officers may use firearms or any other mode of force “for the purpose of preventing escape or violent assault, and for the purpose of preventing or suppressing any mutiny”. The act also states that an officer, “shall not be responsible for the consequences of the use, if necessary for any of the purposes mentioned above.”

According to reports, the use of deadly force has been employed in the context of escape attempts in prison. Amnesty International wrote to the government of Trinidad and Tobago requesting further information regarding the death of Eustace Piper, who was found dead in his cell in Frederick Street State Prison, Port-of-Spain in March 1995. His death followed an escape attempt during which he was stabbed and three prison officers were injured. His autopsy report indicated that he died as a result of shock and hemorrhaging due to his injuries. Amnesty International fears that his death may have been due to the failure to provide Piper with prompt medical attention or to further injuries inflicted by prison guards. It is understood that an internal investigation was launched and that the death was investigated by the police. However, the authorities did not respond to Amnesty International's request for information and the organization is unaware of any charges filed in connection with Piper's death.