



ADF INTERNATIONAL

ECOSOC Special Consultative Status (2010)

UNIVERSAL PERIODIC REVIEW – SECOND CYCLE

**Submission to the 25th session of the
Human Rights Council's Universal Periodic Review Working Group**

April/May 2016, Geneva, Switzerland

TRINIDAD AND TOBAGO

Submission by:

Elyssa Koren
ADF International
28, Ch. du Petit Saconnex
1209 Geneva, Switzerland

Web: www.adfinternational.org
Email: ekoren@adfinternational.org

Introduction

1. ADF International is a global alliance-building legal organization that advocates for religious freedom, life, and marriage and family before national and international institutions. As well as having ECOSOC consultative status with the United Nations (registered name “Alliance Defending Freedom”), ADF International has accreditation with the European Commission and Parliament, the Fundamental Rights Agency of the European Union, the Organization for Security and Co-operation in Europe, and the Organization of American States.
2. This report highlights the crucial importance of improving maternal health by reducing recourse to abortion in Trinidad and Tobago and prosecuting providers of illegal abortion, in addition to the grave need to address the problem of violent crime in the country.

(a) The Right to Life

Background

3. Trinidad and Tobago (hereinafter Trinidad) has been under significant pressure to liberalize its laws on abortion, despite widely held religious, cultural, and ethical beliefs concerning the inalienable right to life of the unborn. Under the Offences Against the Person Act, abortion in Trinidad is legal only in instances where it is deemed necessary to save the life of the woman, or to preserve physical or mental health. Despite the restrictive laws, it has been alleged that the abortion rate in Trinidad is among the highest in the world, and has contributed to the rising number of maternal deaths.¹ The data are unknown with regard to the actual number of abortions performed in the country illegally; however, it is clear that Trinidad does suffer from maternal health problems and that reducing recourse to abortion is imperative to safeguard the lives of both women and children.
4. According to a report from WHO, UNICEF, UNFPA, The World Bank, and the United Nations Population Division, the maternal mortality ratio (MMR) in Trinidad jumped from 59 in 2000 to 84 in 2013.² This number is alarmingly high given that the Island boasts the third highest GDP per capita in the Caribbean. The Government of Trinidad does not have readily available statistics on maternal health from recent years to corroborate these data. Every maternal death is a tragedy. It devastates the woman’s family, in particular the woman’s children, and affects the entire community socially and economically. It is crucial that the Government of Trinidad undertake urgent efforts to accurately record maternal health data and ultimately to improve the health of its mothers.

Right to life in international law

5. A so-called international “right to abortion” is incompatible with various provisions of international human rights treaties, in particular provisions on the right to life. On the contrary, Trinidad’s protection of the unborn finds support in international law.
6. Article 6(1) of the ICCPR states, “Every human being has the inherent right to life.” The ICCPR’s prohibition of the death penalty for pregnant women implicitly recognizes the right to life of the unborn. Although the ICCPR allows for the death penalty to be

¹ *TT* — *One of the highest rates of abortions in the world*, NEWSDAY.CO, 4 July 2004, <http://www.newspday.co.tt/news/0,19661.html>.

² WHO, UNICEF, UNFPA, The World Bank, and the United Nations Population Division Maternal Mortality Estimation Inter-Agency Group Trinidad and Tobago, Maternal mortality in 1990-2013, [hereinafter Maternal Mortality 1990-2013], available at http://www.who.int/gho/maternal_health/countries/tto.pdf?ua=1.

imposed on both adult men and women, it explicitly prohibits applying the death penalty to pregnant women. Article 6(5) states, “Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and *shall not be carried out on pregnant women.*” This clause must be understood as recognizing the unborn’s distinct identity from the mother and protecting the unborn’s right to life.

7. As the *travaux préparatoires*³ of the ICCPR explicitly state, “The principal reason for providing in paragraph 4 [now Article 6(5)] of the original text that the death sentence should not be carried out on pregnant women was to *save the life of an innocent unborn child.*”⁴ Similarly, the Secretary General report of 1955 notes that the intention of the paragraph “was inspired by humanitarian considerations and by *consideration for the interests of the unborn child[.]*”⁵
8. The protection of unborn life is also found through an ordinary reading of the language in the preamble of the Convention on the Rights of the Child (CRC). The preamble states, “[T]he child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, *before as well as after birth.*”
9. Article 1 of the CRC defines a child as “every human being below the age of eighteen years.” This provides an upper limit as to who is a child, but does not provide a lower limit on when the status of “child” attaches. Moreover, Article 6 of the CRC holds, “States Parties recognize that every child has the inherent right to life. States Parties shall ensure to the maximum extent possible the survival and development of the child.” Viewed in the context of the preamble, both Articles 1 and 6 of the CRC indicate recognition of, and protection for, unborn life.

Maternal health as a human right

10. Preventable maternal mortality implicates human rights, in particular the right to health. The right to the enjoyment of the highest attainable standard of health is guaranteed in several international human rights treaties Trinidad is obligated to follow, including the International Covenant on Economic, Social and Cultural Rights (article 12) and the Convention on the Rights of the Child (art. 24).
11. More specifically, the Universal Declaration of Human Rights recognizes in Article 25(2) that “motherhood and childhood are entitled to special care and assistance.”
12. Article 12 of the Convention on the Elimination of All Forms of Discrimination against Women focuses on women’s access to health care services. Article 12(2) requires that States “ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.”
13. CRC article 24(2)(d) requires States to “take appropriate measures [. . .] to ensure appropriate pre-natal and post-natal health care for mothers.” The Committee on the Rights of the Child, in paragraph 51 of its General Comment No. 15 on the right of the child to the enjoyment of the highest attainable standard of health, called preventable maternal mortality and morbidity “grave violations of the human rights of women and girls.”

³ In accordance with the Article 32 of the Vienna Convention, the *travaux préparatoires* are considered to be a “supplementary means of interpretation.”

⁴ A/3764 § 18. Report of the Third Committee to the 12th Session of the General Assembly, 5 December 1957.

⁵ A/2929, Chapter VI, §10. Report of the Secretary-General to the 10th Session of the General Assembly, 1 July 1955.

Necessary maternal health interventions

14. Almost all maternal deaths are preventable,⁶ particularly when skilled birth attendants are present to manage complications and the necessary drugs are available, such as oxytocin (to prevent hemorrhage) and magnesium sulfate (to treat pre-eclampsia).
15. Trinidad has experienced success in reducing maternal mortality in the past (the MMR dropped from 89 in 1990 to 59 in 2000).⁷ However, recent increases demonstrate the critical need for a renewed focus on maternal health and prenatal care. Poor diet and a corresponding rise in obesity and diabetes have contributed to the rise in maternal health problems. Moreover, the high adolescent birth rate (32.6, 2006-2010) is a significant contributing factor.⁸ Premature sexual activity is a serious problem that leads to devastating health implications, and severely undermines the wellbeing of Trinidad's youth. The consequences of premature sexual activity have a disproportionate impact on young girls because their bodies are not developmentally prepared for pregnancy, in addition to the fact that they are more susceptible to HIV and other STIs due to biological factors. Education on responsible sexual behavior in conjunction with parents, in addition to community and religious leaders, is of vital importance. Teaching about abstinence and fidelity in the classroom is very important to inform young people about the risks associated with premature sexual activity and multiple concurrent partners, and to encourage healthy relationships.
16. To improve maternal health, it is imperative that Trinidad introduce measures to reduce recourse to abortion, which threatens women's lives, in line with paragraph 8.25 of the Programme of Action of the International Conference on Population and Development (ICPD).⁹ In addition to prosecuting providers of illegal abortions, the government should focus its efforts on reducing the root causes that lead women to turn to abortion, namely poverty, domestic violence, premature sexual activity, and lack of education and employment. Measures to reduce abortion necessarily require improving access to education, which has the effect of empowering women and leading to social and economic development, and ultimately facilitates healthy decision-making.
17. In order to reduce abortions, women must have access to information that emphasizes knowledge-based education about their bodies and facilitates full informed consent, healthy behaviours, and responsible decision-making. The Family Planning Association of Trinidad and Tobago is part of the International Planned Parenthood Federation (IPPF)—the largest abortion provider in the world. IPPF lobbies both domestically and at the United Nations for increased access to abortion, which is a conflict of interest in light of both the laws and pro-life values of the Trinidadian population. IPPF argues that abortion liberalization, or access to “reproductive rights,” is necessary for a country such as Trinidad to develop. However, the ICPD makes clear that laws on abortion are to be determined at the level of national legislatures—respect for national sovereignty is thus imperative.¹⁰
18. Trinidad must resist calls to liberalize its abortion law under the pretext that rendering abortion “safe” will limit recourse to abortion and improve the health of mothers. Abortion can never be safe because it takes the life of the unborn child, and harms the mother through the loss of her child. Maternal health has previously undergone dramatic improvements in the country, and can do so again without a change in the abortion law.

⁶ WHO, Fact Sheet No. 348, Maternal mortality, <http://www.who.int/mediacentre/factsheets/fs348/en/>.

⁷ Maternal Mortality 1990-2013.

⁸ UNICEF, At a glance: Trinidad and Tobago, http://www.unicef.org/infobycountry/trinidad_tobago_statistics.html.

⁹ Programme of Action of the International Conference on Population and Development [hereinafter ICPD], 1994, paragraph 8.25, *available at* <http://www.un.org/popin/icpd/conference/offeng/poa.html>.

¹⁰ ICPD, paragraph 8.25.

19. Abortion advocates claim that eliminating restrictions on abortion would decrease the abortion rate and improve maternal health in Trinidad. It is widely known that the law on abortion currently is not enforced and abortion is readily available, both “legally” under the guise of the mental health caveat and illegally in clandestine conditions. In 2004 it was estimated that the abortion rate in Trinidad equaled the birth rate, with about 19,000 terminated pregnancies and births per year.¹¹ It must be noted that this number was generated by a pro-abortion advocacy group, including the locally based ASPIRE, who have a vested interest in identifying a high abortion rate so as to call for the legalization of abortion.¹² Due to the lack of accurate data collection, it is unclear what the actual incidence of illegal abortion is in the country; however, evidence of a high degree of abortion demand in Trinidad suggests that liberalizing access would not decrease the abortion rate, but instead it would increase or at the very least remain the same. The only potential benefit of legalizing abortion would be a reduction in the number of clandestine abortions; however, these can be halted through proper exercise of law enforcement, in addition to an increased focus on both prevention of unplanned pregnancy and resources for pregnant women, without a change in the abortion law.
20. Moreover, the most recent evidence controverts the idea that a total prohibition on abortion undermines maternal health. A major study published in the *British Medical Journal* this year concluded that “less permissive” abortion laws result in “consistently lower maternal mortality rates.”¹³ Although the study explains these differences in terms of other independent factors rather than in terms of abortion legislation itself, it nevertheless concludes, “No statistically independent effect was observed for abortion legislation, constitutional amendment or other covariates.”¹⁴ Because abortion legislation has no effect on maternal mortality, abortion need not be legalized to protect women’s health.
21. The Government has an obligation to prosecute providers of illegal abortions. Preventing these criminal and highly dangerous abortions will dramatically reduce the number of women suffering from complications from abortion and improve maternal health. A focus on improving the healthcare available to mother and child and ensuring access to life-saving healthcare services, not on increased access to abortion, is the solution to the country’s maternal health concerns.

(b) Marriage and Family

Background

22. The institution of the family in Trinidad suffers as a result of pervasive crime and violence in the country. Gang violence, kidnappings, murders, and drug-related crimes contribute to the breakdown of the family unit, and tear at the fabric of society at its most fundamental level.

Ending violence and empowering the family

23. Combatting crime in Trinidad is of utmost importance for the development of the country. Development will remain stunted for so long as the population lives in fear and young people flee to the United States, Canada, and other countries in the pursuit of a

¹¹ DAWN Caribbean, *Sexual and Reproductive Health and Rights in the English-Speaking Caribbean*, available at http://dawnnet.org/feminist-resources/sites/default/files/articles/srhr_in_english_speaking_caribbean.pdf.

¹² *Planned Parenthood Targets Trinidad and Tobago to Legalize Abortion*, LIFENEWS.COM, 10 August 2004, <http://www.lifenews.com/2004/08/10/nat-710/>.

¹³ Elard Koch, Monique Chireau, and Fernando Pliego et. al., *Abortion Legislation, Maternal Healthcare, Fertility, Female Literacy, Sanitation, Violence Against Women and Maternal Deaths: A Natural Experiment in 32 Mexican States*, *BMJ OPEN* 2015;5:e006013, doi:10.1136/bmjopen-2014-006013, p. 1.

¹⁴ *Id.*

safer life and better employment opportunities. All persons in Trinidad are entitled to live free from violence, and the Government must do everything in its power to protect this most basic right.

24. Ending domestic violence is of paramount importance. Measures must be taken to ensure the effective implementation of the Domestic Violence Act (1999),¹⁵ and to send clear signals to perpetrators of violence that all crimes will be prosecuted. Educational initiatives, in conjunction with community and religious leaders, are needed to inform individuals and families about the importance of seeking protection in the face of violence and the options afforded to them.
25. Instilling in children and adolescents an appreciation for the equality of men and women via educational programs is crucial. Empowering the family to be the starting point for true gender equality and appreciation for the equal rights of women and men is essential for a flourishing society.
26. Trinidad protects and affirms the traditional family as marriage between a man and a woman, as defined in article 16 of the Universal Declaration of Human Rights and in accordance with the religious, cultural and ethical convictions of its population. International law does not in any way require that Trinidad amend its understanding of marriage as the union of a man and a woman.

(c) Recommendations

27. ADF International recommends the following:

- Dedicate resources to advances in healthcare services, infrastructure, and education to improve maternal health;
- Increase efforts to ensure accurate and timely data collection on abortion, maternal health, and other health statistics;
- Recognize that the liberalization of abortion is not necessary to improve maternal health;
- Prosecute illegal abortions with the goal of completely eradicating this practice;
- At a minimum, maintain the existing restrictions for obtaining an abortion and work to end abortion in accordance with international obligations to protect the life of the unborn;
- Combat violent crime in the country to improve the safety and wellbeing of the population;
- Continue to affirm the definition of marriage as between a man and woman.

¹⁵ Laws of Trinidad and Tobago, Domestic Violence Act (1999), available at http://rgd.legalaffairs.gov.tt/laws2/alphabetical_list/lawspdfs/45.56.pdf.