



The Government of the Republic of
Trinidad and Tobago

National Advisory Committee
on Constitutional Reform

July 2024



We The People

Report of the National
Advisory Committee on
Constitutional Reform

Constitutional Reform: Our Future, Our Constitution, Our Voice



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Abbreviations

AG	Attorney General	LNG	Liquefied natural gas
ALTA	Adult Literacy Tutors Association	MP	Members of Parliament
CARICOM	Caribbean Community	NCDs	Non-communicable diseases
CCJ	Caribbean Court of Justice	ODPP	Office of the Director of Public Prosecutions
COP	Congress of the People	ONR	Organisation for National Reconstruction
CoP	Commissioner of Police	PM	Prime Minister
COVID-19	Coronavirus disease	PNM	People’s National Movement
CSEC	Caribbean Secondary Education Certificate	PolSC	Police Service Commission
DPP	Director of Public Prosecutions	PR	Proportional representation
EBC	Elections and Boundaries Commission	PS	Permanent Secretary
FPTP	First-Past-The-Post	PSC	Public Service Commission
GATE	Government Assistance for Tuition Expenses Programme	PSD	Parliamentary Service Department
GDP	Gross domestic product	SEA	Secondary Education Assessment
HPS	Head of Public Service	SIDS	Small Island Developing States
HR	Human Resources	THA	Tobago House of Assembly
HRMD	Human Resources Management Division	TTDF	Trinidad and Tobago Defence Force
HSF	Heritage and Stabilisation Fund	TTPS	Trinidad and Tobago Police Service
IC	Integrity Commission	UKSC	United Kingdom Supreme Court
IMF	International Monetary Fund	UNC	United National Congress
JLSC	Judicial and Legal Service Commission	UWI	University of the West Indies
JSC	Joint Select Committee		
JSCO	Judicial Services Commission		



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EXECUTIVE SUMMARY

The Committee embraced the following objectives for constitutional reform at this juncture in our history: (a) expanding rights and freedoms and promoting democratic values; (b) ensuring efficient, effective government focused on equitable economic growth and development; (c) building/fostering political consensus; (d) creating mechanisms for collaboration and power-sharing; (e) effecting greater separation of powers between the Executive and Legislature; (f) fostering real accountability and timely justice; (g) engendering the taking of personal responsibility; and (h) promoting positive peace, that is, pre-empting conflict and channelling disagreements productively.

Whilst reviewing our economic, social and political developments since 1976, the Committee concluded that while some economic and social progress has been achieved, it has not been sufficient to ameliorate the social conditions for many who live in absolute poverty, including the circumstances that have drawn many into crime, nor overcome the outdated colonial systems adopted at Independence and which have fettered the most appropriate responses to these problems. Inefficiency, mediocrity, the dysfunctional political culture, and conflicts between and among high office-holders have compounded the difficulties and inhibited reform or the resolution of prevalent challenges.

The Committee successfully obtained hundreds of submissions and recommendations via email, town hall meetings, youth forums as well as from invited stakeholders and experts. Clear themes emerged from all the submissions:

- a. There is a powerful demand for a more democratic society, where citizens have more say and more control. The demands for and fixed dates for elections, a right of recall, referendums, and for a directly elected President are evidence of this.
- b. Citizens want to see the recognition and protection of an expanded set of rights relating to the environment and to economic, social and cultural rights, as well as the protection of rights of indigenous peoples and an end to discrimination based on disability, place of residence and sexual orientation.
- c. The society wants some form of proportional representation so that their votes at elections are not wasted.
- d. Citizens want a higher level of accountability from those who are placed in positions of power in the Parliament, the Judiciary, the Executive and the independent or ‘fourth branch’ institutions. In this regard, there is strong demand

for a greater degree of separation of powers evidenced in the recommendations for limiting the number of ministries and the number of Ministers drawn from the Parliament. Some expressed support for the idea of an Executive President and were insistent about a President who is not politically appointed.

- e. Citizens want the Constitution to address the problem of corruption and in that regard, recommend term limits for office-holders, and stronger investigation and prosecution of corruption.
- f. Citizens want to see a more efficient and responsive public service, and recommend reform of the service commissions.
- g. Citizens also recommended campaign finance reform, a non-political Speaker of the House, elected Senators, entrenching local government in the Constitution, and the need for Members of Parliament to be full-time members.

On the basis of the submissions from the public, office-holders, and experts as well as reviewing the recommendations of the Ramadhar Committee (2013), the Clarke draft Constitution (2009), the Principles of Fairness Committee (2006), the Hyatali Commission (1987) and the Wooding Commission Report and draft Constitution (1974), the Committee formulated proposals for Constitution reform. The Committee's approach to crafting the proposals for reform was informed by and had regard to the principles of Sovereignty, Democracy, Securing Individual Rights and Freedoms, the Separation of Powers, and the Rule of Law. The Committee was also mindful of the political and constitutional culture which could shape the efficacy of the proposed reforms.

The proposals detailed in the Working Document seek to:

- a. Foster national identity and cohesion by articulating our national values and aspirations in a revised Preamble which is owned by 'We the People' of Trinidad and Tobago;
- b. Expand the charter of Rights to (a) include economic social and cultural rights (b) delineate and expand the legal rights which provide for due process and equal protection of the law, (c) outline citizens duties and responsibilities, and (d) directive principles for state policy which are intended to inform and guide policy formation and implementation;
- c. Establish genuine sovereignty and republicanism by (a) removing the savings law clause, (b) abolishing appeals to the Privy Council and acceding to the appellate jurisdiction of the Caribbean Court of Justice, and (c) redefining the territory of Trinidad and Tobago consistent with its archipelagic status in international law;

- d. Effect greater separation of powers by (a) strengthening the oversight role of Parliament, (b) strengthening judicial independence, (c) recognising the Industrial Court, Tax Appeal Board and Equal Opportunity Tribunal in the Constitution, and (d) providing for an enhanced Judicial Service Commission whose purview extends to all judicial offices and the Director of Public Prosecutions;
- e. Effect greater and better representation by deepening and strengthening Parliament by (a) retaining the First Past the Post system of election to the House of Representatives (b) limiting the number of Ministers and ministries; (c) expanding the Senate which would be elected on the basis of proportional representation, and which will require higher qualifications for appointment;
- f. Effect greater accountability and transparency by (a) providing for accountability of the Judiciary and the independent institutions for their performance; and (b) providing for an elected President where the candidates for that office must have special qualifications and are screened by a Presidential Election Committee (c) granting the President enhanced powers regarding oversight of the performance of independent institutions;
- g. Strengthen democratic values by giving greater voice to the citizenry by (a) devolution of executive and law-making power to Tobago Island Government, and (b) preparing Local Government for greater responsibility;
- h. Provide the basis for a more efficient and effective Public Service by (a) proposing new legislation and regulations to govern the Public Service and instituting a ‘Cabinet Manual’ to clarify the roles and responsibilities of Ministers and Permanent Secretaries; and (b) delegating to the Permanent Secretaries responsibility for the appointment, transfer, promotion, and discipline of officers who are not engaged in policy; and
- i. Correct deficiencies in the current Constitution by (a) proposing return of the Police Service Commission to its former method of appointment and former method of selection of the Commissioner and Deputy Commissioners of Police; (b) clarifying the President’s power of pardon and restructuring the Advisory Committee on Pardon; and (c) widening the scope of the Integrity Commission while reforming the declaration of assets.

I: INTRODUCTION

The Committee's Terms of Reference

1.1 On January 25, 2024, the Prime Minister appointed the National Advisory Committee on Constitutional Reform comprising:

- a. Barendra Sinanan, S.C. – Chairman
- b. Raye Sandy (former Tobago House of Assembly Chief Administrator)
- c. Dr. Terrence Farrell (Attorney-at-Law and Economist)
- d. Nizam Mohammed (Attorney-at-Law and former Speaker of the House)
- e. Hema Narinesingh (Consulting Managing Partner, Ernst and Young)
- f. Jacqui Sampson-Meiguel (Attorney-at-Law and former Clerk of the House)
- g. Winston Rudder (Public Service Commission Chairman and former Permanent Secretary in the Ministry of Agriculture)
- h. Helen Drayton (Former Independent Senator)

1.2 The Committee had the following Terms of Reference:

- a. To formulate Terms of Reference for a National Dialogue on Constitutional Reform for Trinidad and Tobago;
- b. To initiate, consult widely and guide the national debate towards the generation of package of ideas and opinions which will be distilled into a working document which will become the Working Document for the Constitution Conference to be held in June 2024;
- c. Incorporate within its proposed Terms of Reference outline parameters of subject matter for national debate and for the engagement of the widest cross section of persons and bodies representing the citizenry, including the diaspora, political parties, NGOs, commercial interests, religious interests, labour/trade union interests, educators and students, with a view to promoting meaningful consultations, debate and engagement in the offering and exchange of opinions and the making of recommendations for constitutional reform for Trinidad and Tobago; and

- d. To consider and make recommendations to the Cabinet within three (3) months of its appointment for the promoting and convening of a National Constitutional Conference and Consultation in June 2024.

1.3 The Committee was initially given three (3) months to complete its assignment. However, an extension was granted for the Committee to complete its work. The Committee spent the initial six weeks, until March 2024, in intense preparatory work, determining the scope of the assignment and key activities, establishing its Secretariat, planning the logistics for conducting the exercise within the given timeframe and developing a budget for approval.

1.4 Office accommodation was provided by the Ministry of Public Administration. The Committee was assigned staff from the Judiciary, the Ministry of Public Administration, and the Office of the Parliament. Supplemental staff for community outreach activities were provided by the Ministry of Youth Development and National Service. The Secretariat comprised:

- (a) Shalisha Samuel (Secretary). Judicial Research Counsel, The Judiciary
- (b) Everlene Khan (Senior Legal Officer), Attorney-at-Law
- (c) Cliange Mohan (Legal Research Officer). Legal Research Officer Intern, Office of the Parliament
- (d) Jeane Warner (Legal Research Officer), Judicial Research Counsel, The Judiciary
- (e) Marissa Maharaj (Administrative Officer). Business Operations Assistant II, Ministry of Public Administration
- (f) Kevin Cassie (Administrative Officer). Business Operations Assistant I, Ministry of Public Administration
- (g) Abraham Charles (Administrative Associate). Clerical Assistant, Ministry of Public Administration
- (h) Aneera Maharaj (Research Officer). Public Management Analyst, Ministry of Public Administration
- (i) Christal Joseph (Research Officer). Research, Policy and Planning Associate, Ministry of Public Administration
- (j) Shaiann Charles (Research Officer). Research, Policy and Planning Associate, Ministry of Public Administration
- (k) Katherine Lue Attin (Research Officer). Public Management Analyst, Ministry of Public Administration

(l) Grantley Dick (Logistics Coordinator), Former Marshal of the Parliament

1.5 The Committee interpreted the Terms of Reference as requiring:

- a. Widest possible engagement with the public to ascertain their views on and recommendations for constitutional reform;
- b. Consultation with experts in Constitutional Law, politics, society and culture on the issues of constitutional design, aspects of the current Constitution which required reform and how the reform exercise might realize its objectives;
- c. Developing a ‘Working Document’ consisting of coherent proposals for reform based on the submissions which would become the basis or ‘terms of reference’ for a conference; and
- d. Providing recommendations on how the ensuing dialogue of the proposed conference might best be organised to achieve the objective of constitutional reform.

Objectives of Constitutional Reform

Constitutional transitions are not merely a legal process: they are inherently social and political processes. By changing the system which underlies governance and rights, they can reframe the social contract between citizens and State and reshape the way in which individuals and groups access and exercise public power. (Institute for Democracy and Electoral Assistance, Constitution Building)

1.6 The Committee appreciated from the outset that constitutional reform is not an exercise in superficiality, in fixing or tinkering with selective sections of the Constitution. Rather, the impetus for reform comes from a recognition that the contract between the State and the People and the institutions of the State itself needed to be rethought, reshaped and re-engineered in order to better secure the rights of citizens, improve the governance and functioning of institutions and in so doing, make for a better, safer, more inclusive and resilient society able to face the challenges of the 21st century.

1.7 The Committee was also clear that there is no best way to effect constitutional reform. It is an intensely political process since any serious reform exercise involves the redistribution of power within the society and there may be resistance to change by those who benefit from the status quo.

1.8 The Committee came to the exercise with a clear appreciation that the existing 1976 Republican Constitution, now in place for forty-eight (48) years, remained essentially a colonial construct since the basic structure of the 1962 Independence Constitution was still embedded therein with all its assumptions about people, power, and the exercise of authority, but mainly



lacking the ‘software’ of the unwritten conventions which suffused the British unwritten constitution. Our Constitution was designed for an era when the people were ‘subjects’ within a ‘constitutional monarchy’ and consequently does not empower the citizens who hold power, to know that they hold power, and ultimately, that they can direct those who temporarily exercise executive and parliamentary power on their behalf. The Wooding Commission had described our political culture in the following way:

32. Trinidad and Tobago [is] a society which has just emerged from the fetters of colonialism. Here democracy is still a very tender plant needing a great deal of care and nurture. If anything, the political culture can be characterised as being highly bureaucratic. There is no deeply entrenched tradition of political commitment and involvement on the part of the "better off" people in the society. That which existed during the colonial era at the national and local level has long since disappeared. Few people have bothered to seek information about or attempt to influence the outcome of public policy in a systematic and organized way. The public still very largely believe that policymaking was a matter for "them" (the Government) and not for "us" (the people). Those who are in a privileged position to know or to gather information and who themselves possess the ability or can assemble the skills to make pertinent and reasoned comment in support of or in disagreement with government policies have for the most part been silent or have preferred to comment or grumble in private. The few who made efforts to contribute to policymaking often found that their efforts were not seriously entertained."

1.9 While some of it is still valid, the Wooding Commission’s characterisation of our political culture quoted above does not fully or accurately reflect current realities. Since 1974, there has been an expansion of traditional media (radio, newsprint, and television) and more recently, social media. This has given greater voice to ordinary people. The commentariat has expanded proportionately and, discarding *noms de plume* and anonymity, has been prepared to challenge the government on its policies and the conduct of the country’s political leadership. However, it would be true to say that these voices do not have especially strong influence on either policy or the conduct of the political directorate. Perceptually, business and the political elite are deferential to political power and may seek to influence policy from behind the scenes. Criticism from the academy has attenuated, and even the political and social commentary of the traditional calypso art form has lost much of its sting in recent decades, yielding to soca music and its mainly apolitical lyrics.

1.10 The Committee has entitled its Report “We the People” to signal that we, the people of Trinidad and Tobago are citizens, not subjects, authors, not characters in someone else’s story, and that we have agency in charting our collective future in a turbulent world. But we also acknowledge our diversity, our woundedness, including the wounds we have inflicted on each other over many years and decades. We are in no way deterred by this because we also acknowledge our creativity, our tolerance and mutual respect, our capacity for celebration and healing, and our desire for unity and progress.

1.11 The late Reginald Dumas in his reservation in the Wooding Commission Report cited, with approval, Dr. C.V. Gocking's criteria for an effective constitutional reform process in the Trinidad and Tobago context as follows:

- a. A clear and concise statement of the criteria which should govern democratic constitution-making in the modern world;
- b. A description and an analysis of the society of Trinidad and Tobago in terms of the political, social, and economic forces at work in it, their operation, and their interplay so as to identify and assess the social forces which are working to promote or impede and thwart democratic values. This is indispensable if the exercise is to be something more than an exercise in abstractions; for these forces will determine the extent to which the criteria described above will, or will not, be translated into living fact in the life of the country;
- c. A careful analysis of the existing constitution as it worked under the conditions actually existing in our society and how far it has succeeded or has failed to meet the demands of it;
- d. Recommendations for a constitutional framework and constitutional mechanisms which can contain - so far as such devices can - or impose restraint on those political, social and economic forces which would, if left to themselves, undermine democratic freedom and deprive thousands of equality of opportunity and a career open to the talents; and
- e. Recommendations for changes, if and where necessary, in the constitutional framework and new mechanisms with a view to improving the chances of a fuller and juster life for all.

1.12 The Committee accepts this approach, noting however, that Gocking and Dumas were largely concerned with preserving and upholding democratic values. This objective remains valid. However, there are now additional concerns and issues which the reform agenda should embrace. Based on the half a century of operating the 1976 Constitution, the Committee recognises that our inherited colonial power structures have to yield to greater scrutiny and accountability, that the tendency to autocracy has to yield to negotiation, compromise and collaboration, and due process norms must become routine in dealing with citizens and office-holders alike. In addition to expanding rights and freedoms and promoting and enhancing democratic values, the Committee also embraces the following objectives of constitutional reform:

- a. Ensuring efficient, effective governance focused on equitable economic growth and development;



- b. Building/fostering political consensus;
- c. Creating mechanisms for power-sharing;
- d. Effecting greater separation of powers between Executive and Legislature;
- e. Fostering real accountability and swift action consistent with due process;
- f. Engendering the taking of personal responsibility, and
- g. Promoting positive peace, that is, pre-empting conflict and channelling disagreements productively.

Engagement with the Public

1.13 The Committee launched a website with content intending to educate and raise awareness. The Committee employed three (3) methods to harvest the views of the public. First, submissions were invited via email which could be sent either directly to the Committee’s Secretariat or via the website (www.constitutionalreform2024.gov.tt). Second, the Committee arranged town hall meetings in each of the municipalities and regional corporations: twelve (12) in Trinidad and two (2) town halls in Tobago, one (1) in the east, and one (1) in the west. The youth was also engaged as there were three (3) youth forums: one (1) in Tobago and one (1) each in both north and south of Trinidad. Third, two (2) questionnaires on various provisions in the Constitution were deployed via the website. The responses from these questionnaires were anonymous. The questionnaires were premised on the assumption that, even if citizens do not know the specific provisions of the Constitution, they generally understand how Members of Parliament (MPs) are elected and how frequently, how the Prime Minister is appointed, how the President is elected, and they have some idea of how the courts function. The analysis of the submissions from the public are presented and discussed later in section III of this Report.

1.14 The discussions with various experts were necessary to (1) elicit issues which were unlikely to be identified by the public, such as technical matters of interpretation of certain constitutional provisions, (2) assess the practicality of proposed reforms, (3) obtain information which could assist the Committee in selecting from among various options, including comparative provisions from other jurisdictions which might be helpful, and (4) obtain perspectives on citizen engagement, conflict management, culture and values, and the social, cultural and psychological aspects of these important factors which bear on the society’s constitutional culture.

1.15 In sifting and distilling the proposals for reform, the Committee elected to use as its methodological framework, the basic structural principles of the Constitution as we understand these in the Trinidad and Tobago and Caribbean context. These are: (1) sovereignty, (2) individual

rights and freedoms, (3) separation of powers, (4) democracy, and (5) the rule of law. Reform proposals are tested for validity against one or more of these principles.

1.16 We also acknowledge the critical importance of the society’s ‘constitutional culture’, the sets of attitudes and behaviours which determine how institutions actually work and importantly, the extent to which citizens accept their citizenship and the duties and responsibilities which go with it, and the extent to which constitutional office-holders—beyond the black letter of the text—are mindful of the unwritten ‘software’ or conventions which are essential to make the Constitution operate as it should and mindful of their responsibility to promote positive peace in our society.

1.17 Based on the analysis of submissions using the framework imposed on it, the Committee then documented the proposed reforms into the Working Document essentially following the chapter structure of the existing Constitution. The Working Document is not a draft Constitution, but rather statements of the reforms proposed in each area. The objective is that this will be the document used in the proposed conference.

1.18 The final section of the Report outlines our recommendations on how that conference should be organised and run to achieve the objective.

Previous Attempts at Constitutional Reform

1.19 Our current Constitution was instituted in 1976. It followed the work and recommendations of the Wooding Commission which reported in 1974. That Commission, working between 1972 and 1974, developed its recommendations against a backdrop of labour unrest in the 1960s, the Black Power demonstrations in early 1970, a mutiny in the Regiment in 1970, states of emergency, and armed violence by so-called freedom fighters. Moreover, unemployment was high and rising and the economy had faltered until it was rescued by the first oil price shock in 1973.

1.20 The Wooding Commission Report, crafted from public consultations all over the country, memoranda submitted by citizens, and the erudition and insight of the Commissioners themselves, was a courageous attempt to meet the then conjuncture of social and political forces demanding change. Besides its comprehensive report, the Commission produced a booklet *Thinking Things Through*, and at least one draft Constitution. In the event, the Government of Prime Minister Dr. Eric Williams rejected most of its key recommendations and, with a super majority in Parliament, delivered the 1976 Republican Constitution which instituted a President, replacing the Governor-General, transferred some powers of appointment from the Prime Minister to the President, created an office of the Director of Public Prosecutions and an office of the Ombudsman, but otherwise left intact the 1962 Independence Constitution.

1.21 In 1977, Arthur Napoleon Raymond Robinson, former deputy Prime Minister, launched a campaign for internal self-government for Tobago. This led not to constitutional change but to

ordinary legislation (Tobago House of Assembly Act No. 37 of 1980) establishing the Tobago House of Assembly to make ‘better provision for the administration of the island of Tobago’. In 1987, the National Alliance for Reconstruction (NAR) administration led by ANR Robinson instituted a Commission under former Chief Justice Isaac Hyatali which included some members of the prior Wooding Commission in the persons of Michael de la Bastide and Selwyn Ryan. Like the Wooding Commission, the Hyatali Commission was instituted at a time of great economic difficulty with Trinidad and Tobago, on the verge of an International Monetary Fund (IMF) programme, experiencing social unrest, as well as political turbulence when Basdeo Panday and other members of the government left the administration and formed the United National Congress (1988). The Hyatali Commission published a booklet entitled *Thinking Things Over* which explained the provisions of the 1976 Republican Constitution and posed a series of questions for the public to think over with a view to reform. The Hyatali Commission’s work was brought to a premature halt by the 1990 attempted coup (July 27th, 1990).

1.22 In 1996, under the Panday administration, the Constitution was amended to recognise the Tobago House of Assembly and also a revised Tobago House of Assembly Act was passed. During the Panday administration, three (3) important pieces of legislation were passed, each of which had constitutional implications. These were: (1) the Freedom of Information Act (Chap. 22:02), (2) the Judicial Review Act (Chap.7:08), and (3) the Integrity in Public Life Act (Chap. 22:01).

1.23 The next attempt at comprehensive constitutional reform emanated from an unusual quarter, the Principles of Fairness Inc., whose directors were Dr. Marjorie Thorpe, Archbishop Edward Gilbert, Ken Gordon, Dr. Bhoendradatt Tewarie, Tajmool Hosein TC QC, Arthur Lok Jack, Dr. Patricia Mohammed, Satnarine Maharaj, Noble Khan and Dr. Hamid Ghany. The organisation, comprised of religious leaders, academics, trade unionists and businessmen, had been formed around 2005. The third edition of its draft Constitution prepared by Tajmool Hosein TC QC, Dr. Hamid Ghany and Rajiv Persad was published in October 2006.

1.24 The Principles of Fairness Committee had developed its recommendations for reform around the same time the Manning administration had been engaged in a similar exercise toward constitutional reform. Sir Ellis Clarke had, at Manning’s behest, written a draft Constitution in 2006. The key feature of the Clarke draft was the proposal for an Executive President. There were public consultations chaired by Selwyn Ryan and John La Guerre over the course of 2006 and 2007, interrupted by the general election in 2007 and which continued up to January 2009, at which time thirty-one (31) meetings had been held. A Working Document on Constitutional Reform for Public Consultation, which references a version of the Clarke draft constitution (the 11th draft), was laid in Parliament in January 2009. The intended consultations on the Working Document were interrupted and then aborted after the May 2010 general election.

1.25 In March 2013, the United National Congress-led People's Partnership coalition government launched its attempt at reform under the Ramadhar Committee. That Committee submitted its report and recommendations in December 2013 after holding seventeen (17) public and two (2) private consultations. The People's Partnership administration produced a Constitution Amendment Bill in 2015 which sought to advance some of the recommendations of the Ramadhar Committee, but that Bill died on the floor of the Parliament when the general election was called, and Parliament was prorogued.

Conclusion

1.26 The Committee is cognisant of the fact that engagement of the wider population to this constitutional reform exercise may have been compromised by the knowledge-deficit about the nature and purpose of the role of the Constitution. There are many who dismissed the work of the Committee from its inception. Given the political environment and the huge challenges the society is currently facing, scepticism and even cynicism is not unwarranted. The Committee embraces the perspective of one of our presenters who said: "If there is no hope, there is no future". For us, hope is not wishful thinking, nor is it naïve reliance on a politician to do the right thing. Our hope is grounded in a desire to ensure that Trinidad and Tobago realises its enormous potential for productivity and peace, a place in which our children and grandchildren will be happy to live, and with which they are proud to identify. Our hope is based on the people 'taking up their beds and walking', taking responsibility for their personal lives and their institutions, and taking action to create a genuine, peaceful republic.

II: ECONOMIC, SOCIAL AND POLITICAL DEVELOPMENTS SINCE 1976

2.1 Constitutions are not amended frequently and reformed even less frequently. They are meant to provide a stable anchor for the governance of the society, and the political and electoral systems. However, societies are never static. Populations grow or decline and their makeup changes with immigration and emigration. Societal values and preferences change as a result of local and external influences. The structure of the economy changes redistributing jobs and incomes, improving or worsening income, and wealth inequality. Technological progress changes the ways in which the society communicates and recreates. Developments in international politics prompt new treaties, conventions, new alignments, and alliances. Political parties and interest groups attempt to respond to these changes, some successfully, and others less so. Sometimes a crisis occurs which points out the need for constitutional change.

2.2 This section discusses the changes which have occurred in the economy, society, and politics since the 1976 Republican Constitution, as well as some of the direct challenges to constitutional order and governance which have occurred in recent years.

Demographic Changes

2.3 In 1976, the population of Trinidad and Tobago was 1.02 million compared to 893 thousand at Independence in 1962. The rate of population growth which had been 3% in the 1950s due to immigration, slowed to 1% per annum between 1962 and 1976. In fact, the population in 1976 was lower than in 1968 due to emigration. The population in 2023 was estimated to be 1.35 million, indicating that it has grown slowly (less than 1% per annum) since 1976. There are unofficial estimates, including the World Bank, which put the population at over 1.5 million. These unofficial estimates are credible given other indirect estimates related to population size such as the number of registered electors (persons 18 years and over) which in 2020 was 1,134,136. Trinidad and Tobago has experienced both emigration and immigration over the period, with a wave of immigrants from Venezuela in recent years due to the difficulties in that country.

2.4 The slow rate of growth of the population has resulted in the ageing of the population. In 1970, 42% of the population was under 15 years old and 6.7% was over 60 years old. By 2023, 21% of the population was under 15 years old, while the proportion over 60 years old had increased to 13%.

2.5 The ethnic profile of the population has changed over the last 50 years. In 1980, persons of African descent accounted for 40.8% of the population while persons of Indian descent accounted for 40.7% with Mixed (16.3%), Chinese (0.5%), European (0.9%) and Syrian Lebanese

(0.1%) accounting for the rest of the population. By 2011, persons of Indian descent accounted for 35.4% of the population, while persons of African descent accounted for 34.2%, Mixed (22.8%), Chinese (0.3%), European (0.6%) and Syrian Lebanese (0.1%). The increase of the ‘Mixed’ population is noteworthy.

2.6 In respect of religion, the most significant change has been the proportion of persons who professed no religion or did not state, rising from 2% for those two categories in 1980 to 13% in 2011. Over the same period, the proportion of Roman Catholics and Anglicans declined from 33% and 15% respectively, to 22% and 6%. Hindus also declined over the period from 25% to 18%. However, the number of Muslims increased, with the proportion declining slightly from 6% to 5% while there was an increase in the proportion of Baptists from 2% to 7% and Evangelicals from 7% to 15%.

Economic Developments since 1976

2.7 The Wooding Commission had begun its work during a time of considerable economic, difficulty with high unemployment and social unrest. In 1973 and 1974, the unemployment rate was over 15%, while youth unemployment, that is, persons 15-19 years old and 20-24 years old, was 36% and 23%, respectively. Foreign exchange reserves had declined to about one month’s import cover in 1973.

2.8 However, by the time the Republican Constitution was passed in 1976, the country’s economic circumstances had begun to change for the better. The first oil price shock in 1973 had boosted the country’s revenues and permitted significant expansion of both recurrent and capital expenditure. The Government embarked on the diversification of the energy sector, utilising the newly discovered reserves of natural gas to launch the Point Lisas strategy which saw the establishment of world-scale ammonia and methanol plants, propelling Trinidad and Tobago to the top of the list of exporters of these commodities, as well as the establishment of an iron and steel plant. The second oil price shock in 1979 further boosted government revenues and accelerated the implementation of the energy sector diversification strategy. The significant growth in the economy led to a notable increase in public sector employment and wages.

2.9 The fall in oil prices in 1982 ushered in a period of decline and structural adjustment which lasted seven (7) years with foreign exchange reserves depleted by 1986, devaluation, an IMF programme and debt restructuring. The salaries of public servants were cut, and a value added tax introduced to restore the public finances.

2.10 The People’s National Movement returned to power in 1991 and embarked on a radical neo-liberal policy which saw the abolition of exchange controls and the floating of the exchange rate, divestment of state enterprises including state-owned assets in the petrochemical sector and the start of production and export of liquefied natural gas (LNG). These policies initiated a period

of significant growth and prosperity as the country transitioned from an oil to a gas-based economy.

2.11 Incomes and employment expanded over the period 2000 to 2010, foreign exchange reserves rose steadily, and fiscal surpluses permitted the legislation of the Heritage and Stabilisation Fund. However, the natural gas reserves to production ratio was falling steadily over the period and had reached down to ten (10) years by the end of the decade. Exploration activity had slowed appreciably so that reserves were not being replaced. Investment in new petrochemical projects had halted by 2011 and curtailments began to impact petrochemical production and export, even as rent extraction from the energy sector continued. Measured unemployment declined and inflation was subdued.

2.12 When gas prices fell in 2015, the economy entered another downward cycle exacerbated by declining gas production and the Coronavirus disease (COVID-19) pandemic. The pace of the decline was slowed by larger fiscal deficits, increased domestic and foreign borrowing and drawdowns from the Heritage and Stabilisation Fund (HSF). Public sector employment was maintained even in the context of the near closure of the economy due to the COVID-19 pandemic. Foreign exchange reserves have continued to decline, and debt levels are now at historic highs. The labour participation rate has declined to levels which suggest that there are many individuals who have opted out of the labour force. Oil production is now at the lowest levels since before independence in 1962 and production of natural gas is at the lowest level since 2003.

2.13 The economy's cycles of boom followed by decline have resulted in slow increase in income levels compared to comparator countries like Singapore or even Barbados. Our Human Development Index has improved from 0.66 in 1990 to 0.81 in 2022 as gross national income per capita at official exchange rates rose from US\$10,700 in 1990 to US\$22,470 in 2022, life expectancy improved, years of schooling increased, gender equality improved, maternal mortality improved, and adolescent (women 15-19 years old) birth rate declined.

2.14 Up to date data on poverty and inequality are scarce. However, based on national relative incomes, poverty is estimated to have declined from 21% in 1992 to 16.7% in 2005, but rose thereafter. The level of indigence in 1992 was 11% but fell to just 1.5% in 2005. Estimates of the Gini coefficient made periodically between 1988 and 2008 indicate values of around 0.40, suggesting moderately high but not increasing inequality. The poverty and inequality outcomes reflect in part significant budgetary transfers in various forms which have served to mitigate the worst effects of poverty and minimised indigence.

Education

2.15 In the context of our diversity, the education curriculum has a critical role to play in nation building, helping to nurture citizens who know about, understand, and accept our differences, thereby helping to mitigate the pervasive mistrust in our society. Since the mid-1960s, Trinidad

and Tobago embraced the objective of compulsory primary education. The significant increase in revenues after 1973 permitted the expansion of the secondary school building programme so that by the mid-1990s, the number of secondary places was sufficient to accommodate all primary school leavers. Expected years of schooling increased from 10.7 in 1990 to 14.1 in 2022. There has been a significant expansion of tertiary level education opportunities since the mid-1990s. Tertiary education was subsidised, and enrolments rose sharply under the Government Assistance for Tuition Expenses Programme (GATE) replacing the ‘dollar for dollar’ programme. The available data show that the percentage of the labour force with secondary education rose from 48% in 1991 to 62% in 2022 and the percentage with university education rose from 5% to 25% over the same period.

2.16 While the attainment outcomes appear to be impressive, especially for tertiary level workers, the available data indicate that there are serious issues of quality in respect of education outcomes. The dropout rate at primary school level is quite low at fewer than 100 children. In recent years about 18,000-19,000 children have been writing the Secondary Education Assessment (SEA) examination which is essentially a placement examination as it determines which secondary school a child will attend based on the child’s scores and choices. Some students who obtain very low scores at SEA examination are encouraged to remain at primary school and re-sit the exam if they are young enough to remain in primary school. However, generally, all students are placed irrespective of their SEA scores.

2.17 Only about 14,000-15,000 children write the Caribbean Secondary Education Certificate (CSEC) examination, that is, about 80-85% of the SEA cohort. The dropout rate at secondary school level in recent years has averaged 800 students per year. Of girls who wrote the CSEC examination between 2009 and 2020, 61% obtained five or more passes, including English and Mathematics, compared with 51% of boys.

2.18 These dropout and performance data have raised concerns about male academic underachievement and deeper concerns that young males, mainly of African descent, are “...more at risk of directly being caught in the criminal world of drugs, guns and deadly violent crime” (*No Time to Quit, Ryan Committee Report, 2013*).

2.19 The fact that children are advanced through the system up to secondary level does not necessarily mean that they have all acquired the necessary life skills. Tests of literacy conducted in the mid-1990s by Adult Literacy Tutors Association (ALTA) and The University of the West Indies (UWI) indicated that 8% of the population was illiterate and 15% was functionally illiterate, that is, these persons could read and write but at such a low level that it hinders their everyday lives.

2.20 Scholarship recipients do not always return to fulfill the terms of their scholarship award. When some students return, many do not find employment opportunities commensurate with their qualifications, leading to frustration among these talented young individuals. Consequently, our

brightest citizens, who have tremendous potential to contribute to the progress of the country, migrate, resulting in a brain drain at a time when the country can least afford it.

Health and Wellbeing

2.21 By several indicators, health and wellbeing of the population has improved over the last 50 years. Expenditure on health care has increased over the last 20 years from around 4% of gross domestic product (GDP) to over 7%. Life expectancy has increased from 66.3 years in 1976 to 74.7 years in 2022. Maternal and infant mortality which had been inordinately high have both declined over the last 15 years, although they remain well above the levels of more developed countries. Maternal mortality per 100,000 live births which was as high as 117 in 1990, has declined to 26.6 in 2022. The adolescent birth rate (women 15-19 years old) has declined from 60.3 per 1000 women to 37.7. There has also been significant increase in access to drugs for those who are unable to afford them.

2.22 However, the incidence of non-communicable diseases (NCDs) such as diabetes, cancer, obesity, heart disease and stroke is high. Non-communicable diseases accounted for 81% of deaths in 2018. This continues to put a strain on both primary (health centres) and secondary (hospitals) care facilities.

2.23 Although there has been significant expansion of capacity for secondary care since 1976, there continue to be concerns about access, mostly long wait times for specialist intervention, and complaints about the quality of care obtained in the public system, both at the primary and secondary health-care levels.

Crime and Justice

2.24 Over the last 50 years, and more particularly over the last 30 years, serious crime, violence, and criminality has marred social life in our country. The society has periodically experienced individual acts of egregious violence by criminals and domestic violence against women and children. However, following the 1990 attempted coup, gang violence and murders have escalated to the extent that Trinidad and Tobago has been propelled into the top echelons of countries with very high murder rates.

2.25 Serious crimes reported averaged 10,600 per year over the period 1976 to 1980. In the period 2006-2010, serious crimes reported had escalated and averaged 20,415 per year. The annual average declined to 12,350 in the period 2016-2020. The decline may reflect lower levels of reporting since other data appear to conflict with the official police data. The detection rate for serious crimes averaged 30% over 1976-1980, 33% in the period 2006-2010 and 35% in the period 2016 to 2020, and 33% for the period 2020 to 2023. This means that two out of every three serious crimes go undetected. The average detection rate for minor crimes is about 40%.

2.26 However, of greater concern to society has been the escalation in the murder rate and the increased use of firearms, including high-powered firearms. In the decade 1991 to 2000, murders averaged about 110 per year. The annual average for the next decade was 349, with a high of 547 in 2008. In the decade 2011 to 2020, murders averaged 437 per year. In the last two (2) years, 2022 and 2023, murders exceeded 600 in both years. The consensus of expert opinion is that these murders are mostly gang-related, perpetrated by young males mostly of African descent, residing in urban areas and are driven by turf wars fuelled by the drug trade and reprisal killings.

2.27 With murders taking place at any time of day or night and sometimes impacting innocent bystanders, including children, the society has become tense and fearful as it appears the police are unable to get on top of the situation and maintain the safety and security of citizens. Citizen insecurity is also impacted by the increasing incidence of home invasions and opportunistic criminal actions. Senior citizens have not been spared in these attacks. For their self-protection, communities have instituted various measures such as neighborhood watch groups for raising alarms and trying to get faster police response.

2.28 Citizen trust and confidence in the police is low. This is because of the many instances of alleged police-involved killings and police officers allegedly committing serious crimes or being involved with gangs. On March 23rd, 2015, in a coordinated action across the country, police officers crippled traffic for several hours in what was described as a ‘day of total policing’.

2.29 Violence against children has emerged as a major societal problem. This involves domestic abuse of children, sometimes sexual abuse. The response of the State has been inadequate to meet the scale of the problem. Children’s homes are not up to the standard required to ensure the safety and psychological rehabilitation of abused children. Children and young persons who commit crimes and are institutionalised, encounter inadequate facilities for their care and rehabilitation and many graduate to a life of crime as adults. A report (*Safeguarding Children in Community Residences and Child Support Centres in Trinidad and Tobago* Jones, 2021) found inter alia, that:

- a. There is inadequate and ineffective State coordination and collaboration.
- b. The Children’s Community Residences, Foster Care and Nurseries Act, remains ineffective until the mandatory licensing provisions of Sections 3 (1) and (2), and 17 have been proclaimed and adequate provision made for enforcement under the Act.
- c. Several Children’s Homes are operating without licences, and The Authority has demonstrated no will, intention, or mechanism to shut down the operations of unlicensed homes that continue to put children at risk in Trinidad and Tobago.
- d. The Authority is not adequately or efficiently fulfilling its statutory mandate.



- e. Child Support Centres are operating outside of their statutory scope.
- f. The placement of children in need of supervision into the Community Residences and Child Support Centres and the resultant mixing of Children for Care and Protection, and children in need of supervision increases the risk to the safety and security of the residents and staff.
- g. The childcare system is poorly structured, inadequately monitored, inconsistently regulated. Additionally, the lack of accountability promotes an environment for abuse and absconding, and
- h. There is no effective mechanism for children to complain of abuse within the current care system.

2.30 School violence and open disrespect of authority, captured on phone videos, has become a major issue in secondary schools. Sometimes these conflicts involve teachers and principals.

2.31 Violence against women has also increased which has, in some cases, led to deaths. Between 2010 and 2022, there were 23,498 reports of domestic violence to the police, an average of about 1800 per year. Of these, 381 were murders. Between 1995 and 2013, 8.4% of all murders were because of domestic violence. Human trafficking of women and children has also become a major problem.

2.32 While delay has long been a feature of the operation of the judicial system, it has, in some respects worsened over the years, particularly with respect to the criminal justice system. The institution of the civil proceedings rules in 2005 has led to significant improvement in the disposition of civil matters, most of which are now concluded within 18 months to 2 years. Generous use is made of the right of redress under Section 14 of the Constitution for infringement of a person's rights and freedoms. However, this sometimes contributes to delays in concluding some criminal matters when motions to address alleged infringements are advanced during a criminal trial, which interrupts the trial process while the alleged infringement is adjudicated, sometimes all the way up to the apex court.

2.33 The attempts to reform the preliminary inquiry system have taken over ten (10) years and reform is only now (2024) being implemented. At the level of Parliament, recent attempts at reforming the bail system have routinely failed to secure agreement as these initiatives require a special majority which is often not forthcoming. As a result, and in the context of the increase in serious crimes and murders, persons charged with some serious offences are perceived to be allowed to get bail far too easily.

2.34 Those accused persons who are unable to get bail are remanded where, as noted by several judges over the years, the conditions are appallingly bad. This situation is compounded by the

inordinate length of time these accused persons remain in remand before being brought to trial to determine their guilt or innocence. By May 2024, there were 1,932 persons on remand, of which 616 or 32% were on remand for five years or more, and 938 or 49% were on remand for three years or more.

2.35 The World Justice project for 2023 ranks Trinidad and Tobago globally at 70 out of 142 countries with a score of 0.52. The score is assessed over eight dimensions – Constraints on Government Power, Absence of Corruption, Open Government, Fundamental Rights, Order and Security, Regulatory Enforcement, Civil Justice, and Criminal Justice. Of these factors, Trinidad and Tobago scores the lowest on Criminal Justice at 0.31 and is ranked in that category at 121 out of 142 countries.

2.36 The following ten factors contribute to Trinidad and Tobago’s low score on Criminal Justice and its relatively low ranking overall:

- a. Effectiveness of the correctional system in reducing criminal behavior,
- b. Timeliness and effectiveness of the criminal adjudication system,
- c. Use of public office by government officials in the legislative branch for private gain,
- d. Resort to violence to redress personal grievances,
- e. Effectiveness of the criminal investigation system,
- f. Impartiality of the criminal system,
- g. Unreasonable delay in civil justice,
- h. Effectiveness of independent auditing and review in limiting government powers,
- i. Unreasonable delay in conducting administrative proceedings, and
- j. Failure to sanction misconduct by government officials.

2.37 In 2023, Trinidad and Tobago was ranked 76 out of 190 countries in the Transparency International Corruption Perception Index, and among Caribbean countries, only Guyana was ranked lower. Barbados is the highest ranked Caribbean country at 24 in 2023, with a score of 69. Trinidad and Tobago ranked as low as 86 in 2020, and our scores have not improved in the last decade.

Digital Technology: Access and Use

2.38 It is estimated that about 80% of the population uses the Internet, and the majority use mobile internet. Mobile (cellular) penetration per 100 population rose rapidly to 157 in 2015 but has since declined to 146. Data on the use of social media indicates that there are about 833,000 users. Facebook (Meta) users numbered 784,000 in early 2024. Instagram and TikTok are reported to have similar user bases in Trinidad and Tobago while LinkedIn has over 500,000 users. X (previously known as Twitter) has far fewer reported users. WhatsApp is popular, although data on its usage is not readily available. Subscription/Pay TV usage peaked at 18.3 per 100 population in 2019 and has since declined to 16.6 per 100 population.

Elections and Politics

2.39 As required by the Constitution, general elections have been held every five (5) years. Elections have been generally free and fair despite accusations of intimidation from time to time. Post-election petitions to the court challenging close results are common, and in one instance, the extension of voting hours by the Elections and Boundaries Commission (EBC) was challenged.

2.40 General elections have usually been a contest between the two dominant parties, the People's National Movement (PNM) and in the last 30 years, the United National Congress (UNC), both of which have strong ethnic and geographic bases. In the 1976 and 1981 elections, voter turnout was less than 60%. However, in all the elections since then, the turnout has ranged between 63% and 72%, dropping to just 58% in 2020, probably due to the COVID-19 pandemic that year.

2.41 The electoral system has been single member plurality or first-past-the-post (FPTP) adopted from the system used in the United Kingdom for its (Westminster) parliamentary elections, although in Scotland and Wales, variants of proportional representation are used for their elections.

2.42 FPTP sometimes produces the result that a constituency is won by a candidate who obtains less than 50% of the votes cast and depending on the number of candidates contesting the seat, a winner may be produced with substantially less than 50% of the votes. As a corollary, the election may produce a government winning the majority of seats with less than 50% of the votes cast ('manufactured majority') and therefore wasted votes as a high proportion of votes cast may be for losing parties or candidates. This has occurred frequently in our elections.

2.43 Between 1991 and 2020, there were nine (9) general elections. In six (6) of these elections, the party which won the government (the PNM in every instance) obtained less than 50% of the votes cast.

2.44 In 1981, the Organisation for National Reconstruction (ONR) gained 91,704 or 22% of the votes cast and did not win a single seat. In 1986, the PNM obtained 32.3% of the votes cast and secured only 3 of the 36 seats. In 2007, the Congress of the People (COP) gained 148,345 votes or 22.7% of the votes cast and did not win a single seat.

2.45 Since 1976, there have been several challenges to constitutional order and good governance:

- a. The 1990 attempted coup was unique in the country's political history. It arose from a long-running dispute between a Muslimeen group and the government and city corporation over lands at Mucurapo. The armed group entered the Parliament building (Red House) and the country's then only television station and holding most of the Cabinet and members of the House of Representatives hostage, announced a coup d'état and several MPs were shot, one of whom died. In total, 24 persons were killed. In a single action, because the Cabinet is comprised of members of Parliament, the government was essentially crippled.
- b. In 1995, the government attempted to oust the Speaker of the House who refused to allow the motion. The government declared a state of emergency limited to the area of the Speaker's residence and in her enforced absence, secured her removal from office. The use of emergency powers under such circumstances was highly unusual. Subsequently, the government amended the Constitution to provide for the appointment and removal of the Speaker and Deputy Speaker of the House (Section 50).
- c. In May 1999, the Attorney General withdrew Trinidad and Tobago from the jurisdiction of the Inter-American Convention on Human Rights, which facilitated the execution of several persons convicted of murder.
- d. In 1999, the Attorney General sought to hold the Judiciary accountable, insisting that the AG's office had to approve the travel of judicial officers. This was resisted strongly by the Chief Justice who perceived this as an attack on judicial independence. This resulted in two reports on the administration of justice by Justice Telford Georges and by Lord Mackay.
- e. In 2000, the President attempted to prevent the Prime Minister from appointing to the Senate persons who had been defeated for elections as constituency representatives at the general elections.
- f. In 2007, the Prime Minister, under Section 137(3) caused the President to form a tribunal to investigate charges of misconduct against the Chief Justice, based on allegations made by the Chief Magistrate.

- g. Between 2006 and 2023, the role and operations of the Integrity Commission has been challenged by persons in public life subject to its authority. The Integrity Commission's attempts to prosecute a former prime minister, then leader of the Opposition and a former Minister, ended in failure.
- h. In 2011 the Parliament passed Section 34 within a piece of legislation which was intended to abolish preliminary inquiries, but which would have ended the preliminary inquiries involving certain high-profile businessmen allegedly linked to the party then in government. The offending legislation was reversed after massive public protest.
- i. In 2019, the Prime Minister under Section 137(3) declined to represent to the President that a tribunal be instituted to inquire into the removal of the Chief Justice based on allegations by the Law Association.
- j. In 2022, the President returned the merit list for the selection of a Commissioner of Police to the Police Service Commission instead of transmitting the list to the Parliament. This subsequently led to the first attempted impeachment of a President under Section 36.
- k. In 2023, there was a public dispute between the Chief Justice, Director of Public Prosecutions (DPP) and the Attorney General (AG) in respect of the backlog of matters in the Judiciary, and the accommodation and resourcing of the office of the DPP.
- l. In 2024, a matter between the Auditor General, the Attorney General and the Minister of Finance in relation to amendment of the statement of revenue for fiscal 2023 reached the courts.

2.46 Apart from the attempted coup, which involved a group of citizens taking up arms against the State, the other incidents cited all involve constitutional office-holders who, by their actions or failure to act, precipitated an event which brought the institution under intense public scrutiny and in some cases, a commission of inquiry or judicial intervention. They bear witness to the country's 'constitutional culture', that is, how office-holders perceive and exercise power and for what ends. The observations of the Mustill Tribunal into the alleged misconduct of Chief Justice Sharma are perhaps indicative if not emblematic of the constitutional culture. The Tribunal wrote:

We can study the battle of press releases between the Chief Justice, the Chief Magistrate and the Attorney General ..., putting their accusations directly before the public. We see formal complaints made by the protagonists to disciplinary and police authorities within days of the controversy coming to a head. We have heard allegations against the Attorney General, who could have given oral evidence to rebut them, but did not. The air was full of rumour, innuendo and gossip, around and across deep political (and, we are forced to

say, ethnic) divides. At least within this narrow field of view, the concept of the separation of powers seems to have been ignored. We need not go on. The picture is “troubling” indeed, both for the Tribunal and for the peoples of Trinidad and Tobago. (para. 5)

2.47 This pattern of conduct on the part of constitutional office-holders is repeated over and over in these controversies which has the effect of lowering trust and confidence or worse, bringing the institutions of the State into public contempt or ridicule.

Emergent Challenges

2.48 As we rush toward the completion of the first quarter century of this millennium, Trinidad and Tobago is facing significant emergent challenges. The geopolitical environment is evolving and bringing with it conflict and wars in Europe, Asia, Africa and the Middle East, as well as testing the coherence of the United Nations system. The Global South, of which we are a part, is asserting itself in attempting to reform and reshape the international political order and the international financial system established after the Second World War. The international economic system, which promoted freer trade and investment, is moving increasingly to protectionism as globalisation retreats and technological competition intensifies.

2.49 The planet is facing the existential threat of global climate change, which is having and will have a huge impact, especially on small island developing states (SIDS) like our own. Rising sea levels, extinction of animal and plant species, more powerful and destructive hurricanes, drought and inadequate water, and climate-induced migration are some of the effects predicted for the Caribbean and Trinidad and Tobago over the next few decades. The planet will be shifting away from dependence on hydrocarbons, which has been the mainstay of our economy and welfare system since Independence, and investments will have to be made in renewable energy, climate mitigation and adaptation and in health care for an ageing population. We are also facing regional challenges such as the Venezuela-Guyana territorial dispute, and the intractable violence in Haiti. Intra-regional migration is likely to increase.

2.50 Globally and regionally, technological change in the form of increasing digitalisation and use of artificial intelligence is bringing to the fore issues around privacy, including data privacy and the right to be ‘forgotten’ as we leave digital footprints around the Internet, as well as questions around the nature of the human person. It also poses challenges to the legal and judicial system.

2.51 Our institutions must be modernised and be made fit for purpose to cope with and overcome these challenges and the economic and social disruption that is likely to result. Appropriate policies must be crafted and implemented with speed and resolve. Social cohesion will need to be strengthened as we work together to face what lies ahead of us, as well as what lies ahead of our children and grandchildren.

2.52 Constitutional reform must, therefore, also be located not only in the context of remediating past weaknesses, but also in meeting the challenges to our society that we can foresee in the medium-term future.

Conclusion

2.53 Trinidad and Tobago is a society of profound contradictions. There is the veneer: the appearance of prosperity and even sophistication. Our palpable vibrancy, energy and creativity support the prevailing narrative of continuous celebration, merriment, picong, and joie de vivre, even in the face of adversity. We can be tolerant, generous, charitable and cooperative, caring and kind. We profess religious and humanist values. Yet we are simultaneously a society marred by violence (domestic and criminal), disrespect, official indifference and inaction, institutional inertia, conflict and litigation, lack of trust, individualism and intolerance. These characteristics are products of our history and learned ways of coping with adversity and trauma. Depending on the circumstances, we can be one or the other.

2.54 Since 1976, the economic and social progress we have managed to achieve has not been sufficient to ameliorate social conditions for the many who have been drawn into a life of crime and criminality and to overcome the deficiencies of the colonial institutions we adopted at Independence, which have fettered the most appropriate response to these problems. In fact, conflicts between and among holders of high office have compounded the problems and inhibited resolution or reform. This is the context in which we engage in constitutional reform in 2024 in Trinidad and Tobago.

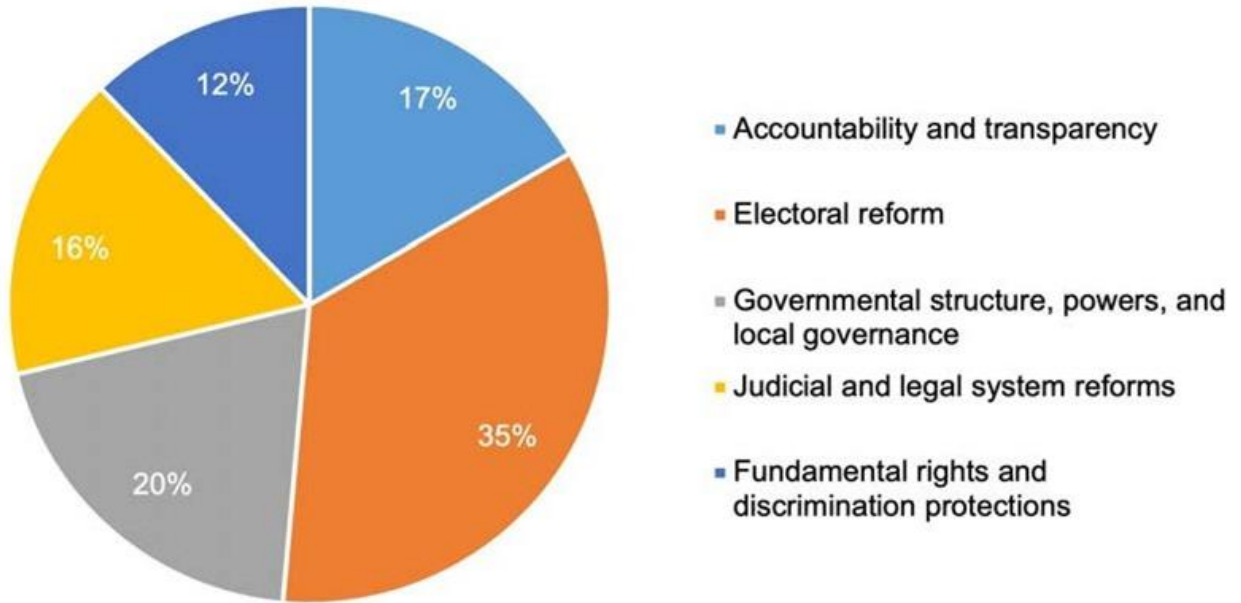
III: VOX POPULI - SUBMISSIONS FROM THE GENERAL PUBLIC AND ORGANISATIONS

3.1 The Committee invited the general public to submit recommendations for constitutional reform via email, either directly to the Secretariat’s email address or via the website. The Committee received eight hundred and sixteen (816) submissions from members of the public. The Committee also held fourteen (14) town hall meetings attended by three hundred and eighty-one (381) persons and the recommendations emanating from those meetings were recorded and tabulated. The Committee also held three (3) youth forums attended by seventy (70) persons. Political parties, trade unions, business and civil society organisations were also written to and invited to submit recommendations. The Committee received thirty-two (32) submissions from civil society organisations, three (3) from political parties, eleven (11) from constitutional offices, and eight (8) from non-constitutional offices and international diplomatic organisations. The list of these institutions that made submissions is provided in Appendix II. The Committee also used two (2) sets of questionnaires, the first comprising twenty (20) questions and the second, eleven (11) questions. The questionnaires were mounted on the Constitutional Reform website and submissions were anonymous. Finally, the Committee engaged in discussions with twenty-two (22) experts and other interlocutors who made recommendations for reform, some in writing. A list of the consulted experts is provided in Appendix III. The Committee is satisfied that it reached a sufficiently large number of people and that the views and recommendations we captured are a very good reflection of the views of the people of Trinidad and Tobago on constitutional reform.

Analysis of Recommendations from Emailed Submissions

3.2 The Committee documented eight hundred and sixteen (816) emailed submissions with one thousand five hundred and thirty-five (1535) pertinent recommendations. Recommendations which were not pertinent to the Constitution, even indirectly, were catalogued separately and many are reported below as ‘Collateral Issues’. The 1535 recommendations were initially classified into fifty-seven (57) categories and then these were further collapsed into five broad themes. Figure 3.1 below shows the categorisation of recommendations into five (5) broad themes – Electoral Reform, Judicial and Legal System Reform, the Structure of Government, Fundamental Rights, and Accountability and Transparency. Thirty-five (35%) percent of the recommendations related to the theme of electoral reform, 20% to the structure of Government, 17% to accountability and transparency, 16% to the judicial and legal systems, and 12% to rights and freedoms. The recommendations prioritise democratic participation and governance, with a strong emphasis on reforming the electoral process and the institution of consequence management frameworks to achieve those objectives.

Figure 3.1
Distribution of Recommendations

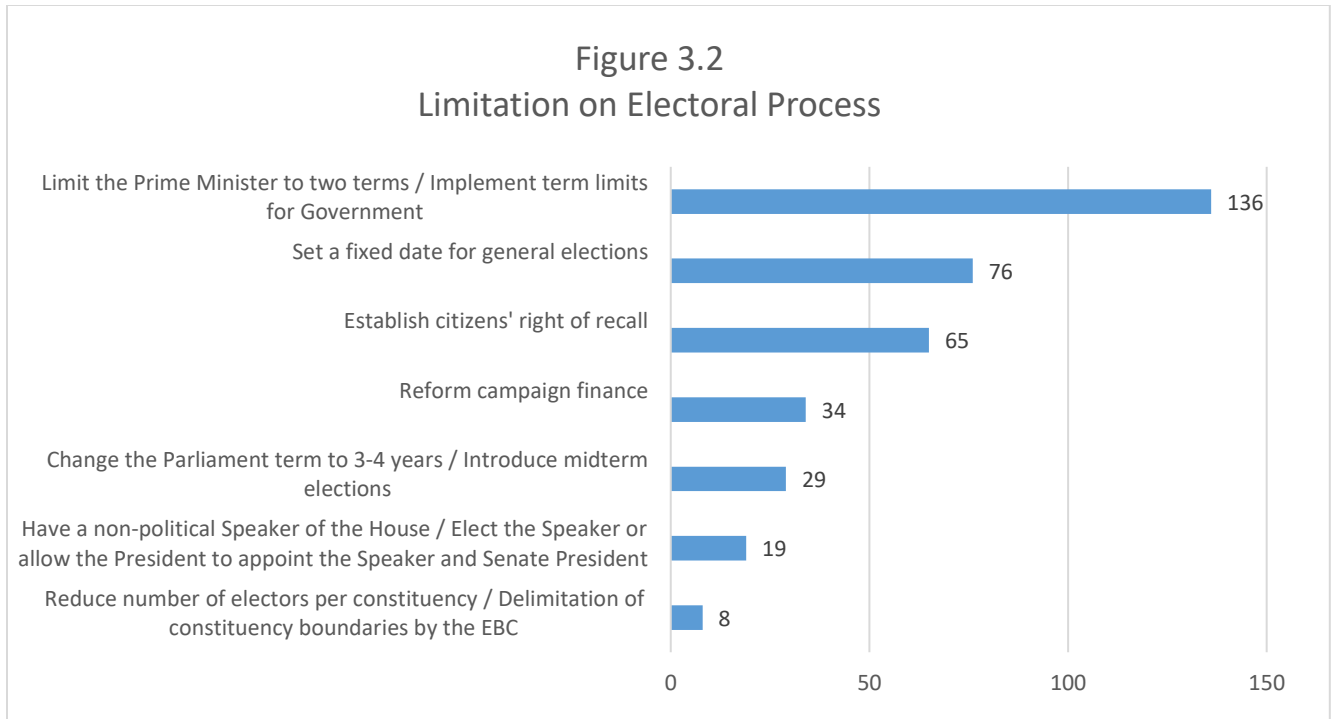


Electoral Reforms

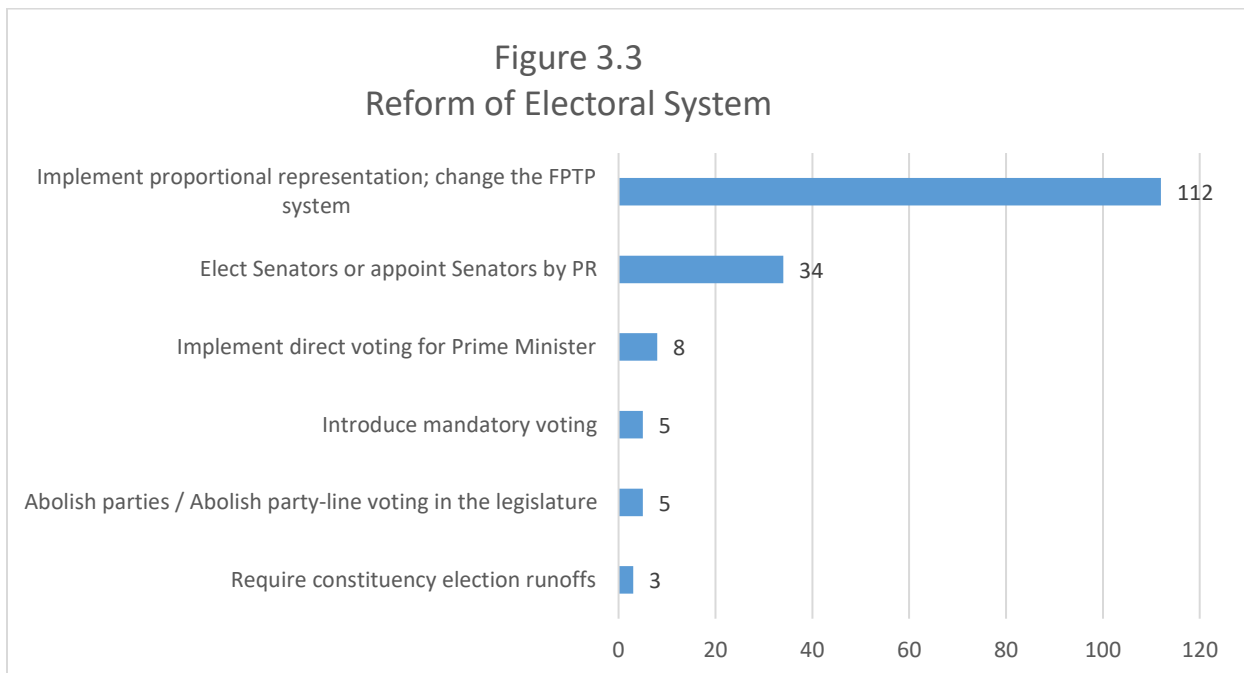
3.3 In respect of Electoral Reform, there were five hundred and twenty-three (523) recommendations which reflected a notable emphasis on electoral reform, highlighting a strong demand for change in the way elections are conducted.

3.4 There are two main areas within this theme:

- (a) ***'Limitation on the Electoral Process'*** where the concentration of submissions points to a desire for revisions to term lengths and the scheduling of elections (Figure 3.2).



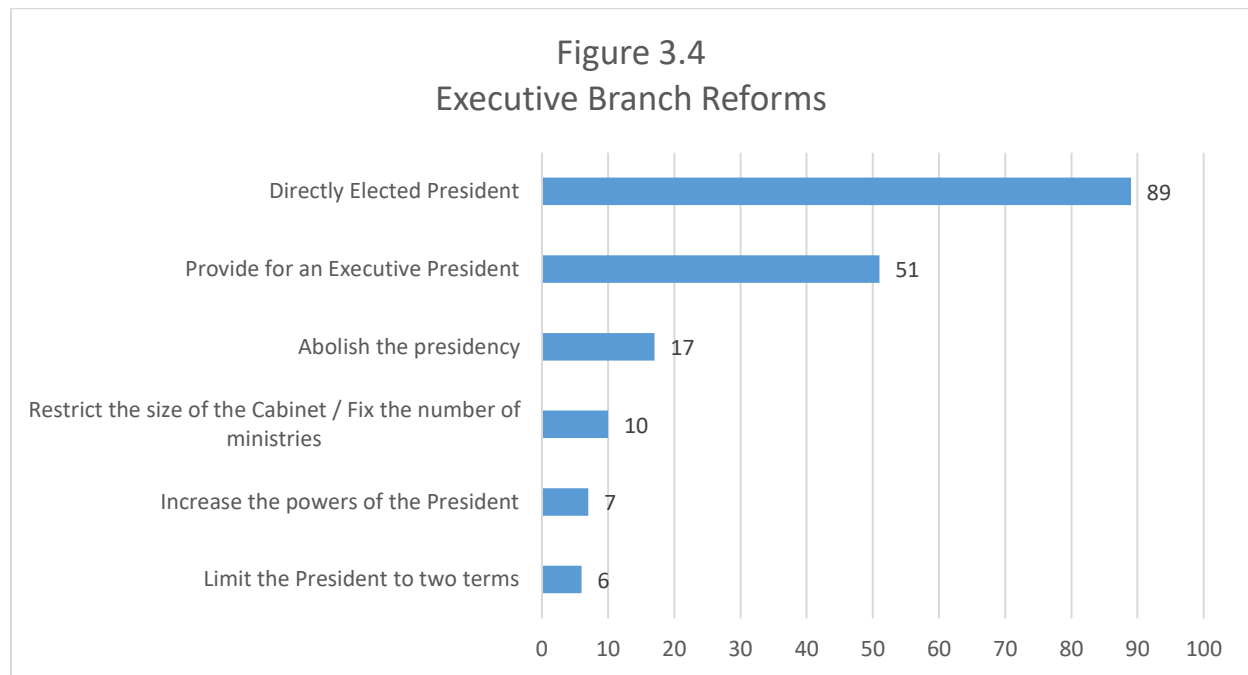
(b) *‘Electoral Systems Reform’* shows a focus on reforming the method of elections to enhance voter engagement and address the problem of ‘wasted votes’. (Figure 3.3) There is a strong preference for some form of proportional representation as the alternative to the current first-past-the-post system.

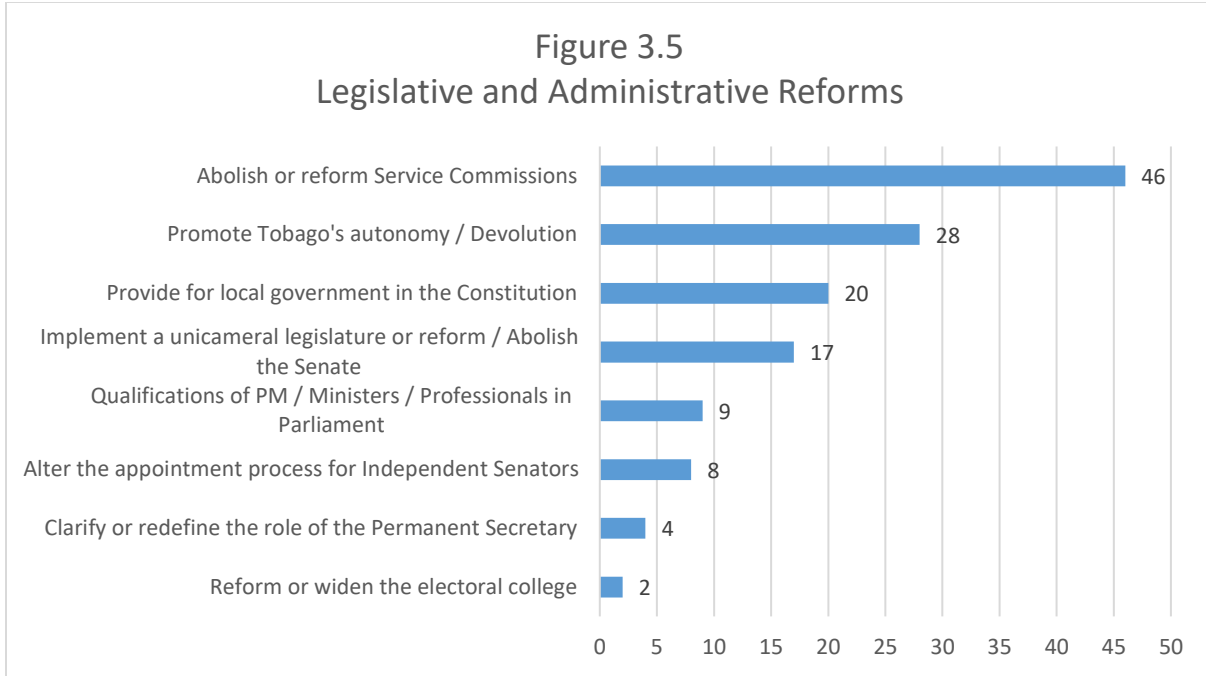


Government Structure, Devolution and Local Governance

3.5 There were three hundred and five (305) recommendations calling for changes to the structure of government, including 29% asking for a directly Elected President. The overall theme was further broken down into two sub-themes: Executive Branch Reforms, and Legislative Branch and Administrative Reforms. Fifty-nine percent (59%) of the recommendations under this theme called for Executive branch reforms. The most significant recommendations were for a directly elected President and for an Executive President (Figure 3.4).

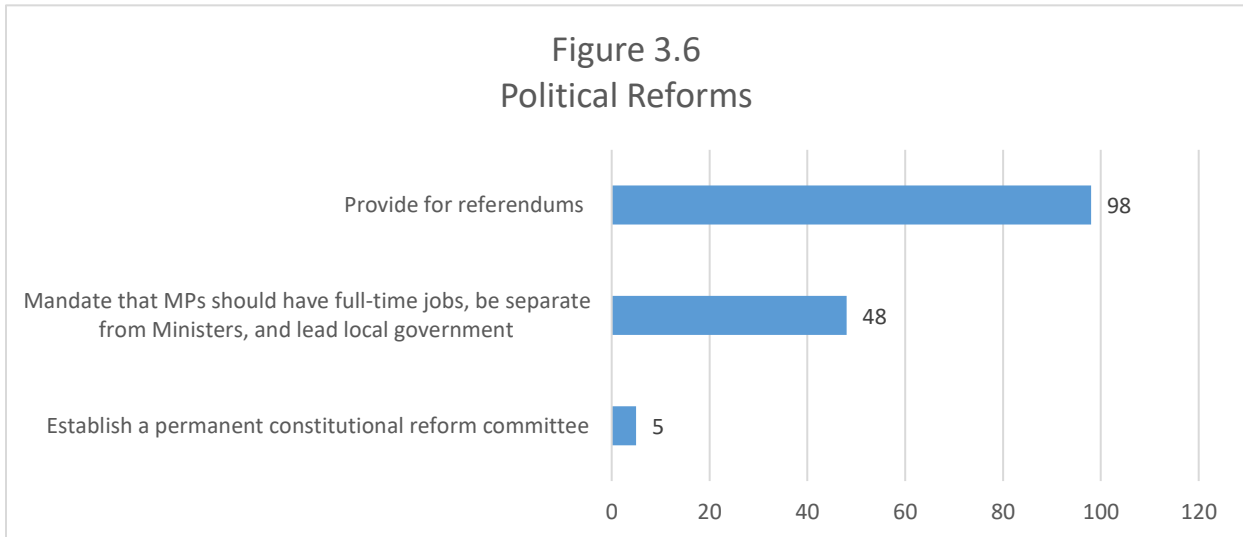
3.6 Submissions on Legislative and Administrative reforms related to the reform or abolition of the Service Commissions, abolition of the Senate or moving to a unicameral system, and the appointment of Independent Senators (Figure 3.5). Of the 305 recommendations relating to Government Structure, 48% or 16% were related to autonomy for Tobago and the putting of local government in the Constitution.

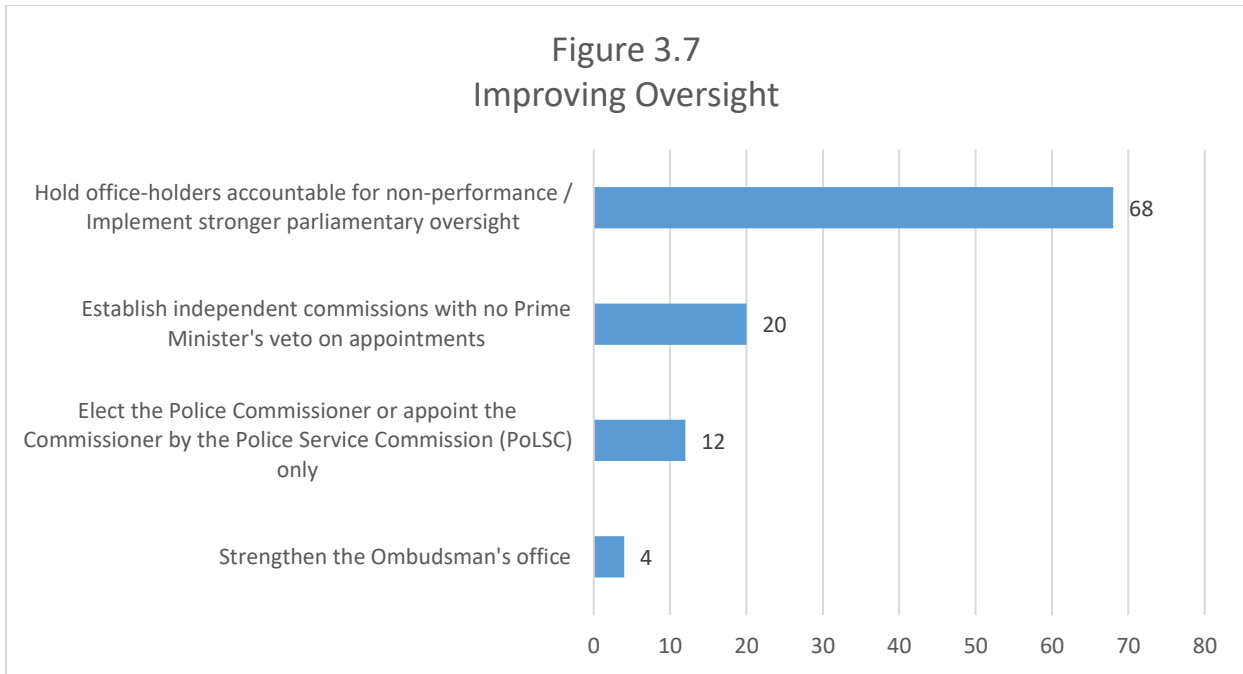




Accountability and Transparency

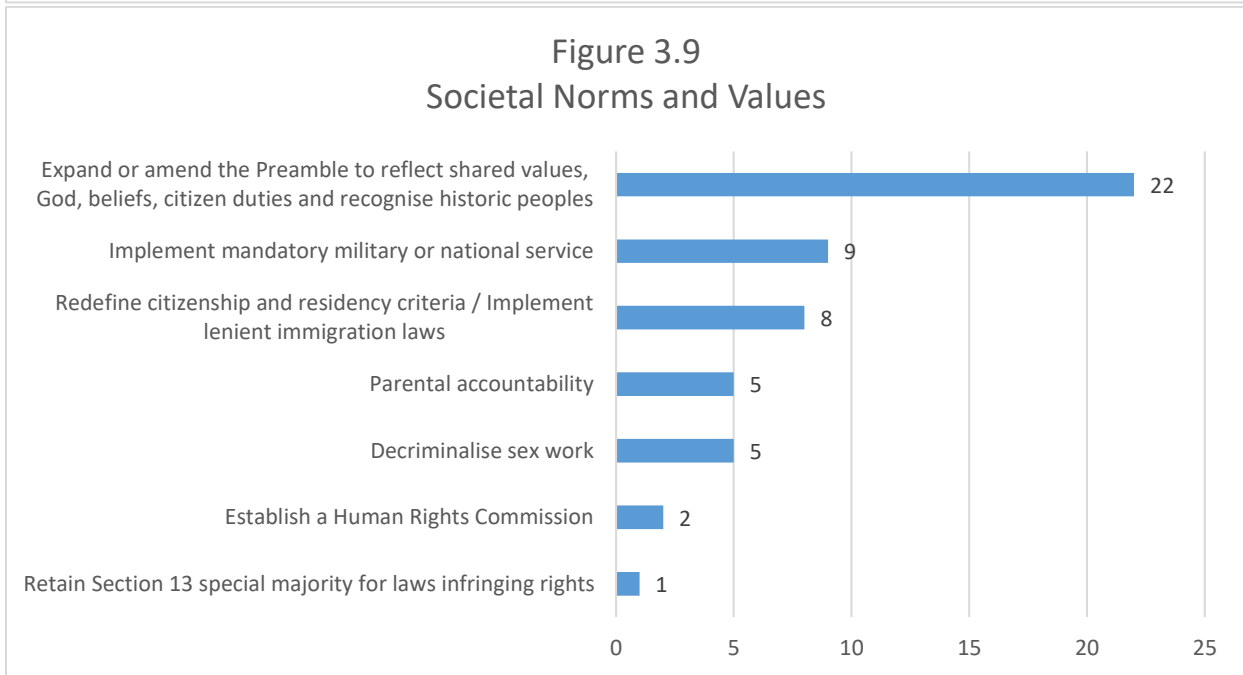
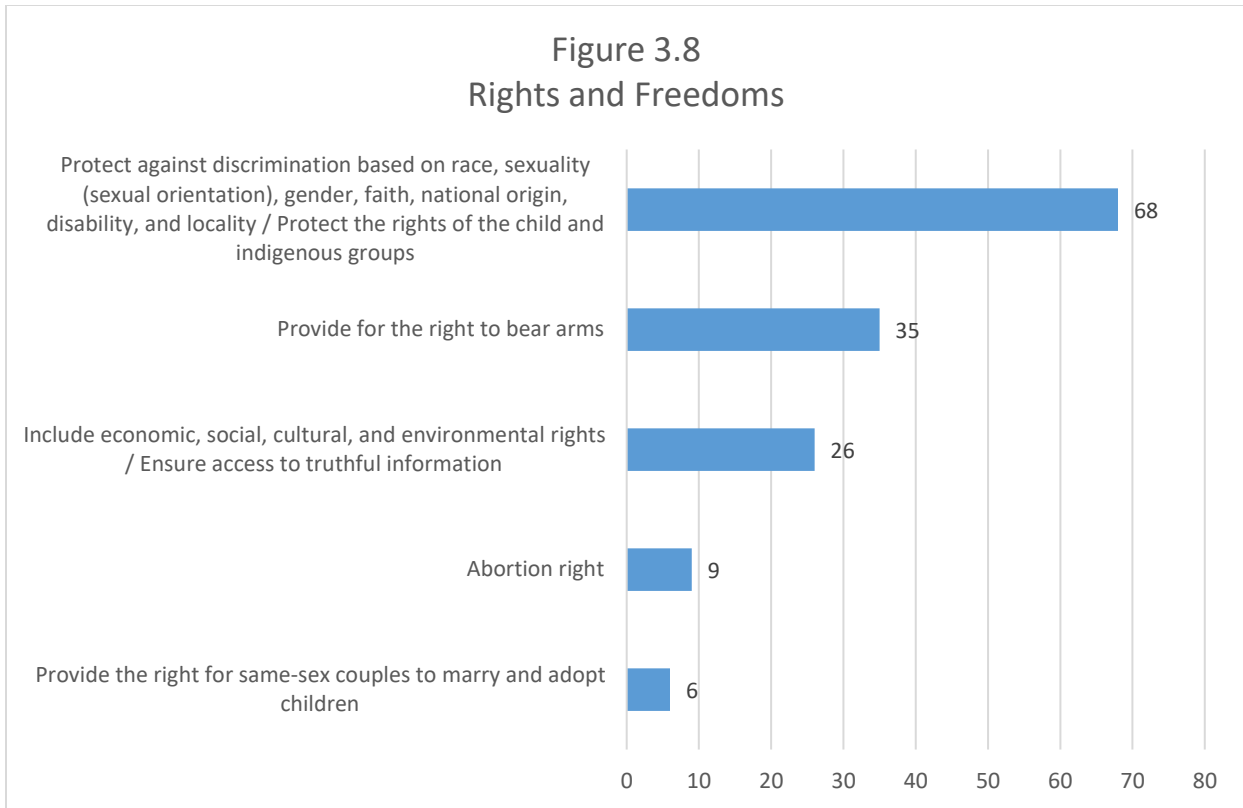
3.7 There were two hundred and fifty-five (255) recommendations categorised under Accountability and Transparency. These related to the desire for a provision for referendums and the need to hold office-holders accountable, including through stronger parliamentary oversight, strengthening of audit functions, establishment of consequence management frameworks and strengthening of independent bodies, without a Prime Ministerial veto on appointments.





Fundamental Rights

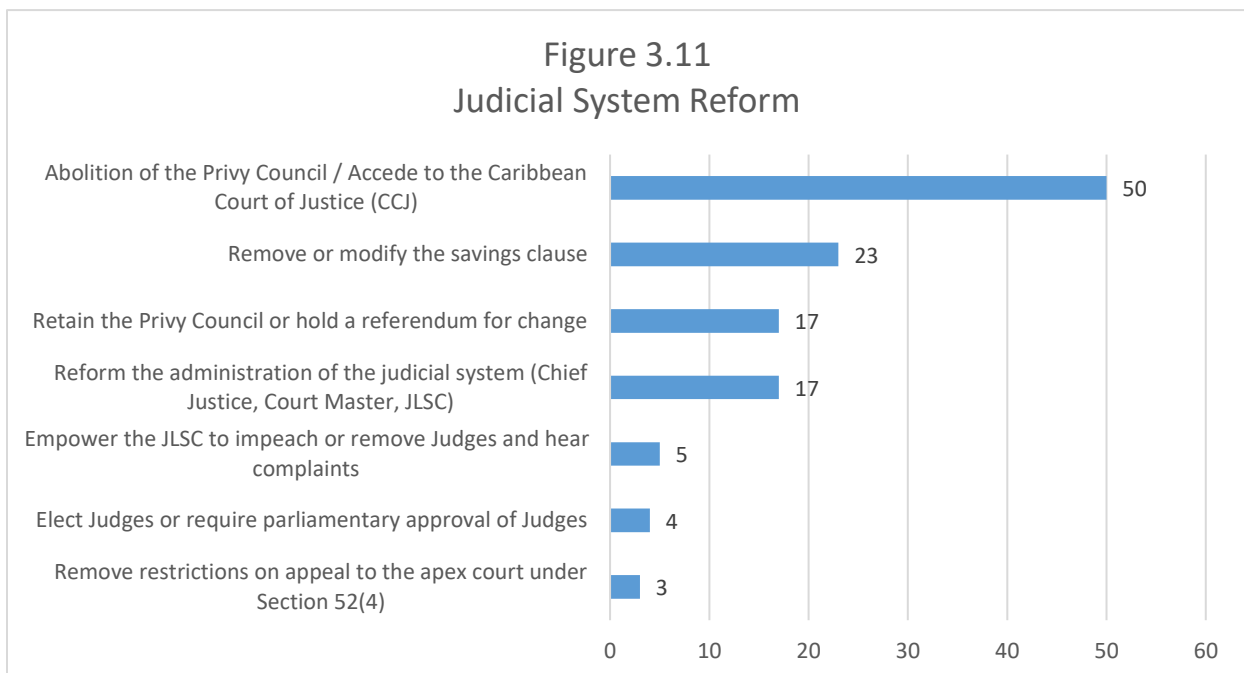
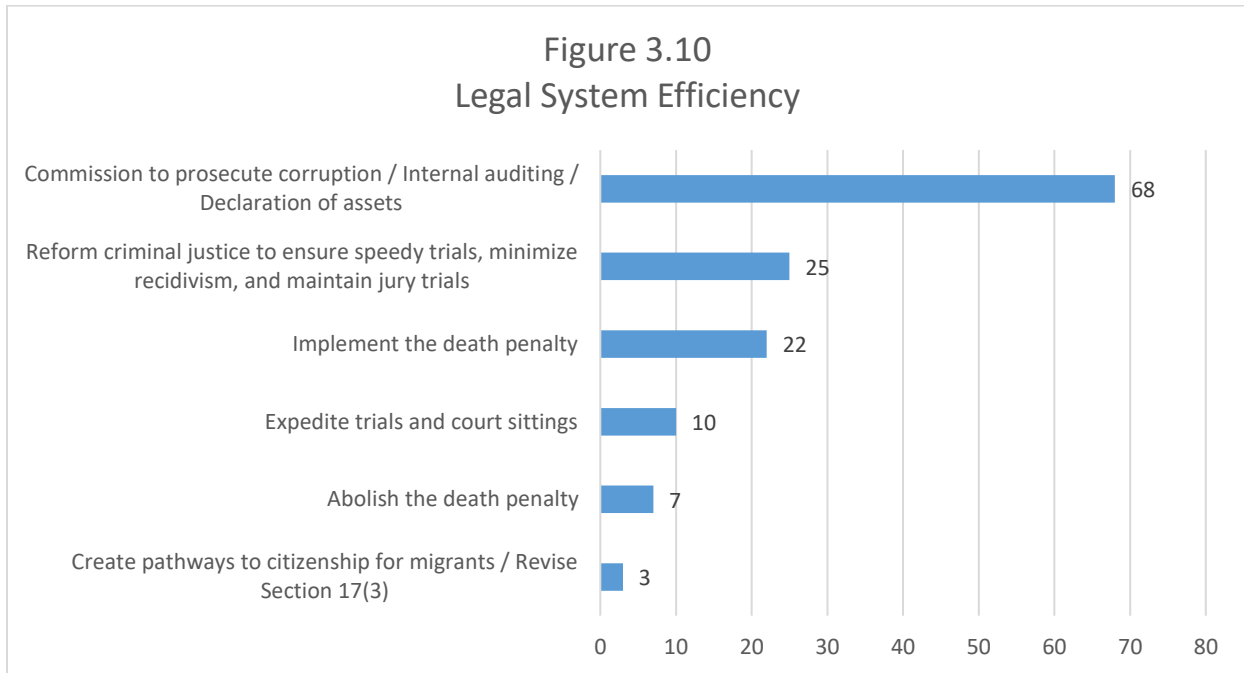
3.8 Under this category, there were one hundred and thirty-five (135) recommendations relating to protection against discrimination on race, sexuality (sexual orientation), gender, faith, national origin, disability, and locality, as well as the need to protect the rights of the child, indigenous groups, and to secure personal data (Figure 3.8). There were fifty-two (52) recommendations related to societal norms and values, including what should be reflected in the Preamble of the Constitution (Figure 3.9).



Judicial and Legal System Reforms

3.9 There were two hundred and fifty-four (254) recommendations relating to the reform of the legal and judicial systems (Figures 3.10 and 3.11). Fifty percent (50%) of the recommendations

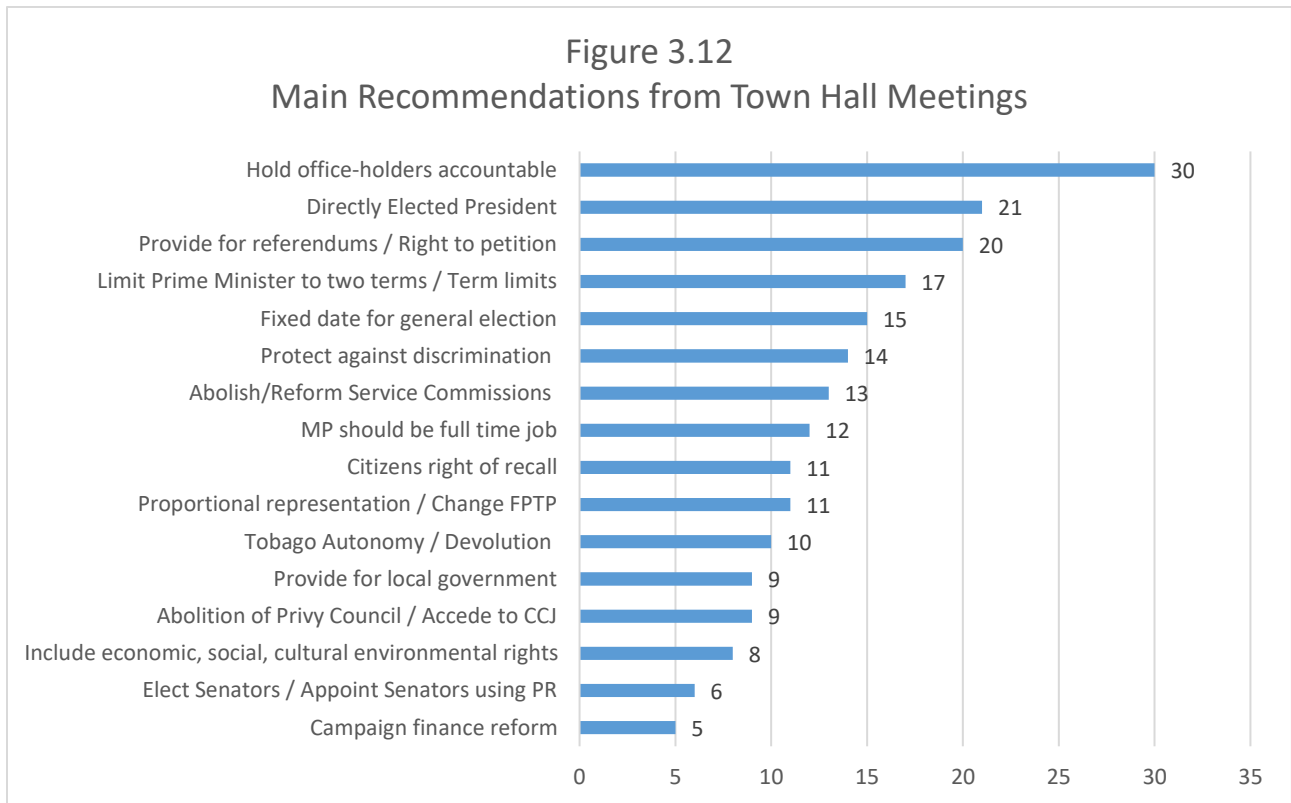
on reform of the legal system were related to the question of corruption and implementing more effective measures, including auditing and declaration of assets to address the problem. There was also a focus on the need to speed up the trial process. Regarding the apex court, there was a clear preference expressed for the abolition of appeals to the Privy Council and an equally clear preference for the implementation of the death penalty.



Recommendations from the Town Hall Meetings

3.10 The fourteen (14) town hall meetings attracted an attendance of three hundred and eighty-one 381 (unique) participants. (There were some participants who attended more than one meeting).

3.11 The recommendations from the town halls were broadly similar to those from the emailed submissions. However, there was much greater emphasis on the question of accountability.



Recommendations from the Youth Forums

3.12 The three (3) youth forums, delivered in concert with the Trinidad Youth Council and the Tobago Youth Council, attracted seventy (70) participants. The youth forums were conducted in a seminar/workshop style. Facilitators, who were attorneys at law and one judge, made presentations on the Constitution to participants who were then organised into groups to discuss the Constitution and formulate group recommendations which were then presented to the plenary. Many of the recommendations from the groups were consistent with those from the public. These included: (1) expansion of rights to include environmental rights, the right to a healthy life, and economic social and cultural rights more broadly; (2) implementation of a ‘living wage’ or universal basic income; (3) concern for the rights of persons with disabilities; (4) concern for persons with mental illness, and a specific recommendation that persons with certain types of mental illnesses should be able

to serve in public life; (5) holding office-holders accountable; (6) independence of the President; (7) reform of the service commissions and institution of ‘new public management’; (8) separation of Executive and Legislature and (9) accession to the Caribbean Court of Justice.

3.13 Not surprisingly, there was considerable discussion around youth representation in Parliament and in government, and suggestions that there be an age limit for office-holders and lowering the age limit for appointment to the Senate. The idea of term limits for the Prime Minister and President was endorsed. In the Tobago forum, autonomy for Tobago, the institution of a ‘federal state,’ and Tobago’s representation in the Electoral College were recommended.

3.14 Across all three (3) youth forums, the key recommendations are reflected in Figure 3.13 below:

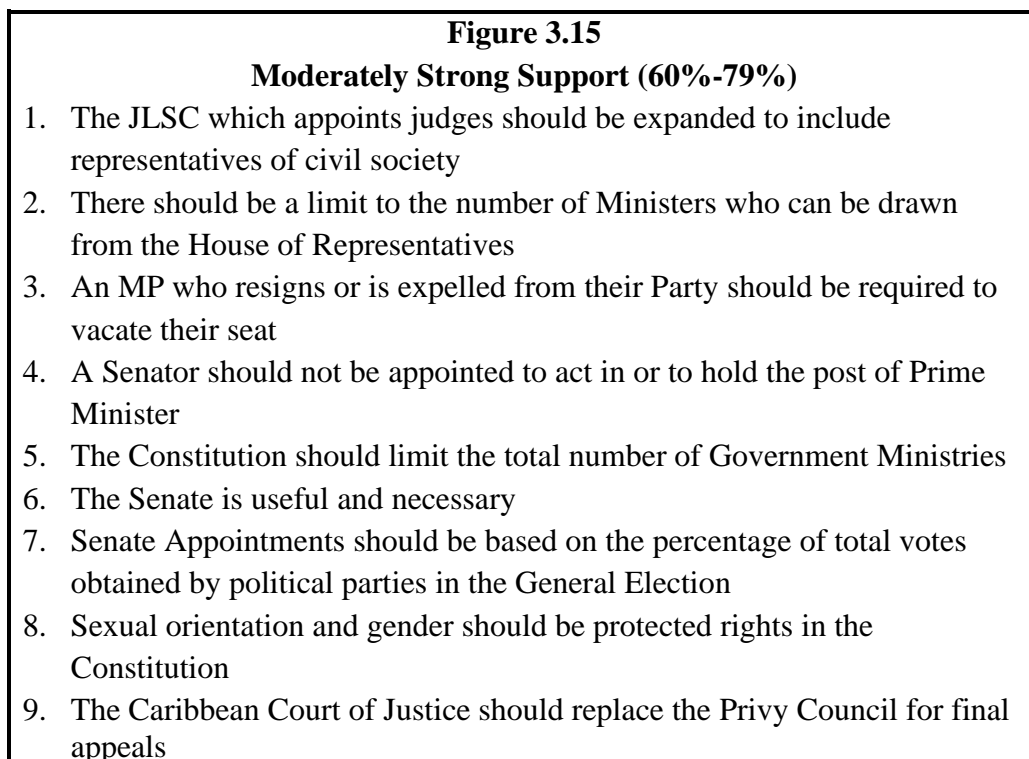
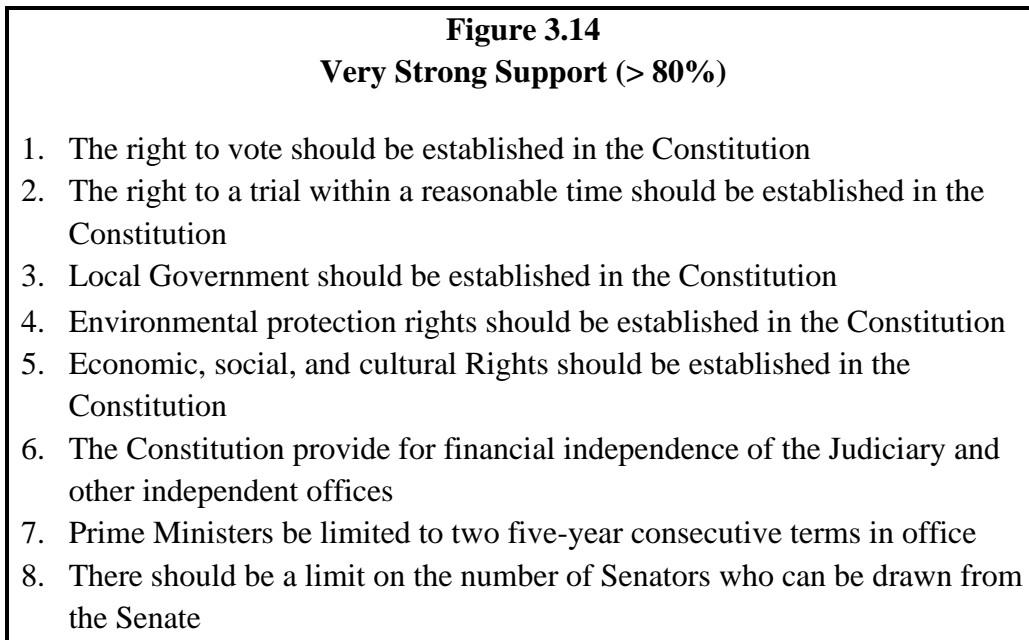
Figure 3.13	
Key Recommendations from Youth Forums	
1.	Reduction of age limit to serve in the Senate to 18 years/youth representation re government
2.	CCJ as final court of appeal
3.	Age limit for Ministers/Head of State – between 60-65 years of age
4.	Establishment of National Youth Council to increase youth representation in governance
5.	Right to a healthy environment/Protection of the environment
6.	Fix term limit of elected officials
7.	Elected President
8.	Right to housing and access to other social services (health, education)
9.	Holding elected officials accountable (e.g. right to recall)
10.	Protection of women’s reproductive rights
11.	Non-discrimination (sexual orientation, gender identity, disability)
12.	Establish a separate human rights commission
13.	Inclusion of local government in the Constitution
14.	Outlining a period (e.g. 10-30 years) to which the government of the day must engage in re-assessing the constitution and make amendments where necessary
15.	Enforcing the separation of powers to improve efficiency in governmental /system operations.

Questionnaire Responses

3.15 The questionnaires were mounted on the Committee’s website and advertised via social media. While almost four thousand (4000) responses were recorded for Questionnaire #1, only

sixty (60) were recorded for Questionnaire #2. The responses were anonymous, and the submission process was not controlled. Accordingly, the responses are viewed as indicative only.

3.16 The propositions put to respondents in Questionnaire #1 are classified based on the strength of the response (Figure 3.14 and Figure 3.15).



3.17 On the question of first-past-the-post versus proportional representation, the responses were evenly divided, unlike the emailed submissions where there was a clearly articulated preference for proportional representation. There was also moderately strong support for proportional representation in the responses from Questionnaire #2 where the proposition was phrased more directly. On the proposition of whether the President should not continue to be elected by the Electoral College as at present, there was moderate support (<60%), whereas the emailed recommendations were strongly in favour of a directly elected President.

Submissions from Office-Holders and Civil Society Organisations

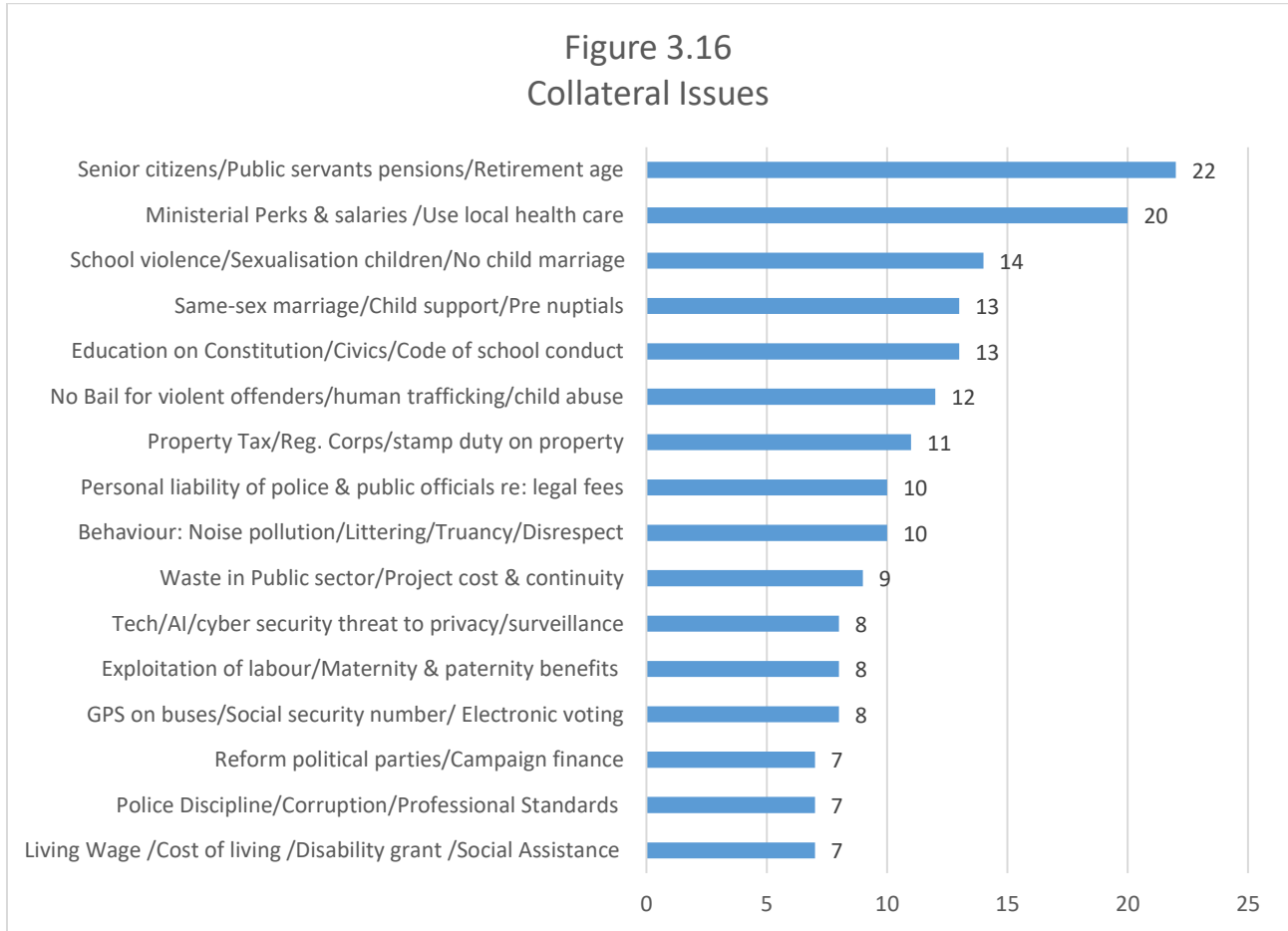
3.18 As noted in paragraph 3.1, the Committee received eleven (11) submissions from constitutional offices, eight (8) from non-constitutional office-holders and international diplomatic organizations, and thirty-two (32) submissions from civil society organisations. The list of institutions that made submissions is provided in Appendix II. While some of the recommendations of civil society organisations overlapped with and expanded on those of the general public, most of the recommendations made by office-holders were specific to their functions under the Constitution.

Collateral Issues

Today was actually the first time I got a chance to take a look at this book [Constitution] and that I think is the beginning of most of the problems here. If everyone would have had the opportunity to know the importance that contains in this book, then they would understand and recognise the value of being here today. So there lies the beginning of the problem. Constitutions should be taught in secondary schools and I think that point there deserves a round of applause because I went to school and nowhere were we ever taught of the importance and the value [of the Constitution]. If the youths would understand that, more of them would fill this room in the youth council today and lend their voices because ...the decisions here are going to impact on the youths and the future generations. Therefore, one of the changes that should be made is that this should be ...compulsorily taught in secondary schools – Participant, Youth Forum on Constitutional Reform 2024, San Fernando. 4 May 2024

3.19 In both emailed submissions and speeches at town hall meetings, citizens expressed their views and recommendations on a host of issues and topics, which were not directly related to the question of constitutional reform, but which gave insight into their concerns (Figure 3.16). There was substantial concern relating to matters of old age and pensions, children and the family, crime, education and the teaching of the Constitution in schools. In almost all town hall meetings and youth forums, the citizens emphasised the importance of reintroducing civics in the curriculum to include the Constitution.

3.20 Respondents recommended the restriction or removal of ministerial perks and suggested that police and public officers who lose matters in court be made personally liable. The question of waste of public resources, value for money and continuity of projects on change of government was also raised. Issues around digitalisation and technology were also flagged.



Analysis and Conclusions

3.21 Some clear themes emerged from all the submissions. First, there is a powerful demand for a more democratic society where citizens have more say and control. The demands for fixed dates for elections, a right of recall, referendums, and a directly elected President are evidence of this. Second, citizens want to see the recognition and protection of an expanded set of rights relating to the environment and economic, social and cultural rights, as well as the protection of the rights of indigenous peoples and an end to discrimination based on sexual orientation, disability, and place of residence. Third, the society wants some form of proportional representation so that their votes at elections are not wasted. Fourth, citizens want a higher level of accountability from those who are placed in positions of power in the Parliament, the Judiciary, and the Executive. In this regard, there is strong demand for a greater degree of separation of powers, evidenced in the recommendations for limiting the number of ministries and the number of Ministers drawn from

the Parliament. Some expressed support for the idea of an Executive President. Fifth, citizens want the Constitution to address the problem of corruption, and in that regard, they recommend term limits for office-holders and stronger investigation and prosecution of corruption. Sixth, citizens want to see a more efficient and responsive public service, with office-holders facing consequences for deficiencies in this regard. Many recommended a reform of the Service Commissions.

3.22 The collateral issues identified provide some insight into the concerns of the population. The fact that the population is ageing is reflected in the concerns around old age pensions, pensions for public servants and the retirement age. Social issues around marriage, the family and the treatment of children are top of mind for citizens. Not surprisingly, there are concerns relating to crime and policing.

3.23 The Committee carefully considered the public's concerns and recommendations, distilling feasible options for constitutional reform from their ideas and suggestions. These are outlined in the Working Document in section V.

IV: REFORMING OUR REPUBLICAN CONSTITUTION

Our Shared Values

*To me the Constitution should reflect us and what we want of ourselves...
The future must belong to someone for it to matter.
Vaneisa Baksh, Express 6th April 2024.*

*No noble thoughts brought us here to this region
But through it all, we have risen above
David Rudder, Rally 'Round the West Indies*

4.1 The Constitution is primarily a statement of the rules and principles by which institutions of the State operate in relation to its citizens and residents within its territory. It is the supreme law and, as such, is written in legal language. But the Constitution is also a social contract between the State and its citizens, and to the extent that it expresses the values and standards of the society, it is also a contract between and among citizens themselves as to how they wish to be governed.

4.2 As a society and a nation, bound together by a shared space, shared history, shared language and cultures, we embrace individually and collectively certain core values and beliefs, certain established norms of good conduct, certain standards, which enable us to live, work and recreate harmoniously together.

4.3 We acknowledge that it is impossible for laws and rules to regulate every aspect of human interaction and behaviour. We acknowledge as well, that judicial, executive, administrative and business decisions all have a discretionary component, and, in some cases, that discretion is necessarily wide. Our shared values animate and give life to the words of the Constitution and enable judges who are entrusted with its interpretation to understand and reflect the spirit of the Constitution. Our shared values guide those who exercise discretion in making executive and administrative decisions, such as the allocation of public resources, making appointments to public offices, and imposing penalties and sanctions.

4.4 The Preamble to the Constitution states the values as well as the aspirations of the society. The current Preamble was reproduced verbatim from the Preamble of the 1962 Independence Constitution. It is written in the third person, creating the impression that it was given to us instead of being created by us. This perhaps reflects the monarchical system in which we were subjects lacking agency and voice. When the 'King' in the person of the 'Governor' and then the Prime Minister spoke from the 'throne', 'no damn dog bark!'

4.5 As a declaration of our values, beliefs and rules by which we choose to govern ourselves, the Preamble and the sections of the Constitution that follow it ought to be written in the first person – ‘We the People’. Consistent with the ‘first person’ perspective, the Preamble should state who we, the people, are and where we have come from to now constitute the nation of Trinidad and Tobago. It must also clearly declare our intent and willingness to assume responsibility for ourselves.

4.6 Within an oppressive colonial society, our people had to find ways to cope and to thrive. This took many forms. Solidarity at the level of the community permitted savings and capital formation. Instruments and materials were adopted and adapted from abroad and combined with indigenous materials and ideas to create unique foods and artistic expressions - music, art, literature, dance and theatre. Over time, we have moulded and shaped our identity as an ethnically diverse, creative, energetic people—a rainbow nation. Diversity is, however, not a pure benefit. It brings the challenges of ‘otherness’ and hence misunderstanding, suspicion and lack of trust. Ensuring that diversity does not result in division but rather in synergy requires education, open-mindedness, interaction, and mutual respect. It demands the avoidance of stereotyping and the denigration and dismissiveness which often accompanies such profiling.

The Preamble: We the People of Trinidad and Tobago

4.7 Having recognised the history of exploitation and discrimination inflicted under colonialism, and the strength and resilience of ‘We the People’, the Preamble must embrace our goals, values and aspirations, proclaiming sovereignty, the promotion of a democratic society, the bonds between our diverse peoples, and faith in fundamental human rights and freedoms. It must embrace the dignity of the human person, respect and care for the natural environment and our responsibility to preserve it for future generations. It must proclaim equality of opportunity, fairness and justice, the value of productive work, and assert our belief that the economic system should result in the material resources distributed in a manner that benefits the common good. It must appreciate the dignity of labour and advancement based on merit and establish the responsibility of each one of us to fulfil our civic responsibilities and nurture our children to become productive citizens. It must recognise the contribution of senior citizens and acknowledge the aspirations of our young people, recognising their unbounded potential.

4.8 In advancing the values of fairness, respect, justice and integrity, the proposed Preamble is both intentional and aspirational; it is the foundation upon which ‘We the People’ will build our future. It embraces the ideals of social justice, productivity, and accountability. It demands disciplined attention to our endeavours and celebration of our accomplishments. It directs attention to the environment and our natural resources and the need to protect and preserve these for the benefit of our youth and future generations. In re-establishing our agency as citizens and not subjects, we must put the power of the people back at the core of our structures of government and simultaneously embrace the principle of subsidiarity, which acknowledges the capacity of and

empowerment at all levels of society which is enabled and competent enough to govern effectively and efficiently.

The Basic Structure of Our Current Constitution

4.9 Constitutions set out the basic structure of the institutions of the State and the rules and processes by which those institutions must carry out their assigned functions. The Constitution asserts itself as the supreme law and provides that any law inconsistent with the Constitution will be void to the extent of the inconsistency. Paradoxically, the supreme law clause, which was introduced with the 1976 Constitution, is not entrenched. This clause should be unamendable or at the very least, deeply entrenched.

4.10 The State itself is defined as a people or set of peoples exercising sovereignty, through institutions of government, over a territory comprising land, or land and sea. All institutions of the State are subject to the Rule of Law, that is, they are obliged to exercise their powers and functions by the law and the demands of justice.

4.11 In their modern forms, Constitutions typically include a Bill or Charter of Individual Rights and Freedoms. These rights and freedoms are recognised and protected from infringement by the State. The protection of rights is achieved in part by separating and balancing power and its exercise between and among the Executive, the Legislature, and the Judiciary. The operation of independent institutions, whether these reside within the Executive, the Legislature or the Judiciary, is an important aspect of the balancing process.

4.12 A democratic state is one whose constitution, written or unwritten, provides for control by the people of the institutions of the state which govern them. There are various ways in which states provide for control by the people of their governments. The holding of periodic elections for positions in the Executive and the Legislature is almost universal, although there are significant variations in the periodicity, scope, and form of elections across countries. These electoral arrangements are typically provided for in constitutions, supplemented by ordinary legislation.

4.13 The basic structure of a constitution is not immutable. It may be changed because the composition of the society may be altered over time and because external influences and internal developments may modify values and attitudes and, hence, transform how the society wishes to govern itself. Section II outlines some of the key external and internal factors and developments which have impacted society over the last fifty (50) years and those which are impacting society now and, hence, the ways in which it may wish to be governed in the future.

4.14 From these definitions, the basic or foundation principles underlying the structure and operation of the Constitution are (1) Sovereignty, (2) Individual Rights and Freedoms, (3) the Separation of Powers, (4) Democracy, and (5) the Rule of Law.

Sovereignty

4.15 Section 1(1) of the Constitution states that the Republic of Trinidad and Tobago shall be a sovereign democratic state. Sovereignty means the exercise of exclusive jurisdiction over a territory or geographical area and the permanent population living in that territory.

4.16 Although Trinidad and Tobago became politically independent in 1962 and a republic in 1976, both the 1962 Independence Constitution and 1976 Republican Constitution retained elements which detracted from constitutional independence. The Independence Constitution had retained three elements — (1) the British monarch as Head of State represented by the Governor-General, (2) the savings or existing law clause, and (3) the Judicial Committee of the Privy Council as our final court of appeal. The 1976 Republican Constitution removed the British monarch as Head of State and provided for a President, replacing the Governor-General, but retained the savings law clause and the Privy Council.

Savings Clause

4.17 In contrast to other Caribbean countries where the Savings clause was limited in scope and/or duration, in our Constitution, the Savings clause is expressed as a general Savings clause of indefinite duration and states as follows:

6. (1) Nothing in Sections 4 and 5 shall invalidate—(a) an existing law; (b) an enactment that repeals and re-enacts an existing law without alteration; or (c) an enactment that alters an existing law but does not derogate from any fundamental right guaranteed by this Chapter in a manner in which or to an extent to which the existing law did not previously derogate from that right.

4.18 The rationale for the Savings clause in the Independence Constitutions was based essentially on two arguments – the need for stability and for legal certainty. The experience of Caribbean countries without a Savings clause (Grenada), with limited-duration savings clauses, or those which have since repealed the savings clause have not borne out the fears of legal uncertainty and instability which drove its initial inclusion and subsequent retention in the 1976 Trinidad and Tobago Republican Constitution.

4.19 The effect of the Savings clause is to immunise colonial-era laws from challenge on the basis that those laws infringe fundamental rights and freedoms. This has the effects of (1) granting these colonial-era laws a status higher than that of the Constitution itself, which is supposed to be the supreme law; and (2) freezing in a time warp the norms and values of a bygone British colonial era, including norms and values relating to capital punishment, sedition, and sexual orientation.

4.20 It should be noted that (1) the Wooding Commission did not recommend retention of the Savings clause; (2) the Principles of Fairness Committee Draft Constitution, utilising the

‘modification first’ principle, proposed amending the clause by making existing law subject to “such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with [the] Constitution”, that is, they adopted and incorporated the language of Section 5 of the Constitution Act; and (3) the Ramadhar Committee did not discuss the Savings law clause and recommended the definition of ‘existing law’ be retained.

4.21 After sixty (60) years of experience with colonial-era laws, there would seem to be no basis or justification for the retention of the Savings or Existing Law clause, and it should be removed as many have proposed. This would mean that colonial-era laws may be challenged for infringing fundamental rights and freedoms and declared unconstitutional. A declaration of unconstitutionality may be suspended to allow time for Parliament to amend the law if it sees it fit to do so.

Privy Council

For the authoritative reading or interpretation of a constitutional text is the discursive practice whereby meaning is given to the text that constitutes a people’s political identity. On this view, then, the reserve of interpretive authority over Commonwealth Caribbean Constitutions in the British Privy Council not only constitutes a negation of our sovereignty, it leaves to a foreign institution a constituent role in defining Commonwealth Caribbean political identity. - Simeon Macintosh, Caribbean Constitutional Reform

4.22 The Wooding Commission was in favour of the abolition of appeals to the Privy Council even though at that time there was no regional court of appeal, none was in prospect, and popular sentiment, including the legal profession, favored retention. Since then, the arguments for and against abolition have waxed and waned. Both the Principles of Fairness Committee and the Sir Ellis draft Constitution embraced accession to the Caribbean Court of Justice which had begun operation in 2005. The argument for abolition based on sovereignty has been articulated by Chief Justice Archie and Justice of Appeal Jamadar (now a judge of the CCJ) in the following terms:

“...we the people of Trinidad and Tobago, cognizant of our similar histories, experiences and understandings, must determine for ourselves what our constitutional instruments mean and how they are to be applied and to do so within the context of the accepted minimum international standards to which we have acceded in international treaties.”
Jamadar and Archie, *Francis and Hinds*, para. 26

4.23 Yet, there remains a body of opinion in legal, parliamentary and public circles which favours retention of the Privy Council until this is decided by a referendum or until some unspecified time in the future. The Ramadhar Committee on Constitutional Reform recommended a referendum to decide the issue. Excluding British Overseas Territories, Trinidad and Tobago remains one of only eleven (11) territories, and one of only two republics which retains the Privy

Council as its apex court. While the reasons for retention are somewhat unclear, they seem to be founded on a profound distrust of the local judiciary to deliver justice.

4.24 Constitutional reform must advance the ongoing project of building a sovereign democratic nation by promoting and supporting local and regional institutions and ensuring these institutions operate efficiently and effectively and are accountable to the people. Our judicial institutions, including our apex court, must embody and reflect in their jurisprudence the values, norms and standards of the society. It would therefore be wholly inconsistent with reform to retain the Privy Council as our final court of appeal. The Wooding Commission was prepared to do so even when no Caribbean court existed. We now have such a Caribbean court which, with courage and competence and without any hint of political interference, has been adjudicating appeals for the last nineteen (19) years from Barbados and Guyana, and more recently from Belize, Dominica, and St Lucia, and in the process, improving access to justice and developing our jurisprudence.

Territory

4.25 Section 1(2) of the Constitution states that:

Trinidad and Tobago shall comprise the Island of Trinidad, the Island of Tobago and any territories that immediately before the 31st day of August 1962 were dependencies of Trinidad and Tobago, including the seabed and subsoil situated beneath the territorial sea and the continental shelf of Trinidad and Tobago (“territorial sea” and “continental shelf” here having the same meaning as in the Territorial Sea Act and the Continental Shelf Act, respectively), together with such other areas as may be declared by Act to form part of the territory of Trinidad and Tobago.

4.26 This subsection is of great importance. In 1986, following the 1982 United Nations Convention of the Law of the Sea, Trinidad and Tobago passed the Archipelagic Waters and Exclusive Economic Zone Act and subsequently, transmitted to the United Nations the boundaries of the country as an archipelagic state, which were accepted. The boundary lines enclosing the archipelagic state so-defined essentially enlarged the size of the state’s territory since the breadth of the territorial sea, contiguous zone, continental shelf, and exclusive economic zone were now measured from the archipelagic baselines, and also, as a consequence, the waters between the island of Trinidad and the island of Tobago were now entirely internal waters.

4.27 Accordingly, Section 1(2) of the Constitution should be recast along the following lines:

*Trinidad and Tobago shall comprise the Island of Trinidad, the Island of Tobago and any territories that immediately before the 31st day of August 1962 were dependencies of Trinidad and Tobago, including the seabed and subsoil situated beneath **the archipelagic waters**, territorial sea and the continental shelf of Trinidad and Tobago (“**archipelagic***

*waters”, “territorial sea” and “continental shelf ” here having the same meaning as in the **Archipelagic Waters and Exclusive Economic Zone Act, Territorial Sea Act, and the Continental Shelf Act, respectively), together with such other areas as may be declared by Act to form part of the territory of Trinidad and Tobago.***

First Peoples

4.28 Since Independence in 1962 and the Republican Constitution in 1976, there has been significantly increased recognition of the First Peoples of Trinidad and Tobago: those citizens who identify themselves with the pre-colonial inhabitants of the islands of Trinidad and of Tobago. The descendants of the First Peoples have requested recognition of the right to self-determination, reparations, the rewriting and preservation of their histories, and their participation in state occasions where our diversity is celebrated and honoured. For reasons discussed in paragraphs 4.203 to 4.231, under ‘Comments on the Tobago Bills’, the phrase ‘right to self-determination’ is best omitted. The proposed revised Preamble explicitly recognises the First Peoples, and the Committee proposes a statement of the rights of the First Peoples for inclusion in the rights chapter of the Constitution.

Tobago

4.29 The social and political history of Tobago and its people, who constituted a separate colony until they united with Trinidad finally in 1899 and whose geographical separation from the island of Trinidad and administrative neglect over many years imposed on them certain burdens and inequities, must be acknowledged. It must also be acknowledged that over the one hundred and twenty five (125) years that the two (2) islands have been yoked together, there has been considerable internal migration and intermingling, and there are many persons of Tobagonian descent living in Trinidad, and some Trinidadians now live in or have property in Tobago.

4.30 The Tobago House of Assembly was created by ordinary legislation in 1980 and was granted limited functions. The Tobago House of Assembly was eventually recognised in the Constitution in an amendment in 1996, and the 1980 Act was repealed and replaced with a new Tobago House of Assembly Act (1996), which granted the Executive Council wider areas of responsibility under the Fifth Schedule.

4.31 More recently, from certain quarters in Tobago, there have been demands for ‘self-government’ or ‘autonomy’ beyond what is currently enjoyed under the 1996 Act, and although some proposals suggest some notion of a ‘federal’ reconfiguration of the relationship between the islands, there is no discernible demand for secession.

4.32 There are currently two bills before Parliament in respect of Tobago- (1) the Constitution (Amendment) (Tobago Self Government) Bill 2021 and (2) the Tobago Island Government Bill 2021. The key provisions of the bills relevant to constitutional reform are: (1) acknowledgment of the right of self-determination, (2) amendment of Section 75 of the current Constitution which

establishes the Cabinet and the proposal to grant executive power to a Tobago Island Government in scheduled areas; (3) the granting of law-making powers in respect of scheduled areas concerning Tobago, and (4) financial arrangements for the new proposed Tobago Island Government.

4.33 The issues raised by the Tobago Bills are complex and are addressed in detail in paragraphs 4.203 to 4.231 of this Section, under “Comments on the Tobago Bills”.

4.34 The Committee recommends: (1) in harmony with the intent of the Constitution (Amendment) (Tobago Self-Government) Bill 2021 that the Preamble refer to self-government and not self-determination, (2) the law-making power of the Tobago Assembly should be affirmed save however, that the Tobago Assembly shall make no laws which touch and concern the international obligations or the status of Trinidad and Tobago in international law or which might invalidate any international treaty per Article 46 of the Vienna Convention on International Treaties, and (3) Section 5(2) of the Tobago Island Government Bill should be amended by deleting the phrase ‘such part of the territorial sea comprising’ such that the subsection would read:

The exclusive administrative jurisdiction, conferred on the Tobago Executive Council by subsection (1) in relation to the list of matters set out in Schedule 1, shall extend to those areas of the sea having as their inner limits the low watermark of Tobago and as their outer limits, a line measured seaward from that low watermark, every point of which is at a distance of eleven nautical miles from the nearest point of that low watermark.

CARICOM

4.35 While the Commonwealth is recognised in the current Constitution, including the right of Commonwealth citizens to vote in our elections (Section 51) and the option of appointing judges from the Commonwealth to the Judicial and Legal Services Commission, there is no corresponding recognition of CARICOM and citizens of CARICOM. The Revised Treaty of Chaguaramas was incorporated into domestic law by the Caribbean Community Act No. 5 of 2005. The explicit recognition of CARICOM and its citizens who have certain enhanced rights under the Revised Treaty of Chaguaramas would be appropriate.

International Treaties and Conventions

4.36 Entering into treaties and membership of international organisations which may imply performing or refraining from performing certain acts is an attribute of sovereignty. Trinidad and Tobago is a signatory to several international treaties and conventions several of which were ratified after the 1976 Constitution. These include: (1) International Covenant on Economic Social and Cultural Rights (1978), (2) International Covenant on Civil and Political Rights (1978), (3) Convention on the Law of the Sea, (4) Convention on the Elimination of All Forms of Discrimination Against Women (1990), (5) Convention on the Rights of the Child (1991) (6) Convention on the Rights of Persons with Disabilities (2015). However, Trinidad and Tobago is

not a signatory to the Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment. In 1998, Trinidad and Tobago withdrew from the American Convention on Human Rights.

4.37 Although international treaties are entered into and ratified by the Executive, they are not incorporated into domestic law unless and until this is done by an act of Parliament. In addition, treaties are not brought before Parliament for approval before ratification. This also means that the Executive may withdraw from these treaties without notification to, or the approval of Parliament. There is a standing Joint Select Committee on Foreign Affairs mandated to consider and report on international treaties and other agreements entered into by the government on behalf of the State and to advise Parliament on their likely impact. There is, therefore, good and sufficient reason for international treaties to be laid in Parliament for oversight by its relevant committee.

4.38 It is interesting to note that the Caribbean Court of Justice (CCJ) has taken the position that even though a treaty has not been incorporated into domestic law, its ratification by the government may create a legitimate expectation on the part of citizens that the State will uphold the provisions of the treaty.

Individual Rights and Freedoms

Qualification

4.39 In the crafting of our 1962 Independence Constitution, the framers elected to state rights and freedoms in unqualified or absolute form. It is not that the framers were not aware that rights and freedoms are all generally subject to qualification, limitation, or exception by a variety of interests, including, for example, public health, public order, or national security. Other Caribbean constitutions, including those promulgated around the same time as Trinidad and Tobago's, expressed the statements of rights and freedoms subject to various qualifications and exceptions. The draft constitutions prepared by the Wooding Commission (1974), the Principles of Fairness Committee (2006), and the Sir Ellis drafts (2006-2009), all proposed restating the section on rights and freedoms in qualified terms. The Wooding Commission provided an overarching qualification in the following terms:

This Chapter shall have effect for the purpose of protecting those rights subject to the limitations specified, being limitations designed to ensure that the enjoyment of his rights by any individual does not prejudice the rights of others or the public interest.

4.40 It then articulated each right with its specified limitations. The Principles of Fairness Committee preferred a qualification in the following terms:

There shall be no interference by a public authority with the exercise of [a] right except such as is in accordance with the law and is necessary in a democratic society in the

interests of national security, public safety or economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.

4.41 The Sir Ellis draft constitution reprised the 1976 approach and elected to use the following formulation:

There shall be no interference by a public authority with the exercise of [a] right except such as is in accordance with the law and is reasonably justifiable in a free and democratic society that has a proper respect for the rights and freedoms of the individual.

4.42 The jurisprudence that has developed in respect of protecting rights and freedoms in Trinidad and Tobago has long recognised that rights are heavily qualified. Moreover, that jurisprudence has been richer and more extensive than in those jurisdictions where rights and freedoms are stated in qualified terms. This is because the category of limitations such as ‘subject to respect for the rights and freedoms of others and the public interest’ is not closed, and the Judiciary has had to determine the extent to which rights are protected in light of evolving norms. In fact, in revisiting its Charter of Rights, Jamaica moved its formulation closer to that of Trinidad and Tobago. Accordingly, it will continue to serve us well for rights and freedoms to remain stated in unqualified terms except with the inclusion of a broad limitation subject to respect for the rights and freedom of others and the public interest.

Protection and Enforcement

Section 13

4.43 A major source of controversy has been whether, emergency situations apart, the only way in which Parliament may infringe Sections 4 and 5 rights is by Parliament declaring an inconsistency, passing the law with a three-fifths majority, and opening the impugned legislation to challenge under Section 13 as being unconstitutional. However, it is possible that rights may indeed be “impinged” by general legislation without such a declaration and yet, such legislation will not be unconstitutional provided that it is proportionate. It should be noted that Trinidad and Tobago is the only Commonwealth Caribbean country that requires a special majority to effect legislation that infringes fundamental rights and freedoms.

4.44 It seems that proportionality is the accepted test to be used by judges to determine whether any infringement is reasonably justified in a democratic society. The proportionality test involves establishing that (1) the aim or objective of the legislation is sufficiently important to limit a right (2) the measures designed to achieve the objective are rationally connected to it; (3) the measures are no more than is necessary to achieve the objective of the legislation; and finally, (4) balancing the interests of the individuals or groups against the interests of society as a whole.

4.45 The special majority requirement complicates the application of the test since, arguably, in passing the legislation, Parliament itself *ought* to carry out the proportionality test, and if it does, the question is whether the application of the test by the Judiciary is redundant or whether there are some considerations which Parliament failed to take into account. This raises the question of whether the infringement declaration and special majority provisos ought not to be dropped, leaving the Judiciary to determine the constitutionality of the infringing legislation.

4.46 Section 13 has proved to be difficult to adjudicate and there have been varying judicial positions. One position is that rights are inherently qualified, the State has to be accorded deference or a ‘margin of appreciation’, and it is for the claimant to show that the infringement is not ‘reasonably justifiable in a society that has a proper respect for the rights and freedoms of individuals.’ The alternative position is that, in the development of the Independence Constitution in 1962, with its fears and anxieties, Section 13 was instituted deliberately to protect minorities against a State that might be inclined to abuse their rights. Both perspectives have merit, and the Privy Council has now lent its considerable weight to the first position.

4.47 Fortified that the recommendations made for the restructuring of Parliament will strengthen the Legislature against Executive dominance, the Working Document proposes that Section 13 should be amended to remove the requirement for a special majority while retaining the stipulation that the legislation must be ‘reasonably required’, and on conditions set out below:

- a. There must be a robust legislative process that requires thorough scrutiny of proposed laws that seek to affect fundamental rights in Chapter 1 or alter the Constitution;
- b. The establishment of a standing Joint Select Committee (JSC) on the Constitution that will facilitate detailed scrutiny and review of the policies contained in such laws to ensure adequate consultation with stakeholders and experts and provide a forum for discussion and the building of political consensus. Such laws should not be rushed and in the interest of the people, the Parliament should aim to address them in a manner that reduces partisan conflict;
- c. Alternatively, the JSC of Parliament on the Constitution should be mandated to review Section 13 and the general application to all ordinary Bills of the special majority requirement and report its recommendations to Parliament.

Section 14- Redress

4.48 Section 14 gives citizens access to the High Court and as of right to the Court of Appeal to seek redress for any breach of their rights and freedoms. Section 109 gives access as of right to the Privy Council. It is vitally important that there be ready access to the court to seek redress. However, the provision for allowing appeals ‘as of right’ all the way to the Privy Council has been

a source of abuse in that it has delayed criminal and civil trials as well as administrative disputes while those appeals are pursued, which may take years. Such delays not only affect parties to a matter but also the functioning of the justice system and ultimately Trinidad and Tobago as a whole. Accordingly, to minimize abuse of the process of the courts, Section 14(5) should be amended to require the leave of the High Court to pursue such appeals to the Court of Appeal. A corresponding amendment should be made in respect of appeals to the apex court.

Human Rights Commission

4.49 The Principles of Fairness Committee draft Constitution provides for a Human Rights Commission which would (a) advocate and promote respect for and an understanding of human rights and (b) encourage the maintenance and development of harmonious relations between individuals and among diverse groups in the society. The Sir Ellis draft of the Constitution and the Ramadhar Committee Report did not follow suit. The case for such a Commission established within the Constitution follows from the acceptance of the Paris Principles, endorsed by the United Nations General Assembly, which urges countries to establish national institutions for the protection and promotion of human rights. Various reports on human rights abuses in Trinidad and Tobago in recent times focus on alleged police killings, alleged refoulement of refugees, abuse of children in children's homes, and human trafficking.

4.50 The Constitution of Trinidad and Tobago established an Ombudsman as an Officer of the Parliament to investigate acts of administrative injustice. In addition, by ordinary legislation, a number of other investigatory bodies have been established, namely the Equal Opportunity Commission and Tribunal, and a Police Complaints Authority. It is difficult to justify yet another agency set up at public expense which, unless invested with significant investigative and enforcement powers, is unlikely to make a significant difference in the outcomes concerning the addressing of abuses of human rights. Moreover, the Supreme Court of Trinidad and Tobago remains available to anyone who feels that their human rights have been breached. It is accepted that the Equal Opportunity Commission and the Equal Opportunity Tribunal should be recognised in the Constitution.

Recognising Additional Rights

4.51 Over the last sixty (60) years, the equal status of women has been increasingly asserted and recognised worldwide. The Convention on the Elimination of All Forms of Discrimination Against Women was adopted in 1979. In addition, the international community has directed a great deal of attention to the rights of children to be nurtured, educated and protected. The Convention on the Rights of the Child was adopted in 1989. Similarly, in most countries, discrimination against persons whose orientation is not heterosexual is seen to be an infringement of their fundamental human rights.

4.52 While the rights of women to gender equality, the rights of children, and the right of non-discrimination based on sexual orientation may arguably fall within the scope of currently enumerated rights and freedoms, the explicit recognition of these rights in our Constitution will underscore the society's commitment to their recognition and protection. The question of marriage and/or civil unions, however, is best left to general legislation instituted by Parliament.

4.53 Although Section 51 addresses the qualifications to vote for Members of the House of Representatives, and a right to vote is implied by a reading of the Constitution as a whole, there is no good reason why the right to vote in free and fair elections should not be made explicit and protected accordingly.

4.54 Some constitutions seek to protect citizens against discrimination based on age. This becomes increasingly relevant as the population ages and the problem of abuse and neglect of older adults may increase. However, protection against age discrimination is also bound up with considerations of equity and employment practices in the private sector. The State needs to be cautious in any intervention with respect to practices in the private sector, and it is better to leave the balancing of competing considerations to actors in the private sector and civil society. More generally, the horizontal application of the protection of fundamental and second-generation rights, that is, between citizens and between citizens and non-state actors, is best left to institutions such as the Equal Opportunity Commission to which citizens' complaints about discrimination in the private sphere may be directed.

4.55 A few persons submitted that the right to bear arms should be included as a fundamental right in the Constitution. The current law governing firearm ownership in Trinidad and Tobago is restrictive as opposed to permissive. A person seeking to buy a firearm must provide the licensing authority (the Commissioner of Police) with evidence of good character and have a valid reason why the firearm is needed. The principal objective in regulating the acquisition, possession, use, importation and sale of firearms and ammunition is the protection of individuals, families, and communities from gun violence while allowing the possession and use of firearms by those with legitimate reasons either due to their occupation, approved sport or due to their particular vulnerabilities. It is safe to assert that all countries have some form of firearms regulation, ranging from the significantly strictly regulated countries like Germany, the United Kingdom, Jamaica, Barbados and Trinidad and Tobago to the more permissive jurisdictions like the United States of America (USA) and Switzerland, where the right to bear arms continues as a part of the national law, cultural identity or heritage. For those countries that follow a restrictive approach, the overriding policy is based on the fact that firearms are dangerous weapons, and the State has a duty to protect the public from their misuse. Therefore, while the Committee agrees that individuals inherently have the right to defend themselves against threats, we endorse the view held by many that it remains the responsibility of the law enforcement agencies of the State to prevent crime through proactive measures and policies.

Economic, Social, Cultural and Environmental Rights

4.56 The International Covenants on Civil and Political Rights (1966) and Economic Social and Cultural Rights (1976), as well as the Canadian Charter of Rights and Freedoms and the European Charter of Fundamental Rights, all gave impetus to the recognition of rights to education, health care, employment, a healthy environment, and so on, as well as protection against torture, slavery, and various forms of discrimination. While it can be asserted that a core set of values are almost universally recognised, many areas remain controversial with variations across societies and cultures. In addition, the ability of states to enforce, guarantee or deliver on some of these rights is determined by the resources available to them.

4.57 Our current Constitution makes no mention of these economic, social, and cultural rights except indirectly in the Preamble. At the very least, we should acknowledge those rights which we have ratified in international agreements, and which are consistent with our values.

4.58 The following rights should therefore be included: (1) the right to education; (2) the right to clean air, clean water, and a healthy environment for present and future generations; (3) the right to basic timely health care; (4) the right to adequate housing and sanitation; (5) rights of children, and (6) certain cultural rights.

4.59 While economic, social and cultural rights are linked to and indeed intertwined with civil and political rights, they are not protected and enforced in the same way as traditional civil and political rights. Experience in other jurisdictions such as India, Ireland and South Africa indicates that protection and enforcement could require adjustment in our adjudication processes when these claims arise. First, given that the ‘minimum core’ approach may not be relevant in a society at our level of development, the test of ‘reasonableness’ is to be preferred and is applied against cogent evidence that the individual or, more likely, a group or community is disadvantaged in terms of access and benefits. Second, enforcement may require a variety of approaches including the use of special masters or commissioners, impartial advisers, or subject-matter experts to assist the court in its evaluation of the facts in what may sometimes be complex, polycentric issues of policy and resource adequacy. Third, some issues may require ongoing enforcement and perhaps the use of continuing enforcement orders where the court supervises the implementation of the solution over some period of time, an approach which the Caribbean Court of Justice has used (e.g. *The Maya Alliance Case*, [2015] CCJ), or the use of a ‘suspended order/ directive’ where the court suspends its proposed orders to allow the legislature and executive to consider the matter and come up with an appropriate solution, given the court’s observations, an approach which the Caribbean Court of Justice has also used (e.g. *Bisram v DPP of Guyana*, [2022] CCJ). However, these adjustments or any others are not reasons for non-inclusion and protection of this category of rights.

4.60 The objective of the adjudication of claims arising from economic, social and cultural rights is a determination as to whether or not, or the extent to which the claim is justified and what, reasonably, the Executive can do to give redress, with the Judiciary careful not to overreach and

to intrude unnecessarily into the realm of policymaking which is the preserve of the Executive and the Legislature. Our judges and lawyers will be able to advocate, litigate, and adjudicate these matters as there are numerous available regional and international resources, which, with appropriate education and training, can be applied in contextually relevant ways in Trinidad and Tobago. Our public servants will need to be educated in cooperating with judicial officers to implement solutions.

4.61 Apart from the issues around adjudication of these rights, account must be taken of the culture surrounding access to public services and resources and the culture of litigation. Given the country's oil and gas wealth, the State has been generous in providing subsidised public services to which the population has become accustomed, if not entitled. It is also true that, encouraged by the adversarial legal system in the British tradition, the society tends to be litigious and less open to dialogue, conciliation, and mediation of disputes. These two factors, with open and easy access to public interest litigation, may combine into a cocktail of claims around economic, social, and cultural rights, which might overwhelm the justice system. The Judiciary must be alert to this possibility and prepare for it. We consider this risk worth taking if the society is to develop a culture of greater respect for rights generally and, the Executive and Legislature to be more diligent in ensuring equity in its policy formation and implementation.

Directive Principles of State Policy

4.62 State policy should also take these 'second generation' rights into account as far as resources allow. In this regard, the Wooding Commission had proposed acknowledgement of some of these rights in its 'Directive Principles of Government'. This was not accepted at the time, but such Directive Principles, appropriately updated and directed to all organs of the State, should now be fully embraced. The Directive Principles of State Policy are intended to guide governments in formulating policy in the specified areas but not to unduly constrain the flexibility which governments must have, to meet the circumstances and exigencies of the times, and also enjoin the Judiciary, the Parliament as well as the 'Fourth Branch' independent institutions to act consistently in ways conducive to social harmony, the public interest, and effective government.

4.63 Directive Principles of State Policy should have regard to:

- a. the conservation of the environment, the prevention of environmental damage, the protection of ecosystems, biodiversity and the integrity of the country's genetic assets, the promotion of sustainable resource management, conservation efforts, and long-term planning to mitigate and adapt to environmental challenges. Legislation should require comprehensive environmental impact assessments for all major infrastructure projects and policies which may have adverse environmental impacts. By such policy, the State should be under a duty to do all in its power to protect the environment so that future generations can inherit economic conditions supportive of their well-being;

- b. the protection and preservation of all aspects and manifestations of our cultural heritages and indigenous knowledge;
- c. the protection of the Steelpan as an integral part of our national identity. The State should support its development through educational and cultural initiatives and promote its presence in both national and international arenas;
- d. the promotion of public administration that is efficient, respectful, accountable, transparent, and procedurally fair. The various arms of the State and departments of the Executive should be required to collaborate effectively in delivering services to the people and raise the standard of public services. By such a policy, public officials and authorities should be accountable for their actions and decisions to the law and to the public they serve. Everyone whose rights have been adversely affected by administrative action should have the right to be given written reasons. Mechanisms for the proper management and oversight of the actions of public officials should be maintained by all public authorities and disseminated. Policies should promote the elimination of abuse of power, violation of rights of the citizens and disrespectful treatment of citizens by public officials;
- e. ensuring that no member of the Executive or the Legislature or any other person shall interfere with judges or judicial officers in the exercise of their judicial functions, and all organs of the State shall accord such assistance as the courts may require to protect their independence, dignity, and effectiveness, subject to the terms of the Constitution or any other law;
- f. providing that in negotiating any international agreement, the Tobago Island Government will be consulted, and its interests be taken into account;
- g. the establishment of policies and programs that foster and uphold, on a permanent basis, the participation and inclusion of the youth in all sectors. Such policies should provide the youth with access to information and technology to engage in civic, political, and social activities;
- h. promote understanding, dismantle stigma, and foster an environment where everyone, regardless of disability, can participate fully and equally;
- i. the need for legislation to provide for the holding of referendums/petitions/propositions on important issues of national interest, including petitions for the recall of elected officials, provided a certain number of eligible signatures are obtained; and

- j. a need for legislation governing the use of modern technologies such as artificial intelligence and other opaque systems, which have implications for human rights and data privacy.

Duties and Responsibilities of Citizens

4.64 The Charter of Rights and Freedoms in a Constitution is structured primarily to define and protect individual citizens from any exercise of state power that denies or infringes their rights and freedoms. However, it is important for citizens to appreciate that they have duties and responsibilities to the society and to each other, including allowing each other to enjoy the rights and freedoms to which we are all entitled.

4.65 The Wooding Commission had proposed duties and responsibilities of citizens which were not adopted. These, however, are not reflected in the Hyatali, Principles of Fairness, Clarke (2009), nor the Ramadhar Committee proposals. However, given the drift of our society in recent years toward licence and lawlessness, including the Citizen Duties and Responsibilities would serve as a useful reminder of what we owe to each other and the society as a whole. The Wooding Commission draft, reproduced herein, can, with suitable modifications, be adopted:

“Every person in Trinidad and Tobago has the following fundamental duties:

1. to obey and act in the spirit of the Constitution and the laws of the State;
2. to exercise the rights granted to each person under the Constitution and use the opportunities made available to each person under it to participate in the government of the Nation;
3. to protect the State, safeguard its wealth and its resources and promote its development;
4. to work according to their capacity in useful employment, creating for himself/herself opportunities for such labour where none may seem immediately available;
5. to respect the rights and freedoms of other persons without regard to race, sex, sexual orientation, disability, class, national origin, gender, status, or creed and to co-operate fully with them to achieve national progress;
6. to contribute in proportion to each person’s means to the revenues required for providing for public services;
7. to recognise that they can fully develop their capabilities and advance their true interests only by active participation in the development of society as a whole;



8. to protect the environment, prevent environmental harm, and promote sustainable use of resources;
9. for parents to undertake their obligation of care, maintenance and upbringing of their children in a safe and wholesome environment; and
10. to promote, preserve, protect, and defend the sovereignty, territorial integrity, security, and unity of the State of Trinidad and Tobago.”

Separation of Powers

While in the popular sense it may be convenient to divide the powers of government into three (3) spheres, in practical reality such rigid classification is neither desirable nor possible. ...what is desired is not that the different organs such as the Legislature and Executive should have no influence or control over the acts of each other but rather that neither should exercise the whole power of the other. - Satnarine Sharma CJ in Director of Personnel Administration v Cooper Civ. App. No. 10 of 2004.

4.66 The separation of powers is accepted universally as a principle of state organisation, although it is implemented differently in different countries. In the Whitehall-Westminster-type systems that we have adopted, executive power is largely drawn from and overlaps extensively with legislative power. The power to appropriate resources through taxation and borrowing is vested in the Legislature, whose membership is refreshed periodically through free and fair elections. The Executive is granted the power to spend money to provide public services. The Judiciary is independent of the Executive and the Legislature, whose independence is critical to its role as the impartial arbiter of disputes between citizens and residents and between citizens and residents and the State.

Executive and Legislature

4.67 In small states like Trinidad and Tobago, there is often significant overlap between the Executive and the Legislature. Indeed, the Prime Minister as Head of Government is the person in the House of Representatives who commands a majority of support therein. The Prime Minister chooses his Ministers from Members of Parliament from his party in the Lower House. Members of Parliament are remunerated on the basis that their work as MPs is part-time. However, the demands of the functions of both constituency representation and legislator are significant.

4.68 In a functioning democracy, the Member of Parliament in the House of Representatives is expected to represent the needs of his constituency and his constituents by bringing their views and issues to the national Parliament and taking national matters to the local level for constituents to participate through their parliamentary representative in the shaping of policy and legislation.

Ideally, the Member of Parliament should also liaise with the local government bodies operating in his constituency to serve the needs of its residents better.

4.69 The Member of Parliament, whether in the House of Representatives or the Senate, also plays another vital role in serving as a check on the Executive through the work of the various parliamentary committees which oversee the performance of ministries, departments, state-owned enterprises and statutory bodies, as well as the performance of the independent institutions.

4.70 There is a near universal complaint that members of the House of Representatives do not serve their constituents very well, nor are parliamentary committees effective in their oversight of the Executive and the independent institutions. When ministerial duties are added, which are full-time, it is usually their roles as Members of Parliament which suffer, and the Legislature is less effective than it ought to be in preserving and promoting democratic government and holding the Executive to account. The view that Members of Parliament, specifically members of the House of Representatives, should not serve as Ministers has considerable merit. There would seem to be a very good reason for effecting greater separation between the Executive and the Legislature.

4.71 However, moving to the complete separation of Executive and Legislature along the lines of the government of the United States of America would have far-reaching consequences for the structure of government as a whole and for the governance of institutions with which we have little experience or practice. For example, in the USA, executive power is concentrated in the person of the President who selects and appoints his Cabinet. The political party, if any, from which the President emerges may have variable influence over his government depending on whether his party has control of Congress or not. Budgeting and expenditure in that system is effected through institutions located in both Congress (Congressional Budget Office) and the White House (Office of Management and Budget).

4.72 In the Whitehall-Westminster system, although the Prime Minister has significant power, the Prime Minister may be unseated by his party in the House of Representatives. Further to this, the power of appointment to independent institutions rests with the President. Adopting an American-style executive presidency would actually result in an even greater concentration of power, which is clearly not what the public wants. In addition, the system where Executive President is elected separately from the legislature also means that there will be multiple elections and/or more complicated voting procedures to produce a government.

4.73 In democracies, the Legislature exercises some control over taxation and budgetary appropriations, and the Executive proposes the budget and manages spending. Where there is a near complete separation of the Executive and Legislature, there must be an effective budgetary approval process. If this is not achieved, the government could grind to a halt with possibly serious consequences, especially in small states where the public sector is large in the overall economy and employs a significant proportion of the labour force.

4.74 For these reasons, an American-style Executive Presidency would not be practical, especially where the President’s political party does not control the Parliament.

4.75 However, in our circumstances, greater separation between the Executive and the Legislature may be achieved by either (a) expanding the membership of the Parliament and simultaneously limiting the number of Ministers who may be drawn from the Parliament and/or (b) by limiting the number of government ministries. Comparatively, there is already a good case for an increase in the number of members of the House of Representatives to reflect a more balanced and appropriate ratio of constituents to representatives. Enhanced representation through an elected Senate calls for an increase in the number of Senators. It is recognised that this will incur additional costs, especially where, in addition, members of the House of Representatives and the Senate are paid salaries commensurate with their constituency and national legislative responsibilities, which is long overdue. Indeed, it is especially important that persons called to serve as members of the nation’s Legislative arm be paid reasonable compensation to minimise the risk of conflicts of interest.

4.76 The number of government ministries can be restricted in the Constitution to not more than eighteen (18). By limiting the number of government Ministers who may be appointed to the Cabinet from the House of Representatives to eight (8), inclusive of the Prime Minister, there will be a sufficiently large back bench for attending to parliamentary matters as well as scrutiny of the Executive, the Judiciary, and the ‘fourth branch’ independent institutions.

4.77 Together with recognising the work of members of Parliament as suitably remunerated full-time jobs, the overlap between the Executive and the Legislature can and should be reduced, the Legislature would be more productive and effective, while the work of the Executive would not be affected at all. Indeed, currently, the Parliament’s efficiency related to its oversight role is negatively impacted by the limited number of members of Parliament available to serve on parliamentary scrutiny committees with responsibility for oversight of six hundred (600) plus public entities who, altogether, spend over \$80 billion dollars annually.

4.78 The qualifications for membership of the House of Representatives under Section 48(1) and the Senate under Section 42(1) have been challenged in two respects. First, the disqualification of dual citizens has been questioned on the argument that it does not disqualify all dual citizens, only those who have acquired another citizenship voluntarily. A person born in Trinidad and Tobago may have acquired citizenship of another country by descent and apparently would not be disqualified.

4.79 Secondly, a person is disqualified who is mentally ill within the meaning of the Mental Health Act. It is recognised that the Act needs to be modernised in keeping with contemporary medical approaches to mental illness and the need to destigmatise mental illness generally. The problem, though, is that the criterion is effectively a dead letter since there is no requirement that

a candidate for office has to produce certification that the candidate does not have a mental illness. Moreover, even if someone is diagnosed with some form of mental illness, that particular illness may not in any way impact his capacity to perform his duties. On the other hand, the criterion may be necessary, as with some physical impairment that causes unfitness for the office, if medical professionals show that the officeholder is not physically or mentally fit to discharge his duties

4.80 Given its constitutional status as a third and equal branch of State, the Parliament should be fully in control of its administrative functions, separate from the Civil Service, with the ability to hire staff, establish their terms and conditions, and expend approved funds based on strategic goals and approved budgets. The Parliament may choose to adopt the Public Service regulations or develop appropriate regulations. The Parliament should, therefore, also manage its finances in respect of recurrent expenditure based on quarterly releases and subject to audit by the Auditor General.

Executive Powers: The President

4.81 The Office of the President is often described as ‘ceremonial’. This characterization is, however, not entirely accurate. The President does have many ceremonial duties but also has significant powers of appointment over independent or ‘fourth branch’ offices, which are essential for checking the power of the Executive. It is precisely such powers of appointment that has engendered concern that the President is effectively the appointee of the party in control of the Parliament sitting as the Electoral College, and hence of the Prime Minister. The perception, if not the reality, is that the President so appointed will at least be deferential to the desires of the Prime Minister or, at worst, do the bidding of the Prime Minister even where appointments are to be made in the President’s discretion after consultation with the Prime Minister and the Leader of the Opposition.

4.82 Given the importance of ‘fourth branch’ institutions in preserving democracy and the need to avoid the perception that the President is not independent, there are two approaches which can be proposed to provide greater assurance of the independence and impartiality of the President. First, if the Senate and/or the House of Representatives is elected based on proportional representation, the ruling party’s nominee for President may not be guaranteed election under the current Electoral College system. Second, the President may be elected directly or indirectly by the citizens based on a process that allows candidates other than nominees of the major political parties to be considered by the electorate. One option is the direct election of the President by citizens along the lines of the process employed in Singapore whereby candidates for the position of President must be at least forty-five (45) years old, not a member of any political party, and have a record of service in the public and/or private sectors. The screening of nominees for candidacy for President would be done by a Presidential Elections Committee chaired by the Chairman of the Judicial Services Commission (convenor), the Chairman of the Integrity Commission, the Chairman of the Public Service Commission, the Chairman of the Elections and

Boundaries Commission, and a person from the private sector nominated by the business community.

4.83 The Committee is aware that while the direct election of a President enhances the legitimacy of such office, it may also engender conflict and decision-making confusion where a popular President in a parliamentary democracy fails to act consistently within the four corners of the authority and powers conferred by the Constitution on the Office of the President. In recognition of this possibility, which has occurred in some ‘semi-presidential’ systems, the alternative method of election is proposed, whereby candidates for the office of President, are nominated by the public and vetted by a Presidential Elections Committee in accordance with the prescribed qualifications, are elected by an expanded Electoral College comprising all elected representatives in the House of Representatives, the Senate, the Tobago House of Assembly as well as the local government municipalities and regional corporations.

Executive Powers: The Prime Minister, Attorney General and Cabinet

4.84 As mentioned above, there should be a fixed number of government ministries, the suggestion in this report is eighteen (18) in total. This should promote numerous benefits being demanded by the citizenry including, enhanced and consistent approach to national development in governance, reduced redundancy, cost reductions, the streamlining of operations, clearer accountability, the development of expertise at the executive levels of the bureaucracy and greater accountability.

4.85 Section 85 which purports to outline the role and responsibilities of Ministers and Permanent Secretaries is not sufficiently clear so that the practice may vary from ministry to ministry and over time, depending on the incumbents. Ministers are not necessarily subject matter specialists in respect of the ministries to which they have been assigned by the Prime Minister, and in some instances, the Permanent Secretary, who is the chief accounting officer of the ministry, may also not be a subject matter specialist. Some positions, for example, Commissioner of State Lands, are appointed by the President under specific legislation and other positions, for example the Chief Legal Officers recognised in the Constitution, have unique status, given their responsibilities. This has led from time to time to confusion and conflict between Ministers and Permanent Secretaries and between offices within the Public Service.

4.86 Taking all relevant submissions into account, the Committee suggests that the roles and responsibilities of Ministers, and Permanent Secretaries or Heads of Departments need to be clarified and documented in a Cabinet Manual. This should be a condition precedent to or concurrent with the implementation of proposals for reforming the Public Service.

Judiciary and Judicial Services Commission

4.87 The independence of the Judiciary is implied in the ‘structure’ of our 1976 Constitution. However, it is critically important that it is now stated explicitly. The Committee has included the

principle of judicial independence in the Preamble and has also suggested that a directive principle of state policy should be that no person should interfere with judges in the exercise of their functions and further that all state institutions should assist the Judiciary in guarding its independence and dignity. The principle of judicial independence also needs to be stated and elaborated in the Chapter dealing with the Judiciary. The formulation in the Constitution of Guyana may usefully be adopted as follows:

All courts and all persons presiding over the courts shall exercise their functions independently of the control and direction of any other person or authority and shall be free and independent from political, executive and any other form of direction and control.

4.88 The independence of the judge in his or her courtroom or ‘personal independence’ is catered for to some degree in that the provision (Section 137(1)) relating to removal from office and the provisions (Section 136(1)-(6)) protecting a judge’s salary give the sitting judge a reasonable amount of protection. The institutional independence of the judiciary requires that it have control over its human resource function, including non-judicial staff.

4.89 The Constitution should also make clear that the Chief Justice is the head of the Judiciary, responsible for the deployment of judges and all judicial business. It should also provide for a Court Executive Administrator who shall be responsible for managing the non-judicial functions of the Court and who reports to the Chief Justice. The Court Executive Administrator, as accounting officer for the Judiciary, will be responsible for reporting to Parliament on the operations of the Judiciary.

4.90 Although judges and certain legal officers fall under the jurisdiction of the Judicial and Legal Services Commission, the non-judicial staff of the Judiciary are employed by the Public Service Commissions as public servants. It is agreed that the proposed Judicial Service Commission should be enabled and empowered to hire, train, transfer, and remove all staff of the Judiciary. However, the Judicial Service Commission should not be responsible for legal staff employed in the Executive Branch of the State.

4.91 Institutional independence of the Judiciary also requires some degree of financial independence, subject to the resources available to the government. Current practice whereby the Judiciary must seek Executive approval for routine matters such as training judges through the Office of the Attorney General as line Minister for the Judiciary should be revised in the interests of efficiency and to reduce the potential for interference with the Judiciary. Indeed, through periodic releases of its Parliament-approved budget, the Judiciary should be responsible for its recurrent expenditure. Capital expenditure would require greater planning and scrutiny, and coordination with the relevant ministries.

4.92 The Judiciary needs to be more accountable for its overall performance which should be assessed by appropriate performance measures. It should be accountable annually or as required

to a committee of Parliament where it would be represented by its Court Executive Administrator. The Court Executive Administrator should be a senior judge or senior attorney at law who has had training or prior experience in management including human resources management and who would be charged with the responsibility for the overall administration of the Judiciary including non-judicial staff recruitment and assignment, facilities, budgeting, and expenditure. The Court Executive Administrator should be an *ex officio* member of a revamped and expanded Judicial Services Commission. The responsibility of the Chief Justice for the overall management of the Judiciary, including the assignment of judicial officers, should be explicitly stated in the Constitution.

4.93 The Law Association, in June 2018, published a report of its Judicial Appointments Committee. That report focused on the criteria for making appointments to the Judiciary but also made recommendations on the composition of the JLSC. The main recommendations of that report, which relate to the composition of the JLSC and hence impact the Constitution, are eminently supportable with appropriate modifications to include the role of Court Executive Administrator. In adopting the approach of an expanded JLSC, the Constitution will clarify and settle the composition of the JLSC, which has been the subject of recent controversy and a Privy Council decision.

4.94 The Wooding Commission saw no compelling reason for the Chairman of the Public Service Commission to be *ex officio* a member of the JLSC. This is an especially persuasive position if the Judiciary is granted financial autonomy, legal officers within the Executive other than those explicitly mentioned in the Constitution itself, are excluded from its purview, and it adopts its own regulations rather than those of the Public Service.

4.95 The Privy Council's decision regarding the interpretation of Section 110(3)(b) to exclude retired judges left open the possibility of appointing junior attorneys at law to the proposed JSCO. This is clearly unacceptable and while it has been suggested that attorneys at law should not be appointed to the JSCO at all, on balance, there is merit in the position of the Law Association's Committee that having a senior attorney of at least fifteen (15) years call on the Commission helps to provide a 360° perspective on judicial performance. The expanded JSCO should also include a professional who preferably has experience in human resource management or accounting.

4.96 The role of a Prime Minister under Section 137(3) of the Constitution, which deals with removing the Chief Justice, is moot. It intrudes the Executive in the process of removal of a sitting Chief Justice. The argument supporting this intrusion is that, where the conduct of the Chief Justice is in question, the Judicial Services Commission of which he or she is a member may be disqualified from dealing with the matter and making recommendations to the President as to whether or not a tribunal should be convened. On the other hand, the Prime Minister may himself not be independent. While the history of impeachment of judges and Chief Justices here may incline against residing the power to impeach in the Commission, it is to be hoped that we have

learned the lessons of those experiences and that an expanded, professional Commission would be able to act in accordance with the principles of natural justice and of good governance, even in dealing with the Chief Justice or one of its own.

4.97 The Judiciary should have control of its administrative functions separate from the mainstream Public Service and the authority to hire its staff, establish their terms and conditions of employment, and expend approved funds based on strategic goals. The Judiciary may choose to adopt the regulations of the Public Service or develop its own regulations. The Judiciary should, therefore, be in control of its finances concerning recurrent expenditures based on quarterly releases, and which are subject to audit by the Auditor General.

Industrial Court

4.98 The Industrial Court was established under the Industrial Stabilisation Act and continued under the Industrial Relations Act. It is a superior court of record having the rights, powers, and privileges of the High Court.

4.99 The President of the Industrial Court must possess the same qualifications for the appointment of a High Court judge, who is appointed by the President after consultation with the Chief Justice. The Vice-President must be an attorney at law with not less than ten (10) years' standing. However, the other members of the Industrial Court do not necessarily have legal qualifications and may possess economic, accounting, or industrial relations qualifications. Appointments are for three (3) to five (5) years.

4.100 Consistent with the principle of judicial independence, the Industrial Court should be recognised in the Constitution. This recognition should extend to its members, including those who do not have legal qualifications. They should be appointed by the President on the advice of the Judicial Service Commission.

Tax Appeal Board

4.101 The Tax Appeal Board is established as a superior court of record by the Tax Appeal Board Act (1966). There have been recommendations that its name be changed to the Tax Appeal Court. The Chairman and Vice-Chairman are appointed by the President on the advice of the Judicial and Legal Services Commission and they must be attorneys at law of not less than ten (10) years' standing. The Board adjudicates appeals against the government agencies responsible for tax. Appeals against its rulings lie to the Court of Appeal.

4.102 Consistent with the principle of judicial independence, the Tax Appeal Board should be recognised in the Constitution and its members, including those who may not have legal qualifications, should be appointed by the President on the advice of the Judicial Service Commission.

'Fourth Branch' Institutions

4.103 The 1976 Constitution references several independent institutions. A common feature of these office-holders is that they are appointed by the President, which appointment is a marker of their independence. They are: (1) Auditor General; (2) Ombudsman; (3) Chairman and Members of the Judicial and Legal Services Commission, Public Service Commission, Police Service Commission and Teaching Service Commission; (4) Chairman and Members of the Integrity Commission; (5) Chairman and Members of the Salaries Review Commission; (6) Chairman and Members of the Public Service Appeal Board; (7) Members of the Advisory Committee on the Power of Pardon; (8) Election and Boundaries Commission; (9) Chairman and Deputy Chairman of the Tax Appeal Board. Independent 'fourth branch' institutions should also include the Equal Opportunity Commission, and the Procurement Regulator.

4.104 The 'fourth branch' institutions, which are critical checks on the exercise of power by the Executive, can usefully be recognised in a separate chapter of the Constitution which should provide that: (1) they are independent and discharge their duties subject only to the Constitution and the law, and they must be impartial and must exercise their powers and perform their functions without fear, favour or prejudice; (2) other organs of State, through legislative and other measures, must assist and protect these institutions to ensure the independence, impartiality, dignity and effectiveness of these institutions; (3) no person or organ of State may interfere with the functioning of these institutions; (4) they are accountable to the Parliament and must report on their activities and the performance of their functions to the Parliament annually, or as required.

4.105 Regarding the Elections and Boundaries Commission, the Constitution provides in Section 71(12) that in the exercise of its functions under that section, the Commission shall not be subject to the direction or control of any other person or authority. However, its main functions in respect of constituency boundaries are outlined in Section 72. It would be clearer and put to rest any doubt whatsoever if the injunction in Section 71(12) also applies to Section 72.

4.106 It must be emphasised, however, that the independence of these institutions in relation to their constitutional duties does not mean that they should operate as silos and not interact with other branches of government, including the Executive. That interaction must be governed by mutual respect, the values enshrined in the Preamble, and an unremitting focus on the public good. The recent conflict between the Executive and the Auditor General, and previous conflicts between the office of the DPP and the Executive, and between the Judiciary and the Executive indicate that the interaction has sometimes not been well managed.

4.107 Good governance of the 'fourth branch' institutions, begins with making the right appointments to these positions and ensuring that the incumbents have the requisite professional skills, experience, wisdom, and good judgment. While these institutions are independent in the conduct of their functions under the Constitution, they must also be accountable for integrity and for performance. Accordingly, apart from routine reporting to Parliament, the Constitution should

make provisions for the removal from office of any of these ‘fourth branch’ office-holders, subject, of course, to due process, where the officeholder: (a) willfully violates any provisions of the Constitution; (b) behaves in such ways as to bring the office into hatred, ridicule or contempt; (c) behaves in a way that endangers the security of the State; (d) is unable to perform the functions of their office because of physical or mental incapacity; or (e) performance of their duties is so unsatisfactory as to justify their removal from office. The provisions of Section 136(8)-136(11) are largely adequate to address official misconduct. However, provision should be made for the process of removal to be triggered by public complaint and petition to the President concerning the officeholder.

4.108 Some independent institutions would like a greater degree of financial independence to protect their institutional independence. Other than the Judiciary, the Office of the President, the Director of Public Prosecutions, and the Parliament, which both have large staff numbers and can build the capacity to effectively and efficiently manage budgeting and expenditure of allocated funds, the Committee does not think the replicating of similar capacity across all the other institutions is practical.

Legal Officers: The Solicitor General, Chief Parliamentary Counsel, Chief State Counsel, Registrar General

4.109 The Public Service Commission should be responsible for the staff throughout the Public Service who fall within the Legal Service grouping. This would include the Chief Legal Officers namely, the Solicitor General, Chief Parliamentary Counsel, Chief State Solicitor, and the Registrar-General. The Legal Service grouping also includes State Counsels diffused throughout the Public Service. The Chief Legal Officers occupy important protected offices within the Executive branch and relate to the Executive through the Attorney-General. Although it would appear to be obvious, for the avoidance of doubt, the Constitution at Section 76 should make clear that the State’s Chief Legal Officers who are involved in drafting of legislation, civil litigation, certification the legal status of persons, land, companies, and other matters on behalf of the State, carry out their functions only under the aegis of Ministry of the Attorney-General, and not under any other Minister.

The Director of Public Prosecutions

4.110 The DPP is independent in the decision-making process related to the prosecution function. The Attorney General is directly responsible to Parliament for the administration of legal affairs, while the DPP is indirectly accountable to Parliament. However, the interconnectedness of the responsibilities of the offices of the Attorney General and the DPP demands an effective relationship between them to ensure that both can fulfil their critical public duties while achieving the constitutional goal of an independent, apolitical, and accountable prosecution service. The offices must work collaboratively and consultatively in a way that does not intrude on the

independence of the DPP’s prosecutorial role and the administrative and policy responsibilities of the AG.

4.111 The DPP is the largest Criminal Law Chamber in the country and should be in control of its resources. The Committee proposes that the DPP have reasonable authority over its human and financial resources appropriated to the criminal justice department. It must implement systems to ensure accountability for efficient financial management and the effective management of its human resources.

Power of Pardon

4.112 Ambiguity or conflict between Executive offices ought to be rare. The President’s power of pardon in Section 87 has been the subject of debate. The section seems to be clear that the President exercises the power of pardon under Section 87(2) on the advice of an Advisory Committee on the Power of Pardon, established under section 88, which is convened by a Minister appointed by the President on the advice of the Prime Minister. However, Section 87(1) gives the President a pre-conviction power of pardon which could be interpreted as not dependent on the advice of the Advisory Committee. It has been suggested that Section 87(1) must be read in conjunction with Section 80 which states:

80. (1) In the exercise of his functions under this Constitution or any other law, the President shall act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet, except in cases where other provision is made by this Constitution or such other law, and, without prejudice to the generality of this exception, in cases where by this Constitution or such other law he is required to act—(a) in his discretion; (b) after consultation with any person or authority other than the Cabinet; or (c) in accordance with the advice of any person or authority other than the Cabinet.

4.113 For the avoidance of doubt, the Constitution should make clear that the President exercises the power of pardon on the advice of the Advisory Committee, and the power of pardon is not an area where the President is empowered or required to act in her own discretion.

4.114 The Constitution permits the Minister to ignore the advice of the Advisory Committee. The Advisory Committee should be chaired by a person appointed by the President, not by the Minister, and the President should be advised by the Advisory Committee on his exercise of the power of pardon under Sections 87 and 89.

Service Commissions

4.115 An analysis of the submissions received on Service Commissions reveals that the consensus is that Service Commissions can be of greater value in overseeing and regulating the human resource functions of State institutions. Since before independence, the Commissions have

played a critical role in the governance of the Public Service human resource function, and it is time to consider a more relevant and robust role in keeping with national development aspirations.

4.116 Essentially, the transformation of the Commissions must be toward a cost-effective, multi-faceted corporate regulatory and risk management institution, regulating the strategic human resource function across the public service. Radical change cannot happen overnight, and the strategy now should be to transform them from a provider of human resource services to a regulator of human resource functions.

4.117 Transformation of the Commissions should be contingent on the following:

- a. a strategic vision for national development,
- b. national plans and strategies to transform the public service, which has maintained colonial-era traditions in structure and systems that pose severe challenges to getting business done efficiently,
- c. a new organisational structure,
- d. a rationalisation of the Public Service Human Resource Management Divisions (HRMDs) that are dispersed across disparate Ministries, Departments and Agencies, and building capacity of Human Resource Divisions in the Public Service,
- e. resolving and defining the relationship between Ministers and senior public servants i.e., Permanent Secretaries, Heads of Departments and Agencies, and
- f. the creation of a Head of the Public Service (HPS) in the Public Service establishment with administrative responsibility for overseeing and coordinating the work of Permanent Secretaries, Heads of Departments and Agencies to assist the Government through technical and policy support and the delivery of services. The position will mobilise key personnel and resources and collaborate with the Service Commissions and the Executive Branch to optimise government policy deliverables and service to citizens.

4.118 The role and functions of the Service Commissions should be redefined to enable them to develop efficiency and accountability and promote high standards and transparency of the Public Service and State agencies. There should be specialised regulatory service commissions responsible for specific services i.e., judicial service, public service, protective service, and teaching service.

4.119 As regulatory agencies, they will promote and support good government, and without compromising their independent decision-making responsibilities, they will engage in high-level

consultations with the Executive Branch, the Head of the Public Service, and Permanent Secretaries to achieve administrative efficiency and effectiveness.

4.120 Changes in the functioning of Service Commissions are critical if we are to improve the governance and management of the human resource and administrative functions of the various services. Such changes must enhance effectiveness, transparency, accountability and promote ethical standards within the Services.

4.121 In support of the comments received, the Committee suggests that the Commissions become (1) regulatory bodies overseeing the human resource function of the Services and (2) to provide human resource services for executive management of the Public Service and other State institutions as follows:

- a. Regulatory: developing regulations and policies to govern the human resource functions in the Services,
- b. Human Resource Services: provide professional and impartial human resource services for executive managers in the public services,
- c. Oversight: Monitor and audit the human resource operations of the Services and make recommendations for improvement,
- d. Accountability: Establish policies to improve transparency and accountability, and
- e. Establish mechanisms for public scrutiny and to promote ethical standards.

Public Service Commission

4.122 The rationale for the Public Service Commission was to maintain a professional and impartial civil service insulated from political interference and the possibility of nepotism and cronyism in public service employment. As implemented since before Independence, the Commissioners are, apart from the Chairman, part-time and have the responsibility to appoint, transfer, promote and discipline tens of thousands of public officials within the civil, prison and fire services. The span of responsibility of the Public Service Commission is enormous. The same can be said of other Service Commissions. In this task, Service Commissions are served by the Service Commissions Department, headed by the Director of Personnel Administration. This Department currently supports the Public, Police, and the Judicial and Legal Services Commission. Yet another department, the Personnel Department, headed by the Chief Personnel Officer, deals with the classification and remuneration of all jobs in the Public Service, including contract employees, which have grown substantially in number.

4.123 Permanent Secretaries and Heads of Departments are responsible for managing the performance of staff they do not hire, cannot reward, and effectively cannot personally discipline.

4.124 The end result of this management structure are public services notorious for their low productivity, poor customer service, and weak discipline. There are certainly pockets where the opposite is true. However, it is difficult to motivate staff to improve performance because there are few incentives that can be legitimately offered. Regulation 18(1) states that: “In considering the eligibility of officers for promotion, the Commission shall take into account the seniority, experience, educational qualifications, merit and ability, together with relative efficiency of such officers, and in the event of an equality of efficiency of two or more officers, shall give consideration to the relative seniority of the officers available for promotion to the vacancy.” The reality is that, wherever performance management lacks rigour, seniority becomes the critical determinant.

4.125 It is even harder to discipline poor performance because the regulations are complex and difficult to enforce. The weak public service management system and complex regulations make decisions of the Commissions open to multiple levels of challenges.

4.126 While it is important to protect senior levels of the service from political interference, this is hardly necessary at the lower levels where a policymaking role or ability to influence policy is completely absent. The Public Service Commission should be redirected to deal only with the appointment, transfer, promotion, and discipline of the senior levels of the Public Service, that is, Permanent Secretaries, Deputy Permanent Secretaries, and department heads of equivalent rank to those positions. These will number around one hundred (100) persons. The Service Commissions should develop guidelines for the recruitment, appointment, transfer, promotion, and discipline of staff and ensure these are implemented in the ministries and agencies. Ministries (which will be fewer in total) will have their own Human Resource Divisions reporting to the Permanent Secretaries who will be responsible for staff recruitment, performance, and discipline. The Chief Personnel Officer will develop and issue broad guidelines for the compensation of staff across the Public Service and approve staff complements for ministries and departments so that the wage and salary bill is defined and commensurate with the work to be delivered.

4.127 While the Prime Ministerial veto has been criticised, we agree with the position of the Wooding Commission on this issue, where they argued as follows:

288. We recommend that the Prime Minister should retain his right of veto in respect of appointments to the offices of Permanent Secretary, Deputy Permanent Secretary, Chief Technical Officer, Deputy Chief Technical Officer, Chief Parliamentary Counsel, Director of Personnel Administration, Solicitor General, Commissioner of Police and the Deputy Commissioners of Police. These officials are so directly concerned with the formulation of policy and the supervision of its implementation that they must be acceptable to the political chiefs with whom they must have a close working relationship. This does permit

some measure of political influence in purely public service appointments but is necessary on purely practical grounds.

Permanent Secretaries

4.128 The proposed decentralisation of the Service Commissions' HR functions to Permanent Secretaries necessitates a paradigm shift in the way public service business is done. They will now be tasked with core human resource responsibilities, including succession planning, recruitment, transfer and promotions, and discipline of staff and consequently, there must be sustained business planning, cooperation, and collaboration across the Public Service to ensure that work is aligned with the deliverables of government policy and for public administration effectiveness.

4.129 Permanent Secretaries must be capable of providing decisive and transformational leadership of the workforce; they must be problem solvers and not problem keepers. Accordingly, it is appreciated that in the new dispensation, building the capacity of the team of Permanent Secretaries, Department heads and the Human Resource Divisions is an essential requirement before the implementation of the new model.

4.130 Permanent Secretaries must accept the principles of accountability, which include transforming government policy directives into specific and measurable goals, objectives, and standards to achieve desired outcomes. They are responsible for directing and managing staff to increase productivity, and they must erode the silos within departments and across the public service, which are barriers to productive dialogue and collaboration in getting work done. They must be politically sensitive and delineate priorities. They must embrace the responsibility for leading and managing change.

Police Service Commission

4.131 The Police Service Commission (PSC) is an independent body responsible for recruiting, promoting, transferring, and exercising disciplinary control over the Commissioner of Police (CoP) and the Deputy Commissioners, including their removal from office. The Commission monitors the efficiency and effectiveness of their performance, hears, and determines appeals arising from decisions of the CoP or any person to whom the CoP delegates powers to make appointments on promotions or as a result of disciplinary proceedings brought against a police officer appointed by the CoP. The Commission has the power to call on the CoP to produce documents on financial, legal and personnel matters of the Police Service. It is the constitutional body to hold the CoP and Deputies accountable for the performance of the Police Service.

4.132 Given the nature of its scope of responsibilities, it must ensure the independence of its decision-making in executing its functions to minimize the risks of perceptions of political patronage and influence.

4.133 The Commission should have pertinent, firsthand knowledge of the performance of all Commissioners in exercising the recruitment and performance management functions. Therefore, all ranks within the executive level of the Police Service should fall within its purview. This will include the rank of Assistant Commissioner of Police.

4.134 The Committee noted that unlike other Commissions, politicians, by way of debate in the House and approval by the majority, are allowed to interfere with the appointment of members to the Police Service Commission. This undermines the integrity and independence of that Commission.

4.135 Consideration should be given to changing the Commission's name to the Protective Services Commission and expanding its mandate to include the Prison Service, the Fire Service and the Municipal Police Service. Specifically, the human resource functions of recruitment, appointment, transfer, promotion and discipline of the executive management i.e., the Prison Commissioner and Deputy Commissioner, the Chief Fire Officer and Deputy Chief Fire Officer, and the head of the Municipal Corporations—an Assistant Commissioner of Police Service Commissions.

Appointment of the Commissioner of Police and the Deputy Commissioners of Police

4.136 The Police Service Commission (PoISC) requires special consideration because its operation has been subjected to constitutional amendment (Act No. 6 of 2006). The effect of the amendment was to delegate to the Police Commissioner within the Constitution the power of appointment, transfer, promotion, and discipline to the ranks below that of Deputy Commissioner of Police, remove the Prime Minister's veto over the appointment of the Commissioner and Deputy Police Commissioner, and insert the Parliament into the process of approval of the persons appointed to the posts of Commissioner and Deputy Commissioner of Police.

4.137 While Section 127 (1) permits delegation of the power of a Service Commission with the approval of the Prime Minister, appointments by the Service Commissions are not and have never been subject to Parliamentary oversight or approval. However, in respect of the Police Service Commission, the process for so doing inserted the office of the President, who is required to receive the merit list of persons selected and nominated by the Police Service Commission for appointments as Commissioner and Deputy Commissioner of Police and to transmit a Notification in respect of each person nominated to Parliament for affirmative resolution. The Police Service Commission may make the appointment only after affirmative resolution of Parliament.

4.138 This process for selecting and appointing a Commissioner of Police and Deputy Commissioners has proved cumbersome and prejudicial to candidates whose names come before Parliament and may be rejected with unwarranted reputational consequences. In addition, the current system fails to encourage and ensure that the most talented candidates apply and are nominated.

4.139 There has been perceptions of political interference in the Police Service Commission’s work. The Committee proposes a clear delineation of roles and the adoption of a protocol that promotes consultation without compromising the Police Service Commission’s independence and the Government’s overarching responsibilities for national security and the safety of citizens. The recruitment process is entrusted to the Police Service Commission to ensure that it is robust, apolitical, and unbiased.

4.140 There is considerable reason to abandon the current process of Parliament’s intervention and restore trust in the work of the Police Service Commission. Parliament is not a barrier to perceptions of political interference in any process, and its intervention did not serve to mitigate such risk other than to harm the reputations of nominees and politicise the process.

4.141 Cognisant of public feedback, the Committee suggests reverting to the previous process, whereby the PolSC recommends suitable persons to the Prime Minister for the position of Commissioner of Police and Deputy Commissioners, with the Prime Minister having a veto. The Prime Minister should inform the Police Service Commission of the reason for any veto. For the same reasons, the Committee also recommends reverting to the previous method of appointment of the Police Service Commission.

4.142 The Committee also recommends that the Police Service Commission thoroughly evaluate the current system to establish mitigating factors, including compensation, that prevent applications from qualified recruits from among the best talent within Trinidad and Tobago, the CARICOM region, and the diaspora. The Police Service Commission should recommend the requirements for amended legislation to the Government.

Teaching Service Commission

4.143 The education sector requires separate consideration as it is a highly specialised area embracing primary and secondary school education disciplines. According to the Central Statistical Office’s education statistics, there are four hundred and seventy-seven (477) primary schools, one hundred and thirty-four (134) secondary schools, and twelve (12) special schools. These are under the purview of the Teaching Service Commission, in addition to all directors, the Chief Education Officer, school supervisors, guidance officers, and curriculum officers. Educators and criminologists have made critical linkages between educational underperformance and crime and the correlation between school dropouts and youth incarceration. Professor Ramesh Deosaran said in his seminal publication, *Inequality, Crime and Education in Trinidad and Tobago: Removing the Masks*,

“Family fragmentation and inequalities in the education system are two factors contributing to youth violence and delinquency in the society.”

4.144 Ensuring efficient and effective human resource management, including the recruitment, on merit, of experienced, qualified, and emotionally intelligent educators in the staffing of primary and secondary schools, is necessary for the holistic education of our children and for achieving national education and development goals.

4.145 Towards this end, the recruitment of educators cannot continue in the present vacuum of proper strategic planning, human resource planning and development, succession planning and performance audits. There can be no effective human resource management in the teaching service in the absence of an efficient digitalised human resource database on the current complements of principals, educators, and management personnel, and in the current inefficient system where principals have no say in the recruitment of teachers and staff in their schools, and in disciplining staff. It is appreciated that such responsibilities must be commensurate with schools' governance and leadership skills and abilities. Consequently, there is a need to build school leadership capacity and reconcile responsibilities between the Teaching Service Commission and the Ministry of Education's Human Resource Management Division, which is responsible for recruiting teachers at the primary school level.

4.146 The Teaching Service Commission should independently audit and monitor the digitalised staffing establishments of schools to effectively identify staffing needs, especially for primary schools where children learn foundational skills that prepare them to advance through the education system for work and active citizenship. It is the bedrock of their development. It is the key to their health and breaking the cycles of poverty and crime.

4.147 It is proposed that the Teaching Service Commission establishes its own regulations to govern the human resource management process. Given the unique nature and varied composition of school communities and the education system, the Commission members should have considerable experience in primary, secondary, or tertiary education sectors and school operations. Furthermore, the provisions of the Tobago House of Assembly Act No. 40 1996 should be considered, with representation from the Tobago education sector on the Commission.

Democracy

4.148 'Democracy' or a 'democratic society' is difficult to define precisely. It is a multi-faceted and multi-layered concept which encompasses notions of individual freedoms which are respected and protected, the idea of citizen participation in decision-making, as well as notions of the right to elect representatives of one's choice to make laws and exercise executive authority in the public interest and not in their personal or sectional interests.

4.149 Once a colony of Britain, which is a 'monarchical democracy', Trinidad and Tobago inherited its institutions, processes and, to some degree, its political culture from Britain. These include our system of elections ('Single Member Plurality' or 'First Past The Post'), the institutions and operations of Parliament, including the Standing Orders for its conduct, a largely ceremonial

Head of State, the structure and exercise of Executive power through a Cabinet drawn largely from the Lower House, and the structure and institutions of the Judiciary. On becoming a republic in 1976, the British monarch was no longer our Head of State, and we have since had a President. While certain powers of appointment were removed from the Prime Minister and reposed in the President, the power of the Prime Minister remained pre-eminent.

4.150 In a world which, in recent times, has seen the rise of populism, as well as democracy in retreat, Trinidad and Tobago has maintained fairly strong democratic credentials despite periods of social unrest and occasional political turbulence. There have been states of emergency, a mutiny in the Regiment, and attempts at repressive legislation which prompted popular protest (e.g. Public Order Act 1970). However, citizens have had recourse to the courts to protect, defend and vindicate their rights. The attempted coup in 1990 remains the only significant blot in our post-Independence constitutional and electoral history.

4.151 General Elections have been held when due and generally free and fair. Power has changed hands peacefully between political parties. There have been dramatic electoral outcomes, such as the 1971 ‘No Vote’ campaign, where all the seats in the legislature went to one party, the PNM. That party dramatically lost the 1986 election, obtaining only 3 seats out of 36 seats. There was an 18:18 tied election in 2001 with the result that a Speaker could not be elected, Parliament could not convene, and fresh elections eventually had to be called.

4.152 However, local government elections have from time to time been postponed by Parliament. Local Government is a creature of Parliament and is not in the Constitution. Since independence, there have been multiple attempts at local government reform with the stated intention of devolving more authority to local government bodies. While these attempts have led to some minor changes, the system remains heavily tilted toward the central government in Port of Spain, with local government institutions neither properly enabled nor empowered.

4.153 The demands of the people of Tobago for the recognition of its history, culture and special circumstances arising from its geography have been partially successful in the creation of the Tobago House of Assembly and quadrennial elections on the island of Tobago for representatives to the Assembly and an Executive Council.

4.154 Citizen participation in the government of the country has been weak in part due to the lack of participatory representation by both members of Parliament and local government representatives in engaging their constituents. Economic development, suburbanisation and the emphasis on central government centred on the person of the Prime Minister, have lessened the importance of village councils and local government. Citizens may sometimes voice their problems and concerns via noisy protest involving blocking of roads and tyre-burning to draw official attention to their plight through the media. The modality of protest has meant that we have not sufficiently practised debate and dialogue, conflict resolution and consensus-building. Fortunately, though anger is certainly present, protest rarely becomes violent.

Electoral System

4.155 A representative, responsive and responsible Parliament is the beating heart of a democratic society. The first-past-the-post (FPTP) electoral system is based on single-member constituencies and, nominally, at least, provides for representation of the people of a constituency in the Parliament. Yet, the perennial complaint is that once elected, representatives are rarely seen in their constituencies and do not take back to their constituents the legislation which is before Parliament for debate and direction. The sentiment expressed in submissions to this Committee and in the Ramadhar Committee Report is that constituents should have the right of recall. The modalities of giving effect to recall may be somewhat complicated, and, in any event, the need for recall would depend on whether the constituency representative system is retained at all or whether the system of representation makes recall unnecessary.

4.156 The reality of our current system is that: (1) the electorate does not vote for a constituency representative but for a political party and specifically for its political leader; (2) parliamentarians are preoccupied with national issues rather than local issues; (3) since the remuneration of parliamentarians presumes part-time engagement, many, if not most parliamentarians on the government bench are also Ministers or parliamentary secretaries and are consumed with those executive responsibilities; and (4) the results of elections, where third parties are running, often produce members of Parliament elected by a plurality of voters and may produce minority governments at the national level. In effect, the FPTP system in Trinidad and Tobago does not pass the test of effective representation of constituents and may produce minority governments, wasted votes and hence the perception and reality of disenfranchisement and inequity.

4.157 The main argument for FPTP is that it produces stability in government. There are no lengthy negotiations between political parties for the formation of a government after a general election. In addition, with strong party discipline and a small back bench or no back bench at all, the government is unlikely to fall due to internal revolt, which is particularly important where the majority in the legislature is slim. The Crossing the Floor Act reinforces party discipline over elected members.

4.158 The Committee is persuaded that in response to the robust concerns expressed by most of the public, the time is opportune to consider the shift to a form of proportional representation. This would have multiple beneficial effects. Proportional representation would (1) reduce the number of ‘wasted votes’ and thereby encourage voter participation in elections and citizen participation in government; (2) reduce, if not eliminate, the alienation felt by sections of the population when their party is not in power which might be for extended periods; (3) recognise more interests and policy positions held by persons with differing ideological positions; and (4) encourage broader dialogue and cooperation in developing policy. Proportional representation would not necessarily eliminate the phenomenon of minority governments. It may precipitate coalitions either pre- or post-election and give minority parties outsized influence in government policy making. These

disadvantages are outweighed by the advantages of inclusiveness and participation, which are likely to result.

4.159 The Committee noted that proportional representation comes in several different forms of varying complexity and with different outcomes in respect of proportionality. The List PR system is widely used but has the disadvantage that, in treating the entire country as one large constituency, it dispenses entirely with the idea of representation at the local level. Electors vote for a party, not for a constituency representative. There is clearly popular demand for the continuation of representation at the local constituency level. In addition, although Trinidad and Tobago is a small country, there is considerable diversity between and among various parts of the country with differing local needs. Constituency representation should be maintained.

4.160 To maintain and indeed strengthen constituency representation and citizen participation, the Committee proposes that first-past-the-post be retained for election to the House of Representatives. However, during the same general election, the elector will vote for his constituency representative and may also vote for a political party. The votes for the political party will determine the election of candidates to the Senate. The candidates for the Senate will be listed by each party contesting the general election in the order in which they are to be appointed to the Senate if the party is successful in achieving the threshold percentage of votes in the general election.

4.161 Therefore, in the proposed system, the elector has two votes, one for a constituency representative and another vote for a political party. There may be many more political parties on the list than candidates for constituency representative. The elector may use one or both votes, vote for a representative belonging to one party and the other vote for the same party on the ballot, or use the second vote for another political party on the ballot. Voting under this system is not complicated as the ballot paper simply has two (2) sections and the elector's votes can be applied in the same process on the same ballot paper. Counting is also straightforward.

4.162 The list seats in the Senate are allocated based on the proportion of votes obtained by the political parties subject to some threshold, say 5% percent of the total votes. This means that smaller parties which are unlikely to win a constituency contest could still gain seats in the Senate if they are able to gather enough votes nation-wide.

4.163 Given the enhanced qualifications proposed for membership in the Senate, it would remain a deliberative body that scrutinises legislation and gives voice to interests other than local or constituency interests. However, most of the Senate will now be elected on the basis of proportional representation. The number of Senate seats should be increased to fifty-five (55), with the President appointing ten (10) Independent Senators and five (5) Tobago Senators (on the advice of the Chief Secretary and the Minority Leader). The remaining forty (40) Senate seats are then to be allocated to political parties based on the results of the List votes in the general election. This

would then provide an effective mechanism for smaller and/or special interest parties to obtain seats in the Parliament and have their voices heard.

4.164 The electoral system proposed is similar to the proposal made by the Ramadhar Committee and has several virtues. The proposed system (1) retains and indeed strengthens constituency representation and allows for recall; (2) reduces the problem of ‘wasted votes’ by giving electors a second, ‘party’ vote that results in the election of members of the Senate; (3) allows for the representation of smaller political parties through election of their candidates to the Senate where they will have an opportunity to influence legislation and government policy; and (4) increases the likelihood of a general election producing a government even if it may not be a majority government.

Election Date

4.165 Section 68(1) of the Constitution gives the Prime Minister the power to dissolve Parliament “at any time”. This power is a feature of the British electoral system, which we adopted. It is an arbitrary power which can be abused, giving the incumbent party of the Prime Minister an advantage over electoral rivals. A fixed date for general elections would be consistent with fairness, allowing all political parties, as well as the private sector, to plan their affairs knowing precisely when an election is due. The fixed date should also take into account the most favourable time of year in respect of weather conditions, school and university examinations, and proximity to the end of the fiscal year. Special arrangements can be specified if a government collapses in office and an election then has to be called. Section 68(2), which provides for a five year Parliament, will have to be amended since with a fixed election date, the life of a Parliament may be less than five years, but will be more than four years.

Referendums

4.166 There is strong popular support for instituting referendums. However, the challenges with referendums are often not well appreciated. First, Trinidad and Tobago has a system of representative and responsible government whereby the elected government makes policy and decisions based on its assessment of the public interest, and the electorate passes judgment on its performance at a general election. Referendums could have the effect of undermining the government’s policies and programmes, which if binding, could force implementation of policies and programmes that are not well conceived or ignore conceptual or implementation complexities.

4.167 Second, the demand for the referendum device may reflect the current reality that members of Parliament do not serve their constituents well, do not keep them informed, and do not seek their views on legislation. If representation were better, there might well be less perceived need for referendums to influence policy and legislation.



4.168 Third, a referendum question and outcome may be overturned by the courts if the court is of the view that it is unconstitutional. This may occur if the subject matter of the referendum attacks the rights of minorities. The legitimacy of the result may turn on the turnout of the electorate. If the threshold established is a bare majority and the vote is close, the losers may feel particularly aggrieved. If the threshold is high, the proposal may be hostage to a minority or to the politicisation of the issue on partisan grounds. Referendums may also be costly, although electronic voting remotely could lower the cost if the electorate has confidence in that method of voting.

4.169 As a mechanism for altering the Constitution, the Committee agrees with the position of the Wooding Commission which wrote as follows:

“In our view, a referendum is not a particularly accurate method of determining the state of public opinion on issues of constitutional reform. Inevitably questions on a referendum must be framed so that a yes/no answer will become possible. But in so many cases where the issues are difficult such a clear-cut answer is seldom accurate. Often there is a desire to add a qualification which the form of the referendum does not allow. Further, under a system of party politics it is quite probable that many an answer given will not be an answer on the merits to the question asked, but will merely reflect loyalty to what is known to be the party's view lest the defeat of the party on the issue submitted should result in consequences too undesirable to be permitted. Accordingly, we reject the idea of a referendum as a final prerequisite for amending the Constitution.”

4.170 Neither the Principles of Fairness nor the Sir Ellis draft constitutions made provisions for a referendum as a means of amending the Constitution. On the other hand, the Ramadhar Committee seemed inclined to accept the use of referendums for constitutional reform if the referendums are sufficiently distant in time from a general election so as not to be influenced by party politics. There is, however, no guarantee that such a restriction can be implemented.

4.171 The Committee is of the view that in a plural society such as ours with still polarised politics, the constitutional referendum should be utilised only for matters relating to State sovereignty such as a merger with another State, or division or cession of the territory of the State of Trinidad and Tobago.

4.172 However, referendums, as a method of direct democracy, are useful outside of the arena of constitutional reform, giving citizens a voice on significant matters or policies. Accordingly, Parliament should pass ordinary legislation providing for referendums on such matters. The legislation would indicate whether a referendum is binding or non-binding, how a referendum is initiated, and what the thresholds for approval of the measure are in each instance.

The Rule of Law

4.173 In a post-colonial society with a legacy of unjust laws which discriminated against the local population on the basis of religion (e.g. Shouter Baptist Ordinance, non-recognition of non-

Christian marriages), gender, class, and so on, the ‘thick’ or substantive conception of the rule of law is to be preferred. It is not enough for laws to be certain, clear, and not retrospective in their application. Laws must also be just, and in that regard, citizens must be assured of the protection of the law, of due process, and fairness. Yet ironically, our current apex court, in upholding the Savings law clause in our Constitution even where there is a violation of fundamental rights, is supporting rule *by* law and not the rule of law.

4.174 Laws can never address every possible issue or dispute that may arise in the course of human behaviour and interaction. The Rule of Law means that those who exercise state power and citizens in their dealings with each other must act with the principles of fundamental fairness and respect in mind. We must first see each other as human beings invested with inalienable rights and dignity. We must hear each other, especially when our interests and points of view diverge. We must touch each other with caring and concern. We must do these things before, during and after applying the laws, rules and regulations which may govern our interaction.

4.175 The current Constitution mentions the rule of law only in the Preamble. Yet it would be true to say that the principle of the rule of law permeates every aspect of the Constitution. In addition, the jurisprudence, which has developed in respect of the elements of the rule of law from as early as the 1970s, has made clear that the rule of law is the bedrock of the rights and freedoms we enjoy and our courts have consistently upheld it, except where the Savings law clause has prevented them from so doing.

4.176 Yet, as the discussion in Section 2 shows, Trinidad and Tobago’s global ranking regarding the Rule of Law is not particularly high due to our very low score in respect of Criminal Justice. As the adjudicated constitutional cases have demonstrated, the problem lies not with the courts primarily, but rather with the Executive, which, on too many occasions, by its acts or omissions, treats citizens unjustly who then must resort to the courts for redress.

4.177 Section 5 offers critically important protections in respect of the right to a fair trial by an independent and impartial tribunal. However, one important lacuna in Section 5 is the right to a trial within a reasonable time. The clock for the court’s assessment of reasonableness starts from the time a person is arrested. It would not be appropriate to specify what a reasonable time frame is since there are a variety of factors which attend each case, and it is best left to the judges, mindful of the need to uphold the rule of law, to determine in each case what a reasonable time for a trial is. The right to a trial within a reasonable time should be incorporated into the Constitution.

4.178 Executive and administrative decisions must be rational and reasonable. Decision-makers must be guided by the Constitution, the law, and by established norms of good conduct, and not by personal or ethnic preferences or ideology. Decisions by those who hold public office must be just.

Integrity Commission

4.179 Corruption by public officials, who are then not held accountable, subverts the rule of law. The institutions which are intended to hold public officials accountable are seen to be weak. Since its inception, the Integrity Commission (IC) has, to a larger extent, been mired in controversy. Commissioners have had to resign, and the IC is publicly seen as being ineffective. The IC has instituted two cases against Members of Parliament, one of which failed for lack of evidence and the other was tainted by bias. Citizens with the knowledge, ability, and desire to serve are reluctant to do so because of the invasiveness of the IC in the personal and family affairs of those willing to serve. Whilst there is a need for honesty, transparency, and integrity, the IC, as it presently operates does not achieve this objective. The only achievement of the IC is the publication of the names of officials who fail to file their annual declaration of assets on time.

4.180 The Integrity Commission itself has proposed several amendments to the Integrity in Public Life Act, which would (1) significantly enhance its powers of investigation, (2) secure the power to summon witnesses, and (3) expand the list of persons in public life to include chief legal officers and heads of independent institutions, including the Commissioner of Police, Chief Immigration Officer, Transport Commissioner and Director General and Deputy Director General of the Revenue Authority. The Committee endorses these recommended changes and would add the position of Procurement Regulator to be included in the schedule of persons in public life. Consideration should also be given to empowering the Integrity Commission, with the fiat of the Director of Public Prosecutions, to undertake prosecutions which will allow for speedier prosecution of those who are alleged to engage in corruption.

4.181 The Committee proposes the following additional amendments. First, the current requirement of the Integrity in Public Life Act for an annual declaration of assets by persons in public life has proved to be onerous and a disincentive to persons who might otherwise be desirous of giving public service. Experience with the requirement over the last twenty (20) years casts doubt on the efficacy and usefulness of these annual declarations. In keeping with the views of comments received, the Committee recommends that a person in public life should file a declaration of assets on taking office and subsequently file a declaration only when there is a significant or material change in their circumstances as prescribed by the Integrity Commission. The declaration should be significantly reduced in scope and simplified to obtain data and information on the person's total net assets. A significant or material change can be set, at say, an increase of at least 20% percent since the initial declaration. Second, the Integrity Commission should concentrate on investigating allegations made concerning public officials who are alleged to have accepted bribes or of being unjustly enriched, including unaccountable enrichment of family members.

4.182 Third, the Integrity Commission should be charged with detecting, investigating, and reporting on serious or systemic corruption in public bodies. The investigation of a corruption issue may be triggered by a complaint that must be lodged with the Integrity Commission and

which raises a credible allegation that a person has done something that involves a public official, which could constitute corrupt conduct as defined in law. Fourth, the list of persons who can be investigated by the Integrity Commission and fall within its jurisdiction should include all persons performing a public function, including Members of Parliament; any officer within the public, judicial, legal, parliamentary, or protective services; contracted officers employed by public bodies; members of the boards of state enterprises; and staff of state enterprises and statutory corporations.

4.183 Fifth, consideration should therefore be given to enhance unjust enrichment legislation as well as whistleblower legislation to cover all public officers, including those referred to in the IC Act. Consideration should also be given to having an initial form of declaration of assets and liabilities of a public official for the period of twelve months prior to the first submission of a statement of affairs. Thereafter, statements should only be made if there is a material change in the previous statement. Sixth, the annual reports of the Integrity Commission should be debated within a three-month period after being laid. Consideration should also be given to establishing a written code of conduct which must be reviewed periodically as appropriate.

4.184 The effective discharge of these functions would require that the Integrity Commission should be staffed with competent personnel, including but not limited to certified forensic auditors and accountants and experts whose gathering of evidence would then be hopefully acceptable to the office of the Director of Public Prosecutions to initiate the necessary legal actions. The Commission should continue to play its role in educating the public, including our children about the problem of corruption, the risks and their prevention.

Ombudsman

4.185 The Ombudsman was one of the few recommendations of the Wooding Commission adopted by and incorporated into the 1976 Republican Constitution. The Ombudsman, who is an officer of Parliament, has a restricted mandate to investigate administrative injustice arising from the act or omission of any government department, including local government authorities, although a long list of items out of the scope of the Ombudsman are provided in Schedule 3. Where the complainant has the option of redress through the court, the Ombudsman cannot investigate unless the Ombudsman thinks it is unreasonable to expect the complainant to do so. The Ombudsman has the power to summon witnesses and obtain evidence under oath and to enter and inspect the premises of any department of government or other approved authority, to request, examine, and, where necessary, retain documents kept on such premises and thereto carry out any investigation in pursuance of the functions of the Ombudsman.

4.186 The Office of the Ombudsman has not lived up to the expectations of the Wooding Commission, probably because of its purely investigative powers and inadequate staffing. Moreover, many persons appear to be unaware of its existence or its role. The Principles of Fairness Committee proposed the appointment of a Deputy Ombudsman but otherwise proposed

no changes. The Sir Ellis draft Constitution proposed no changes. However, the Ramadhar Committee opined that:

“The office of the Ombudsman has been viewed as an ineffective institution mainly because there is a perception that Parliament does not take it seriously.”

In order to reflect its constitutional mandate, it is suggested that the Ombudsman be redesignated the Commissioner for Public Justice. With a Parliament comprised of full-time legislators and an enhanced committee system, the reports of the Ombudsman would be taken more seriously and acted upon. This Committee endorses the view of the Ramadhar Committee.

Auditor General

4.187 The Office of the Auditor General is a key part of the accountability framework. It remains, however, moored to the 1960s conception of backward-looking financial auditing. Modernising the framework of public sector accountability will require the Auditor General’s Department to be empowered and enabled to conduct performance or value-for-money audits. Indeed, the Wooding Commission and the Ramadhar Committee made a recommendation in this regard. In addition to conducting performance or efficiency audits, large government projects involving information and communications technology as well as large infrastructure projects should involve the Auditor General’s Department at an early stage in the process in accordance with best practice. Accordingly, the Committee submits that Sections 116(2) and 116(3) be amended to require the Auditor General to conduct performance audits. We also believe that the Constitution should clearly provide that the Auditor General should have access to all financial records of public bodies, including the Board of Inland Revenue. Together with the enhanced powers of a Parliament of full-time members who can call witnesses and investigate matters of concern relating to public expenditure, the accountability framework for the public sector should be significantly improved.

4.188 The Auditor General’s Department should benefit from the proposed reform and decentralisation of the Public Service Commission which devolves responsibility to Permanent Secretaries and Heads of Department for the recruitment, appointment, transfer, and promotion of staff subject to the guidelines issued by the Commission, thus allowing the Auditor General’s Department to be staffed with the numbers and quality of staff necessary for the effective discharge of her duties.

4.189 Democratic government also requires that the Government be effective and even efficient. This means delivering services in a timely fashion without wasting resources. Corruption is a major cause of misuse and wastage of resources but so is delay.

4.190 There is now nothing in the Constitution which requires or imposes on the institutions of State, the duty to provide effective government, and, therefore, we have recommended the inclusion of this duty in the Directive Principles of State Policy.

Finance

4.191 Some of the reforms proposed may have implications for the provisions in the Constitution for the funding of the State. There are four matters for considerations: (1) providing for situations where an Appropriation Bill is not passed in the Parliament in time for the start of the fiscal year; (2) implementing financial autonomy for the Parliament, the Presidency, the Judiciary and the Office of the Director of Public Prosecutions; (3) implementing direct charges on the Consolidated Fund for certain independent institutions; and (4) withdrawals from the Heritage and Stabilisation Fund.

4.192 Section 112(2) provides that money shall not be withdrawn from the Consolidated Fund unless it is to meet an expenditure authorised by an Appropriation Bill or it is an expenditure that is a direct charge on the Consolidated Fund under the Constitution. There are several persons and departments whose expenditures are direct charges on the Consolidated Fund. These are: (1) Office of the President (Section 136(16)); (2) Elections and Boundaries Commission (Section 71(10)); (3) judges (Section 136(5)); (4) Director of Public Prosecutions; (5) Chief Parliamentary Counsel; (6) Solicitor General; (7) Ombudsman; (8) members of the Integrity Commission; (9) members of the Elections and Boundaries Commission; (10) members of a Service Commission; and (11) members of the Salaries Review Commission.

4.193 The Committee is of the opinion that not just the officeholder, but the offices of those independent institutions identified above, that is, the permanent staff establishment needed to support the officeholder in the discharge of their duties, should be a charge on the Consolidated Fund. However, the staff complement, and salaries of these offices would have to be guided by the government's policies on wages and salaries and subjected to evaluation and scrutiny by a Parliamentary committee which can task the Salaries Review Commission to conduct periodic evaluations and make recommendations.

Reforming Our Constitutional Culture

4.194 In order to change outcomes, reforming the institutions which comprise the organs of State power in the Constitution is necessary but will not be sufficient. The office-holders in these institutions must change their behaviours. They must be prepared to hold the Executive, the Judiciary and each other to account. The Wooding Commission had observed:

“34. The use of patronage to win over or silence critics is undoubtedly universal. But in a small society such as ours, it can be terribly effective. The intelligent and ambitious most likely to launch a successful challenge to establishment practices can often be persuaded that cooperation and deference provide an easier path to follow. ...

36. ... the unwillingness of most people to oppose persons in positions of authority openly or to criticise policies publicly. One cause of this is the widespread network of friendships

and associations among persons occupying strategic positions in any small society. This generates a reluctance to offend. There is also a disposition to treat everything with banter or to shrug it off as of no consequence. ... The tendency is strong to be polite to an opponent rather than to expose him to the public glare. Such accommodation does have some advantage in that it helps to create an atmosphere of urbanity in political life, but the image of civility is false and conceals what is in, fact a masquerade. In the result, inefficiency and incompetence, hypocrisy and corruption, errors and deficiencies of policy are not rigorously exposed. Authority is merely laughed at, faults are glossed over, and the matter ends there. These attitudes must be changed if the society is to become efficient and mature. The constitutional procedures we are recommending are designed hopefully to promote a much-needed change to honesty and candour.”

4.195 The ‘image of civility’ observed by the Wooding Commission has now all but disappeared and has given way to a coarseness of language and incivility, even within the precincts of Parliament, and then broadcast to all and sundry via traditional and social media. Conflicts between the Executive and independent institutions have erupted into the public domain from time to time. The question of the accountability of the Judiciary to the Executive through the Attorney General created a public spat between the Chief Justice and Attorney General and prompted an inquiry into the Judiciary. The conflicts between the DPP and the Executive and the Judiciary, and between the Auditor General and the Minister of Finance have been mentioned earlier. These conflicts reflect, in part, the inadequacies of the structures and processes between institutions of government, and, in part, our learned behaviours in dealing with interpersonal and institutional conflicts when these arise.

4.196 The ‘honesty and candour’ desired by the Wooding Commission has not emerged, probably because its key recommendations, which might have induced that response from the political elites and office-holders, were not implemented, leaving the political culture of a Crown Colony to fester within our false republic.

4.197 Howsoever office-holders and members of the political elite might relate to each other, their blindness toward and routine disrespect of ordinary citizens must be supplanted by conduct which accords every citizen dignity and respect regardless of status, class or ethnicity.

4.198 Secondly, citizens must come to realize that we have agency. We must let go of the ‘learned helplessness’ that colonialism and welfarism have inculcated. We must demand that our representatives and office-holders change their behaviours and hold them to account for integrity and for performance.

4.199 Office-holders must not only be fair and even-handed in their treatment of citizens but must appear to be so. In a society polarised by ethnicity and class and hence deeply suspicious of official actions and decisions, it is vital that where national awards and honours are bestowed, the process be, as far as possible, removed from partisan politics. In acknowledging the public submissions

that expressed a desire for accountability, the Committee recommends that the process for these awards and honours be under the direction of the President, who, in our proposal, would be directly or indirectly elected by the people. National awards to be bestowed under the Letters Patent, as well as the title of Senior Counsel for attorneys at law who have distinguished themselves in practice and service to the nation, should be conferred by the President on the advice of independent committees. In the case of national awards, this would be the National Awards Committee established under the Schedule to the Letters Patent. In the case of Senior Counsel, we endorse the principles of independence and transparency advocated by the 29th Council of the Law Association in its report of 2015.

4.200 For citizens to be better able to discharge these duties, programmes of continuous public education and information about the Constitution and its relevance to their lives and livelihoods should be instituted in educational institutions from pre-school to universities.

4.201 The reforms outlined above, if implemented, will help to promote greater citizen participation in the democratic process, induce a more inclusive political culture and hold office-holders accountable for integrity and performance. We have also charged citizens to take personal responsibility for themselves and their communities and to recognise that, inasmuch as the State has certain duties to them, they have duties to the nation and to each other.

4.202 The reforms we have proposed, based on the submissions from the public, expert opinions, and the views of office-holders, if implemented, will increase parliamentary oversight, effect better separation of powers, and promote greater accountability and citizen participation. The proposed reforms, like those proposed by the Wooding Commission and Ramadhar Committee, make a significant shift away from the ‘Westminster-Whitehall’ model but avoid the American executive presidency model, which paradoxically, reposes even more power in the head of government which people are clear that they do not want. Our proposed reforms are more closely attuned to the people’s concerns around identity, culture, and heritage, as well as the contemporary imperative to attend responsibly to the environment for a sustainable future. It is hoped that these will transform the political culture of Trinidad and Tobago and make for a better future for our children and grandchildren.

Comments on the Tobago Bills

4.203 The demands of the people of Tobago for ‘autonomy’ or ‘self-government’ or ‘self-determination’, and the demand of the First Peoples for recognition and ‘self-determination’ now prompt the society as a whole to confront the lingering effects of colonialism, which have persisted long after we obtained political independence in 1962.

4.204 In respect of Tobago, the Wooding Commission, writing in 1974, observed:

326. It is clear that the Tobagonian is very different in temperament from the Trinidadian. There is a lack of understanding, probably psychologically based, that generates Tobagonian reactions, which strike the Trinidadian as being often unduly querulous. Not surprisingly, the Tobagonian sees things differently. He accepts that there is much government development expenditure in Tobago, but he sees it as expenditure very largely on tourist promotion projects, which do not affect him particularly. He is unimpressed by the argument that the W.I. Shipping Service caters for calls at one port only (hence only at the main port) of each of the contributing units and that, Trinidad and Tobago being together only one such unit, there cannot be calls at Scarborough as well as at Port of Spain. He attributes the higher cost of living in Tobago to indifference by the Trinidadian to his welfare and prosperity. He is not content that in order to obtain certified documents such as certificates of the birth or marriage or death of persons born or married or dying in Tobago he must apply to an office in Trinidad where he must apply or send to collect them. In a word, he complains that Trinidad does not understand and has never understood Tobago.

4.205 Now, in 2024, the complaints and sentiments remain much the same and are indeed stronger and more vociferous, fortified by historical and sociological research on the history of Tobago, which has affirmed and strengthened Tobagonian identity. Inaction on land titles, delay, and disregard by the Parliament in Trinidad of proposed legislation to address the special issues in Tobago, such as the reefs and marine parks, lengthy delays in obtaining probate and letters of administration are among the many frustrations of Tobagonians today. This remains so even with a Prime Minister and Chief Justice who are themselves Tobagonian.

4.206 Tobagonians have suffered multiple wounds inflicted first by the British and then at the hands of the government and people in Trinidad, who are themselves a wounded people. Although Tobagonians have occupied the highest offices in the land — President, Prime Minister (twice), Chief Justice, Central Bank Governor, Head of the Public Service — the arrogance, the disregard, and the lack of empathy have persisted and have driven many Tobagonians further away from embracing and identifying with the unitary state. The Wooding Commission observed:

327. This feeling of apartness has manifested itself in, among other ways, the getting together of what seems to be as yet a relatively small group of Tobagonians who advocate

secession from Trinidad. At the mini-convention in Tobago they appeared to have qualified their demand in that they called then for the Constitution to provide for an option to Tobago to determine by referendum at some unspecified time or perhaps at any time in the future whether or not to secede from Trinidad. They explained that it was necessary first to examine thoroughly whether, as they claimed, government revenues derived from Tobago exceeded public expenditure there. This follows from their rejection of all assurances to the contrary.

4.207 This observation written in 1974 uncannily echoes what the Committee has heard from Tobago in 2024, 50 years later. In those fifty years, Tobago has been ‘granted’ its own Assembly and an Executive Council with powers exercisable over a limited list of scheduled functions and annual budgetary allocations based on a percentage of the national budget. The Assembly was recognised in an amendment to the Constitution in 1996.

4.208 Tobagonian assertion of their pride in their ancestry, their heritage, their language, and their unique village community life has been made strongly over the last several decades. While acknowledging and agreeing fully with the sentiments expressed in Tobago for greater autonomy or self-government, the Committee seeks to emphasize two points which we think are important. First, many Trinidadians are descended from Tobagonian parents and grandparents. There has been intermarriage and many Tobagonians have lived and worked in the island of Trinidad for part or all of their careers. Some Trinidadians have taken up residence in Tobago. Some own property in Tobago. These Trinbagonians must also be regarded as stakeholders in any resolution. In effect, because of interaction and cultural cross-fertilisation over the last 125 years, Tobagonians and Trinidadians can hardly be characterised nowadays as ‘different and distinct’ groups.

4.209 Second, a Constitution ought not to compromise its sovereignty or make provision for its own destruction. We agree entirely with the view of the Wooding Commission and adopt it without reservation:

328. ...we do not and cannot recommend the inclusion in the Constitution of any provision pointing towards secession. Rather, our recommendations are and must be aimed at strengthening the national unity of Trinidad and Tobago.

4.210 In light of the foregoing, the issue before the national community, in Trinidad and in Tobago is how do we treat with the current demands from the people of Tobago as expressed in the Constitution (Amendment) (Tobago Self Government) Bill 2021 and Tobago Island Government Bill 2021, now before the Parliament of Trinidad and Tobago? The Committee is aware that, in some quarters in Tobago, the provisions in these two Bills do not go far enough to realize autonomy for Tobago.

4.211 The following issues are raised in the Bills and need to be addressed: (1) the right of self-determination, (2) equality of status, (3) share of national resources, and (4) law-making power.

Two additional issues deserve comment: (5) Tobago Service Commission and (6) Village Communities.

4.212 In making our assessment of the proposals contained in the Bills and the additional issues, the Committee embraces (a) the principle of subsidiarity (b) the wider national interest, and (c) adherence to the rule of law.

Self-Determination

4.213 The Constitution (Amendment) Bill 2021 states that:

“The Preamble of the Constitution is amended by inserting after paragraph (c), the following paragraph:

“(ca) recognise- (i) the right to self-determination of the people of Trinidad and Tobago, including the right of the people of the Island of Tobago to determine in Tobago their political status and freely pursue their economic, social and cultural development;”

4.214 The right to self-determination is a fundamental principle of international law which, having been recognised by the United Nations in several conventions, has the status of international customary law and, for many jurists, it has acquired the status of a peremptory norm of international law (*jus cogens*). The right to self-determination arises for a sovereign, independent state, or a state which freely associates with or integrates with another state. There is little ambiguity about what the right to self-determination means and what it implies in the context of a homogeneous sovereign state. It means the right to resist colonialism or domination by another state. However, there is considerable uncertainty as to what the principle implies in the context of states with ethnic minorities and/or indigenous groups which may assert a ‘right to self-determination’ and whether that right may be asserted to secede in a non-colonial context.

4.215 Judicial guidance on this issue comes from the decision of the Supreme Court of Canada in relation to Quebec self-determination (*Reference re Secession of Quebec [1998] 2 SCR 217*) as well as the recent UK Supreme Court decision on the Scotland referendum [2022] UKSC 31. The Canada Supreme Court held:

“... the international law right to self-determination only generates, at best, a right to external self-determination in situations of former colonies; where a people is oppressed, as for example under foreign military occupation; or where a definable group is denied meaningful access to government to pursue their political, economic, social and cultural development. In all three situations, the people in question are entitled to a right to external self-determination because they have been denied the ability to exert internally their right to self-determination. Such exceptional circumstances are manifestly inapplicable to Quebec under existing conditions.” (para. 138)

4.216 The Canada Supreme Court continued:

“A state whose government represents the whole of the people or peoples resident within its territory, on a basis of equality and without discrimination, and respects the principles of self-determination in its internal arrangements, is entitled to maintain its territorial integrity under international law and to have that territorial integrity recognized by other states. Quebec does not meet the threshold of a colonial people or an oppressed people, nor can it be suggested that Quebecers have been denied meaningful access to government to pursue their political, economic, cultural and social development. In the circumstances, the National Assembly, the legislature or the government of Quebec do not enjoy a right at international law to effect the secession of Quebec from Canada unilaterally.” (para. 154)

4.217 It would be fair to state that the rhetoric of some persons notwithstanding, Tobago does not meet the threshold of a colonial people or an oppressed people, nor has Tobago been denied access to government to pursue its political, economic, cultural and social development as these concepts are understood in international law.

4.218 In respect of the Constitution (Amendment) Bill, although the words ‘right to self-determination’ are proposed for the Preamble, the Constitution has to be interpreted with regard to the words in the Preamble, which are not inconsequential or mere fluff. The articulation of a ‘right of self-determination’ opens the door to secession, which a Constitution ought not to permit since it attacks the very foundation of the State, its territorial integrity and hence its sovereignty. The Committee is of the view that the *uti possidetis* principle, which established the territory of the State of Trinidad and Tobago at Independence in 1962, should be upheld in the Constitution.

Equality of Status

4.219 In respect of ‘equality of status’, this term appears to have no meaning in international law and is usually used in the context of the relationship between groups *within* a society. The Constitution (Amendment) Bill 2021 proposed that the Preamble be amended by inserting:

“(can) recognise-... (ii) the equality of status between the people of the Island of Trinidad and the people of the Island of Tobago, enabling them to access a fair share of the resources and opportunities available to all the people of the Nation of Trinidad and Tobago;”.

4.220 This statement has the effect of at once recognising the people of Tobago as a group which can be differentiated within the nation of Trinidad and Tobago and upholding the principle of fundamental fairness between and among all groups in the society. It is to be preferred to the formulation of ‘equality of status between the island of Tobago and the island of Trinidad’. This formulation presupposes the existence of two separate States. The proposal in the chapter to follow is reflective of this.

Share of National Resources

4.221 In certain quarters within Tobago, there is the notion that if, hypothetically, Tobago were to be defined as an independent state with internationally recognised borders, it would have a significant proportion of the maritime resources (known and unknown) which are now within the exclusive economic zone of Trinidad and Tobago and hence a claim on the share of those resources attributable to Tobago. Based on this hypothetical, the proponents invite consideration that the share of the budgetary resources made available to Tobago should be based on its share of the national population plus a reasonable share of the hypothetical revenue from the resources in ‘Tobago waters’.

4.222 The Committee noted that, first, following accession to the United Nations Convention on the Law of the Sea and since acceptance of the archipelagic baselines defined in that Act by the United Nations, the territory of Trinidad and Tobago, by virtue of the Archipelagic Waters and Exclusive Economic Zones Act 24 of 1986, which also amended the Territorial Sea Act 38 of 1969, has defined its territory within those archipelagic baselines. The territorial sea of Trinidad and Tobago is measured from those archipelagic baselines. This has given the unitary state of Trinidad and Tobago a much larger sovereign territory than either island individually and a much larger exclusive economic zone. Any abrogation of sovereignty would redound to the disadvantage of both islands in that neither could claim archipelagic status and would then be bound by the normal provisions defining the territorial sea and the exclusive economic zone which would be much smaller.

4.223 Second, it is not clear that the resources, historic or current, within the hypothetical Tobago waters are commercially significant at this time. They may become so in the future, although exploration and production activity in deep water is likely to decline as the world shifts away from hydrocarbons in the context of the climate emergency. The resources to the north-west of Tobago are small gas fields whose output is directed to commercial use (petrochemicals and/or LNG) in Trinidad. Tobago has no onshore facilities for processing natural gas.

4.224 The Committee proposes the following definition for ‘Tobago waters’. The Committee agrees that the Tobago Island Government should have jurisdiction over such waters:

“those areas of the sea having as their inner limits the low watermark of Tobago and as their outer limits, a line measured seaward from that low watermark, every point of which is at a distance of eleven nautical miles from the nearest point of that low watermark”. This definition is the same as the one proposed by the late Ambassador Gerald Thompson (former Ambassador of the Ministry of Foreign and CARICOM Affairs).

4.225 The Committee noted that the above definition is not reflected in Section 5(2) of the draft Tobago Island Government Bill 2021 or in the definition section in the Constitution (Amendment) Bill 2021. The definition in Section 5(2) of the draft Tobago Island Government Bill 2021 seeks

to measure the ‘Tobago waters’ as part of the territorial sea. However, the territorial sea is defined and measured from the archipelagic baseline, not from the shoreline. If so measured, ‘Tobago waters’ would intrude into maritime zones over which the State of Trinidad and Tobago is sovereign. Ambassador Thompson clearly recognised this and made his recommendations accordingly. In addition, and paradoxically, this definition would not encompass waters between the shoreline and the archipelagic baseline, and in which presumably, the Tobago Island Government would have greater interest for fishing, coral reef management, and marine park development.

Power to Make Laws

4.226 The proposed Constitution (Amendment) Bill seeks to provide as follows:

“(2) Subject to subsections (1) and (3), the Tobago Legislature may make laws for the peace, order and good government of Tobago with respect to the matters as prescribed.

*(3) The power of the Tobago Legislature to make laws shall not extend to-
altering the provisions of this Constitution; or*

any of the matters set out in Chapter 1 of this Constitution.

(4) Where a Tobago Act is inconsistent with an Act passed by Parliament, the Act passed by Parliament shall prevail to the extent of the inconsistency.

(5) Subject to subsection (6), the power of Parliament to make laws having effect in Tobago shall not extend to any of the matters as prescribed under subsection (2).

(6) At any time when it is expressly declared in any Act passed by Parliament that a provision in that Act, being a provision that relates to a matter prescribed under subsection (2) is required to have effect in Tobago-

in the interests of external affairs;

in the interests of national security;

in relation to a state of public emergency; or

in relation to a national financial crisis,

that provision shall accordingly have effect in the island of Tobago, and where there is any inconsistency between that provision and the provision of a Tobago Act, the provisions of the Act passed by Parliament shall prevail to the extent of the inconsistency.

(7) Where there is an inconsistency under subsection (4) or (6), the inconsistency shall, where possible, be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring the Tobago Act into conformity with the Act passed by Parliament.”.

4.227 The Committee supports this provision, which articulates the principle that matters which concern the State of Trinidad and Tobago as a whole should be the responsibility of the Trinidad and Tobago Parliament.

Tobago Service Commission

4.228 The concession of a demand for a separate Tobago Service Commission to be provided for in the Constitution and which encompasses the Public, Teaching and Protective services, may not be in the best interests of the public servants in Tobago, who currently have access to promotion and advancement opportunities within the wider Trinidad and Tobago public service.

Village Communities

4.229 There are voices in Tobago demanding that the communities in Tobago need to have a greater say in their own development and should have sums allocated to them for projects and causes that they identify. They are recommending that Tobago communities be recognised in the Constitution.

4.230 While the Committee recognises that Tobago communities are unique in some respects, we are of the view that the Constitution of Trinidad and Tobago is not the best place to recognise Tobago communities, but this should be done by local legislation. Even at that level however, attention must be paid to whether the communities have legal personality and whether they are sufficiently enabled.

Conclusion

4.231 The Committee understands and empathises with the position of the voices in Tobago, which have been and continue to demand greater self-government. What seems to have been either missing or muted in the extensive consultations and discussions in Tobago, which have led to the current position, are the following:

- a. The interests of the many Tobagonians by birth and descent who do not now reside in Tobago and who have built their lives, careers and families in Trinidad and overseas but have no less of a stake in the island,
- b. The interests of young, qualified Tobagonians who want to live and raise families and work in Tobago and who feel they do not have the range of opportunities for

jobs there, but they have greater opportunities within the nation of Trinidad and Tobago, and

- c. The interests of Trinidadians, many in rural communities and some in the urban areas, who have considerable difficulty coming to terms with what is seen to be the significant resources expended by the government of Trinidad and Tobago on Tobago and who are not impressed with the argument that its island status demands that it should have access to certain infrastructure and amenities which other parts of Trinidad, with larger populations, do not and cannot have; that genuine feeling and perception is anchored in a lack of knowledge about the realities when one group of a nation's people is separated from the rest of citizens by open sea, and the fact that essential air and seaports, and other infrastructure are necessary for the development of the Tobago community.

4.232 We, the people of the nation of Trinidad and Tobago, have an indissoluble bond, notwithstanding deep feelings and perceptions that have led to the current demands, and which have brought us to a tipping point. There is too much at stake not to find mutually satisfactory solutions for the sake of future generations. The Committee believes that we must seize the opportunity for greater collaboration and sensible compromise that is forward rather than backward-looking to achieve an outcome that the people of Trinidad and Tobago will welcome.

V: WORKING DOCUMENT ON CONSTITUTIONAL REFORM

REFORM THE PEOPLE
by Shakira Burton

*"...Let we take the Constitution
Out of state of limbo
Let the old thing go
With a new constitution
Sing a different song
A melody synced with equality
A rhythm of accountability
A harmony fresh with transparency
A tempo with an upbeat increase in government efficiency..."*

Preamble

5.1 The existing Preamble to the Constitution should be replaced with the following:

WE THE PEOPLE OF TRINIDAD AND TOBAGO

ACKNOWLEDGING the history, suffering, exploitation, and discrimination inflicted under colonialism on our people, the strength of our First Peoples, and our enduring resilience, creativity, enterprise, and indomitable will;

PROCLAIMING our sovereignty, our independence, the equality of status, and the unceasing bonds between the people of Tobago, the people of Trinidad, and between all our peoples;

AFFIRMING our commitment to a system of government in which the sovereign power rests with the people;

AFFIRMING that the Nation of Trinidad and Tobago was founded upon principles that acknowledge our belief in the supremacy of God, unwavering faith in fundamental human rights and freedoms, the dignity of the human person, the position of the community and family in a society of free persons, and the equal and inalienable rights with which all members of the human family are endowed;

ASSERTING that we adhere to fundamental values of peace, freedom, equality, fairness, inclusivity, respect, responsibility, transparency, accountability and good governance, community

and national unity, and that these values inform and inspire our individual, social, and institutional lives;

PROCLAIMING our respect for and the need to preserve and protect our natural environment and accepting that our healthy existence depends on its preservation and protection;

AFFIRMING our belief in the beauty and celebration of our ethnic and cultural diversity and identities, and accepting that our prosperity lies in the harmony, nurturing and development of these cultural gifts;

AFFIRMING our belief in the value and dignity of productive work, our respect for fundamental fairness and social justice, and therefore the belief that the operation of the economic system should result in the material resources of the nation being so distributed as to serve the common good, that there should be adequate means of livelihood for all, that persons should not be exploited or forced to labour in inhumane conditions, and that there should be opportunity for advancement for all on the basis of recognition of merit, ability and integrity;

ASSERTING our belief in a democratic society in which all persons, to the extent of their capacity, participate meaningfully in the institutions of national life, develop and maintain due respect for lawfully constituted authority, act consistently and with integrity in all areas of endeavour, and show genuine respect and regard for all;

APPRECIATING the contribution of senior citizens and acknowledging the aspirations of our youth, recognising their unbounded potential, and accepting their entitlement to healthy, productive and sustainable futures as they undertake to manage national resources in their best interests;

DESIRE that our Constitution should affirm the above-mentioned values, principles and beliefs and ensure adequate provision for the protection of fundamental rights and freedoms, the separation of powers, the independence of the judiciary, and for institutions which are accountable to the people through their elected parliament and whose operations are guided by unwavering respect for the rule of law.

Now, therefore, and seeking to give effect to the above, the following provisions shall have effect as the Constitution of Trinidad and Tobago:

PRELIMINARY

5.2 Existing Section 1(2) (the State) should be amended to confirm the archipelagic status of Trinidad and Tobago. The following is proposed to replace subsection (2):

The Republic of Trinidad and Tobago shall comprise the Island of Trinidad, the Island of Tobago and any territories that immediately before the 31st day of August 1962 were dependencies of Trinidad and Tobago, including the seabed and subsoil situated beneath

the archipelagic waters, territorial sea and the continental shelf of Trinidad and Tobago (“archipelagic waters”, “territorial sea” and “continental shelf ” here having the same meaning as in the Archipelagic Waters and Exclusive Economic Zone Act, Territorial Sea Act, and the Continental Shelf Act, respectively), together with such other areas as may be declared by Act to form part of the territory of Trinidad and Tobago.

The National Symbols of Trinidad and Tobago

5.3 There should be a Chapter in the Constitution that recognises the national symbols of the Republic of Trinidad and Tobago.

5.4 The Constitution should recognise the following national symbols:

- (a) the national flag (description and image);
- (b) the national anthem (lyrics);
- (c) the coat of arms (description and image);
- (d) the national instrument (description and image);
- (e) the national flower (scientific and common name with image);
- (f) the national pledge (quoted in full);
- (g) the national birds (scientific and common names with images); and
- (h) the national watchwords (quoted in full).

5.5 The detailed descriptions of the national symbols should be included in a schedule to the Constitution, as outlined in the Annex.

CHAPTER 1: THE RECOGNITION AND PROTECTION OF HUMAN RIGHTS AND FREEDOMS

(Existing Sections 4 -14)

PART I FUNDAMENTAL RIGHTS AND FREEDOMS

Recognition and Declaration of Rights and Freedoms-Existing Section 4

5.6 The existing Section 4 should be retained with amendments as italicised below.

- (1) *Subject to respect for the rights and freedoms of others and for the public interest*, it is hereby recognised and declared that in Trinidad and Tobago there have existed and shall continue to exist, without discrimination by reason of race, origin, colour, religion, sex, *age, sexual orientation, gender, disability, political affiliation or conviction*, the following fundamental human rights and freedoms, namely:
 - (a) the right of the individual to life, liberty, security of the person and enjoyment of property and the right not to be deprived thereof except by due process of law;
 - (b) the right of the individual to equality before the law and the protection of the law;
 - (c) *the right of the individual to privacy*;
 - (d) the right of the individual to equality of treatment from any public authority in the exercise of any functions;
 - (e) *the right to vote in free and fair elections*;
 - (f) the right to join political parties, to express political views *and to participate in political activities*;
 - (g) the right of a parent or guardian to provide a school of their own choice for the education of his child or ward;
 - (h) freedom of movement;
 - (i) freedom of conscience and religious belief and observance;



- (j) freedom of thought and expression;
- (k) freedom of association and *peaceful* assembly; and
- (l) freedom of the *media*.

5.7 The following rights are proposed to be added as fundamental rights (as sub-sections of existing Section 4 of the Constitution):

The Right to Privacy

5.8 The right to privacy should include the right to respect for a person's private and family life, as well as respect for his private data. No person should be subjected to interference with the privacy of his home, property and data except by the law and as may be necessary in a free and democratic society for public safety or the economic well-being of the country, for the protection of health, for the prevention of disorder or crime or for the protection of the rights or freedoms of others.

The Right to Equality

5.9 The Constitution should promote the right to equality. This includes ensuring that the State does not unfairly discriminate, either directly or indirectly, against anyone on the grounds of race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, social or economic status, region or locality. However, legislation may be enacted that is reasonably necessary to provide for the implementation of policies and programmes aimed at the amelioration of conditions of disadvantaged individuals or groups, including those that are disadvantaged because of race, origin, colour, religion, sex, sexual orientation, age or mental or physical disability.

5.10 In addition to the State and its agents, no person may unfairly discriminate directly or indirectly against anyone on the grounds of race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, social or economic status, region or locality.

Right to be Protected Against Slavery, Servitude, Torture and Human Trafficking

5.11 The Constitution should provide that no one shall be held in slavery or servitude or be required to perform forced or compulsory labour. Physical, mental, and emotional abuse or exploitation, sexual abuse and human trafficking shall be prohibited.

5.12 However, Parliament may, by law, provide for compulsory service for national purposes, particularly with a view to maintaining law and order within society. Work incidental to serving

of a sentence of imprisonment imposed by a court of law shall not be considered forced labour within the meaning of this Section. No person should be deprived of his personal liberty and freedom of movement except as may be authorised by law for the purpose of his care or treatment or the protection of the community in the case of a person who is, or is reasonably suspected to be, of unsound mind; addicted to drugs or alcohol; or a vagrant.

Protection of Rights and Freedoms- Existing Section 5

5.13 Existing Section 5 of the Constitution should be written in positive language so that the rights are expressed in terms of what individuals are entitled to receive or enjoy rather than what they are protected from or prohibited against. This positive framing emphasizes the proactive obligations of the State, its agents, and other duty-bearers to fulfil these rights. These are described below as ‘due process’ rights.

5.14 The following rights are proposed to be added under the existing Section 5:

Due Process Rights (some of which are recognised in existing Section 5 of the Constitution)

5.15 In support of the fundamental right to life and liberty, due process rights should be included. Such a provision should provide that:

Everyone has the right to life, liberty and security of the person against unreasonable search or seizure and it is the right of every person arrested or detained:

- (a) to be informed promptly of the reasons therefor;
- (b) to retain and instruct an attorney-at-law without delay and to be informed of that right promptly or to have an attorney at law assigned by the State and at State expense if substantial injustice would otherwise result; and
- (c) to have the validity of the detention determined by way of habeas corpus or otherwise and to be released if the detention is not lawful.

5.16 A provision that states the following should also be included:

Any person charged with an offence has the right:

- (a) to be informed without unreasonable delay of the specific offence;
- (b) to be tried by an impartial court or tribunal within a reasonable time;
- (c) not to be compelled to be a witness in proceedings against that person in respect of the offence;

- (d) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;
- (e) not to be denied reasonable bail without just cause; and
- (f) not to be found guilty on account of any act or omission unless, at the time of the act or omission, it constituted an offence under the law of Trinidad and Tobago.

The Rights of Arrested, Detained and Accused Persons (some of these are recognised in existing Section 5 of the Constitution)

5.17 Everyone who is arrested for allegedly committing an offence should have the proposed right:

- (a) to remain silent;
- (b) to be informed promptly of the right to remain silent and of the consequences of not remaining silent;
- (c) not to be compelled to make any confession or admission that could be used in evidence against that person;
- (d) to be brought before a court as soon as reasonably possible but not later than 48 hours after arrest;
- (e) to be released from detention if the interests of justice permit, subject to reasonable conditions;
- (f) to choose, and to consult with, an attorney at law, and to be informed of this right promptly or to have an attorney at law assigned by the State and at State expense, if substantial injustice would otherwise result;
- (g) to challenge the lawfulness of the detention in person before a court and, if the detention is unlawful, to be released;
- (h) to conditions of detention that are consistent with human dignity, including at least exercise and the provision, at State expense, of adequate accommodation, nutrition, reading material and medical treatment; and
- (i) to communicate with, and be visited by, that person's next of kin, partner, medical doctor or chosen religious counsellor.

5.18 A section should be added at the end of the Fundamental Rights and Freedoms Part 1 Chapter 1 of the Constitution in the following terms:

Save only as may be *reasonably* justified in a free and democratic society, Parliament may pass no law and no State agency shall take any action that abrogates, abridges, or infringes these rights.

5.19 This clause incorporates the ‘reasonably justified’ criterion for any proposed infringement of any fundamental right or freedom. Together with the limitation expressed in Section 1 as modified above, these set broadly the limitations on rights which remain stated in unqualified terms so as to permit the courts to interpret limitations in a flexible manner as the society evolves.

Exceptions for Existing Law (Savings Law Clause) (existing Section 6)

5.20 It is proposed that this section be deleted.

Exceptions for Emergencies (existing Sections 7-12)

5.21 No changes proposed.

Exceptions for Certain Legislation (existing Section 13)

5.22 This section should be deleted and replaced by the provision above that allows Parliament to enact general laws that may place limits on the rights of citizens only to the extent that the limitation is reasonably justified in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including:

- (a) the nature of the right;
- (b) the importance of the purpose of the limitation;
- (c) the nature and extent of the limitation;
- (d) the relation between the limitation and its purpose; and
- (e) whether there is a less restrictive means to achieve the purpose.

5.23 The Bill for such a law must declare that it has the effect of limiting rights and that such limitation is reasonably required. The law will take effect unless it is shown not to be reasonably justifiable in a society which has proper respect for the rights and freedoms of the individual. A special majority will not be required.

5.24 The law may be challenged, and the onus is on the claimant to demonstrate that it is not reasonably justifiable. This approach grants appropriate deference to Parliament while still allowing for challenges that can persuade the Court that the impugned law is not proportionate or attacks the basic foundations of the Constitution itself.

General (existing Section 14)

5.25 Section 14(1) should be amended by deleting the words “For the removal of doubts...”. Section 14(5) should be amended by adding the words “with the leave of the Court” after the words “may appeal,” and deleting the words “as of right” and replacing them with the words “with the leave of the Court”. Section 14(5) would now read:

Any person aggrieved by any determination of the High Court under this section may appeal *with the leave of the Court* to the Court of Appeal and shall be entitled *with the leave of the Court* to a stay of execution of the order and may in the discretion of the Court be granted bail.

5.26 The purpose of these amendments is to guard against abuse of the Court process by persons bringing claims for the infringement of their constitutional rights, which may have the effect of delaying or frustrating the expeditious conduct of criminal or civil proceedings.

NEW PART II PROPOSED

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

5.27 The Constitution should place the State under obligation to achieve the progressive realisation of each of the following new Constitutional rights. These rights ought to be placed in a separate part of the Chapter to distinguish them from the Fundamental Rights and Freedoms in Part 1.

5.28 The following rights should be added to the Constitution:

The Right to a Healthy Environment

5.29 Everyone should have the right to a healthy environment that is ecologically balanced, clean and in harmony with nature.

Economic Rights

5.30 Everyone should have the right to work under satisfactory, safe and healthy conditions and should receive equal pay for equal work without distinction of any kind. Every worker should have the right to form or join a trade union of his choice for the promotion and protection of his economic and social interests.

Educational Rights

5.31 It should be the duty of the State to provide:

- (a) free, compulsory primary education, which shall be equally available and accessible to all, including children with disabilities; and
- (b) free secondary education in its different forms, including technical and vocational education, which shall be equally available and accessible to all, including children with disabilities.

Cultural Rights

5.32 Everyone should have the right to:

- (a) enjoy, practice, profess, maintain and promote their own cultural identity;
- (b) decide their belonging to one or various cultural communities, and to express these choices;
- (c) learn about the historical past of their cultures and to gain access to their cultural heritage; and
- (d) practice and disseminate their cultural expressions and to have access to diverse cultural expressions.

5.33 However, no one exercising this right should be allowed to do so in a manner inconsistent with any provision of the Constitution.

The Right to Housing and Sanitation

5.34 Everyone should have the right to access adequate housing and sanitation.

The Right to Health Care

5.35 Everyone should have the right to have access to free basic health care services provided in a timely manner. No one should be refused emergency medical treatment from any health facility.

The Right to Water

5.36 Everyone should have the right to access a reliable supply of clean and safe water.

Children's Rights

5.37 Every child (defined as a person under the age of 18 years) should have the right:

- (a) to family care or parental care, or to appropriate alternative care when removed from the family environment;

- (b) to basic nutrition, shelter, basic health care services and social services;
- (c) to be protected from maltreatment, neglect, abuse or degradation;
- (d) to be protected from exploitative labour practices;
- (e) if detained, kept separately from detained persons over the age of 18 years and treated in a manner, and kept in conditions, that take account of the child's age; and
- (f) to have an attorney at law assigned to the child by the State, and at State's expense, in civil proceedings affecting the child if substantial injustice would otherwise result.

The Rights of the Youth

5.38 The Constitution provide for the recognition of the youth as it is important to Trinidad and Tobago's development. The Youth should have the right to opportunities to participate in decision-making processes that affect their lives, communities, and societies. State policies should foster their incorporation into the labour force under fair and decent conditions, with emphasis on training, guarantee of access to first employment, and promotion of their entrepreneurial skills. Further, the youth should be protected from discrimination in educational settings.

The Rights of Persons with Disabilities

5.39 A person with any disability should have the right to:

- (a) reasonable access to all places, public transport and information;
- (b) inclusive education at all levels, without discrimination and on the basis of equal opportunity. Education systems should accommodate the needs of persons with disabilities, facilitating necessary adaptations and providing appropriate resources and support;
- (c) work on an equal basis with others in an environment that is open, inclusive, and accessible;
- (d) use sign language, Braille or other appropriate means of communication;
- (e) reasonable access to necessary materials, substances and devices relating to the person's disability; and

- (f) the reasonable adaptation of buildings, infrastructure, vehicles, working arrangements, rules, practices, or procedures, to enable their full participation in society and the effective realisation of their rights.

The Rights of Senior Citizens

5.40 Senior citizens should be entitled to:

- (a) priority of service in the public and private sectors;
- (b) public healthcare, access to medicines essential to the maintenance of their health at a reasonable cost and at a standard consistent with human dignity;
- (c) accessible public transportation options so as to maintain mobility and independence;
- (d) protection and care against all types of violence, mistreatment, sexual exploitation or any other kind of neglect leading to such situations, including the provision of State sponsored legal aid; and
- (e) social security benefits.

The Rights of the First Peoples of Trinidad and Tobago

5.41 First Peoples should have the right:

- (a) to uphold, develop and strengthen their identity, ancestral traditions, religion and forms of social organisation;
- (b) to protect and control their traditional knowledge, innovations, and cultural expressions, including artefacts, as well as to benefit from their use;
- (c) to uphold, protect and develop their collective knowledge, their science, technologies and their ancestral wisdom;
- (d) to keep and promote their practices of managing biodiversity and their natural environment; and
- (e) not to be displaced from their ancestral lands.

The Rights to Privacy of Data

5.42 Every citizen should have the right to access all computerised data that concern them, which they may require to be corrected and updated, and the right to be informed of the purpose for which they are intended, as laid down by law.

5.43 The law should define the concept of personal data, together with the terms and conditions applicable to its computerised treatment and its linkage, transmission and use, and shall guarantee its protection, particularly by means of an independent administrative entity.

5.44 The Constitution should guarantee the personal dignity and genetic identity of the human person, particularly in the creation, development and use of technologies and in scientific experimentation.

5.45 Information technology should not be used to process data concerning philosophical or political convictions, party or trade union affiliations, religious beliefs, private life, or ethnic origins, save with the express consent of the subject or with legal authorisation and guarantees of non-discrimination, or for the purpose of processing statistical data that are not individually identifiable.

NEW PART III PROPOSED

DIRECTIVE PRINCIPLES OF STATE POLICY

5.46 The Constitution should include Directive Principles of State Policy, which are guidelines for the Government to frame policies and laws aimed at creating a just society. These principles are non-justiciable, meaning they are not enforceable by the courts, but they are fundamental in the governance of the country, acting as a compass for legislative and executive actions. By including these provisions in the Constitution, it shall be the duty of the State to apply these principles in making laws and policies. These principles are to be stated in a separate part of Chapter 1 of the Constitution to distinguish them from Fundamental Rights and Freedoms, as well as Social, Economic, Social and Cultural Rights, although these are all connected to each other.

5.47 In making policy and laws, the State shall have regard to:

- (a) the conservation of the environment, the prevention of environmental damage, the protection of ecosystems, biodiversity and the integrity of the country's genetic assets, the promotion of sustainable resource management, conservation efforts, and long-term planning to mitigate and adapt to environmental challenges. Legislation should require comprehensive environmental impact assessments for all major infrastructure projects and policies which may have adverse environmental impacts. By such a policy, the State should be under a duty to do

all in its power to protect the environment so that future generations can inherit economic conditions supportive of their well-being;

- (b) the protection and preservation of all aspects and manifestations of our cultural heritages and indigenous knowledge;
- (c) the protection of the Steelpan as an integral part of our national identity. The State should support its development through educational and cultural initiatives and promote its presence in both national and international arenas;
- (d) the promotion of public administration that is efficient, respectful, accountable, transparent and procedurally fair. The various arms of the State and departments of the Executive should be required to collaborate effectively in the delivery of services to the people and raise the standard of public services. By such a policy, public officials and authorities should be accountable for their actions and decisions, to the law and the public they serve. Everyone whose rights have been adversely affected by administrative action should have the right to be given written reasons. Mechanisms for the proper management and oversight of the actions of public officials should be maintained by all public authorities and disseminated. Policy should promote the elimination of abuse of power, violation of rights of the citizens and disrespectful treatment of citizens by public officials;
- (e) ensuring that no member of the Executive or the Legislature or any other person shall interfere with judges or judicial officers in the exercise of their judicial functions, and all organs of the State shall accord such assistance as the Courts may require to protect their independence, dignity, and effectiveness, subject to the terms of the Constitution or any other law;
- (f) providing that in negotiating any international agreement, the Tobago Island Government will be consulted, and its interests be taken into account;
- (g) the establishment of policies and programmes that foster and uphold, on a permanent basis, the participation and inclusion of the youth in all sectors. Such policies should provide the youth with access to information and technology to engage in civic, political, and social activities;
- (h) promote understanding, dismantle stigma, and foster an environment where everyone, regardless of disability, can participate fully and equally;
- (i) the need for legislation to provide for the holding of referendums/petitions/propositions on important issues of national interest,

including petitions for the recall of elected officials, provided a certain number of eligible signatures are obtained; and

- (j) a need for legislation governing the use of modern technologies such as artificial intelligence and other opaque systems, which have implications for human rights and data privacy.

NEW PROPOSED PART IV

CITIZENS' DUTIES AND RESPONSIBILITIES

5.48 Given that the Constitution is essentially a social contract, there should be a section outlining the duties and responsibilities of citizens. While citizens enjoy rights protected by the Constitution, they also have corresponding duties and obligations essential for maintaining a functioning and harmonious society. The inclusion of citizens' duties and responsibilities is proposed, despite their non-justiciable nature. It is hoped that they will serve as guiding principles applicable to each and every citizen of Trinidad and Tobago.

5.49 The Constitution should, therefore, affirm that every person in Trinidad and Tobago has the following fundamental duties:

- (a) to obey and act in the spirit of the Constitution and the laws of the State;
- (b) to exercise the rights granted to each person under the Constitution and to use the opportunities made available to each person under it to participate in the governance of the Nation;
- (c) to protect the State, safeguard its wealth and its resources and promote its development;
- (d) to work according to their capacity in useful employment, creating for themselves, opportunities for such labour where none may seem immediately available;
- (e) to respect the rights and freedoms of other persons without regard to race, sex, sexual orientation, disability, class, national origin, gender, status, or creed and to co-operate fully with them to achieve national progress;
- (f) to contribute, in proportion to each person's means, to the revenues required for providing for public services;
- (g) to recognise that they can fully develop their capabilities and advance their true interests only by active participation in the development of society as a whole;

- (h) to protect the environment, prevent environmental harm, and promote sustainable use of resources;
- (i) for parents to fulfil their obligation of care, maintenance and upbringing of their children in a safe and wholesome environment; and
- (j) to promote, preserve, protect and defend the sovereignty, territorial integrity, security and unity of the State of Trinidad and Tobago.

CHAPTER 2: CITIZENSHIP

(Existing Sections 15-21)

5.50 The Constitution should make provisions for CARICOM Citizens in recognition of the Caribbean Community, as well as identify those countries which at the time of the Republican Constitution were still colonies of the United Kingdom under Section 18.

CHAPTER 3: THE PRESIDENT

(Existing Sections 22-38)

5.51 The President should continue to serve as the Head of State and the Executive branch of the government, while the Prime Minister should remain the Head of Government. However, it is essential that the President is perceived to be above partisan politics. A Presidential Elections Commission should vet and approve the nomination of presidential candidates. This Commission should comprise of the Chief Justice (convenor), the Chairman of the Elections and Boundaries Commission, the Chairman of the Public Service Commission, the Chairman of the Integrity Commission, and a senior business executive from the private sector nominated by the leading business organisations upon invitation by the convenor of the Presidential Elections Commission.

5.52 Candidates must satisfy the Presidential Elections Commission that they possess integrity, good character and a reputable standing and are otherwise fit and proper to hold the office of President.

Options for election

5.53 Two options for the election of a President are proposed. The first is direct election by the people. The second is an indirect election whereby all elected representatives at local, Tobago, and Parliamentary levels vote for a candidate.

5.54 **Option 1: Direct Election** – the President is elected by citizens in a general election for a fixed term of five (5) years. For a person to be nominated for election as President, a prescribed number of persons must sign a nomination paper supporting that candidate and submit that

nomination paper to the Elections and Boundaries Commission. Political parties would not be permitted to propose candidates. The Presidential Elections Commission will certify that the nominees satisfy the eligibility requirements as specified in the Constitution.

5.55 On the day of the election, all persons registered on the electoral roll are eligible to vote for the President. The winning candidate must secure more than half of the valid votes cast in order to be declared the winner. This means that the winning candidate must achieve an absolute majority. If no candidate receives more than half of the valid votes, a runoff election should be held between the two candidates who received the highest number of votes. Rules for the holding of the election must be established.

5.56 **Option 2: Indirect Election** - the President is elected by an expanded Electoral College for a fixed term of five (5) years. Eligible candidates must be nominated by a prescribed number of proposers. Political parties would not be permitted to propose candidates. A Presidential Elections Commission will certify that the candidate satisfies the eligibility requirements outlined in the Constitution.

5.57 On election day, the Electoral College will be assembled to elect a President. This Electoral College is a body of persons who are themselves representatives of the people, comprising the elected members of the national Parliament, the elected members of the Tobago House of Assembly, and the elected members of the fourteen (14) Regional Corporations. Each elector should be certified by a registration process to be prescribed. Voting should be by secret ballot, and the winning candidate must secure more than half of the valid votes cast in order to be declared the winner. This means the winning candidate must achieve an absolute majority. If no candidate receives more than half of the valid votes, a runoff election should be held between the two candidates with the highest number of votes. Rules for the holding of the election must be established.

Timing of election

5.58 The election for President should be held non-concurrently with parliamentary elections.

Qualifications

5.59 Qualifications should include prior service and professional experience in the public and/or private sector.

Disqualifications

5.60 Disqualifications should include current active engagement in electoral politics or holding of a political office at any level. However, a cooling-off period of not less than ten (10) years could be mandated for former office-holders.

Term of office

5.61 The President's term should be fixed at five (5) years with a maximum limit of two terms. Accordingly, until the expiration of the President's term by operation of the law, the President cannot be discharged by legislative votes of no-confidence. It would be possible to remove the President for the usual reasons, as set out in Section 35 (a) to (d) of the Constitution, including criminal wrongdoing. The process for the removal of the President should be defined by regulation.

Acting President

5.62 The person elected as President of the Senate should act as President in the absence of the President, whether due to illness or being out of the country. No position of Vice President is proposed.

Duties of the President

5.63 The President serves as the guardian of the Constitution and, specifically, of the independent institutions. A detailed listing below of the proposed duties should be placed in a Schedule of the Constitution:

- (a) To 'advise and warn' the government and oversee broad policy issues of constitutional importance.
- (b) Provide general oversight of independent constitutional offices/bodies as may be specified in the Constitution.
- (c) Provide conciliation and mediation counsel to office-holders.
- (d) Responsible for the receipt of Annual reports of such independent constitutional offices/bodies which should contain – financial statements, performance and activity reports, compliance reports as well as annual plans and budgets. Such annual reports should be first submitted to Parliament.
- (e) Receive from Parliament assessments of the performance of the independent office-holders who are required to report to Parliament and initiate such action as Parliament may indicate.
- (f) Responsible for the establishment of tribunals to investigate and report on the question for the removal of persons who hold independent constitutional offices, in accordance with procedures set out in law.
- (g) Appoints the Prime Minister who will then form a government. This person will be the leader of the majority party or the coalition that commands the majority

in the House of Representatives. All Ministers, including the Attorney General, will be appointed by the President on the advice of the Prime Minister.

- (h) Serves as Commander-in-Chief of the Armed Forces: Trinidad and Tobago Defence Force (Trinidad and Tobago Regiment, Trinidad and Tobago Coast Guard, Trinidad and Tobago Air Guard, Trinidad and Tobago Defence Force Reserves).
- (i) Serves as custodian of all state land and grants leases.
- (j) Appoints the Leader of the Opposition or Minority Leader.
- (k) Appoints Independent Senators and Tobago Senators.
- (l) Assents or withholds assent to all Bills.
- (m) Proclaims certain pieces of legislation.
- (n) Grants pardons, stays of execution, and remittance of whole or part of sentences as advised by the Mercy Committee or the Advisory Committee on Pardon.
- (o) Issues Proclamation for the prorogation of Parliament on the advice of the Cabinet (this signals the end of a session as opposed to the end of a Parliament).
- (p) Issues proclamation for the commencement of sessions of Parliament.
- (q) Issues proclamation for the dissolution of Parliament (only when circumstances arise. Otherwise, Parliament will stand dissolved by operation of the law given that fixed dates for elections are proposed).
- (r) Issues the writ for the holding of elections by the law.
- (s) Proclaims states of public emergency.
- (t) Addresses Parliament annually.
- (u) Appoints the National Awards Committee and hosts the National Awards Function annually as Chancellor of the Order (The National Awards Committee is chaired by the Chief Justice and its members appointed by the President),
- (v) Appoints the Committee for the award of Senior Counsel and hosts the awards ceremony at the Hall of Justice.

- (w) Receives Ambassador and High Commissioner-delegates for Presentation of Credentials.
- (x) Appoints High Commissioners and Ambassadors, in accordance with the advice of the Prime Minister. The President signs credentials to be transmitted to the corresponding receiving Head of State.
- (y) Appoints Commissioners of Enquiry, in accordance with the advice of the Prime Minister.
- (z) As Commander-in-Chief, performs such duties as are required.
- (aa) Makes the following appointments, after consultation with the Prime Minister and the Leader of the Opposition or Minority Leader:
 - (i) Chief Justice
 - (ii) Ombudsman
 - (iii) Members of the Elections and Boundaries Commission
 - (iv) Members of the Environmental Commission
 - (v) Auditor General
 - (vi) Members of the Integrity Commission
 - (vii) Members of the Judicial Service Commission (JSCO)
 - (viii) Members of the Law Reform Commission
 - (ix) Members of the Protective Service Commission
 - (x) Members of the Public Service Commission
 - (xi) Members of the Salaries Review Commission
 - (xii) Members of the Teaching Service Commission
 - (xiii) Members of the Equal Opportunity Commission
 - (xiv) Law Reform Commission
- (bb) Makes the following appointment, after consultation with the Chief Justice:

- (i) President of the Industrial Court
- (ii) Chairman, Tax Appeal Court
- (cc) Makes the following appointments, in accordance with the advice of the Judicial and Legal Service Commission:
 - (i) Justices of the Appeal and Puisne Judges
 - (ii) Director of Public Prosecutions
- (dd) Appoints the Advisory Committee on the power of pardon
- (ee) Appoints Officers of Tribunals
- (ff) Appoints Statutory and other boards, such as:
 - (i) Statutory Authorities Appeal Board
 - (ii) National Insurance Appeals Tribunal
 - (iii) Registration, Recognition and Certification Board
 - (iv) Mediation Board

Advisory Committee (Council of Presidential Advisers)

5.64 An independent Advisory Committee should be established to advise the President. The Advisory Committee should comprise of up to five (5) members, all appointed by the President in his sole discretion. Members should have fixed staggered terms of office. The President should appoint the Chairman of the Advisory Committee, who shall vacate the chairmanship when a new President is elected.

CHAPTER 4: PARLIAMENT

(Existing Sections 39-73)

Composition of Parliament

5.65 There is no proposal to change the general composition of Parliament, meaning it will still consist of the President, the Senate, and the House of Representatives. However, there are specific proposals listed below regarding the Senate and the House of Representatives. The Senate would be examined first.

The Senate

5.66 The Senate should consist of fifty-five (55) Senators, or such other number as are prescribed from time to time.

The proposed composition is as follows:

- (a) 10 independent Senators (to be appointed by the President);
- (b) Tobago Senators (to be appointed by the President on the advice of the Chief Secretary (3) and the Minority Leader (2)); and
- (c) 40 Senators to be elected by a (closed list) proportional representation system.

Qualifications

5.67 The following qualifications should be included in addition to those listed in existing Section 41 of the Constitution:

- (a) The candidate must possess a minimum of professional qualification or a university-level education;
- (b) The candidate should have prior professional experience; and
- (c) The candidate must be tax-compliant.

Disqualifications

5.68 It is recommended that the disqualification for election as a member due to mental illness (Section 41(1) (d)) be removed.

Mode of election of Senators

5.69 It is proposed that the votes cast by electors eligible to vote in a general election of the House of Representatives should be the basis on which Senators shall be elected and assigned seats. Under this system, parties will receive seats roughly in proportion to their votes, and seats will be filled based on the order of the party's pre-determined list. Further details on the proposed mode of election is set out at paragraph 5.93, 'System of Balloting', below.

Tenure of Senators

5.70 An additional condition should be added under Section 43, requiring an elected Senator to vacate his seat if, due to resignation or expulsion, his political party replaces him with another Senator.

Temporary Senators

5.71 In the case of absence from the country or illness, temporary Senators should be appointed by the President:

- (a) in his discretion, for independent senators;
- (b) on the advice of the Chief Secretary/Minority Leader for Tobago Senators for Tobago Senators; and
- (c) from the lists supplied by the EBC, for elected Senators.

President of the Senate

5.72 The President of the Senate should be elected by the Senate, in accordance with Standing Orders, from among persons who are qualified to be elected as members of the Senate but are not such members. Disqualifications for this Office include active membership in any political party.

Vice President of the Senate

5.73 The existing arrangements should be retained and the Vice President of the Senate should be elected by the Senate, in accordance with Standing Orders, from among persons who are Senators.

The House of Representatives

5.74 The House of Representatives should consist of fifty-nine (59) Members, or such other number as may be prescribed from time to time.

Qualifications

5.75 The following qualifications should be added to those listed in Section 47:

- (a) The candidate must possess a minimum of professional or university-level education;
- (b) The candidate should have familial, professional, or commercial ties with the community; and

(c) The candidate must be tax compliant.

Disqualifications

5.76 The disqualification for election as a member due to mental illness (Section 48(1)(c)) should be removed.

Recall Provision

5.77 The provision relating to the tenure of members (Section 49) should provide for recall pursuant to legislation. In order to balance the need for accountability and the need to maintain stable government, time limits are proposed. No recall ought to be effected until the MP has served at least two (2) years of his term of office. The recall provision should not be initiated in the fifth year of a Parliament.

Speaker of the House

5.78 The Speaker of the House should be elected by the House in accordance with Standing Orders from among persons who are qualified to be elected as members of the House, but are not such members, to ensure a degree of impartiality. Disqualifications for this Office include active membership in any political party.

5.79 It is recommended that the provisions for the removal of a Speaker (existing Subsections 50(9) to (19)) be deleted.

Deputy Speaker

5.80 The existing provision should be retained and the Deputy Speaker of the House should be elected by the House, in accordance with Standing Orders, from among persons who are members of the House.

Leader of the Opposition

5.81 The constitutional provisions relating to the Leader of the Opposition, currently found in Chapter 5, *Executive Powers*, should be relocated to Chapter 4 entitled *Parliament*.

Part II: Powers, Privileges and Procedures of Parliament

5.82 In the existing Section 53 of the Constitution, in addition to the power of Parliament to make laws, should outline other powers of Parliament, namely, the power:

- (a) to represent the interests of the citizens;
- (b) to appropriate funds for expenditure by the government and other State organs;

- (c) to approve the national budget;
- (d) to approve taxation policies;
- (e) to exercise oversight over national revenue and its expenditure;
- (f) to scrutinise the actions of the Executive and Executive agencies to ensure transparency and accountability;
- (g) to approve extensions of states of emergency;
- (h) to initiate the process of removing specified office holders from office; and
- (i) oversight of the administrative functions of the Judiciary.

Quorum

5.83 For the Senate, the quorum should be increased from ten (10) Senators to eighteen (18) Senators.

5.84 The quorum of the House of Representatives should be increased from twelve (12) Members to twenty (20).

Committees

5.85 The existing Sections 66A to 66D of the Constitution that establishes a system of departmental oversight Committees should be deleted.

5.86 The Constitution should require Parliament to appoint standing Joint Select Committees within one month of the first sitting of each House. These standing Joint Select Committees should be established to scrutinise:

- (a) Government Ministries and Departments;
- (b) Service Commissions;
- (c) All public bodies and other agencies that do not fall under the purview of a Ministry;
- (d) State Enterprises;
- (e) Statutory Corporations;
- (f) Public Accounts, reports of the Auditor General and other audited reports;

- (g) Reports received from the Ombudsman(Commissioner for Public Justice);
- (h) Administration of the Judicial system;
- (i) National security;
- (j) International treaties; and
- (k) Reports received from the Integrity Commission.

5.87 Such Committees should investigate and inquire into the activities and operations of these ministries/departments or other public bodies. As much as possible, the composition of these Committees should reflect the balance of the parties and groups represented in Parliament. It is also recommended that Ministers be disqualified from serving on these standing Committees.

The Joint Select Committee on the Constitution

5.88 Any Bill introduced in Parliament that seeks to amend the Constitution or alter or otherwise affect rights contained in Chapter 1 of the Constitution should be referred to a standing Joint Select Committee (JSC) on the Constitution. The determination of whether a Bill falls within the scope of this Committee should be made by the Speaker of the House or the President of the Senate as the case may be (depending on which House it is introduced). The JSC on the Constitution should be required to review the referred Bill to ensure that it complies with the requirements of the Constitution (see paragraph 5.22). To ensure that the fundamental principles of scrutiny and public participation are upheld, the Committee should be empowered to consult with stakeholders and the general public to inform its review.

5.89 The Committee should be required to report within the session of its appointment and may make recommendations for amendments, approval or rejection of the Bill. No Bill falling within the scope of this Committee should be passed in the originating House until the Committee on the Constitution has completed its review and submitted its report to Parliament.

5.90 Standing Orders of Parliament should be enacted to give effect to these provision, and for the establishment of other Committees to examine Bills and subordinate legislation as may be required from time to time, as well as any other matters necessary for the effective discharge of the functions of Parliament.

5.91 Committees should be empowered to:

- (a) enforce the attendance of witnesses;
- (b) compel the giving of evidence on oath, affirmation or otherwise; and
- (b) compel the production of documents.

Summoning, Prorogation and Dissolution

5.92 A general election should be held every five (5) years on the date fixed by the Constitution. As such, Parliament should continue for five (5) years from the date of its first sitting after any election and should then stand dissolved. If the election is in September for example, one simply has to count four (4) anniversaries of that date, and then the next date will be the fixed election date. This will result in a term that is less than five (5) years, but it will always be more than four (4) years.

System of Balloting

5.93 No change is proposed for the method of election of members of the House of Representatives.

5.94 The following method should be used for the election of the forty (40) elected Senators:

- (a) The votes cast by electors eligible to vote in a general election of the House of Representatives shall be the basis on which Senators shall be elected and assigned seats.
- (b) Political parties participating in the general election shall each submit a list of candidates, in order of preference, to the Election and Boundaries Commission. This list should contain forty names of candidates proposed for election as Senators.
- (c) It is further proposed that at least 30% of the candidates on each list must be women. The list should as far as possible attempt to reflect the ethnic diversity of Trinidad and Tobago and should also seek to include individuals representing major fields of endeavour.
- (d) On polling day, the ballot paper for the Senate will list only the parties, and voters will mark the party they support. Each party will be allotted seats in proportion to the number of popular votes it receives. It is proposed that the threshold for allocation of seats should be 5% of the votes cast in the general election. Seats will be awarded to candidates in the order in which their names appear on the lists.
- (e) Under this system, parties will receive seats roughly in proportion to their votes, and seats will be filled based on the order of the party's pre-determined list.

Code of Conduct and Ethics

5.95 The Constitution should establish a code of conduct and ethics for Members of Parliament, including Ministers. The code should seek to promote a culture of accountability, ethical decision-making, and professionalism within Parliament and among Members. It should also aim to protect the institution by providing rules for the prevention of conflict of interest. The code should include a mechanism for adherence, a process for investigations, and sanctions for offenders.

Institutions and offices

Parliamentary Services Department (PSD)

5.96 The Constitution should establish an executive agency to support the Legislature called the Parliamentary Service Department (PSD), which should form part of the public service of Trinidad and Tobago.

The Clerk of the House and Clerk of the Senate

5.97 The PSD should be headed by the Clerk of the House as the accounting officer and principal procedural advisor to the Speaker and members of Parliament on the practice and procedures of Parliament. The Constitution should also establish the office of Clerk of the Senate as the Deputy Head of the PSD and advisor to the President of the Senate and Senators on the practice and procedures of Parliament. The Clerk of the House should be responsible to the Speaker for the efficient, effective and economical management of Parliament.

5.98 The Clerk of the House and Clerk of the Senate should be appointed by the Public Service Commission. The veto powers of the Prime Minister should remain. Given that these are offices within the legislative branch, in exercising this veto, the Prime Minister should be required to consult with the Speaker of the House. Further, the Prime Minister should provide reasons to the Public Service Commission for rejecting a candidate nominated by the Commission.

5.99 The salaries, benefits, and allowances payable to the Members of Parliament and the PSD staff should be a charge on the Consolidated Fund.

CHAPTER 5: EXECUTIVE POWERS

(Sections 74-89)

The Cabinet (existing Section 75)

5.100 The Constitution should affirm that the Cabinet is the principal instrument of policy and should be charged with the general direction and control of the Government.

5.101 The Cabinet should consist of the Prime Minister and a number of other Ministers, not exceeding seventeen (17), one of whom shall be the Attorney General appointed in accordance with the Constitution, as the Prime Minister may consider appropriate. A member of the Cabinet should not hold any office for profit and shall not actively engage in any commercial enterprise.

5.102 The Cabinet should remain collectively responsible to Parliament but with an enhanced regime of accountability through Committees and other mechanisms of oversight.

The Prime Minister

5.103 A Prime Minister should be limited to a maximum of two consecutive terms in office. A cooling-off period of five years is proposed before a former Prime Minister could be considered for reappointment to office.

5.104 At the commencement of each session of Parliament, the Prime Minister should be required to present to the House of Representatives the main policies, plans and priorities for the upcoming session. This includes legislative policies, economic strategies, foreign policy initiatives, and domestic issues.

Motions of No Confidence in the PM

5.105 Upon the passage of a motion of no confidence in the Prime Minister, the President should, within seven (7) days, revoke the appointment of the Prime Minister and appoint a new Prime Minister or dissolve the Parliament.

Permanent Secretary

5.106 The Constitution should recognise the Office of Permanent Secretary and Head of Department as a notable public office within the Executive branch.

5.107 The responsibility of a Permanent Secretary (this term includes Heads of Department) for the work and actions of the public servants under them, and for facilitating effective public administration should be clearly legislated. Legislation should emphasise the Permanent Secretary's role in fostering a professional work environment, promoting staff development and ensuring that the Ministry operates efficiently and effectively.

5.108 The Constitution should state that Permanent Secretaries are required to direct -

- a) the administration of the financial and technological resources of a Ministry under the general direction of the Minister and subject to relevant governing laws and regulations;
- b) the human resources functions of a Ministry in accordance with the approved policies and regulations.; and

- c) the implementation of policy under the general direction of the Minister.

Appointments

5.109 As now exists, appointments to the office of Permanent Secretary should be made by the Public Service Commission subject to the veto of the Prime Minister. Permanent Secretaries may be recruited from within or outside the Public Service. However, to be eligible for appointment to the office of Permanent Secretary, a person must have extensive experience in government operations, including progressive leadership roles. The responsibility for the allocation of a Permanent Secretary to a Ministry should be vested in the Prime Minister.

Head of the Public Service

5.110 The Constitution should establish a Head of the Public Service (HPS) who should be eligible for the office of Permanent Secretary. The HPS should be responsible for providing policy interpretation, guidance and advice to the Permanent Secretaries collectively, and provide policy support to the Prime Minister on matters related to the Public Service. The HPS may be recruited from within or outside the Public Service. The duties of the HPS should include strategic HR management of the Public Sector, ensuring that the public service is capable and efficient, and that its resources are aligned with the policy objectives of government. The HPS should also be responsible for ensuring that appropriate Secretariat support is provided to the Service Commissions and the Services Commissions Department.

5.111 Appointments to the office of HPS should be made by the Public Service Commission subject to the veto of the Prime Minister

Role of the Permanent Secretary

5.112 The roles of a Permanent Secretary and Heads of Department should be specifically set out in a schedule to the Constitution or in separate law to include the following HR-related duties:

Recruitment and Staffing: A Permanent Secretary should have the authority to oversee the recruitment and selection of staff within the Ministry. This includes contributing to the development of recruitment policies, overseeing the selection process, and ensuring that the recruitment is done by the relevant laws, regulations, and guidelines that govern public service employment. The Permanent Secretary should ensure that the recruitment processes align with both the strategic goals of the ministry and the broader government policy frameworks.

Human Resource Management: A Permanent Secretary should be responsible for efficient HR management within a Ministry. This includes manpower and succession planning. The Permanent Secretary should therefore directly supervise the Human Resources Management (HR) Division of the Ministry to manage all aspects of

staffing and employee administration. This includes not only recruitment but also promotions, acting arrangements, training, human resource development, performance management, discipline and terminations.

Adherence to Laws and Regulations: It should be the duty of the Permanent Secretary to ensure that all recruitment activities comply with the principles of equity, transparency, and meritocracy.

Leadership and Management: As a strategic leader, the Permanent Secretary's duty is to guide the Minister in decisions regarding the creation of new positions necessary to achieve the Ministry's objectives and also the abolition of redundant positions.

5.113 Other duties of the Permanent Secretary include policy advising and implementation.

5.114 Additionally, a Permanent Secretary should be tasked with submitting to the Head of the Public Service annual reports on the performance and compliance of entities falling under the oversight responsibility of the Ministry.

The Public Service

5.115 The Constitution should recognise the existence of a Public Service for the Republic of Trinidad and Tobago, which must function and be structured as set out in ordinary legislation and which must loyally execute the lawful policies of the government of the day. No employee of the Public Service should be favoured or prejudiced only because that person supports a particular political party or cause.

Basic values and principles governing public administration

5.116 The Constitution should provide that public administration be governed by the democratic values and principles enshrined in the Constitution. Permanent Secretaries should, therefore strive to ensure the delivery of effective public administration guided by the following basic principles:

- (a) A high standard of professional ethics must be promoted and maintained;
- (b) Efficient, economic and effective use of resources must be promoted;
- (c) Services must be provided impartially, fairly, equitably and without bias;
- (d) Public administration must be accountable; and
- (e) Personnel management practices must be based on ability, objectivity, fairness, equity, inclusion and diversity.

Power of Pardon

5.117 The Constitution should make clear that the exercise of the (pre-conviction) power of pardon by the President under Section 87(1) is exercisable subject to Section 80, that is, on the advice of the Cabinet and not at his own discretion.

5.118 The Advisory Committee established under Section 88 should be composed as stated therein but should be chaired by a person appointed by the President.

5.119 The provisions in Sections 89(2) and 89(3) which permit the Minister to advise the President without consulting the Advisory Committee or to ignore that advice should be deleted.

LOCAL GOVERNMENT

5.120 Local Government is not now recognised in the Constitution. Issues and concerns raised by citizens point to the fact that the functions performed by the local government bodies, particularly in the development and maintenance of public health and transportation infrastructure, have significant and immediate developmental impact on their lives and livelihoods. The functions which have the most immediate developmental impact on citizens should be performed by local government. This enhanced decentralised governance model reflects the principle of subsidiarity, and this document proposes that it finds expression in the Constitution. However, such constitutional status should be contingent on the uniformity of structure, capacity, and competence. The responsible ministry should be charged with effective oversight.

5.121 Therefore, the Constitution should provide for the-

- (a) establishment of local government Municipal Corporations;
- (b) powers and functions of local government;
- (c) composition of Municipal Corporations and boroughs;
- (d) mode of elections;
- (e) term of office of Municipal Corporations and boroughs;
- (f) fixed dates for annual financial reporting;
- (g) fixed dates for the local government elections; and
- (h) adequate systems of oversight;
- (i) equitable distribution/funding of resources; and

- (j) a code of conduct and ethics for local government.

CHAPTER 6: THE DIRECTOR OF PUBLIC PROSECUTIONS AND THE OMBUDSMAN

(Existing Sections 90-98)

Part 1

The Director of Public Prosecutions

5.122 The Office of Director of Public Prosecution (ODPP) is the cornerstone of a fair, impartial, and effective justice system. The Constitution should strengthen the institutional independence of the ODPP. It should ensure its operational independence, allowing the ODPP to manage its internal affairs free from undue external influence or control. The existing Section 76 (2) of the Constitution, which states that the Attorney General is responsible for the administration of legal affairs in Trinidad and Tobago must be interpreted to give effect to this independence.

5.123 Operational independence of the ODPP is essential for realising organisational goals and for maintaining efficiency. This independence would allow the ODPP to manage its daily operations, including its human resources so that the organisation can build and maintain a workforce that aligns with its needs and objectives. Therefore, the existing Section 90 should be amended to state that the Director of Public Prosecutions shall exercise his powers and discharge his functions under the Constitution and any other law independent of the control and direction of any other person or authority and shall be free and independent from political, executive and any other form of interference.

5.124 Before any Service Commission (Public or Legal) makes any appointment to or transfers a member of staff of the ODPP, it should first consult with the DPP, similar to the Ombudsman.

Executive Management of the ODPP

5.125 An executive office for the Office of the Director of Public Prosecution, headed by the DPP, should be established. A Chamber Manager should have responsibility for the administrative management. The Director of Public Prosecutions should be provided with a staff adequate for the efficient discharge of the DPP's functions.

Accountability of the ODPP

5.126 Accountability arrangements of the Office of the Director of Public Prosecutions (ODPP) should be outlined in the Constitution. The DPP should be required to submit an annual report on

the administration and performance of the ODPP to the Attorney General. The report should include the ODPP's operational plan and performance indicators. The Attorney General should be required to lay the report in Parliament at the next sitting after its receipt by the AG.

5.127 The annual report must also be submitted to the Judicial Service Commission. Accountability should be further strengthened by the establishment of a Criminal Justice Sector Inspectorate as an independent parliamentary institution. This entity should have a statutory responsibility to ensure that the various components of the criminal justice system (including the TTPS, the ODPP, the courts, probation services, and prison services) operate effectively and in accordance with the agreed standards. The inspectorate should conduct rigorous and independent risk management and internal audits and report to Parliament. By monitoring compliance, promoting best practices, and holding agencies accountable, the inspectorate will promote public trust and confidence in the criminal justice system overtime.

Appointment of the DPP

5.128 The DPP should be appointed by the President on the advice of the JSCO subject to the non-objection of the Prime Minister.

Removal of the DPP from office

5.129 No change to existing provisions is proposed.

Part II

The Ombudsman

5.130 It is proposed that this office be renamed Commissioner for Public Justice.

5.131 Reports from the Ombudsman, once laid in Parliament, should be referred to the relevant oversight committee for further follow-up action.

5.132 Where, in the course of an investigation, the Ombudsman finds that there is evidence of misconduct on the part of any public official, the Ombudsman should be empowered by the Constitution to refer such matters to the Head of the relevant State Agency or Head of the Public Service to be taken into account in the performance appraisal of the officer involved and to the relevant Service Commission for disciplinary action, if warranted.

5.133 The Constitution should establish mechanisms for follow-up of the implementation of the Ombudsman's recommendations to ensure compliance and to address ongoing systemic issues.

CHAPTER 7: THE JUDICATURE

(Existing Sections 99-111)

Part 1

The Supreme Court

5.134 No change is proposed for the structure of the Supreme Court of Judicature. The independence of the Judiciary is fundamental to the rule of law, democracy, and the protection of human rights. In the exercise of judicial authority, the courts should be independent.

Independence of the Judiciary

5.135 Accordingly, it is proposed that:

- a) all other Arms of the State assume an obligation to preserve and protect judicial independence and accord such assistance as the Judiciary may require, enabling them to preserve the independence and dignity of the Judiciary;
- b) the Judiciary should have autonomy over its affairs and must possess independent control over its financial management of approved budgets, as well as the administration and management of its human and physical resources;
- c) all administrative expenses of the Judiciary, including the salaries, allowances, gratuities, and pensions payable to or in respect of the judges, judicial officers and staff of the Judiciary shall be a charge on the Consolidated Fund; and
- d) adequate funding should be provided so that the Judiciary can operate effectively and independently.

Accountability of the Judiciary

5.136 While judicial independence is crucial, it must be balanced with accountability to maintain public trust and ensure efficient administration. The following accountability arrangements are proposed:

- (a) The Chief Justice should be required to submit an Annual Report on the administration and performance of the Judiciary to the President, who will then forward the report to the Speaker of the House and the President of the Senate for laying in Parliament. These reports should include detailed budgets and financial statements alongside Judicial Performance Metrics, for example, case disposition rates, timeliness of judgments, and backlog management. This transparency will facilitate informed scrutiny and ensure the appropriate allocation of funds.

- (b) The Parliament should have appropriate oversight of judicial administration and finances through the relevant Committee, including periodic hearings. Guidelines should be established to ensure that such oversight does not encroach on judicial independence.
- (c) A comprehensive code of conduct for judges and judicial staff should be instituted. This code should outline ethical standards and behaviours expected in both professional and personal financial matters.
- (d) Judgements and decisions of all Court judges including District Court judges and Family Courts judges should be delivered within six (6) months of the completion of matters. The JSCO should be empowered to implement sanctions for delayed judgements, taking into consideration extenuating circumstances, such as national disasters, emergencies, and other mitigating factors affecting the Judiciary.

The Department of Court Administration

5.137 The Constitution should establish a Department of Court Administration headed by a Court Executive Administrator who should be a Judicial Officer. The authority to recruit, appoint, transfer, promote and discipline the Court Executive Administrator rests with the Judicial Services Commission (JSC) on recommendation by the Chief Justice.

5.138 The Court Executive Administrator should be the Accounting Officer and Administrative Head of the Judiciary, responsible to the Chief Justice. Under his/her leadership, the Department of Court Management plays a critical role in ensuring the efficient and effective operations of the Judiciary. It is recommended that this Judicial Officer have a wide range of administrative, financial, and strategic functions to support the judicial process and enhance the delivery of justice. Additionally, the Court Executive Administrator should be the chief advisor to the Chief Justice on Court administration and policy.

5.139 When the office of Court Executive Administrator becomes vacant, or the incumbent is unable to perform his functions for any reason, the functions be performed by a person appointed to act in the position by the JSCO on the recommendation of the Chief Justice.

The Judicial Service Commission (JSCO)

5.140 It is proposed that the current Judicial and Legal Service Commission be abolished. The remit of the JLSC would now be performed by:

- a) a proposed Judicial Service Commission; and
- b) the Public Service Commission with the added responsibility for legal service.

5.141 **The Judicial Service Commission (JSCO):** The proposed primary functions of the JSCO include succession planning, recruitment, appointment, transfer, promotion, and discipline of judges, the DPP, the Tax Appeal Court judges, the Equal Opportunity Tribunal judges, Environmental Commission members, Industrial Court judges and their staff, and the enforcement of quality standards. Staff include all Judicial Officers (Court Executive Administration, Masters, Registrars, District Court judges, and Magistracy Registrars) and the Court Service Officers, as well as the judges and staff of the Industrial Court (see below).

5.142 **The Public Service Commission (Legal Service):** The proposed primary functions of the Legal Service within the Public Service Commission include succession planning, recruitment, appointment, transfer, promotion, and discipline of legal officers in the Executive arm of the State, including the Chief State Solicitor, Solicitor general, State Counsels etc., and enforcing quality standards.

Composition of the JSCO

5.143 The JSCO should comprise of seven (7) members who shall be appointed by the President for a term of five (5) years, in accordance with this section -

- (a) The Chief Justice as Chairman;
- (b) Three senior judges, at least two of which should be a retired judge;
- (c) One Senior Counsel to be nominated by the Law Association of Trinidad and Tobago,
- (d) The Court Executive Administrator, ex officio; and
- (e) A person preferably with experience in finance, strategic Human Resource Management and corporate governance of not less than ten (10) years.

5.144 The notice of appointment of member(s) to the JSCO should be published in the Gazette and laid in Parliament.

Appointment of the Chief Justice

5.145 The Chief Justice is the highest-ranking judicial officer in Trinidad and Tobago. This role carries significant responsibilities and provides leadership and direction for the Judicial arm of the State. It is proposed that:

- (a) The Chief Justice should be appointed by the President in her discretion on the advice of an Independent Advisory Committee;

- (b) The President should consult with the Prime Minister and Leader of the Opposition before confirmation of the appointment of the person selected under (a) above; and
- (c) Thereafter, the President should submit a notice of the appointment of a Chief Justice should be published in the Gazette and laid in Parliament.

5.146 The provisions for the appointment of judges be retained.

Administration of the Supreme Court

5.147 The role of the Chief Justice in the administration of the Supreme Court should be established in the Constitution.

5.148 The Chief Justice should be responsible for the general administration and business of the Supreme Court. The Constitution should empower the Chief Justice to establish such Divisions of the Supreme Court as the Chief Justice considers necessary for the expeditious and efficient discharge of the functions of the Supreme Court and assign judges to sit in such Divisions as the Chief Justice may consider appropriate having regard to, among other things, the qualification and experience of the judges concerned.

Removal of Judges from Office

5.149 The existing provision (Section 137) should be amended to remove the role of the Prime Minister, with regard to the principle of separation of powers.

5.150 The process for removing judges from office should be just and fair and maintain judicial independence. If a complaint is deemed serious, the JSCO should request the President to appoint a tribunal at his sole discretion to review the complaint and determine if there is any merit. If there is merit, the President should refer the matter to the Caribbean Court of Justice.

The Final Court of Appeal

5.151 The jurisdiction under existing Section 109 of the Constitution of the Judicial Committee of the Privy Council should be replaced with the jurisdiction of the Caribbean Court of Justice, thereby establishing the Caribbean Court of Justice as the final Court of Appeal for Trinidad and Tobago.

5.152 Appeals to the Caribbean Court of Justice should be with the leave of the Court of Appeal.

The Industrial Court

5.153 The Industrial Court is a superior Court of record. Additionally, it is a specialised court with its own peculiar jurisdiction. It is responsible for dispensing social justice. Consequently, the Industrial Court and its jurisdiction as a Court of higher jurisdiction should be constitutionally

recognised. The Industrial Court should thus be established as an independent institution within the Constitution and afforded protection therein.

5.154 The Industrial Court should retain jurisdiction over all labour and employment disputes. Accordingly, it is proposed that the Public Service Appeal Board be abolished. It is noted that this recommendation would have consequences for the Industrial Relations Act and the Industrial Court's human resources.

5.155 The responsibility for the recruitment, appointment, transfer, promotion, and discipline of judges and staff of the Industrial Court, as well as performance management, should rest with the Judicial Service Commission. However, when appointing judges to the Industrial Court, the JSCO should consult with the President of the Industrial Court.

5.156 The President of the Industrial Court should be required to submit an Annual Report on the administration and performance of the Industrial Court to the President, who will then forward the report to the Speaker of the House and the President of the Senate for laying in Parliament. These reports should include detailed budgets and financial statements, with performance metrics being an essential aspect of such reporting. The relevant Committee of Parliament should perform the oversight role with high regard for judicial independence.

5.157 The discipline, suspension, and removal of Industrial Court judges should be the responsibility of the JSCO.

Insertion of a Part IV

5.158 The Constitution should establish the Tax Appeal Board, Equal Opportunity Tribunal and Environmental Commission in Part IV under the Judicature. The Tax Appeal Board should be renamed the Tax Appeal Court and headed by a judge.

CHAPTER 8: FINANCE

5.159 The recurrent expenditure of the Judiciary, and all other superior courts of record, the Office of the Parliament, Chief Legal Officers and the independent offices including Auditor General and the Director of Public Prosecutions, should be a charge on the Consolidated Fund in order to better assure the independence of these institutions.

5.160 It is proposed that Sections 116(2) and 116(3) of the Constitution be amended to require the Auditor General to conduct performance audits.

5.161 The Constitution should clearly provide that the Auditor General should have access to all financial records of public bodies, including the Board of Inland Revenue.

CHAPTER 9: APPOINTMENTS TO AND TENURE OF OFFICES

The Service Commissions

5.162 The aim of the proposed changes discussed below is to improve the governance and management of the human resource and administrative functions of the services. Specifically, these are designed to enhance the effectiveness, transparency, accountability, and to promote ethical standards within the services.

5.163 It is proposed that the Constitution establish four distinct Service Commissions: the Public Service Commission, Judicial Service Commission (following the abolishment of the JLSC), Teaching Service Commission, and Protective Service Commission (following the abolishment of the Police Service Commission). The proposed Commissions and their responsibility areas are listed below:

- (a) Public Service Commission: Responsible for overseeing the civil service, legal service, and parliamentary service;
- (b) Judicial Service Commission: Responsible for the Judiciary, Industrial Court, Tax Appeal Court, Environmental Commission, Equal Opportunity Tribunal, and the Director of Public Prosecutions; and
- (c) The Teaching Service Commission: Responsible for overseeing the Teaching Service.
- (d) Protective Service Commission: Responsible for the Trinidad and Tobago Police Service, Trinidad and Tobago Fire Service, Trinidad and Tobago Prison Service, and the Trinidad and Tobago Municipal Police Service.

Responsibilities of the Service Commissions

5.164 The Service Commissions should have the following responsibilities –

Succession Planning and Recruitment Responsibilities

5.165 This includes -

- (a) Recruiting and appointing executives in the relevant services by the established procedures;
- (b) Developing succession planning, recruitment and other human resource policies and guidelines; and
- (c) Ensuring transparency, diversity and inclusion in recruitment.

Performance Monitoring Responsibilities

5.166 Service Commissions should be required to monitor the State agencies and evaluate the performance management systems employed to ensure high standards of service delivery.

This includes:

- (a) Establishing performance metrics and evaluation criteria for executives;
- (b) Overseeing the conduct of regular performance reviews;
- (c) Establish policies for recognising and rewarding outstanding performance;
- (d) Performing HR audits of the human resource functions within the relevant institutions; and
- (e) Identifying areas for improvement and providing feedback.

Professional Development Responsibilities

5.167 Service Commissions should facilitate continuous professional development and training for the executive level officers within the various Services.

Ethics and Discipline Responsibilities

5.168 Service Commissions should be responsible for upholding ethical standards and addressing disciplinary issues within the various Services. Each State institution should have a code of ethics governing its operations.

This responsibility should include:

- (a) Investigating allegations of misconduct at the executive level;
- (b) Enforcing disciplinary actions and sanctions; and
- (c) Promoting ethical behaviour and integrity through awareness programs.

Legal and regulatory frameworks

5.169 The Service Commissions should establish the legal and regulatory frameworks for the Services, subject to the negative resolution of Parliament. This includes setting disciplinary guidelines for the levels that have been delegated to Heads of Departments and Permanent Secretaries.

Evaluation and Monitoring

5.170 The Auditor General should undertake annual performance audits of all Commissions and reports should be submitted to Parliament. Clear metrics to measure the success of the Commissions should be determined; these include recruitment success rates, and performance improvement percentages.

5.171 Service Commissions should be required to publish annual reports on the activities and outcomes of the commissions within three months after the end of a financial year. These reports should be tabled in Parliament to maintain transparency and public trust.

Commissioners' Qualifications

Public Service Commission

5.172 There should be five (5) members in the Public Service Commission with a minimum of eight (8) years' experience:

- (a) an Attorney-at-law with experience in public law practice;
- (b) a senior human resource management executive with practice in the private sector/academia;
- (c) a clinical psychologist with practice in the private sector/academia;
- (d) a retired senior public service sector executive (Permanent Secretary level or above); and
- (e) a retired private sector executive.

5.173 Members of the Public Service Commission are full-time and may hold office for a minimum of five (5) years.

Protective Services Commission (Formerly the Police Service Commission)

5.174 The Protective Service Commission should consist of five members, including a Chairman, all appointed by the President, each with a minimum of five (5) years' experience in their respective fields:

- (a) an Attorney-at-law experienced in public law;
- (b) a clinical psychologist with experience in the private sector/academia;

- (c) a senior human resource management executive with practice in the private sector/academia;
- (d) a highly qualified expert in the field of financial management;
- (e) a specialist in sociology with experience in the private sector/academia; and
- (f) a retired senior officer from any of the protective services.

Judicial Service Commission

5.175 The Judicial Service Commission should comprise of seven (7) members appointed by the President for a term of five (5) years:

- (a) The Chief Justice as Chairman;
- (b) Three senior judges, at least two of which should be a retired judge;
- (c) One Senior Counsel to be nominated by the Law Association of Trinidad and Tobago,
- (d) The Court Executive Administrator, ex officio; and
- (e) A person preferably with experience in finance, strategic Human Resource Management and corporate governance of not less than ten (10) years

The Teaching Service Commission

5.176 The Teaching Service Commission should be responsible for succession planning, recruitment, transfer, promotion, and discipline of the senior management of secondary schools and primary schools, as well as the senior management staff responsible for education in the Ministry of Education—specifically, the principals, vice principals, deans, and heads of departments. There should be five (5) members in the Teaching Service Commission with a minimum of fifteen (15) years’ experience for members of the education profession/academia and other Commissioners with at least seven (7) experience. Commissioners should be fulltime and serve for five (5) years.

- (a) three executive members of the education profession/academia;
- (b) an Attorney-at-law with experience in public law practice; and
- (c) a senior human resource manager in the education profession and with experience in industrial relations.

Removal of Special Officer

5.177 Section 136(7) which provides for the removal from office of persons occupying special offices (except judges) should provide that the removal from office of these office holders (except judges) may be triggered by public petition, in terms to be specified and addressed to the President, alleging misbehaviour or other cause which disqualifies the person from holding office.

CHAPTER 10: THE INTEGRITY COMMISSION

5.178 The Integrity Commission should primarily be responsible for detecting, investigating and reporting on corruption in public bodies. To investigate a corruption issue a complaint must be lodged with the Integrity Commission, which raises a credible allegation that a person has done something involving a public official and could constitute corrupt conduct as defined in law. Significantly, the Integrity Commission should concentrate on investigating allegations made to it concerning public officials who are alleged to have accepted bribes or of being unjustly enriched, including unaccountable enrichment of family members. The list of persons who should be captured under this jurisdiction of the Integrity Commission should include all persons performing a public function, including –

- (a) Members of Parliament;
- (b) Any officer within the public, Judicial, Legal, parliamentary or protective services;
- (c) Contracted officers employed by public bodies;
- (d) Members of the boards of State Enterprises; and
- (e) Staff of State Enterprises and Statutory Corporations.

5.179 Concerning persons in public life, serious consideration should be given to having an initial declaration of assets and liabilities of such persons for the period of twelve months prior to appointment. Thereafter, statements should only be made if there is a significant or material change in their circumstances as the Integrity Commission prescribes. The declaration should be significantly reduced in scope and simplified to obtain data and information on the person's total net assets. The list of persons in public life should include the chief legal officers and heads of independent institutions, including the Commissioner of Police, Chief Immigration Officer, Transport Commissioner, Director General and Deputy Director General of the Revenue Authority and the Procurement Regulator.

5.180 The annual reports of the Integrity Commission should be debated within three (3) months after being laid. Consideration should also be given to establishing a written code of conduct, which must be reviewed periodically as appropriate.

5.181 The Integrity Commission should be staffed with competent personnel, including but not limited to certified forensic auditors and accountants, and experts whose gathering of evidence would then be hopefully acceptable to the office of the Director of Public Prosecutions to initiate the necessary legal actions. The Commission should continue to play its role in educating the public, including students about the problem of corruption, the risks and their prevention.

CHAPTER 11: THE SALARIES REVIEW COMMISSION

5.182 There are no proposed changes to the chapter on the Salaries Review Commission

CHAPTER 11A: THE TOBAGO HOUSE OF ASSEMBLY

Establishment of the Tobago House of Assembly (THA)

5.183 The Constitution should provide for the establishment of the Tobago House of Assembly (the Tobago Legislature) and outline its composition. It should also provide for the powers, privileges, and immunities of the Tobago House of Assembly. The members of the Tobago House of Assembly should be sworn in no later than three (3) days after their appointment or election. The requirement for an election for the Presiding Officer and the Deputy Presiding Officer, along with the procedures for filling any vacancies in these offices, should be outlined in the Constitution. As in the case of the Speaker, the Presiding Officer should not be actively involved in politics. Like the Presiding Officer, the Deputy Presiding officer should not be a Member of the Executive branch.

5.184 The Constitution should grant the Tobago Legislature the authority to make laws in relation to Tobago, clearly defining the scope of these devolved powers. In doing so, a detailed schedule outlining the specific areas over which the Tobago Legislature has the power to legislate should be included as a Schedule to the Constitution. This power of the Tobago House of Assembly to enact laws within its jurisdiction should be exercised in harmony with national laws to prevent conflicts with legislation passed by the national Parliament.

Appointment of Assembly Members

5.185 The Constitution should provide for the appointment of the Chief Secretary, the Deputy Chief Secretary, and the Minority Leader, as well as procedures for filling the vacancies in these

offices. The Constitution should include provisions for the appointment of Secretaries and Assistant Secretaries by the President, following the advice of the Chief Secretary. It should also provide for the appointment of Councillors and outline procedures for their temporary appointment in specified circumstances.

Removal of Assembly Members

5.186 The Constitution should include provisions for a motion of no confidence in the Chief Secretary and specify qualifications and disqualification for membership in the House of Assembly. It should also outline the circumstances under which an Assembly Member would have to vacate their seat, specify when the Presiding Officer may declare the vacant seat of an Assembly Member, and provide procedures for filling such vacancy.

Fixed Election Date

5.187 The Constitution should provide for the dissolution of the Tobago Legislature and establish a fixed date for the primary election of the House of Assembly. It should also amend the First Schedule of the Constitution to include Oaths (or Affirmations) for the Offices of the Assembly Members, Presiding Officer, Deputy Presiding Officer, Chief Secretary, Deputy Chief Secretary, Assistant Secretary, the Minority Leader, and Councillors.

The Tobago Executive Council

5.188 The Constitution should provide for the powers of the Tobago Executive Council headed by the Chief Secretary. The number of Secretaries and Assistant Secretaries should be fixed. The list of areas over which the Tobago Executive Council should have executive authority should be included as a schedule to the Constitution.

Responsibilities & Dispute Resolution

5.189 The Constitution should provide for the jurisdictional limits of the powers of the Tobago House of Assembly and the Tobago Executive Council.

5.190 In the event of a dispute between the Government of Trinidad and Tobago and the THA, both parties shall make efforts to resolve it before seeking judicial intervention. The constitution should provide for the establishment, composition, and the powers of a Dispute Resolution Committee. The functions of this Committee should include serving as a mediation authority for addressing public referrals on emerging issues and resolving challenges faced by Tobago's institutions. Any challenges to the decisions of this Committee shall be finally adjudicated by the Court of Appeal.

ANNEX

THE INSERTION OF THE NATIONAL SYMBOLS AND EMBLEMS OF TRINIDAD AND TOBAGO

The descriptions and meanings used below were sourced from the *National Identity Guidelines of the Republic of Trinidad and Tobago* produced by the Ministry of National Diversity and Social Integration and the National Emblems of Trinidad and Tobago (Regulation) Act.

1. **The National Flag**



The following is the description of the National Flag of Trinidad and Tobago:

“On a Red Field, a Bend Dexter Sable bordered Silver, that is to say, there is on the Red Field a diagonal from left to right in Black bordered with White. The width of the Black and White bands joined side by side at the upper dexter corner of the Flag is one-fifth of the full length of the Flag, and the width of each White band is one-sixth of the width of the White and Black bands together.”¹

“The Black represents the dedication of the people joined together by one strong bond. It is the colour of strength, of unity of purpose, and of the wealth of the land.

¹ National Emblems of Trinidad and Tobago (Regulation) Act, Chapter 19:04, Schedule: Part II.

Red is the colour most expressive of our country; it represents the vitality of the land and its peoples; it is the warmth and energy of the sun, the courage and friendliness of the people.

White is the sea by which these lands are bound, the cradle of our heritage, the purity of our aspirations and the equality of all men under the sun.

Thus, the colours chosen - Black, White, and Red - represent the elements of Earth, Water and Fire which encompass all our past, present and future; and inspire us as one united, vital, free and dedicated people.”²

² The National Identity Guidelines of the Republic of Trinidad and Tobago, Section 2, pg. 41.



2. **The National Anthem**

Forged from the love of liberty,
In the fires of hope and prayer,
With boundless faith in our Destiny,
We solemnly declare,
Side by side we stand,
Islands of the blue Caribbean Sea,
This our Native Land,
We pledge our lives to Thee,
Here every creed and race find an equal place,
And may God bless our Nation,
Here every creed and race find an equal place,
And may God bless our Nation.

3. The Coat of Arms



The following is the description of the Coat of Arms of Trinidad and Tobago:

Arms: Per chevron enhanced sable and gules a chevrenel enhanced argent between a chief two Hummingbirds respectant gold and in base three ships of the period of Christopher Columbus also gold the sails set proper.

Crest: Upon a Wreath argent and gules in front of a Palm Tree proper a Ship's wheel gold.

Supporters: Upon a Compartment representing two Islands arising from the sea, on the dexter side a Scarlet Ibis and on the sinister side a Cocrico, both proper and with wings elevated and addorsed.

Motto: Together we aspire: together we achieve.”³

³ National Emblems of Trinidad and Tobago (Regulation) Act, Chapter 19:04, Schedule: Part I.

4. **The National Instrument**



The steelpan is the National Instrument of Trinidad and Tobago. The following is a description of the steelpan:

“The steelpan is a musical instrument indigenous to Trinidad and Tobago with early evolution dating back to the 1930s and ‘40s.

Traditionally made from a steel drum or container, it is a definite percussion instrument in the idiophone class. The playing surface is divided into convex sections by channels, grooves and/or bores and each convex section is a note tuned to a definite pitch.”⁴

⁴ The National Identity Guidelines of the Republic of Trinidad and Tobago, Section 3, pg. 62.

5. **The National Flower**



The following is the National Flower of Trinidad and Tobago:

“The Double Chaconia (Warszewiczia cv ‘David Auyong’)”.⁵

⁵ National Emblems of Trinidad and Tobago (Regulation) (Amendment) Act, 2019, Section 3.



6. **The National Pledge**

I solemnly pledge
To dedicate my life
To the service of my God
And my country.
I will honour
My parents, my teachers,
My leaders and my elders
And those in authority.
I will be clean and honest
In all my thoughts,
My words and my deeds.
I will strive in everything I do
To work together with my fellowmen
Of every creed and race
For the greater happiness of all
And the honour and glory
Of my country.

7. **The National Birds**



Scarlet Ibis



Cocrico

“The National Birds, which are represented on the Coat of Arms of Trinidad and Tobago, are:

1. The Scarlet Ibis which represents Trinidad, and
2. The Cocrico which represents Tobago.”⁶

⁶ The National Identity Guidelines of the Republic of Trinidad and Tobago, Section 3, pg. 61.



8. **The National Watchwords**

The following are the watchwords of Trinidad and Tobago -
Discipline, Production, Tolerance.

VI: RECOMMENDATIONS ON THE CONVENING OF A NATIONAL CONSTITUTIONAL CONFERENCE

Introduction

6.1 Our Terms of Reference require us to:

“make recommendations to Cabinet for the promoting and convening of a National Constitutional Conference and Consultation in June 2024”.

6.2 The Committee engaged in a comprehensive process to achieve a wide cross-section of recommendations for Constitutional Reform. The Committee is confident that its proposals are based on (a) a thorough assessment of feedback from (i) submissions received via email, (ii) oral submissions made at town hall meetings throughout the country, as well as specially convened meetings with the youth; (b) presentations and submissions by experts in the fields of Law, Politics, Psychology, and Culture, (c) submissions from business organisations, international agencies, statutory and constitutional office-holders, and (d) the Committee’s review of the reports and recommendations from previous Commissions and Committees on Constitutional Reform.

6.3 The Committee is well aware that meaningful recommendations for Constitutional Reform inevitably involve the redistribution of political power in society and that political parties, political individuals and office-holders would not regard favourably the dilution of their power, even though objective and relevant change may be in the best interests of the society. This is why the literature on attempts at constitutional reform worldwide is replete with failures, including in the Caribbean and in Trinidad and Tobago.

6.4 The Committee is convinced, however, that Trinidad and Tobago has reached a stage in its independence and sovereignty where it is no longer sensible to delay or take half measures in respect of constitutional reform. We are operating institutions designed for a Crown Colony, yet, we are a sovereign democratic republic in the 21st century, facing critical challenges with respect to climate change, technological advances, which are reshaping economies and societies, changing values, and an economic system which is struggling in its ability to create meaningful employment.

6.5 We still face the challenge of harnessing the collective talents of a diverse population to create an innovative, enterprising and more productive nation, a challenge exacerbated by the unease, if not fear, engendered by severe crime and criminality, by the feeling of lack of representation in our ‘winner takes all’ electoral system, by the demands of the people of Tobago for meaningful involvement in shaping their future, and our First Peoples for greater recognition.

As the population is indicating clearly, it wants to participate meaningfully in the decisions which affect their lives; it wants a more representative and responsible Parliament; it wants an Executive elected by the people which conducts the affairs of State with integrity and is accountable to citizens, it wants a judicial system that delivers justice to everyone, rich or poor, quickly, and impartially. Citizens wish for a genuine democratic republic and a new Constitution relevant to their current and future needs and aspirations.

6.6 Notwithstanding their scepticism and cynicism about yet another attempt at constitutional reform, the sheer scale of the submissions received indicates a deep frustration with both the status quo and the outlook, as well as a deep desire for change. This frustration will likely morph into anger as economic circumstances no longer allow the welfare-oriented, redistributive State to be maintained. Following the collapse of the sugar industry marked by the closure of Caroni (1975) Limited, the collapse of the refining sub-sector marked by the closure of Petrotrin’s refining operations, declining oil and gas production, the population is apprehensive about the future and the impact that higher water, electricity, and fuel prices will have on the cost of living, and the negative impact that increasing foreign exchange scarcity will have on economic activity.

6.7 The Committee appreciates that amending or establishing a new Constitution is a complex, lengthy and sensitive process requiring political support. Change is usually progressive, as some proposals may require several sequential initiatives. Still, the Committee advises a holistic approach in considering the citizens’ proposals and not unwarranted selectivity, as the latter will be disrespectful to all those who once again contributed to the process of constitutional reform through this and previous Commissions and Committees and will reinforce their scepticism and cynicism about meaningful change. Such an approach would lack legitimacy. The only outcome that would be worse would be to set aside the “We the People” Proposals and continue with business as usual.

6.8 The nation is at a juncture which demands uncommon courage and uncommon sensitivity to the felt needs of the public. It requires those who hold office to set aside personal, parochial, ethnic, and party ambitions and to reflect on and promote the national interest.

6.9 The Committee recommends an approach which meets the criteria of legitimacy and respect for society. It is not without its difficulties and challenges, and there is no guarantee of ‘success’ if success is defined as unanimity or consensus across the board on a new Constitution. Success is better seen as achieving workable compromises that advance the goal of building a Trinbagonian civilization in which our children and grandchildren can survive and thrive and of which they can be tremendously proud. The Committee believes that success so defined is achievable, and, in doing so, the population can celebrate for the first time as a republic and for only the second time in our history, a genuine participative exercise in popular democracy.

Recommendations

6.10 The Committee recommends a National Constitutional Conference. Our recommendations are discussed under the following headings: (1) Agenda (2) Participants (3) Process (4) Logistics (5) Outcome.

Agenda

6.11 The Agenda will consist of Chapters of the Committee's Report, which outlines by chapters of the (new) Constitution, proposals for change, transitional provisions and collateral issues requiring attention and decision:

- a. Preamble
- b. Fundamental Rights and Freedoms and Duties of the Citizens
- c. Directives of State Policy
- d. Citizenship
- e. The President
- f. Parliament
- g. Executive Powers (Local government and state enterprises)
- h. The Judicature
- i. The Independent Institutions (DPP, Ombudsman, Integrity Commission, Auditor General)
- j. Tobago
- k. Finance
- l. Transitional Provisions
- m. Consequential Amendments to General Legislation
- n. Collateral Issues (Cabinet Manual, Award of Silk, Civics Education, National Awards)

Participants

6.12 The Committee recommends Delegates, comprising Political Party Representatives and Members of the Public.

6.13 Political Parties: The number of political party representatives may be determined based on those parties who were registered with the Elections and Boundaries Commission before the Conference, and the numbers based on the proportion of the electorate they gained in the last general election. Political parties which have not yet contested a general or local government election should be allowed representatives.

6.14 The Public: Members of the public will include (a) youth organisations b) Tobago representatives c) First Peoples d) inter-religious organisations e) trade unions (f) business organisations (g) civil society organisations and h) academia, including the Association of Principals of Secondary Schools and the general public.

6.15 With respect to the general public, preference will be given to those who attended and made presentations at the town hall meetings.

6.16 The Conference should be live-streamed on television and YouTube Parliament Channel, allowing citizens anywhere, including those in the diaspora, to witness the proceedings and participate virtually.

6.17 The number of in-person invitees can be adjusted to the size of the chosen venue.

6.18 Parties and organisations should be free to change their respective representatives attending on any given day.

Process

6.19 It is expected that the:

- a. National Advisory Committee - ‘We the People’ 2024 Report containing proposals for Constitutional Reform be laid in Parliament and made public.
- b. The Government should initiate an appropriate parliamentary procedure to give effect to the decision for the holding of the national Conference.

Preparation for the conference

- a. Independent Management: The Conference should be managed by a Committee (the Management Committee) led by an experienced and impartial Chairperson. The Committee proposes that no active politician or political party member be

eligible to chair the proceedings. Consideration can be given to persons from CARICOM, such as senior counsel or a former judge, to chair the proceedings.

- b. The Management Committee must develop a comprehensive plan for implementing the Conference, including timeliness, the tasks and required resources; prepare a budget; and ensure that financial resources are utilised efficiently and transparently. It must also assess risks and devise strategies to mitigate such risks.
- c. Stakeholder Engagement: The Management Committee should engage the services of a communications specialist who will oversee and facilitate communication channels, ensuring timely and relevant information reaches delegates, other stakeholders, and the public. The communications specialist must manage the communication process throughout the Conference.
- d. Media information kits must be available at least a week before the Conference start date.
- e. The Committee proposes that the Report and Proposals be published by Parliament. The Committee should distribute the proposals to delegates at least six (6) weeks before the National Conference. The Conference management must make downloadable electronic copies from multiple websites, and hard copies will be available to the public.
- f. The list of delegates, including alternates, will be published two (2) weeks before the Conference's start date. This will allow time for accreditation.

Logistics

- a. *Venue and Port of Spain Hub*: The National Conference hub should be in Port of Spain with satellite centres in North, Central, South, and Tobago. The centres will be connected to the Port of Spain hub by secure, high-speed communications links permitting interaction with attendees at the regional centres.
- b. The Conference can be structured to be completed over a seven (7) day period, four days in one week and three days in the week immediately following.
- c. The facilitator i.e., the Government, will provide catered lunch and refreshments for the participants. The public may be transported to the venues from locations across the country.

The Conference Methodology - Toward Consensus

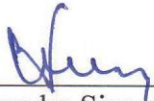
6.20 The aim of the conference should be to get the conference's consensus on the constitutional topics or arrive at a point, if necessary, where there is a clear majority based on a simple show and count of hands. The Committee appreciates that consensus may be achieved on many topics, but some will, expectedly, be more challenging to get full acceptance. However, to achieve the best possible outcome, the following approach is recommended:

- a. expert management by the Chair is essential, someone who is respected and known to be independent and politically impartial.
- b. there must be genuine inclusion.
- c. a clear understanding by members of the conference goal. The Goal should be to get the conference's views and decisions on each topic for constitutional change.
- d. the Chair must engender full participation and cooperation and must be sensitive to participants' concerns and suggestions or solutions and not ignore the minority.
- e. egalitarianism. The Chair must equally and justly weigh comments and proposals from the floor, to arrive at options for amendments or new proposals.
- f. adopting a solutions approach and working toward common ground despite differences.
- g. participants must be clear on the benefits to citizens and the Country if we achieve a "We the People" Constitution.

Outcome

- a. The Committee anticipates that the primary outcome of the Conference will be consensus on the legislative proposals for comprehensive constitutional reform.
- b. The People's wishes are expected to be carefully considered and respected.

Approved:



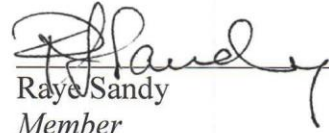
Barendra Sinanan SC
Chairman

24/ July 2024



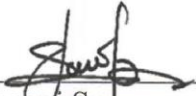
Dr. Terrence Farrell
Member

24/ July 2024




Raye Sandy
Member

24/ July 2024



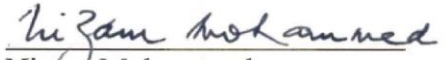
Jacqui Sampson-Meiguel
Member

25/ July 2024



Winston Rudder
Member

25/ July 2024



Nizam Mohammed
Member

25/ July 2024



Hema Narinesingh
Member

25/ July 2024



Helen Drayton
Member

24/ July 2024



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APPENDICES



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APPENDIX I

Non-Constitutional Recommendations

A number of issues were raised by the public in our national outreach. The Committee tried to distill these recommendations where possible in the proposals. Below lists all the non-constitutional recommendations submitted by the people.

Written Public Submissions

1. Child custody proceedings too slow.
2. No child marriage/Age of consent to be increased/Teen Pregnancies.
3. Reform Primary school system/ SEA Reform/ Paid lessons/victimization.
4. Reintroduce flogging/corporal punishment in schools.
5. Education on Constitution/Civics/Code of school conduct.
6. Marriage as 'union of assets' for religious organisations not State/No fault divorce/Prenuptial agreements/ No same-sex marriage.
7. Child support/Maintenance/Paternity test for birth certificates/Subtle discrimination registration of births/ Nuclear family/Family support needed/ Parent education.
8. Have a gun court.
9. Citizen duties, responsibilities and behaviors/Noise pollution/Littering/Community disrespect /parking.
10. Payment of legal fees/costs when judicial review case lost.
11. Make public and police officers personally liable.
12. Members of Parliament should be liable for court rulings against the State caused by them.
13. Exploitation of Labour/Industrial Court Fairness/Labour laws/Decent work/Worker protection/Fair Labour practices/Recognition of union for health care workers/Maternity and paternity benefits.
14. Recognise political parties in Constitution/Reform Political Parties/No political parties in the Constitution/Defeated candidates cannot serve in Senate/Campaign Finance.
15. Issues related to the Concordat.



16. Ban violent lyrics in music.
17. Appointment to boards of state-owned enterprises by President/Committee.
18. Improved Health Care/Free menstrual products.
19. No non-disclosure agreements by government.
20. Preservation of Nature/Green spaces in developments.
21. Promoting culture with government support; Cultural heritage preservation and promotion; National Carnival Commission/Carnival bands.
22. Remove adverse possession law.
23. Community development projects.
24. Deal with mental health.
25. Deal with domestic violence.
26. International treaties become part of domestic law/implemented.
27. Local government electoral reform.
28. Overseas citizens to be able to vote.
29. Protection of animals.
30. Public approval of sale of state assets.
31. Public Holidays on Mondays/Change certain holidays.
32. Recycling policy.
33. Review National Awards.
34. Advertising in maxi taxis.
35. Amnesty should be suspended in coup.
36. Build Culture of Maintenance/Incomplete structures.
37. Civil Service Reform.
38. Climate Change Energy Transition.
39. Coat of Arms redesign.
40. Code of Conduct for office-holders.
41. Compliance with Freedom of Information Act.
42. Contractual employment in public service.
43. Creative sector music titles.
44. Decentralise education administration.
45. Delays in probate.

46. Disaster management.
47. Doctors in public hospitals should not have private practice.
48. EBC electoral districts/20,000-25000 per constituency.
49. Provision of education books.
50. Education free up to PhD.
51. Education in healthy relationships, spirituality, and ethics.
52. Equal Opportunities Act to protect retirement age, health status, and sexual orientation.
53. Establish cooperatives.
54. Fact checking in Parliament.
55. Fairness to small and medium sized enterprises (SMEs).
56. Financial intelligence unit.
57. Financial Reporting.
58. Gender referencing.
59. Harsher penalties for serious crimes.
60. Increase government sector pay for talent.
61. Increase social assistance grant.
62. Insurance claims.
63. International observers for elections.
64. IQ and Psychometric testing for security personnel.
65. Judicial 'activism'.
66. Land development commission building codes.
67. Land Tenants Security of Tenure Act.
68. Legalise marijuana.
69. Limit on contract positions in civil service.
70. Make Commissions of Enquiry public.
71. Mandatory mediation before litigation.
72. Maritime laws/Fishing regulation.
73. Media regulation.
74. Mercury in products.
75. More autonomy for regional corporations.
76. National Anthem and Pledge in schools.



77. National insurance board inefficiency.
78. Nepotism in State entities.
79. Issues re Police Certificate of Character.
80. Parliamentary approval of Heritage and Stabilisation Fund withdrawals.
81. Participatory budgeting.
82. Pay-As-You-Earn (PAYE) Refunds.
83. People vote on international agreements.
84. Procurement regulator in the Constitution.
85. Promote science and technology.
86. Public officers' participation in politics.
87. Reform procedure for firearms licensing.
88. Release remand prisoners if time served.
89. Religious appointees to state boards.
90. Restorative justice.
91. Right to a 'bank account'.
92. Schools in disrepair.
93. Squatting to be addressed.
94. State-provided Housing/Health Care.
95. Status of Masters of the High Court.
96. The inter-island ferry.
97. Reduce traffic congestion.
98. Treatment of migrants.
99. Public Utilities.
100. Voluntary Advisory body.
101. Volunteer fire and police.
102. Vote for Commissioner of Police.
103. Voting qualification.
104. Water and electricity supply.

Youth Forums

1. Increase the power of organisations like the Environmental Management Authority (EMA) to carry out their functions.
2. Make restorative justice mandatory.
3. Implement the death penalty for harsh crimes.
4. Deter the rearing of cannabis plants at home as it's not constructive for the youth
5. The right to a fair/living wage that reflects present economy.
6. Prompt compensation after retirement.
7. The right to have more dignified places for the homeless to reside.
8. Free and fair competition in business and trade.
9. Young people should have a say in their schools and should be part of the school board.
10. EBC to host national prime minister debate.
11. More regulations to tackle climate change (no stiff penalties).
12. More consultation regarding budget allocations (namely education and social services).
13. Immigration and migration laws updated.
14. Gun control regulations.
15. Psychiatric evaluation of each public officer.
16. Recognition of Trinidad & Tobago sign language as the primary language of deaf persons & hard of hearing persons.
17. Four-day work week.
18. There should be a full review of Act 40 of 1996 that gives Tobago the right to self-determination.
19. Ban of single-use plastic and styrofoam.
20. Collection & Administration of taxes in Tobago to give the island the ability to track rate of increments in tax revenue per year.

Town Halls

1. Citizens should be educated about the Constitution and own a copy/ Involvement of the youth and teaching the Constitution in schools is important.
2. Amend the Equal Opportunity Act as it is not entirely democratic in its application.
3. Freedom to express religious belief.
4. Addressing public officials who encourage crime.
5. Prohibiting loud vulgar music in public/Ban music with violent lyrics.
6. Promoting increased use and education on marijuana.
7. Imposition of unreasonable fees by banking institutions.
8. Spanish should be taught at the primary level.
9. Using obscene language should not be a criminal offence.
10. Senior and physically challenged individuals are not being properly provided for.
11. Taxpayers should not have to pay compensation for unlawful police arrests; the police should cover these costs.
12. Ensuring the proper use of social media
13. Making national service mandatory.
14. Implementing work-from-home policies.
15. No to property tax.
16. 16-year-olds should be allowed to work if they are fully educated.
17. Reforming local government/ Eliminating the borough councils and replacing them with elected local councillors/Removing mayors.
18. Fixing of roads.
19. Reforming the Police Service since the government controls everything leaving people powerless.
20. Lack of trust in politicians.
21. National Identification Cards should have magnetic strips are needed to improve the electoral process. Using technology will give people a greater voice.
22. Amending the Representation of the People Act.
23. Campaign finance reform.
24. Digital and social media protection during election to combat disinformation and misinformation.

25. Private Sector funding and its impact on elections
26. Establishing a regulatory body for digital media/regulating the digital media space.
27. Reform the Police Complaints Authority.
28. The justice system is contributing to the breakdown of society and crime.
29. Creating a special organ in the Government to ensure that no community is left behind/
Communities should have the right to self-determination and empowerment/ Communities
should have a share of public funds/ Communities should be able to organize themselves,
make their own decisions, and be involved in all policymaking.
30. Differences in certain regulations between Trinidad and Tobago
31. Special purpose companies must report to the public to allow for scrutiny.
32. Abolishment of the Regional Health Authorities system in preference to the Ministry of
Health system.
33. Abolish the recognized majority union (RMU) requirement for collective agreements. The
RMU system is flawed, treating workers unequally based on whether they are daily or
monthly paid, and it conflicts with the Constitution.
34. Constituencies should receive a proportional share of the national budget.
35. Establishing an elected constituency governor who will not be allowed to serve as a
Cabinet member.
36. Amending the Procurement Act to remove bias.
37. Establishing a citizen court to increase accountability
38. Revising laws related to the banking sector to ensure that people are not deprived of their
property and have better access to their money.
39. Addressing the gap between the last salary and pensionable age is crucial. It is a profound
disservice that the National Insurance Board and related institutions are allowed to deplete
State funds, impairing their ability to provide for future generations.
40. Legislation is needed to deal with the increase in crime.
41. A holiday that recognizes the First Peoples community.
42. Development of rural communities.
43. Our laws need to be updated for development like Land and Company Laws.
44. Reforming the education system to be more inclusive/More creative support options are
needed beyond the insufficient disability grant.

45. Addressing anti-competitive behaviour by limiting the wealth of individuals to prevent corruption and biased influence in the media.
46. Ensure housing security by focusing on social displacement and protecting vulnerable individuals. Many young people are currently without homes.
47. Education on the history of Tobago in schools.
48. Need to diversify the economy and not solely rely on tourism.
49. Reform the system of governance away from democracy.
50. Protection against discrimination is needed, especially concerning violence against women and young people. There is significant inequality, and we need greater inclusion of women in discussions and topics that affect them.
51. Provide for youth representation.
52. It takes months for issues to be resolved at the National Insurance Board (NIB).
53. Encourage entrepreneurship.
54. Educating the public for proper stakeholder engagement is crucial. There is a need to focus on leadership and governance, as there is currently no culture of stakeholder engagement and no proper education for it.
55. A fixed amount of the budget should be allocated to each constituency.
56. Provide development and training and ensure performance appraisals.
57. Implement ethical standards and codes of conduct.
58. Establish independent selection committees.
59. School reform is needed to implement a standardized syllabus.
60. Reforming criminals and young offenders.
61. Prison reform is necessary to provide prisoners with opportunities to contribute to society.
62. Have gun control laws.
63. Providing for mandatory service.
64. Campaign financing reform/ party financing regulation.
65. The army is unnecessary.
66. Start teaching civics in school.
67. Introduce aldermen.
68. The statute of limitations affects ordinary people, as the police often use it as an excuse to avoid court. It should be removed.

69. The self-employed should be able to pay NIS and health surcharges.
70. Noise pollution needs to be handled properly as it is a public nuisance.
71. Giant African snails are not being dealt with properly.
72. Introduce a committee to deal with animals who are not being kept well.
73. Vacant lands that pose public health hazards are a problem, and it is essential to identify who is responsible for these lands. Development projects often neglect issues such as drains, sewage, and lighting. Developers should be held accountable for addressing these problems.
74. Proper electoral boundaries to get proper representation because of our boundary lines/ Elections and Boundaries Commission should have proper boundary lines.
75. Education and development of the citizens and duty to the Republic should be prioritised more.
76. School reform so to ensure that all school children take part in cultural events.
77. Prisons lack proper seating accommodation for visitors and do not have air conditioning. Prison officers also have to work in heat.
78. Teachers need to dress like teachers.
79. The prison and the judicial system are creating monsters.
80. Allow sole traders to pay NIS.
81. Continuity of government projects. Taxpayers' dollars invested in a project should not be forgotten when new administrators come in.
82. Sex education should be mandatory in schools.
83. Align regional statehood with the needs of Caribbean nationhood.
84. Strengthen the force of national liberty.
85. Create a new educational paradigm.
86. Opportunities need to be created to encourage the involvement of young people to have interest and participate in the political affairs of the country.
87. Reform the process for obtaining pensions as there are currently a lot of problems and delays.
88. Fees need to be increased for persons who do not clean their yards.
89. Mayors and corporation chairmen should be elected position.
90. Abolish the Appropriation Bill and appoint a budget committee to handle budgeting.



91. Introduce a fact-finding committee to investigate statements made by public officials.
92. Introduce legislation to establish philanthropy foundations under the Green Initiative, promoting leadership by example.
93. Legislation must be enacted to hold offenders accountable for reckless and irresponsible behaviour.
94. Push for research and development before making important decisions and make data available to the citizens.
95. Integration of social arts and design awareness.
96. Need parks and housing developments.
97. Public spaces need to be protected.
98. Members of the media should adhere to journalistic principles and be punished when they do not.
99. Need a professional indemnity insurance to shift liability from the State to the agent of the State
100. This country needs bipartisanship government.
101. Improve the administration of justice.
102. Age of retirement should be age 55 to create employment for young people.
103. Right of parent to homeschool their children is not properly respected since the child still has to be registered in a public school.
104. Attorneys who take advantage of persons should be punished.
105. The National Archives should be a statutory board with its own budget.
106. The manifesto should be a legal binding document.
107. Both parents should go to register the birth of a child.
108. Parents should be responsible for delinquent children.
109. Everyone who is over eighteen and who is not working should be given a role.
110. Provide employment opportunities for the disabled.
111. Compulsory community service.
112. Ensuring that fathers pay child support.
113. Implement mandatory DNA testing to find fathers.
114. Recognition and favour should be given to members of the Protective force.
115. Corrupt individuals must repay twice what they have stolen.

116. National anthem should be played or sung in every gathering daily.
117. Nothing should be free in the country—not even the bus. The elderly should still pay a fee.
118. Four-day work week.
119. Women who are aware of crimes done by men on children should also be locked up. The parent who does not do something should also be held accountable.
120. SME to be taxed on a different corporation tax bracket.
121. Implement a proper system to ensure that the Government pay its bill on time and pay interest when it does not.
122. Business chambers to have a seat at the table when policy and decisions are being made that would affect businesses. The protection of small business from conglomerates.
123. Separation of Church and State to avoid preference to religious groups.
124. Remove blasphemy laws.
125. Individuals who are ordained or certified by an international creed group, regardless of their religious orientation, should be granted a license to conduct marriages.
126. Educating citizen on ballot system.
127. Education to improve awareness of disability, Alzheimer's, and dementia.
128. Legislation to regulate bank charges.
129. Amend Company law. Due to archaic laws that allow companies to have offices in other countries, we are losing foreign exchange.
130. Assistance in dealing with mental health should be mandatory and accessible.
131. Have legislation to allow police to deal with and to charge suspects. Digitize the systems.
132. Housing should be allocated based on need.

APPENDIX II

List of Invited Stakeholders Who Submitted Recommendations

Constitutional Offices

1. The Integrity Commission
2. Auditor General's Department
3. Parliament of the Republic of Trinidad and Tobago
4. Office of the Prime Minister
5. Permanent Secretary, Office of the Prime Minister
6. Office of the Chief Parliamentary Counsel
7. The Judiciary of the Republic of Trinidad and Tobago
8. Elections and Boundaries Commission
9. Service Commissions (JLSC, PoISC, PSC, TSC)
10. Tobago House of Assembly, Assemblymen
11. Chief Secretary of the Tobago House of Assembly

Non-Constitutional Offices and International Diplomatic Organisations

1. Ministry of Public Administration
2. Environmental Management Authority
3. Environmental Commission
4. Tax Appeal Board of Trinidad and Tobago
5. Industrial Court of Trinidad and Tobago
6. Equal Opportunity Commission
7. Equal Opportunity Tribunal
8. United Nations Human Rights – Office of the High Commissioner

Political Parties

1. HOPE
2. Movement for Social Justice
3. The National Party

Civil Society Organisations

1. Santa Rosa First Peoples Community
2. Trinidad and Tobago Deaf Community Service
3. European Business Chamber
4. The First Wave Movement
5. Call to Action for Social Change Foundation
6. Women's Caucus
7. WOMANTRA
8. CAISO – Sex and Gender Justice
9. Caribbean Association for Feminist Research and Action in T&T
10. Transgender and Non-Binary Trinidad and Tobago
11. Baptist Union
12. Christian Council of Trinidad and Tobago
13. Immanuel Ministries International Limited
14. CANARI - Caribbean Natural Resources Institute
15. Climate Analytics Caribbean
16. Cropper Foundation
17. Global Shapers Port of Spain Hub
18. Eye on Dependency
19. Co-operative Credit Union Movement Legislative Committee
20. Advocates Trinidad and Tobago
21. Environment Tobago
22. All Mansions of the Rastafari
23. Frontline Alliance Against Gender Based Violence
24. Trinidad and Tobago Methanol Company Ex-Employees (TTMCEE)
25. Trinidad and Tobago Carnival Bands Association (TTCBA)



26. Abdul Aziz Trust
27. The Trinidad and Tobago Transgender Coalition (3TC)
28. Our Portal for Accountability & Representation for Trinidad and Tobago (Our PARTT)
29. Law Association of Trinidad and Tobago (LATT)
30. Advertising Agencies Association
31. Unified Health Workers Union
32. The Hindu Women's Organisation of T&T

APPENDIX III

Experts Consulted

	Experts	Date
1.	Professor Hamid Ghany	Wednesday 6 th March, 2024
2.	Mr. Douglas Mendes SC	Friday 15 th March, 2024
3.	Mr. Christo Gift SC	Wednesday 20 th March, 2024
4.	Mrs. Deborah Moore-Miggins	Wednesday 20 th March, 2024
5.	Hon. Justice Adrian Saunders	Monday 25 th March, 2024
6.	Mr. Delano Bart KC (St. Kitts and Nevis)	Monday 25 th March, 2024
7.	Professor Ramesh Deosaran	Wednesday 27 th March, 2024
8.	Hon. Justice Peter Jamadar	Thursday 4 th April, 2024
9.	Mr. Russell Martineau SC	Thursday 4 th April, 2024
10.	Professor Tracy Robinson	Friday 5 th April, 2024
11.	Mr. Allan Richards	Thursday 11 th April, 2024
12.	Ms. Ingrid Melville	Thursday 11 th April, 2024
13.	Professor Paula Morgan	Wednesday 17 th April, 2024
14.	Professor Rose-Marie Belle Antoine	Wednesday 24 th April, 2024
15.	Hon. Justice Anthony Lucky	Wednesday 24 th April, 2024
16.	Dr. Katija Khan	Wednesday 1 st May, 2024
17.	Hon. Justice Gillian Lucky	Wednesday 1 st May, 2024
18.	Hon. Mr. Justice Winston Anderson	Thursday 2 nd May, 2024
19.	Hon. Mr. Justice Vasheist Kokaram	Thursday 16 th May, 2024
20.	Justice Edwin Cameron SCOB (South Africa)	Monday 20 th May, 2024

	Experts	Date
21.	Mr. Ramesh Maharaj SC	Monday 27 th May, 2024
22.	Shri P. K. Malhotra (India)	Tuesday 25 th June, 2024

APPENDIX IV
Town Hall Meetings

	Communities	Dates	Venue	Moderator
1.	Sangre Grande	Tuesday 2 nd April, 2024	Civic Centre, Sangre Grande	Professor Hamid Ghany
2.	Point Fortin	Wednesday 3 rd April, 2024	Auditorium, Point Fortin Borough Corporation	Professor Hamid Ghany
3.	POS/Diego Martin	Friday 5 th April, 2024	City Hall Auditorium	Mr. Wendell Constantine
4.	Mayaro/Rio Claro	Monday 8 th April, 2024	Rio Claro West Secondary School	Professor Hamid Ghany
5.	Tobago East	Thursday 11 th April, 2024	Belle Garden Multi-Purpose Facility	Mr. Julien Skeete
6.	San Fernando	Monday 15 th April, 2024	San Fernando City Hall Auditorium	Mr. Wendell Constantine
7.	Princes Town	Wednesday 17 th April, 2024	Princes Town East Secondary	Ms. Petronilla Basdeo
8.	Arima	Friday 19 th April, 2024	Mayor's Office (Temp. location)	Mr. Wendell Constantine
9.	Tobago West	Monday 22 nd April, 2024	Shaw Park Cultural Complex	Mr. Julien Skeete
10.	Chaguanas	Thursday 25 th April, 2024	Southern Hall, Centre Pointe Mall	Mr. Wendell Constantine
11.	Penal/Debe/Siparia	Thursday 2 nd May, 2024	Conference Hall A, upstairs Siparia Market	Mr. Denish Sankersingh
12.	Tunapuna/Laventille/San Juan	Monday 6 th May, 2024	Tunapuna Community Centre	Mr. Wendell Constantine
13.	Diego Martin	Tuesday 7 th May, 2024	Diego Martin Central Community Centre	Mr. Wendell Constantine
14.	Couva/Talparo/Tabaquite	Thursday 9 th May, 2024	Lisas Gardens Community Centre	Mr. Roger Sant

APPENDIX V

Youth Forums

	General Area	Date	Venue	Facilitators/Moderators
1.	San Fernando	Saturday 4 th May, 2024	City Hall, San Fernando	Dr. Alicia Elias-Roberts Ms. Chantal La Roche Hon. Mr. Justice Westmin James Mr. Kiel Taklalsingh Mr. Kriss Hosein
2.	Port of Spain	Saturday 11 th May, 2024	John Hamilton Maurice Room, Cabildo Building, Parliament	Ms. Chantal La Roche Hon. Mr. Justice Westmin James
3.	Tobago	Tuesday 14 th May, 2024	Assembly Legislature Building, Tobago House of Assembly	Mr. David Edmund Ms. Dawn Palackdharrysingh Mr. Shakeil Jones

APPENDIX VI

Town Hall Attendees

Some of the names of attendees may contain spelling errors owing to the interpretation of names from handwritten attendance registers at the events. Additionally, some names were not recorded due to illegibility and the absence of full names. The attendance figure for the Sangre Grande town hall meeting was derived from a head count of fifty-five (55) due to the absence of a register.

Arima

1. Jairzinho Rigsby
2. Neil Craser
3. Ricardo Bharath Henuandz
4. S. Grant
5. Ashton Ford
6. Royann Sanorers
7. Helan Gracia
8. Junior Bobb
9. Janias Toussaint
10. Joy Frederick
11. Azim Gulab
12. Edward Dwade
13. Leah Thompson
14. Joycelyn Worrel
15. Councillor Sheldon Garcia
16. Mickey Matthews
17. Doddridge Jack
18. Paula Comeson Jagbir
19. Kim Garcia-John
20. Gail Camejo Keshwal
21. Ann Marie Edwards
22. Akilah Edwards-Rose
23. Gladys Faunaudy Plasecia
24. Peunlyse Berls
25. Russell McCarthy
26. Lisa Karen Tomas

Princes Town

1. Brennon Daniel
2. Jason A. Allen
3. Deonarine Ragoo
4. Zia Mohammed
5. Genevieve Thompson
6. Subhas Panday
7. Radley Ramdhan
8. Pream Ramdhan
9. Denice Warner
10. Jay Ali
11. Haureen Franciois
12. Dalyna Tyson
13. Mickey Matthews
14. Cheniecesa Wood
15. Chenessa Toppe
16. Capil Doe Beharry
17. Hmeric Lewis

San Fernando

1. Donstan Bonn
2. Anushica Kaupee
3. Akini Cobbler
4. Rooplal Samaroo
5. Gerard Frederick
6. Keith Gmambaksia
7. Trud G Andrew
8. Remington Clarkson
9. Barry Garcia
10. Gene Bocaus

11. Aldyin Beddoe
12. Sekou Bastien
13. Angewque Alleyne
14. Annalisa Lee
15. Bra M. Charles
16. Kenrick Alleyne
17. Benison Jagessae Sehlon
18. M. Alleyne
19. Dustan Rem
20. A. Edwards
21. M. Thomas
22. Mikey Joseph
23. Tresa Lynn
24. Orvin S. Reeves
25. Curtis Bobb
26. Maxime Quintal
27. Rolly Dominic Hoson
28. Lloyd Taylor
29. Mickey Matthews

30. Capildeo Beharry
31. Arren Ofrarron
32. H. Godge
33. Daniel Dookie
34. Krysten Mohammed
35. Valmiki Ramsingh
36. Ru-Marouis Horsley
37. Earle Fiddle
38. Harolx Woodlorse
39. Minanva John
40. Leo Bradsyaw
41. Peter Mitchell
42. Uklyn Ferguson
43. Tricia Lee
44. Stacy Cadogaw
45. Nigel Couttier
46. Osi Edwards
47. Junol Babeoll

Tobago East

1. Molly Thomas
2. Elvis Gray
3. Vanus James
4. Kerlanda Andrews
5. Giselle Davis
6. Alva Viarruez
7. Elizabeth Gorrides
8. Faith B. Yisrael
9. Deise Troifalt
10. Kaye Triotman
11. Marlon Radgman
12. Kerry Wallot

13. Kenrick Andrews
14. Max James
15. Shelley-anne James
16. Hendey G.
17. Ryan Oniel
18. Taylor Maxwell
19. Kevon Bernard
20. Certica Williams –Orr
21. Richard Alfred
22. Sherwyn Alleyne
23. Nelson Lewis
24. Eon Robley

Rio Claro

1. Raymond Corior-Mayos
2. Junior Sooknanan
3. Matthew Amann
4. Carlon Deroon
5. Winston Peters

6. Ryan Stewart
7. Jennice Armstrong
8. Brian S. Richards
9. Rayber Bowen

Port of Spain

1. Andre Acres
2. Raul Bermudez
3. Stephen Telesford
4. R. Clarke

5. L. White Wilson
6. Stephen Ladiz
7. Robert Amar
8. Keron Reyes

9. Paul Richarm
10. Cawe Agad
11. Zaida Rajaal
12. Marina Ali
13. Ash Ali
14. Fareed Ali
15. Sherri Singh
16. Ronaldo Gibbings
17. Aaron Browne

18. Corey Saph
19. Juri Thomas
20. Hilane Murray-Jeremiah
21. James Jeremiah
22. Anisol A.
23. Rudolph Hanamji
24. Chrystal Chase
25. Bryon Serrette

Point Fortin

1. Wendy Jules Charles
2. Albert Reyes
3. Chrisanta-Ann Austa
4. Marilyn R. Singh
5. Mervyn R. Singh
6. Isaal Lambert
7. Elizabeth Richardson
8. Bernadette Bacchus
9. Clyde Anthony James (Mayor)
10. Balsa Mello D John
11. Kwesi Thomas (Dep. Mayor)
12. Jackie Noel
13. Lesya Pascal (Councillor)
14. Marcia Brown
15. Anthony Williams

16. Christopher Wright (Councillor)
17. Janisa Mitchell
18. Ryan Lucas
19. Frankie M Guire
20. Nigel Whyte
21. Garnett Thompson
22. Brianna Sam
23. Geeta Alexander
24. Godfrey Alexander
25. Kennedy Richards (MP)
26. Winston Francois
27. Winston Wilson
28. Theophilus Joseph
29. Nadine George

Chaguanas

1. Inzamam Rahaman
2. Anderson Jolapersad
3. Ryan Charles
4. Dixie-Ann Toby
5. Marilyn Crichlow
6. Kerm Cupid
7. Trevon B.
8. R. Bastien
9. Michael F Toussaint
10. Victoria M Figaro-Gill
11. Kavita Jattansingh
12. Sammer Tariq Ali
13. Karma Paul
14. Mar Punnatte
15. Kofe Wright
16. Sharon Bullem
17. Eric Esdelle

18. M. Ali
19. Susan Maraja
20. Alicia Mohammed
21. Shiva Pararam
22. Hydali Qubal
23. Russell Chapman
24. Rommel S.
25. Jennifer Sookram
26. C. Park
27. Alex Roonarine
28. Kevin S.
29. Sasha Jattansingh
30. Dwayne Paul
31. Keith Ferguson
32. Jeaffreson Barclay
33. Joua Barclay

Penal /Debe/ Siparia

1. Premchand Ramchan
2. Fred Ramgoolam
3. Aaron Ramkisson
4. Vijay Jr Sookdial
5. Sherine Gadga
6. Roger Pascal
7. Shaunna Thomas
8. Brian Richards
9. Debbie Cameron
10. Alpha Sennon
11. Kavita R Dabiedeen
12. Brandon Jadoonanan
13. Keith Byer
14. Ambrose Cardanal
15. Anton George
16. Rampersad Neuraj
17. Dre Airjn
18. Theresa Noel
19. Peter Lopez
20. Mardy H.
21. Judith Pascal
22. Pr. Cordelle Williams
23. Raven Ramawak
24. Ashlyn Emmanuel
25. Tricia Andrew
26. Mickey Matthews

Diego Martin

1. Eric Mercer
2. Everilde Joseph Medina
3. Francis Athony Mouttet
4. Nazim Mohammed
5. Aaylene Emmon-Lewis
6. Darnley Cupid
7. Kerwin Benacia
8. Sherian Ramsabhag
9. Simmone Edwin
10. Ronaldo Bartolo
11. Renaldo Roussean

Couva

1. Euline Peters
2. Gerald Peters
3. Nazim Mohammed
4. Ammie M.
5. Patrice Daisy
6. Lixdiwe Kamaj
7. Cheryl Greene
8. Michelle Yatali
9. Anthony Da Costa
10. Jeaff Barclay
11. Leonardo Garcia
12. Lystra M.
13. Judy Manwaring
14. John A. Gedeon
15. Nicholas Sant
16. Gilbert Agard
17. P Mohammed
18. Kavita R Dabiedeen
19. Keval Marimuthu
20. Ruby Jemm

Tobago West

1. H.I.M Goddess M.D Trincity El
2. Amanda Francis
3. Rosemary Sandy
4. Ariadne Amata
5. Marlon Radgman
6. Caroann James
7. Carrge Bobb
8. Dawin P.V. Singh
9. Victon Wheelen
10. Carlton Jack
11. Sve-ann Ramsay
12. Shakir John
13. Trilicia St. John
14. Wayne Alongo
15. Ann Second
16. Barry Joefield

17. Anthony James
18. Dayrron Mitchell
19. Sharon Caesar
20. Ornella Dousuas
21. Karen Bart-Alexander
22. David George
23. Brandon Geon
24. Barry Nelson
25. Awselm Richards
26. Eric Williams

27. Ruth George
28. Earth Lezama
29. Deuse Troinfalt Angus
30. Kaye Trotman
31. Melissa James Guy
32. Joel St. John
33. Terrence David
34. Mickey Matthews
35. Claire Braithwaite

Tunapuna

1. Dean Arlen
2. Jairzinho Rigsby
3. Ian J. Clarke
4. Winnell Waldron
5. Mickey Matthews
6. Chandai Garib-Bachan
7. Margaret Thomas
8. David Satnarine
9. Mauricia Laliff
10. Nigel Walcott
11. Kirk Ferguson
12. Lloyd Taylor
13. Andre Acres
14. Martin J.C. Stowes
15. Rhodha Reddock

16. Rohann Andres
17. Leah Thompson
18. Anthony Meloney
19. Dr. Stan Bishop
20. Winston Whasnell
21. Worrell Toussaint
22. Dr Anil Ramdoo
23. Boodram Supersad
24. Sumity Maharaj
25. Rivaaj Bachan
26. Esmond D. Forde
27. Russell McCarthy
28. Pearl M. Charles
29. Isaiah Ferguson

APPENDIX VII

Youth Forum Attendees

Some of the names of attendees may contain spelling errors owing to the interpretation of names from handwritten attendance registers at the events.

San Fernando

- | | |
|-----------------------|------------------------|
| 1. Richard Campbell | 15. Dr. Jelani Reid |
| 2. Aaron Motor | 16. Nafeesa Ali |
| 3. Daniel Sookdeo | 17. Kirron Kanayo |
| 4. Jeremy Baptiste | 18. Josiah Adolphus |
| 5. Kerdell Vincent | 19. Fana Nelson |
| 6. Latoya Lamont | 20. Trevor Watson |
| 7. Alyeah Burke | 21. Te Sherra Glasgow |
| 8. Ateba Morris | 22. Adam Mohammed |
| 9. Renella Stewart | 23. Kriss Hosein |
| 10. Adarion Mason | 24. Shane John |
| 11. Bryanna Atwell | 25. Terri Ann Baker |
| 12. Johnny Mugrave | 26. Jemiah Prince |
| 13. Aliyah Abdulwudud | 27. Christian Bedassie |
| 14. Jenelle Elie | |

Port of Spain

- | | |
|--------------------------|-----------------------|
| 1. Chandelle O'neil | 17. Andieva Weste |
| 2. Martin J.C Rares | 18. Ateba M Morris |
| 3. Andre Acres | 19. Koise Sandy |
| 4. Tianna Smith | 20. Maurice Burke |
| 5. Timothy Barsattee | 21. Kamia Holder |
| 6. Sekai Sayers | 22. Karen Alvarez |
| 7. Sharon Maraj | 23. Anthony Kipps |
| 8. El Scheddai Lake | 24. Joshua Gordon |
| 9. Ryan Duncan | 25. Priya Ali |
| 10. Abigail Bynoe | 26. Keisha Alexander |
| 11. Kirron Kanayo | 27. Mickey Matthews |
| 12. Raeven Tyson Edwards | 28. Jeremy Baptiste |
| 13. Seruel Reelee | 29. Christoph Radifug |
| 14. Chandai Garib-Bachan | 30. Rivaaj Bachan |
| 15. Isaiah Desormeaux | 31. Shane John |
| 16. Rondell Cato | 32. Terri Ann Baker |



33. Jemiah Prince

34. Christian Bedassie

Tobago

1. T-Ann Charles
2. Victor Wheeler
3. Mickielm Nurse
4. Anthony Arnold
5. Kafi Dillon
6. Canique Pontin
7. Robert Browne
8. Ajay Alleyne

9. Eddison Thomas
10. Kerlene Edmund
11. Dayreon Mitchell
12. Mike London
13. Delano Joekid
14. Bernard Henry
15. Mavis Roberts

APPENDIX VIII

Persons Who Made Written Submissions

The following list includes the names of persons who submitted recommendations, with those submitting more than once only listed once. Some names were also not recorded due to entries with only initials or email addresses instead of full names.

1. Ingrid Melville
2. Rae Anthony Stewart
3. Hu-Gareth Foon
4. Romel Lalloo
5. Kevin De Freitas
6. Cynthia Dookie
7. Peta Alkins
8. Camille Kissoon
9. Djonkep Pichery
10. Eric Lewis
11. David Dook
12. Dr. Anil Ramdeo
13. John-Benito Cummins
14. Prem Nandlal
15. Ravi Ramlogan
16. Kareem Bruce
17. Dr. Rene Leon Monteil
18. Wang Guo Lei
19. Annil Singh
20. Boodram Supersad
21. Albert Marquez
22. Stephen Ghisyawan
23. Dimitri Scheult
24. Zaida Rajnauth
25. Javier Pinder
26. Jemuel Griffith
27. Kevin Sheppard
28. Jade Valley
29. Nichloas Howard
30. Xerxes Seales
31. Sheldon Pierre
32. Dr. April Bryan
33. Rivaaj Bachan
34. Vijay Dialsingh
35. Lesanne Mc Intosh
36. Dr. Barry Anthony Ishmael
37. Urick Prescott
38. Jordi Ali
39. Amy Ramkissoon
40. Nicholas Jagdeo
41. Jayson Jaskeran
42. Hassan Voyeau
43. Puniya Hosein
44. Haidian zi-qaletaqa
45. Susan Campbell-Nicholas
46. Carl Pino
47. Hadassah Farrell
48. Nathaniel Dass
49. Carl De Four
50. Priscilla Frection-Holder
51. Bimal Dindial Ortiz
52. Peter Dookie
53. Kelvin Ramjattan
54. Tara Jordan
55. Gangadeen Ramnarine
56. Lyndon Mack
57. Ken Sookram
58. Kristin Brown
59. Albert Alkins
60. Kemron Hitlal
61. Richard Trestrail
62. Regan Boxhill

63. Chris Lopez
64. Robert Romano
65. Roslyn Khan Cummings
66. Garvin Forde
67. Michael Harris
68. Ralph Ramjattan
69. Claudio Williams
70. Ray Wyver
71. Narudh Anand Suraj
72. Richard Rahamatali
73. Kourtney Khan
74. Gowrie Ganness
75. Adam Adrian Daniel Edmund
76. Ramnarine Ramkhalawan
77. Barry Hubah
78. Richard Dookran
79. Hayman Moonian
80. Andres Hernandez
81. Kaieed Ali
82. Abdullah Garcia
83. Marina Narinesingh
84. Desiree Seebaran
85. Lauren Howell
86. Frank Paul
87. David Davis
88. Youdistri Ramjattan
89. Shemarah Tajudeen
90. Claude Jeffers
91. Richard Thomas
92. Natasha Bain
93. Elizabeth Chin Aleong
94. Trevor Edwards
95. Sara Wildman
96. Nadira Rambocas
97. Phillip Heeralal
98. Zenora Razac
99. Roy Kallicharan
100. Clive Dottin
101. Sekou Bastien
102. Stephen Maharaj
103. Allan Denoon
104. Evita Sinanan
105. Lorenzo Molligan
106. Amina Thompson
107. Nizam Ali
108. Michael McGee
109. Luke Lourenco Creswell Pidduck
110. Esther Olivier
111. Winston Boodhoo
112. Verne Extavour
113. Anthony J Joseph
114. Kevin Walcott
115. Omar Holder
116. Rajindra Tewari
117. Karen Ramnarine
118. Dunstan Lawrence
119. Dylon Govia
120. Imtiaz Hyder Ali
121. Kenny Logan
122. Gary Bhagan
123. Bisram Ramdatt
124. Josann Sorzano
125. Anna-Maria Mike-Thomas
126. Gerard Mike
127. Trent Ali
128. Roxanna Ramdeo
129. Sastri Samoondar
130. Alexander Sinanan
131. Vishal Lakhan
132. Ricky Charles
133. Wayne Gajadhar
134. Andre Holder
135. Kathleen Anderson
136. Orrison Niles
137. Karyl Adams
138. Tudy Benjamin
139. Alana De Peza
140. Shawn Solomon
141. Tricia A Brown
142. Premnath Jaipaul
143. Jai Badri
144. Richard Poliah
145. Gloria de Noon
146. Eric Esdelle
147. Vishwanath Dookharan
148. Shane Kassie



149. Ronald Anthony
150. Peter Mitchell
151. Kuarlal Rampersad
152. Michelle Fortune
153. Gerold James
154. Jeron John Joseph
155. Sharon Stanley
156. John Look Fai
157. Josiah Dolabaille
158. Shawn Abasali
159. Chris Narine
160. Master Ralph Doyle
161. Ronald Chuckaree
162. Anand Beharrylal KC
163. Uranus Mc Farlane
164. Carlton Jack
165. Kendall Arjoosingh
166. Kyle Esdaille
167. Marian Cudjoe
168. Wade Greaux
169. Wendell Mayers
170. Shawnelle Martineaux
171. Christopher Mathura
172. Ghassan Youseph
173. Radha Khadaroo
174. David Soverall
175. Melissa Doughty
176. Kaz Ali
177. Michael Chin Wing
178. David Alexander
179. Samraj Ramdhan
180. Bryan Lee Kelshall
181. Gerald Aboud
182. Ramjattan Koypass
183. Rudolph Celestine
184. Cy Anil Warren
185. Mala Bhola
186. Anson Theophilus Springer
187. Judy Kowlessar
188. Jennifer Anne de Silva
189. Sheraz Aggan
190. Norris Gilkes
191. Ariel Poliah
192. Amroodeen Ali
193. Jason Lalla
194. Brennon Daniel
195. Samuel Ramjattan
196. Marlon Bernard
197. Derwin M. Howell
198. Joseph Ferrette
199. Austin Self
200. Kiel Taklalsingh
201. Lloyd Vidale
202. Julian Lezama
203. Marian Graham
204. Cassiel Kenny Alves
205. Ricardo Vasquez
206. Rishi Babwah
207. Joseph Rivers
208. Danalie Henry
209. Joan Bernadine
210. Kamnee Bhagaloo
211. Haven Allahar
212. Shantul James
213. Ann McCarthy
214. Fernan de Gannes
215. Rondel Ali
216. Frances Browne
217. Dr. Noveck J. Gowandan
218. Jason Ramsingh
219. Satesh Maharaj
220. Rawle Archie
221. Kerwin Alexander
222. Michael Sookhan
223. Leonard Lander
224. Joshua Min Lee
225. Kirk Francois
226. Andre Besson
227. Leon Greaves
228. Charmaine Gomes
229. Patrick Watson
230. Anthony D Farah
231. Inshan Khan
232. Peter Clavery
233. Hema Baboolal
234. Margaret Hutchinson

235. Garfield London
236. Sean Koping
237. Khabeer Abdool
238. Linda Superville
239. James Goodridge
240. Christopher McMaster
241. Clive Tilluckdharry
242. Shirron Latchan
243. Oswald D Barrimond
244. Robert Mohammed
245. Akeia Sylvester
246. Siewdath Ramlakhan
247. W. Gormandy
248. Cara Vaughn
249. Denise Cayenne
250. Reshma Ramkissoon-Maharaj
251. Racquel Sandy
252. Curtis Meade
253. Wayne Brown
254. Gerard Talbot-Paul
255. Richard Sukdeo
256. Dellon Samaroo
257. Kameel Ali
258. Winston Driggs
259. Andy Jones
260. Calvin Cayenne
261. Parasram Ramoutar
262. Jennifer Phillip
263. Doreen Jodhan
264. Kwesi Atiba
265. Kirk De Souza
266. Dwight Andrews
267. Daisy Andrea Kelsick
268. Sanjiv Ramcharan
269. Phyllis Gall
270. Susan Sardarsingh
271. Ramchand Kalipersad
272. Shalini Aleong
273. Anil Ramjattan
274. Noble Smith
275. Leena Maharaj
276. Uttam Dookhran
277. Robert Mayers
278. Wayne Lezama
279. Jacqueline White
280. Hayden Alexander
281. Sandra Abreu
282. Timothy Baptiste
283. Vishi Beharry
284. Abraham Ramdeen
285. Ishwar Persad
286. Shobha Maharajh
287. Roslyn Alfred Demas
288. Karel Douglas
289. Judith Julien Ali
290. Seerajh Dhoray
291. Darryl Popwell
292. Doolarchan Hanomansingh
293. Kelvin Mc Lean
294. Sharmila Ramsingh
295. Kumar Maharaj
296. Kyle Ramkissoon
297. Billy Hills
298. Dr. K. Cumberbatch
299. Allister Steele
300. Shirly Rohine Singh
301. Denis Cumberbatch
302. Kevin Phillips
303. Shivam Teelucksingh
304. Richard Lutchman
305. Mikyle Jones
306. Sonya Ramkissoon
307. Darren Coppin
308. Krystan Garcia
309. Roger Gopaul
310. Nyal R. Khan
311. Ryan Harper
312. Deborah Joseph
313. Leanna Ford
314. Robert Dipchan
315. Harish Udharamaney
316. Jared Harris
317. Mirelda Samuel-Moore
318. Stachenne Rousseau
319. Gaile Ramoutar
320. Tenisha Francis



- 321. Gareth Vialva
- 322. Shari Paul
- 323. Kristian Forde
- 324. Kern Campbell
- 325. Gerard Huggins
- 326. Norris Ferguson
- 327. Chandra Bhagwandass Singh
- 328. Oswald Valdez
- 329. Narka A Flocker
- 330. Maxie Cuffie
- 331. Khameed Rahman
- 332. Omar Romero
- 333. Anthon Williams
- 334. Renée Johncilla
- 335. Hamil S Hosein
- 336. Amral Hosein
- 337. Carl Forte
- 338. Dexter Samai
- 339. Michael Simpson
- 340. Perry Abraham
- 341. Devaughn Forde
- 342. Gwendolyn Ram
- 343. Christopher Boothman
- 344. Hugh Fitzroy Trotman
- 345. Dion Wilson
- 346. Sigler Jack
- 347. John Gill
- 348. Ranjan S Singh
- 349. Gerard Gulston
- 350. Ann Marie Sankersingh
- 351. Melissa Dedier
- 352. Delia Chatoor
- 353. Shalini Jodhan
- 354. Arlene Garcia
- 355. Eugene Wilson
- 356. Christine Persad
- 357. Arthur Mark Mackie
- 358. Sandra Gittens Scott
- 359. Marilyn Crichlow
- 360. Denis Ramlogan
- 361. Steffon Marajh
- 362. Lee Merry
- 363. Les Coteaux
- 364. Lester Victor
- 365. Ishmael Ramsajan
- 366. Conrad Aleong
- 367. Aldric Cummings
- 368. Joanne Stephens
- 369. Jonathan Barran
- 370. Russell Foote
- 371. Neil Elias
- 372. Keith Thomas
- 373. Ian Telfer
- 374. Carlton George
- 375. Tara Rahamut
- 376. Dr. Demonte Alleyne
- 377. Marc René Chauharja Singh
- 378. Jessica Chin
- 379. Alban Scott
- 380. Karla Georges
- 381. Reginald Mac Lean
- 382. Ann Second
- 383. Lance Smith
- 384. Quincy Baptiste
- 385. Sameer Alladin
- 386. Edrei Francis
- 387. Abram Deane
- 388. Samuel Lochan
- 389. Robert Amar
- 390. Usama Ali
- 391. Janet Stanley-Marcano
- 392. Anand Mohan
- 393. Michael Ragoonanan
- 394. Christopher Stewart
- 395. Grace Thomas
- 396. Peter Estrada
- 397. Arnim Karim
- 398. Jonathan Mario Bhagan
- 399. Francine Wilson
- 400. Steve N. Barras
- 401. Vincent Booker
- 402. Glenn O. Phillips
- 403. Sean Patience
- 404. Natasha Romeo
- 405. Byron Mayers
- 406. Allison O'Connor-Britto

407. Wade Guada
408. Vicki Assevero
409. Christopher Mark Dopwell
410. Julian Phillips
411. Anthony Smith
412. Kevin Denny
413. Gillian Andrews
414. Colleen Holder
415. Colin Gowrie
416. Stephen Jones
417. Neel Ramoutar
418. Paula M. Charles
419. Ravi Rampaul
420. Andre Acres
421. Shubhash Gosine
422. Dylan Kerrigan
423. Michael Jules
424. Paul Dopwell
425. Michelle Meighoo-Persad
426. Laura Rajaram
427. Nisa Hosein
428. James Walker
429. Gerard Charran
430. Mikail George
431. Annette Hospedales
432. Julian Lewis
433. Deguy Zappa
434. Ramel Rampaul
435. Marlon Bascombe
436. Rameshwar Mahabir
437. Albert Reyes
438. Avi Bhagan
439. Edward Lewis
440. Russell Joseph
441. Blair Thompson
442. Robert de Gannes
443. Lawrence Sultan Sinanan
444. Jemmot Beckles
445. Reynold Phillip
446. Andrew Low
447. Mark Walker
448. Henson Orr
449. Bryan Khan
450. Mellissa Seales
451. Arlene Johnson Murray
452. Steve R. Carvalho
453. Sanrah Gonzalez
454. Arielle Salvary
455. Orville R. Andrews
456. Sunil Lackan
457. Shauna Edghill
458. Cherese Latoya Washington
459. David Amoroso
460. Rennie Mohan
461. Sharon Ali Aziz
462. Kwame Charles
463. Shaliza Mohammed
464. Kwesi Jackson
465. Bryan Ali
466. Susan Dass
467. Nandini Frank-Bull
468. Salesh Ramkissoon
469. Radica Singh
470. Eon Fazal Shah
471. Jada Austin
472. Sandy Fernandes
473. John-Paul Anderson
474. Dario Gonzales
475. Sharon Angela Lewis
476. Shivanan Shive Balkaran
477. Joram Hardial
478. Angelita Cattine
479. Brian Redhead
480. Henry de Freitas
481. Marvin Mota
482. Roshan Seeramsingh
483. Francis Mouttet
484. Junior Sooknanan
485. Jason Stedman
486. Mervyn S. Wilson
487. Farley Richard Cleghorn
488. Oscar M. Jacob
489. Sil Vani Lall
490. Mochan Ramroop
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777. Ashleigh Motilal
778. Adam Fernandez
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781. Winston Padmore
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783. Samuel Ragbir
784. Hon. Madam Justice Carol Gobin
785. Senator Anthony Viera SC



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