



REPORT FROM THE

JOINT SELECT COMMITTEE ON
THE ANTI-TERRORISM (AMENDMENT)
BILL, 2018

REPORT

THIRD SESSION ELEVENTH PARLIAMENT (2017/2018)



Committee Mandate

Pursuant to resolutions of the House of Representatives on Friday January 26, 2018 and of the Senate on Tuesday January 30, 2018, a Joint Select Committee was established to consider the Anti-Terrorism (Amendment) Bill, 2018 and report on or before March 31, 2018.

Committee Membership

Mr. Faris Al-Rawi, MP (Chairman)
Ms. Marlene McDonald, MP
Mr. Fitzgerald Hinds, MP
Mrs. Camille Robinson-Regis, MP
Dr. Roodal Moonilal, MP
Mr. Prakash Ramadhar, MP
Ms. Sophia Chote, S.C.
Mr. Nigel De Freitas
Mr. Clarence Rambharat
Mr. Foster Cummings
Mr. Saddam Hosein
Mr. Stephen Creese

Secretariat Support

Ms. Chantal La Roche, Legal Officer II	Secretary
Ms. Simone Yallery, Legal Officer I	Assistant Secretary

Contact

The Secretary
Joint Select Committee Anti-Terrorism (Amendment) Bill 2018
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Date Laid in HOR:

Date Laid in Senate:

HOR Paper No.:

Senate Paper No.:

PARL No.: 14/3/75 Vol. I & II

COMMITTEE MANDATE AND MEMBERSHIP

1. Pursuant to resolutions of the House of Representatives on Friday January 26, 2018 and of the Senate on Tuesday January 30, 2018, a Joint Select Committee was established to consider the Anti-Terrorism (Amendment) Bill, 2018 and report on or before March 31, 2018.

MEMBERSHIP OF THE COMMITTEE

2. The following Members were appointed to serve on the Committee:

▪ Mr. Faris Al-Rawi, MP	Chairman
▪ Ms. Marlene McDonald, MP	Member
▪ Mr. Fitzgerald Hinds, MP	Member
▪ Mrs. Camille Robinson-Regis, MP	Member
▪ Dr. Roodal Moonilal, MP	Member
▪ Mr. Prakash Ramadhar, MP	Member
▪ Mr. Nigel De Freitas	Member
▪ Mr. Clarence Rambharat	Member
▪ Mr. Foster Cummings	Member
▪ Mr. Saddam Hosein	Member
▪ Mr. Stephen Creese	Member
▪ Ms. Sophia Chote, S.C.	Member

CHAIRMANSHIP

3. At its First Meeting on Friday February 16, 2018, your Committee elected Mr. Faris Al-Rawi, MP to be its Chairman, in accordance with **Standing Order 97(3)** of the House of Representatives and **Standing Order 87(3)** of the Senate.

SECRETARIAT

4. During the session Ms. Chantal La Roche, Legal Officer II and Ms. Simone Yallery, Legal Officer I, were appointed to serve as Secretary and Assistant Secretary respectively and Ms. Candice Ramkissoon provided research support to the Secretariat.

MEETINGS

5. Since its appointment, your Committee has held twelve (12) meetings on the following dates:

- Friday February 16, 2018
- Friday March 9, 2018
- Friday March 16, 2018
- Thursday March 29, 2018
- Tuesday April 10, 2018
- Wednesday April 18, 2018
- Monday April 23, 2018
- Friday April 27, 2018
- Wednesday May 16, 2018
- Friday May 18, 2018
- Tuesday May 22, 2018
- Friday June 1, 2018

6. The Minutes of the Meetings and attendance records are attached at **Appendix I**.

INTERIM REPORT

7. On April 4, 2018, the Committee presented an Interim Report to the Parliament which detailed the work completed to that date. The Report requested a three (3) month extension to report by **June 29 2018**, which was granted.

THE ANTI-TERRORISM ACT, CHAP. 12:07

8. The **Anti-Terrorism Act, Chap. 12:07**, criminalises terrorism and the financing of terrorism. It provides for, *inter alia*, the detection, prevention, prosecution, conviction and punishment of terrorist activities and the confiscation, forfeiture and seizure of the assets of terrorists and persons who finance terrorism.

THE ANTI-TERRORISM (AMENDMENT) BILL, 2018

9. The **Anti-Terrorism (Amendment) Bill, 2018**, seeks to amend the **Anti-Terrorism Act, Chap. 12:07**. The Bill creates several offences including:

- collecting or providing property to be used to commit terrorist acts to a terrorist or terrorist organisation.
- using property for the commission of a terrorist act being party to an arrangement for the retention or control of terrorist property.
- dealing with terrorist property.

- supporting or soliciting support for the commission of a terrorist act, a terrorist, a terrorist organisation.
- harbouring a person reasonably believed to be planning to commit a terrorist act or reasonably believed to have committed a terrorist act.
- providing any explosive, weapon or other lethal device for the purpose of committing a terrorist act.
- agreeing to recruit or recruiting a person or a child to participate in the commission of a terrorist act.
- intentionally joining a terrorist organisation.
- agreeing to provide instruction or training or providing instruction or training in carrying out a terrorist act, the making or use of any explosive, weapon or lethal device or the practice of military exercises of movements.
- attending or receiving training in the making or use of any explosive, weapon or lethal device or the practice of military exercises of movements whether in person or through electronic or other means for the purposes of carrying out a terrorist act.
- inciting or promoting the commission of a terrorist act or soliciting property for the commission of a terrorist act.
- providing facilities including a vessel, an aircraft, a building or equipment in support of terrorist acts.
- travelling to declared geographical areas for the purpose of committing a terrorist act.
- delivering, placing, discharging or detonating an explosive, weapon or other lethal device in, into or against a State or government means of transport.
- providing or collecting funds that are to be used to carry out a terrorist act, by a terrorist or terrorist organisation, to facilitate travel of an individual to carry out a terrorist act or participate in, or providing instruction or training to carry out a terrorist act.

APPROACH TO DELIBERATIONS

Stakeholder Engagement

10. At its **First meeting** on Friday February 16, 2018, your Committee discussed the engagement of stakeholders. Your Committee agreed that there was a need for wide public consultation on the Bill and that relevant Stakeholders and members of the public should be invited to submit comments on the Bill.

Technical Support

11. The following technocrats from the Chief Parliamentary Counsel's Department and the Office of the Attorney General and Legal Affairs assisted the Committee during the consideration of the Bill:

Chief Parliamentary Counsel's Department

- Ms. Ida Eversley - Deputy Chief Parliamentary Counsel
- Ms. Laura Ramnath - Senior Parliamentary Counsel (Ag.)
- Ms. Kimberly Superville - Legal Counsel I

The Ministry of the Attorney General and Legal Affairs

- Mr. Andrew Dalip - Legal Services Consultant
- Ms. Vyana Sharma - Legal Counsel II
- Ms. Casandra Seetahal - Legal Counsel I

12. At its **Third meeting** held on Friday March 16, 2018, your committee heard from Mr. Andrew Dalip, Legal Services Consultant and Ms. Vyana Sharma, Legal Counsel II from the Ministry of the Attorney General and Legal Affairs, who delivered a presentation on the Bill which is found at **Appendix II**. The Committee was also provided with CFTAF/FATF obligations which informed some of the considerations of the Bill.
13. During its **Fourth meeting** held on Thursday March 29, 2018, your Committee commenced a clause by clause analysis of the Bill with the assistance of Ms. Ida Eversley, Deputy Chief Parliamentary Counsel, Ms. Kimberly Superville, Legal Counsel I and Ms. Laura Ramnath, Senior Parliamentary Counsel (Ag.) who were assigned by the Chief Parliamentary Counsel's Department of the Ministry of the Attorney General to support the Committee during its deliberations.
14. The Committee further agreed to commence with a preliminary clause by clause analysis and upon completion of the exercise to invite stakeholders to provide amplification of its written submissions.

Clause by Clause Analysis

15. Your Committee commenced its clause by clause analysis of the Bill during its **Fourth meeting** held on Thursday March 29, 2018. These deliberations continued during its **Fifth** and **Sixth meetings**.
16. Following its meetings with stakeholders, a second clause by clause analysis was conducted during the **Ninth** and **Tenth meetings**, which considered additional issues

raised by stakeholders, as well as previously deferred clauses. A summary of the clause by clause deliberations is attached at **Appendix III**.

17. At its **Eleventh meeting** held on Tuesday May 22 2018 and **Twelfth meeting** held on Friday June 1, 2018, your Committee completed the clause by clause analysis of the Bill by reexamining clauses 5, 9, 13, 22, 25, 27 and 28.

Written Submissions

18. During its deliberations, your Committee requested written submissions from the following organisations:

- **The Law Association of Trinidad and Tobago;**
- **The Criminal Bar Association of Trinidad and Tobago;**
- **The University of the West Indies, Faculty of Law;**
- **The Inter-Religious Organization of Trinidad and Tobago;**
- **The Financial Intelligence Unit of Trinidad and Tobago;**
- **The Muslim Round Table Group;**
- **The Trinidad and Tobago Police Service;**
- **Concern Muslims of Trinidad and Tobago;**
- **Islamic Resource Society;**
- **Anjuman Sunnat ul Jamaat Association; and**
- **National Council of Orisha Elders of Trinidad and Tobago.**

19. Submissions were received from the following stakeholders and are attached at **Appendix IV**:

- **The Law Association of Trinidad and Tobago;**
- **The Financial Intelligence Unit of Trinidad and Tobago;**
- **The Muslim Round Table Group;**
- **The Trinidad and Tobago Police Service;**
- **Concern Muslims of Trinidad and Tobago;**
- **Anjuman Sunnat ul Jamaat Association; and**
- **National Council of Orisha Elders of Trinidad and Tobago.**

20. A call for written submissions from the public was issued via advertisement in the daily newspapers, the Parliament's website and social media platforms. Written submissions were received from the following persons:

- **Mrs. Joan Harrison; and**
- **Messieurs Patrick Bynoe and Alex Bynoe.**

21. These submissions are attached at **Appendix V**.

Meetings with Stakeholders

22. Your Committee agreed to meet with specific stakeholders during its **Seventh** and **Eighth meetings**, to allow representatives of each organisation to further elucidate written submissions.
23. At its **Seventh meeting** held on April 23 2018, your Committee examined representatives of the Muslim Round Table Group, the Trinidad and Tobago Police Service, and Concern Muslims of Trinidad and Tobago.
24. At its **Eighth meeting** held on April 27 2018, your Committee examined officials of the Financial Intelligence Unit of Trinidad and Tobago.
25. During these sessions, officials of each organisation provided comments on the Bill, and detailed recommendations for amendments to the Bill. In some instances, entities recommended additional provisions for insertion into the Bill.
26. The verbatim notes of the evidence received during the meetings with stakeholders are attached at **Appendix VI**.

MAIN ISSUES DISCUSSED DURING CONSIDERATION OF THE BILL

27. Consequent on the submissions received by your Committee and the discussions with the technical team, your Committee identified the following areas of the Bill which needed to be addressed. These issues are attached at **Appendix VII** and for ease of reference are outlined in summary below:

Preamble

- Whether a preamble should be included in the **Anti-Terrorism (Amendment) Bill 2018** and/or the **Anti-Terrorism Act, Chap 12:07**
- Whether the preamble to the **Anti-Terrorism Act 12:07** could be amended by the **Anti-Terrorism (Amendment) Bill 2018**.
- Whether the preamble could be wide, or should be restricted only to the subject matter of the Amendment Bill.

Clause 5

- Comparison of the definition of “*Committee*” in antiterrorism legislation in other jurisdictions such as the **Criminal Code Act 2015 (Australia)** and the **Counter-Terrorism and Security Act 2015 (United Kingdom)**.

- Whether the words “ISIL (Da’esh) and Al Qaida Sanctions” should be deleted from the definition of “Committee”.
- Whether the definition of “offensive weapon” as contained in Section 2 of the **Prevention of Crime (Offensive Weapons) Act, Chap. 11:09** should be adapted and included in the definition section.
- Whether the term “threaten” should be defined.

Clause 6

- The extent and meaning of extraterritoriality.

Clause 7

- Whether the offence of committing a “terrorist act” should be expanded to include instances of “threatening to commit a terrorist act”.
- Whether the offence of committing a “terrorist act” should be removed from the definition section and placed within an operative clause.
- Whether the definition of “terrorist act” should be expanded to include other forms of industrial action, and should enable exemptions even if such action is intended to cause harm.

Clause 8

- Whether the mens rea of recklessness for the offences created should be excluded.

Clause 9

- The impact of the provision on persons making donations or distributing Zaka’at.
- Comparison to the **Criminal Code Act 2015** (Australia).
- Consideration of the UN General Assembly Resolution 49/60 and UN Security Council Resolution 1566.
- Whether the term “designated person” should be replaced with the term “designated entity”.

Clause 13

- Whether the offences of “supporting or soliciting support” for the commission of a terrorist act should be amended to be provision of “material support” for the commission of a terrorist act.

Clauses 17 and 18

- Whether less serious offences should be triable summarily or either way.

Clause 19

- The issue of extraterritoriality.
- Whether provision should be made within the offence to provide a person with a defence of lawful excuse.

Clause 20

- Consistency of wording.
- Whether less serious offences should be triable summarily or either way.

Clause 22

- The criterion for designating an area as a “declared geographical area” should be clearly outlined in the Bill.
- Consideration should be given to defining the term “supporting”, using the same definition of “support” as it related to Clause 13.
- Whether the Attorney General should be empowered to apply to a judge for an order to designate an area a “declared geographical area”.
- Whether the criteria for revocation of an Order declaring a geographical area needed be detailed.
- Whether there should be a stipulated timeframe within which notice should be given as it relates to proposed Sections 15C and 15D.
- Whether the notice under proposed Section 15C(1) should be placed in a scheduled form.
- Whether method of serving notice to the Commissioner of Police under proposed Section 15C(1) should be specified (e.g. via registered mail).
- Addressing inconsistency in proposed Section 15C(4) as it relates to notice being received by the Minister.
- Criminalising failure to file notice to Commission of Police.
- Whether the Commissioner of Police should be empowered to apply for and obtain an order from a Judge to prevent a person from travelling to a declared geographical area.
- Expanding the modes of publication of order under proposed Section 15B
- Whether new offences should be included for collection, possession of or making a record of information, likely to be useful to a person committing or preparing to commit a terrorist act.
- Whether to include a positive obligation on an individual to inform the Commissioner of Police upon arrival.
- Whether the declaration made by the Minister should be reviewed by a Joint Select Committee of Parliament.

- Whether to include a provision on the cessation of declaration after a specified period.
- Whether there should be a requirement to brief/inform the Leader of the Opposition before a declaration is made by the Minister.

Clause 23

- Inserting an offence of coercing or encouraging a person to commit an offence

Clause 25

- Whether a defence to receiving funds from a terrorist organisation should be including in circumstances where the funds are received solely for the purpose of legal representation.

Clause 27

- The authority given to the Attorney General to mandate an investigation be carried out by the Commissioner of Police is demanding and may allow for an abuse of process.
- Speedier process for revocation of an Order where a same is enforced against the wrong individual.
- Giving an individual or entity a reasonable opportunity to have the order revoked by a High Court Judge.

Clause 28

- Whether the references to “Isil (Da’esh) and Al Qaida” should be removed
- Ensuring the discretion in issuing a search warrant remains with the Magistrate.
- Allowing for petition to be removed from the UN’s 1267 Sanctions List.
- Allowing the Commissioner of Police more flexibility in respect of causing an investigation and information which he shares with the Attorney General pending the outcome of same.

Clause 31

- Whether the application for detention orders should only be made by police officers of a specified rank and above or whether the requirement should be made for a police officer to be attached to a counter terrorism unit.

Clauses 32-34

- Whether the powers in respect of this provision should be limited to police officers of a specified rank and above.

Clauses 40

- Application for a search warrant should be made in the presence of another person.
- Whether the requirement for the Registrar/Judiciary to keep a record of the application should be prescribed in Regulations as opposed to the Criminal Procedure Rules.

Clauses 43

- Whether officers of junior rank should be permitted to seize and detain cash.

REPORT

28. In accordance with **Standing Orders 114(1) and 104(1)** of the House of Representatives and the Senate, respectively, your Committee wishes to report that it has completed its work.

RECOMMENDATION

29. Your Committee recommends that the Parliament agree with its proposals for amendments to the Bill, attached at **Appendix VIII**. Your Committee further recommends that the Parliament consider and adopt the **Anti-Terrorism (Amendment) Bill, 2018**, as amended.

30. For ease of consideration, a consolidated version of the **amended Anti-Terrorism (Amendment) Bill, 2018** is attached at **Appendix IX** and a consolidated version of the **Anti-Terrorism Act, Chap. 12:07** (inclusive of consequential amendments) is attached at **Appendix X**.

Respectfully submitted,

Sgd.

Mr. Faris Al-Rawi, MP

Chairman

June 5, 2018

List of Appendices

Appendix I	Minutes of Proceedings and Attendance Record
Appendix II	Presentation by Staff of the AG Secretariat
Appendix III	Clause by Clause Deliberations on the Bill
Appendix IV	Submissions from Stakeholders
Appendix V	Submissions from Members of the Public
Appendix VI	Verbatim of the Stakeholders from Public Meetings
Appendix VII	Summary of Clause by Clause and Summary of Issues and Additional Proposals
Appendix VIII	Proposals for Amendments
Appendix IX	Consolidated Version of the Bill with Amendments
Appendix X	Consolidated Version of the Act with Amendments

APPENDIX I

MINUTES OF PROCEEDINGS AND ATTENDANCE RECORD

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018

ATTENDANCE RECORD

JSC ON THE ANTI-TERRORISM (Amendment) Bill, 2018 (Third Session (2017/ 2018) Eleventh Parliament)

Meetings	Mrs. Camille Robinson-Regis	Mr. Faris Al-Rawi	Mr. Fitzgerald Hinds	Ms. Marlene Mc Donald	Dr. Roodal Moonilal	Mr. Prakash Ramadhar	Ms. Sophia Chote, SC	Mr. Clarence Rambharat	Mr. Saddam Hosein	Mr. Foster Cummings	Mr. Nigel De Freitas	Mr. Stephen Creese
First Meeting 16.02.2018	EXCUSED	✓	✓	EXCUSED	✓	✓	ABSENT	✓	✓	✓	✓	✓
Second Meeting 9.03.2018	✓	✓	✓	ABSENT	✓	EXCUSED	✓	EXCUSED	✓	EXCUSED	✓	✓
Third Meeting 16.03.2018	✓	✓	✓	✓	✓	✓	EXCUSED	EXCUSED	✓	✓	✓	✓
Fourth Meeting 29.03.2018	EXCUSED	✓	EXCUSED	EXCUSED	✓	✓	✓	✓	✓	✓	✓	✓
Fifth Meeting 10.04.2018	EXCUSED	✓	ABSENT	ABSENT	✓	✓	EXCUSED	✓	✓	EXCUSED	✓	✓
Sixth Meeting 18.04.2018	EXCUSED	✓	EXCUSED	✓	✓	✓	✓	EXCUSED	✓	EXCUSED	✓	✓
Seventh Meeting 23.04.2018	✓	✓	ABSENT	EXCUSED	✓	✓	EXCUSED	✓	✓	✓	✓	✓
Eighth Meeting 27.04.2018	✓	✓	✓	EXCUSED	✓	✓	EXCUSED	EXCUSED	✓	EXCUSED	EXCUSED	✓
Ninth Meeting 16.05.2018	✓	✓	✓	ABSENT	EXCUSED	✓	EXCUSED	✓	EXCUSED	✓	✓	EXCUSED
Tenth Meeting 18.05.2018	✓	✓	✓	ABSENT	EXCUSED	EXCUSED	EXCUSED	✓	EXCUSED	EXCUSED	✓	EXCUSED
Eleventh Meeting 22.05.2018	EXCUSED	✓	✓	✓	✓	✓	✓	✓	EXCUSED	✓	✓	✓
Twelfth Meeting 01.06.2018	EXCUSED	✓	✓	ABSENT	✓	✓	EXCUSED	✓	✓	✓	✓	✓



PARLIAMENT
Republic of Trinidad and Tobago

Levels G - 7, Tower D
The Port-of-Spain International Waterfront Centre
1A Wrightson Road, Port-of-Spain

JOINT SELECT COMMITTEE ON THE ANTI-TERRORISM (AMENDMENT) BILL, 2018

**MINUTES OF THE FIRST MEETING HELD IN THE ANR ROBINSON ROOM (WEST),
LEVEL 9, OFFICE OF THE PARLIAMENT, TOWER D, IWFC
#1A WRIGHTSON ROAD, PORT OF SPAIN ON FEBRUARY 16, 2018 at 11:00 A.M.**

PRESENT

Mrs. Brigid Annisette-George, MP - Speaker of the House

Committee Members

Mr. Faris Al-Rawi, MP	-	Member
Mr. Fitzgerald Hinds, MP	-	Member
Dr. Roodal Moonilal, MP	-	Member
Mr. Prakash Ramadhar, MP	-	Member
Mr. Foster Cummings	-	Member
Mr. Clarence Rambharat	-	Member
Mr. Nigel De Freitas	-	Member
Mr. Saddam Hosein	-	Member
Mr. Stephen Creese	-	Member

Secretariat

Ms. Chantal La Roche	-	Secretary
Ms. Simone Yallery	-	Assistant Secretary

ABSENT/EXCUSED

Mrs. Camille Robinson-Regis, MP -	Member	<i>[Excused]</i>
Ms. Marlene McDonald, MP	-	Member <i>[Excused]</i>
Ms. Sophia Chote, S.C.	-	Member

COMMENCEMENT

1.1 The meeting was called to order by the Speaker of the House at 11:13 a.m.

ANNOUNCEMENTS BY THE SPEAKER

2.1 The Speaker informed Members that Ms. Chantal La Roche would serve the Committee as Secretary, and Ms. Simone Yallery would serve as Assistant Secretary.

ELECTION OF CHAIRMAN

- 3.1 The Speaker advised that her role was to facilitate the election of a Chairman and invited nominations.
- 3.2 Mr. Fitzgerald Hinds nominated Mr. Faris Al-Rawi for the chairmanship and this nomination was seconded by Mr. Clarence Rambharat.
- 3.3 There being no further nominations, Mr. Faris Al-Rawi was declared Chairman. The Speaker wished the Members productive and cooperative deliberations. Mr. Faris Al-Rawi was invited to take the Chair.

(The Speaker exited the meeting and Mr. Faris Al-Rawi assumed his role as Chairman)

- 3.4 The Chairman thanked all Members for electing him to serve as the Chairman.

ANNOUNCEMENTS BY THE CHAIRMAN

- 4.1 The Chairman advised that the following Members asked to be excused from the day's meeting:
- a) Ms. Marlene McDonald (conflicting meeting).
 - b) Mrs. Camille Robinson-Regis (conflicting meeting).

QUORUM

- 5.1 The Chairman proposed and Members agreed to a quorum of five (5) persons, inclusive of the Chair, provided that at least one Member from each House is present.

DISCUSSIONS ON THE WAY FORWARD

Invitations for Submissions on the Bill

- 6.1 The Chairman proposed and the Members agreed to invite written submissions on the Bill from the following stakeholders:
- (i) The Law Association of Trinidad and Tobago;
 - (ii) The Criminal Bar Association of Trinidad and Tobago;
 - (iii) The University of the West Indies;
 - (iv) The Inter-Religious Organization of Trinidad and Tobago;
 - (v) The Financial Intelligence Unit of Trinidad and Tobago;
 - (vi) The Muslim Round Table; and
 - (vii) The Trinidad and Tobago Police Service.
- 6.2 The Committee also agreed to issue a call for written submissions from the public via advertisement in daily newspaper, and the Parliament's website and social media platforms.
- 6.3 The Committee agreed to a deadline for all written submissions on the Bill of **Monday March 5, 2018**.
- 6.4 The Committee also considered additional reference materials. Following brief discussions, the Chairman gave an undertaking to provide the following documents:
- the travaux préparatoires which were used in the initial drafting of the Bill;

- a marked up version of the Bill; and
- the CFATF/FATF obligations which informed some of the considerations in the Bill.

6.5 The Committee also agreed to request assistance from the Chief Parliamentary Counsel's Department on the clause by clause consideration of the Bill for subsequent meetings.

6.6 The Secretariat was directed to circulate a list of organisations which comprise the Muslim Round Table.

Determination of the Second Meeting

6.7 The Chairman proposed and the Committee agreed that the Committee's Second Meeting will be held on Friday March 9, 2018 at 10:00 a.m.

ADJOURNMENT

7.1 There being no other business, the Chairman thanked Members and adjourned the meeting to Friday March 9, 2018 at 10:00 a.m.

7.2 The adjournment was taken at 11:26 a.m.

I certify that these Minutes are true and correct.

Chairman

Secretary

February 23, 2018



PARLIAMENT
Republic of Trinidad and Tobago

Levels G - 7, Tower D
The Port-of-Spain International Waterfront Centre
1A Wrightson Road, Port-of-Spain

JOINT SELECT COMMITTEE ON THE ANTI-TERRORISM (AMENDMENT) BILL, 2018

**MINUTES OF THE SECOND MEETING HELD IN THE ANR ROBINSON ROOM (WEST),
LEVEL 9, OFFICE OF THE PARLIAMENT, TOWER D, IWFC
#1A WRIGHTSON ROAD, PORT OF SPAIN ON MARCH 09, 2018 at 10:00 A.M.**

PRESENT

Members

Mr. Faris Al-Rawi, MP	-	Chairman
Mrs. Camille Robinson-Regis, MP -		Member
Dr. Roodal Moonilal, MP	-	Member
Mr. Nigel De Freitas	-	Member
Mr. Saddam Hosein	-	Member
Ms. Sophia Chote, S.C.	-	Member
Mr. Stephen Creese	-	Member
Mr. Fitzgerald Hinds, MP	-	Member

Secretariat

Ms. Simone Yallery	-	Assistant Secretary
Ms. Vahini Jainarine	-	Assistant Secretary
Ms. Shanice Ramdhan	-	Legal Research Assistant

ABSENT/EXCUSED

Mr. Prakash Ramadhar, MP	-	Member <i>[Excused]</i>
Mr. Foster Cummings	-	Member <i>[Excused]</i>
Mr. Clarence Rambharat	-	Member <i>[Excused]</i>
Ms. Marlene McDonald, MP	-	Member

COMMENCEMENT

1.1 The meeting was called to order by the Chairman at 10:16 a.m.

ANNOUNCEMENTS

- 2.1 The Chairman advised that the following Members asked to be excused from the day's meeting:
- Mr. Prakash Ramadhar, MP (court matter)
 - Mr. Foster Cummings (conflicting engagement)
 - Mr. Clarence Rambharat (out of jurisdiction)

CONFIRMATION OF MINUTES

- 3.1 The Committee examined the Minutes of the First Meeting held on Friday February 16, 2018.
- 3.2 There being no amendments, the motion for the confirmation of the Minutes of the First Meeting was moved by Mr. Nigel De Freitas and seconded by Mr. Saddam Hosein.

MATTERS ARISING FROM THE MINUTES

- 4.1 The Chairman brought the following matters to the attention of Members:
- i. **Per Item 6.2**, a call for written submission from members of the public was published in:
 - i. **Newspapers**
 - Trinidad and Tobago Guardian - February 23, 2018.
 - Sunday Express Newspaper -February 25, 2018.
 - Trinidad and Tobago Newsday-February 28, 2018.
 - ii. **Parliament Social Media and Channel**
 - Parliament's website - February 19, 2018.
 - Parliament's Facebook - February 20 and March 5, 2018.
 - Parliament's Twitter - February 20 and March 5, 2018.
 - Parliament's Instagram - February 20, 2018.
 - Parliament's Google + - February 20 and March 5, 2018.
 - Parliament's YouTube Channel Parlive - February 20, 2018.
 - Parliament's Television Channel ongoing since February 20, 2018.
 - ii. **Per Item 6.1**, the Secretariat sent invitations for written submissions to the following stakeholders:
 - The Law Association of Trinidad and Tobago;
 - The Criminal Bar Association of Trinidad and Tobago;
 - The University of the West Indies, Faculty of Law;
 - The Inter-Religious Organization of Trinidad and Tobago;
 - The Financial Intelligence Unit of Trinidad and Tobago;
 - The Muslim Round Table;
 - The Trinidad and Tobago Police Service;
 - Concern Muslims of Trinidad and Tobago;
 - Islamic Resource Society; and
 - Anjuman Sunnat ul Jamaat Association.
 - iii. **Per Item 6.3**, as at the deadline date of Monday March 5 2018, the Committee received submissions on the Bill from:
 - Ms. Joan Harrison (member of the public);
 - Mr. Patrick Bynoe and Mr. Alex Bynoe (members of the public);
 - Financial Intelligence Unit of Trinidad and Tobago;
 - The Muslim Round Table;
 - National Council of Orissa Elders of Trinidad and Tobago; and
 - Concern Muslims of Trinidad and Tobago (*skeletal submissions only*).

Additionally, the Secretariat received requests for an extension of time to make submissions from:

- Trinidad and Tobago Police Service to **Friday March 9, 2018.**
- Concern Muslims of Trinidad and Tobago to **Thursday March 15, 2018.**
- Mr. Cedrick Burke (member of the public) to **Thursday March 15, 2018.**
- Anjuman Sunnat ul Jamaat Association to **Tuesday March 13, 2018.**

iv. **Per Items 6.4 and 6.6**, the following documents were circulated:

- The Travaux Préparatoires used in the initial drafting of the Bill.
- A marked-up version of the Bill against the Anti-Terrorism Act, Chap. 12:07.
- The CFTAF/FATF obligations which informed some of the considerations of the Bill.
- A list of organisations comprising the Muslim Round Table.

v. **Per Item 6.5**, the following technocrats of the Office of the Chief Parliamentary Counsel (CPC), Ministry of the Attorney General and Legal Affairs have been assigned to render assistance to the Committee during its deliberations on the Bill:

- Ms. Ida Eversley – Deputy Chief Parliamentary Counsel
- Ms. Laura Ramnath – Senior Parliamentary Counsel (Ag.)
- Ms. Kimberly Superville – Legal Counsel I

DISCUSSIONS ON THE WAY FORWARD

5.1 A discussion ensued on the way forward. The Chairman proposed and the Committee agreed:

- that with the assistance from technocrats from the Ministry of the Attorney General and Legal Affairs, the Secretariat will circulate a matrix of submissions against each clause of the Bill;
- that technocrats of the CPC be invited to deliver a clause by clause presentation on the Bill at the Third Meeting on Wednesday March 14, 2018; and
- that Members will identify specific stakeholders from whom oral evidence may be required.

5.2 The Chairman then invited Members to consider the requests for extension of time from stakeholders and after some discussion, the Committee agreed to grant the requested extensions of time.

5.3 The Chairman also proposed and the Committee agreed that its Third Meeting will be held on Wednesday March 14, 2018 at 10:00 a.m. and its Fourth Meeting will be held on Tuesday March 20, 2018 at 10:00 a.m.

ADJOURNMENT

6.1 There being no other business, the Chairman thanked Members and adjourned the meeting to Wednesday March 14, 2018 at 10:00 a.m.

6.2 The adjournment was taken at 10:41 a.m.

I certify that these Minutes are true and correct.

Chairman

Secretary

March 12, 2018



PARLIAMENT
Republic of Trinidad and Tobago

Levels G - 7, Tower D
The Port-of-Spain International Waterfront Centre
1A Wrightson Road, Port-of-Spain

JOINT SELECT COMMITTEE ON THE ANTI-TERRORISM (AMENDMENT) BILL, 2018

**MINUTES OF THE THIRD MEETING HELD IN THE ANR ROBINSON ROOM (WEST),
LEVEL 9, OFFICE OF THE PARLIAMENT, TOWER D, IWFC
#1A WRIGHTSON ROAD, PORT OF SPAIN ON MARCH 16, 2018 at 10:00 A.M.**

PRESENT

Members

Mr. Faris Al-Rawi, MP	-	Chairman
Mrs. Camille Robinson-Regis, MP -		Member
Mr. Fitzgerald Hinds, MP	-	Member
Ms. Marlene McDonald, MP	-	Member
Mr. Prakash Ramadhar, MP	-	Member
Dr. Roodal Moonilal, MP	-	Member
Mr. Nigel De Freitas	-	Member
Mr. Foster Cummings	-	Member
Mr. Saddam Hosein	-	Member
Mr. Stephen Creese	-	Member

Secretariat

Ms. Chantal La Roche	-	Secretary
Ms. Simone Yallery	-	Assistant Secretary

ABSENT/EXCUSED

Mr. Clarence Rambharat	-	Member <i>[Excused]</i>
Ms. Sophia Chote, S.C.	-	Member <i>[Excused]</i>

ALSO PRESENT

Chief Parliamentary Counsel

Ms. Ida Eversley	-	Deputy Chief Parliamentary Counsel
Ms. Laura Ramnath	-	Senior Parliamentary Counsel (Ag.)
Ms. Kimberly Superville	-	Legal Counsel I

The Ministry of the Attorney General and Legal Affairs (Attorney General's Secretariat)

Mr. Andrew Dalip	-	Legal Consultant
Mrs. Farzana Nazir-Mohammed	-	Legal Counsel II
Ms. Vyana Sharma	-	Legal Counsel II

COMMENCEMENT

- 1.1 There being no objections by the Committee, Mr. Fitzgerald Hinds acted as Interim Chairman, until the arrival of the Chairman.
- 1.2 The meeting was called to order by the Interim Chairman at 10:16 a.m.

ANNOUNCEMENTS

- 2.1 The Interim Chairman advised that the following Members asked to be excused from the day's meeting:
 - a) Mr. Clarence Rambharat (*conflicting meeting*)
 - b) Ms. Sophia Chote, S.C.

CONFIRMATION OF MINUTES

- 3.1 The Committee examined the Minutes of the Second Meeting held on Friday March 9, 2018.
- 3.2 There being no amendments, the motion for the confirmation of the Minutes of the Second Meeting was moved by Mrs. Camille Robinson-Regis and seconded by Mr. Stephen Creese.

MATTERS ARISING FROM THE MINUTES

- 4.1 The Interim Chairman brought the following matters to the attention of Members:

Per Item 4.1 (iii)

- i. The Secretariat informed the stakeholders of the extension of time to submit their written comments on the Bill and received submissions from the following:
 - Trinidad and Tobago Police Service; and
 - Anjuman Sunnat ul Jamaat Association.

Per item 5.2

- ii. The Secretariat received requests for further extensions of time from:
 - Concern Muslims of Trinidad and Tobago (to **Monday March 19, 2018**);
 - Mr. Cedrick Burke (to **Monday March 19, 2018**); and
 - The Law Association of Trinidad and Tobago.

Per Item 5.1

- iii. The following documents were circulated:
 - Matrix of Submissions against each clause of the Bill; and
 - An outline of the presentation on the clauses of the Bill.

Per Item 5.1

- vi. The technocrats from the Ministry of the Attorney General and Legal Affairs were invited to deliver the presentation as requested.

PRESENTATION BY THE ATTORNEY GENERAL SECRETARIAT

Representatives of The Ministry of the Attorney General and Legal Affairs and the Office of the Chief Parliamentary Counsel were invited to join the meeting at this time

- 5.1 The Interim Chairman welcomed technocrats and asked them to introduce themselves.
- 5.2 Representing the Ministry of the Attorney General and Legal Affairs were:
- | | | |
|-----------------------------|---|------------------|
| Mr. Andrew Dalip | - | Legal Consultant |
| Mrs. Farzana Nazir-Mohammed | - | Legal Counsel II |
| Ms. Vyana Sharma | - | Legal Counsel II |
- 5.3 Representing the Office of the Chief Parliamentary Counsel were:
- | | | |
|-------------------------|---|------------------------------------|
| Ms. Ida Eversley | - | Deputy Chief Parliamentary Counsel |
| Ms. Laura Ramnath | - | Senior Parliamentary Counsel (Ag.) |
| Ms. Kimberly Superville | - | Legal Counsel I |
- 5.4 Mr Andrew Dalip, Legal Services Consultant, Ministry of the Attorney General and Legal Affairs commenced the presentation on the Bill.
- 5.5 The Chairman joined the meeting.
- 5.6 Upon completion of the presentation, the Chairman thanked the various technocrats for their attendance.

DISCUSSIONS ON THE WAY FORWARD

- 6.1 A discussion ensued on the way forward. The Chairman proposed and the Committee agreed:
- that at the Committee's next meeting, the marked up version of the Bill together with the matrix of submissions against each clause of the Bill will be examined;
 - that discussions will be held to identify specific stakeholders from whom oral evidence may be required.
- 6.2 The Chairman asked the Secretariat to circulate the following documents:
- The United Nations Security Council Resolutions 1276 and 1376; and
 - The forty (40) FATF obligations; and
 - The Immediate Outcomes.
- 6.3 The Chairman then invited Members to consider the requests for extension of time from stakeholders and the Committee agreed to grant the requested extensions of time.
- 6.4 The Committee agreed that as a result of a sitting of the Senate scheduled for Tuesday March 20, 2018 at 10:00 a.m., its Fourth Meeting would be rescheduled to Wednesday March 28, 2018 at 10:00 a.m.

ADJOURNMENT

7.1 There being no other business, the Chairman thanked Members and adjourned the meeting to Wednesday March 28, 2018 at 10:00 a.m.

7.2 The adjournment was taken at 12:17 p.m.

I certify that these Minutes are true and correct.

Chairman

Secretary

March 20, 2018



PARLIAMENT
Republic of Trinidad and Tobago

Levels G - 7, Tower D
The Port-of-Spain International Waterfront Centre
1A Wrightson Road, Port-of-Spain

JOINT SELECT COMMITTEE ON THE ANTI-TERRORISM (AMENDMENT) BILL, 2018

**MINUTES OF THE FOURTH MEETING HELD IN THE ANR ROBINSON ROOM (WEST),
LEVEL 9, OFFICE OF THE PARLIAMENT, TOWER D, IWFC
#1A WRIGHTSON ROAD, PORT OF SPAIN ON MARCH 29, 2018 at 10:00 A.M.**

PRESENT

Members

Mr. Faris Al-Rawi, MP	-	Chairman
Mr. Prakash Ramadhar, MP	-	Member
Dr. Roodal Moonilal, MP	-	Member
Mr. Nigel De Freitas	-	Member
Mr. Foster Cummings	-	Member
Mr. Saddam Hosein	-	Member
Mr. Stephen Creese	-	Member
Mr. Clarence Rambharat	-	Member
Ms. Sophia Chote, S.C.	-	Member

Secretariat

Ms. Chantal La Roche	-	Secretary
Mrs. Delrene Liverpool-Young	-	Assistant Secretary

ABSENT/EXCUSED

Mr. Fitzgerald Hinds, MP	-	Member
Ms. Marlene McDonald, MP	-	Member
Mrs. Camille Robinson-Regis, MP	-	Member

ALSO PRESENT

Chief Parliamentary Counsel

Ms. Ida Eversley	Deputy Chief Parliamentary Counsel
Ms. Kimberly Superville	Legal Counsel I

The Ministry of the Attorney General and Legal Affairs (Attorney General's Secretariat)

Mr. Andrew Dalip	Legal Consultant
Ms. Vyana Sharma	Legal Counsel II

COMMENCEMENT

- 1.1 There being no objections by the Committee, Mr. Nigel De Freitas acted as Interim Chairman, until the arrival of the Chairman.

- 1.2 The meeting was called to order by the Interim Chairman at 10:25 a.m.

ANNOUNCEMENTS

- 2.1 The Interim Chairman advised that the following Members asked to be excused from the day's meeting:
- Mr. Fitzgerald Hinds, MP (conflicting engagement)
 - Ms. Marlene McDonald, MP (illness)
 - Mrs. Camille Robinson-Regis, MP

CONFIRMATION OF MINUTES

- 3.1 The Committee examined the Minutes of the Third Meeting held on March 16, 2018.
- 3.2 There being no amendments, the motion for the confirmation of the Minutes of the Third Meeting was moved by Mr. Foster Cummings and seconded by Mr. Stephen Creese.

MATTERS ARISING FROM THE MINUTES

- 4.1 The Interim Chairman brought the following matters to the attention of Members:

Per Item 4.1

- i. The Secretariat received written comments on the Bill from the following:
 - Trinidad and Tobago Police Service; and
 - Anjuman Sunnat ul Jamaat Association.
 - ii. The Committee agreed to give a final extension of time to April 9, 2018 to the following:
 - Mr. Cedrick Burke; and
 - The Law Association of Trinidad and Tobago.
- 4.2 The Chairman joined the meeting.

COMMENCEMENT OF CLAUSE BY CLAUSE CONSIDERATION OF THE BILL

Representatives of the Ministry of the Attorney General and Legal Affairs and the Office of the Chief Parliamentary Counsel were invited to join the meeting at this time

- 5.1 The Chairman welcomed technocrats and asked them to introduce themselves.
- 5.2 Representing the Ministry of the Attorney General and Legal Affairs were:

Mr. Andrew Dalip	-	Legal Consultant
Ms. Vyana Sharma	-	Legal Counsel II

- 5.3 Representing the Office of the Chief Parliamentary Counsel were:

Ms. Ida Eversley	-	Deputy Chief Parliamentary Counsel

Ms. Kimberly Superville - Legal Counsel I

5.4 The clause by clause consideration of the Bill proceeded as outlined at **Appendix I**.

DISCUSSIONS ON THE WAY FORWARD

6.1 A discussion ensued on the way forward. The Chairman proposed and the Committee agreed that in light of the Committee's reporting deadline of March 31, 2018, an interim report would be drafted to be laid at the next Parliamentary sitting, seeking an extension of three (3) months for the Committee to complete its work.

ADJOURNMENT

7.1 There being no other business, the Chairman thanked Members and adjourned the meeting to a date to be fixed.

7.2 The adjournment was taken at 12:33 p.m.

I certify that these Minutes are true and correct.

Chairman

Secretary

March 29, 2018

APPENDIX I

Clause by Clause examination of the Anti-Terrorism Amendment Bill 2018

Thursday March 29 2018

Reference	Provision	Issues Raised	Decision Taken
Preamble		- Should a preamble be included - Whether the preamble to the Anti-Terrorism Act be amended by the Anti-Terrorism Amendment Bill 2018 - Whether the preamble could be wide, or restricted only to subject matter of the Amendment Bill	Deferred, subject to the review and recommendation by CPC
Clause 1	Short title	N/A	Agreed
Clause 2	Act inconsistent with Constitution	N/A	Agreed
Clause 3	Commencement	N/A	Agreed
Clause 4	Interpretation Chap. 12:07	N/A	Agreed
Clause 5	Section 2 amended	- Comparison of definition of “Committee” in anti-terrorism legislation in other jurisdictions such as the Criminal Code Act 2015 (Australia) and the Counter-Terrorism and Security Act 2015 (United Kingdom) - Consideration of the deletion of the words “ISIL (Da’esh) and Al Qaida Sanctions” from the definition of “Committee” - Review of the definition of “offensive weapon” as contained in Section 2 of the Prevention of Crime (Offensive Weapons) Act Chapter 11:09.	Deferred, subject to the review and recommendation by CPC, and correction of typographical error in the definition of "terrorist act"
Clause 6	Section 2A inserted	The extent and meaning of extraterritoriality	Agreed
Clause 7	Section 3 amended	- Whether Section 2 (the definition section) of the Act should be amended to expand the offence of committing a ‘terrorist act’ and include under sub-section (b), that this offence is also committed when a person ‘threatens to commit a terrorist act’ - Whether the offence of “terrorist act” should be removed from Section 2 (the definition section) of the Act and instead placed within an operative clause	Deferred, subject to the review and recommendation by CPC
Clause 8	Section 4 amended	- Should the term "designated person" in Clauses 8 & 9 be replaced with "designated entity" and that the definition of "designated entity" be moved to Section 2 (the definition section) of the Act. - Should mens rea of the offence include recklessness? - The impact of the provision on persons who make donations or distribute Zakaat	Deferred, subject to the review and recommendation by CPC

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018

		▪ Comparison of Criminal Code Act 2015 (Australia) ▪ Consideration of the UN General Assembly Resolution 49/60 and UN Security Council resolution 1566	
Clause 9	Section 5 repealed and replaced	▪ Should the term "designated person" in Clauses 8 & 9 be replaced with "designated entity" and that the definition of "designated entity" be moved to Section 2 (the definition section) of the Act.	Deferred, subject to the review and recommendation by CPC
Clause 10	Section 6 amended	N/A	Agreed
Clause 11	Section 7 amended	N/A	Agreed
Clause 12	Section 8 amended	N/A	Agreed
Clause 13	Section 9 amended	▪ Should “designated entity” be included as a new subsection 9((1)(e)? ▪ Should “support” be amended to be “material support”?	Deferred, subject to the review and recommendation by CPC
Clause 14	Section 10 amended	N/A	Agreed
Clause 15	Section 11 amended	N/A	Agreed
Clause 16	Section 12 amended	N/A	Agreed
Clause 17	New section 12A inserted	N/A	Agreed
Clause 18	Section 13 amended	▪ Consideration of circumstance where a person has been forced or coerced or carries out a terrorist act under duress	Deferred, subject to the review and recommendation by CPC



PARLIAMENT
Republic of Trinidad and Tobago

Levels G - 7, Tower D
The Port-of-Spain International Waterfront Centre
1A Wrightson Road, Port-of-Spain

JOINT SELECT COMMITTEE ON THE ANTI-TERRORISM (AMENDMENT) BILL, 2018

**MINUTES OF THE FIFTH MEETING HELD IN THE ANR ROBINSON ROOM (WEST),
LEVEL 9, OFFICE OF THE PARLIAMENT, TOWER D, IWFC
#1A WRIGHTSON ROAD, PORT OF SPAIN ON APRIL 10, 2018 at 10:00 A.M.**

PRESENT

Members

Mr. Faris Al-Rawi, MP	-	Chairman
Mr. Prakash Ramadhar, MP	-	Member
Dr. Roodal Moonilal, MP	-	Member
Mr. Nigel De Freitas	-	Member
Mr. Saddam Hosein	-	Member
Mr. Stephen Creese	-	Member
Mr. Clarence Rambharat	-	Member

Secretariat

Ms. Delrene Liverpool-Young	-	Assistant Secretary

ABSENT/EXCUSED

Mr. Fitzgerald Hinds, MP	-	Member <i>[Absent]</i>
Ms. Marlene McDonald, MP	-	Member <i>[Absent]</i>
Mrs. Camille Robinson-Regis, MP	-	Member <i>[Excused]</i>
Ms. Sophia Chote, S.C.	-	Member <i>[Excused]</i>
Mr. Foster Cummings	-	Member <i>[Excused]</i>

ALSO PRESENT

Chief Parliamentary Counsel

Ms. Ida Eversley	-	Deputy Chief Parliamentary Counsel
Ms. Laura Ramnath	-	Senior Parliamentary Counsel (Ag.)
Ms. Kimberly Superville	-	Legal Counsel I

The Ministry of the Attorney General and Legal Affairs (Attorney General's Secretariat)

Ms. Vyana Sharma	-	Legal Counsel II

COMMENCEMENT

- 1.1 There being no objections by the Committee, Mr. Nigel De Freitas acted as Interim Chairman, until the arrival of the Chairman.

- 1.2 The meeting was called to order by the Interim Chairman at 10:13 a.m.

ANNOUNCEMENTS

- 2.1 The Interim Chairman advised that the following Members asked to be excused from the day's meeting:
- Mrs. Camille Robinson-Regis, MP (conflicting engagement)
 - Ms. Sophia Chote, S.C. (conflicting engagement)
 - Mr. Foster Cummings (out of the country)

CONFIRMATION OF MINUTES

- 3.1 The Committee examined the Minutes of the Fourth Meeting held on March 29, 2018.
- 3.2 The Committee agreed that the following amendment be made:
- At Item 1.1:**
- Delete the name “Mr. Fitzgerald Hinds” where it occurs and insert the name “Mr. Nigel De Freitas”;
- 3.3 There being no further amendments, the motion for the confirmation of the minutes was moved by Mr. Stephen Creese and seconded by Mr. Saddam Hosein subject to the aforementioned amendment.

MATTERS ARISING FROM THE MINUTES

- 4.1 The Interim Chairman brought the following matters to the attention of Members:
- Per Item 4.1**
- The Secretariat informed the following stakeholders of a final extension of time for their comments on the Bill to April 9, 2018:
- Mr. Cedrick Burke; and
 - The Law Association of Trinidad and Tobago.
- 4.2 To date the Committee has not received any submissions from the following entities that were granted an extension of time:
- Mr. Cedrick Burke; and
 - The Law Association of Trinidad and Tobago.
- 4.3 Members agreed to defer decision on the issue of whether the submissions of these entities will be considered by the Committee if submitted past the date of extension.
- Per Item 6.1**
- 4.4 An Interim Report was laid in both Houses of Parliament seeking an extension of three (3) months to **June 29, 2018** for the Committee to complete its work (which was granted).
- 4.5 The Interim Chairman informed Members that arising from discussions during the clause by clause consideration of the Bill, a briefing document from the ***Anti-Terrorism Desk of the A.G. Secretariat*** was circulated. The document contains a briefing on the following:

- i. The advice coming from the prosecutorial expert in the United Kingdom on the Law of Terrorism and the right against self-incrimination; and
- ii. A review of the resolutions submitted for consideration by the National Council of Orisa Elders.

COMMENCEMENT OF CLAUSE BY CLAUSE CONSIDERATION OF THE BILL

Representatives of the Ministry of the Attorney General and Legal Affairs and the Office of the Chief Parliamentary Counsel were invited to join the meeting at this time

5.1 The Interim Chairman welcomed the technocrats and asked them to introduce themselves.

5.2 Representing the Ministry of the Attorney General and Legal Affairs was:

Ms. Vyana Sharma - Legal Counsel II

5.3 Representing the Office of the Chief Parliamentary Counsel were:

Ms. Ida Eversley - Deputy Chief Parliamentary Counsel
Ms. Laura Ramnath - Senior Parliamentary Counsel (Ag.)
Ms. Kimberly Superville - Legal Counsel I

5.4 The Chairman joined the meeting.

5.5 The clause by clause consideration of the Bill proceeded as outlined at **Appendix I**.

DISCUSSIONS ON THE WAY FORWARD

6. 1 A discussion ensued on the way forward. Members agreed to continue the clause by clause consideration of the Bill at the Committee's next meeting.

ADJOURNMENT

7.1 There being no other business, the Chairman thanked Members and adjourned the meeting to Tuesday April 17, 2018 at 10:00 a.m.

7.2 The adjournment was taken at 12:45 p.m.

I certify that these Minutes are true and correct.

Chairman

Secretary

April 17, 2018

APPENDIX I

Clause by Clause examination of the Anti-Terrorism Amendment Bill, 2018

Tuesday April 10, 2018

Reference	Provision	Issues Raised	Decision Taken
Clause 19	New Section 13A inserted	N/A	Agreed
Clause 20	Section 14 amended	N/A	Agreed
Clause 21	Section 15 amended	N/A	Agreed
Clause 22	New Sections 15A, 15B, 15C and 15E inserted	- Should the criterion for designating an area as a “declared geographical area” be clearly outlined in the Bill? - Consider defining “supporting” (as it appears in 15A (c)) using the same definition of “support” under Clause 13. - Should the AG also be empowered to apply to a judge for an order to designate an area a “declared geographical area”? - Whether the concept of ‘foreign terrorist fighter’ (FTF) under 15A (2) should be inserted into Clauses 8 & 9 to expand the category of persons capable of committing the offences thereunder. - Whether the “criteria” under 15B (3) that the Minister must consider in making the declaration and revoking the Order needs to be identified. - Should there be a minimal period of notice under 15C (1)? - Should the notice form under 15C (1) be scheduled? - Whether the method by which the notice to be brought to the attention of the Commissioner of Police under 15C (1) should be specified (e.g. registered mail or fax etc.) - Whether New Section 15C should also make provision for the Commissioner of Police to apply to the judge for an order to	Agreed Not Accepted. The ordinary definition will be used. Agreed Not Accepted. A FTF will fall under the definition of “Terrorist”. Not Accepted. The Criteria is listed under 15B (1). Not Accepted Not Accepted Agreed Not Accepted. This already exists under common law under <i>writ ne exeat regno</i>.

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018

Reference	Provision	Issues Raised	Decision Taken
		prevent a person from travelling to a declared territory for the purpose of conducting further investigations. ▪ Consider amending New Section 15C (4) to remove the contradiction that occurs; it is the Commissioner of Police that receives notices and not the Minister. ▪ Consider making failure to file notice with the Commissioner of Police an offence.	Agreed Not Accepted
Clause 23	New Sections 15F and 15G inserted	▪ Consider amending the language of 15F to allow for the institution of criminal proceedings against a person who threatens to commit an offence under Part III of the Act. ▪ Consider including two offences into the Bill: ○ Possession for terrorist purposes; and ○ Collecting, possessing or making a record of information of a kind likely to be useful to a person committing or preparing an act of terrorism.	Agreed Not Accepted. 15G will cover these with the use of the language relating to the taking of ‘preparatory steps’.
Clause 24	Section 17 amended	N/A	Agreed
Clause 25	Section 22A amended	▪ Whether it should be a defence to the offence if receiving funds from a terrorist organisation that those funds were received solely for the purpose of representation in legal proceedings; and that the legal burden be reduced to an evidential burden.	Agreed
Clause 26	Section 22AA amended	N/A	Agreed
Clause 27	Section 22B amended	▪ Whether in the instance that an innocent person with a similar name to a designated entity is affected, there should be a speedier process to ensure that the person is cleared, compensated and good name reinstated by an apology publicly published. ▪ The authority given to the Attorney General to cause investigations to be carried out with respect to allegations is dangerous, it may allow for abuse of authority, it contravenes the doctrine of separation of powers and further, contravenes the Constitution.	Not Accepted Agreed. CPC to look at reconstruction of 1A to the effect that the Commissioner of Police would provide the Attorney General with materials required for listing rather than results of the investigation.

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018

Reference	Provision	Issues Raised	Decision Taken
Clause 28	New Sections 22BA, 22BB, 22BC, 22BD and 22BE inserted	▪ The reference to “ISIS and Al Qaeda” should be changed to all UNSC Sanctions Committees. ▪ This amendment here affects what has been termed the Separation of Powers and the powers entrusted to the Attorney General and Director of Public Prosecutions by granting the Attorney General powers to cause an investigation to be carried out. ▪ Consider rewording 22BE (3) and (4) to remedy the issue where the Attorney General may be in receipt of all data from an investigation done by the Commissioner of Police rather than just the relevant data.	Agreed Not Accepted Agreed

April 17, 2018



PARLIAMENT
Republic of Trinidad and Tobago

Levels G - 7, Tower D
The Port-of-Spain International Waterfront Centre
1A Wrightson Road, Port-of-Spain

JOINT SELECT COMMITTEE ON THE ANTI-TERRORISM (AMENDMENT) BILL, 2018

**MINUTES OF THE SEVENTH MEETING HELD IN THE ANR ROBINSON MEETING ROOM
(WEST), LEVEL 9 AND THEREAFTER J. HAMILTON MAURICE ROOM, MEZZANINE
FLOOR, OFFICE OF THE PARLIAMENT, TOWER D, IWFC
#1A WRIGHTSON ROAD, PORT OF SPAIN ON APRIL 23, 2018 at 1:00 P.M.**

PRESENT

Members

Mr. Faris Al-Rawi, MP	-	Chairman
Mr. Prakash Ramadhar, MP	-	Member
Mrs. Camille Robinson-Regis, MP	-	Member
Dr. Roodal Moonilal, MP	-	Member
Mr. Clarence Rambharat	-	Member
Mr. Nigel De Freitas	-	Member
Mr. Foster Cummings	-	Member
Mr. Saddam Hosein	-	Member
Mr. Stephen Creese	-	Member

Secretariat

Ms. Chantal La Roche	-	Secretary
Ms. Simone Yallery	-	Assistant Secretary
Ms. Candice Ramkissoon	-	Legal Research Officer

ABSENT/EXCUSED

Mr. Fitzgerald Hinds, MP	-	Member
Ms. Marlene McDonald, MP	-	Member [Excused]
Ms. Sophia Chote, S.C.	-	Member [Excused]

ALSO PRESENT

Chief Parliamentary Counsel

Ms. Laura Ramnath	-	Senior Parliamentary Counsel (Ag.)
Ms. Kimberly Superville	-	Legal Counsel I

The Ministry of the Attorney General and Legal Affairs (Attorney General's Secretariat)

Ms. Vyana Sharma	-	Legal Counsel II

The Trinidad and Tobago Police Service (TTPS)

Mr. Stephen Williams	-	Commissioner of Police (Ag.)
Mr. Wendell Williams	-	Senior Superintendent (Ag.), Special Branch
Mr. Kerwin Francis	-	Assistant Superintendent (Ag.), Organised Crime and Intelligence Unit
Mr. Kazim Ali	-	Inspector (Ag.), Legal Unit

Concern Muslims of Trinidad and Tobago (CMTT)

Imam Sheraz Ali	-	President
Mr. Imtiaz Mohammed	-	Public Relations Officer
Mr. Criston J. Williams	-	Attorney-at-Law

The Muslim Round Table Group (TMRTG)

Mr. Hafeez Khan	-	Coordinator and Member Representative from FISCAL/National Islamic Counselling Services
Mr. Harool Khan	-	Member Representative, Anjuman Sunnat Ul Jamaat Association
Mrs. Shaleeza Khan – Ali	-	Member Representative, Islamic Ladies Social and Cultural Association
Imam Sheraz Ali	-	Member Representative, Concern Muslims of Trinidad and Tobago

COMMENCEMENT

- 1.1 The meeting was called to order by the Chairman at 1:07 p.m.

ANNOUNCEMENTS

- 2.1 The Chairman advised that the following Members asked to be excused from the day's meeting:
- Mrs. Marlene McDonald, MP (ill)
 - Ms. Sophia Chote, S.C. (conflicting engagement)

CONFIRMATION OF MINUTES

- 3.1 The Committee examined the Minutes of the Sixth Meeting held on April 18, 2018.
- 3.2 There being no amendments, the motion for the confirmation of the minutes was moved by Mr. Nigel De Freitas and seconded by Dr. Roodal Moonilal.

MATTERS ARISING FROM THE MINUTES

- 4.1 The Chairman advised that:
- i. no submission had been received from the Law Association of Trinidad and Tobago, but the President of the Association had advised that it would be forwarded by the end of the day; and

- ii. invitations to appear before the Committee had been issued and accepted by the Trinidad and Tobago Police Service, Concern Muslims of Trinidad and Tobago and The Muslim Round Table Group.

PRE-HEARING DISCUSSIONS

- 5.1 The Chairman reminded Members that representatives from the TTPS, CMTT and TMRTG were invited to appear before the Committee to further elucidate their written submissions on the Bill.
- 5.2 The Committee engaged in brief discussions on the approach to be employed during the hearing with representatives of TTPS, CMTT and TMRTG.
- 5.3 The Committee commenced a discussion on the stakeholders to be invited to attend the Eighth Meeting, however the decision was deferred until after the completion of the public hearing.
- 5.4 The meeting was suspended at 1:20 p.m.

PUBLIC HEARING

Representatives of the TTPS, CMTT and TMRTG were invited to join the meeting at this time

- 6.1 The meeting resumed in public at 1:37 p.m.
- 6.2 The Chairman welcomed the representatives of TTPS, CMTT and TMRTG and asked them to introduce themselves.
- 6.3 Representing the TTPS were:

Mr. Stephen Williams	-	Commissioner of Police (Ag.)
Mr. Wendell Williams	-	Senior Superintendent (Ag.), Special Branch
Mr. Kerwin Francis	-	Assistant Superintendent (Ag.), Organised Crime and Intelligence Unit
Mr. Kazim Ali	-	Inspector (Ag.), Legal Unit
- 6.4 Representing the TMRTG were:

Imam Sheraz Ali	-	President
Mr. Imtiaz Mohammed	-	Public Relations Officer
Mr. Criston J. Williams	-	Attorney-at-Law
- 6.5 Representing the CMTT were:

Mr. Hafeez Khan	-	Coordinator and Member Representative from FISCAL/National Islamic Counselling Services
Mr. Harool Khan	-	Member Representative, Anjuman Sunnat Ul Jamaat Association
Mrs. Shaleeza Khan – Ali	-	Member Representative, Islamic Ladies Social and Cultural Association

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018

- Imam Sheraz Ali - Member Representative, Concern Muslims of Trinidad and Tobago
- 6.6 Representing the Ministry of the Attorney General and Legal Affairs was:
Ms. Vyana Sharma - Legal Counsel II
- 6.7 Representing the Office of the Chief Parliamentary Counsel were:
Ms. Laura Ramnath - Senior Parliamentary Counsel (Ag.)
Ms. Kimberly Superville - Legal Counsel I
- 6.8 The issues discussed during the meeting are attached as **Appendix I** to these Minutes.
- 6.9 The Committee also requested that the TTPS provide comparative statutory provisions from other jurisdictions which prevent an individual from leaving a jurisdiction during investigations by law enforcement into the reasons for travel.
- 6.10 The public meeting ended at 6:14 p.m.

DISCUSSIONS ON THE WAY FORWARD

Determination of Meeting Dates

- 7.1 The Chairman proposed and Members agreed to reschedule the Eighth Meeting will be rescheduled to Friday April 27, 2018 at 10: 00 a.m. due to constraints with broadcasting the meeting live.
- 7.2 The Chairman further proposed and the Members agreed to schedule a meeting of the Committee for Wednesday May 2, 2018 at 10:00 a.m.

Invitation to Stakeholders for a Public Hearing

- 7.3 After some discussion, the Committee agreed to invite the following stakeholders to appear at its next meeting on Friday April 27, 2018:
- The Financial Intelligence Unit of Trinidad and Tobago; and
 - The National Council of Orisha Elders of Trinidad and Tobago.

ADJOURNMENT

- 8.1 There being no other business, the Chairman thanked Members and adjourned the meeting to Friday April 27, 2018 at 10:00 a.m.
- 8.2 The adjournment was taken at 6:23 p.m.

I certify that these Minutes are true and correct.

Chairman

Secretary

April 26, 2018

Appendix 1

Clause	Issues
TRINIDAD AND TOBAGO POLICE SERVICE	
5	▪ Consider defining the term “<i>threatens</i>” to prevent ambiguity within the provision especially with regard to the interpretation of the provision by members of the TTPS and further, to ensure clarity of the term used in relation to terrorism. ▪ Consider expanding the definition of “<i>weapon</i>” to capture the use of ordinary items such as fertilisers and nails to construct homemade weapons.
22	▪ Under proposed Section 15B, the AG should also have the authority to apply to a judge for an Order with respect to designating a declared geographical area to harmonise the functions of the AG with other areas of the Bill where he is empowered to apply to a Judge for the listing of a terrorist entity. ▪ Proposed Section 15B (2), the criteria to be considered by the Minister in making a declaration should be identified. ▪ Proposed Section 15C (1), consider the inclusion of: ○ a specified minimum period of notice. ○ a specified method of serving the notice on the Commissioner of Police. ○ a provision for a form of notice to be inserted in either the Regulations or the Bill. ○ specific general requirements for the provision of notice. ▪ Proposed 15C (2), consider the inclusion of : ○ Empowering the Commissioner of Police to obtain an order from a Judge to prevent a person from travelling to a declared territory in order to allow the police to conduct further investigations. ▪ Proposed Section 15C: include a provision which specifies a penalty where a person fails to file notice with the Commissioner of Police. The provision may be worded similarly to the penalty under proposed Section 15D(5).
ADDITIONAL PROPOSALS	▪ Consider inserting two (2) further offences into the Bill. The language of the provisions should provide for a defence to persons with a reasonable excuse. The offences are: ○ Possession for terrorist purposes; to capture situations where individuals are found in possession of items that are utilised in preparation for or to commit terrorist acts.

Clause	Issues
	○ Collecting, possessing or making a record of information of a kind likely to be useful to a person committing or preparing an act of terrorism; which would capture a wider range of circumstances than the offence of possession for terrorist purposes. The ground for the cause of an investigation into these offences should be “<i>reasonable suspicion</i>” and such suspicion should be required to be objective rather than subjective.
CONCERN MUSLIMS OF TRINIDAD AND TOBAGO	
8	▪ The unclear and vague definition of “<i>reckless</i>”.
22	▪ Under proposed Section 15B(2), the criteria to be considered by the Minister in making a declaration should be identified. ▪ Concern that this provision would create hardship to persons travelling for Hajj and Umrah pilgrimages, therefore consideration should be given to the following issues: ○ Instances where persons visit one area for religious reasons but tour another area which may happen to be or become a declared geographical area unknown to the persons. ○ The inability of most travellers to be informed, while on a trip, that an area has been made a declared geographical area. ○ Uninformed or misinformed immigration or police officers using this law to target persons innocently travelling to declared geographical areas despite the provision of a ‘<i>reasonable excuse</i>’.
25	▪ Apprehension expressed surrounding the effect that Clause 25 may have on religious-based charitable organisations or charitable persons. Concern that Clause 25 may be construed widely and may lead to the de-risking and de-banking of innocent persons. ▪ A recommendation was submitted that banking regulations should be amended and adjusted to ensure that such innocent persons are not negatively affected. ▪ Clause may capture persons who innocently and unknowingly fund terrorist organisations which may present themselves as in need of charity.
28	▪ There is concern that the Bill targets Muslims due to the specific references made to the Arabic named UN Committees/Sanction Lists which seemingly targets particular groups of terrorists that are mistakenly associated with the Muslim faith rather than the listing of all known terrorists groups. Suggestion:

Clause	Issues
	i. The language of the Bill be changed to remove the Arabic named Committees/Sanction Lists. ii. substitute a more general form of words. iii. list all known terrorist entities. ▪ Proposed Section 22BB: Entity is concerned with the requirement that the AG must apply to the Court for an Order to delist a designated entity, he must first notify the UN Committees of such an intention and the possible effect on the country's sovereignty and the independence of the office of the Attorney General.
ADDITIONAL PROPOSALS	▪ Concern with the deficiencies in the TTPS and other bodies that will be enforcing this legislation. ▪ Appears to be a lack of data which informed the rationale for and the provisions of the Bill. ▪ A recommendation was advanced that legislation which addressed terrorism be reviewed by an independent reviewer to consider the workings of the Bill and provide the Committee with specific recommendations on pertinent issues. ▪ Concern that material including religious literature or recordings found in possession may lead to the suspicion of terrorist activity under the Bill.
THE MUSLIM ROUND TABLE GROUP	
8	▪ The language of Clause 8, particularly the words "<i>or being reckless as to whether it may be used</i>", is ambiguous and provides opportunity for abuse and should be removed. ▪ It may also have the effect of incriminating innocent persons associated with bodies corporate (e.g. employees). It is suggested that the provision should be reworded to capture only persons with intention and knowledge of use.
22	▪ Under proposed Section 15B(2), the criteria to be considered by the Minister in making a declaration should be identified. ▪ Need to specify the contents of the notice to the Commissioner of Police under proposed Section 15C(1).
25	▪ Consider the impact on employees and investors of a company found to have committed an offence under this provision.

Clause	Issues
27	Consider circumstances where an innocent person with a similar name to a designated entity is affected. Provision should be made the immediate clearing of that person's name.
28	- Concern: Bill targets Muslims due to the specific references made to the Arabic named UN Committees/Sanction Lists which seemingly targets particular groups of terrorists that are mistakenly associated with the Muslim faith rather than the listing of all known terrorists groups. - The following suggestions were advanced: - The language of the Bill be changed to remove the Arabic named Committees/Sanction Lists. - Substitute a more general form of words. - List all known terrorist entities.
ADDITIONAL PROPOSALS	- Concern with the deficiencies in the TTPS and other bodies that will be enforcing this legislation. - Inclusion of a provision for the utilisation of the legislation by the TTPS and similar bodies to avoid misinterpretation and misapplication during operationalisation. - Removal of the Clauses which propose the removal a specified rank to carry out powers in the Bill, because of the possibility of corruption among the lower ranking members of the police service and the gravity of this legislation. - The Bill must uphold the doctrine of Separation of Powers.

April 26, 2018



PARLIAMENT
Republic of Trinidad and Tobago

Levels G - 7, Tower D
The Port-of-Spain International Waterfront Centre
1A Wrightson Road, Port-of-Spain

JOINT SELECT COMMITTEE ON THE ANTI-TERRORISM (AMENDMENT) BILL, 2018

**MINUTES OF THE EIGHTH MEETING HELD IN THE A.N.R. ROBINSON MEETING ROOM
(EAST), LEVEL 9, OFFICE OF THE PARLIAMENT, TOWER D, IWFC
#1A WRIGHTSON ROAD, PORT OF SPAIN ON APRIL 27, 2018 at 10:00 A.M.**

PRESENT

Members

Mr. Faris Al-Rawi, MP	-	Chairman
Mr. Fitzgerald Hinds, MP	-	Member
Mr. Prakash Ramadhar, MP	-	Member
Mrs. Camille Robinson-Regis, MP	-	Member
Dr. Roodal Moonilal, MP	-	Member
Mr. Saddam Hosein	-	Member
Mr. Stephen Creese	-	Member

Secretariat

Ms. Chantal La Roche	-	Secretary
Ms. Simone Yallery	-	Assistant Secretary
Ms. Candice Ramkissoon	-	Legal Research Officer

ABSENT/EXCUSED

Ms. Sophia Chote, S.C.	-	Member [Excused]
Mr. Nigel De Freitas	-	Member [Excused]
Mr. Clarence Rambharat	-	Member [Excused]
Mr. Foster Cummings	-	Member [Excused]
Ms. Marlene McDonald, MP	-	Member [Excused]

ALSO PRESENT

Chief Parliamentary Counsel

Ms. Laura Ramnath	-	Senior Parliamentary Counsel (Ag.)
Ms. Kimberly Superville	-	Legal Counsel I

The Ministry of the Attorney General and Legal Affairs (Attorney General's Secretariat)

Ms. Vyana Sharma	-	Legal Counsel II

Financial Intelligence Unit of Trinidad and Tobago (FIUTT)

Ms. Susan François	-	Director

Mr. Nigel Stoddard	-	Deputy Director
Ms. Mary Campbell	-	Director, Analysis Division
Mr. Chislon Dubar	-	Senior Analyst

COMMENCEMENT

- 1.1 The meeting was called to order by the Chairman at 10:31 a.m.

ANNOUNCEMENTS

- 2.1 The Chairman advised that the following Members asked to be excused from the day's meeting:
- Ms. Sophia Chote, S.C. (conflicting meeting)
 - Mr. Clarence Rambharat (conflicting meeting)
 - Ms. Marlene McDonald, MP (conflicting meeting)
 - Mr. Nigel De Freitas
 - Mr. Foster Cummings

CONFIRMATION OF MINUTES

- 3.1 The Committee examined the Minutes of the Seventh Meeting held on April 23, 2018.
- 3.2 There being no amendments, the motion for the confirmation of the minutes was moved by Mrs. Camille Robinson-Regis and seconded by Mr. Fitzgerald Hinds.

MATTERS ARISING FROM THE MINUTES

- 4.1 The Chairman advised the Committee of the following:
- i. **Per Item 4.1(i)**, the Secretariat received submissions which were circulated from the following stakeholders:
 - The Law Association of Trinidad and Tobago; and
 - The Islamic Society of Caribbean and South America.
 - ii. **Per Item 7.3**, invitations to appear before the Committee had been issued and accepted by the FIUTT and the National Council of Orisha Elders of Trinidad and Tobago (NCOETT). However, the Chairman indicated that the representatives of the NCOETT were unable to appear due to the illness of its witnesses.
 - iii. **Per Item 6.9**, the Secretariat wrote to the Trinidad and Tobago Police Service to request the additional information on comparative statutory provisions from other jurisdictions which prevent an individual from leaving a jurisdiction. A deadline was given of Tuesday May 1, 2018 to provide the information.

PRE-HEARING DISCUSSIONS

- 5.1 The Chairman advised Members that representatives of the FIUTT were present to appear before the Committee to further elucidate their written submissions on the Bill.

5.2 The meeting was suspended at 10:37 a.m.

PUBLIC HEARING

Representatives of the FIUTT were invited to join the meeting at this time

6.1 The meeting resumed in public at 10:40 a.m.

6.2 The Chairman welcomed the representatives of the FIUTT.

6.3 Representing the FIUTT were:

Ms. Susan François	-	Director
Mr. Nigel Stoddard	-	Deputy Director
Ms. Mary Campbell	-	Director, Analysis Division
Mr. Chislon Dubar	-	Senior Analyst

6.4 Representing the Ministry of the Attorney General and Legal Affairs was:

Ms. Vyana Sharma	-	Legal Counsel II

6.5 Representing the Office of the Chief Parliamentary Counsel were:

Ms. Laura Ramnath	-	Senior Parliamentary Counsel (Ag.)
Ms. Kimberly Superville	-	Legal Counsel I

6.6 The issues discussed during the meeting are attached as **Appendix I** to these Minutes.

6.7 The Committee also requested that the FIUTT provide statutory provisions from other jurisdictions in relation to the offence of “*glorifying of terrorism*”.

6.8 The public meeting ended at 12:32 p.m.

DISCUSSIONS ON THE WAY FORWARD

Determination of Meeting Dates

7.1 The Chairman proposed and Members agreed that the Ninth Meeting would be scheduled for Monday April 30, 2018 at 1:00 p.m.

7.2 The Chairman further proposed and the Members agreed to schedule two additional meetings of the Committee on the following dates:

- Monday May 7, 2018 at 1:00 p.m.; and
- Friday May 11, 2018 at 10:00 a.m.

Invitation to Stakeholder for a Public Hearing

7.3 After some discussion, the Committee agreed to re-issue an invitation to the NCOETT to appear at its next meeting on Monday April 30, 2018.

OTHER MATTERS

- 8.1 The Chairman requested the following documents be circulated to Members:
- i. A revised matrix of the stakeholder submissions including additional comments which the Committee received in writing and during public meetings, and new submissions from the Law Association of Trinidad and Tobago.
 - ii. A tabulation of the Committee's decisions during the clause by clause consideration of the Bill, including deferred clauses.

ADJOURNMENT

- 9.1 There being no other business, the Chairman thanked Members and adjourned the meeting to Monday April 30, 2018 at 1:00 p.m.
- 9.2 The adjournment was taken at 12:45 p.m.

I certify that these Minutes are true and correct.

Chairman

Secretary

April 27, 2018

Appendix I

Clause	Issues
7	- Sub-clause (c) is restrictive due to the use of the words “<i>including but not limited to acquiring material or participating</i>”. Suggestion: delete the words “<i>and including but not limited to acquiring material or participating</i>” and substitute with the words “<i>(by) engaging in any conduct</i>”. - The sub clause should then read: “<i>Takes any preparatory steps by engaging in any conduct in the planning of an act referred to in paragraph (c)</i>” - Sub-clause should closely resemble Section 5 of the Terrorism Act of the United Kingdom.
19	- Consider: Creation of an offence which will capture a person who intentionally attends a place that is used for terrorist training whether it is located in Trinidad and Tobago or another jurisdiction. - Provision should also be made within the offence, to provide a person with a defence of lawful excuse.
22	- New Sections 15C and 15D do not stipulate a timeframe within which notice should be given. Suggestion: Inclusion of a timeframe. - The Commissioner of Police should be empowered to also prevent a person from leaving the jurisdiction in furtherance to his powers under these provisions. - Clause 22 should provide increased protection to children by making it more difficult to take a child to a declared geographical area. Along with the Commissioner’s consent should also be obtained from: a. Another parent; or b. The Court.
ADDITIONAL PROPOSALS	- Consider making it an offence for a person to glorify terrorism. - The offence should capture those who commit a terrorist act by directly/indirectly inciting others to commit a terrorist act. - Consider extending the periods of detention under Section 23 of the Anti-Terrorism Act, Chap 12:07 to assist law enforcement with early intervention and a greater period for investigation. Recommendation: Subsection 4 should be amended to 14 days in the first instance and may be extended for a maximum period which does not exceed 28 days.

April 27, 2018



PARLIAMENT
Republic of Trinidad and Tobago

Levels G - 7, Tower D
The Port-of-Spain International Waterfront Centre
1A Wrightson Road, Port-of-Spain

JOINT SELECT COMMITTEE ON THE ANTI-TERRORISM (AMENDMENT) BILL, 2018

MINUTES OF THE RESCHEDULED NINTH MEETING HELD IN THE ANR ROBINSON MEETING ROOM (EAST), LEVEL 9, OFFICE OF THE PARLIAMENT, TOWER D, IWFC #1A WRIGHTSON ROAD, PORT OF SPAIN ON WEDNESDAY MAY 16, 2018 at 10:00 A.M.

PRESENT

Members

Mr. Faris Al-Rawi, MP	-	Chairman
Mr. Fitzgerald Hinds, MP	-	Member
Mr. Prakash Ramadhar, MP	-	Member
Mrs. Camille Robinson-Regis, MP	-	Member
Mr. Nigel De Freitas	-	Member
Mr. Clarence Rambharat	-	Member
Mr. Foster Cummings	-	Member

Secretariat

Ms. Chantal La Roche	-	Secretary
Ms. Simone Yallery	-	Assistant Secretary
Ms. Candice Ramkissoon	-	Legal Research Officer

ABSENT/EXCUSED

Ms. Sophia Chote, S.C.	-	Member [<i>Excused</i>]
Dr. Roodal Moonilal, MP	-	Member [<i>Excused</i>]
Mr. Saddam Hosein	-	Member [<i>Excused</i>]
Mr. Stephen Creese	-	Member [<i>Excused</i>]
Ms. Marlene McDonald, MP	-	Member [<i>Absent</i>]

ALSO PRESENT

Chief Parliamentary Counsel

Ms Ida Eversley	-	Deputy Chief Parliamentary Counsel
Ms. Laura Ramnath	-	Senior Parliamentary Counsel (Ag.)
Ms. Kimberly Superville	-	Legal Counsel I

The Ministry of the Attorney General and Legal Affairs (Attorney General's Secretariat)

Ms. Casandra Seetahal	-	Legal Counsel I
Mr. Andrew Dalip	-	Legal Consultant

COMMENCEMENT

- 1.1 The meeting was called to order by the Chairman at 10:30 a.m.

ANNOUNCEMENTS

- 2.1 The Chairman advised that the following Members asked to be excused from the day's meeting:
- Ms. Sophia Chote, S.C. (late Senate Sitting)
 - Dr. Roodal Moonilal (conflicting engagement)
 - Mr. Saddam Hosein (out of the country)
 - Mr. Stephen Creese (out of the country)

CONFIRMATION OF MINUTES

- 3.1 The Committee examined the Minutes of the Eighth Meeting held on April 27, 2018.
- 3.2 There being no amendments, the motion for the confirmation of the minutes was moved by Mr. Fitzgerald Hinds and seconded by Mr. Prakash Ramadhar.

MATTERS ARISING FROM THE MINUTES

- 4.1 The Chairman advised the Committee of the following:
- i. **Per Item 4.1 (iii)**, the Secretariat received an additional submission from the Trinidad and Tobago Police Service which was circulated.
 - ii. **Per Item 8.1**, the Secretariat circulated the following documents via email and uploaded via Rotunda:
 - Consolidated Table of Clause by Clause Analysis of the Anti-Terrorism (Amendment) Bill, 2018;
 - Summary of Issues and Additional Proposals (Second Matrix);
 - A Comparative Table on the offence of glorifying terrorism;
 - An updated Anti-Terrorism Act;
 - Extract of the Counter Terrorism Legislation Amendment Foreign Fighters Act No, 116 of 2014 (Sections 22A and 24A); and
 - Extract of Section 5 UK Terrorism Act, 2006.
 - iii. **Per Item 6.7**, the Secretariat sent correspondence to the Financial Intelligence Unit of Trinidad and Tobago in relation to their undertaking at the Eighth meeting to provide statutory provisions from other jurisdictions on the offence of glorifying terrorism.
 - iv. **Per Item 7.3**, the Secretariat issued a second invitation to the National Council of Orisha Elders of Trinidad and Tobago on Friday April 27, 2018, however, the representatives indicated their inability to attend any subsequent meetings due to scheduling challenges but nevertheless conveyed its gratitude to the Committee for considering its submission.

COMMENCEMENT OF CLAUSE BY CLAUSE CONSIDERATION OF THE BILL

Representatives of the Ministry of the Attorney General and Legal Affairs and the Office of the Chief Parliamentary Counsel were invited to join the meeting at this time

- 5.1 The Chairman welcomed the technocrats.
- 5.2 Representing the Ministry of the Attorney General and Legal Affairs were:
- | | | |
|-----------------------|---|------------------|
| Ms. Casandra Seetahal | - | Legal Counsel I |
| Mr. Andrew Dalip | - | Legal Consultant |
- 5.3 Representing the Office of the Chief Parliamentary Counsel were:
- | | | |
|-------------------------|---|------------------------------------|
| Ms. Ida Eversley | - | Deputy Chief Parliamentary Counsel |
| Ms. Laura Ramnath | - | Senior Parliamentary Counsel (Ag.) |
| Ms. Kimberly Superville | - | Legal Counsel I |
- 5.4 The clause by clause consideration of the Bill proceeded as outlined at **Appendix I**.

DISCUSSIONS ON THE WAY FORWARD

Determination of Meeting Dates

- 6.1 The Chairman proposed and Members agreed to the following dates subsequent meetings of the Committee:
- Friday May 18, 2018 at 10:00 a.m.; and
 - Monday May 28, 2018 at 1:00 p.m.

ADJOURNMENT

- 7.1 There being no other business, the Chairman thanked Members and adjourned the meeting to Friday May 18, 2018 at 10:00 a.m.
- 7.2 The adjournment was taken at 1:25 p.m.

I certify that these Minutes are true and correct.

Chairman

Secretary

May 18, 2018

Appendix I

Clause	Provision	Issues Raised	Decision Taken
5	Section 2 amended	Consider defining the term “<i>threatens</i>” to prevent ambiguity within the provision especially with regard to the interpretation of the provision by members of the TTPS and further, to ensure clarity of the term used in relation to terrorism.	Not Agreed.
		Consider expanding the definition of “<i>weapon</i>” to capture the use of ordinary items such as fertilisers and nails to construct homemade weapons.	Deferred. CPC to redraft.
7	Section 3 amended	Delete the words “<i>and including but not limited to acquiring material or participating</i>” and substitute with the words “<i>(by) engaging in any conduct</i>”. The sub clause should then read: “<i>Takes any preparatory steps by engaging in any conduct in the planning of an act referred to in paragraph (c)</i>”	Deferred. CPC to redraft using “ <i>takes any preparatory steps for committing an act referred to in this Part</i> ”.
		Amendment to include other forms of industrial action. Picketing and other similar conduct done in contemplation or furtherance of a trade dispute should be included among the list of exemptions even if it is intended to cause harm.	Not Agreed
8	Section 4 amended	Rewording of Clause to capture only persons with intention and knowledge of use.	Deferred. CPC to redraft omitting recklessness.
9	Section 5 repealed	In relation to new Section 5(1) which deals with making property available, that intention or knowledge is required and recklessness is not an element of the offence.	Clause will be consistent with Clause 8 after its redraft. Deferred.
		There is no offence in the new proposed Section 5(1) of ‘<i>collecting</i>’ property to be used in the commission of a terrorism offence.	CPC to redraft the Clause using the previous wording which included “ <i>collecting</i> ”.
17	New Section 12A	Consideration to singling out the less serious offences and making some of the offences in that sub-category triable summarily and others triable either way.	Not Agreed.

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018

Clause	Provision	Issues Raised	Decision Taken
18	Section 13 amended	Consideration to singling out the less serious offences and making some of the offences in that sub-category triable summarily and others triable either way.	Not Agreed.
		The provision should also address homemade weapons.	Deferred. CPC to redraft provision, consider the definition of “ <i>offensive weapons</i> ”, omit recklessness and reconcile the language between new Section 12A and Section 13.
19	New Section 13A inserted	Creation of an offence which will capture a person who intentionally attends a place that is used for terrorist training whether it is located in Trinidad and Tobago or another jurisdiction.	Not Agreed. NB: CPC to consider the inclusion of “ <i>offensive weapon</i> ” definition.
		Provision should also be made within the offence, to provide a person with a defence of lawful excuse.	Already included in the provision.
		Consideration should be given to singling out the less serious offences and making some of the offences in that sub-category triable summarily and others triable either way.	Not Agreed.
20	Section 14 amended	Consideration should be given to singling out the less serious offences and making some of the offences in that sub-category triable summarily and others triable either way.	Not Agreed.
22	New sections 15A, 15B, 15C, 15D and 15E inserted	Under proposed Section 15B, the Attorney General should also have the authority to apply to a Judge for an order with respect to designating a declared geographical area to harmonise the functions of the Attorney General with other areas of the Bill where he is empowered to apply to a Judge for the listing of a terrorist entity.	Not Agreed.
		- In Section 15C (1) consider the inclusion of: - a specified minimum period of notice; - a specified method of serving the notice on the Commissioner of Police; - a provision for a form of notice to be inserted in either the Regulations or the Bill; and - specific general requirements for the provision of notice.	Not Agreed.

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018

Clause	Provision	Issues Raised	Decision Taken
		In Section 15C, include a provision which specifies a penalty where a person fails to file notice with the Commissioner of Police. The provision may be worded similarly to the penalty under proposed Section 15D(5).	Not Agreed.
		Under proposed Section 15B(2), the criteria to be considered by the Minister in making a declaration should be identified.	Not Agreed.
		New Sections 15C and 15D do not stipulate a timeframe within which notice should be given. Consider the inclusion of a timeframe.	Not Agreed.
		Identify the less serious offences and make some of the offences in that sub-category triable summarily and others triable either way.	Not Agreed.
		Publication of the new Section 15B Order	CPC to redraft provision to cater for a wide circulation of the new section 15B order.
25	Section 22A amended	Consider the impact on employees and investors of a company found to have committed an offence under this provision.	Already considered by the Committee during Clause by Clause examination of the Bill.
		Recklessness should be removed from the provision for uniformity with other provisions of the Bill where the same change is being made.	Deferred. CPC to redraft provision.
27	Section 22B amended	Before an order is published, the individual or entity be given a reasonable opportunity to have the order revoked by a Judge of the High Court.	Not Agreed. NB: CPC to redraft provision to omit recklessness.
28	New sections 22BA, 22BB, 22BC, 22BD and 22E inserted	The language of the Bill be changed to remove the Arabic named Committees/Sanction Lists. Substitute a more general form of words.	Previously agreed to by the Committee and deferred to CPC.
		List all known terrorist entities.	Previously agreed to by the Committee and deferred to CPC.
		Re proposed Section 22BS: The provision does not set out any criteria which must be met for the issue of the warrant. The provision does not specify, for example, that the Magistrate must be satisfied that there is reasonable cause to believe that the listed entity is not complying with the order, which is the usual type of threshold enquiry a Magistrate is required to make before authorising the violation of a person's right to	Deferred to CPC.

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018

Clause	Provision	Issues Raised	Decision Taken
		privacy and not to be subject to arbitrary search. A qualifying provision of this sort be included. ▪ Without any threshold criteria for the issue of a warrant, a listed entity who or which has not yet had the opportunity to challenge the order in Court, or who is in fact complying with the order, will be subject to the invasive, coercive powers of the State.	
		▪ Re proposed Section 22BD: There is no provision for the listed entity being heard in his or her defence in order to persuade the Committee not to put him or her on the list. Such a provision should be included.	Not Agreed.
Additional Proposals			
		▪ Consider inserting two (2) further offences into the Bill: ○ Possession for terrorist purposes; and ○ Collecting, possessing or making a record of information of a kind likely to be useful to a person committing or preparing an act of terrorism.	Not Agreed.
		▪ Provisions be made for the Commissioner of Police or his designate to apply ex parte to the High Court for an order to prevent the travel of the person from the jurisdiction, where the reasons outlined in the notice of travel, when set against other information or intelligence held by the TTPS give rise to a suspicion surrounding the bona fide travel to the geographical area.	Not Agreed.
		▪ Legislation which addressed terrorism be reviewed by an independent reviewer to consider the workings of the Bill and provide the Committee with specific recommendations on pertinent issues.	Not Agreed.
		▪ Consider making it an offence for a person to glorify terrorism.	Not Agreed.

May 18, 2018



PARLIAMENT
Republic of Trinidad and Tobago

Levels G - 7, Tower D
The Port-of-Spain International Waterfront Centre
1A Wrightson Road, Port-of-Spain

JOINT SELECT COMMITTEE ON THE ANTI-TERRORISM (AMENDMENT) BILL, 2018

**MINUTES OF THE TENTH MEETING HELD IN THE A.N.R. ROBINSON MEETING ROOM
(EAST), LEVEL 9, OFFICE OF THE PARLIAMENT, TOWER D, IWFC
#1A WRIGHTSON ROAD, PORT OF SPAIN ON FRIDAY MAY 18, 2018 at 10:00 A.M.**

PRESENT

Members

Mr. Faris Al-Rawi, MP	-	Chairman
Mr. Fitzgerald Hinds, MP	-	Member
Mrs. Camille Robinson-Regis, MP	-	Member
Mr. Nigel De Freitas	-	Member
Mr. Clarence Rambharat	-	Member

Secretariat

Ms. Chantal La Roche	-	Secretary
Ms. Simone Yallery	-	Assistant Secretary
Ms. Candice Ramkissoon	-	Legal Research Officer

ABSENT/EXCUSED

Ms. Sophia Chote, S.C.	-	Member [<i>Excused</i>]
Dr. Roodal Moonilal, MP	-	Member [<i>Excused</i>]
Mr. Prakash Ramadhar, MP	-	Member [<i>Excused</i>]
Mr. Saddam Hosein	-	Member [<i>Excused</i>]
Mr. Stephen Creese	-	Member [<i>Excused</i>]
Mr. Foster Cummings	-	Member [<i>Excused</i>]
Ms. Marlene McDonald, MP	-	Member [<i>Absent</i>]

ALSO PRESENT

Chief Parliamentary Counsel

Ms Ida Eversley	-	Deputy Chief Parliamentary Counsel
Ms. Laura Ramnath	-	Senior Parliamentary Counsel (Ag.)
Ms. Kimberly Superville	-	Legal Counsel I

The Ministry of the Attorney General and Legal Affairs (Attorney General's Secretariat)

Ms. Casandra Seetahal	-	Legal Counsel I
Mr. Andrew Dalip	-	Legal Consultant

COMMENCEMENT

- 1.1 The meeting was called to order by the Chairman at 10:31 a.m.

ANNOUNCEMENTS

- 2.1 The Chairman advised that the following Members asked to be excused from the day's meeting:
- Ms. Sophia Chote, S.C. (conflicting engagement)
 - Dr. Roodal Moonilal (conflicting engagement)
 - Mr. Saddam Hosein (out of the country)
 - Mr. Stephen Creese (vacation leave)
 - Mr. Prakash Ramadhar (conflicting engagement)
 - Mr. Foster Cummings

CONFIRMATION OF MINUTES

- 3.1 The Committee examined the Minutes of the Eighth Meeting held on May 16, 2018.
- 3.2 There being no amendments, the motion for the confirmation of the minutes was moved by Mr. Nigel De Freitas and seconded by Mr. Fitzgerald Hinds.

MATTERS ARISING FROM THE MINUTES

- 4.1 The Chairman advised the Members that the Secretariat had circulated the following documents :
- Updated Consolidated Anti-Terrorism Act, Chap. 12:07
 - List of Amendments to the Anti-Terrorism (Amendment) Bill, 2018
 - Updated Consolidated Anti-Terrorism (Amendment) Bill, 2018
 - Summary of Clause by Clause Examination of the Bill.

CONTINUATION OF CLAUSE BY CLAUSE CONSIDERATION OF THE BILL

Representatives of the Ministry of the Attorney General and Legal Affairs and the Office of the Chief Parliamentary Counsel were invited to join the meeting at this time

- 5.1 The Chairman welcomed the technocrats.
- 5.2 Representing the Ministry of the Attorney General and Legal Affairs were:
- | | | |
|-----------------------|---|------------------|
| Ms. Casandra Seetahal | - | Legal Counsel I |
| Mr. Andrew Dalip | - | Legal Consultant |
- 5.3 Representing the Office of the Chief Parliamentary Counsel were:
- | | | |
|-------------------------|---|------------------------------------|
| Ms. Ida Eversley | - | Deputy Chief Parliamentary Counsel |
| Ms. Laura Ramnath | - | Senior Parliamentary Counsel (Ag.) |
| Ms. Kimberly Superville | - | Legal Counsel I |
- 5.4 The clause by clause consideration of the Bill proceeded as outlined at **Appendix I**.

DISCUSSIONS ON THE WAY FORWARD

Determination of Meeting Dates

- 6.1 The Chairman proposed and Members agreed that the next meeting of the Committee will be held on Monday May 21, 2018 at 1:00 p.m.

Draft Final Report and Review of Clauses

- 6.2 The Committee further agreed that at its Eleventh Meeting, clauses which required review and the draft of the final report for presentation to Parliament will be considered.

ADJOURNMENT

- 7.1 There being no other business, the Chairman thanked Members and adjourned the meeting to Monday May 21, 2018 at 1:00 p.m.
- 7.2 The adjournment was taken at 12:35 p.m.

I certify that these Minutes are true and correct.

Chairman

Secretary

May 21, 2018

Appendix I

Clause	Marginal Note	Issues Raised	Decision Taken
Preamble		Whether the Preamble as drafted in the Bill should be included	Agreed. The preamble as contained in the Bill will be retained.
1	Short Title	None.	
2	Act Inconsistent with Constitution	None.	
3	Commencement	None.	
4	Interpretation Chap. 12:07	None.	
New Clause 4A	Preamble inserted	Whether the revised preamble as drafted by the CPC should be adopted.	Suggested amendment not accepted. The original preamble as contained in the Bill will be retained.
5	Section 2 amended	Removal of references to “ISIL (Da’esh) and Al Qaida” throughout the Bill and adoption of the subsequent drafted amendments made to the definitions.	Agreed
		New definition of “designated entity” included.	Suggested change accepted.
		In paragraph (d), delete the words “this Part” and substitute the words “Part II”.	Suggested change accepted.
		Amend the definition of “weapon” to include elements of the definition of “offensive weapon” contained in Section 2 of the Prevention of Crime (Offensive Weapons) Act, Chap. 11:09.	Suggested change accepted.
6	Section 2A inserted	The extent and meaning of extraterritoriality.	Agreed, Section on extraterritoriality inserted.
7	Section 3 amended	Amendment made to s.3 to expand the offence of committing a “terrorist act” to include under ss3(1)(b), that this offence is also committed when a person “threatens to commit a terrorist act”.	Agreed

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018

Clause	Marginal Note	Issues Raised	Decision Taken
		The removal of “terrorist act” from the definition section and placement within an operative clause.	Agreed
		The amendment made to s.3(1)(c) to in order for the clause to be less restrictive. Delete the word “purposes” and substitute the word “purpose”.	Suggested change accepted.
		The decision by the Committee that s.3 (3) should not be expanded to include other forms of industrial action, to enable exemptions even if such action is intended to cause harm.	Agreed
		Insert new subsection 3(1)(v) (d), include a provision of coercing, encouraging, enticing or inciting another person to commit an offence under the Part.	Suggested change accepted.
8	Section 4 amended	The removal and replacement of the term “designated person” with “designated entity”. Definition of “designated entity” captured in Clause 5 of the Bill.	Agreed
		Element of recklessness deleted	Agreed
		- Amendment to subsection 4(4). - Redrafted subsection 4(4) to be further amended by inserting a reference to s.69 of the Companies Act Chap. 81:01 to capture the following: - the effect that where a director or officer of a body corporate has been convicted of an offence under the section, the Court may <i>ex proprio motu</i>, also find the person unfit to be concerned in the management of a public company; - The Court may also order that the individual shall not, without the prior leave of the Court, be a director of the company, or be in any way, directly or indirectly, concerned with the management of the company.	Deferred. CPC to redraft further amendment.
		In subsection 4(5), delete the words “or its director, manager, secretary or other similar officer concerned with the management of a body corporate”.	Deferred. CPC to redraft.
		- Acknowledgment of the following: - The impact of the provision on persons making donations or distributing Zakaat. - Comparison to the Criminal Code Act 2015 (Australia)	Acknowledged. The mischief is solved by the removal of the element of recklessness.

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018

Clause	Marginal Note	Issues Raised	Decision Taken
		○ Consideration of the UN General Assembly Resolution 49/60 and UN Security Council Resolution 1566.	
9	Section 5 repealed and replaced	▪ Amendment made to s. 5(1) to include the “collects” in the offence.	Agreed
		▪ Delete s.5(1)(e).	Agreed
		▪ Amend new s.5(1)(f) so that it reads “...or at the direction of, a designated person or listed entity”.	Suggested redraft accepted.
		▪ Subsection 5(4): ○ Redraft subsection 5(4) similar to subsection 4(4). ○ Redrafted subsection 5(4) to be further amended by inserting a reference to s.69 of the Companies Act Chap. 81:01 to capture the following: ❖ the effect that where a director or officer of a body corporate has been convicted of an offence under the section, the Court may <i>ex proprio motu</i>, also find the person unfit to be concerned in the management of a public company; ❖ The Court may also order that the individual shall not, without the prior leave of the Court, be a director of the company, or be in any way, directly or indirectly, concerned with the management of the company.	Deferred. CPC to redraft further amendment.
		▪ In s.5(5), delete the words “or its director, manager, secretary or other similar officer concerned with the management of a body corporate”.	Deferred. CPC to redraft.
10	Section 6 amended	None	
11	Section 7 amended	None	
12	Section 8 amended	None	
13	Section 9 amended	▪ Should “designated entity” be included as a new subsection 9(1)(e).	No, listed entity would include a designated entity.

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018

Clause	Marginal Note	Issues Raised	Decision Taken
		▪ Should “support” be amended to be “material support”.	No, ordinary meaning to be used.
		▪ New subsection 9(4), subsection to be further amended by inserting a reference to s.69 of the Companies Act Chap. 81:01 to capture the following: ○ the effect that where a director or officer of a body corporate has been convicted of an offence under the section, the Court may <i>ex proprio motu</i>, also find the person unfit to be concerned in the management of a public company; and ○ The Court may also order that the individual shall not, without the prior leave of the Court, be a director of the company, or be in any way, directly or indirectly, concerned with the management of the company.	Deferred. CPC to redraft.
		▪ In s.9(5), delete the words “or its director, manager, secretary or other similar officer concerned with the management of a body corporate”.	Deferred. CPC to redraft.
14	Section 10 amended	None	
15	Section 11 amended	None	
16	Section 12 amended	None	
17	New Section 12A inserted	▪ Consideration should be given to making less serious offences triable summarily or either way.	Not accepted.
18	Section 13 amended	▪ Consideration should be given to making less serious offences triable summarily or either way.	Not accepted.
		▪ The amendment made to the clause by CPC to include the term “weapon” where appropriate.	Agreed.
19	New Section 13A inserted	▪ Issue of extraterritoriality.	Already addressed.
		▪ Consideration should be given to making less serious offences triable summarily or either way.	Not accepted.
		▪ Provision should be made within the offence, to provide a person with a defence of lawful excuse.	Already addressed.
		▪ The amendment made to the clause by CPC to include the term “weapon” where appropriate.	Agreed.

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018

Clause	Marginal Note	Issues Raised	Decision Taken
20	Section 14 amended	Amendment made to the clause to endure consistency in wording with the rest of the Bill.	Agreed
		Consideration should be given to making less serious offences triable summarily or either way.	Not accepted.
21	Section 15 amended	None	
22	New Sections 15A, 15B, 15C and 15D, 15E and 15F inserted.	Amendment to be made to new 15B (2) to remove reference to individual ministries and to insert reference to the Ministry of the Attorney General and Legal Affairs and its website.	Deferred. CPC to CPC for redraft.
		Adopt the insertion of a ss.15B (8) which defines “port of entry”.	Agreed.
		The criterion for designating an area as a “declared geographical area” should be clearly outlined in the Bill.	Not accepted
		Consideration should be given to defining the term “supporting”, using the same definition of “support” as it related to Clause 13.	Not accepted.
		The Attorney General should be empowered to apply to a judge for an order to designate an area a “declared geographical area”.	Not accepted.
		Whether the concept of FTF under s.15A(2) should be inserted into clauses 8 & 9 to expand the category of persons capable of committing offences thereunder.	Not accepted.
		Whether the criteria for revocation of an Order declaring a geographical area need be detailed.	Not accepted.
		Whether there should be a stipulated timeframe within which notice should be given as it relates to 15C & 15D.	Not accepted.
		Whether the notice under proposed section 15C(1) should be placed in a scheduled form.	Not accepted.
		Whether method of serving notice to the Commissioner of Police under 15C(1) be specified (e.g. via registered mail).	Not accepted.

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018

Clause	Marginal Note	Issues Raised	Decision Taken
		The removal and substitution of a new proposed section 15C(4) and 15D(3) to address inconsistency.	Agreed.
		Consideration should be given to criminalising failure to file notice to Commissioner of Police.	Not accepted.
		Empowering Commissioner of Police to apply for and obtain an order from a judge to prevent a person from travelling to a declared geographical area.	Not accepted.
		Expansion of publication of order under 15B.	Accepted.
		Consideration should be given to the inclusion of new offences as it relates to collection, possession of or making a record of information, likely to be useful to a person committing or preparing to commit a terrorist act.	Not accepted- already covered.
		Amendment to New subsection 15E (3).	Agreed.
23	New Sections 15G and 15H inserted.	In new proposed section 15G, delete the words “including but not limited to acquiring material or participating in the planning of an offence” and substitute the words “for the purpose of committing an act referred”.	Deferred to CPC for redrafting.
		Adopt the insertion of an offence of coercing or encouraging a person to commit an offence.	Agreed.
24	Section 17 amended	None	
25	Section 22A amended	Whether there should be a defence to receiving funds from a terrorist organisation, where same is received solely for the purpose of legal representation.	Not accepted.
		Paragraph (a): Amendment to subparagraph (i)	Suggested change accepted.
		Paragraph (e): - Amendment to paragraph (e) - Redrafted paragraph (e) to be further amended by inserting a reference to s.69 of the Companies Act Chap. 81:01 to capture the following:	Suggested changes accepted. CPC to redraft in light of further amendment.

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018

Clause	Marginal Note	Issues Raised	Decision Taken
		❖ the effect that where a director or officer of a body corporate has been convicted of an offence under the section, the Court may <i>ex proprio motu</i>, also find the person unfit to be concerned in the management of a public company; ❖ The Court may also order that the individual shall not, without the prior leave of the Court, be a director of the company, or be in any way, directly or indirectly, concerned with the management of the company.	
		▪ Paragraph (f): ○ In new subsection 6, delete the words “or its director, manager, secretary or other similar officer concerned with the management of a body corporate”. ○ In new subsection 7, delete the words “including but not limited to acquiring material or participating in the planning of an offence” and insert “for the purpose of committing an act referred”.	Suggested change accepted. Suggested change accepted.
26	Section 22AA amended	▪ Amendment to paragraph (a)	Suggested change accepted.
27	Section 22B amended	▪ The authority given to the Attorney General to mandate an investigation be carried out by the Commissioner of Police is demanding and may allow for an abuse of process. ▪ Provision should be made for a speedier process for revocation of an Order where a same is enforced against the wrong individual. ▪ Before an order is published, the individual or entity should be given a reasonable opportunity to have the order revoked by a High Court Judge. ▪ In new subsection 1B(a), delete the words “an entity, where the entity is”.	Agreed. Not accepted. Not accepted. Suggested change accepted.
28	New Sections 22BA, 22BB, 22BC and 22BD and 22BE inserted.	▪ Reference to “Isil (Da’esh) and Al Qaida” be removed. ▪ Infringement on the Separation of Powers by allowing the AG to cause an investigation.	Agreed Not accepted.

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018

Clause	Marginal Note	Issues Raised	Decision Taken
		▪ Redraft 22BC(2) to ensure that the discretion in issuing a search warrant is left with the Magistrate. ▪ In new section 22BC (2), after the word “Where”: ○ insert the words “upon an application under subsection (1)”;	Agreed.
		▪ Provision be included to allow for petition to be removed from the UN’s 1267 Sanctions List	Not accepted. Already addressed.
		▪ Redrafting of 22BE to allow Commissioner of Police more flexibility in respect of causing an investigation and information which he shares with the Attorney General pending the outcome of same.	Agreed
29	Section 22C amended	None	Agreed
30	Section 22D amended	None	Agreed
31	Section 23 amended	▪ Application for detention orders should only be made by police officers of a specified rank and above. ▪ Requirement should be made for a police officer to be attached to a counter terrorism unit.	Not accepted. Not accepted.
32	Section 24 amended	▪ Powers in respect of this provision should be limited to police officers of a specified rank and above.	Not accepted.
33	Section 24A, 24B and 24C amended	▪ Powers in respect of this provision should be limited to police officers of a specified rank and above.	Not accepted.
34	Section 25 amended	▪ Powers in respect of this provision should be limited to police officers of a specified rank and above.	Not accepted.
		▪ Delete the word “shall” in paragraph (a) and insert the word “may”	Agreed
35	Section 27 amended	None	Agreed
36	Section 32 amended	None	Agreed
37	Section 33 amended	None	Agreed
38	Section 34 amended	None	Agreed
39	Section 35 amended	None	Agreed

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018

Clause	Marginal Note	Issues Raised	Decision Taken
40	Section 36 amended	Application for a search warrant should be made in the presence of another person.	Not accepted.
		Provision should be made for that a record of the application must be kept.	Not accepted.
		Requirements should be prescribed in Regulations as opposed to the Criminal Procedure Rules.	Not accepted.
		There should be provision for the Registrar/Judiciary to keep a record of the orders.	Agreed. In new paragraph (b), insert the words “under paragraph (a)” after the word “order”.
41	Section 37 amended	None	Agreed
42	Section 38 amended	None	Agreed
43	Section 38A amended	Junior officers should not be allowed to seize and detain cash. Such power should be designated to police officers of a specified rank and above.	Not accepted. Clause to remain as drafted.
44	Legal Notice No.7 of 2010 amended	None	Agreed
45	Consequential amendments.	None	Agreed

May 21, 2018



PARLIAMENT
Republic of Trinidad and Tobago

Levels G - 7, Tower D
The Port-of-Spain International Waterfront Centre
1A Wrightson Road, Port-of-Spain

JOINT SELECT COMMITTEE ON THE ANTI-TERRORISM (AMENDMENT) BILL, 2018

**MINUTES OF THE ELEVENTH MEETING HELD IN THE J. HAMILTON MAURICE ROOM,
MEZZANINE FLOOR, OFFICE OF THE PARLIAMENT, TOWER D, IWFC
#1A WRIGHTSON ROAD, PORT OF SPAIN ON TUESDAY MAY 22, 2018 at 10:30 A.M.**

PRESENT

Members

Mr. Faris Al-Rawi, MP	-	Chairman
Mr. Fitzgerald Hinds, MP	-	Member
Dr. Roodal Moonilal, MP	-	Member
Mr. Prakash Ramadhar, MP	-	Member
Ms. Marlene McDonald, MP	-	Member
Mr. Nigel De Freitas	-	Member
Mr. Clarence Rambharat	-	Member
Ms. Sophia Chote, S.C.	-	Member
Mr. Stephen Creese	-	Member
Mr. Foster Cummings	-	Member

Secretariat

Ms. Chantal La Roche	-	Secretary
Ms. Simone Yallery	-	Assistant Secretary
Ms. Candice Ramkissoon	-	Legal Research Officer

ABSENT/EXCUSED

Mr. Saddam Hosein	-	Member [<i>Excused</i>]
Mrs. Camille Robinson-Regis, MP	-	Member [<i>Excused</i>]

ALSO PRESENT

Chief Parliamentary Counsel

Ms Ida Eversley	-	Deputy Chief Parliamentary Counsel
Ms. Laura Ramnath	-	Senior Parliamentary Counsel (Ag.)
Ms. Kimberly Superville	-	Legal Counsel I

The Ministry of the Attorney General and Legal Affairs (Attorney General's Secretariat)

Ms. Casandra Seetahal	-	Legal Counsel I
Mr. Andrew Dalip	-	Legal Consultant

COMMENCEMENT

5.1 The meeting was called to order by the Chairman at 10:43 a.m.

ANNOUNCEMENTS

- 2.1 The Chairman advised that the following Members asked to be excused from the day's meeting:
- Mr. Saddam Hosein (out of the country)
 - Mrs. Camille Robinson-Regis

CONFIRMATION OF MINUTES

- 3.1 The Committee examined the Minutes of the Tenth Meeting held on Friday May 18, 2018.
- 3.2 There being no amendments, the motion for the confirmation of the minutes was moved by Mr. Nigel De Freitas and seconded by Mr. Clarence Rambharat.

MATTERS ARISING FROM THE MINUTES

- 4.1 The Chairman advised the Members that the Secretariat had circulated the following documents:
- Updated Consolidated Anti-Terrorism Act, Chap. 12:07;
 - List of Amendments to the Anti-Terrorism (Amendment) Bill, 2018;
 - Updated Consolidated Anti-Terrorism (Amendment) Bill, 2018; and
 - A Draft Final Report of the JSC Anti-Terrorism (Amendment) Bill, 2018.

CLAUSE BY CLAUSE CONSIDERATION OF THE BILL

Representatives of the Ministry of the Attorney General and Legal Affairs and the Office of the Chief Parliamentary Counsel were invited to join the meeting at this time

- 5.1 The Chairman welcomed the technocrats.
- 5.2 Representing the Ministry of the Attorney General and Legal Affairs were:
- | | | |
|-----------------------|---|------------------|
| Ms. Casandra Seetahal | - | Legal Counsel I |
| Mr. Andrew Dalip | - | Legal Consultant |
- 5.3 Representing the Office of the Chief Parliamentary Counsel were:
- | | | |
|-------------------------|---|------------------------------------|
| Ms. Ida Eversley | - | Deputy Chief Parliamentary Counsel |
| Ms. Laura Ramnath | - | Senior Parliamentary Counsel (Ag.) |
| Ms. Kimberly Superville | - | Legal Counsel I |
- 5.4 The clause by clause consideration of the Bill proceeded as outlined at **Appendix I**.

CONSIDERATION OF DRAFT FINAL REPORT

- 6.1 The Chairman invited Members to deliberate on the draft report as circulated.

- 6.2 Following brief discussions, the Chairman proposed and Members agreed to the following:
- a) The matrices of submissions, powerpoint presentation by the Attorney General's Secretariat and Verbatim Notes of the public hearing would be appended to the report; and
 - b) Insertion of the word "weapons," after the word "explosive" in paragraph 5.
- 6.3 It was agreed that the amended draft report would be circulated to Members via electronic mail by the Secretariat no later than Tuesday May 22, 2018. The Committee also agreed that the deadline for receipt of comments and amendments from Members would be Friday May 25, 2018 in order to facilitate the finalisation and laying of the report.

DISCUSSIONS ON THE WAY FORWARD

Presentation of the Final Report

- 7.1 The Committee agreed to present its Final Report at the 28th Sitting of the Senate to be held on Tuesday May 29, 2018.

Determination of Meeting Dates

- 7.2 The Chairman proposed and Members agreed that the Committee would meet again only if necessary.

ADJOURNMENT

- 8.1 There being no other business, the Chairman thanked Members, the Secretariat and other support staff and adjourned the meeting to a date to be fixed.
- 8.2 The adjournment was taken at 12:05 p.m.

I certify that these Minutes are true and correct.

Chairman

Secretary

May 29, 2018

Appendix I

Clause	Marginal Note	Issues Raised	Decision Taken
5	Section 2 amended	In the definition of “1998 Committee”, insert the word “the” after the word “(2011)”.	Deferred. CPC to redraft.
13	Section 9 amended	The word ‘does’ should be inserted into ss (6) after the word “he”.	Deferred. CPC to redraft.
25	Section 22A amended	Include the “knowingly and without lawful excuse” formulation in this provision.	Deferred. CPC to redraft.
27	Section 22B amended	The use of the term ‘relevant’ within ss (1A). Suggestion: the subsection should be reworded to take into account the deficiencies of the TTPS and its impact on the supply of the information at subject.	Not Agreed.
28	New Sections 22BA, 22BB, 22BC, 22BD and 22BE inserted	In ss22BA(a)(iv), include medical expenses of dependants.	Deferred to CPC for redrafting.
Additional Proposal and Issues Raised			
- Section 3(2) of the Act: - Infringes on the Constitution and the Doctrine of the Separation of Powers by instructing that the Court treat with sentencing in the manner prescribed; and - Creates the issue of double punishment. - Inclusion of a tipping off provision similar to Anti-Gang (Bill), 2018.			Agreed. However these proposals will be addressed in subsequent legislation after extensive research and consideration of the matter.
Amend provisions in the Bill by inserting the words “knowingly and” where the words “without lawful” appear except for Convention Offences under Part III.			Deferred to CPC for redrafting.
The spelling of “dependants” throughout the Bill must be re-checked and corrected where necessary.			Deferred to CPC.

May 29, 2018



PARLIAMENT
Republic of Trinidad and Tobago

Levels G - 7, Tower D
The Port-of-Spain International Waterfront Centre
1A Wrightson Road, Port-of-Spain

JOINT SELECT COMMITTEE ON THE ANTI-TERRORISM (AMENDMENT) BILL, 2018

MINUTES OF THE TWELFTH MEETING HELD IN THE A.N.R. ROBINSON MEETING ROOM (WEST), LEVEL 9, OFFICE OF THE PARLIAMENT, TOWER D, IWFC #1A WRIGHTSON ROAD, PORT OF SPAIN ON FRIDAY JUNE 1, 2018 at 10:30 A.M.

PRESENT

Members

Mr. Faris Al-Rawi, MP	-	Chairman
Mr. Fitzgerald Hinds, MP	-	Member
Dr. Roodal Moonilal, MP	-	Member
Mr. Prakash Ramadhar, MP	-	Member
Mr. Saddam Hosein	-	Member
Mr. Nigel De Freitas	-	Member
Mr. Clarence Rambharat	-	Member
Mr. Stephen Creese	-	Member
Mr. Foster Cummings	-	Member

Secretariat

Ms. Chantal La Roche	-	Secretary
Ms. Simone Yallery	-	Assistant Secretary
Ms. Candice Ramkissoon	-	Legal Research Officer

ABSENT/EXCUSED

Mrs. Camille Robinson-Regis, MP	-	Member [<i>Excused</i>]
Ms. Sophia Chote, S.C.	-	Member [<i>Excused</i>]
Ms. Marlene McDonald, MP	-	Member [<i>Absent</i>]

ALSO PRESENT

Chief Parliamentary Counsel

Ms Ida Eversley	-	Deputy Chief Parliamentary Counsel
Ms. Laura Ramnath	-	Senior Parliamentary Counsel (Ag.)
Ms. Kimberly Superville	-	Legal Counsel I

The Ministry of the Attorney General and Legal Affairs (Attorney General's Secretariat)

Mr. Andrew Dalip	-	Legal Consultant
Ms. Vyana Sharma	-	Legal Counsel II
Ms. Casandra Seetahal	-	Legal Counsel I

COMMENCEMENT

- 1.1 The meeting was called to order by the Chairman at 10:51 a.m.

ANNOUNCEMENTS

- 2.1 The Chairman advised that the following Members asked to be excused from the day's meeting:
- Mrs. Camille Robinson- Regis (out of the country)
 - Ms. Sophia Chote, S.C. (ill)

CONFIRMATION OF MINUTES

- 3.1 The Committee examined the Minutes of the Eleventh Meeting held on Tuesday May 22, 2018.
- 3.2 There being no amendments, the motion for the confirmation of the minutes was moved by Dr. Roodal Moonilal and seconded by Mr. Foster Cummings.

MATTERS ARISING FROM THE MINUTES

- 4.1 The Chairman advised Members that the Secretariat had circulated the following:
- i. comments on Clauses 9 and 22 and proposed Section 15C(3) of the Anti-Terrorism (Amendment) Bill, 2018, submitted under the hand of Mr. Hosein; and
 - ii. two (2) supporting documents in connection with the submission:
 - Extract of the Australian Criminal Code Act 1995.
 - Protocol for declaring an area in a foreign country where a listed terrorist organisation is engaging in a hostile activity under the Criminal Code Act 1995.

RECONSIDERATION OF SPECIFIED CLAUSES

Representatives of the Ministry of the Attorney General and Legal Affairs and the Office of the Chief Parliamentary Counsel were invited to join the meeting at this time

- 5.1 The Chairman welcomed the technocrats.
- 5.2 Representing the Ministry of the Attorney General and Legal Affairs were:
- | | | |
|-----------------------|---|------------------|
| Mr. Andrew Dalip | - | Legal Consultant |
| Ms. Vyana Sharma | - | Legal Counsel II |
| Ms. Casandra Seetahal | - | Legal Counsel I |
- 5.3 Representing the Office of the Chief Parliamentary Counsel were:
- | | | |
|-------------------------|---|------------------------------------|
| Ms. Ida Eversley | - | Deputy Chief Parliamentary Counsel |
| Ms. Laura Ramnath | - | Senior Parliamentary Counsel (Ag.) |
| Ms. Kimberly Superville | - | Legal Counsel I |

- 5.4 The clause by clause reconsideration of the specified clauses proceeded as outlined at **Appendix I.**

DISCUSSIONS ON THE WAY FORWARD

Presentation of the Final Report

- 6.1 The Committee agreed that:
- i. an updated draft report would be circulated to Members via electronic mail by the Secretariat by Friday June 1, 2018; and
 - ii. the Committee's Final Report would be laid at the earliest opportunity.

ADJOURNMENT

- 7.1 There being no other business, the Chairman thanked Members, the Secretariat, the technocrats and all support staff. Members in turn thanked the Chairman and staff.

- 7.2 The adjournment was taken at 12:42 p.m.

I certify that these Minutes are true and correct.

Chairman

Secretary

June 1, 2018

Appendix I

Clause	Marginal Note	Issues Raised	Decision Taken
9	Section 5 repealed and replaced	New Section 5(5) should follow suit as section 4 where the entire company should not be punished because of a single director or shareholder being convicted for an offence under that section. I propose the following amendment: from the word “or” to the word “corporate” be deleted.	This was already agreed to by the Committee in previous deliberations.
22	New Sections 15A, 15 B, 15C and 15D inserted	The term “supporting a terrorist act” was found in proposed section 15A(1)(c). It is noted that a definition of support was not given as was done in proposed section 9(7). As such, the definition of support should also be included in this section.	Deferred. CPC to insert a new subsection (3) using the definition under proposed Section 15A(1)(c).
		The criterion for designating an area as a “declared geographical area” should be clearly outlined in the Bill: <i>15 B . (1) The Minister may for the purposes of this section, by Order, designate a geographical area in a foreign country as a —declared geographical area if he is satisfied that a listed entity is engaging in terrorist acts in that geographical area of the foreign country.</i> This is mirrored by the provisions of the Australian legislation. The difference is the Australia models used “engaging in hostile activities” as compared to the proposed criteria of “engaging in terrorist acts”. It seems that the former is wider than what is proposed.	Not Agreed
		The Australian model went further which was absent from the proposed model that the Leader of the Opposition is briefed in the declaration process. This should be adopted as it would allow for transparency in the decision of the Minister and it will give notice of the areas which are to be declared. The Australian provision is as follows: <i>“Requirement to brief Leader of the Opposition (3) Before making a declaration, the Foreign Affairs Minister must arrange for the Leader of the Opposition in the House of Representatives to be briefed in relation to the proposed declaration.”</i> The proposal is that the Minister of National Security by Order can declare an area a declared geographical area. The Australian model should be adopted to allow for parliamentary scrutiny.	Deferred to CPC for drafting.
		In the proposed model the declaration only becomes of no effect when the Minister is satisfied that the criterion to declare an area is no longer satisfied. The Australian model allows the declaration to lapse 3 years from the date	Deferred to CPC for drafting.

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018

Clause	Marginal Note	Issues Raised	Decision Taken
		it took effect, as such it is recommended that the same be adopted. The Australian provision is as follows: <i>“Cessation of declaration</i> <i>(4) A declaration ceases to have effect on the third anniversary of the day on which it takes effect. To avoid doubt, this subsection does not prevent:</i> <i>(a) the revocation of the declaration; or</i> <i>(b) the making of a new declaration the same in substance as the previous declaration (whether the new declaration is made or takes effect before or after the previous declaration ceases to have effect because of this subsection).</i> <i>Note: An offence committed in relation to the declared area before the cessation can be prosecuted after the cessation: see section 7 of the Acts Interpretation Act 1901 as it applies because of paragraph 13(1)(a) of the Legislation Act 2003.</i> <i>(5) If:</i> <i>(a) an area is declared under subsection (1); and</i> <i>(b) the Foreign Affairs Minister ceases to be satisfied that a listed terrorist organisation is engaging in a hostile activity in the area; the Foreign Affairs Minister must revoke the declaration.</i> <i>Note: The Foreign Affairs Minister may, for example, cease to be satisfied that a listed terrorist organisation is engaging in a hostile activity in the area if the organisation ceases to be specified in the regulations.</i> <i>(6) To avoid doubt, subsection (5) does not prevent an area from being subsequently declared if the Foreign Affairs Minister becomes satisfied as mentioned in subsection (1).”</i>	
		▪ The Bill gives the Minister the sole discretion to make the various declarations, to review and revoke. The Australian model allows for the declaration to be reviewed by a Joint Select Committee of Parliament. As such, this allows for a bipartisan approach to national security and accountability of the executive. The Australian provision is as follows: <i>“Review of declaration</i> <i>(7) The Parliamentary Joint Committee on Intelligence and Security may review a declaration before the end of the period during which the declaration may be disallowed under section 42 of the Legislation Act 2003.”</i> The same model should be adopted where the declared geographical areas be under the review of the Joint Select Committee on National Security.	Not Agreed
		▪ With regard to proposed Section 15C(3), the words “shall immediately upon return” is extremely vague. It may suggest that as soon as a person has landed in any port in Trinidad and Tobago they are obliged to give notice	Deferred to CPC for redrafting. The wording to be

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018

Clause	Marginal Note	Issues Raised	Decision Taken
		and provide documentary evidence of their travel, and the reasons for traveling to a declared geographical zone. Suggestion: A time-limit (such as 30 days) should be given to remove the vagueness and give the Commissioner of Police the power to extend the time for giving the notice if a person has a reasonable excuse.	used is along the line of: “ <i>shall immediately and in any event, no later than 30 days</i> ”.
		▪ Under 15B(2) a new paragraph (c) should be inserted to confer a positive obligation on a person to inform the Commissioner of Police upon arrival.	Deferred to CPC for drafting.

June 1, 2018

Appendix II

**PRESENTATION MADE BY AG
SECRETARIAT**

The Anti-Terrorism (Amendment) Bill, 2018

PRESENTATION TO THE JOINT SELECT COMMITTEE OF PARLIAMENT
ON

BACKGROUND

PREAMBLE

An act to criminalise terrorism and the financing of terrorism, to provide for detection, prevention, prosecution, conviction and punishment of terrorist activities and the confiscation, forfeiture and seizure of terrorists' assets and of those involved in the financing of terrorism and for related matters.

INTERNATIONAL OBLIGATIONS

MEMBER OF THE UNITED NATIONS BOUND BY RESOLUTIONS ADOPTED BY THE UN SECURITY COUNCIL

MEMBER OF CFATF AND REQUIRED TO COMPLY WITH FATF RECOMMENDATIONS

4TH ROUND MUTUAL EVALUATION REPORT (MER), JUNE 2016

DEFICIENCIES IN FATF RECOMMENDATION 6 (TARGETED FINANCIAL SANCTIONS RELATED TO TERRORISM AND TERRORIST FINANCING)

AMENDMENTS TO FATF RECOMMENDATION 5 (TERRORIST FINANCING OFFENCE)

IMPROVING COMPLIANCE IMMEDIATE OUTCOME 10 (TERRORIST, TERRORISTS ORGANISATIONS AND TERRORIST FINANCIERS BEING PREVENTED FROM RAISING, MOVING AND USING FUNDS, AND FROM ABUSING THE NON-PROFIT ORGANISATION SECTOR)

OPERATIONAL EXPERIENCE

347 INDIVIDUAL AND ENTITIES DESIGNATED PURSUANT TO UNSCR 1267

6 INDIVIDUALS WITH A LOCAL NEXUS DESIGNATED PURSUANT TO UNSCR 1373

T&T SUCCESSFULLY PROPOSED ONE INDIVIDUAL FOR ADDITION TO THE 1267 SANCTIONS LIST

ONGOING LAW ENFORCEMENT INVESTIGATIONS TO SUPPORT CRIMINAL PROSECUTION AND TARGETED FINANCIAL SANCTIONS

MUTUAL EVALUATION REPORT
DEFICIENCIES
RECOMMENDATION 6

1. NO SPECIFIC PROVISION FOR PROPOSALS TO THE 1267/1989 COMMITTEE
 2. NO MECHANISMS FOR IDENTIFYING TARGETS FOR DESIGNATION AS REQUIRED BY THE UNSCRs.
 3. NO SPECIFIC MEASURES HAVE BEEN PROVIDED TO FACILITATE THE COLLECTION OR SOLICITATION OF INFORMATION TO IDENTIFY PERSONS AND ENTITIES WHO MEET THE CRITERIA FOR DESIGNATION PURSUANT TO UNSCRs.
 4. NO PROVISIONS TO FACILITATE UNSCR 1373 LISTING BASED ON REQUESTS FROM OTHER COUNTRIES
- 

MUTUAL EVALUATION REPORT
DEFICIENCIES
RECOMMENDATION 6

5. ALL THE REQUIREMENTS AND PROCEDURES FOR FREEZING OF FUNDS OR ASSETS NOT COVERED IN THE ATA.
 6. NO PROVISIONS EXPRESSLY PROHIBITING NATIONALS/PERSON/ENTITIES FROM WITHIN T&T MAKING FUNDS, ASSETS OR FINANCIAL SERVICES AVAILABLE FOR THE BENEFIT OF DESIGNATED PERSONS OR ENTITIES.
 7. RIGHTS OF BONA FIDE THIRD PARTIES NOT FULLY COVERED.
 8. NO MEASURES FOR SUBMITTING DE-LISTING REQUESTS TO THE UN SANCTIONS COMMITTEES
- 

1. NO SPECIFIC PROVISION FOR PROPOSALS TO THE 1267/1989
COMMITTEE

FATF CRITERION 6.1

CLAUSE 27 - NEW SECTION 22BD –

- ATTORNEY GENERAL TO PROPOSE NAMES TO THE 1267/1989 COMMITTEE.
- PROPOSAL MUST FIRST BE SUBJECT TO A JUDICIAL PROCESS UNDER SECTION 22B – LISTED DOMESTICALLY BEFORE BEING PROPOSED TO THE UN COMMITTEE

2. NO MECHANISMS FOR IDENTIFYING TARGETS FOR
DESIGNATION AS REQUIRED BY THE UNSCRs – FATF
CRITERION 6.1 & 6.2

3. NO SPECIFIC MEASURES HAVE BEEN PROVIDED TO
FACILITATE THE COLLECTION OR SOLICITATION OF
INFORMATION TO IDENTIFY PERSONS AND ENTITIES WHO
MEET THE CRITERIA FOR DESIGNATION PURSUANT TO
UNSCRs – FATF CRITERION 6.3

2. IDENTIFYING TARGETS/ 3. SOLICITATION OF INFORMATION TO SUPPORT DESIGNATIONS

CLAUSE 27 – SECTION 22B –

- (1) ATTORNEY GENERAL SHALL CAUSE AN INVESTIGATION TO BE CARRIED OUT AND MAY REFER INFORMATION OF SUSPICION TO THE COMMISSIONER OF POLICE FOR INVESTIGATION.
- (1A) COMMISSIONER TO PROVIDE ATTORNEY GENERAL WITH THE RESULTS OF INVESTIGATION

NOTE SECTION 22AA(d) – FIU TO FURNISH THE AG WITH INFORMATION REQUIRED TO FACILITATE AN APPLICATION UNDER SECTION 22B

4. NO PROVISIONS TO FACILITATE UNSCR 1373 LISTING BASED ON REQUESTS FROM OTHER COUNTRIES

FATF CRITERION 6.2

CLAUSE 27 – SECTION 22BE –

- ATTORNEY GENERAL TO RECEIVE REQUESTS FROM OTHER COUNTRIES FOR LISTINGS
- SAME INVESTIGATION TO TAKE PLACE AS WITH OTHER SECTION 22B LISTINGS

5. ALL THE REQUIREMENTS AND PROCEDURES FOR FREEZING OF FUNDS OR ASSETS NOT COVERED IN THE ATA

FATF CRITERION 6.5(b) - The obligation to freeze should extend to:

- (i) all funds or other assets that are owned or controlled by the designated person or entity;
 - (ii) those funds or other assets that are wholly or jointly controlled, directly or indirectly, by designated persons or entities;
 - (iii) The funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons or entities;
 - (iv) Funds or other assets of persons or entities acting on behalf of, or at the direction of , designated persons or entities
- 

5. ALL THE REQUIREMENTS AND PROCEDURES FOR FREEZING OF FUNDS OR ASSETS NOT COVERED IN THE ATA

CLAUSE 27 – SECTION 22B(3)(b) – LISTING AND FREEZING ORDERS CAN EXTEND TO PROPERTY:

- THAT IS OWNED OR CONTROLLED BY THE LISTED ENTITY;
 - THAT IS WHOLLY OR JOINTLY OWNED OR CONTROLLED, DIRECTLY, OR INDIRECTLY, BY THE LISTED ENTITY;
 - DERIVED OR GENERATED FROM FUNDS OR OTHER ASSETS OWNED OR CONTROLLED DIRECTLY OR INDIRECTLY BY THE LISTED ENTITY.
- 

5. ALL THE REQUIREMENTS AND PROCEDURES FOR FREEZING OF FUNDS OR ASSETS NOT COVERED IN THE ATA

CLAUSE 27 – SECTION 22B(1B)(b) – LISTING AND FREEZING ORDERS CAN BE OBTAINED AGAINST:

- AN ENTITY OR INDIVIDUAL THAT HAS KNOWINGLY COMMITTED/PARTICIPATED IN/FACILITATED A TERRORIST ACT;
- AN ENTITY OR INDIVIDUAL IS KNOWINGLY ACTING ON BEHALF/AT THE DIRECTION OF/IN ASSOCIATION WITH EITHER A UN LISTED ENTITY OR A LISTED ENTITY;
- AN ENTITY OWNED OR CONTROLLED DIRECTLY OR INDIRECTLY BY A LISTED ENTITY.

6. NO PROVISIONS EXPRESSLY PROHIBITING NATIONALS/PERSON/ENTITIES FROM WITHIN T&T MAKING FUNDS, ASSETS OR FINANCIAL SERVICES AVAILABLE FOR THE BENEFIT OF DESIGNATED PERSONS OR ENTITIES

FATF CRITERION 6.5(c)

CLAUSE 8 - SECTION 4 – PROVISIONS OF FINANCIAL OR OTHER RELATED SERVICES FOR THE COMMISSION OF TERRORIST ACTS

CLAUSE 9 – SECTION 5 – COLLECTION OR PROVISION OF PROPERTY TO COMMIT TERRORIST ACTS

CLAUSE 25 – SECTION 22A – OFFENCE OF FINANCING OF TERRORISM

7. RIGHTS OF BONA FIDE THIRD PARTIES NOT FULLY COVERED

FATF CRITERION 6.5(f) – COUNTRIES SHOULD ADOPT MEASURES WHICH PROTECT THE RIGHTS OF BONA FIDE THIRD PARTIES ACTING IN GOOD FAITH WHEN IMPLEMENTING THE OBLIGATIONS UNDER RECOMMENDATION 6.

CLAUSE 27 – SECTION 22B(4) – THE COURT MAY MAKE PROVISIONS TO PRESERVE THE RIGHTS OF BONA FIDE THIRD PARTIES ACTING IN GOOD FAITH.



8. NO MEASURES FOR SUBMITTING DE-LISTING REQUESTS TO THE UN SANCTIONS COMMITTEES

FATF CRITERION 6.6

CLAUSE 27 SECTION 22BD –

- SECTION 22BD(3) – AG MAY PETITION 1267 COMMITTEE FOR REMOVAL OF PERSON FROM LIST
- SECTION 22BD(4) – AG TO AS FAR AS PRACTICABLE INFORM LISTED PERSON ENTITY THEY CAN APPLY TO UN OFFICE OF THE OMBUDSMAN TO BE DELISTED

RECOMMENDATION 5

CRITERION 5.2 Bis

CRITERION 5.2 Bis – TF OFFENCES SHOULD INCLUDE FINANCING THE TRAVEL OF
[FOREIGN TERRORIST FIGHTERS]

UNSCRs 1373 AND 2178

CLAUSE 5 – SECTION 2 - REDEFINING “TERRORIS”T AND “TERRORIST ACT”

CLAUSE 19 – NEW SECTION 13A – ATTENDING/RECEIVING TRAINING

CLAUSE 22 - NEW SECTION 15A – 15C – DESIGNATED GEOGRAPHICAL AREAS.

CLAUSE 17 – SECTION 12A – JOINING A TERRORIST ORGANIZATION



AMENDMENTS TO PROTECT CHILDREN

CLAUSE 16 - SECTION 12(b) – HARSHER PENALTY FOR RECRUTIMENT OF A CHILD

CLAUSE 18 – SECTION 13 – HARSHER PENALTY FOR TRAINING A CHILD TO
ENGAGE IN A TERRORIST ACT

CLAUSE 20 – SECTION 14 – HARSHER PENALTY FOR INCITING A CHILD

CLASUE 22 - SECTION 15D – NOTICE TO TRAVEL WITH A CHILD TO A DELCARED
GEOGRAPHICAL AREA.

CLASUE 22 - SECTION 15E – DUTY TO NOTIFY POLICE OF THE RISK OF CHILD
BEING TAKEN TO A DELCARED GEOGRAPHICAL AREA.



OTHER AMENDMENTS BASED ON OPERATIONAL EXPERIENCE

CLAUSE 17 - SECTION 12 A – JOINING A TERRORIST ORGANIZATION

CLAUSE 19 - SECTION 13A – ATTENDING OR RECEIVING TRAINING TO COMMIT A
TERRORIST OFFENCE

REFERENCES TO “COMPUTER OR ELECTRONIC DEVICE”

THANK YOU
ANY QUESTIONS?

CLAUSE BY CLAUSE DELIBERATIONS ON THE BILL

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018



PARLIAMENT
Republic of Trinidad and Tobago

Levels G - 7, Tower D
The Port-of-Spain International Waterfront Centre
1A Wrightson Road, Port-of-Spain

Summary of Clause by Clause examination of the Anti-Terrorism Amendment Bill, 2018

Clause	Marginal Note	Issues Raised	Decision Taken
Preamble		▪ Whether a preamble should be included ▪ Whether the preamble to the Anti-Terrorism Act needs to be amended by the Anti-Terrorism Amendment Bill 2018 ▪ Whether the preamble could be wide, or restricted only to subject matter of the Amendment Bill	Deferred , subject to the review and recommendation by CPC.
1	Short Title	None	Agreed
2	Act inconsistent with the Constitution	None	Agreed
3	Commencement	None	Agreed
4	Interpretation Chap. 12:07	None	Agreed
5	Section 2 amended	▪ Comparison of definition of “Committee” in anti-terrorism legislation in other jurisdictions such as the Criminal Code Act 2015 (Australia) and the Counter-Terrorism and Security Act 2015 (United Kingdom) ▪ Consideration of the deletion of the words “ISIL (Da’esh) and Al Qaida Sanctions” from the definition of “Committee” ▪ Review of the definition of “offensive weapon” as contained in Section 2 of the Prevention of Crime (Offensive Weapons) Act Chapter 11:09.	Deferred , subject to the review and recommendation by CPC, and correction of typographical error in the definition of "terrorist act"
6	Section 2A inserted	▪ The extent and meaning of extraterritoriality	Agreed

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018

Clause	Marginal Note	Issues Raised	Decision Taken
7	Section 3 amended	- Whether Section 2 (the definition section) of the Act should be amended to expand the offence of committing a 'terrorist act' and include under sub-section (b), that this offence is also committed when a person 'threatens to commit a terrorist act' - Whether the offence of "terrorist act" should be removed from Section 2 (the definition section) of the Act and instead placed within an operative clause	Deferred , subject to the review and recommendation by CPC.
8	Section 4 amended	- Should the term "designated person" in Clauses 8 & 9 be replaced with "designated entity" and that the definition of "designated entity" be moved to Section 2 (the definition section) of the Act. - Should mens rea of the offence include recklessness? - The impact of the provision on persons who make donations or distribute Zakaat - Comparison of Criminal Code Act 2015 (Australia) - Consideration of the UN General Assembly Resolution 49/60 and UN Security Council resolution 1566	Deferred , subject to the review and recommendation by CPC
9	Section 5 repealed and replaced	Should the term "designated person" in Clauses 8 & 9 be replaced with "designated entity" and that the definition of "designated entity" be moved to Section 2 (the definition section) of the Act?	Deferred , subject to the review and recommendation by CPC
10	Section 6 amended	None	Agreed
11	Section 7 amended	None	Agreed
12	Section 8 amended	None	Agreed
13	Section 9 amended	Should "designated entity" be included as a new subsection 9(1)(e)?	Deferred , subject to the review and recommendation by CPC

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018

Clause	Marginal Note	Issues Raised	Decision Taken
		Should “support” be amended to be “material support”?	
14	Section 10 amended	None	Agreed
15	Section 11 amended	None	Agreed
16	Section 12 amended	None	Agreed
17	New section 12A inserted	None	Agreed
18	Section 13 amended	Consideration of circumstance where a person has been forced or coerced or carries out a terrorist act under duress	Agreed
19	New Section 13A inserted	None	Agreed
20	Section 14	None	Agreed
21	Section 15 amended	None	Agreed
22	New Sections 15A, 15B, 15C and 15E inserted	Should the criterion for designating an area as a “declared geographical area” be clearly outlined in the Bill?	Agreed
		Consider defining “supporting” (as it appears in 15A (c)) using the same definition of “support” under Clause 13.	Not Accepted. The ordinary definition will be used.
		Should the AG also be empowered to apply to a judge for an order to designate an area a “declared geographical area”?	Agreed
		Whether the concept of ‘foreign terrorist fighter’ (FTF) under 15A (2) should be inserted into Clauses 8 & 9 to expand the category of persons capable of committing the offences thereunder.	Not Accepted. A FTF will fall under the definition of “Terrorist”.
		Whether the “criteria” under 15B (3) that the Minister must consider in making the declaration and revoking the Order needs to be identified.	Not Accepted. The Criteria is listed under 15B (1).
		Should there be a minimal period of notice under 15C (1)?	Not Accepted

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018

Clause	Marginal Note	Issues Raised	Decision Taken
		Should the notice form under 15C (1) be scheduled?	Not Accepted
		Whether the method by which the notice to be brought to the attention of the Commissioner of Police under 15C (1) should be specified (e.g. registered mail or fax etc.)	Agreed
		Whether New Section 15C should also make provision for the Commissioner of Police to apply to the judge for an order to prevent a person from travelling to a declared territory for the purpose of conducting further investigations.	Not Accepted. This already exists under common law under <i>writ ne exeat regno</i> .
		Consider amending New Section 15C(4) to remove the contradiction that occurs; it is the Commissioner of Police that receives notices and not the Minister.	Agreed
		Consider making failure to file notice with the Commissioner of Police an offence.	Not Accepted
23	New Sections 15F and 15G inserted	Consider amending the language of 15F to allow for the institution of criminal proceedings against a person who threatens to commit an offence under Part III of the Act.	Agreed
		- Consider including two offences into the Bill: - Possession for terrorist purposes; and - Collecting, possessing or making a record of information of a kind likely to be useful to a person committing or preparing an act of terrorism.	Not Accepted. 15G will cover these with the use of the language relating to the taking of ‘preparatory steps’.
24	Section 17 amended	None	Agreed
25	Section 22A amended	Whether it should be a defence to the offence if receiving funds from a terrorist organisation that those funds were received solely for the purpose of representation in legal proceedings; and that the legal burden be reduced to an evidential burden.	Agreed

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018

Clause	Marginal Note	Issues Raised	Decision Taken
26	Section 22AA amended	None	Agreed
27	Section 22B amended	Whether in the instance that an innocent person with a similar name to a designated entity is affected, there should be a speedier process to ensure that the person is cleared, compensated and good name reinstated by an apology publicly published.	Not Accepted
		The authority given to the Attorney General to cause investigations to be carried out with respect to allegations is dangerous, it may allow for abuse of authority, it contravenes the doctrine of separation of powers and further, contravenes the Constitution.	Agreed. CPC to look at reconstruction of 1A to the effect that the Commissioner of Police would provide the AG with materials required for listing rather than results of the investigation.
		Whether there is a disconnection in the language between Section 22B (1) (a) and Section 22 (1) (b), as amended.	Deferred. CPC to review.
28	New Sections 22BA, 22BB, 22BC, 22BD and 22BE inserted	The reference to “ISIS and Al Qaeda” should be changed to all UNSC Sanctions Committees.	Agreed
		This amendment here affects what has been termed the Separation of Powers and the powers entrusted to the Attorney General and Director of Public Prosecutions by granting the Attorney General powers to cause an investigation to be carried out.	Not Accepted
		Consider rewording 22BE (3) and (4) to remedy the issue where the AG may be in receipt of all data from an investigation done by the Commissioner of Police rather than just the relevant data.	Agreed
		Consider redrafting the language of New Section 22BD (3): to remove the requirement that the Commissioner of Police “shall” cause an investigation to be carried out upon referral by the Attorney General and replace it with language to the effect when the Attorney General refers the request made under the Section, to the Commissioner of Police “may” then	Deferred. CPC for review and redraft.

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018

Clause	Marginal Note	Issues Raised	Decision Taken
		decide whether or not to investigate the matter.	
29	Section 22C amended	None	Agreed
30	Section 22D amended	None	Agreed
31	Section 23 amended	Concern raised about allowing any rank of police officer to apply for detention Orders under the Section 23.	No change recommended. Agreed that clause will remain as drafted.
		Suggestion to insert the words “any member of the police service”.	No change recommended. Agreed that clause already captures suggested amendment.
		Suggestion to insert requirement that police officer should be attached to the counter-terrorism unit	Not Accepted. Agreed that clause will remain as drafted.
32	Section 24 amended	Concern raised about allowing any rank of police officer to investigate offences under the Section 24.	No change recommended. Agreed that clause will remain as drafted.
33	Sections 24A, 24B and 24C amended	Concern raised about allowing any rank of police officer to investigate offences under the Section 24.	No change recommended. Agreed that clause will remain as drafted.
34	Section 25 amended	Reservation about entrusting all police officers with this power.	Not Agreed
		Suggestion that form of words be reviewed in light of the issues raised at Clause 28.	Deferred. CPC to review and redraft the form of words in light of the issues highlighted in Clause 28.
35	Section 27 amended	None	Agreed
36	Section 32 amended	None	Agreed
37	Section 33 amended	None	Agreed
38	Section 34 amended	None	Agreed

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018

Clause	Marginal Note	Issues Raised	Decision Taken
39	Section 35 amended	None	Agreed
40	Section 36 amended	To include specific provision that application must be made in the presence of another person.	Not Agreed
		To include specific provision that a record must be kept of the application.	Not Agreed
		Prescribe the requirement in the Regulations made under the Act as opposed to the Criminal Procedure Rules.	Not Agreed
		To include the requirement for the Registrar/Judiciary to keep a record of the Orders.	Deferred. CPC to review and consider the inclusion of this requirement.
41	Section 37 amended	None	Agreed
42	Section 38 amended	Clarification sought on the reasons for this amendment.	No changes recommended. Agreed that clause to remain as drafted.
43	Section 38A amended	Placing of seized cash in the hands of junior officers.	No change recommended. Agreed that clause to remain as drafted.
44	Legal Notice No. 7 of 2010 amended	None	Agreed
45	Consequential amendments	None	Agreed

Secretariat-JSC Anti-Terrorism (Amendment) Bill 2018
Parliament of the Republic of Trinidad and Tobago
Levels G-8, Tower D, Port of Spain International Waterfront Centre
#1A Wrightson Road, Port of Spain

May 1, 2018

Appendix IV

SUBMISSIONS FROM STAKEHOLDERS



GOVERNMENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO

FIU REF: INF/0269/2018/jl

March 5, 2018

Ms. Chantal La Roche
Secretary to the Joint Select Committee
Office of the Parliament of Trinidad and Tobago
Level 3, Tower D,
International Waterfront Centre
1A Wrightson Road
Port of Spain.

Dear Ms. La Roche

Comments on the Anti-Terrorism (Amendment) Bill, 2018

I refer to your letter dated February 19, 2018 reference Parl.14/3/75 and forward the following comments for the attention of the Joint Select Committee of Parliament.

Introduction

Reference to the "Act" means the "Anti-Terrorism Act Chap. 12:07" and reference to the "Bill" means the "Anti-Terrorism (Amendment) Bill, 2018".

General Comments on consistency:

1. Definition of terrorist act

Clause 5 (e) of the Bill amends section 2 of the Act to create a new definition of "terrorist act" as follows:

"terrorist act" means an act which constitutes an offence under this Part, Part III or Part IIIA;"

The definition of "terrorist act" in section 2 of the Act includes offences under Part II, however, Part II is not included in the proposed amendment above. Part II of the Act which is headed "Offences" contains numerous different offences each of which is a "terrorist act".

It is recommended that clause 5 (e) of the Bill be amended to insert the words "Part II" between the words "Part" and "Part III".

2. Definition of the term “designated entity”

The term “designated entity” appears for the first time in **Part 111A section 22AA. (1)** of the Act which states:

“In this section and sections 22AB, 22B and 22C, the term “designated entities” means individuals or entities and their associates designated as terrorist entities by the Security Council of the United Nations”.

However, pursuant to the amendments at clauses 8 & 9 of the Bill which repeal and replace sections 4 and 5 of the Act, the **new section 4(1) (f)** makes it an offence to provide financial services for the use of a “designated person” and the **new section 5 (1) (f)** makes it an offence to provide property to be used by a “designated person”.

For consistency with the Act, it is recommended that the term “designated person” in clauses 8 & 9 be replaced with “designated entity” and that the definition of “designated entity” be moved to section 2 (the definition section) of the Act.

3. Listed entity and designated entity

In both the Act and the Bill, the terms listed entity and designated entity are two distinct types of entities against which targeted financial sanctions are to be equally applied.

A designated entity is a terrorist entity so designated **by the Security Council of the United Nations** (and pursuant to clause 26 amendment of section 22AA (1) by the “Committee”).

A listed entity on the other hand is an individual or a designated or legal entity so declared **by the Court** pursuant to an application by the Attorney General under section 22B (1) of the Act.

Therefore, a listed entity **may or may not** be a designated entity.

Consequently, the following amendments to the Bill are recommended:

- i. clauses 8 & 9 which repeal and replace sections 4 & 5 respectively should also include “designated entity” in the new section 4(1) (e) and new section 5(1) (e);
- ii. clause 13 which amends section 9 (1), should include designated entity as a new subsection 9((1) (e); and
- iii. clause 27 which amends section 22 B of the Act should also include “designated entity” in the new subsection (1)(a) (iii) and (b); and new subsection (1B) (iii) and (c).

The above list is not exhaustive.

4. Travelling for the purpose of committing a terrorist act

Clause 22 of the Bill amends the Act to create new sections:

- i. 15A makes it an offence to travel for the purposes *inter alia* of supporting a terrorist act but a definition of “supporting” is not provided. It is recommended that the same definition of “support” provided under clause 13 which amends section 9 (2) of the Act by the insertion of a new subsection (7) in the Act, should apply.
- ii. 15B permits the Minister to designate a “declared geographic area” if satisfied that a **listed entity** is engaging in terrorist acts in that location. The Minister should also be empowered to designate a “declared geographic area” if satisfied that a **designated entity** is engaging in terrorist acts in that location.

5. Provision of financial services or property to commit a terrorist act

Clauses 8 & 9 repeal and replace sections 4 & 5 respectively. The new sections 4 & 5 make it an offence to provide financial and related services and property for the commission of terrorist acts to certain categories of persons. It is recommended that the categories be expanded to include the category of “foreign terrorist fighter” (FTF) which was created in clause 22 as new section 15A (2), because financial support to FTFs are often provided through the provision of VTM cards, purchase of airline tickets etc.

Yours faithfully


Susan S. François
Director
Financial Intelligence Unit



**Law Association
of Trinidad and Tobago**
established by the
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April 23, 2018

Ms. Chantal La Roche
Secretary to the Joint Select Committee
(Anti-Terrorism) Amendment Bill 2018
Office of the Parliament of Trinidad & Tobago
Level 3, Tower D, International Waterfront Centre
1A Wrightson Road
Port of Spain

Dear Ms. La Roche:

**Re: Request for Comments from the Law Association of Trinidad
and Tobago (LATT) regarding the Anti-Terrorism (Amendment)
Bill 2018**

We refer to your letter dated February 19, 2018 seeking the comments of the Law Association on the Anti-Terrorism (Amendment) Bill 2018 and thank you for allowing us an extension of time for these comments.

I have, with our Vice President, Mr. Rajiv Persad and the Legislative Review (Criminal) Sub-Committee reviewed the proposed Bill and prepared comments thereon. In the interest of expediency, and although they have not yet been reviewed by the wider membership, we now provide you with the general comments of the Committee.

We have also submitted the comments of the Committee and the draft Bill to the membership and shall revert to your Department with any additional comments received by members.

Thank you for your consideration of our contribution.

Yours respectfully,

Douglas L. Mendes
President
Law Association of Trinidad and Tobago

Cc: The Honourable Faris Al Rawi , Attorney General of Trinidad and Tobago

President– Douglas Mendes SC • **Vice President** – Rajiv Persad
Treasurer – Theresa Hadad • **Honorary Secretary** – Elena Araujo

**The Law Association's comments on the proposed Act
to amend the Anti-Terrorism Act**

Clause 7 – Definition of a 'terrorist act'

The proposed amendment to section 3 of the Act introduces the definition of 'terrorist act' which is the fulcrum definition around which much of the remainder of the Act pivots.

The definition criminalises conduct which is intended to cause, creates the likelihood of causing, or is likely to cause, inter alia, a serious risk to the health or safety of the public or a section of the public, disruption in the provision of emergency service, and disruption in the provision of services directly related to banking, communications, infrastructure, financial services, public utilities, transportation or other essential infrastructure. The Law Association's is concerned about the potential that conduct which is a common feature of industrial relations life in Trinidad and Tobago might be captured in the definition of 'terrorist act'. For example, any strike or other industrial action by the Banking, Insurance and General Workers Union in relation to those banks where they hold recognised majority union status will disrupt services directly relating to banking and financial services; any strike or other industrial action by the Communication Workers Union in relation to TSTT will disrupt the provision of services related to communications; and many strikes or other industrial action would likely cause disruption to public utilities and transportation. Similarly, strikes or other industrial action in the oil, electricity, water and steel industries will cause disruption to emergency services and impact on other infrastructure. Moreover, it is quite likely that in each case, workers and their trade unions would intend to cause such disruption.

At present, the taking of industrial action is governed by the Industrial Relations Act and some of the conduct just described is illegal and there are remedies provided in law for dealing with such action, including injunctions issued by the Industrial Court. There are no complaints that these provisions are not working adequately and indeed there have been many occasions on which injunctions have been issued at the instance of the Minister of Labour.

The definition of 'terrorist act' is limited to action taken "for the purpose of advancing a political, ideological or a religious cause", but the danger is that it might very well be the case that the purpose of some industrial action is the furtherance of a political or ideological cause.

Further, outside the industrial relations realm, there may be conduct which is engaged in which is designed to serve a political, ideological or religious purpose, and which does cause and is intended to cause the impugned disruptions, but which we do not customarily classify as 'terrorist', but rather as part and parcel of the rough and tumble of the exercise of the right of free expression, the right to protest and the right to hold political and other views. Where such expression goes too far, there are also remedies, such as under the Sedition Act.

It is no doubt with this in mind that the new subsection (3) is proposed. It provides that the definition of 'terrorist act' does not apply to "an act committed in pursuance of a demonstration, protest, or stoppage of work that is not intended to result in any harm referred to in subsection (1)." As such, acts committed in pursuance of a demonstration, protest, or stoppage of work which create the likelihood of causing, or are likely to cause to impugned disruptions are exempted, as long as the perpetrators do not intend to cause the harm referred to in subsection (1).

Without prejudice to our further suggestions below, we would recommend in any event that this subsection be amended to include 'other forms of industrial action'. Industrial action by workers is not limited to stoppages of work but includes other lesser forms of action such as refusal to work overtime. Industrial action also includes lock out action by employers which may otherwise be left unprotected by the subsection.

Further, in order to put the question beyond doubt, 'picketing' should be included among the list of exemptions, even though it is arguable that 'picketing' is a form of 'protest' or 'demonstration'.

As noted, and we reiterate, the concern is the categorisation of conduct as 'terrorism' which would normally not be considered such. How many times have we heard of threats and action to 'shut down the country' unless the government does this or that, which, even though may not be encouraged, is not considered 'terrorism' and certainly not considered to be worthy of punishment by a fine of \$25 million and imprisonment for 25 years.

We, of course, accept that demonstrations, protests and industrial action deliberately taken with the intention of causing loss of human life or serious bodily harm, substantial damage to property, the endangerment of a person's life or the creation of a serious risk to the health or safety of the public or a section of the public, should be appropriately criminalised.

We confess to not having a ready and comprehensive solution to this problem and it may very well be that in the interest of protecting society from terrorists, conduct which may have been dealt with under other laws (for example, the Sedition Act) is now considered to be deserving of re-categorisation. The danger though is the potential that this law may be used or may be perceived to be capable of being used to target groups, and in particular trade unions, doing what trade unionists are accustomed doing.

One partial solution, which we recommend, is to exempt conduct even if intended to cause the harm listed in the proposed section 3(1)(v), as long as it is done in contemplation or furtherance of a trade dispute. Even with such further exemptions, such conduct may still run afoul of other laws, such as the Industrial Relations Act, which as noted, already adequately polices the industrial relations arena.

We will continue our research to see how other countries have dealt with this problem and will give you the benefit of our efforts.

Clause 8- Section 4(1) - recklessness

This provision seeks to repeal section 4 of the Act and substitute for it a new provision that deals with the provision of financial or other related services for the commission of terrorist acts.

The concern relates to the mens rea of the offence suggested in the new section 4(1). It expands the state of mind of the perpetrator beyond the existing provision, which requires intention, to include recklessness as to how the services may be used. We consider this too low a standard for the prosecution to meet having regard in particular to the extraordinarily large penalty which attaches to the offence. We consider that a better and fairer approach would be to provide for a lower penalty where only recklessness is alleged or proved, instead of intention or knowledge.

We note that in relation to the proposed new section 5(1), which deals with making property available, intention or knowledge is required and recklessness is not an element of the offence.

Clause 9- Section 5 (1)- collection of property

A minor point. Clause 9 seeks to repeal Section 5 of the Act which contains a marginal note which reads as follows: "Collection or provision of property to commit terrorist acts". This side note is repeated verbatim in the new proposed section 5(1), but there is no offence in

the new proposed section 5(1) of 'collecting' property to be used in the commission of a terrorism offence.

Clause 22 – Declared Geographical Area

Clause 15A(1) makes it an offence for any person who, without lawful excuse, knowingly travels for the purpose of planning, or supporting, or committing or facilitating the commission of a terrorist act. A person who commits any such offence is deemed to be a 'foreign terrorist fighter.'

Clause 15 B(4) provides that a citizen who travels to, enters or remains in "a declared geographical area" shall be presumed to have travelled for a purpose specific in section 15A(1) and is therefore presumed to have committed an offence and likewise presumed to be a 'foreign terrorist fighter'. Similarly, a citizen or resident of Trinidad and Tobago who is within a 'declared geographical area' before it is declared such, must, unless he or she has a reasonable excuse, leave the 'declared geographical area' within thirty days of the designation, failing which he or she is presumed to have committed an offence under section 15A(1).

A place becomes a 'declared geographical area', with all of the attendant consequences referred to above, when the Minister declares it as such, having been satisfied that a listed entity is engaging in terrorist acts in that geographical area of the foreign country.

The Law Association's concern is that there is no provision for the publication of the Order declaring a place to be a 'declared geographical area' or otherwise bringing it to the attention of persons whose circumstances are such that they may unknowingly commit an offence. This creates the danger that a person may be deemed to have committed the offence by entering or not leaving the 'declared geographical area' even though there are no means by which he or she can come to know that the place has been declared off limits. In particular, there is no provision for notifying persons who are already in a 'declared geographical area' when it is declared as such, of the change in status of the place where they find themselves and of the danger that if they do not leave within thirty days, they will be deemed to have committed an offence and to be taken to be a 'foreign terrorist fighter'. Similarly, there is no provision for notifying citizens or residents of Trinidad and Tobago who are presently living or travelling abroad and who travel to the 'declared geographical area', not knowing it to have been so declared.

The Law Association recommends therefore that appropriate notification provisions be included, along with provisions which provide a defence where a person could not reasonably be expected to have been aware of the notification.

Clause 27 – Declaration that person or entity is a Listed Entity

Clause 27 revamps the provisions dealing with the declaration of persons or entities as listed entities with the consequence that their assets are to be frozen.

An application to the Court for an order to declare someone to be listed entity is required to be made ex parte (s. 22B(2) of the Act) and the Attorney General is required to publish the order in the Gazette within seven days after the Order (s. 22B(5) of the Act). The order is issued where the court is satisfied that there are reasonable grounds to believe that the individual or entity is knowingly involved in terrorist activity.

The previous provision which required the Court to serve the Order immediately on the listed entity (s. 22B(4A) of the Act) is to be repealed and replaced by a provision which empowers the Court in its discretion to serve the order on the listed entity (the proposed s. 22B(4D)). A person likely to be affected by an Order under the section is permitted to apply to a judge to review the Order but only within sixty days after the publication of the order in the Gazette (the proposed s. 22B(3A) and s. 22B(6) of the Act).

The result is that a person or entity who is declared to be a listed entity and whose assets are frozen may only discover that this has happened when the Order is published to the world. The effect of the Order as published is a declaration to the world that there are reasonable grounds to believe that the individual or entity is knowingly involved in terrorist activity. Immediate harm is accordingly caused to a person's reputation even before that person has had the opportunity to show cause why there is no basis for the Order. By the time the person is permitted to apply to the court for a review of the Order, irreparable harm may have already been caused and it may be impossible to remove the stigma smeared on a person's reputation by being declared to be reasonably believed by a court of law of being involved in terrorist activity.

The Law Association recommends therefore that before an Order is published, the individual or entity be given a reasonable opportunity to have the Order revoked by a judge of the High Court.

Clause 28 – Proposed s. 22BC – Search Warrant

The proposed section 22BC permits any police officer to apply to a magistrate for a search warrant “for the purpose of determining whether a listed entity against whom an order under section 22B(3) is made, is complying with measures specified in the order.”

The Law Association notes with concern that the provision does not set out any criteria which must be met for the issue of the warrant. It does not say, for example, that the magistrate must be satisfied that there is reasonable cause to believe that the listed entity is not complying with the order, which is the usual type of threshold enquiry a magistrate is required to make before authorising the violation of a person's right to privacy and not to be subject to arbitrary search.

The Law Association recommends that a qualifying provision of this sort be included. Without any threshold criteria for the issue of a warrant, a listed entity who or which has not yet had the opportunity to challenge the Order in court, or who is in fact complying with the Order, will be subject to the invasive, coercive powers of the State.

Proposed 22BD – The Sanctions List

The proposed s. 22BD permits the Attorney General to apply to the ISIL (Da'esh) & Al Qaida Sanctions Committee established by the United Nations Security Council for a listed entity to be placed on the ISIL (Da'esh) and Al-Qaida Sanctions List where he is satisfied that there are reasonable grounds to believe that the listed entity meets the criteria for being placed on the list.

There is no provision for the listed entity being heard in his or her defence in order to persuade the Committee not to put him or her on the list. The Law Association recommends that such a provision be included.

There is provision in the proposed s. 22BD(4) for the Attorney General informing the individual or entity that he or she has been put on the Sanctions List and that he or she can petition the UN office of the Ombudsperson to be removed from the list. While this is of course welcomed, this will have occurred only after the damage of being included on the Sanctions List has already occurred.

Clause 17, 18, 19, 20, 22 - new offences

These sections deal with a number of new offences including, by way of example, the offence of joining a terrorist organization, providing instruction or training to a child to engage in terrorist acts etc., attending or receiving training to commit terrorist acts, inciting

a child to commit a terrorist act and travelling for the purpose of committing a terrorist act. All of these offences are to be laid indictably and the penalty for each of offences on conviction before a judge and jury is imprisonment for 25 years and a fine for 25 million dollars.

As it is and as is well know, the High Court is struggling with long list of pending cases and adding to the number of offences which must be tried on indictment may increase that burden.

The Law Association's recommendation is that consideration be given to singling out the less serious offences and making some of the offences in that sub-category triable summarily and others triable either way.

Dated this 21st day of April 2018

Law Association of Trinidad and Tobago

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INTRODUCTION:

This document is a compilation of material that is easily accessible online to stimulate the mind of any individual to be an informed, reasonable thinking person to properly consider the wide discourse and quality of contribution throughout the Commonwealth relative to the proposed amendments to the **Anti-terrorism Bill 2018** as laid in Parliament of the Republic of Trinidad and Tobago.

Information is necessary to enable any right-thinking individual to have an informed view to harness the quality of discourse pertinent to any discussion relative to the said proposed amendments to the **Anti-Terrorism Bill 2018**.

This compilation is limited to the concerns of Muslims in the commonwealth regions of England and Australia and directly relate to the concerns of Muslims within the Republic of Trinidad and Tobago. Time constraints have not allowed for consideration of Hong Kong jurisprudence relative to the impact of terrorism bills and discourse in that Commonwealth territory. Hong Kong has attracted legal luminaries and Judges worldwide. It is a prime example of a modern and insulated Judiciary whose decisions have contributed to the laws which govern the Commonwealth (as well as the Privy Council) of which Trinidad and Tobago is a member. Learning from this Member State may prove essential before we may properly address the amendment.

The United Kingdom, Hong Kong and Australia before the passage of any amendment(s) to their respective Anti- Terrorism bill(s) have zealously sought to safeguard what one may consider to be core fundamental constitutional rights applicable to every creed and race and religious association which forms the basis of our democracy in Trinidad and Tobago.

This bill in its present format ascribes itself to the listing of terrorist organisations as prescribed by the ISIL (Da'esh) and Al- Quaida Sanctions Committee established by the United Nations Security Council.

The starting point of concern of Muslim communities in the Commonwealth as well as in Trinidad and Tobago is that the Sanctions Committee established by the United Nations Security Council has only listed two organisations that one may ascribe to the Muslim faith.

This underlining fact exists despite documented evidence of attacks worldwide by different religious and non-religious organisations that have sought to promote and achieve their objectives through descriptions that conform to the universally undefined (at least by the United Nations) definition of Terrorism.

[Martin Niemöller](#) (1892–1984) was a prominent Protestant pastor who emerged as an outspoken public foe of Adolf Hitler and spent the last seven years of Nazi rule in concentration camps. Niemöller is perhaps best remembered for the quotation:

*First they came for the Socialists, and I did not speak out—
Because I was not a Socialist.
Then they came for the Trade Unionists, and I did not speak out—
Because I was not a Trade Unionist.
Then they came for the Jews, and I did not speak out—
Because I was not a Jew.
Then they came for me—and there was no one left to speak for me*

This quotation highlights the need for all citizens to carefully consider the Amendment Bill, because of the intricate link to the United Nations Sanction Committee, seemingly targeted to Muslims worldwide must be carefully and solemnly considered. Further nationwide consultations are necessary before the passage of this current format of the bill as laid.

This is to safeguard the potentially wide-ranging effect it shall have on the Constitutionally enshrined rights of right thinking Muslims in Trinidad and Tobago.

The Muslim Community forms an invaluable plank of our society whose members contribute towards the proper workings of the democracy of Trinidad and Tobago as well as its economic and socio-economic growth.

Criston J Williams

Fortis Chambers

STATEMENT FROM THE COUNCIL OF ISLAMIC SCHOLARS OF TRINIDAD AND TOBAGO: -

*“Allah (SWT), the Creator and Sustainer of the Universe has commanded all Muslims in the Holy Qur’aan: **“O you who believe, stand out firmly for justice, witnesses for Allah, even though it be against yourselves, or your parents, or your kin, whether rich or poor, Allah is a better Protector to both (4:135)***

In today’s world there are many misconceptions surrounding the ideology and practice of Islam. This has resulted in actions by individuals, groups and nations to stymie and thwart the fulfilment of Muslims’ obligations to the Creator. This is injustice and we must stand against it.

The present proposed Amendments to the Anti -Terrorism act are a clear example of this attempt to subvert our right to practice Islam in this, our beloved country whose anthem includes the phrase “where every creed and race finds an equal place”.

The proposed legislation will impact heavily on the Muslims’ lifestyle. This will be a case where the almost the entire Muslim population may be chastised, wrongfully accused, arrested and even jailed for the actions of a few. Muslims, by trying to fulfil their religious duty will be found guilty by presumption and will be at pains to prove their innocence.

This is our land, a country that we have assisted in building and developing over centuries, and our home. We have co-existed as Muslims in peace with others. Now we are being attacked because of our faith. We cannot accept a proposal that will automatically assume we are terrorists.

*As Muslims we are commanded: **“Hold fast to the rope of Allah and do not be divided among yourselves” (3:103).** Now is the time to stand together for justice.”*

**Council of Islamic Scholars of Trinidad and Tobago.
February 17th 2017**

EFFECTIVENESS AND IMPLICATIONS: IMPACT ON MUSLIMS

The impact of the new security environment on Muslim in Trinidad and Tobago as part of a wider assessment of the operation, effectiveness and implications of anti-terrorism laws ought as a matter of priority to be addressed.

Laws, policies and practices which shall disproportionately impact on minorities risk undermining the principle of equality, which is the cornerstone of democracy and essential to the maintenance of community cohesion. The principle applies to all arms of government and should provide an ethical guide to public debate on these otherwise potentially divisive issues.

One of the damaging consequences of the terrorist bombing attacks in the US, the UK, Europe and Indonesia, has been a rise in prejudicial feelings Muslims worldwide. The same problem has emerged in other western countries and requires careful consideration and a thoughtful response.

FEAR AND ALIENATION

Over the past eight years Islamic and other community based organisations have consistently raised their concerns about a rise in generalized fear and uncertainty within the Muslim communities in Trinidad and Tobago. It must be reiterated that anti-terrorism laws impact most on Muslims who feel under greater surveillance and suspicion.

The Muslim Community is especially concerned by reports of increased alienation attributed to new anti-terrorist measures, which are targeting Muslims and contributing to a climate of suspicion. There is a substantial increase in fear, a growing sense of alienation from the wider community and an increase in distrust of authority. This has become more apparent in the recent searches and intrusions on the Muslim Community relative to the alleged “Threat to Carnival”

An important function of the criminal law is to express society’s moral opprobrium about certain conduct and to have a symbolic and deterrent effect. It may be a deliberate policy of the offences to change behavior where people are dealing with terrorist organisations.

It is not the intention of the Parliament that anti-terrorism laws should have a negative impact on the integrity of normal life of Muslims or any other sector of Trinidad’s society. It is central to Trinidadian democratic values that people are free to practice their religious beliefs in community with one another. A healthy and robust civil society promotes both social interaction and political participation.

The voluntary involvement in faith based, social and welfare organisations, and the participation of young people in group activities are all aspects of Trinidadian’s way of life that promote social inclusion and personal development.

DISCRIMINATION AND SELECTIVITY

The first concern that Muslims have is that the laws are selectively applied to Muslims. Muslims feel that the Muslim community is being targeted. These perceptions, although they are perceptions, have some basis in fact.

The fact that only Muslim organizations had been listed as terrorist organizations under the Anti-Terrorism bill, triggering related terrorist organisation offences, is a source of criticism. Consequently, the crime of association is regarded as only applying to Muslims.

The restriction on disclosure of security sensitive evidence e.g. search warrant(s) executed upon someone as compared to the high-profile media coverage of raids and arrests was cited as increasing perceptions of unfairness. Official statements and media coverage of the recent Carnival threats were said to demonstrate a ‘disproportionate bias against Muslims’.

CONFUSION AND UNCERTAINTY

As noted above, the breadth of offences and uncertainty about the definition of terrorism and terrorist organisation and related offences were said to have caused confusion and exacerbated fear and alienation. It was common ground that some of the perceptions about the laws are based on incorrect information.

However, this is not simply a question of access to information, the complexity and breadth of offences made it more difficult for people to know with certainty whether they had committed an offence. Representatives of the Muslim community have stated most people know that what they are doing is either right or wrong. With this anti-terrorism legislation... “we do not know what, how or when these laws can apply to an individual, or organisation or a group’.

The frequency of legislative amendments had also made dissemination more difficult and reinforced the view that legislation would be changed in response to particular circumstances. Importantly, Muslims think that the law shall lead people to change their behavior and is a widespread perception among Muslims that the laws shall limited the freedom of speech, expression and religious beliefs as enshrined in the Constitution of Trinidad and Tobago as well work against community participation.

ALIENATION AND WITHDRAWAL

The impact of the anti-terrorism measures would be exemplified in various ways: Firstly, people self-limit their behaviour. In other words, they overestimate the reach of the laws and they are unnecessarily cautious. For example, people shall not want to go to normal Islamic classes, or similar things, because they fear that Intelligence forces may be watching.

Apart from the general criminal law, it is said that this self-limiting behaviour shall result in non-communal behavior by members of the Muslim community. The pervasiveness of the problem is partly related to the informal way Muslim communities function.

The mosque plays a central role in daily life of practising Muslim and there is little distinction between religious bodies and social and welfare associations. People will not necessarily know much about the people they associate with in this context and formal notions of association or membership have little relevance and are difficult to define.

Moreover, it is a religious duty to give Zakaat anonymously through the mosque or community organisation for welfare purposes in Trinidad and Tobago and overseas. This has raised concern that a person may be accused of financing terrorism if a recipient is later accused of having some connection with terrorist activity however remote.

It is imperative efforts within the community to counteract these concerns needs to be addressed. The complexity of the law was inhibiting contributions to welfare assistance for Muslims in any area in the world.

For example the CMTT of Trinidad and Tobago had its funds returned to it by TSB bank in London. One million Seven hundred (\$1,700,000.00) was being donated to Muslim relief efforts in Lebanon, Jordan and Turkey . The said money was transferred to the Islamic Relief Organisation in the United Kingdom. It was returned to the CMTT account in Trindiad in Scotia Bank without any reasons given. However HSBC who is the clearing bank for Scotia Bank in London had discontinued with Islamic relief the reason being they accused the Islamic relief organization of being involved in the funding of terrorism.

This caused uncertainty amongst the members of the CMTT as the Islamic relief Organisation is listed as an entity that receives funding from the British Government.

The CMTT has always held and conducted their financial transactions with Scotia Bank. On the _____ of _____ Scotiabank surreptitiously closed their accounts and the reason given was _____

MEDIA COMMENTARY

The role of the media is critical in how a society responds to challenges and threats. The volume of media interest in Muslims has grown significantly and is a new experience for many faith based organisations. While most journalists try to ensure balanced reporting, Muslim groups told have noticed a biased media reporting and alleged incidents of vilification on radio were promoting prejudicial attitudes toward Muslim.

The CMTT has outlined the genuine distress experienced by many people across the community and their concern that the heated public debate and excessive focus on ordinary Muslims were damaging community relations.

Public debate about the wearing of the hijab by females in Court and searches where they are sometimes forced to pull down their underwear was cited as recent examples, which unnecessarily inflamed community feeling.

The recent “Carnival Threats”, which led to the arrest of thirteen persons, was announced by senior officials and attracted extensive media coverage. The way the public disclosure was handled had increased the sense of alienation, especially among many Muslim families and organisations.

The MOTT and their stated the general discourse between members of their faith and they have determined the impact of the anti- terrorism measures was strong and reflected the level of distress in the community. Some of the sentiments revealed :- ‘an overwhelming sense of fear’, ‘a general lack of confidence in the decision making process’, ‘severe financial penalties suffocate individual opinion’, some campaigns were ‘ignorant’ and implementation of the laws was often seen as ‘duplicitous and hypocritical’.³⁰

What is amazing to the CMTT is in similar circumstances in Australia before the passage of amendments their terrorist bill there were reports of what the Muslim community saw as official bias and sensational reporting.

These included: New South Wales police chief Ken Moroney said a ‘potentially catastrophic attack’ had been averted. I am satisfied that we have disrupted what I would regard as the final stages of a terrorist attack or the launch of a terrorist attack in Australia.

Victoria’s Police Commissioner, Christine Nixon, agrees that police have prevented a major terrorist attack from occurring. ‘We believe that they were planning an operation,’ she said, ‘We weren’t exactly sure when nor, more importantly, what they planned to damage or do harm to.’

RECOMMENDATION

It is recommended that the Trinidad and Tobago Police Service review their media policies to ensure that official statements do not prejudice the right to fair trial and are sensitive to the wider implications for the community.

The CMTT has also done an analysis on the findings about the impact of counter terrorism laws on Trinidadian Muslims. The CMTT also has serious concerns about the way in which the legislation is perceived by some members of the Muslim community.

Misunderstandings and fearfulness will have a continuing and significant impact and tend to undermine the aims of the security legislation. The negative effects upon minority communities, and in particular the escalating radicalisation of young members of such communities, have the potential to cause long term damage to the nation of Trinidad and Tobago. It is vital to remember that lessening the prospects of ‘homegrown’ terrorism is an essential part of an anti-terrorism strategy.

Measures to promote social inclusiveness are an important part of the strategy to combat intolerance and extremism and to deal with the conditions that contribute to the spread of terrorist violence.

The CMTT further recommends Trinidad’s counter terrorism strategy encompasses a commitment to the rights of Muslims to live free from harassment and enjoy the same rights extended to all religious groups in Trinidad, wide dissemination of information about mechanisms for complaint or redress in relation to law enforcement, intelligence agencies and the media; and a statement on the importance of informed and balanced reporting to promote social cohesion.

INDEPENDENT REVIEWER FOR THE ANTI- TERROISM ACT.

In the United Kingdom there is legislation to regulate the Office of an Independent Reviewer. The independent’s Reviewer’s role is to inform the public and provide information on political debate on anti –terrorism law. The uniqueness of the role lies in its complete independence from government, coupled with access based on a very high degree of clearance to secret and sensitive national security information and personnel.

The tradition of independent review of terrorism legislation

stretches back to the 1970s. Between 1978 and 1984, reviews of the Prevention of Terrorism (Temporary Provisions) Acts and the Northern Ireland (Emergency Provisions) Acts were carried out by Lord Shackleton, Earl Jellicoe and Sir George Baker.

The Jellicoe Report of 1983 remarked that the annual renewal debates **‘HAVE NOT, ON THE WHOLE, RECEIVED THE PARLIAMENTARY TIME THAT THEY MERIT’**. In order to ensure that those debates were better informed, an annual review was instituted. As explained to the House of Lords by Home Office Minister Lord Elton on 8 March 1984, the Independent Reviewer’s function would be to look at the use made of the statutory powers relating to terrorism, and to consider, for example, whether any change in the pattern of their use needed to be drawn to the attention of Parliament.

The Independent Reviewer was to have access to all relevant papers, including sensitive security information and ministerial correspondence. He or she would not be a judge, but **‘A PERSON WHOSE REPUTATION WOULD LEND AUTHORITY TO HIS CONCLUSIONS, BECAUSE SOME OF THE INFORMATION WHICH LED HIM TO HIS CONCLUSIONS WOULD NOT BE PUBLISHED**

The Independent Reviewer may at the request of Ministers or on his own initiative conduct reviews and produce reports on specific issues. “Snapshot” reports, presented to Ministers and laid before Parliament, have included:

- the Definition of Terrorism (Lord Carlile: June 2007)

- [Operation Pathway](#) (Lord Carlile: October 2009)
- [Operation GIRD](#) (David Anderson: May 2011)

The Independent Reviewer is frequently called upon to give written and/or oral evidence to Parliamentary Committees. Since 2011 these have included:

- [Home Affairs Select Committee](#) (prevention of violent radicalisation, Pursue, TPIMs, Schedule 7, Prevent)
- [European Affairs Committee](#) (EU criminal justice opt-out)
- [Joint Committee on Human Rights](#) (justice and security, TPIMs, my functions generally, countering extremism)
- [Joint Bill Committee](#) (detention of terrorist suspects)
- [Joint Bill Committee](#) (enhanced TPIMs)
- [Joint Bill Committee](#) (protection of charities)
- [Joint Bill Committee](#) (draft Investigatory Powers Bill)
- [Public Bill Committee](#) (Investigatory Powers Bill)

Articles and speeches

When time permits, the Independent Reviewer seeks to inform the debate on anti-terrorism law and civil liberties by talking to the media, participating in the training of police and independent custody visitors, speaking at security and academic conferences and (in his own time) writing articles and speaking at universities and schools.

The position of Independent Reviewer existed in the United Kingdom to review earlier ‘temporary’ laws designed in response to terrorist violence associated with the Northern Ireland situation. The ‘modern’ (for want of a better expression) office was established under the permanent Terrorism Act 2000 which replaced those ‘emergency’ instruments and has grown significantly in step with new legislation enacted since. The Reviewer’s terms of reference are to consider whether (a) the Act has been used fairly and properly, taking into account the need of both effective powers to deal with terrorism and adequate safeguards for the individual and (b) whether any of the temporary powers in the Act can safely be allowed to lapse.

The Independent Reviewer has acquired further reporting functions in relation to other laws – including the offence of glorification of terrorism under the Terrorism Act 2006. Additionally, he also responds to ad hoc requests for reports – in 2007, producing a report on the definition of ‘terrorism’. All reports are delivered to the Secretary who then tables them ‘as soon as reasonably practicable’ before the Parliament.

Concern has been expressed about the existence of various obligations cast upon the Independent Reviewer which work to different agendas and timetables. There is no single enactment establishing the office and listing its various functions and powers.

Lord Carlile of Berriew QC on his personal interpretation of his role as an independent reviewer stated it includes making recommendations...if [he thinks] that a particular section or legislative part is ‘otiose, redundant, unnecessary or counter-productive’. He saw his work as concerned with

the ‘working and fitness for purpose of the Acts of Parliament in question, rather than with broader conceptual issues’. Arguably there is a tension inherent in this statement since the detail of anti-terror laws – from essential definitions to the operation of things such as control orders – is inextricably connected to deeper questions about the toleration or criminalisation of political violence and also affects how strategies are to be assessed for ‘success’.

Additionally, it is said that the Independent Reviewer ‘generates public discussion about terrorism laws’ and the simple fact that the public knows there is a ‘terrorism watchdog’ free to make public statements without government approval provides reassurance.

THE VALUE OF AN INDEPENDENT REVIEWER TO TRINIDAD AND TOBAGO

Legislation must be tabled to establish the office of an Independent Reviewer. This preliminary step is crucial to commission an independent review of the workings of the bill.

Any report presented by this office shall also provide specific recommendations to the Joint Select Committee on pertinent issues that shall be in the best interest of the nation of Trinidad and Tobago.

The office and powers of the independent reviewer: -

- The Independent Reviewer would be appointed by the President of the Republic of Trinidad and Tobago (after consultation between the Prime Minister and the Leader of the Opposition) for a three-year period on either a full or part time basis.
- The Independent Reviewer would review the operation, effectiveness and implications of the ‘laws relating to terrorism’ – defined as those directed to the prevention, detection or prosecution of terrorist acts.
- The Independent reviewer shall review the current amendment to the proposed Anti-terrorism bill as well as the proposed 2018 amendments and present their finding to this Joint Select Committee.
- Reviews may be conducted by the Reviewer either on his or her own motion, or at the request of either the Attorney-General or any Parliamentary Joint Select Committee on the National Security of this country. The Bill must expressly confirm that the Reviewer ‘must be free to determine priorities as he or she thinks fit’.
- The Reviewer must inform the Attorney-General of a proposed review and have regard to the work of other agencies to ensure co-operation and avoid duplication. The Reviewer has the power to obtain confidential information necessary for reviews.
- The Reviewer will provide an annual report and reports of reviews of laws to the Attorney-General which must be tabled in Parliament. Both the Attorney-General, the Opposition and any joint select committee on the national security of the country must respond to the recommendations.

The review of terrorism laws must be more than a paper exercise. It is pertinent to determine whether such laws are necessary and proportionate in their operation. One needs to understand the current nature and extent of the terrorist threat in Trinidad and Tobago, the range of tools available to the counter-terrorism effort and the way in which those tools are used on the ground. The United Kingdom terrorist legislation also criminalises a range of acts performed in or aimed at targets in other countries, the nature of the threat world-wide must also be kept in mind

PART 2 OF THE ACT: THE DEFINATION OF TERROISM

The current definition of a “terrorist act” used in the Trinidad and Tobago Legal system is contained in the **Anti-Terrorism Act Chapter 12:07** as amended. It states: -

“terrorist act” means—

(a)an act whether committed in or outside of Trinidad and Tobago which causes or is likely to cause—

(i) loss of human life or serious bodily harm;

(ii) damage to property; or

(iii) prejudice to national security or disruption of public safety including disruption in the provision of emergency services or to any computer or electronic system or to the provision of services directly related to banking, communications, infrastructure, financial services, public utilities, transportation or other essential infrastructure, and is intended to—

(iv) compel a government or an international organisation to do or refrain from doing any act; or

(v) intimidate the public or a section of the public, for the purpose of advancing a political, ideological or a religious cause;

(b) an offence under any of the Conventions; or

(c) an offence under Part II, Part III or section 22A of this Act;”

The Act to amend the **Anti–Terrorism Act Chap, 12:07** seeks to introduce a new definition of the offence. This new definition emulates the definition in the United Kingdom and in Australia. It broadens the ambit of a person who may commit a Terrorist Act to state: -

“(1)A person who—

(a)with the intent to compel a government or an international organisation to do or refrain from doing any act or intimidate the public or a section of the public, for the purpose of advancing a political, ideological or a religious cause does any act which he intends to cause, creates the likelihood of causing, or is likely to cause—

(i)loss of human life or serious bodily harm;

(ii)substantial damage to property;

(iii)the endangerment of a person’s life, other than the life of the person taking the action;

(iv)the creation of a serious risk to the health or safety of the public or a section of the public; or

(v)prejudice to national security or disruption of public safety including disruption—

(A)in the provision of emergency services; 6

(B)to any computer or electronic system; or

(C)to the provision of services directly related to banking, communications, infrastructure , financial services, public utilities, transportation or other essential infrastructure;

(b)threatens to commit an act referred to in this Part; or

(c) takes any preparatory steps, including but not limited to acquiring material or participating in the planning of an act referred to in paragraph (a), commits the offence of a terrorist act and is liable, where no other penalty is specified, on conviction on indictment to a fine of twenty-five million dollars and imprisonment for twenty-five years.”

(3) This section shall not apply to—

(a) an act which causes death or serious bodily harm to a person taking active part in armed conflict in accordance with the applicable rules of international law; or

(b) an act committed in pursuance of a demonstration, protest or stoppage of work that is not intended to result in any harm referred to in subsection (1).”

The definition of Terrorism is of real practical importance. It triggers many powers, as well as it contributes to the description of offences.

The Law Council of Australia in an article entitled “A consolidation of the law Council of Australia’s advocacy in relation to Australia’s anti-terrorism measures” gave international views on the definition of terrorism.

It stated: -

International views on the definition of terrorism

“There are a number of international conventions that have been developed by the UN to address terrorism. Each of these conventions address particular activities associated with terrorism, including unlawful acts against the safety of civil aviation; unlawful seizure of aircraft; the taking of hostages; the protection of nuclear material; terrorist bombings; financing of terrorism; and nuclear terrorism. There are 13 conventions that deal with terrorist related activities. However, none of them contain a consistent definition of terrorism. A number of resolutions have been passed by UN bodies in relation to terrorism including Resolution 1373/136 which was passed following the September 11 2001 terrorist attacks in the United States, and Security Council Resolution 1566/137 which was passed in 2004. However, none of these resolutions have included a consistent definition of terrorism.

Resolution 1566 outlines a series of acts that constitute offences under the conventions dealing with terrorism, and calls upon all States “to prevent such acts and, if not prevented, to ensure that such acts are punished by penalties consistent with their grave nature.” The acts in question are described as follows:

“...criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organization to do or to abstain from doing any act, which constitute offences within the scope of and as defined in the international conventions and protocols relating to terrorism...”

Resolution 1373 does not define terrorist acts but imposes a range of obligations on States to ensure they prevent and suppress the financing of such acts.

There appear to be a number of reasons why the international community has been unable to agree on a definition of terrorism. Central to these have been concerns by some States about the extent to which ‘freedom fighters’ in national liberation movements could be classified as terrorists; whether international rules on terrorism should be based on an enhanced understanding of the underlying causes of such

behaviour; a reluctance by some States to accept the guidance of international law; and concerns that a universally accepted definition of terrorism would place limitations on sovereign power, which would result in States no longer being able to define terrorism according to their own rationale.

The absence of a comprehensive UN definition of terrorism has resulted in several definitions being developed and implemented in legislation at the Member State level. A number of academics have analysed the definitions of terrorism around the world and have suggested that there is an established need for definitions of terrorism to be precise, not overly broad, and drafted consistently across comparable jurisdictions.

The former UN Special Rapporteur, Martin Scheinin, has expressed concern that “the absence of a universal and comprehensive definition of the term may give rise to adverse consequences for human rights.” He has noted the importance of ensuring that “[i]n the absence of a universally agreed upon, comprehensive and concise definition of terrorism, counter-terrorism laws and policies must be limited to the countering of offences that correspond to the characteristics of conduct to be suppressed in the fight against international terrorism, as identified by the Security Council in its resolution 1566...”

The Law Council further compared the Australian definition of Terrorist Act. The report stated: -

“An issue with respect to the Australian definition of terrorist act relates to the inclusion of “interference or destruction of electronic systems, systems to deliver essential Government services or used by essential public utilities, or transport systems.” The Law Council has previously raised this issue and the inclusion of property damage in its concerns with the definition. This issue was also considered by the Monitor in his 2012 Annual Report, where he specifically addressed the concerns that had been raised by the former UN Special Rapporteur previously in relation to the breadth of the Australian definition of terrorist act in this regard.

However, the Monitor has not shared the UN Special Rapporteur’s concerns in relation to the inclusion of serious impacts on electronic systems in the definition, finding the risk of any over-reach to be “mitigated by the link to subsection 100.1(3). This link excludes such action from being a terrorist act where it is done in the course of advocacy, protest, dissent or industrial action and is not intended to cause danger to life or limb.”

A similar view was expressed by the former Independent Reviewer of Terrorism Legislation in the UK, Lord Carlile of Berriew Q.C in his 2007 report on his review of the UK’s terrorism legislation. In finding that the inclusion of serious impacts on electronic systems in the definition of terrorism was justified, Lord Carlile stated that the inclusion in the definition of acts designed to seriously interfere with or disrupt an electronic system,

...has the potential to include internet service providers, financial exchanges computer systems, controls of national power and water, etc. The huge damage to the

economy of the nation, and the potential for injury as a result, are self-evident. This category too should be included in the definition. I have concluded that the provision remains justified.

The Council of Europe Framework Decision on Combatting Terrorism takes a different approach to the inclusion of impacts on electronic systems; government services; public utilities and transport systems as terrorist acts by including them in the following forms in the list of acts defined as terrorist offences:

- causing extensive destruction to a Government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property likely to endanger human life or result in major economic loss;*
- interfering with or disrupting the supply of water, power or any other fundamental natural resource the effect of which is to endanger human life.*

In the Law Council's view, such an approach is preferable to the current approach in section 100.1 as it involves a more direct nexus between the impact on the relevant electronic system and the effect on human life than reliance on subsection 100.1(3) to exempt the relevant act from definition as a terrorist act. A similar conclusion can be drawn in relation to the subsection 100.1(2) inclusion of serious damage to property as a terrorist act unless the relevant exemption applies. Therefore, the Law Council's preference is for a direct reference to dangers to life and limb even in the context of property or infrastructure damage.

The definition includes threats of action

The definition of 'terrorist act' in section 100.1 is defined as an action or a threat of action which, amongst other things, causes serious physical harm, results in death, endangers life or causes serious property damage (see subsection 100.1(2)).

The problem with this definition is that it is almost impossible to conceive of how a mere threat of action, on its own and if not carried out, could cause serious harm, death, serious property damage or the like.

As well as unnecessarily broadening the scope of the definition, the confusion created by the inclusion of a threat of action as sufficient to constitute a terrorist act is likely to hinder prosecutions and increase the difficulties members of the public have in understanding the legislation.

The Law Council has submitted that the reference to threat of action should be removed from the definition of terrorist act and threats to commit a terrorist act should be the subject of a separate offence provision. In that way, the peculiar fault elements of a threat offence could be properly addressed and an appropriate penalty set. A threat to commit an act is materially different from actually committing the act. So too, a threat to commit an act is different from an attempt, a conspiracy or an incitement to commit that act. Although it might be reprehensible, it is conduct of a different type that should be addressed separately."

On the 23rd October, 2013 in the case of **R v Gul (Appellant) [2013] UKSC 64** the definition of terrorism was debated. This was an appeal brought by Mohammed Gul against a decision of the Court of Appeal

(Criminal Division) dismissing an appeal against his conviction for dissemination of terrorist publications contrary to section 2 of the Terrorism Act 2006 (“the 2006 Act”), for which he was sentenced to a term of five years’ imprisonment (a sentence against which he also unsuccessfully appealed). The appeal raises the issue of the meaning of “terrorism” in section 1 of the Terrorism Act 2000 (“the 2000 Act”).

LORD NEUBERGER AND LORD JUDGE (with whom Lady Hale, Lord Hope, Lord Mance, Lord Kerr and Lord Reed agreed) stated:-

'Terrorism' has proved very difficult to define and there is no internationally agreed definition. For the purposes of law in the United Kingdom, the Terrorism Act 2000 section 1 gives the following definition:

(1) In this Act “terrorism” means the use or threat of action where –

- (a) the action falls within subsection (2),*
- (b) the use or threat is designed to influence the government or an international governmental organisation or to intimidate the public or a section of the public, and*
- (c) the use or threat is made for the purpose of advancing a political, religious, racial or ideological cause.*

(2) Action falls within this subsection if it -

- (a) involves serious violence against a person,*
- (b) involves serious damage to property,*
- (c) endangers a person’s life, other than that of the person committing the action,*
- (d) creates a serious risk to the health or safety of the public or a section of the public, or*
- (e) is designed seriously to interfere with or seriously to disrupt an electronic system.*

(3) The use or threat of action falling within subsection (2) which involves the use of firearms or explosives is terrorism whether or not subsection (1)(b) is satisfied.

(4) In this section—

- (a) “action” includes action outside the United Kingdom,*
- (b) a reference to any person or to property is a reference to any person, or to property, wherever situated,*
- (c) a reference to the public includes a reference to the public of a country other than the United Kingdom, and*
- (d) “the government” means the government of the United Kingdom, of a Part of the United Kingdom or of a country other than the United Kingdom.*

(5) In this Act a reference to action taken for the purposes of terrorism includes a reference to action taken for the benefit of a proscribed organisation.

Mohammed Gul was charged under the Terrorism Act 2006 section 2 (Dissemination of terrorist publications). The police found videos on his

computer which had been uploaded to various websites including Youtube. These videos included ones that showed (i) attacks by members of Al-Qaeda, the Taliban, and other proscribed groups on military targets in Chechnya, and on the Coalition forces in Iraq and in Afghanistan, (ii) the use of improvised explosive devices ("IEDs") against Coalition forces, (iii) excerpts from "martyrdom videos", and (iv) clips of attacks on civilians, including the 9/11 attack on New York. These videos were accompanied by commentaries praising the bravery, and martyrdom, of those carrying out the attacks, and encouraging others to emulate them.

The case for the prosecution was that each of these videos constituted "a terrorist publication" within section 2(3), which the appellant had "distribute[d] or circulate[d]" within section 2(2)(a), and consequently he had committed an offence by virtue of section 2(1), of the 2006 Act. The appellant's principal defence was that, although he did not agree with the targeting of and attacks on civilians, he believed that the use of force shown in the other videos was justified as it was being employed in self-defence by people resisting the invasion of their country.

The Court of Appeal certified a point of general public importance, namely:

"Does the definition of terrorism in section 1 of the Terrorism Act 2000 operate so as to include within its scope any or all military attacks by a non-state armed group against any or all state or inter-governmental organisation armed forces in the context of a non-international armed conflict?"

The Supreme Court, having examined Mr Gul's case from the point of view of both domestic law [26-41] and international law [42-58], answered YES to the certified question. Mr Gul's appeal was therefore dismissed.

The case is of particular interest because of the court's observations about the Terrorism Act 2000.

The Act has the very broad definition of terrorism (cited above) and combines this with prosecutorial discretion under [section 117](#). See also the [2006 Act section 19](#). The Supreme Court had this to say [36-37]

36. The Crown's reliance on prosecutorial discretion is intrinsically unattractive, as it amounts to saying that the legislature, whose primary duty is to make the law, and to do so in public, has in effect delegated to an appointee of the executive, albeit a respected and independent lawyer, the decision whether an activity should be treated as criminal for the purposes of prosecution. Such a statutory device, unless deployed very rarely indeed and only when there is no alternative, risks undermining the rule of law. It

involves Parliament abdicating a significant part of its legislative function to an unelected DPP, or to the Attorney General, who, though he is accountable to Parliament, does not make open, democratically accountable decisions in the same way as Parliament. Further, such a device leaves citizens unclear as to whether or not their actions or projected actions are liable to be treated by the prosecution authorities as effectively innocent or criminal - in this case seriously criminal.

37. Given that the consent requirement in section 117 is focused on the decision whether to consent to a prosecution, this approach to the construction of the 2000 Act has two further undesirable consequences. First, the lawfulness of executive acts such as detention, search, interrogation and arrest could be questioned only very rarely indeed in relation to any actual or suspected involvement in actual or projected acts involving "terrorism", in circumstances where there would be no conceivable prospect of such involvement being prosecuted. Secondly, the fact that an actual or projected activity technically involves "terrorism" means that, as a matter of law, that activity will be criminal under the provisions of the 2000 and 2006 Acts, long before, and indeed quite irrespective of whether, any question of prosecution arises.

There may be a tension here between paragraph 36 and the attitude hitherto adopted to some other offences requiring consent. In relation to the offence of Assisting Suicide (Suicide Act 1961) the House of Lords required the DPP to issue guidance regarding when prosecutions might be appropriate - *R(Purdy) v DPP [2009] UKHL 45*.

The court made further observations at [60-64] - (*my emphasis*)

61. First, we revert to the concern about the width of the definition of "terrorism", as discussed in paras 28-29 and 33-37 above. In his first report, Mr Anderson QC made the point that "the current law allows members of any nationalist or separatist group to be turned into terrorists by virtue of their participation in a lawful armed conflict, however great the provocation and however odious the regime which they have attacked". He went on to say that "other definitions of terrorism choose to exclude activities sanctioned by international law from the reach of terrorist activity", citing the Canadian and South African Criminal Codes as examples. In his second report, Mr Anderson mentioned the "potential application of the Terrorism Acts even to UK forces engaged in conflicts overseas", and referred to the fact that a recent Australian report "recommend[ed] that Australian law be changed so as to provide that the relevant parts of the Criminal Code, as in Canada, do not apply to acts committed by parties regulated by the law of armed conflict."

62. While acknowledging that the issue is ultimately one for Parliament, *we should record our view that the concerns and suggestions about the width of the statutory definition of terrorism which Mr Anderson has identified in*

his two reports merit serious consideration. Any legislative narrowing of the definition of "terrorism", with its concomitant reduction in the need for the exercise of discretion under section 117 of the 2000 Act, is to be welcomed, provided that it is consistent with the public protection to which the legislation is directed.

63. The second general point is that the wide definition of "terrorism" does not only give rise to concerns in relation to the very broad prosecutorial discretion bestowed by the 2000 and 2006 Acts, as discussed in paras 36-37 above. *The two Acts also grant substantial intrusive powers to the police and to immigration officers*, including stop and search, which depend upon what appears to be a very broad discretion on their part. While the need to bestow wide, even intrusive, powers on the police and other officers in connection with terrorism is understandable, *the fact that the powers are so unrestricted and the definition of "terrorism" is so wide means that such powers are probably of even more concern than the prosecutorial powers to which the Acts give rise.*

64. Thus, under Schedule 7 to the 2000 Act, the power to stop, question and detain in port and at borders is left to the examining officer. The power is not subject to any controls. Indeed, the officer is not even required to have grounds for suspecting that the person concerned falls within section 40(1) of the 2000 Act (i.e. that he has "committed an offence", or he "is or has been concerned in the commission, preparation or instigation of acts of terrorism"), or even that any offence has been or may be committed, before commencing an examination to see whether the person falls within that subsection. On this appeal, we are not, of course, directly concerned with that issue in this case. But detention of the kind provided for in the Schedule represents the possibility of serious invasions of personal liberty.

The observations regarding powers given to the Police and immigration officers will have particular resonance in relation to the *David Miranda case*. Mr Miranda was detained under *Schedule 7* of the Terrorism Act 2000.

Dialogue?

The word dialogue is in vogue with regard to the relationship between the Supreme Court and the European Court of Human Rights. It is interesting to wonder whether we are now seeing the beginning of dialogue between the Supreme Court and Parliament. The Gul judgment could have been just as effective and much shorter had the various observations about the legislation been omitted. However, the Supreme Court has opted to express concerns though it has also been careful to emphasise that it is a matter for Parliament."

David Anderson Q.C, in his report as the Independent reviewer of Terrorism Legislation relative to The Terrorism Acts in 2011 on June 2012 stated at paragraph 3.6 and 3.7 of his report: -

“3.6. It is hard to disagree with the words of Lord Lloyd, echoed by Lord Carlile, that —there are great difficulties in finding a satisfactory definition” and that —I suspect none of us will succeed.¶87 When Parliament eventually revisits the definition of terrorism, it will no doubt do so in the light of evolving state practice in relation to the definition of terrorism and of the international crime of terrorism (or the crime of international terrorism),88 as well as experience with the operation of the TA 2000 definition.

3.7. So far as that experience is concerned, I would offer the following remarks based on the operation of the Terrorism Acts which it is my statutory function to observe:

(a) The broad definition of terrorism in TA 2000 leaves very considerable discretion to the police. For example:

The power to arrest under TA 2000 section 41 and to hold for extended periods of detention prior to charge can in principle be used against anyone who, it is suspected, is or has been concerned in the commission, preparation or instigation of acts of terrorism, without geographical limitation and whether before or after the passing of TA 2000. Legitimately elected political figures across the world (and in the UK) could quite lawfully be arrested under this power.

□ The power to stop, question and detain at ports and airports under Schedule 7 para 2, similarly, may be exercised in order to determine whether a traveller has ever been a —terrorist¶ in any country in the world. This renders the power in effect universal in its scope.

(b) The broad definition of terrorism leaves an equally large discretion to prosecutors, mitigated only by the requirement of the Attorney General’s consent to a prosecution of an offence committed outside the UK, or for a purpose wholly or partly connected with the affairs of a country outside the UK, and by the apparent unwillingness of juries to convict those whom they perceive as freedom-fighters against distant and unsavoury regimes.

(c) It affords a large discretion also to the Home Secretary and to the Treasury, in determining which organisations in the world should be proscribed under TA 2000 Part II, and which individuals and organisations in the world should have their assets frozen under TFA 2010.

(d) There is always a risk that strong powers could be used for purposes other than the suppression of terrorism as it is generally understood. The obvious example, remarked upon in my last annual report, would be the proscribing of an obscure separatist organisation as an act of friendship to a friendly but repressive foreign government. More generally, the broad scope of the counter-terrorism legislation may serve to encourage police in the belief, and public in the acceptance, that it can be used against anyone and at any time.”

FINANCING OF TERRORISM

Clause 25 of the Bill would amend section 22A of the Act to provide that a person who provides or collects funds that are to be used or is reckless as to whether it may be used in whole or in part organization, to facilitate travel of an individual to carry out a terrorist act or participate in, or provide instruction or training to carry out a terrorist act, by a listed entity or to facilitate the travel or activities of a foreign terrorist fighter, commits the offence of financing of terrorism.

22A.

“(1) Any person who by any means, directly or indirectly, wilfully provides or collects funds, or attempts to do so, with the intention or in the knowledge that such funds are to be used in whole or in part or being reckless as to whether it may be used in whole or in part

(a) in order to carry out a terrorist act;

(b) by a terrorist; ~~or~~

(c) by a terrorist organisation,

commits the offence of financing of terrorism.

d) in order to facilitate travel by an individual to a foreign State for the purpose of—

(i) carrying out terrorist act, or

(ii) participating in, or providing instruction or training to carry out a terrorist act;

(e) by a listed entity;

(f) by an entity owned or controlled, directly or indirectly by a listed entity;

(g) by a person or entity acting on behalf of, or at the direction of a listed entity; or

(h) to facilitate the travel or activities of a foreign terrorist fighter,”;

(1A) Notwithstanding subsection (1), a person does not commit an offence where he provides or collects funds in accordance with an order made under section 22B.”

(2) An offence under subsection (1) is committed irrespective of whether—

(a) the funds are actually used to commit or attempt to commit a terrorist act;

(b) the funds are linked to a terrorist act; or

(c) the person alleged to have committed the offence is in the same country or a different country from the one in which the terrorist or terrorist organisation is located or the terrorist act occurred or will occur.

(3) A person who contravenes this section commits an offence and is liable on conviction on indictment to a fine of twenty-five million dollars and to imprisonment for twenty-five years.

(4) A director or person in charge of a legal entity who commits an offence under this section is liable on conviction on indictment to a fine of twenty-five million dollars and to imprisonment for twenty-five years.”

Under section 22A of the proposed amendments it is an offence to:

- provide or collect funds being reckless as to whether the funds will be used to facilitate or engage in a terrorist act.
- intentionally make funds available to another person or collect funds for another person, whether directly or indirectly, being reckless as to whether the other person will use the funds to facilitate or engage in a terrorist act.

A person will commit one of the above offences even if:

- a terrorist act does not occur; or
- the funds will not be used to facilitate or engage in a specific terrorist act; or • the funds will be used to facilitate or engage in more than one terrorist act.

For the purposes of this submission, the Concerned Muslims of Trinidad and Tobago apprehensions primarily relate to the financing of terrorism offences introduced into section 22A of the act.

This new section creates concerns that relate to the broad and imprecise nature of the offences and that they go further than what is required by the international instruments they were introduced to implement.

The offence in section 22A of the Anti-Terrorism act (as proposed to be amended) to be unacceptably imprecise for an offence which carries on conviction on indictment to a fine of twenty-five million dollars and to imprisonment for twenty-five years.

The offence created by section 22A contains no requirement that the prosecution prove that a person charged had actual knowledge of circumstances indicating connection with a terrorist act or intended to provide funds to be used to facilitate or engage in a terrorist act.

Rather the fault element of the offence will be satisfied if it can be shown that the person was reckless as to whether the funds he or she provided would be used to facilitate or engage in a terrorist act.

It may be stated that the present administration is of the view that section 22A implements article 2 of the Convention for the Suppression of the Financing of Terrorism and paragraph 1(b) of United Nations Security Council resolution 1373, and draws on the language used in those international instruments.

Article 2 of the Convention, however, contains a requirement of specific intention when attributing criminal liability for the financing of terrorism. Article 2(1) provides that a person commits an offence within the meaning of the Convention if that person by any means ‘directly or indirectly, unlawfully and wilfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part...’ Further, paragraph 1(b) of UN Security Council resolution 1373, provides that State parties shall: Criminalize the wilful provision

or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts.

Accordingly, unlike the offence in section 22A, both international instruments contain a clear requirement of specific intent.

Under section 22A it is an offence to intentionally make funds available to another person or collect funds (whether directly or indirectly) for or on behalf of another person reckless as to whether the funds will be used by that person to facilitate or engage in a terrorist act.

The offence is committed notwithstanding that no terrorist act occurs, that the funds will not be used for a specific terrorist act, or that they will be used for a number of terrorist acts. There is a risk that confusion arising as a result of the scope and purpose of these provisions may adversely impact on charitable giving.

GETTING FUNDS TO AND FROM OR FOR A TERRORIST ORGANIZATION

Section 22A of the Anti-Terrorism bill makes it an offence for a person to intentionally or recklessly receive funds from, make funds available, or collect for or on behalf of a terrorist organisation that they know to be a terrorist organisation.

It is a defence if the person receiving funds does so solely for the purpose of providing legal representation in proceedings relating to Section 22A; or to assist the organisation to comply with Trinidadian law. The defendant bears the legal burden, that is, on the balance of probability, that the funds were received for this purpose.

This has the potential to create significant difficulties for the legal representative, who is bound by obligations of confidentiality and legal professional privilege.

The privilege is that of the client and may be waived by the client. Therefore, unless the client consents to the legal representative adducing evidence about the nature of the legal representation, the legal representative will be unable to discharge the legal burden.

It is recommended that the defence should be widened to apply to funds received for the purpose of providing legal representation in proceedings under Section 22A and that the defendant's legal representative should bear an evidentiary burden rather than a legal burden.

However, there is no clear rationale for limiting the scope of legal representation to criminal proceedings and a simpler and clearer approach would be to include legal representation in proceedings per se. This would also be more consistent with exceptions for legal counsel that exist in the association offence. The exception for legal counsel in respect of the association offence also places an evidential burden on the defendant lawyer.

Recommendation

It should be a defence to the offence of receiving funds from a terrorist organisation that those funds were received solely for the purpose of the provision of representation in legal proceedings; and that the legal burden be reduced to an evidential burden.

PROVIDING SUPPORT TO A TERRORIST ORGANISATION

Section 9 criminalises ‘support’ for a terrorist organisation. There is no definition of ‘support’ in the Preliminary to the Anti- Terrorism Act. Members of the Muslim community have argued that ‘support’ could extend to publication of views that appear favourable to a listed organisation and therefore infringe freedom of expression as enshrined in the Constitution of Trinidad and Tobago. There is a real concern about what ‘support’ is intended to cover and the possibility that it could be applied to verbal support. Although it may appear unlikely we acknowledge that there is sufficient concern about the ambiguity to warrant a recommendation that ‘support’ be qualified to avoid unnecessary intrusion in the freedom of expression.

The Media Association of Trinidad and Tobago should be invited to have their views discussed after consultation with the MOTT relative to the freedom of the Press. Members of the MOTT have indicated an excessively broad interpretation of ‘support’ is a potential impediment to free speech.

In order to ensure that media organisations are not placed under pressure to self-censor, it is important that the notion of providing support to terrorist organisations be defined narrowly. In the alternative, clear defences must be included in the legislation to exempt publication of news reports and commentary.

Taken as a whole, Section 9 requires the prosecution to establish to the requisite standard that: a person provided support or resources to an organisation; the support or resources would help the organisation engage in an activity described in paragraph (a) of the definition of terrorist organisation (that is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act); and the person knows or is reckless as to whether the organisation is a terrorist organisation.

One may ask a hypothetical question, where a person verbally claimed to support a terrorist organisation. One must respect the freedom of views and expressions. The offence under section 9 of providing support to a terrorist organisation would not apply to those words alone... Even if the words ‘I support ISIS’ are taken to fall within the terms ‘support’, in the circumstances of the case posed, such words would not help that organisation (ISIS) engage directly or indirectly in preparing, planning, assisting in or fostering the doing of a terrorist act as required under that provision’.

The MOTT understands that the underlying policy rationale is to target the provision of support and resources that help a terrorist organisation engage in a terrorist act or activities that are related to the doing of a terrorist act. This would indicate that the conduct must be some type of material support not mere words. However, it is conceivable that active engagement in propaganda activities could fall within the offence. An amendment, which clarifies Section 9 so that it applies to material support and resources and not to words is consistent with the policy and will provide certainty for the community.

Given the seriousness of the offence and the penalties attached thereto, a technical refinement of this nature would be a reasonable modification. Further, we note that paragraph (a) of the definition of a terrorist organisation, includes ‘fostering’, which means to ‘promote’ or to

‘encourage’ the doing of a terrorist act. In these circumstances, clarification that mere words are insufficient to ground a conviction appears all the more important.

Recommendation

It is recommended that the offence of providing support to a terrorist organisation be amended to ‘material support’ to remove ambiguity.

REVERSE ONUS PROVISIONS

In the context of the present review, the Joint Select Committee of Parliament must consider the appropriateness of the use of strict liability provision, applied to a number of the terrorist organisation offences. In summary, those offences are: „ membership of a terrorist organisation, which does not apply if the person can prove (on the balance of probabilities) that he took reasonable steps to cease to be a member when he knew the organisation was a terrorist organisation; „ training and association offences, in respect of the question of whether the organisation is a listed terrorist organisation and getting funds to, from or for a terrorist organisation imposes a legal burden on a legal representative to prove that monies received for the sole purpose of legal representation or assistance to comply with a Commonwealth, Trinidadian or Territory law.

RESUMPTION OF INNOCENCE

The requirement that the prosecution in a criminal trial must prove all the elements of the offence with which the accused is charged, has been described as the governing principle of the criminal law and is integral to a fair trial.

The underlying rationale is simply that: ...it is repugnant to ordinary notions of fairness for a prosecutor to accuse a defendant of crime and for the defendant to be then required to disprove the accusation on pain of conviction and punishment if he fails to do so.

Nevertheless, Parliament has at times decided that a reversal of the burden of proof may be permissible in certain limited and exceptional circumstances. The effect of the imposition of strict liability is to place a legal burden (sometimes referred to as the persuasive burden) on the defendant to prove on the balance of probabilities an element of the offence. In essence, where a defendant has to ‘prove a fact on the balance of probability to avoid conviction this permits conviction in spite of the fact finding tribunal having a reasonable doubt as to the guilt of the accused’.

It is for this reason, that strict liability is generally not applied to an offence for which the penalty is so draconian in nature.

By contrast, an evidential burden requires the defendant to adduce or point to evidence that suggests a reasonable possibility that the matter does or does not exist and the burden of proof reverts to the prosecution. Typically, where a defendant wishes to take advantage of an exception, exemption, proviso, excuse or qualification an evidential burden may fall upon the defendant. Provided the evidential burden is not applied to an element which is, in fact, a primary ingredient of the offence, the use of evidential burden may be considered a reasonable limitation.

The use of the principle of strict liability as it applies to terrorist organisation offences are unjust and disproportionate. There exists a principle that strict liability should not be used for any element

where an offence carries a penalty of imprisonment. This view expressed is consistent with the policy and practice of the Commonwealth executive and legislature over many years.

The judicial trend is also to read down strict liability provisions to an evidential burden, and has been applied in numerous cases, including terrorism cases under similar statutes. This may be exemplified in the cases of R v Director of Public Prosecutions, Ex p Kebilene [2000] 2 AC 326; Attorney-General's Reference No.4 of 2002; Sheldrake v DPP [2004] UKHL 43

Scrutiny of the use of Strict Liability offences have resulted in some basic principles. These principles state that:

Fault liability is one of the most fundamental protections of the criminal law; to exclude this protection is a serious matter.

The Commonwealth guidelines have indicated that strict liability may be appropriate for:

- (a) regulatory offences; or
- (b) in relation to a matter that is peculiarly within the knowledge of the defendant;
- (c) to overcome a 'knowledge of law' problem, where an element of the offence expressly incorporates a reference to a legislative provision.

based on Commonwealth Guidelines, the Senate Committee of Australia in the "Senate Standing Committee for the scrutiny of bills, Sixth report, Application of Absolute and Strict Liability Offences in Commonwealth Legislation, 26th June 2002, p. 259 stated that strict liability should be applied only where the penalty does not include imprisonment.

There is no apparent need to require the defendant to bear the onus in relation to organisations that are listed by regulation. In the case of Sheldrake v DPP; Attorney-General's Reference 9 No. 4 of 2002) [2004] UKHL 43, pertaining to the same point, the House of Lords read down the legal burden to an evidential one after coming to the conclusion that there was a real risk that a person who was innocent of any criminal conduct may be unable to establish the defence (that the organisation was not proscribed etc).

Recommendation

It is recommended that strict liability provisions applied to serious criminal offences that attract the penalty of imprisonment be reduced to an evidential burden.

THE FINANCING OF TERRORISM

Clause 13 of the Bill would amend section 9 of the Act to provide for the offence of supporting or soliciting support for the commission of a terrorist act, a terrorist, a terrorist organization or a listed entity. The clause goes on to set out the penalties for an individual, a body corporate and a director or officer of a body corporate who contravene the section and empowers the Court to revoke business licences, order that a body corporate be wound up, forfeit the assets of the body corporate and prohibit the activities of a body corporate.

FAULT ELEMENT

Each offence applies the fault element of intention to the actual provision, collection, the making of funds available or collection of funds on behalf of another. The fault element that applies to the connection between the conduct to acts of terrorism is the lower threshold of 'recklessness'.

Recklessness requires awareness of a substantial risk that the result will occur and, having regard to the circumstances known to the person, it is unjustifiable to take the risk. The question whether taking a risk is unjustifiable is one of fact.⁶

UNSCR 1373 and Article 2 of the International Convention on the Suppression of the Financing of Terrorism require ‘specific intent’ or at least ‘knowledge’ that the funds are to be used in order to carry out terrorist acts. For example, UNSC 1373 1(b) obliges Member States to:

“Criminalise wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts.”

Knowledge’ is a higher fault element than recklessness and appears to be more in keeping with the intention of UNSCR 1373.1(b). Knowledge is defined as:

A person has knowledge of a circumstance or a result if he or she is aware that it exists or will exist in the ordinary course of events.

To achieve clarity and consistency of drafting that section 22A be expressed clearly to require intention to provide or collect funds. While this is desirable, it addresses only the drafting issue and not the substantive question, which is the appropriate fault element to be applied.

A requirement of ‘knowledge’, rather than ‘recklessness’, would improve the certainty about the intended scope and application of the offence. This would seem appropriate in light of the penalty of twenty five million dollars and to imprisonment for twenty five years and the fact that the offences do not require proof of any connection to a specific act or acts of terrorism.

The offence has potentially wide reach. For example, it is possible that if a person who donates to a charity may be alleged to be reckless as to whether their donations will facilitate acts of terrorism. The CMTT has grave concerns because they are mandated in the exercise of their faith to do charitable deeds. As stated earlier in this report, the CMTT had its charitable efforts deemed as an attempt to finance Terrorism. This may have resulted in members of the CMTT being arrested and facing various sanctions as proposed within the ambit of the amendments of the Terrorism bill.

Similarly in Australia a number of witnesses raised concerns about donations to Tsunami relief efforts. The Australian media had reported that some members of an Indonesian medical relief organisation (which uses a Commonwealth Bank account to collect funds) had close links to extremist groups. This caused uncertainty relative to the contributions of Muslims to charitable efforts.

CLAUSE 27 OF THE BILL

Clause 27 of the Bill would amend section 22B of the Act to empower the Attorney General to initiate proceedings for an order from the Court to freeze the assets in respect of an individual or entity that commits or participates in the commission of a terrorist act. The clause goes on to empower a Judge to, by order, freeze the property that is owned or controlled by a listed entity,

wholly or jointly, indirectly or indirectly or derived or generated from funds or other assets owned or controlled directly or indirectly by a listed entity.....

The Clause further empowers the Attorney general to apply for enforcement of an order made under this section in another jurisdiction, where he believes that the listed entity has funds in the other jurisdiction, and to make a request to another country to initiate proceedings for the entity or individual to be listed in that country. The clause also provides for the Attorney General to be served with a copy of an application for review and to be given the opportunity to make representations to the Court in any proceedings for the review of an order. The clause further provides that the Attorney General may conduct a review of the circumstances relevant to an order at any time and apply for the variation or revocation of the order if he determines that the circumstances no longer exist.

CLAUSE 28 OF THE BILL

Clause 28 of the Bill would insert new sections 22BA, 22BB, 22BC, 22BD and 22BE which would—

- (a) set out the considerations for listed entities by the Court in making an order under section 22BA(3);
- (b) set out the considerations for designated entities by the Court in making an order under section 22B;
- (c) empower a police officer to search an individual or premises and seize documents to ensure compliance with any order made by the Court;
- (d) empower the Attorney General to make a request to the ISIL (D'aesh) and Al Qaida Sanctions Committee for the listing of an individual or entity; and
- (e) empower the Attorney General to receive requests on behalf of other countries for the declaration of a person or entity as a listed entity.

Clause 27 and 28 of the proposed amendments to the anti-terrorism bill were drafted in keeping with 2 treaties of the United Nations namely:-

(1) CHARTER OF THE UNITED NATIONS ACT 1945

The **Charter of the United Nations** (also known as the **UN Charter**) of 1945 is the foundational treaty of the United Nations, an intergovernmental organization. The UN Charter articulated a commitment to uphold human rights of citizens and outlined a broad set of principles relating to achieving 'higher standards of living', addressing 'economic, social, health, and related problems,' and 'universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.' As a charter, it is a constituent treaty,

and all members are bound by its articles. Furthermore, Article 103 of the Charter states that obligations to the United Nations prevail over all other treaty obligations.

(2) United Nations Security Council Resolution 1373

United Nations Security Council Resolution 1373, adopted unanimously on 28 September 2001, is a counter-terrorism measure passed following the 11 September terrorist attacks on the United States.^[1] The resolution was adopted under Chapter VII of the United Nations Charter, and is therefore binding on all UN member states.

This section deals with amendments to that introduced new Part 4 to the Charter of the United Nations Act 1945, **(COUNA)** which provided offences directed at those who provide assets to, or deal in the assets of, persons and entities involved in terrorist activities and associated provision allowing for the Attorney General to list persons and entities, for the purpose of those offences.

REVIEW AND DELISTING

The Sanctions Committee Guidelines provide that individuals, entities and groups may petition the government of residence or citizenship to request a review of the case. The European Court of Justice (First Instance) has confirmed that individuals and entities in the European Community (EC) have a right of petition to the Sanctions Committee through their national government.

The Court also found that EC Members are bound to observe the fundamental rights of the person. In particular:

- to ensure, so far as possible, the person concerned is in a position to argue their point effectively before competent national authorities;
- may not refuse to initiate the review procedure solely because the person could not provide precise and relevant information, owing to their having been unable to ascertain the precise reasons for which they were included in the list in question, on account of the confidential nature of those reasons; and,,
- are bound to act promptly in order to ensure that such persons' cases are presented without delay and fairly and impartially to the Sanctions Committee, if that appears to be justified in the light of the relevant information supplied;

The Court also found that, in addition, the persons concerned may bring an action for judicial review before the national courts against any wrongful refusal by the competent national authority to submit their cases to the Sanctions Committee for re-examination.

The parliamentary Joint Committee on Intelligence and Security in the Review of Security and Counter Terrorism compared the right to review under the Australian law and the law in the United Kingdom. It stated: -

RIGHT TO REVIEW UNDER AUSTRALIAN LAW

“6.33 It has been argued that the administrative listing processes pursuant to UNSCR 1267 and 1373 lack democratic and juridical control. Listings by

regulation may be subject to disallowance by the Parliament but, unlike the listing of terrorist organisations under section 102.2 of the Criminal Code, listing under COUNA is not subject to scrutiny through a parliamentary committee. There is no suggestion that there are systemic or egregious mistakes in the Consolidated List, rather that provision for review would guard against a listing, which cannot be objectively justified, is based on incorrect or out of date information or mistaken on some other basis.

6.34 The importance of procedural safeguards was argued on the basis that, while the Sanctions Committee list is restricted, the effect of UNSCR 1373 combined with broad definitions of terrorism in domestic law significantly extends the reach of COUNA provisions and the criminal offences, which are triggered by a listing. It was said that the lack of procedural safeguards should be addressed in order to ensure that right of access to the court is preserved. The same issues have been raised in the comparable jurisdictions, and, especially within the European Community.

6.35 The Sheller Committee accepted evidence that hearings prior to listing would defeat the objective of listing assets. This Committee agrees with that position. However, it is conceivable that, in the future, an Australian or a person within Australia or an asset, which affects the interests of an Australian person or company may be subject to listing. A person suspected of involvement in terrorism, is clearly open to listing for the purpose of freezing his or her assets. There are potentially significant consequences including, for example, the ability to remain in the country, to access employment, conduct a business, the need to meet financial and domestic needs of a family, which may arise from such circumstances.

6.36 Under the current law, a person or entity may apply to the Minister to have the listing of a person, entity or asset under section 15 revoked.²⁸ The provision for first instance internal review by the Minister was introduced by the SFTA amendments. However, there is no provision for external merit review and judicial review is limited.

6.37 It has been said that in the UK the Proscription of Organisations Appeals Commission (POAC) provides external merit review of the equivalent decision to list in the UK. However, the POAC jurisdiction appears to be limited to review of proscription for the purpose of the Terrorism Act 2000 and does not orders to freeze terrorist assets, which are dealt with by separate legislation. Nevertheless, the principle is a valid one and warrants consideration. The UK Government has also recently announced that it will create a special advocate system, to facilitate the use of closed source evidence in appeals and reviews of decisions to freeze assets and report quarterly to the Parliament on the operation of the UK's asset freezing regime.

6.38 Nor is there separate provision for internal review if the listing has occurred by regulation. There may be a lacuna in the law in this respect, however, it does not seem appropriate to us that where a person or entity is listed by the United Nations Sanctions Committee it would be subject to separate review by an administrative tribunal. The matter is one for the United Nations Sanctions Committee and not a domestic tribunal. Nevertheless, as noted above, the guidelines of the Sanctions Committee and the existing European jurisprudence indicates that a person or entity listed regulation under section 18, should also have the opportunity to seek review of the UN Sanctions Committee listing through the national government.

6.39 Further, in principle, the decision of the Minister that he is 'satisfied' that prescribed matters have been met is subject to judicial review under the Administrative Decision Judicial Review Act 1975 (ADJR). The ADJR allows for review of 'decisions of an administrative character' on grounds such as denial of natural justice, failure to take into account relevant considerations, taking into account irrelevant considerations, improper purpose and error of law. It is arguable that a court will only be able to inquire as to whether the opinion could be considered as having been 'formed by a reasonable man who correctly understands the meaning of the law under which he acts'.

On this view, unless the discretion is framed in terms of 'on reasonable grounds' that a court would be unable to assess the decision by reference to any objective criteria.³² There appears to be an inconsistency between COUNA and section 102.2 of the Criminal Code in this regard."

The Law Council of Australia in A consolidation of the Law Council of Australia's advocacy in relation to Australia's anti-terrorism measures in October 2013 commented on the Broad executive discretion to proscribe terrorist organizations.

Broad executive discretion to proscribe terrorist organisations

“ Pursuant to s 102.1(2) the Minister enjoys a broad power to outlaw an organisation and expose to criminal liability those individuals associated with the organisation. On the basis of the broad definition contained in section 102.1(2), a considerable number of organisations across the globe are therefore potentially eligible for proscription under the regulations. Nonetheless, as noted above, only a modest number of organisations have been listed to date. The rationale behind how and why those organisations in particular have been chosen and the order in which their proscription has been pursued is difficult to discern. Likewise, information is not publicly available about other organisations which have been considered for proscription, but ultimately not listed, or about organisations which are currently under consideration for listing.

The Law Council considers that conferring a broad executive discretion to proscribe a particular organisation is unacceptable in circumstances where the

consequences are to limit freedom of association and expression and to expose people to serious criminal sanctions.

- *Absence of binding criteria for listing an organisation as a terrorist organisation*
The absence of publicly available, binding criteria to be applied to the listing of organisations as terrorist organisations exacerbates the lack of transparency and accountability flowing from the broad exercises of executive discretion described above.”

It further stated :-

The absence of binding criteria has inevitably made it difficult to allay public fears that the proscription power might be utilised for politically convenient ends rather than to address law enforcement imperatives

The council also discussed the denial of Natural Justice :-

“Denial of natural justice The current process of proscribing terrorist organisations set out in Division 102 does not afford affected parties the opportunity to be heard prior to an organisation being listed or to effectively challenge the listing of an organisation after the fact, without exposing themselves to prosecution. If an organisation is proscribed by regulation as a terrorist organisation there is no opportunity for the members of the community who might be affected by the listing to make a case against the listing before the regulation comes into effect. This concern was noted by the PJCIS who, when reviewing the listing of terrorist organisations, has repeatedly requested that the key government agencies engage in public consultation before listing organisations in an effort to ensure the community was aware of the proposed listing before it took place. For example, in its review of the listing of the al-Zarqawi network in 2005 the PJCAAD suggested that it would be most beneficial if community consultation occurred prior to the listing. The Law Council notes that in December 2008 the then Government responded to a number of recommendations for reform to the proscription process made by the PJCIS in its 2007 Report. One of the recommendations made by the PJCIS was that the Government give consideration to reverting to the initial legislative approach of postponing commencement of a listing until after the disallowance period had expired. In its response, the then Government indicated that it: Supports this recommendation and will adopt the practice of giving consideration to delaying the commencement of a listing regulation (when an organisation is listed for the first time) until after the Parliamentary disallowance period has expired. As recognised by the PJCIS, flexibility must be maintained within this approach so in circumstances where the Attorney-General considers that a listing should commence immediately (for example for security reasons), there remains scope for a regulation to commence when it is lodged with the Federal Register of Legislative Instruments (FRLI).”

The possibility of Judicial Review was also considered by the Council :

- Judicial Review

“While there is the opportunity for judicial review of a decision to proscribe an organisation, it extends only to the legality of the decision and not its merits. International criticism of listing or proscription schemes Listing or proscription regimes relating to terrorist organisations have also been developed by international organisations and other countries. However, many of these schemes (including that of the UN) have been the subject of criticism by a number of commentators. This criticism has largely related to the lack of due process afforded to entities that are proscribed or listed; the absence of transparency; the broad discretion that is provided to the executive; and the absence of effective safeguards (such as judicial review) of listing decisions. Indeed, as noted by the report of the International Commission of Jurists’ (ICJ) Eminent Jurists Panel on Terrorism, Counter-terrorism and Human Rights, the decision to list an organisation or individual is usually carried out in an arbitrary way by the executive, “either alone, or in conjunction with the legislature, but with no judicial involvement.”

A similar observation has been made in relation to the Australian process for listing and de-listing terrorist organisations insofar as the process carries “an unnecessarily high potential for the generation of arbitrary and overly-politicised decisions.”

The proscription regime in the United Kingdom (UK) has also been criticised by some commentators due to its potential to “severely restrict the rights of speech, association and assembly in respect of any group against which the power is used.”

In his 2012 report, the UK’s Independent Reviewer of Terrorism Legislation, David Anderson QC, considered the UK’s proscription regime in detail and made a number of recommendations for improvement, such as making all proscription decisions expire after a period of two years.

The UN’s listing, or sanctions regime, commenced in 1999 with the UN Security Council’s passage of Resolution 1267. This resolution established a UN Sanctions Committee (the UN Committee) and also imposed obligations on States to take certain actions in relation to any individual or entity that is designated by the UN Committee as being associated with Al-Qaida.

For example, States must freeze the funds and other financial assets or economic resources of designated individuals and entities; prevent designated individuals from entering into or passing through their territories; and prevent the direct or indirect supply, sale and transfer of arms and military equipment to any designated individual or entity.

The UN Committee maintains a list of designated individuals and entities known as the ‘Al-Qaida Sanctions List’. It adds individuals and entities to this list at the request of States. It also considers requests from States to remove people/entities from the list, as well as petitions that are provided to the Office of the Ombudsperson which was established following the passage of Resolution 1904.

The UN Commissioner for Human Rights has also expressed concern about the listing of entities and the freezing of assets under the UN regime. Indeed, she has suggested that institutional changes to the sanctions regime have become necessary. Another criticism of the UN's sanctions regime is the fact that the responsibility to designate individuals and entities lies with the UN Committee, as opposed to an independent adjudicator.

To address this criticism, a number of reforms were introduced in 2009 and 2010, including the appointment of an Ombudsperson to handle requests from individuals and entities seeking to be removed from the list; and the introduction of the requirement for the UN Committee to provide reasons for rejecting delisting requests.

Despite these reforms, in 2010, the former UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (UN Special Rapporteur), Martin Scheinin expressed concern about the procedures for delisting, asserting that they failed to "meet the standards required to ensure a fair and public hearing by a competent, independent and impartial tribunal established by law." Further reforms were introduced in 2011 to increase the Ombudsperson's powers. These included Resolution 1989, which provided the Ombudsperson with the mandate to make consequential recommendations in relation to delisting requests, and removed the requirement that the UN Committee must reach a consensus for an entity to be delisted.

An Ombudsperson's de-listing recommendation now takes effect 60 days after the UN Committee has finished considering it unless the Committee decides otherwise by consensus.

The current UN Special Rapporteur, Ben Emmerson QC, has also commented on the UN listing regime, stating that despite the significant improvements made by resolution 1989, "the mandate of the Ombudsperson still does not meet the structural due process requirement of objective independence from the Committee." He made a number of recommendations to improve the due process standards. The Law Council considers that these observations and recommendations at the international level reinforce the need for consideration of reforms to improve due process, transparency and accountability in the listing process in Australia."

The Law Council then recommended:

"In respect of section 102.1, (similar to the provisions in the proposed amendments to the Terrorism Bill) the Law Council recommends that the Government:

- Repeal the current procedure for proscribing organisations as terrorist organisations by regulation pursuant to section 102.1(1).*

- *Introduce a fairer and more transparent process for proscribing an organisation as a terrorist organisation. Such a process should have the following features:*
- *a judicial process on application by the Attorney-General to the Federal Court with media advertisement, service of the application on affected parties and a hearing in open court;*
- *clear and publicly stated criteria for proscription;*
- *detailed procedures for revocation, including giving the right to a proscribed organisation to apply for review of a decision not to revoke a listing; and*
- *that once an organisation has been proscribed, that fact should be publicised widely, notifying any person connected to the organisation of the possible risk of criminal prosecution. In the alternative, the Law Council recommends that paragraph 102.1 (2)(b) relating to proscribing organisations which ‘advocate’ the doing of terrorist acts and subsection 102.1(1A) relating to the definition of ‘advocates’ should be repealed.”*

Recommendation

- There ought to exist an Administrative appeal Tribunal. This shall afford citizens a mechanism to conduct an external merit review of a decision to list a person, entity or asset under section 15 of the COUNA.
- The recommendations of the Australian Law Council be implemented in Trinidad and Tobago.

THE POWERS OF THE ATTORNEY GENERAL

THE ROLE OF THE ATTORNEY GENERAL OF TRINIDAD AND TOBAGO BY VIRTUE OF THE CONSTITUTION OF TRINIDAD AND TOBAGO.

According to Section 76 of the Trinidad and Tobago Constitution, “the Attorney General shall be responsible for the administration of legal affairs in Trinidad and Tobago and legal proceedings for and against the State shall be taken in the name of the Attorney General for civil proceedings and in the name of the State for criminal.”

The Attorney General having a dual role which comprise of a governmental role and a role as the guardian of the public’s interest. In his governmental role, he acts as a member of Government in the performance of his duties and in his role as guardian of public’s interest, he acts independently in a quasi-judicial capacity, representing the community at large.

EFFECT OF THE PROVISIONS OF THE BILL TO THE OFFICE OF THE ATTORNEY GENERAL

1. The Attorney General by the proposed amendments to the anti-terrorism bill by virtue of this provision contained in Section 27 and 28 shall now be vested with the powers to.....

“cause an investigation to be carried out in respect of that allegation and may for that purpose refer the matter to the Commissioner of Police who shall cause an investigation to be carried out in respect of the individual or entity.... Also (1A) Where the Commissioner of Police receives a referral from the Attorney General under subsection (1), he shall as soon as the results of the investigation are known, provide the Attorney General with the results of the investigation.”

The Commissioner of Police shall now directly report to the Attorney General relative to matters that arise in the fight against terrorism. This provision contained in Section 27 and 28 it may allow the potential abuse of office holders beholden with this new authority. The question needs to be asked whether or not as a country we are politically mature to entrust any potential office holder with such power.

This provision one passed shall be the first time in our country that the Office of the Attorney General despite the fact it contravenes upon the Constitutional rights of our citizens in our nation has the Commissioner of Police directly reporting to him.

This provision directly contravenes the definition of the separation of powers as stated by Professor Vile.

DEFINITION OF DOCTRINE OF SEPARATION OF POWERS

Probably the leading modern work on separation of powers is by Professor Vile, published in England in 1967: "Constitutionalism and the Separation of Powers" where the following definition is given:

A 'pure doctrine' of the separation of powers might be formulated in the following way: It is essential for the establishment and maintenance of political liberty that the government be divided into three branches or departments, the legislature, the executive and the judiciary. To each of these three branches there is a corresponding identifiable function of government, legislative, executive, or judicial. Each branch of the government must be confined to the exercise of its own function and not allowed to encroach upon the functions of the other branches. Furthermore, the persons who compose these three agencies of government must be kept separate and distinct, no individual being allowed to be at the same time a member of more than one branch. In this way each of the branches will be a check to the others and no single group of people will be able to control the machinery of the State.

ORIGINS AND PHILOSOPHICAL DEVELOPMENT

The doctrine is founded upon the need to preserve and maintain the liberty of the individual. The mechanism it adopts is to divide and distribute the power of government to prevent tyranny, arbitrary rule and so on. The essence of the doctrine is therefore one of constitutionalism or limited government. As the above definition states, the basic control adopted is to vest the three types of governmental power, legislative, executive and judicial in three separate and independent institutions, the legislature, the executive and the courts, with the personnel of each being different and independent of each other.

The Westminster system effects only a partial separation of powers:

Institution	Power	Personnel	Control
Parliament	Make laws	Representatives elected to lower House. Elected or appointed to upper House.	(Royal Assent) Supervision and/or expulsion by the House
Executive Council (Cabinet)	Executive power	Ministers appointed by the Crown with the support of the lower House. Must be Members of the Parliament	Maintain support of the lower House. Parliamentary and Judicial Review
The Courts	Judicial power	Judges appointed by the Executive	Superior Court justices removal by the Crown an address from both Houses on certain on grounds

Central to the modern development of separation of powers as a theory of government is Baron de Montesquieu (1689- 1755). Montesquieu is synonymous with the doctrine of separation of powers which was first formulated in his magnum opus, *De L'Esprit des Loix* (The Spirit of the Laws), published in Paris in 1748, which had such a profound influence on the drafters of the United States Constitution and the evolution of the French republic.

Who was Montesquieu? He was a native of Bordeaux, of an aristocratic family, who after receiving the traditional classical education studied law and inherited the title and office as President a Mortier of his uncle who died in 1716. He became bored with his office and so in 1726 sold it and travelled extensively in Europe before visiting England in 1729 to study their political institutions. In 1731, he was elected a Member of the Royal Society. He later returned to live in his chateau la Brède near Bordeaux and wrote several works, his most famous being *De L'Esprit des Loix*.

De L'Esprit des Loix is regarded as the first general treatise on politics which, instead of considering who wielded power, examined how power was wielded. The title of his work reflects this different approach, for as Vile puts it, Montesquieu looked to "the informing principle or spirit, the tone or mood, the habits or values ... which made [the law] work ill or well".

Montesquieu is attributed with being the first to use "executive" in juxtaposition with legislative and judicial. Also, he emphasised the importance of judicial independence.

The definition above of the pure doctrine of separation of powers classifies governmental power into the traditional three powers: legislative, executive and judicial. Although Montesquieu is generally credited with using these labels, this tripartite classification of power had earlier origins which may even have relied upon the religious notion of "the trinity". However, the legislative and executive powers were viewed as part of the judicial power at least up until the early eighteenth century.

This tripartite classification of power is not, however, without its difficulties. Not all government powers can be neatly slotted into just one of these categories as the pure doctrine assumes to be the case. The inadequacy of this classification has become more obvious in recent times in relation to at least two areas of government activity: rule making and policy making. Both these processes occur in all three branches of government and how they fit into the doctrine of separation of powers is still being resolved. They certainly challenge the applicability of the pure doctrine today but it is the theory of limited government by division of powers and controls thereon, which helps to determine the appropriate relationship between rule makers and policy makers in the three branches- of government. Here, Vile asserts that an informal rule needs to be recognised by the principals of the three branches, namely, Members of Parliament, Ministers and their officials, and judges, that each recognise the difference between their own respective primary functions and the primary functions of the others.

Separation of powers is important as empiricism should prevail over idealistic fervour: *Messiah J in Bata Shoe Company v CIR*. It regulates the degree of overlap of the shared powers among the branches allowed by the Constitution and implies a separation of the fundamental functions of the legislature, executive and judiciary. This doctrine makes it not permissible for one branch to have control of the whole of the power of another or to directly impinge upon the essential functions of the other.

Laws that are inconsistent with this doctrine would be deemed void to the extent of that inconsistency: *Hinds v AG*. Each function is mainly consigned to a distinct branch which is unable to invade the other's province as under the constitution, one branch may not trespass upon the province of any other.

In *Ahnee v DPP* it was held that the constitution gave to each arm of government powers that were deemed necessary to discharge their functions. With this distribution of functions among the different branches comes a measure of autonomy. This allows checks and balances on each arm in order to prevent a concentration of power and ensure that no one branch gains ascendancy over the others.

SEPARATION OF POWERS IN TRINIDAD AND TOBAGO

The separation of powers doctrine has been implied in the way our constitution has been structured as the functions of each branch are prescribed in a separate and distinct chapter. Each chapter deals with the main functions of the branches. The constitution expressly sets

legislative powers in the legislature, judicial powers in the judiciary and executive powers in the executive.

Recommendation

The attorney General may refer a matter to the Commissioner of Police. The results of the investigation shall then be forwarded to the DPP for his consideration. Should there be any merit relative to the allegation(s) the DPP may then institute any proceedings he considers necessary in keeping with our international treaty conventions.

Clause 40 of the Bill would amend section 36 of the Act to require the Director of Public Prosecutions to inform the Attorney General of any application, warrant or order made under section 36.

The DPP's role and function is universal as he oversees the entire criminal procedure process. He is regarded as an independent authority as stipulated in s.90 of the Constitution. Section 90 speaks to the powers of the DPP which include the instituting, undertaking and taking over of criminal proceedings.

According to Dana Seetahal's 'Commonwealth Caribbean Criminal Practice and Procedure' Fourth Edition Chapter 4, "the constitution states that the DPP shall not be subject to the direction or control of any other person or authority'. The powers of the DPP under the constitution of Trinidad and Tobago seem almost free from control. While in Trinidad and Tobago the exercise of his powers by the DPP is subject to the responsibility of the AG for the 'administration of legal affairs', this should not be taken to refer to interference with the prosecution of criminal matters.

In the Court of Appeal in Trinidad and Tobago in *the State v Seeromaine Maraj-Naraynsingh et al*, it was held by a panel of five judges that in the exercise of his prosecutorial powers under the Constitution, the DPP is under no obligation to obey any instructions or directions from the Attorney General.

While the AG may have administrative powers over the department of the DPP as stipulated in *AG of Figi v DPP*, and any other power reserved to him by the Constitution, the DPP acts independently in his actual control of criminal proceedings."

This provision in the bill creates direct reporting requirement from the office of the DPP to the Attorney General. It infringes upon Constitutional independence of the office of the DPP. This provision ought to be deleted even if in keeping with the spirit of the functions of the DPP's office to prosecute, some information may not be entrusted to divulged to the Office of the Attorney General.

SACRIFICE OF THE SOVEREIGNTY OF THE OFFICE OF THE ATTORNEY GENERAL?

The effect of Clause 28 of the Bill affects the Independence of the Office of the Attorney General to be free from external control. The effect is wide reaching.

“Clause 28 of the Bill would insert new sections 22BA, 22BB, 22BC, 22BD and 22BE which would—

- (a) set out the considerations for listed entities by the Court in making an order under section 22BA(3);*
- (b) set out the considerations for designated entities by the Court in making an order under section 22B;*
- (c) empower a police officer to search an individual or premises and seize documents to ensure compliance with any order made by the Court;*
- (d) empower the Attorney General to make a request to the ISIL (D’aesh) and Al Qaida Sanctions Committee for the listing of an individual or entity; and*
- (e) empower the Attorney General to receive requests on behalf of other countries for the declaration of a person or entity as a listed entity.”*

Section 22 BB states :-

“(1) Where an order under section 22B has been made in respect of a designated entity, the Attorney General shall not apply to the Court for a variation of the Order in accordance with section 22B (9A) to make provision for meeting out of the property or specified part of the property-

- (a) any consideration under section 22BA (a)(i), (ii) and (v), (b), (c) or (d) unless he has first notified the Committee of his intention to apply to the Court for such an Order and the Committee has not indicated its objection to such an application to the Court within forty-eight hours of said notice; or*
- (b) any other consideration unless he has first obtained the consent of the Committee for such an application to the Court.*

(2) For the avoidance of doubt, where after an Order has been made under section 22B(3) the Committee has raised no objection in accordance with (1)(a) or has granted its consent under (1)(b), the Attorney General may apply to the Court in accordance with section 22B (9A) for a variation of the Order to provide for matters under subsection (1).”

The Committee now has direct control over actions of the Office of the Attorney General relative to his independence and his conduct of any matter in the High Court of Trinidad and Tobago. The effect of this provision ought to be reviewed and national wide consensus be obtained.

THE POLICE SERVICE:

THE ROLE OF THE POLICE SERVICE OF TRINIDAD AND TOBAGO

Prior to the proposed amendment to the Anti-Terrorism Act of Trinidad and Tobago 2017 and now 2018 it was only an officer ranked Sargent and above may have acted in accordance with the provisions of the bill.

The proposed amendments in the 2018 Act replaces the requirement of the rank of Sargent and above and now seeks to enable all police officers of the Trinidad and Tobago Police Service to effect the provisions of the bill.

In the 2014/2015 report made by Mr. David West, the Chairman of the Police Complaints Authority it was stated: -

“ From the previous reporting periods and up until the end of this period under review, the PCA received 1556 complaints. Of these complaints 958 are being actively investigated; 223 are before the courts (comprising some matters in respect of which the PCA made recommendations to the DPP for prosecution, and matters in respect of which the subject matter of the complaint is also the subject of judicial proceeding and therefore in accordance with section 37 of the Police Complaints Authority Act, cannot be investigated); and 375 have been submitted as completed by the Investigation’s Department. What can be deduced from these figures is that although the public’s faith in the PCA is strong, the expectation of our complainants of swift justice is not yet a reality.”

The number of police officers in the Trinidad and Tobago Police Service is approximately Six Thousand. The statement of Mr West reveals that over Twenty Five percent (25%) of the Trinidad and Tobago Police Service had complaints laid against them to the Police Complaints Authority. These officers are who greater powers are now being sought to be bestowed.

The report of the Manpower Audit Committee (MAC) of the Trinidad and Tobago Police Service was established on January 17th, 2017. The

The objectives of the Committee included:

1. Examining the existing manpower strength at all ranks and related units of the Police Service;
2. An examination of the developmental policies and the current standards and practices in the recruitment, deployment, training and career progression of officers;
3. Making a qualitative and quantitative assessment of the extent to which the expected levels of efficiency, effectiveness and accountability have been achieved.

The expectation of this manpower audit will be the first step towards reforming the administration and operations of the Police Service, as well as enhancing the nature and quality of the relationship it shares with the public.

A recent example of the abuse of Police officers not properly trained to deal with new powers bestowed to them was the passage of the Anti- Gang Bill 2010.

The police service must first be transformed in keeping with the findings of the Committee before the public shall trust members of the Trinidad and Tobago Police Service to properly effect the provisions of the bill.

This Joint Select Committee may wish to review the Hon. John Clarke QC, Report of the Inquiry into the Case of Dr Mohamed Haneef, Volume One, November 2008 (Clarke Report; R v Ul Huque [2007] NSWSC 1251.

This report emphasised that the persistent expansion of law enforcement and intelligence agencies' powers in the name of the war on terror has increased the risk of unnecessary infringements on fundamental rights in the absence of proper training by state agencies.

THE MUSLIM ROUND TABLE GROUP

Members: ASJA, TML, TIA, DUU, ASWAJI, AM, NMWOTT, ILSCA, IRS, FISCAL, TJ, ROU, Nel, IDM, SC, SFJM, MH

Phone 868 389 6006

5th March 2018

The Secretary to the JSC on Anti-Terrorism Bill 2018

Office of The Parliament of Trinidad and Tobago

Level 3 Tower D International Waterfront Center

1A Wrightson Road, Port of Spain

Dear Ms La Roche

The Muslim Round Table Group appreciates the opportunity given to submit our views on this important piece of legislation that seeks to strengthen the security of our beloved country and all its citizens from terrorist attacks and its ability to act against those who seek to perpetrate same. It seeks to empower the National Security Agencies and Apparatus to administer the provisions contained in the Amendment to the Anti-Terrorism Bill(12:07). Reference is made to the Constitution of the Republic of Trinidad and Tobago (4 of 1976.) which stipulates

Whereas the People of Trinidad and Tobago—

(a) have affirmed that the Nation of Trinidad and Tobago is founded upon principles that acknowledge the supremacy of God, faith in fundamental human rights and freedoms, the position of the family in a society of free men and free institutions, the dignity of the human person and the equal and inalienable rights with which all members of the human family are endowed by their Creator;

RIGHTS ENSHRINED

4. *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 or sex, 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 respect for his private and family life;

(d) the right of the individual to equality of treatment from any public authority in the exercise of any functions;

(e) the right to join political parties and to express political views;

(f) the right of a parent or guardian to provide a school of his own choice for the education of his child or ward;

(g) freedom of movement;

(h) freedom of conscience and religious belief and observance;

(i) freedom of thought and expression;

(j) freedom of association and assembly; and

(k) freedom of the press.

We met and examined in detail each proposed amendment in congruence with the rights of ALL Citizens of Trinidad and Tobago enshrined in the Constitution. We are pleased to inform that another Muslim Group, The Muslims of Trinidad and Tobago (MOTT) has agreed to join us in this submission. This would mean that approximately ninety nine percent of Muslims in Trinidad and Tobago are in support of this submission.

The following are our concerns, suggestions and recommendations.

GENERAL

- 1) Serious consideration MUST be given to the fact that those charged with the responsibility to operationalise the provisions of the bill, the TTPS, have shown lack of credibility, capability, and efficiency. Therefore, the provisions of the bill must be framed to be extremely clear with absolutely no ambiguity to all ranks of the TTPS. This is especially so as the Bill, as stipulated in C2 seeks to suspend the fundamental rights of citizens as enshrined in our constitution.
- 2) Where the burden of proof is passed to the person charged under the Bill, recourse to the courts to prove innocence should be quick and immediate.
- (3) Too much power is given to the AG and not sufficient separation of powers between the TTPS and Government (Political influence).
- (4) The proposed amendments in the 2018 Act empowers all police officers of the Trinidad and Tobago Police Service. However, based on statistics from the Mr. David West, the Chairman of the Police Complaints Authority it was stated (2014/2015 Report): - “.....
From the previous reporting periods and up until the end of this period under review, the PCA received 1556 complaints. Of these complaints 958 are being actively investigated; 223 are before the courts (comprising some matters in respect of which the PCA made recommendations to the DPP for prosecution, and matters in respect of which the subject matter of the complaint is also the subject of judicial proceeding and therefore in accordance with section 37 of the Police Complaints Authority Act, cannot be investigated); and 375 have been submitted as completed by the Investigation’s Department. What can be deduced from these figures is that although the public’s faith in the PCA is strong, the expectation of our complainants of swift justice is not yet a reality.”. The questions arises as citizens of the Republic of Trinidad and Tobago how can we have confidence that systems will be put in place to address cases of discrimination and victimization in a timely manner.

THE AMENDMENTS

- 1) Clause 5: Putting only the “ISIL(Da’esh) & Al Qaeda Sanctions Committee” of the UNSC gives the impression that the bill targets operatives that call themselves Muslims. We would like to suggest that all sanctions committees established by the UNSC be used instead.
- 2) Clause 8: 4(1)- “or being reckless as to whether it may be used” This is too ambiguous and provides opportunity for abuse and should be deleted. “Intention and knowledge of it” being used is quite sufficient.

5 – This provision is TOTALLY unjust. We have the case of Enron where the Executive Officers were culpable but by penalising the Corporation, the Shareholders and employees were the ones who suffered the most by that action. The shareholders, employees and innocent Directors and Officers of the body corporate must be protected. This must be separated to cases where, (i) the directors are the majority shareholders and (ii) where the directors are minority shareholders. It must also stipulate that employees must be given gratuity for service first, from any forfeiture of assets.

- 3) Clause 18: (c) (2) (c) – “ The practice of military exercises or movements” - We have seen reports in other jurisdictions where Muslims were arrested and convicted for engaging in paint ball games. We therefore suggest that this term be fully elaborated in detail. This may easily be done by referencing the act governing military exercise or movements, if such exist.
- 4) Clause 22: We would recommend that the criteria for designating an area a “declared geographical area” be clearly detailed in this Bill.
- 5) Clause 27: (1B) (d) (3C) Where an innocent person with a similar name to a designated entity is affected. There should be a speedier process to ensure the person is cleared, compensated and good name reinstated by an apology published in all newspaper, Gazette and media release to all media clarifying same, and paid for by the AG’s office.
- 6) Clause 28: Again, the reference to “ISIS and Al Qaeda” should be changed to all UNSC sanctions committees
- 7) Clause 35: We were unable to determine the reason for this change.
- 8) Clause 36: We suggest that this should not be changed. We believe informing a junior office may not generate a timely response required to thwart a possible terrorist act.
- 9) Clause 43: We object to this change. We believe putting seized cash in the hands of junior officers is a prescription for trouble

Hafeez Khan

Coordinator

Muslim Round Table Group



President
Al-Haj Maulana Shah Muhammad
Hassan Al-Qaderi (R.A.)
Al-Haj Rookmuddin Sahib (R.A.)

Anjuman Sunnat ul Jamaat Association Inc.

of Trinidad and Tobago

The Ahles Sunnat ul Jamaat Institution

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There is no deity but ALLAH and Muhammad (upon whom be peace) is the messenger of ALLAH

March 3, 2018

Simone Yallery,
Assistant Secretary
Parliament of the Republic of Trinidad & Tobago
G-7 Tower D,
Port of Spain International Waterfront Centre
1A Wrightson Road,
Port of Spain, Trinidad

Re: The Anti-Terrorism (Amendment) Bill 2018.

Warmest greetings from the Anjuman Sunnat ul Jamaat Association Inc. (ASJA).

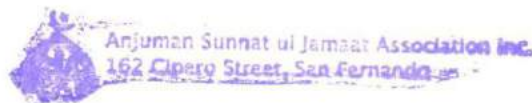
The ASJA was requested to examine the contents of the proposed amendments to the Ant-Terrorism Bill and make recommendations.

Upon examination of the Bill, there are areas of concern that we have observed the need to amend. The enclosed comments and advices have been made after due consultation with members of the Muslim community and they expressed some concerns with aspects of the Bill which has been documented and articulated as enclosed..

We wish to thank you for the consideration of extending the time allotted to us and we thank the JSC for this opportunity to make our contribution in this regard.

Best Regards,

Haji Yacoob Ali
President General



Anjuman Sunnat ul Jamaat Association Inc. (ASJA) response to the Anti-Terrorism (Amendment) Bill 2018.

Introduction:

The Anjuman Sunnat ul Jamaat Association Inc. (ASJA) is a Muslim Religious Organization incorporated by an Act of Parliament in 1935. Our membership spans across the country with about seventy odd Mosques representing a wide cross section of the Muslims who reside in Trinidad and Tobago. In addition, the ASJA is responsible for thirteen schools (government assisted primary and secondary) where the demand for placements of students is high. We also run and manage a number of early childhood education centres and a Higher Learning Islamic Institute. The hallmark of our organization is reflected in our discipline and progress. We contribute and are committed to the national development and building of this, our beloved country. As Muslims, Islam is our way of life and has been practiced here for more than two hundred years. For most of this period Trinidad and Tobago has been recognized as having the largest Muslim population in the Western Hemisphere with Mosques and Muslim communities across the length and breadth of our country. We are integrated in the society and do not support or encourage criminal behaviour of any sort.

The ASJA has been asked to examine the proposed amendments to the Anti-Terrorism Act. Our concerns are highlighted below.

The Bill to amend the Anti-Terrorism Act has incorporated harsh and ambiguous sections and having regard to the fact that we are peaceful, law abiding citizens of Trinidad and Tobago respecting the rights of others to coexist, we question if there is a need for such legislation in the first place. However, the times we live in may necessitate such actions.

The laws of the land are there to protect the rights and freedoms of all our citizens as enshrined in the Constitution. The Constitution is the highest law in the land and no other law can have those rights suspended except by having the necessary three-fifths majority in the House of Representatives. As a responsible organization we are guardians of the rights and freedoms of our citizens.

We support the authorities in their drive to make Trinidad and Tobago safe from possible terrorist activities and while there were persons who travelled to areas of conflict in the world who appear to have associated themselves with extremist ideologies, such individuals are a very small minority and are not in any way representative of the views and beliefs of the wider mainstream community. Individuals who identify with extremist views typically fall within a profile of persons who have a history of participation in criminal and gang activities and may incorrectly use Islam as a basis for giving credence to their actions. These few individuals indeed have misplaced views on the purpose of religion and spirituality and unfortunately have brought our beautiful way of life into disrepute. The apparent inability by the protective services to address these more fundamental and pre-existing conditions, coupled with lax border security should in fact be a much greater source of concern and targeted legislation.

We are taught in the Qur'an to look after our neighbours, do good for others and provide for those less fortunate. The proposed amendments as drafted have negative implications for institutions and large groups of individuals (Muslims and Non-Muslims alike), and while we are certain this is not the intent of the Government of Trinidad & Tobago, we are deeply concerned. Our view is that individuals should be treated with on a case by case basis to the extent that there is tangible evidence that there has been in fact unlawful activity conducted.

Giving the security agencies more power and authority, namely the Trinidad and Tobago Police Service (TTPS) can lead to abuse of power as seen over the 2018 Carnival period where a number of persons were detained against their will by the Trinidad and Tobago Police Service and then released without charge. The persons, who were present and witnessed actions that were carried out, have reported that warrants were not produced and the TTPS did not attempt to ascertain that occupants of the property they entered were in fact the persons of interest. This is a blatant contravention of our constitutional rights. The violent manner in which the TTPS approached this situation has left many innocent and law abiding people traumatized and have further eroded the peoples' confidence in the Police Service. We trust this policy will be reviewed.

The Bill:

Clause 5: This Clause makes references to organizations that are associated with Muslims Internationally, Al Qaeda, and ISIL as identified by the United Nations Security Council (UNSC). This is directly targeting Muslims and we strongly recommend that all "Sanctioned committees" established by the UNSC, be used for the purpose of the Bill.

Clause 8: 4(1) - "Or being reckless as to whether it may be used" This term is unclear and vague and subjected to interpretation by those investigating and provides opportunity for misuse and should be deleted. Intention and knowledge of it being used is quite sufficient.

(5) Where a body corporate or its director, manager, secretary or other similar officer concerned with the management of a body corporate has been convicted of an offence under this section, the Court shall have the power to—

- (a) Revoke business licenses;*
- (b) Order that the body corporate be woundup;*
- (c) Forfeit the assets and properties of the body corporate to the Seized Assets Funds and*
- (d) Prohibit the body corporate from performing any further activities.*

The provisions of this clause has the capacity to incriminate innocent persons who are employed or legally connected to a Body Cooperate. Where an individual may have committed an offence under this Act he /she must be held accountable and where the other Director/s, Shareholders or employees are not culpable they cannot be made victims. Innocent Shareholders, employees, Directors and Officers of the body corporate must be protected. It must also order that employees and suppliers be compensated for services before forfeiture of assets by the State. Where an individual has utilized his personal assets in the commission of an offence and is employed or legally connected to a Body Cooperate, the properties of body cooperate cannot be deemed to be part of the offence.

The added penalty of a fine of twenty five million dollars and twenty five years imprisonment is double punishment. Where a convicted person will now be required to pay twenty five million dollars, his assets will be liquidated to pay the fine which will result in dependents that are innocent, being deprived of their rights to enjoyment of property, effectively punishing them for crime they did not commit.

The ASJA recognises that the constitution of Trinidad and Tobago is the supreme law of the land and adheres fully to the rule of law. In 2003, the ASJA was invited to a meeting with the then Attorney General and had participated and shared its views on proposed legislation to deal with Terrorism.

At that time, the Legislation that was being developed included certain clauses relative to the financing of Terrorist Activities, and the ASJA was able to articulate to the Attorney General that the proposed financing provisions were likely to affect adversely with the fundamental principles of Islam.

Muslims are required to contribute two and a half percent (2 ½%) of their annual savings to the welfare of the poor and needy. This system has been operating throughout all Jamaats in Trinidad and Tobago and in many instances, the distribution of these funds takes place, locally and internationally and it works conversely where there are other groups and organisations that send funds to Jamaats in Trinidad and Tobago.

The provisions of this amendment impacts directly on Jamaats and individuals and by extension organizations, with respect to the distribution of Zakaat. Where donations are innocently distributed but ends up in the wrong hands, measures must be included where innocent individuals and or bodies cooperate involve in charity work are not persecuted.

It is the responsibility of the Government to provide an updated list of entities in a timely manner to inform financial institutions and organizations who are deemed to be "listed entities".

Clause 18: (c) (2) (c) – "The practice of military exercises or movements" - The parameters that define military exercises or movements are not clear and this can subject individuals or groups to undue harassment by the security agencies. With the world's branding of Muslims as terrorists, personnel from the security agencies can construe defence training or games as Military Training. In the United States there are persons having Muslim names were arrested and sent to jail for playing Paint Ball games.

This is another example wherein the proposed bill is quite ambiguous and leaves room for material abuse of powers by the protective forces. This term must therefore be clearly defined so the security agencies are properly guided.

Clause 22: 15B. (1) *The Minister may for the purposes of this section, by Order, designate a geographical area in a foreign country as a "declared geographical area" if he is satisfied that a listed entity is engaging in terrorist activities in that geographical area of the foreign country.*

...a "declared geographical area"... to be declared by the Minister is giving authority that does not define the criterion that will be used to declare an area in a foreign country. Through what international agency will he source his information and how will he substantiate the acquired information? Annually, Muslims from our country travel to the Middle East to perform the Hajj (pilgrimage). Circumstances outside of their control may result in necessary changes to travel arrangements causing pilgrims to layover or transit through "declared geographical areas". Undue hardships due to this outcome may be consequently meted out to such individuals causing among other things their privacy to be invaded and their future overseas travel significantly restricted. The burden of proof and responsibility imposed on citizens is made difficult which is onerous, unreasonable and impractical

"(1) Where the Attorney General receives information that-
(a) an individual or entity-

(i) committed or participated in the commission of a terrorist act; or
 (ii) is acting on behalf of, at the direction of, or in association with a designated entity or an individual or entity that has knowingly committed or participated in the commission of a terrorist act; or
 (iii) committed an indictable offence for the benefit of—
 (A) a terrorist;
 (B) a terrorist organization; or
 (C) a listed entity; or
 (b) an entity is owned or controlled directly or indirectly by a listed entity,
 he shall cause an investigation to be carried out in respect of that allegation and may for that purpose refer the matter to the Commissioner of Police who shall cause an investigation to be carried out in respect of the individual or entity.

(1A) where the Commissioner of Police receives a referral from the Attorney General under Subsection (1), he shall as soon as the results of the

Investigation are known, provide the Attorney General with the results of the investigation.

(1B) The Attorney General shall apply to a judge for an order under subsection (3) in respect of—

- (a) an entity, where the entity is a designated entity; or
- (b) an entity or individual where there are reasonable grounds to believe that the individual or entity—
 - (i) has knowingly committed or participated in, or facilitated the commission of a terrorist act; or
 - (ii) is knowingly acting on behalf of, or at the direction of, or in association with, an entity referred to in paragraph (a) or subparagraph (i);
- (i) has knowingly committed an indictable offence for the benefit of or in association with
 - a) terrorist,
 - b) a terrorist organization; or
 - c) an entity owned or controlled directly or indirectly by a listed entity.

The provisions of our democracy provides for the separation of powers, the Attorney General must not have powers to investigate or to instruct or cause to instruct the Commissioner of Police or any other investigative agency of the police service to investigate citizens.

The ASJA objects to the powers given to the Attorney General as defined in Clause 27, whereby he/she will have the authority to cause investigations to be carried out in respect to allegations. This, in our view, is dangerous, and can lead to innocent persons falling victim to incarceration based on allegations.

In conclusion, as an organization with tens of thousands of members, we are charged with the responsibility of guarding the rights and freedoms of our people. Our recommendations and objections are done so as to seek the interest of our members and the citizens of Trinidad and Tobago at large. The ASJA maintains and supports the efforts to eradicate terrorism world-wide, however, we must be able to distinguish those who bear affinity and sympathy with terror organizations and those who are not. The collaboration between law enforcement and religious leaders at the appropriate levels will serve to strengthen the effort.

The pursuit of ensuring law and order should not adversely impact the comfort and peace of mind of our citizens. We wish to highlight that while we spend time on discussing this body of legislation, our country is plagued by an increase in criminal activity of the most serious nature such as murders, rape and aggravated theft. While we understand the need for appropriate legislation to address terrorist activity, we take this opportunity to underscore the need for balance in deployment of resources between theoretical risks and active threats to the lives and wellbeing of our citizenry. Since this legislation is impacting on our fundamental rights and freedoms, care must be taken to ensure provisions are included for adequate checks and balances to allow for due process to be adhered to.



NATIONAL COUNCIL OF ORISHA ELDERS OF TRINIDAD AND TOBAGO (NCOETT)

“CONNECTING THE ENVIRONMENT TO THE ORISHA”

March 5th, 2018

**Simone Yallery,
Assistant Secretary,
Secretary to the Committee**

Ms. Yallery,

I greet you in the name of our Ancestors, Olodumare and the Orishas, on behalf of the Council of Orisha Elders of Trinidad and Tobago, an umbrella organization that represents the Ifa, Orisha (Yoruba) Community in the Republic of Trinidad and Tobago.

I am responding on behalf of the National Council of Orisha Elders of Trinidad and Tobago, a member of the Inter Religious Organization (IRO) of Trinidad and Tobago to the Joint Select Committee (JSC) Anti –Terrorism (Amendment) Bill 2018.

In reviewing, there were some concerns and questions raised for clarity. As a community (religion) our concerns are for our planet, the earth, where climate and geography, societal instability and scarce infrastructure create incredible challenges to the people living in various communities, especially here in our own state of Trinidad and Tobago, with the increasing fear of crime and criminal activities, against women, children, young girls, men and boys, the aspect of gang related activities that have resulted in increased homicides and the use of firearms coupled with the use of drugs, inhabits us daily.

Today we have seen the challenge of terrorism, reaching within our space with the recently revealed, unearthed credible information, of a threat to disrupt Carnival activities 2018, and the implemented security measures established to provide for the safety and security of citizens and visitors.

In times like these, the Recognition and Protection of Fundamental Human Right and Freedoms must take precedence and that responsibility resides in the heart of the state.

Attached for you information, please are the concerns.

Thank You

In service of the Orishas.

A handwritten signature in cursive script, reading "Neal Ryan Rawlins", written over a dotted line.

Neal Ryan Rawlins

Secretary

National Council of Orisha Elders

Of Trinidad and Tobago

05/03/2018

Questions,

The amendment to Anti-Terrorism Act, Chap. 12:07, has not clearly defined the meaning of Terrorism. The primary act of 2005 – describes as follows:-

An Act to criminalise terrorism and the financing of terrorism, to provide for the detection, prevention, prosecution, conviction and punishment of terrorist activities and the confiscation, forfeiture and seizure of terrorists' assets and of those involved in the financing of terrorism and for related matters.

With a cited a list of conventions stated in Part 1 – Preliminary 2 (a to j)

However the following is not mentioned

- **The UN General Assembly Resolution 49/60 (adopted on December 9, 1994)**
 - **UN Security Council Resolution 1566 (2004)**
 - **A UN panel, on March 17, 2005**
 - **Security Council at its 7272 nd meeting, on 24 September 2014**
-
1. Are the resolutions mentioned not necessary to have a clearer understanding of the definition in moving forward knowing internationally that there are controversies in defining terrorism?
 2. There is a need to fully clarify or define ISIL (D'aesh) and Al Qaida Sanctions Committee and explain the difference between ISIL and ISIS. The media has reported in Trinidad and Tobago - Unruly ISIS as a Criminal Gang. Please don't confuse us.
 3. Would there be a separate court created to deal with issues of acts of terrorism in Trinidad and Tobago.
 4. Will the amendment allow or create the process to prepare a list of suspected persons identified as terrorist in Trinidad and Tobago and internationally.
 5. Will the Amendments identify a legal process established to declare an organisation a terrorist group?

Controversy in Defining Terrorism.

The difficulty in defining "terrorism" is in agreeing on a basis for determining when the use of violence (directed at whom, by whom, for what ends) is legitimate; therefore, the modern definition of terrorism is inherently controversial. The use of violence for the achievement of political ends is common to **state and Non-state groups**. The majority of definitions in use have been written by agencies directly associated with government, and is systematically biased to exclude governments from the definition. The contemporary label of "terrorist" is highly pejorative-- it denotes a lack of legitimacy and morality. As a practical matter, so-called acts of "terrorism" or terrorism are often a tactic committed by the actors as part of a larger military or geo-political agenda.

The **UN General Assembly Resolution 49/60** (adopted on December 9, 1994), titled "Measures to Eliminate International Terrorism," contains a provision describing terrorism:

Criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstance unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them.

The UN Member States still have no agreed-upon definition of terrorism, and this fact has been a major obstacle to meaningful international countermeasures. Terminology consensus would be necessary for a single comprehensive convention on terrorism, which some countries favour in place of the present **12 piecemeal conventions and protocols**. Cynics have often commented that one state's "terrorist" is another state's "freedom fighter"

The **Arab Convention for the Suppression of Terrorism** was adopted by the Council of Arab Ministers of the Interior and the Council of Arab Ministers of Justice in Cairo, Egypt in 1998. Terrorism was defined in the convention as:

Any act or threat of violence, whatever its motives or purposes, that occurs in the advancement of an individual or collective criminal agenda and seeking to sow panic among people, causing fear by harming them, or placing their lives, liberty or security in danger, or seeking to cause damage to the environment or to public or private installations or property or to occupying or seizing them, or seeking to jeopardize national resources

UN Security Council Resolution 1566 (2004) gives a definition: criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organization to do or to abstain from doing any act.

A **UN panel**, on March 17, 2005, **described terrorism** as any act "intended to cause death or serious bodily harm to civilians or non-combatants with the purpose of intimidating a population or compelling a government or an international organization to do or abstain from doing any act."



TRINIDAD & TOBAGO POLICE SERVICE
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Our Ref: COP1/1/11

March 9, 2018

Ms. Chantal La Roche
Secretary to the Committee
Joint Select Committee on Anti-Terrorism (Amendment) Bill, 2018
Level G-9, Tower D
Port of Spain International Waterfront Centre
1A Wrightson Road
PORT OF SPAIN

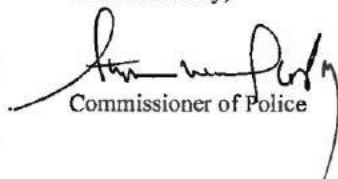
Dear Ms. La Roche,

Re: Request for Stakeholder Submissions: Anti-Terrorism (Amendment) Bill, 2018

Reference is made to your correspondence dated February 19, 2018 your ref PARL: 14/3/75 in which a request was made for stakeholder comments on the subject at caption.

Please find attached the response.

Yours sincerely,


Commissioner of Police



TTPS Response – JSC on Anti-Terrorism (Amendment) Bill, 2018
Request for Stakeholder Submissions
Submitted: March 9, 2018

TRINIDAD AND TOBAGO POLICE SERVICE

Response to

JOINT SELECT COMMITTEE ON ANTI-TERRORISM (AMENDMENT) BILL, 2018
REQUEST FOR STAKEHOLDER SUBMISSIONS: ANTI-TERRORISM (AMENDMENT) BILL, 2018

The following comments are submitted from the Trinidad and Tobago Police Service.

1. Definitions

- i. It is recommended that a definition for '**threatens**' be included in the interpretation section as there is ambiguity about the intended meaning. For example, whether it includes both expressed threats and implied threats; and, whether it is limited to a terrorist act carried out by the person issuing the threat or would be extended to include threats of a terrorist act issued by a person but carried out by other persons under his instruction. The requirement for a clear definition is further amplified because, in the absence of an actual offence being committed, to successfully prosecute a person, it would have to be proven that a threat was issued.
- ii. It is recommended that the definition of the following terms be amended:
 - **Terrorist act (Clause 5)** - The proposed meaning of a terrorist act is "an act which constitutes an offence under this Part, Part III or Part IIIA". The offences which relate to terrorist acts are prescribed within 'Part II' of the Act. Therefore, within the proposed meaning of a terrorist act the reference to 'an offence under this Part' should be deleted and substituted with 'an offence under Part II'.
 - **Weapon (Clause 5)** - The proposed definition of a weapon includes under Section 2 of the Firearms Act: "a firearm, a prohibited weapon, an explosive weapon, a chemical weapon, a biological weapon, or a nuclear weapon" and therefore, is limited to weapons of a serious and sophisticated nature. It fails to include the more traditional weapons which are lethal and can also be used to perform terrorist acts. This definition should therefore be expanded to include 'offensive weapon' - "*any article made or adapted for use for causing injury to the person, or intended by the person having it with him for such use by him*" - as defined under Section 2 of the Prevention of Crime (Offensive Weapons) Act Chapter 11:09. Inclusion of this definition allows for the prosecution of a terrorist act in circumstances where any type of unsophisticated weapon is used by a person.



2. Clauses 7 & 23 – Amendment of Section 3 & Inclusion of Section 15F

- i. It is recommended that Section 3 of the Act be amended to expand the offence of ‘terrorist act’ and include under sub-section (b), that this offence is also committed when a person ‘threatens to commit a terrorist act’.
- ii. With the amendment, a new Section 15F, should be included to allow for the institution of criminal proceedings against a person who ‘threatens to commit an offence under PART III of the Act (convention offences)’.

3. Inclusion of Offences

- i. There are two offences that are recommended for inclusion in the draft bill. These are:
 - 1) Possession for terrorist purposes; and
 - 2) Collecting, possessing or making a record of information of a kind likely to be useful to a person committing or preparing an act of terrorism

1) Possession for terrorist purposes

Provisions for the offences listed above are contained in the United Kingdom Terrorism Act 2000 which is reproduced in Appendix A. Section 57 of the UK Act deals with the circumstances where material is possessed to the extent that it gives rise to a reasonable suspicion of a terrorist purpose. It criminalises the possession of ordinary household items which could be used to manufacture bombs. Additionally, the word “article” is defined in Section 121 of the UK Act to include “substance and other thing” and has been used to charge persons found in possession of items such as:

1. Fertilizer (R. v Khyam (Omar) [2008] EWCA Crim 1612; [2009] 1 Cr. App. R. (S.) 77).
2. Aluminium powder (R v Khyam).
3. Petrol (R. v Lusha (Krenar) [2010] EWCA Crim1761.
4. A lighter (R. v Wong (William) [2012] NICA 54).
5. Latex gloves (R v Wong).

This offence also captures documents that may contain bomb making instructions and these can fall within the definition of “articles”. In R. v Rowe (Andrew) [2007] EWCA Crim 635; [2007] Q.B. 975 the subject of the first count was a W.H. Smith notebook containing manuscript notes that included instructions on how to assemble and operate a mortar.



The low threshold that is required for “reasonable suspicion” is balanced by the wording of Section 57(2) of the UK Act, where the person can provide a defence to prove that the possession was not for a terrorist purpose.

2) Collecting, possessing or making a record of information of a kind likely to be useful to a person committing or preparing an act of terrorism

Section 58 in the United Kingdom Terrorism Act 2000 (Refer to Appendix B) addresses the aforementioned proposed offence. This section focuses on the nature of the information as opposed to the circumstances in which it is possessed. There is a requirement that the information be of practical assistance to a terrorist. Examples of this threshold can be found in the following cases:

1. Information as to how to avoid surveillance and detection (*R. v Muhammed (Sultan)* [2010] EWCA Crim 227; [2010] 3 All E.R. 759).
2. In the case of *R. v Malik (Samina Hussain)* [2008] EWCA Crim 1450 (the self-styled “Lyrical Terrorist”) her conviction was based not on the propaganda documents, but those containing practical information about military techniques.

It is not necessary that the information should only be of use to a terrorist, as it may be of assistance to some other individual seeking to commit a different criminal act; however, it can still satisfy the requirement of the section.

There is a requirement to prove knowledge on the part of the individual that he had the information and was aware of the information contained therein (*R. v G* [2009] UKHL 13; [2010] 1 A.C. 43). The person charged is afforded a defence of “reasonable excuse” and the prosecution must then disprove beyond a reasonable doubt. Equally there is no requirement to prove that the information possessed was for a purpose connected with terrorism (*R v G*).

4. Section 22

- i. *Section 15B (1)* - Under Section 22B of the Act, the Attorney General has the authority to apply to a judge for an Order with respect to listing terrorist entities. In the same vein, the Attorney General should have a similar authority under the proposed Section 15B to apply for an order before a judge to designate a geographical area.
- ii. *Section 15B (2)* - The “criteria” that the Minister would have to consider in making the declaration under Section 15B (1) and the revoking the Order in Section 15B (3) needs to be identified.



TTP5 Response – JSC on Anti-Terrorism (Amendment) Bill, 2018
Request for Stakeholder Submissions
Submitted: March 9, 2018

iii. *Section 15C (1)*

- There is a need to include a minimal period of giving notice to the Commissioner of Police.
- The form of the notice should be scheduled.
- The method by which the notice is to be brought to the attention of the Commissioner of Police (for example, registered mail, delivery to the nearest police station, fax etc.) should be specified.

iv. *Section 15C (2)* - Where the Commissioner of Police receives a notice under this section and the reasons provided give rise to reasonable suspicion that a person is travelling for the purpose of committing in terrorist act under Section 15A, there should be a provision where he can obtain an order from a judge to prevent that person from travelling to the declared territory for the purpose of conducting further investigations.

v. *Section 15C (4)* - This section is contradictory as it is the Commissioner of Police who receives the notices to travel not the Minister.

vi. *Section 15C* - There is no offence where the person fails to file a notice with the Commissioner of Police. Such a provision should be included.

vii. *Section 15D* - There is no offence where the person fails to file a notice with the Commissioner of Police. Such a provision should be included.



TTPS Response – JSC on Anti-Terrorism (Amendment) Bill, 2018
Request for Stakeholder Submissions
Submitted: March 9, 2018

APPENDIX A

SECTION 57 United Kingdom Terrorism Act 2000

Offence: Possession for terrorist purposes

Provisions for the offences listed above are made in SECTION 57 United Kingdom Terrorism Act 2000 and are reproduced hereunder:

Section 57 - Possession for terrorist purposes

- (1) A person commits an offence if he possesses an article in circumstances which give rise to a reasonable suspicion that his possession is for a purpose connected with the commission, preparation or instigation of an act of terrorism.
- (2) It is a defence for a person charged with an offence under this section to prove that his possession of the article was not for a purpose connected with the commission, preparation or instigation of an act of terrorism.
- (3) In proceedings for an offence under this section, if it is proved that an article
 - a) was on any premises at the same time as the accused, or
 - b) was on premises of which the accused was the occupier or which he habitually used otherwise than as a member of the public, the court may assume that the accused possessed the article, unless he proves that he did not know of its presence on the premises or that he had no control over it.
- (4) A person guilty of an offence under this section shall be liable
 - a) on conviction on indictment, to imprisonment for a term not exceeding [15 years], to a fine or to both, or
 - b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.



TTPS Response – JSC on Anti-Terrorism (Amendment) Bill, 2018
Request for Stakeholder Submissions
Submitted: March 9, 2018

APPENDIX B

SECTION 58 United Kingdom Terrorism Act 2000

Offence: Collecting, possessing or making a record of information of a kind likely to be useful to a person committing or preparing an act of terrorism

Section 58 - Collection of information

- (1) A person commits an offence if-
 - (a) He collects or makes a record of information of a kind likely to be useful to a person committing or preparing an act of terrorism, or he possesses a document or record containing information of that kind.
- (2) In this section "record" includes a photographic or electronic record.
- (3) It is a defence for a person charged with an offence under this section to prove that he had a reasonable excuse for his action or possession.
- (4) A person guilty of an offence under this section shall be liable
 - (a) on conviction on indictment, to imprisonment for a term not exceeding 10 years, to a fine or to both, or
 - (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both. (...)"



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Our Ref: COP1/1/11

May 2, 2018

Ms. Chantal La Roche
Secretary to the Committee
Joint Select Committee on Anti-Terrorism (Amendment) Bill, 2018
Level G-9, Tower D
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1A Wrightson Road
PORT OF SPAIN

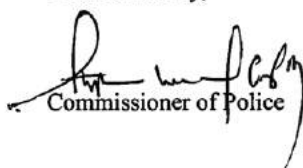
Dear Ms. La Roche,

Re: Joint Select Committee appointed to consider and report on the Anti-Terrorism (Amendment) Bill, 2018

Request for Additional Information

Reference is made to your correspondence dated April 26, 2018 your ref PARL: 14/3/75 on the subject. Please see the attached information as requested.

Yours sincerely,


Commissioner of Police



TTPS Response
JSC TERRORISM
Request for Stakeholder Submissions
May 1, 2018

TRINIDAD AND TOBAGO POLICE SERVICE
Response to Request for Additional Information from the
JOINT SELECT COMMITTEE APPOINTED TO CONSIDER AND REPORT ON THE
ANTI-TERRORISM (AMENDMENT) BILL, 2018

The request for additional information pertaining to *similar statutory provisions in other jurisdictions which seek to prevent an individual from leaving a jurisdiction whilst law enforcement officials conduct investigations into their reasons for travel* is outlined below.

Anti-Terrorism (Amendment) Bill 2018

- The recommendation regarding the restriction on travel is similar to that of the Australian, *Counter-Terrorism Legislation Amendment (Foreign Fighters) Act, No. 116, 2014*, which has a provision that prevents the travel of a citizen from a jurisdiction whilst law enforcement officers conduct investigations into their travel. This document is available at <http://www.comlaw.gov.au/> and states:

22A Suspension of Australian travel document

(1) The Minister may, on request under subsection (2), suspend for 14 days all Australian travel documents that have been issued to a person.

(2) The Director-General of Security may request the Minister to suspend all Australian travel documents issued to a person if the Director-General suspects on reasonable grounds that:

(a) the person may leave Australia to engage in conduct that might prejudice the security of Australia or a foreign country; and

(b) all the person's Australian travel documents should be suspended in order to prevent the person from engaging in the conduct.

3) If an Australian travel document of a person has been suspended under subsection (1), another request under subsection (2) relating to the person must not be made unless the grounds for suspicion



TTPS Response
JSC TERRORISM
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May 1, 2018

mentioned in subsection (2) include information first obtained by the Director-General of Security or an officer or employee of ASIO after the end of the suspension.

(4) The Director-General of Security may, in writing, delegate his or her power under subsection (2) to a Deputy Director-General of Security (within the meaning of the Australian Security Intelligence Organisation Act 1979).

(5) In exercising power under a delegation, the delegate must comply with any directions of the Director-General of Security.

24A Demand for surrender of suspended Australian travel document

(1) An officer may demand that a person surrender an Australian travel document to the officer if the document is suspended under section 22A.

(2) A person commits an offence if:

(a) an officer demands under subsection (1) that the person surrender an Australian travel document; and

(b) the officer informs the person that the officer is authorised to demand that document; and

(c) the officer informs the person that it may be an offence not to comply with the demand; and

(d) the person has possession or control of the document; and

(e) the person fails to surrender the document to the officer immediately.

- Penalty: Imprisonment for 6 months or 10 penalty units, or both.

- (3) An Australian travel document obtained by an officer under this section must be returned, to the person to whom it was issued, at the end of the period for which it is suspended, unless it is cancelled.

- **Recommendation:** In addition to the aforementioned information, it is recommended that provisions are made for the Commissioner of Police or his designate to apply ex parte to the High Court for an order to prevent the travel of the person from the jurisdiction, where the reasons outlined in the notice of travel, when set against other information or intelligence held by the Police Service give rise to a suspicion surrounding the bona fide travel to the geographical area.



TTPS Response
JSC TERRORISM
Request for Stakeholder Submissions
May 1, 2018

- The stay on travel will afford the police investigator an opportunity to investigate the information pertaining to the individual(s) travel and report to the Court, the findings of the said investigation, for a determination of whether the stay should be lifted or continued.



In the Name of Allah, Most Compassionate, Most Merciful

Islamic Society of the Caribbean and South America

MOTTO:
*Learn Islam
Teach Islam
Practice Islam*

P.O. Box 2466, Chaguanas, Trinidad & Tobago. Email: islamicsecretariat@hotmail.com

To: The Joint Select Committee,
Anti Terrorism (Amendment) Bill 2017.

23 April 2018

Honourable Members,

Greetings and best wishes for success in serving the Citizens of Trinidad and Tobago.

The Islamic Society is a non profit organization servicing communities in Trinidad & Tobago with the priorities in promoting Muslim unity and teamwork with other religious bodies in propagating the way of life ordained by God Almighty in His Holy Scriptures which he revealed and conveyed to all nations by His Holy Prophets. (Quran 2:4). We are not aligned to any political party but cooperate and assist the government of the day in promoting all that is good and forbidding all that is wrong.

We are guided by God Almighty as will be seen in our enclosed publication ""Why Religion? Why not Secularism? Also in respect to the following quotations of God Almighty in the Holy Quran:

Quran 49:10: "Believers are but a single Brotherhood." Believers are anyone who believe in God as the Creator and obey His commands as revealed in His Holy Scriptures.

Quran 3:105 on Muslim unity, "And hold fast by the rope of Allah and be not divided among yourself."

Quran 3:104 on teamwork with people of other faiths "Let there arise a band of people enjoining what is right and forbidding what s wrong."

In recent years, with anti religious propaganda by the USA and its allies, religion has been taking a downward turn in other parts of the world especially amongst Muslim nations and in Africa countries due to Secularists joining those who do not believe in religion and are not guided by way of life as revealed in His Holy Scriptures.

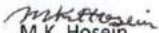
The United Nations which is the peacemaker representing all its members do not function as such. Its Security Council do not have a cross section of its members. Moreover decisions of its current members are questionable, including promoting wars instead of peaceful negotiations and distribution of weapons of mass destruction. In this regard the United Nations has responded that only the member states can pursue with the UN. Vide Appendix 1 and also 2 regarding Israel illegal occupation of the Palestinian lands.

Finally, you may take the advice of Pope John Paul 11 who said: "Now it is up to the leadership of all faiths to address these problems through dialogues, interfaith sessions and in providing medical aid to individuals." Every religious body should take his advice and assist the Government in implementing by providing medical and financial aid as are done in respect of alcoholics, HIV/AIDS, drug addicts, etc.

Also, you may take into consideration what Jesus said in Matthew 22:21 "Render therefore to Caesar the things that are Caesar's and to God the things that are God's." If no agreement is arrived at then the Citizens of Trinidad and Tobago should decide through a National referendum. This will serve as a wake up call for religious citizens to do much more for unfortunate ones.

Please be guided by God Almighty in Chapter one of the Holy Quran "Show us the straight way, the way of those on whom Thou hast bestowed Thy grace, those whose (portion) is not wrath, and who go not astray."

Your brother in the service of humanity,


M.K. Hosein

Executive Director



14 November 2016

Greetings from the Public Inquiries Team,

On behalf of the Secretary-General, thank you for your letter and attachments which were recently referred to this office for reply. The contents of your letter and proposals have been read and noted, and we thank you for sharing your thoughts with us.

While we appreciate the purpose of your query, we hope you will understand that the Secretary-General does not act without the support of the Member States. Any proposal to be considered by the Members of the United Nations must first be presented to the Ambassador of a Member State for his or her consideration prior to formal inscription on the Organization's agenda and a subsequent vote by the Membership. You may send your proposal to your country's representative office before the United Nations. Please find the contact information for all UN Member States on the following website: www.un.org/en/member-states/

Regrettably, we must also advise you that the United Nations does not endorse materials or projects generated outside the Organization.

Thank you for taking the initiative of writing to us.

Best regards,

Public Inquiries Team
Department of Public Information

EDITORIAL

THE FOLLOWING LETTER WAS SENT BY THE ISLAMIC MISSIONARIES GUILD OF THE CARIBBEAN AND SOUTH AMERICA TO THE UNITED NATIONS CALLING FOR ACTION ON THE PALESTINIAN PROBLEM

The Islamic Missionaries Guild

OF THE CARIBBEAN AND SOUTH AMERICA

February 17th 1988

We of the Islamic Missionaries Guild of the Caribbean & South America have over the past few weeks watched with horror, the physical decimation of the Palestinian people in their lands now occupied by the Israeli people including the desecration of the Holy Al Aqsa Mosque by the Israeli soldiers.

It is evident that this is an official Israeli policy, the culmination of a system of apartheid similar to South Africa, that has kept the Palestinians as a source of cheap labour for Israeli industry. The Palestinian expression of pent up anger and frustration at an oppressive occupying army has been met with typical Zionist oppression reminiscent of Nazi holocaust methods.

It is ironical that the sons and daughters of the holocaust who constantly trumpet to the world their sufferings under Nazism should themselves adopt against a simple people the same ruthlessness of extermination that was used against them. "Zionism" and "Nazism" are simply different names in different places for the same thing. Just as the Jews were convinced under Nazism that moral right would ultimately prevail, we Muslims are convinced that Zionism, like Nazism, would be consigned to the rubbish heap of history.

We therefore urge that all moral and, if necessary, military pressure be brought to bear on the Zionist State of Israel to ensure self rule among the citizens of the occupied territories and as an immediate step to halt the atrocities of its occupying forces.

May God Almighty reward you for your efforts in this humanitarian cause.

A REPLY WAS RECEIVED FROM THE UNITED NATIONS AS FOLLOWS

UNITED NATIONS



NATIONS UNIES

March 9th 1988

I wish to acknowledge receipt of your recent letter protesting the Israeli policies and practices in the occupied Palestinian territories. The United Nations is following developments in the area with grave concern and redoubling its efforts to alleviate the suffering of the Palestinian people, and to bring about a comprehensive, just and lasting solution of the question of Palestine, in accordance with internationally recognized principles and with United Nations resolutions.

I thank you for your support for the work of the United Nations on the behalf of the Palestinian people.

Yours Sincerely
Naseem Mirza
Chief
Division for Palestinian Rights

SUBMISSIONS

Members of the Public

Joan Harrison

Submissions on the Anti-Terrorism (Amendment) Bill, 2018

1. Page 6, Section 7 (1) (a) (iii) “the endangerment of a person’s life *other than the life of the person taking the action*”

(a) Consideration should be given to the inclusion of suicide **bombers**. Although this issue may be more evident in the far eastern countries, we should be proactive in the event that any resident, citizen or visitor may choose this form as his/her *modus operandi* in accordance with their ideology. If the drafters of the Bill incorporated the issue of suicide bombers in subsection (i) of Section 7 (1) (a), I believe that this should be clearly presented in the event in which suicide bombers may escape due to problems related to the denotation of the explosives strapped onto their bodies. Do not await the survival of a suicide bomber to realize that he/she was excluded from the Bill.

(b) Consideration should also be placed on the possibility of the **electronic monitoring** of convicted terrorists that may be released upon the payment of their fines and confinement. Although the fines are steep and the confinement extensive, there is a possibility financial support for the terrorist through relatives or friends as intermediaries. Therefore a terrorist being incarcerated at age 27 or 30 years may be released before he/she attains the age of 52 and 55 respectively in accordance with the calculation of “jail time.” It may be possible that upon leaving the prison walls at 55 the terrorist may be enveloped with anger and revenge with renewed vigour to begin the process again.

Submission from Patrick and Alex Bynoe

Expansion of suggestions from Report #1 are attached for committee deliberations.

Additionally, in the event of any attempts to commit terrorist acts and/or arson any and all individuals associated with such shall be by law prosecuted for treason and/or attempted murder/murder as deemed appropriate under the existing provisions of the Death Penalty sentencing laws of Trinidad and Tobago.

As a corollary the Government's National Security arm must maintain an active watch list to aid in countering radicalization by any/all nationals returning from battlefields of Syria, Iraq, and other radical country sympathizers.

Counter Radicalization Methodology: The French Planning

Recent plans and programmes made up of 60 measures recently unveiled by the French Government on 23/2/18 and announced by their Prime Minister are instructive with respect to the French Authorities approach to dealing with internal radicalization in their society.

A Goal is to designate key Divisional areas as hostile and prioritize them for suppression such areas are to be monitored daily after dusk with national helicopters, and joint military/police task forces until the areas are normalized.

The intensity of their presence will determine the outcomes and the length of time to clean up the areas.

Easily qualifying for suppression by order of hierarchical ratings are first region #4, then in sequence #1,#3, and #8, next in that ranking order.

The rationale for this action is the gang membership size ratio factor.

Assumptions are that the bigger the size of the gang, the greater is the demand for illegal firearms, ammunition, and sophisticated machinery..

Excellent conversation last night. Manley had it down in my time. I personally had a military accompaniment at the plant and sometimes on my way home, especially in 1978/1979. The crime suppression Act was more effective than the Gun Court even to today the gun court is ineffective in Ja.

The helicopters were the most feared, as they were manned with machine guns, and rotating bright spotlights on the targets below daily from dusk in Kingston. The unfairness about it was that they targeted Seaga's bordering constituency with Manley's.

The information supplied below was extracted from the Express Mon 22 January 2018 pg.4, from sworn evidence of the CoP filed in the high court May 17, 2017.

The CGIU stated that gangs were acquiring grenades and sub machine guns to protect territory and trade.

As November 31, 2017, there were 211 gangs with 2484 members.

The statistics reflect that gang activity fuels the demand for weapons.

The # of gangs and members per police Division ranked as follows:

- 1.Port of Spain Division: 41 gangs with 574 members.
- 2.Western Division 49 gangs 533 Members
- 3.Northern Division 23 gangs with 324 members.
- 4.North-East Division 15 gangs with 256 members.
- 5.Southern Division 19 gangs with 202 members.
- 6.Tobago Division 24 gangs with 190 members.
- 7.South-Western Division 21 gangs with 178 members.
- 8.Eastern Division 9 gangs with 121 members
- 9.Central Division 10 gangs with 106 members
- 1--9 totals the number at Nov.31.2017 above.

A further stat was given gang-related murders account for 35% of murders

Just looking at the numbers without dividing gangs can run from a low of 8 to 19 per gang

North -Eastern Division:

The gang ranked #4 seems to have the highest ratio rating of 17/ gang.a highly concentrated group and probably the most dangerous!?

This info is just what you wanted last nite for suppressions.!

Suppression Act suggestion.

What seems to be the key to the recent uptick in murders is the exacerbations of Crime due to compounded effects of the above subject; by that I mean now there are local gangs trained

with all the Muslim IS philosophy to deal with and some of their members are recent returnees from the mid-east crisis.

These gangs are now concentrated and are forming Muslim communities in the Central areas ie. Region # 9 located in; Cunupia, Endeavour, Chaguanas, and its closer outskirts, this is a potential growing Muslim hot spot.

The mix of a Hindu and a Rasta population in these areas also provides a new set of challenges to these local communities, living together in a small Pandora's box.

These local gangs are just recently proliferating, and clashing with the other indigenous gangs.

The recent National Geographic documentary on T and T covers Trini's involved with and also engaged in this terrorist organization

Just note correction girlfriend was from Region ranked #9. The IS Muslims of the Central Division.

The Rasta City from POS are in a perpetual war with the IS Muslims of Central She was "sleeping with the enemy" they took him for a walk with her and put them to sleep for good in a blanket in their own area sending all of them (the rastas) a coded message--to the POS gang "not in our backyard!"-- from front page news of the Express.

Further explanations Rasta "City" Boss is from Region 1 POS, his area is surrounding Nelson St, and Queen and Duncan St his girlfriend was from Region 3 Central which is Muslim gang. and by dumping their bodies in that Muslim gang IS territory it sends a clear message to others not to come in this area and go with our women and if you do you will meet this fate.

Also she could have been a decoy to fix him.

They usually warn them first and if they don't listen then they or their family suffer the ultimate penalty.

No room for divided loyalties must exist.

As a "Boss" He broke one of the basic fundamental rules of gangs and gang membership

Today's Newsday reports 'Rasta (City) Boss ' killed with his woman and rapped in sheets a Trini message to him ;" sleep together now eternally"

The bottom line to the story he and his girlfriend were found wrapped in bedsheets and had gunshot wounds based on autopsy report. His Facebook profile contained pics of high powered rifles, and rasta cult. His last post jan 15 said "Lies Deceit disloyalty is the main thing a ni**a rasta has to deal with everyday once you living" Relatives confessed he was a

suspected member of the notorious Rasta City Gang. That gang is in the Chaguanas area/Endeavour/Cunupia area which if you check the Rankins is either in Region 3 or another one in the top 4. However its on the East--West corridor or Central which is nearby.

Comment:

Gangs are apparently purging their ranks.or it's an ordered hit from a gang that is in the Region.

Following up 2 days later we see pace is steady at 2 per day.

Region #1 is still leading the pack WHY:

1.the port of Spain Docks located on Dock Rd. can't give the permission to install the US scanners here already to prevent the inflow of guns because of union objections.

2. In Cocorite which is also in region 1 you have wars between opposing gangs in the community.

Daily express pg 4 ,25 th. january.2018.

As of midnite 22nd: 47 murders most in Western Division which is From the north and south bounds of The Cemetery area near our home heading west all the way straight down to the cocorite, Carenage, Tembladora peninsular and continuing down to the former base area in the Chaguaramas Bay,including Petit Valley, Diego Martin, up to maracas bay on the north and all along the north coast bay.

#2.The western Division has the most gangs in the nation with 49 gangs per the data and is rated #2 in size of membership with 533 members and avg. of 11 members per gang, in the Nation.

It is noteworthy that the Army bases are located in the Area of Chaguramas.

#1.Port of Spain Division; Which covers east of our borderline landmark the Cemetery all the way northeast to Belmont,and its environs up to SanJuan/ Laventille and the hills,the dump area,including Morvant,Beetham north and south,Sea-lots and all of Port of Spain city and the city gate where we took the bus then continuing west along the dock area, tower,port and waterfront areas in the south side, to Dock Rd, near TnTEC powergen power station,Wrightson Rd.The borderline on the southside.

This area with 41 gangs and 574 members has the highest number of gang members in the nation,it is ranked #1averaging14 members per gang.

A Goal is to designate key Divisional areas as hostile and prioritize them for suppression such areas are to be monitored daily after dusk with national helicopters,and joint military/police task forces until the areas are normalized.

The intensity of their presence will determine the outcomes and the length of time to clean up the areas.

Easily qualifying for suppression by order of hierarchical ratings are first region #4, then in sequence #1, #3, and #8, next in that ranking order.

The rationale for this action is the gang membership size ratio factor.

Assumptions are that the bigger the size of the gang, the greater is the demand for illegal firearms, ammunition, and sophisticated machinery.

VERBATIM NOTES: PUBLIC MEETINGS

EXTRACT OF VERBATIM NOTES OF THE SEVENTH MEETING OF THE JOINT SELECT COMMITTEE APPOINTED TO ENQUIRE INTO AND REPORT ON THE ANTI-TERRORISM (AMDT.) BILL, 2018, HELD IN THE A.N.R. ROBINSON MEETING ROOM (WEST) LEVEL 9, (IN CAMERA) AND J HAMILTON MAURICE MEETING ROOM, MEZZANINE FLOOR (IN PUBLIC), OFFICE OF THE PARLIAMENT, TOWER D, PORT OF SPAIN INTERNATIONAL WATERFRONT CENTRE, #1A WRIGHTSON ROAD, PORT OF SPAIN, ON MONDAY, APRIL 23, 2018, AT 1.07 P.M.

3.00 p.m.: *Meeting resumed.*

CONCERN MUSLIMS OF TRINIDAD AND TOBAGO

Imam Sheraz Ali	President
Mr. Imtiaz Mohammed	Public Relations Officer
Mr. Criston J. Williams	Attorney-at-law

Mr. Chairman: Good afternoon, as we come back on to the live hearing of this programme, I welcome us back to the Joint Select Committee on National Security. We have already, as a Committee, introduced ourselves to the general public, however, we have just had a little bit of rearrangement of parties before us now, and we are now back with a different representation who are before us for submissions to the Joint Select Committee. I will move immediately to invite our brothers sitting at the table now to introduce themselves to the general public, and over to you.

Mr. S. Ali: Thank you very much, Chairman, and the members. My name is Sheraz Ali. I am the Imam of the Nur-E-Islam Masjid in El Socorro in San Juan. Also the president of the group, Concern Muslims of Trinidad and Tobago, and also a member of the Muslim Round Table Group that is also being represented here today.

Mr. C. Williams: A pleasant afternoon, members of the commission, I am Criston Williams, attorney-at-law. I am one of the attorneys that represent the Concern Muslims of Trinidad and Tobago.

Mr. Mohammed: Imtiaz Mohammed, PRO, Concern Muslims of Trinidad and Tobago and president of the Islamic Missionaries Guild.

Mr. Chairman: Assalam walekum, and welcome to the Committee, gentlemen. May I ask Mr. Ali which hat you are wearing, not the literal one, but are you with Concern Muslims or Muslim Round Table in terms of submissions?

Mr. Ali: I am with both groups actually. I will stay with the Muslim Round Table afterwards.

Mr. Chairman: Wonderful. So then we will take it we have received, and we thank you sincerely for the written submission coming from you, a very comprehensive submission on the part of the Concern Muslims. And we recognize, Mr. Williams, that you authored a vast amount of the content on that particular submission. The Committee was ably assisted by your recommendations and we did consider it in a very fulsome fashion. Your submission is a fairly comprehensive submission comprising several pages, 57 pages in submissions in total. We took the opportunity to matrix it out against every single clause and we have gone through as a Committee our understanding of the submissions as presented by you. They were very fulsome. And so we had a significant amount of—how should I say—guidance off of your submission. There was not a need to ask you for too much clarification of it because you took your time to express it in a very fulsome way.

Mr. C. Williams: Most grateful, please.

Mr. Chairman: May I ask for your opening statement, whomever is designated to give us that opening statement, and then we can dive directly into the submissions which you wish to take us through. You may have certain headline submissions that you may wish us to consider as your particular points of interest, and certainly the members of the Committee will also have certain questions that we wish to put to you. So, may I ask you to begin?

Mr. Ali: Thank you very much, hon. Chairman, members of the commission, other

invited guests. The Muslim community in Trinidad and Tobago is integrated into every strata of our society. We have had representation up to the highest level in the personage of the former President, His Excellency Noor Hassanali, and countless luminaries in the fields of law, medicine, engineering, entrepreneurship, agriculture, et cetera, have touched our lives in a positive way. These individuals have contributed significantly into our national development and stability. In addition to economics, Muslims contribution to academia, to arts and culture, and even politics cannot be overstated. As a minority we have sufficiently contributed to the melieu of Trinidad and Tobago to hold our collective patriotic heads high. Yet, we live in a world today in which Islam and Muslims connote in the minds of the feeble-minded and uninformed images of violence, terror and injustice. The international and local electronic print and social media to a large extent has condemned the great religion of Islam as being barbaric, unfit for modern times and prejudiced against women, adherence of other faiths and minorities. Despite these falsehoods, Islam continues to be embraced by more people globally than any other major religion in the world. It is against this backdrop that we sit here today.

As Muslims we stand for justice and the rule of law. As such, we support the Government's attempts to protect all of its citizens from the actions of those people who use violence and terrorism as a means of furthering their own political, ideological or religious aspirations, especially when such desires result in harm and destruction of people and property. However, we must also be careful that the baby is not thrown out with the bathwater. Our issues with the amendments to the Anti-Terrorism Bill lie generally in the fact that the emphasis is placed in the Bill exclusively, it seems, on Muslims, as well as the far-reaching proposals that seem to indict individuals, or rather Muslims as guilty before trial and investigation. It is imperative therefore that the provisions of this Bill target individuals inclined to terrorism rather than our own Muslims. These two terms, ladies and gentlemen, are

not synonymous. We therefore applaud the opportunity today to explain our concerns in full detail and hope that our deliberations would be fruitful and positive. Thank you very much.

Mr. Chairman: Thank you very much, Imam Ali. So we have a very fulsome submission from you. However, you have made—several of your submissions can be brought under certain umbrellas, and in fact in the summary of your submissions you have taken the time to assist us by putting a formula to that. So you have provided us with your introduction. In your submission, your written submission you have provided us with a statement from the Islamic Council of Scholars of Trinidad and Tobago. You have looked at the effectiveness and implications/the impact on Muslims. You have analyzed and recommended the introduction of an independent reviewer for the Anti-Terrorism Act. You have looked at the value of an independent reviewer to Trinidad and Tobago, drawing upon other jurisdictional utilization of the concept of a reviewer. You have looked at the definition of “terrorism”. You have looked at the concept of the “financing of terrorism”, getting funds to and from or for a terrorist organization was part of your submission. You then went on to look at the powers of the Attorney General, the role of the Attorney General, the concept of the separation of powers principle of the Executive versus Judicial and Legislative arms of the State. And then you have dealt with an overriding concept of whether one is sacrificing the sovereignty of Trinidad and Tobago to deal with the issues of terrorism in the manner in which the anti-terrorism law proposes. And then you have looked, in finality, at the Trinidad and Tobago Police Service.

I have taken the time to introduce to the public domain the extent of your submissions and the breadth of your submissions by reading out some of the crystalized versions of your submissions, and I thank you for that. May I ask just as a general opening question of you? You made a submission that this Bill seems to

target Muslims, may I ask why you say this Bill targets Muslims as opposed to targets terrorists?

Mr. C. Williams: We made a submission that the Bill seemingly targets Muslims in Trinidad and Tobago. The sole reason for that basis would be the listing of terrorist organizations as ascribed by the United Nations Sanctions Committee which has approximately two or three organizations listed and they are purely Muslim. This would be in the backdrop of other terrorist organizations and groups which we should know would have occurred throughout world history.

Mr. Chairman: May I drill a little deeper? Is it because the Bill recites the United Nations Committees that you say that this is a Muslim targeting? For instance, in describing the Committee as the ISIL, Da'esh and Al-Qaida Sanctions Committee established by the United Nations Security Council, pursuant to resolutions 1267 of 1999, 1989 of 2011, and 2253 of 2015 concerning ISIL, Da'esh, Al-Qaida, and associated individual groups undertakings and entities. Is it because of the utilization of those named entities that your submission is that this targets Muslims?

Mr. C. Williams: Mr. Mohammed would answer this.

Mr. Mohammed: Good day to the panel. Okay, let us not, you know, beat around the bush, as I would say, on this issue, right. Since 9/11 we have seen a change in the world where a lot of terrorism acts, if you want to call it that, Muslims were accused of those things, and most of these things happened in the Middle East. And terrorism laws became—or terrorism laws started to be implemented aggressively across the world, and war was brought upon Muslim countries in some instances in retaliation of 9/11, and we in Trinidad and Tobago had no acts of terrorism since 1990. When it was brought to the public that Muslims were joining ISIS, right, this is when Trinidad seemed to want to bring, or brought a lot of amendments since 2005, when the first terrorist laws were passed, and then I think they had about three different amendments or four different amendments, and then you have this

amendment which is very wide. So based on all of this information, right, we as Muslims who live in this country, Trinidad and Tobago, are of the opinion that this Bill will really interfere with our freedom as enshrined in the Constitution of Trinidad and Tobago, and interfering with our freedom, you know, and then the acts –when the People’s Partnership was in power then you had the arrests of a number of Muslims, and then just recently the carnival events. Only Muslims’ homes were searched, only Muslims were arrested, and so on, right, so it is obvious to the Muslims that this Bill targets the Muslims.

Mr. Chairman: Thank you, Mr. Mohammed, but in focusing upon the Bill itself the submission was that this Bill targets Muslims. So the Bill is the written law of Trinidad and Tobago which is being proposed to be amended by the Bill which has been in circulation and upon which we have received submissions from your attorney, Mr. Williams, as mixed in with other positions. In saying that the Bill targets Muslims as opposed to the Bill targeting terrorists, which is the intention of Bill, I wanted to understand that. So what I catch from your submission is that there is a general backdrop which one ought to consider, and that general backdrop is that in the Middle East, in particular, there are Muslim countries where wars are raging right now and where certain events are portraying. But I had a very specific question here, because the one place where there are names in this entire Bill, the Bill talks about terrorism, what is a terrorist act, what is the financing of terrorism, but the only place that the Bill talks about a name is where the Committee, the ISIL, Da’esh, Al-Qaida Sanctions Committee has been referenced. Are you saying that—I want to understand if this is offensive, the use of the United Nations Committee names for ISIL, Da’esh and Al-Qaida? Is that, in your view, something which targets Muslims? Are you saying that ISIL, Al-Qaida and Da’esh are Muslim entities that should not be targeted?

3.15 p.m.

Mr. Mohammed: We are not saying that the UN is wrong to use ISIL or Da'esh, but what we are also saying is that there are many other non-Muslim terrorist groups that are not mentioned in there, and a lot of Muslims in our country are very concerned about that specific point made there, and that gives the impression—

Mr. Chairman: Sorry, would you clarify for us so that in making the law we want to be precise. To what particular point? You said Muslims are concerned about that particular point.

Mr. Mohammed: We are talking about the Da'esh/ISIL clause as you may call it. Now, from what I understood, and I learned this from yourself at a meeting, that that clause came out from a UN committee.

Mr. Chairman: That is the name of the committee. It is like saying it is just the name of the committee that the UN came up with. But I wanted to know if this particular—because the only place where there was a name which could possibly be interpreted to mean a Muslim was the use of these Arabic expressions here: ISIL, the Islamic State of Iraq and the Levant, as it used to be ISIS and Syria; *al qu'ida* which in Arabic means “the base”; *da'esh* which has a meaning as well. These are Arabic words that have particular meanings, but I wondered if this was an expression which found offence, was offensive to the Muslim community?

Mr. Mohammed: Well, the Muslim community did take offence to it.

Mr. Chairman: I am compelled to ask just one more question; sorry for interrupting you, Mr. Mohammed. But you do agree that ISIL/Da'esh and Al-Qaeda are terrorist entities?

Mr. Mohammed: Well, from what we have learned in the media and so on, I do not have any—I have never been in Syria, the experience of what ISIS does and so on, but yes I would go and say, well okay, based on all media reports and so on you can say yes they are terrorist entities.

Mr. Chairman: But does the Concern Muslims of Trinidad and Tobago want this

reference removed? Is it that this is causing concern for the Muslim community, because there is a view that this label may be catching Muslims as opposed to terrorists?

Mr. Williams: If I may, please. What would be of direct concern would be firstly the fact that there would be those Muslim entities or names listed there. However, we must look beyond that basis of the names being there for the concerns that Muslims of the country may think that the Bill affects individual Trinidadian Muslims. And why? If you look at the history for the past four or five years in Trinidad and Tobago, there would be increased sensationalization of terrorist threats, terrorists persons, and they all seemed to belong to someone relative to the Muslim faith.

Mr. Chairman: May I ask you Mr. Williams, wearing your hat as a legal advisor to the Concern Muslims, in your view, this is in your legal opinion, acting for your clients as you do, do you consider that the reference to ISIS/Da'esh Al Qaeda Sanctions Committee and the ISIL (Da'esh) Al-Qaida group by the United Nations is targeting Muslims?

Mr. Williams: I would say broadly that the title being placed there it targets anyone who is associated with the Muslim faith.

Mr. Chairman: So persons that fund Al-Qaeda, that fund ISIS or go as foreign terrorist fighters in fashions where you see the world witnessing videos of beheadings and burnings and bombings, or you saw Osama bin Laden step forward and say, "I as the head of Al-Qaeda committed atrocities of a particular kind", you are saying that that is something that ought to be removed.

Mr. Williams: I never said that please. What I am saying is that the effect of it being placed there has an effect on the minds of the Muslims in the country of Trinidad and Tobago, because of affiliations. Whether it be one degree of separation, two degrees of separation, that in itself causes concerns.

Mr. Chairman: I will ask one more question before I ask member Ramadhar and Dr. Moonilal to jump in.

Are you saying that persons who are connected—because you just said that, one degree of separation or two degrees of separation from these entities, ISIL/Al-Qaeda, that those persons should not be penalized?

Mr. Williams: No, what I am saying is that the potential effect of the Bill even in a country where actually in Trinidad and Tobago it is said that there exists one degree of separation, it potentially places each and every member of the committee, as well as myself, at risk for any association, whether I know I am associated or I do not know I am associated, it places all of us at risk.

Mr. Chairman: I did say one last thing. Would it help if we were to amend it to say, “such committees as the United Nations may designate from time to time”, as opposed to using the name Al-Qaeda, Da’esh, ISIL?

Mr. Williams: May I respond to that in writing, please?

Mr. Chairman: Sure. May I ask member Ramadhar and then Dr. Moonilal to jump in please.

Mr. Ramadhar: Chair, and thank you gentlemen. It is very easy to form the opinion that it is targeting Muslims, especially when 100 per cent of the named entities in the Bill are Muslim referred, and I think your suggestion, Attorney General—

Mr. Chairman: Sorry, member Ramadhar, forgive me. I must be clear on the record. I do not consider Al-Qaeda, ISIL and Da’esh to be Muslims. They are haram in Islam. They commit acts of atrocity, and the Government of Trinidad and Tobago does not consider them representative of the Islamic faith in any form or circumstance, and I say that as Attorney General on that point. So I do not associate them with Islam at all. But forgive me for interrupting.

Mr. Ramadhar: Not at all, in fact I think it was enriching to hear you state that,

and that is a higher philosophical discussion that we may have to engage in the wider community. But it is associated with the Middle East which is the seat of Islam, and therefore I think it is necessary to ferret out the good from the bad, the haram from the godly, as we proceed. Your recommendation or suggestion just a few moments ago, if it would help to have a formulation that does not necessarily name only those entities, because this is a terrorism Bill, across the board for anyone, whatever religious background—and certainly there is no religion that says you should kill or murder innocents. I think we should explore that, so that we give some level of comfort, and the association that my friend, Mr. Williams, speaks to—because it is a community that has some level of reason to believe that they have been singled out in the past, whether it was intentional or otherwise. Whatever the feelings are, we have to address those feelings. And if the formulation that you are suggesting could do that, I think we should explore that now.

Mr. Chairman: Dr. Moonilal had his hand up and then we go to Imam Ali.

Dr. Moonilal: Chairman, Mr. Ali is very eager to respond on some of the matters, I would prefer to hear him first.

Mr. Ali: Thank you, hon. Chairman and members. I want to concur with what Mr. Ramadhar is saying. In fact, when I had discussions with many members of the Muslim community what came across is not so much that these terrorist organizations are mentioned, but that there were no other mentions of organizations such as the Irish Republican Army or the Tamil Tigers and other known terrorist organizations, therefore it seems as though the Muslims were being targeted. So either solution where no actually named organizations that might be associated distinctively with Muslims be mentioned, or the entire range of them be mentioned.

Mr. Chairman: Thank you for that clarity.

Dr. Moonilal: It was precisely my question; because you can do away with the names that are there now, notwithstanding the higher argument on that, but you can

include other names. So you are saying that the inclusion of other groups, whether they are from Sri Lanka or Germany or America or wherever, would in a way nullify that concern, at least at a symbolic level, if not in real terms, because the prosecution or the intimidation or harassment which we speak about, and which I have also heard that concern, will not go away if it is there just my changing something in the Bill. But at least at the symbolic level that would assist the other named entities who are also placed. Correct?

Mr. Ali: Yes.

Mr. Hosein: To members, removing the reference of the ISIL and the Da'esh Committee, if we remove these names, do you think that the Muslims will still feel targeted?

Mr. Williams: Realistically, for the purposes of these discussions, is it possible for these names to be removed in light of the obligations towards the Sanctions Committee, is it just surface or face value that we are saying we could, we would like to remove those names, because I would think not?

Mrs. Robinson-Regis: Mr. Chairman, could I?

Mr. Chairman: Yes, please.

Mrs. Robinson-Regis: I would like to suggest that we perhaps go back to what the Chairman had suggested. The UN is very clear on identifying which groups they are talking about in their declaration, and those are the groups that we have mentioned in the legislation. But I like the suggestion of the Chairman that we say, "or such other groups as may be suggested or designated by the United Nations", rather than saying these groups and the Tamil Tigers and the Irish Republican Army. Because we could come up with several other groups, the Skin Heads, the this one, the Ku Klux Klan, so it just takes us into a whole long list, that somebody will say, "Why you did not mention somebody else?" So I think it might serve us in good stead to go with the UN formulation and then use what the Chairman has suggested.

I would like to make that suggestion.

Mr. Chairman: Thank you very much, member. Before Imam Ali comes in and before Sen. Hosein comes in, that was a very important question that you just asked, would we meet muster if we do not name these particular entities. I took it that that was what the question was in part.

Mr. Williams: Yes, Mr. Chairman.

Mr. Chairman: And if we could not meet muster by not specifically naming them, whether we would be on the right track.

Mr. Williams: Or would we be in breach of our United Nations' obligations that we have signed up to.

Mr. Chairman: The obligation that may find itself in jeopardy is the Financial Action Task Force recommendations. That is the work coming out of the FATF.

Mr. Williams: So then may I ask you therefore if the FATCA Bill directly relates and correlates to the application and the functioning of the amendments and the proposed amendments to the Anti-Terrorism Bill?

Mr. Chairman: No, the FATCA Bill has nothing to do with this particular end. The FAFF, the Financial Action Task Force produces in its mutual evaluation exercise recommendations for every country that is a part of the FATF world, which is 156-odd countries, and they say you need to have specific laws to treat with the following things, and they make the recommendations. The consequence of not complying with the recommendations is that the country gets blacklisted. So banks stop doing business with you, financing throughput through intermediary banks, et cetera, all of those things happen on that particular side. But it may very well be, and the Committee is awaiting certain specific advice, that the modification to the formula can be done by referring to the resolutions of the United Nations as opposed to name point.

But I am hoping to hear from you, and I will take it as having been given, that

you too agree that ISIL, Da'esh, Al-Qaeda are terrorist entities, because we do not want the international world to have the impression that we in TrinidadandTobago, for some reason, think that those are Muslims as opposed to terrorists, because the intention of this legislation is to treat with terrorism and that is who these people are. So remember all eyes are on us, me and you, and we do not want to cause concern to anywhere else in the world, that we for some reason believe that ISIL, Da'esh, Al-Qaeda are representatives of Islam and not terrorists.

Mr. Williams: To answer your question, what I would say is, and I will stick to my answer, that they have been designated such entities by the United Nations and until any information is contrary or they have been delisted my official position would be that of the United Nations as they have so placed them, because I do not know subjectively what belief persons may have, so I cannot answer about those organizations. I could just stick with what I know in the law as what the United Nations has ascribed as terrorist organizations.

Mr. Chairman: Appreciated, and for the record Trinidad and Tobago in our courts also designated these entities as terrorists in our listings under section 22B of this parent law. So in TrinidadandTobago our courts recognize these entities as terrorists.

Mr. Ali: Thank you, hon. Chairman. I think the vast majority of Muslims in TrinidadandTobago hold these organizations as terrorist organizations, based on the evidences that have been presented in the media and other evidences as well. So I think your Committee can take it that the vast majority of Muslims in Trinidad and Tobago do hold that position.

I would like to also just reference to Sen. Hosein's question about whether if this part of the legislation is amended if that will suffice to the comfort for the Muslim population here in Trinidad and Tobago, and the answer to that is no because we do see a lot of other areas that we hope we can get into, especially for example

the designating of certain areas as specific geographical areas for terrorism. Those are things that are really worrisome to the Muslim community as well, especially since Muslims are very well known to go specifically to certain areas in the Middle East as part of their religious observances.

Mr. Chairman: Let us jump directly to that. Those are the proposals for an amendment to a new section 15 of the Act, where the Minister has the ability to declare certain parts of, but never an entire country, as a declared geographical area. The Bill does not specify where in the world that happens. There is an assumption, as Mr. Mohammed dealt with a little while ago, based upon the assumption that a lot of activity happens in the Middle East, that this may find itself there.

The Committee in its consideration of your very useful and helpful submissions saw the references to the Holy Land, in particular Mecca and for Hajj, et cetera, and we were quite careful to understand that persons who wish to carry out their religious duty and privilege in performing religious pilgrimage did not find themselves worried about making a trip to Mecca, the Holy Land, for obligatory visit. But I wish to assure you nowhere in the world is Mecca treated as a designated area—nowhere in the world. I would think it impossible for that to actually be the case. That would be like something I could not contemplate.

Apart from the religious pilgrimage issues, what concerned the group that this was targeting? Because this still fits in under the umbrella of the targeting of Muslims. Could you provide a little bit of amplification for us as to how this declared zone becomes a Muslim issue as opposed to an international issue?

Mr. Ali: Thank you, Sir. First of all, we need to understand that there are three places in the world that are considered to be the holiest sites for Muslims, and there are great rewards and blessings as well as obligations for Muslims to visit these three places. The first of them as you would have mentioned is Mecca; the second of them is Medina and the third is Jerusalem. You will understand that all three of them are

in the Middle East, and they are in areas where there can be problems of terrorism close by.

If there is a designation of a geographical zone, for example, if something happens close to one of these holy sites, remember that Muslims who go there they go there once in their lifetime. They save their money for years, and when they go there they usually go for a month. They would not find themselves in these places just staying in Mecca or Medina for the month. They may visit other areas. There are other areas of significance. For example there are areas in Saudi Arabia where significant battles in Islam took place. Sen. Al-Rawi would know of the battle of Badr and so on, the places where the Prophet Muhammad received his first revelation. Muslims are going to be moving all around. Now even with the new laws that the Saudi Arabians are embarking upon, making much of Saudi Arabia a tourist area as well, there is going to be a lot of new incentives to go to different areas.

Muslims are going to find themselves—if this particular part of the legislation is enacted—in all kinds of trouble innocently, not realizing, not knowing that they went there for a month, and within two weeks there was an explosion in some place 10 miles away, and the Minister made 50 miles around that area a designated geographical zone, and on return he may have to face immigration officials who are not au courant with what has gone on, and he is incarcerated. Then his assets are frozen, and he finds himself in all sorts of trouble just because he has gone on a visit to visit parts of the Holy Land. So it is an issue.

It is not an issue specific only to Muslims however; this can happen to other people going to other places as well. We have Christians who go to Rome for example, to Italy, to places some of the saints were, and so on.

Mr. Chairman: Or Jerusalem.

Mr. Ali: And they may find themselves in a place where there is a terrorist attack

close by, and all of a sudden that place has become a terrorist zone. How are they going to know that Trinidad and Tobago has, in the last week, or two weeks or three weeks that they have been away, declared that place a geographical zone and them not come back and find themselves in trouble?

Mr. Chairman: Thank you very much, Imam. May I ask for your views on the prescriptions that the Bill provides for the ability to inform prior, during or after to travel to those designated zones? Because the law as proposed is not just the mere fact that you have been there that causes the problem, is that you have been there and you have not, when asked, said, “Well okay, I went there for the following reasons. I went to the do Hajj. I went to Badr for a particular historical value”, et cetera. It is not just that. It is the deficit of notice that really bites into that. What are your views on the prescriptions provided?

Mr. Ali: I will ask Mr. Williams to give the views of the organization as well, because we have discussed it at length. But just to say personally as well I think that our population here, our local population, the vast majority of them are going to go for legitimate reasons and they are going to be unable and unaware of these regulations that they have to fulfil. As well as the Trinidad and Tobago Police Service does not have the resources to fully investigate all of these issues, if somebody is saying they are going here and they are going there.

We go for example to Haj with tour operators. When we go with these tour operators, the tour operators may take us into areas of what is called ziara or visits, that we will have no idea before we have gone, that we were going to go to those places. They are not announced. They are planned when you are already there, depending on the weather and depending on the time, and so on. So you are going to find that there are going to be many people who have innocently fallen afoul of this regulation. They did not know they were going to go there, and many people will not know.

You are talking about very simple people in this country who may not be even on the Internet and are able to check when these places have become geographical zones. I personally believe that this part of the legislation should be struck out altogether.

Mr. Chairman: But may I ask this: let us assume that they do not know, had no knowledge, went on ziara—which literally just means a voyage or a travel in Arabia. You went on a trip, you come back and somebody says, “Please inform me where you went”. You disclose you went to “X” place, which happened to be declared while you were abroad, you had no knowledge, you are a simple person, you went for religious purposes. In the disclosure of information coming from that person to the immigration officer at that point—because there may be an immigration officer—when the person says, “Well, look here is my itinerary. I went to Hajj. I went to Jerusalem. I went to Medina.” That is the end of the story. What is offensive beyond that? Because it is not just a one-sided picture.

Then I have got to ask a second part: How do we treat with the phenomenon of the foreign terrorist fighter who does go to Raqqa, who finds himself on the cover of *Dabiq Magazine*, who is Jihadi John for instance, encouraging people to come and join a place, and has been to an area? How do we treat with the concept of the genuine run-afoul-of terrorism person who is a foreign terrorist fighter?

Mr. Ali: In the first place many of the people who would have gone for Hajj—as I say, people who are from Trinidad and from around the world who go for Hajj usually they go after they retire. Many of them are in their fifties and in their sixties. They are old sisters and brothers who have saved their money and they have gone. They are not even aware. If you come back to immigration and say, “Where have you gone to visit?” “We have been to Saudi Arabia, but we cannot say I have been to Dammam, or I have been to some other city. It will be very difficult upon them.

How do we deal with those people who may go for an illegal purpose? That

is why we have the Trinidad and Tobago Police Service. That is why we have people who are being investigated up to now. That is why we have had arrests and subsequent release of people for the Carnival threat. Let that be the way that this is done, rather than assuming that people are guilty because they have gone on some trip and they have been somewhere that they did not even realize was a terrorist zone, and now have to face sometimes uninformed immigration officers who put them right through the entire scenario of being arrested, going to a cell, having their assets frozen, then getting—

Mr. Chairman: No, no, the law does not provide for any of that, Sir. It does not provide any of that. In fact, the TTPS just pointed out in their view that there was a loophole in the law because there were no sanctions. There was no offence created for this. What is your view on that?

Mr. Ali: The police's position?

Mr. Chairman: No, the fact that there is no sanction, there is no offence. There is no sanction. The TTPS's submission is that there is no sanction for the failure to give notice. The enquiry coming from them involved a recommendation that there should be a sanction, because the draft law does not propose a sanction. There is no offence in that end of the equation, nor does this law permit you to be arrested and detained and charged, et cetera, at the airport as you come back, et cetera. It does not provide that at all. So I would like to know where that comes from.

Mr. Williams: You are speaking directly relative to sanctions if no notice is given. However, we cannot just dissect the fact that if no notice is given there are no sanctions attached. Why? Because we must look at the Bill in totality, and the effect that if no notice is given then someone maybe accused under another aspect of the Bill. So there are sanctions attached for no notice being given. We are also speaking about—

Mr. Chairman: Do you mean the subsection (5) provision? If so, may I ask, are

you looking then at section 15C—if I remember if offhand, subsection (5)? Are you looking at 15B subsection (4)?

Mr. Williams: (4) and (5).

Mr. Chairman: Is that what you are looking at? That is where the Minister designates a geographical area, 15B.

Mr. Williams: Yes, but to look at that section alone by itself to me would be a bit naive. Why? Again, it boils down to the effect travelling to these designated areas may have. Not just subjectively on the person who went, but to anyone who may have financed their travel to that particular area, for anyone who maybe their friend, relative, and they may have gone to that particular area.

Mr. Chairman: But it is only triggered if you give false information. So the law specifically says—because we cannot speculate either as to what the law means. The law is literal in its interpretation, and I do agree with you that you look at the law in the round. You have to look at the whole, I accept that submission.

Mr. Williams: Thank you.

Mr. Chairman: But specifically the presumption shall not apply to a person who has given notice with reasons, under section 15C, unless the reasons given are false in any material particular. Could I have your view on that?

3.45p.m.

Mrs. Robinson-Regis: Mr. Chairman—

Mr. Chairman: Yes, please.

Mrs. Robinson-Regis:—may I add to that question? The fact that 15B(6) says:

“Where a Trinidad and Tobago citizen or a resident of Trinidad and Tobago is within a declared geographical area before an Order is made under subsection (1), he shall, unless he has reasonable excuse, leave the declared geographical area within thirty days of the designation, failing which he is presumed to have committed an offence...”

So the suggestion that was made by Imam Ali, that you may go to the area with—and it was not a declared area at the time that you left, but you have a time frame of 30 days within which to leave that area. Maybe that would be covered by 15B(6).

Mr. Chairman: Dr. Moonilal.

Dr. Moonilal: Yeah. Just a couple matters, but first this matter since it just came here. At 15B(6), the issue I think you raised earlier is that, how would a person, a traveller, a citizen know in the first place that an area has been designated. And more than that, if they do not know, do not have an idea when, how do they count 30 days within which they must move out, so to speak. That might be an issue I think you touched earlier with the knowing the zones; just to air it there.

But to the wider issue, now clearly the designation of an area as a declared zone and so on done by another Government, we may not have power over that. We cannot determine that another Government declared this area or that area, that is their business, and that is pursuant to their own security policy and so on.

The concern in our jurisdiction would be the citizen, the traveller generally, the Islamic brother or sister going for a particular purpose and so on. If the need for declaration is removed so that you do not have to declare anything before, during or after. However, the police has the right to investigate all criminal offences and so on and persons who they suspect may be involved in terrorist threat as well, that is their duty to investigate. The police can continue an investigation into any traveller, any citizen because that is their job. But does the problem come in only because of this declaration before, during and after? That is what I wanted to ask you. Would you be satisfied that the police do their job? They have to do their job if they have suspicion that anyone is going to commit or intends to commit a terrorist act.

But the declaration, you are saying, would trap persons, and particularly I understand that, the elderly folks who will go pursuant to their own beliefs and the time when their financial arrangements would allow that. So if that is done away

with, would that help in anyway?

Mr. Chairman: I must correct something, forgive me, Dr. Moonilal, that was just said. Trinidad and Tobago will never be in the situation where another country has declared a zone, this law does not contemplate that. The world could declare any number of zones. Australia has a law just like this where they can declare zones. It is irrelevant to us. It is only if the Minister of National Security of the Republic of Trinidad and Tobago declares a zone by way of order pursuant to the Laws of Trinidad and Tobago that that zone is declared. So the other country's operationality does not affect us. However, Dr. Moonilal's question still stands.

Dr. Moonilal: Chairman, could I just for the benefit of the public, because it is an interesting point here, the benefit. You could explain, I am sure that the Chairman could explain: On what basis will the Minister of National Security in this country make a designation that a particular area in Saudi Arabia is a zone? You could explain that, because he cannot be doing it based upon any local or domestic factors, it has to be some other, and you can explain that so that the national community knows when the Minister is to designate, on what basis is he going do to that. He does that upon a basis, and that basis is triggered by some foreign development.

Mr. Chairman: Or local. So, for example, to give life to the enquiry of my learned colleague. The Minister of National Security would on the basis of matters coming up at the National Security Council make declarations. For instance, in Trinidad and Tobago where we have reported evidence of citizens from Trinidad and Tobago participating in terrorism, as we have had an open declaration by the gentleman who is known as Shane Crawford. In that circumstance we will have direct information of a particular area inside Syria that is to be declared and it will be open to the Minister to do that, but that is a moving target of national security. It may very well be that other entities may inform you, your international partners, et cetera. But, Mr. Williams, before we get too far away from the question put to you by Dr. Moonilal.

Mr. C. Williams: It is on the same point that Dr. Moonilal brought and he posed the question to you. Is there any established criteria and policy which would, A, guide a Minister of National Security or, B, guide members of the population to know what basis and what factors the Minister of National Security would take into consideration to declare a national zone?—so therefore, we will have consistency if there is a change in the Minister of National Security, for example.

Mr. Chairman: Sure. The answer to that, the criterion will be, it is a matter of national security. From Minister to Minister as the law must continue to speak. The issue of putting criterion, 4,000 people must die on X date by way of bomb in X location on three occasions over X period of time, just by way of an example, becomes complicated in law. From a national security perspective, as time progresses and as the law continues to speak, the introduction of criterion would be difficult. It is not to say that someone could not, I mean, there is a whole law of nations still to apply to this.

What happens if Australia declares, in a hypothetical scenario, Port of Spain to be a declared zone—because we had X event happen here? It would be for Trinidad and Tobago to make objection in the international forum as to that designation.

For instance, right now in the international world banks are stopping doing business with Trinidad and Tobago because of this issue, and the only complaint that we have is in the international forum, so that is an actual event that is happening on. So to answer your question as to criterion, the criterion is, the matter of national security as determined from time to time.

Dr. Moonilal: Chairman, just out of an abundance of caution, Chairman, you can help actually in this matter. There can arise a situation where the Minister in Trinidad and Tobago declares an area, and I am saying Saudi Arabia, again, because the brother has been raising a lot of the areas there, declares a 50-mile area in Saudi

Arabia as a zone, but the Government of Saudi Arabia has not declared that.

Mr. Chairman: Correct.

Dr. Moonilal: Then how is the traveller then, in that area, getting out 30 days within the designation?

Mr. Chairman: That is why the formula in subclause (6) specifically says, “unless he has reasonable excuse”. That formula of reasonable excuse finds itself in a number of pieces of law, and it is the classic exculpation to say, “I just did not know, could not know, had no Internet access, I am an elderly person, it is unreasonable”. But we must bear in mind that where there is a reversal of a burden in law, where we are putting the reversal of the burden upon the person to say something, that is not at proof beyond reasonable doubt standard, that is at a balance of probabilities.

So the standard is a civil standard, it is not a criminal law standard, and once the burden is discharged, it returns to the prosecution. So this is a technical area of law which Mr. Williams would be aware of. Where the presumption is reversed, the burden is not a proof beyond reasonable doubt, and the formula specifically contemplates, unless he has reasonable excuse, and that is a very wide formula. May I have your views on that, Mr. Williams?

Mr. C. Williams: Chair, I do believe that the Act itself creates several reversal of burdens to actions by citizens, and I do believe that was dealt with in my submissions, please, at number 17 and number 15 relative to the presumption of innocence, as well as to the fourth element as to recklessness, and the consequent effect of such recklessness, please.

Mr. Chairman: No. But your view on A, the caveats that the Bill has provided. The caveat is, number one, give notice, in any form or in any fashion, do not prescribe it—

Mr. C. Williams: Yes.

Mr. Chairman:—because that will be too restrictive. Number two, we dilute the

mental intention, the mens rea aspect by saying reasonable excuse is there. Number three, the presumption when reversed is at a balance of probability standard, not proof beyond reasonable doubt. Is it in your view that those are inadequate protections for this particular type of contemplated offence or treatment?

Mr. C. Williams: To properly answer that question, we would require more data from persons that will be affected because—

Mr. Chairman: But we are talking under the veil of law, not data. The concept of law is a presumption that you have travelled for a purpose which is prohibited. The law as crafted in this Bill suggests that you must not be in a declared zone, and that if you are there you should leave, but if you have not had the chance to leave, you have a reasonable excuse to be there. The law suggests you simply inform why you were there and the fact that you had been there, you may do that before, during or after. There is no prescriptive time frame provided because it is something which must be considered in the round. It does not say you must do it within one week or within six weeks of return or within two months of return. In fact, that was a criticism by the TTPS that there was no prescriptive formula.

The presumption of law is that when you reserve the burden, you drop the standard of proof from the criminal standard to the civil standard, and once that standard has been reversed, it goes back to the prosecution. Are you saying as concept of law that that is inadequate?

Mr. C. Williams: As a concept of law it may not be inadequate in this particular situation, however, the hardships that one person may have to endure because of the creation of the reverse of the burden, it may be more detrimental to members of society in itself.

Mr. Chairman: Thank you. May I, at this moment, put something on the record for the benefit of the listening public? One of the reasons for including this particular provision as a policy perspective included addressing the open discrimination of

members of the Muslim community. International bodies and countries were blacklisting Trinidad and Tobago citizens and they found themselves on no-fly zones. Mr. Mohammed, you and I have had several a conversation on this, denied entry into certain countries, visas were revoked, et cetera, and people did not have the opportunity to clear their name because there was only one side of a story which some international entity or country had.

In providing for this particular provision, the intention is to make sure that when a foreign country says, “Well okay, John Brown can no longer enter my country”, Trinidad and Tobago finally has an opportunity to say, “Well hold on, we have a record of John Brown”. John Brown declared where he went to. John Brown had a reason for going there and you have got the wrong John Brown. Right now there is no way to exculpate any of our citizens who find themselves in those scenarios. So this is not only a sword, it is a shield at the same time. Has that formed any part of the considerations from your perspective, Mr. Williams?

Mr. C. Williams: From that particular aspect, yes. However, something that could be used as a sword and a shield, I refer to my original answer that the hardships that may be encountered by citizens it may outweigh.

Mr. Chairman: And in your view, what are the hardships? If you were to numerate them? What are the hardships, identify them?

Mr. C. Williams: The hardships relative to—okay. For example, firstly, we will have to deal with the quality of the police service and how they assess information given, and that in itself cannot be—

Mr. Chairman: In relation to what?

Mr. C. Williams: In relation—

Mr. Chairman: So the law says, “Tell me why you went”.

Mr. C. Williams: Yes.

Mr. Chairman: Explain from there.

Mr. C. Williams: Okay. So the laws says, “Tell me why you went, tell me where you are going”. If something happens across there within that particular time frame, inform me also.

So firstly, we will be assuming that persons are generally informed as to the precise requirements in travelling, where they go and when they come back, and if that, for example, is not known by members who wish to travel to any place that may be a geographical area, that in itself may result in the hardships to person who travel there, but also—

Mr. Chairman: I am trying to get from you what the hardship is? Because you are exculpated the minute you give the notice.

Mr. C. Williams: Yes.

Mr. Chairman: So what is the hardship? This law proposes, the minute that you have given a reason—

Mr. C. Williams: Yes.

Mr. Chairman:—that is the end of the story. So tell me where the hardship is in that?

Mr. C. Williams: Because, again, I say that one may be reckless in where they go, and then they may hear that because of reasons of national security—

Mr. Chairman: This law says, you can go there, you know. Let me just give you a personal example.

Mr. C. Williams: No. But the law in that particular aspect said that you can go there—

Mr. Chairman: Yes.

Mr. C. Williams:—but if you look at the law in totality—

Mr. Chairman: Yes. The law in totality says that you may go to a declared zone.

Mr. C. Williams: And that is what—

Mr. Chairman: You just have to say that you went.

Mr. C. Williams: Yes.

Mr. Chairman: That is all the law says.

Mr. C. Williams: Yes. So therefore, if someone goes on vacation, for example, anywhere they go and national security whether the information is accurate or not accurate, that situation, for example, may result in hardships to someone that travels to that area. And, again, I go back to—

Mr. Chairman: Sorry, Mr. Williams. What hardships?

Mr. C. Williams: The hardships that I am speaking about, Sir, you must inculcate it with the provisions of the Act in its entirety.

Mr. Chairman: Strip that down for me because I do not understand that at all. What is the hardship?

Mr. Ramadhar: Just a moment. I am hearing the possibility of misinformation being given, for instance, as we have heard, an elderly person may have gone to a location and may not have appreciated even the name at the time, but that the security forces do have information that they went there. When they return, they may unwittingly give false information that could trigger other aspects of the Act. Is that what I am hearing, Mr. Williams?

Mr. C. Williams: Yes. That is exactly what I am getting at. And that in itself, the operation of the entire Act would create hardships for persons who may wish to go to areas that may be dangerous, yes.

Mr. Chairman: Right. Is it part of your submission that the remedies available to the person of making a declaration, saying why they went and having a reasonable excuse, that those need to be improved? Imam.

Mr. S. Ali: I would like to answer that question by also answering Dr. Moonilal's question which is that, it would serve the Muslim community better if this part of the legislation is removed because it will unwittingly and innocently trap many, many of our citizens who are going for religious purposes. And let the Trinidad and

Tobago Police Service continue to monitor whomsoever they believe are going to the areas that you all will consider yourselves to be declared geographical areas, and allow our people, the Muslims and non-Muslims as well who may go for religious or for vacation or for business to go to wherever they wish to go.

Mr. Chairman: Thank you, Imam, thank you. And may I for the record, because we are trying to wordsmith, forgive me if I am sometimes a little direct. Okay? In law you try to encapsulate what is the mischief you are dealing with, what is the potential remedy, how you balance it. So, Mr. Williams, I do not mean to sound in any pointed or too sharp a context. I am trying to get into your mind to see if there is a balance inside of here that we could fashion when we wordsmith the law, and I thank member Ramadhar for that.

Mr. C. Williams: Well, where I think we differentiate, Chairman, is that one cannot isolate section 15 by itself, one cannot isolate section 22 by itself or any of the particular sections in the Act. All of our discussions and deliberations must put the entire Act as a whole because if it is that one falls short in one particular area, then there is an effect under another provision of the Act, so the Act traps all actions.

Mr. Chairman: Yes. So as any one piece of law does and as the current law does, there are multiple avenues. There are convention offences, there are acts of terrorism offences, et cetera. So, yes, one takes the general flavour, but you still have to have the individual offences as many laws do.

May I ask, Mr. Williams, we have had very good understanding to the sentiment behind it because law is never decided in a vacuum, it must be done in a social and other context, a societal context? So this exploratory journey inside the sentiments of the law is very, very important and the Committee is very grateful for it, I wish to thank you for that. But just before we come to the further questions from both my members to my right, I just wanted to understand.

So, we have got some understanding which now affects some of your other

submissions. I have got the general targeting of Muslims approach, I understand the submissions that you have made so far. We have jumped straight into, from definition we have gone straight into the section 15 which is the largest clause really that most people, sorry, most of the submissions centred around. There were some issues around mental intention, the mens rea aspects of the offences which the Committee has considered in our clause-by-clause analysis, and I wish to tell you that we are contemplating certain recommendations for improvement there.

Before I come, I would like to ask you to think next of the other points, the generalized points that you wish to address us on, but both members De Freitas and Hosein have questions that they wish to add in and member Robinson-Regis. Member Hosein.

Mr. Mohammed: Mr. Chairman, I would like to make a contribution before they ask questions. Is that okay?

Mr. Chairman: Please do.

Mr. Mohammed: Okay. So going back to the notice. Right? While we are talking about the notice, no information has been given as to what this notice will be made up of. Would it just be your name, address, date of birth? Or would it be asking me, you know, where am I going? Who am I staying by? What address am I staying by? The hotel, how much money am I travelling with?—et cetera, et cetera? Right? I find that being an invasion of my privacy. Right? And the wider Muslim community, and you know that we have held several meetings already on this issue of the Bill. Right? And they are also of the opinion that this is an invasion of our privacy and information that we would not like to give out.

Now, one of the other things coming out of this notice that is extremely important, is how much time is it going to take to get approved or not approved?

Mr. Chairman: There is no requirement for approval or non-approval.

Mr. Mohammed: Right. Okay.

Mr. Chairman: And just to clarify whilst you are at the mike. Are you saying that the provision of hotel information, travel dates, et cetera, is information which you do not want to give?

Mr. Mohammed: I would not want to, you know, give that type of information out to the Commissioner of Police. If I have to give it to Immigration which is a necessity, then that is fine, but when you are giving it now—the state of our police service, to be honest with you, that information can reach anywhere.

Now, another thing about it is that, if I say that I am leaving the country, I give notice that I am leaving this country with US 5,000 or US 10,000 cash on me, when I reach at Piarco airport waiting to depart and I gave notice, they are being notified of my departure. Right? Because according to this information, this Bill here, the Commissioner of Police will then give notice to the AG, to the Minister, Immigration, et cetera. Right? And I have this money in cash. Now, I could be at Piarco—

Mr. Chairman: Sorry. Mr. Mohammed, the Bill does not ask for any financial information.

Mr. Mohammed: I know. The Bill does not ask for it, but what I am saying is that, if this form, we do not know what this form is being used for.

Mr. Chairman: There is no form prescribed by the Bill either, Mr. Mohammed.

Mr. Mohammed: What is that?

Mr. Chairman: There is no form prescribed by the Bill at all.

Mr. Mohammed: No. The notice. The notice, it was said, that it would be a form.

Mr. Chairman: No, Sir. That is not what we have said.

Mr. Mohammed: So the notice is going to be verbal?

Mr. Chairman: It is written notice. It does not say what you must condescend to. So it does not say—I am coming to. I am just addressing what you have raised. So there is no requirement—

Mr. C. Williams: No clarity.

Mr. Chairman:—for your financial information, et cetera, prescribed by this law. So, I do not know where that comes from.

Mr. Mohammed: Okay. Okay. Let us say, we did not give any financial information and so on. Right? I give notice that I am leaving the country. Right? Now, you passing a law where you are saying that if you go to this designated area, the possibility exists that you could be prosecuted and so on if you do not give the notice and if your excuse is not good enough when you return. Right?

Now, from the time I give this notice there has to be something in place to trace my whereabouts. Right? Now, let us just say, for instance, I give notice that I am going to, let us just take Turkey as an example and Ankara is designated as a restricted area by the Minister. I go to Istanbul, I do my business in Istanbul, et cetera, whoever else comes and tells the authority in Trinidad that they saw Imtiaz Mohammed at Ankara. Right? When I return, what happens then? Who do you believe? Do you believe what I am saying or do you believe the information that you have just received? Right?

So, to me, that is exposing a Muslim and any other traveller it might be, whether it be a non-Muslim or a Muslim to a risk, and that is a very high risk because you could be prosecuted when you come back and jailed for whatever period of time, and from the Bill here you will see that they are talking millions dollars, et cetera, et cetera. Right?

Now, another thing with this notice is that, if it is I go to give notice that I want to travel to a certain country. Now, listening to the interview with the TTPS just now, they were saying that they must have the initiative to say, “no”, to issuing the notice. Right? Now what about based on that if they suspect that the person is not going to do what he is doing, but might be going to be involved in some illegal terrorist act. Right? Suppose this person genuinely wants to go and perform the

Umrah which is the smaller Hajj that could be done any time of the year, or for that reason, let us say, he want to go and make Hajj, and when you now have to go through a restricted area, let us say, because for some reason, you know, your flight path was, as the Imam said earlier on, sometimes you have to go with a whole group and, you know, the tour operators at that end and so on, might only be able to carry through a certain area. Right? Then what happens is that, if he has to, you know, then come back and he ends up now in a situation, well not come back, but he is refused. According to the TTPS, their suggestion, if he is then refused—

Mr. Chairman: I do not want you to run away—

Mr. Mohammed: Then you will be denying him—

Mr. Chairman: I do not want you to run away with the TTPS' submission because that is not in the Bill.

Mr. Mohammed: And of course, but I mean, the suggestions that they give will be up for consideration by your team. Right?

Mr. Chairman: Yes.

Mr. Mohammed: So, I mean, it would be good for us now to, at least, let you know what, how it could be complicated.

Mr. Chairman: Understood. But the Committee will look at that. Permit me having just intervened upon the hypothetical about the TTPS said in its previous oral submissions which the Committee does not have before it. It is not something that we are looking at, I could tell you that right now, but we, of course, as a Committee still have to consider things in the round. Would you mind if I were to ask Sen. Hosein and also Sen. De Freitas to make their points? Because they have been holding on just a little while.

Mr. Hosein: Mr. Mohammed, I understand your concerns, and also Chair would have earlier alluded to the fact that when we make laws we make it for the social operations of our country, and in this case will be the concerns of the Muslims.

Now, what I want to get at is that—from all of the submissions when I review them, I did not see numbers—if you can assist me in terms of letting me know how many persons travel for the Hajj period from Trinidad? And how many students that we have studying in foreign Islamic universities?—simply because I can foresee some problems with respect to the inefficiencies of the police service, that you all may have some concerns with, that for a particular period of the year, the police will now be flooded with hundreds of notices, and whether or not the police service can efficiently investigate these notices? So, I am asking you all, is that your fear with the Bill itself in terms of providing the notice, or is it with the inefficiency of the police service in actually conducting their proper enquiries?

4.15 p.m.

Mr. Mohammed: Okay, well I think it is not a matter of only having to deal with the notices, but our concern would also be the risk that the person would face in traveling to a country where a designated area is. Like I said before, I could be going to Istanbul but then somebody reports that they saw Imtiaz Mohammed in Ankara. When I come back, whose information are you going to believe?

Mr. Chairman: I could answer that immediately. The person who says that you were in Ankara for terrorist purposes would have to bring evidence. It would have to be considered. It would have to, if a charge is to be laid, it is gonna have to ultimately, if it is going to succeed, be at proof beyond reasonable doubt. If the glove does not fit, acquit, that is the the OJ standard, if I could put it that way. In your case, it would be, I said I was not there, here is my travel itinerary, and it is proof on a balance of probabilities, in which case, it returns back to the prosecution. So there are very, very different standards, and it is not just a matter of who to believe. It is who to believe at what standard, and in terms of what evidence as well.

Mr. C. Williams: If I may just answer Mr. Hosein's question also, please. Because you said something very important, which I am actually impressed with, that there

is the absence of data and the effect of this particular provision, as well as I would say, other provisions in the Act, and the absence of data. Why is there the absence of data? Because, when we look at one of our recommendations, the independent reviewer, that person will be tasked and mandated to collect the data which would show the laws that we are trying to pass in this country, the effect on population of the country that we are trying to pass. But I do not see how we could be having this level of discussions without that sort of imperial data that would affect our minds and thinking, and we just do not have that data.

Mr. Chairman: Would you mind at this point jumping directly to the independent reviewer submission?

Mr. C. Williams: Yes.

Mr. Chairman: That was a very important submission on your part, which was rather interesting in terms of reading. Imam, sorry?

Mr. Ali: Before he does that, could I just answer Sen. Hosein's question very quickly. We have about 300 people who go for Haji every year from Trinidad. About 300 people every year, there are four tour operators and they are all full to capacity. There are about 300 in all. We do have a few people who go through the United States as well.

One very interesting thing about that is that every year they have different arrangements, depending on cost and price. In fact, this year somebody approached me and said that they had a aeroplane that they wanted to bring from Africa, and they want to approach the Haji group leaders to take all of the Hajis, the people who are going to Haji, directly from here, through Africa, and then to Saudi Arabia. So there are all kinds of arrangements, it is very fluid, and it is going to be difficult for even Haji group leaders to keep track of all of the different arrangements that they are making. We also have about 300 people who throughout the year go for the minor Haji, as was mentioned; it is called the Umrah, and they themselves are going

on different packages. Sometimes they go to Dubai, they go to Jerusalem, they go to different places, because the package is about two weeks long, and it would involve different visits as well.

We also have about, at least 25 to 50 students who are studying around the world in places like Pakistan, Saudi Arabia, South Africa, and even in some of the countries like Egypt and so on as well. They tend to come and go every year. In addition to that, we also have some Trinidadians who are living abroad but coming back for, for example, the month of Ramadan which is coming up soon, to lecture and to participate in the activities of the masjids at that time. So, there is a lot of movement of Muslims in and out of Trinidad and Tobago, from other areas, some of them living in Saudi Arabia, for example, and they come back to Trinidad to spend the month with their local citizens. So, just to answer that question.

Mr. Chairman: And I am compelled to put some balance into this picture. We also have a whole host of nationals, me included, that have family that live in seriously war-thorn areas: in Baghdad, in Damascus, in different areas, who have to visit family and relatives, et cetera. So, this centrality of it is only for Muslim approach, I find a “little bit” difficult at times, from only just one angle of it. Because, I want to be clear, the intention, and permit me just to say this: The intention of the Government is that this is to target terrorism, this is not designed to encumber Muslims.

In fact, it is intended on the shield approach to lend aid and assistance, because many members of the Islamic community have found themselves listed by nations and have had some of their financial contributions in Zakat, in particular, run afoul of certain other countries views, and it allows for us the opportunity to exculpate these people. It is a particularly careful exercise to balance. But this Bill affects a host of people, because Jerusalem, al-Quds, as they call it in Arabic, is the home of Islam, of Judaism and Christianity. So, I am giving the other side of this coin just

for fairness and balance.

Mr. De Freitas: Thank you, Mr. Chairman. In listening to the deliberations so far I think I am hearing what the panellist is saying in relation to individuals who travel to these areas and not have prior knowledge that this area has been declared, having coming back to Trinidad and Tobago and still not knowing and, therefore, running afoul of the Bill, in its entirety, and I am wondering if at some point throughout that travel, because this Bill is attempting to capture individuals who are trying to evade or engage in terrorist activity, and if I am understanding correctly, wants to ensure that those that are completely honest and are travelling to these areas for good reasons do not get caught up in it. And I am wondering if it would be better, because one of the ways it is done, I think, in the United States and other countries is that they ask you these questions along the way.

So you land in the States and one of the questions they ask you is, name all of the countries you have been to in the last six months, and if you leave out anything then is when you run afoul of the law in that regard. And I am wondering if the individuals who are travelling for good reasons are asked that question at Immigration. So, the Minister, Mr. Chairman, declares a geographical region, and obviously the person there would not know, because they do not have the connectivity. When they get back the Immigration ask them a question on the form, where have you been for the last 30 days or whatnot, and then they say, and if they leave it out at that point, that is when you are caught up in the Bill, because you had a right at that point to let them know. Or, at least check when you get home to make sure that you were not, in fact, in that region, is that something that may help?

Mr. Chairman: Well, there is an operational side to this law which would kick in. So, if this becomes law, the Immigration forms back to Trinidad and Tobago, will include certain extra provisions so that people are made aware of the circumstance, but I want to go to a very fundamental thing which I must say on the record. This

Government and Trinidad and Tobago has no intention whatsoever of treating with Medina and Mecca in any form of designation at all. That is not on the cards. That is not on the purpose here. That is not the intention of this Bill. Because that would mean millions of Muslims around the world would find themselves in difficulty.

In fact, the people who are at most risk of some of these things biting in are the born and bred Arabs who live in Trinidad now, or who have family. As I do, in the sense of having family members who are in green zone in Baghdad, or in Damascus, or in Homs, or in other areas. So, it is more people who find themselves with relatives in these actual zones of conflict that have concerns. And I must say for the record, that we have not received a single submission from any one of them. Not a single person. We do welcome the submissions coming from the Islamic community, and we understand, so I want to make it certain so that there is a degree of comfort, there is no intention, nor could I ever foresee it as anywhere in any contemplation that Saudi Arabia, in particular, that Medina, and Mecca, et cetera, could ever form part of any designated area. That would be outlandish.

Mr. C. Williams: Chairman, there is just one issue I wish to correct, please. Because prior you would have stated that there is no penalty attached if notice is not given, for example. However, under section 15E of the Act—

Mr. Chairman: That is what I referred you to. I asked if it was other than that, so in subsections (4) and (5) I referred to that.

Mr. C. Williams: Okay. So, there is a penalty attached if one for whatever reason—

Mr. Chairman: Yes, and I read it out—if you give false information.

Mr. C. Williams: No, I am not speaking about false information

Mr. Chairman: Sorry.

Mr. C. Williams: I am speaking about if one travels with their child to those areas.

Mr. Chairman: Yes, and does not give information. Yes.

Mr. C. Williams: There a penalty attached summarily, a fine of \$25,000 and

imprisonment for a term of three years, please.

Mr. Chairman: Yes, appreciated.

Mr. C. Williams: Thank you very much.

Mr. Chairman: Thank you very much, Mr. Williams, and you are correct.

Mr. C. Williams: Thank you very much.

Mrs. Robinson-Regis: Mr. Chairman, if I may, I just wanted to make the point that throughout this Bill, because of the need to ensure that people do not feel targeted, throughout this piece of legislation, the phrase “without lawful excuse” is used throughout this legislation, and in addition to that, at various parts, especially 15, it talks about giving the notice, without lawful excuse, giving time to give the notice, throughout, and I think that needs to be taken into consideration by those who may be concerned about the Bill. Because throughout it, there are steps and there are mechanisms to ensure that no group or no person feels targeted.

Mr. Chairman: So, put into legal context, the Bill proposes significant exceptions to liability in tried and tested formulae in the criminal law. There is a careful qualification of the mental intention, you must knowingly do certain things. Secondly, you have the opportunity of reasonable excuse, et cetera. I am not speaking about everyone Mr. Williams, I am speaking about some of the offences. I am seeing your head shake [*Laughter*] as a good passionate lawyer would. Right? So, I am just saying that I am just translating it for that point.

I am very intrigued, if I may ask you, Mr. Williams, to address us on the concept of the reviewer. It is a core feature, a very interesting feature of your submission. Would you mind giving us a bit of perspective on that? And I want to assure you that we have gone through your full submission as a Committee already, eh. So, do not let us lead you on to think that we need to hear everything that you have said, because we have gone through, but there are certain areas that we find very interesting and value your input on. Could you address us on this reviewer

perspective?

Mr. C. Williams: Okay. The Terrorism Bill—well, one of the oldest legislations that relate to terrorism could be found in the United Kingdom, for example, back in the days of the IRA and those terrorist activities, and subsequent to the passage of those terrorism Bills in inception, what transpired would be an independent reviewer or the office of an independent reviewer in the UK, which I would dare say, may be a more mature society than our society. And this particular independent reviewer, what that person does, they would—well firstly, the office must be established by the laws of the land. It must be held sacred. Why? Because this person would speak and would also, Mr. Chairman, be able to come around that veil of just pure national security, which one of your answers as to if there is a criteria.

So, the independent reviewer would be able to break the seal or the secrecy of national security. They would also review all the laws. They would have the powers to do surveys in the country, and also to present independently from government's influence, influence from Concern Muslims of Trinidad and Tobago, free from all influence to properly assess where we are, the effect and the current operation and procedures of where we are, what is currently being proposed, and also consider where we need to go, and what really we need subjectively for each and every one of us as citizens of the country, as this Bill is currently. Because, the effect on this Bill, Chairman, is great.

It would affect, and we are here, you would see Concern Muslims here, you would see police service here, we have also been in discussions, for example, with the Joint Trade Union Movement, with other religious organizations. An independent reviewer would speak to all sets of society so then we would have a proper discussion as mature persons, as to how this Bill would affect the country. And also, what is important to me is very instrumental, is that the police service were here a while back and then they are asking for more powers to deal with the threats

that we face as a country. In the UK, there is—well there is a reviewer in the UK, Mr. Max Hill, QC, currently, and I printed an article, and what they said is that, “the terror law should be scrapped”, says Government Independent Reviewer of Terrorism Legislation. Why? He in his position may have only come about—now, I am not saying that this is the position that we ought to adopt. No. Based upon his information, his data, how the law operated in England or the United Kingdom, he may come to this position in 2017.

Mr. Chairman: Can I ask a question?

Mr. C. Williams: Yes.

Mr. Chairman: Apart from the UK as a model for the reviewer, what other jurisdictions have you looked at with the reviewer?

Mr. C. Williams: Australia also. They considered the independent reviewer also. Canada also. There are also systems in place to review their terrorism laws also in Canada. In Hong Kong, the jurisprudence in Hong Kong—or, I prefer not to speak about Hong Kong as yet, because that to me is not as broad—

Mr. Chairman: Because of the threat?

Mr. C. Williams: Right—place of study.

Mr. Chairman: Can I ask you another question?

Mr. C. Williams: Yes.

Mr. Chairman: Does your submission for the inclusion of an independent reviewer include us taking the next step? And let me explain what I mean. In the United Kingdom, Canada, Australia, the laws of evidence as it relates to terrorism and anti-terrorism are significantly different from ours. They allow for sequestered evidence, they allow for a reversal of the right against self-incrimination, they allow for secret tribunals, they allow for limited disclosure of evidence, and they allow for complete incarceration in certain circumstances. So, if you are interviewed by the police, or the anti-terrorism entities in the United Kingdom, and they ask you a question, and

you do not answer, and at your trial you come along and try to give an explanation there, that is viewed as an adverse inference against you and they can lock you up for that purpose. So their review mechanism comes in a very different environment for evidence. What would your views be on the migration towards more serious treatment of evidence where countries that use reviewers operate?

Mr. C. Williams: The evidence require to prove terrorism, I dare say, from my little humble knowledge, it would be difficult to find, it may be difficult to produce, it may be difficult to have placed in court. Because, I may not understand the requirement or the need for those particulars laws, because there is always the veil of national security being used. So therefore, what would we be faced with? We need secret tribunals, we need these special policies, we need these reversal of burdens, but I do not understand fundamentally, nor is there anyone I can trust to independently tell me that national security needs this to be done. Because there is no one that can thoroughly look at all the factors that would dictate, that we need to change the laws relative to this particular way evidence is needed, to the courts.

Mr. Chairman: Thank you. So let me put it this way now. So, in our jurisdiction where we do not have any of these things.

Mr. C. Williams: Yes.

Mr. Chairman: Where there is a blanket for national security, where you cannot block information, because in those jurisdictions where they use the reviewers, that is what they do. Information may not be disclosed, limited disclosure happens.

Mr. C. Williams: But in Trinidad there are provisions whereby national security may be used as a blanket.

Mr. Chairman: Not in a prosecution for a terrorist offence. The obligation of standard disclosure is that you must disclose the evidence prejudicial to your case to the defendant. So, in Trinidad and Tobago we have an open position where the court is the reviewer of the anti-terrorism mechanisms, because your matter goes to the

court, and the disclosure happens in court. In our courts we do not have any of the limited provisions that other jurisdictions have. So, in painting that respective positions, what is your view in terms of the utilization of an independent reviewer insofar as our courts here have a very different method of operating?

Mr. C. Williams: So, are you trying to tell me that our courts have a different method or mechanism of operating different from the United Kingdom and the Privy Council?

Mr. Chairman: Yes, yes we do, because the specialist courts that exist for terrorism prosecution and the restrictions on evidence in Trinidad and Tobago are not the same as in the United Kingdom. In the United Kingdom they have the restrictions. In our courts there are no restrictions. So, what I am asking is, is the reviewer safely put in the court?

Mr. C. Williams: No.

Mr. Chairman: Why?

Mr. C. Williams: That cannot be done, because the reviewer—because for the Act to be passed we would be putting the cart before the horse. Because the reviewer ought to give the powers that would be that operates the Act, information as to how this could affect civil liberties for each and every one of us before it reaches to the court. Because if anything else is done it would result in grave hardships, not only to Muslims organizations, but to the general society.

Mr. Chairman: Thank you. May I ask what time the break for salaah, for you is estimated to be?

Mr. Ali: Five o'clock.

Mr. Chairman: At five o'clock? Okay, can we take a safe run until 5.00 and we can take a small break then, and then continue as well. Members, I have been hogging the mike. Please feel free to ask your questions on this concept of reviewer?

Mr. Ramadhar: A fundamental issue in this society is the lack of trust in

institutions.

Mr. C. Williams: Yes.

Mr. Ramadhar: I think we could dance around all the legislative changes that we wish, and until we restore that, no institution will be trusted, even an independent reviewer.

Mr. C. Williams: What I would say is that this Bill—and this is me speaking sincerely—

Mr. Chairman: We accept that you have been speaking sincerely all the while Mr. Williams.

Mr. C. Williams: No, but the Bill in itself, because the amendments that they seek to place in Trinidad and Tobago right now would be similar to amendments that are placed in more, I would say, advanced societies than Trinidad and Tobago, more sophisticated societies where we indeed wish to reach there, of course. Might I just ask my friend one question, please?

[Officials confer with each other]

Yes, what I am getting at is that those societies may be more sophisticated because of the maturity of the society. So, one of the initial questions I wish to ask is that, there would be members, for example, of the UNC and PNM who form the Committee here. Right? But—

Mr. Chairman: And Sen. Creese ably represents the Independent Bench.
[Laughter] Not to be left out.

Mr. C. Williams: Sorry, sorry, sorry, and Senators also.

Mr. Ramadhar: And the COP.

Mr. C. Williams: Oh yes. *[Laughter]*

Mr. Chairman: And member Ramadhar is from the Congress of the People.

Mr. C. Williams: Yes, I apologize. But, is it that, and this is not an attack against, for example, like you directly, Chair.

Mr. Chairman: No, we are discussing ideology. Please, we would not be offended by what you say.

Mr. C. Williams: Are we politically mature as a country to (a), entrust, for example, who would be seated in office of the Attorney General? Would a member from the COP trust a member of the PNM who occupies that office or vice versa with the UNC? And that is something that each and every one of you all on the JSC will have to answer for yourself. Because if the answer is in the affirmative, then let us move forward. But if the answer is not in the affirmative, then fundamentally we have a problem, because, if it is for example, a Senator or a Chairman, your party is not in power in the next general elections, you very well may think that whoever is occupying the office of the Attorney General may be using this Bill for a political tool, and that also must be juxtaposed against the quality of the police service.

Now, mind you, there are a lot of good officers in Trinidad and Tobago, do not get me wrong, and I am always grateful. But, as a population, and each and every member of the Commission here also need to ask themselves, would you feel confident if the police service and the quality of policing done in the country, would you feel confident if whoever occupies the office of the Attorney General may be able to use the Commissioner of Police or the quality of investigations from the Commissioner of Police, would you feel comfortable in that situation? That is something we need to ask ourselves. And if each and every one of us trust the quality and the standard of policing service we have, then that would get rid of that aspect with the police service. But if we are politically mature to have this Bill placed, whoever holds office, and the effect of it, not only on each and every one of us, businesses, my neighbour also. I could be affected also.

Mr. Chairman: Mr. Williams, we catch your philosophical grounding on this point.

Mr. C. Williams: Yes.

Mr. Chairman: And, I want to assure you that the Committee is very, very careful

in its deliberations as to proportionality and due process, so that we make sure that there is a balancing exercise in the round in coming up with the legislation. But we accept your recommendations as to introspection. As legislators, we look at this on a daily basis, all of us. Do we have safeguards? Protections? Provision? And are we also not throwing the baby away with the bathwater, because the last thing that we can pretend is that terrorism does not exist.

Mr. C. Williams: No. But then is it that—are we then trying to have a Bill where we have all these—will be potential for these negative side effects to occur? Are we then trying to force this Bill without a proper fixing of the institutions?

Mr. Chairman: The reason why we all reacted instantly is that that is a debate in this country for the last 50 years, 60 years. That is a constant debate in any society. But we accept you. But we are moving, as interesting as the conversation is, we are moving a little bit away from our moorings in terms of time, because we have other members as well, and we are coming close to five. May I ask, apart from cornerstone identification—now, we have dealt with this concept of reviewer. We thank you for the explanation and understanding as to what it is intended to achieve. Is there any other cornerstone that you wish to address us on in terms of your submissions?

Mr. C. Williams: There would be the effect on companies, directors as well as—

Mr. Chairman: Excellent. I want to tell you that the Committee itself had long discussions on that, and we thank you for the submissions that you gave.

Mr. C. Williams: No, but I have not addressed.

Mr. Chairman: I know, but in your written submissions you gave us very useful assistance, some of which we have already positive settling on. There is a rule that we cannot reveal the deliberations of the Committee prematurely, but suffice it to say, we have looked at the merit of your submissions as to carefully managing the exposure that people may find themselves in, in the companies, and directors, and shareholders aspects, and we as the Committee, already had good deliberations

based upon your submissions.

Mr. C. Williams: But then also, there would also be the question as to charitable works, which just would not affect Muslims but also would affect Christians and anyone who does charitable work.

Mr. Chairman: And we have also looked at that as well.

Mr. C. Williams: But then may I ask the data and the effect of those provisions, would the Committee have that data in which to make a proper informed decision?

Mr. Chairman: Well, the data takes us only so far. Certainly, in the office of the Attorney General, as the central authority myself, dealing with MLA, with Mutual Legal Assistance request. We have data from that perspective already. So, I can speak with certainty about those aspects. The FIU has certain data as well, because TF, terrorist financing is the real mischief inside of there. So, suffice it to say in summary, what we are saying is, your submissions on the effect to companies, on the TF, the terrorist financing aspects, and on the Zakat and charitable contribution aspects have been well grounded in the Committee's deliberations so far.

Mr. C. Williams: Grateful.

Mr. Chairman: Imam.

Mr. Ali: Thank you. Can I refer to a submission made by the Trinidad and Tobago Police Service earlier?

Mr. Chairman: Sure.

Mr. Ali: They had spoken about creating an offence, planning to commit a terrorist act; if it is that a police officer found material that could be construed to be used as part of developing terrorism strategy. It is very concerning to us as Muslims, especially when they mentioned material of a nature that—

Mr. Chairman: I took note of your submissions in a different forum as to literature, et cetera, and I just want you to know the Committee itself is very alive to your very concerns.

Mr. Ali: Yes, and if I could just expatiate that a little bit, because many, many Muslims will have literature that on the face of it—

Mr. Chairman: We catch you, sir.

Mr. Ali: Yes.

Mr. Chairman: And apart from that, there is the whole other aspect of countering violent extremism, and one cannot speak on that unless there is a certain grounding in it.

Mr. Ramadhar: I think this is a very valuable opportunity to hear you for the fullness of those who are listening and looking on, and for public record, it may worth the while to hear your submission.

Mr. Ali: Yes. For example, there are many of the Islamic literatures, books, sayings of the Prophet Muhammad and so on that speak, for example, about the topic of Jihad. And it is one of those misunderstood terms that is bandied about. Of course Jihad, as you may know, Chairman, is about struggle. Jihad means to struggle and to strive, and there are different types of Jihad, and the main Jihad is really the Jihad of the person, self, in becoming a person who is obedient to the creator's laws.

4.45 p.m.

However, Jihad also does include fighting and fighting to defend Islam and defend one's rights and so on. When people have this kind of literature that they read and that literature on Jihad will usually be part of a larger volume or volumes of literature, such as the Ahadith, the Hadith, the sayings of Prophet Muhammad and so on. If it is as the police officers were saying earlier, the legal unit was saying earlier, that this can be construed as part of the evidence that could lead to, in a suspicion of being involved in terrorism, it means that many, many Muslims can very easily and innocently be trapped in this. If there is a Muslim farmer, I am just drawing the example, they spoke a lot about fertilizer. If there is a Muslim farmer who also has books of Hadith and Jihad and perhaps he has some other instrument

that he is using in his farming that could also be used for other purposes he may find himself under suspicion.

So we have to be very, very careful because I posed this question to the Commissioner of Police in a previous meeting; How do you know when you find literature in somebody's home, a Muslim's home, whether that literature:

- (a) does really indicate that it is supporting terrorism; and
- (b) that that person is going to use that literature for these kinds of purposes or that person may just be, for example, a teacher or a scholar who is using it as reference material to develop his lectures and so on.

Mr. Chairman: Or “counter-violencing” extremism, which is understandable. We thank you and I thank member Ramadhar for allowing that facilitation of thought. The submission from the TTPS came along with certain case law recommendation as to how this thing is operationalized. It is not part of the Bill; it is a recommendation coming from them which the Committee will consider in the round. But in none of the circumstances where circumstantial evidence of this type is garnered, is it done capriciously. Obviously, if you find a book on how to behead someone efficiently and you have literature that has actually found itself in certain fora. So there are other things that obviously would raise your suspicions, how to build a bomb using agriculture produce and fertilizers and nails and other things. It really has to be a package in a sense, proof beyond reasonable doubt. But we take your caution very carefully that there ought not to be a capricious consideration of the type of evidence in the submission made by the TTPS.

Mr. Ali: Can I also ask, one last thing is to add that, in your deliberations on this matter have you also take in consideration the recording material. Because a lot of young Muslims listen to lectures and watch DVDs on lectures and you do not know exactly what a lecture is going to say at any point in time.

Mr. Chairman: Yes, we have, but Imam and forgive me for interrupting, there are

lot of innocent infringers. How many of us have received these horrible video clips that somebody just sends to you that are on your phone and you are looking at it thinking it is a joke or there is a punchline coming and then you realize somebody has just been murdered. We are so—

Hon. Member: Vulnerable.

Mr. Chairman:—vulnerable for innocent infringer that it is a very real thing. So we do not look at this capriciously at all because we are jumping to now even the most offensive of material where somebody just sends it to you and it is on your phone. And we have all been victims of that, all of us.

Mr. Ali: And this also lead us to the point about any person in the police service being able to investigate someone and arrest someone under suspicion of terrorism when they themselves might not have understood these principles as well as you all have that, you know, this person could have been in receipt of material innocently and yet he is held for suspicion—

Mr. Chairman: That is where Minister Robinson-Regis' intervention came in in saying that the Bill is littered with the reasonable excuse and exculpation aspects. But we do appreciate your concern as expressed by you. Mr. Williams.

Mr. C. Williams: Yes, Mr. Chair, there is just one pertinent question I need to ask please, because this is a matter of public record also and it is actually directed to you. Would you agree or disagree that should this proposed—well, these proposed amendments be passed that the sovereignty of the Attorney General's Office would be affected?

Mr. Chairman: In what context.

Mr. C. Williams: The context that, before whoever holds the office of the Attorney General may make provisions for variations of orders or anything in court, they must first seek approval and permission from the United Nations Sanctions Committee.

Mr. Chairman: That is not how the law is designed. So the sovereignty is always

preserved because if you are referring to the listing provisions—is that what you are referring to?

Mr. C. Williams: Yes.

Mr. Chairman: Under section 22?

Mr. C. Williams: Post a listing condition to vary delisting of an organization, should an organization be listed?

Mr. Chairman: Yes.

Mr. C. Williams: I think the law is clear. It says for the avoidance of doubt, the Office of the Attorney General must come before the United Nations Sanctions Committee seeking permission before they can make any recommendations before the local courts in Trinidad and Tobago.

Mr. Chairman: That is with respect to a listing by the UN. So we have, in the body of the law as it currently exists and in the proposed amendments, we are saying that the Attorney General can go to court and ask a judge to list someone.

Mr. C. Williams: Yes.

Mr. Chairman: It is not the Attorney General who lists. The judge does the listing, that is done by way of a civil process. The Attorney General has to do a review of that listing on a constant basis. The Attorney General can receive a listing from the UN and then take it to court for the judge to consider. We have also provided in this draft for the reversal of it, where the Attorney General can go and delist entities and what the law proposes is that we talk to the Sanctions Committee about certain delistings.

Mr. C. Williams: That is what I am speaking about. In speaking to this Sanctions Committee for delisting, does that take away the sovereignty of the holder of the office of the Attorney General in this country?

Mr. Chairman: Let us look at the specific clause that you are referring to. You want to take me to the clause?

Mr. C. Williams: Yes, one second please. One second please.

Mr. Chairman: Sure.

Mr. C. Williams: It is at paragraph 27 of my submissions. The effect of clause 28 in the Bill. And then when we look at section 22BB—

Mr. Chairman: BD.

Mr. C. Williams: Yes.

Mr. Chairman: B as in bravo, D as in delta.

Mr. C. Williams: BB. Yes, I have it as—

Mr. Chairman: Yup.

Mr. C. Williams: And then it states that:

“(1) Where an order under section 22B has been made in respect of a designated entity, the Attorney General shall not apply to the Court for a variation of the order in accordance with section 22B(9A) to make provision for meeting out of the property or specified part of the property—

(a) any consideration under section 22BA...”—and it gives the provisions—“unless he has first notified the Committee of his intention...”

So therefore, before the holder of the Office of the Attorney General may do anything at all, once it falls within this ambit the Office of the Attorney General must notify:

“...the Committee of his intention to apply to the Court for such an order and the Committee has not indicated its objection”—for—“such an application to the Court within forty-eight hours of said notice;”

So that is what I am asking, if the Chairman of the Committee would agree or disagree that the sovereignty and independence of the office holder of the Attorney General is impinged upon. Because then further it says that, section (b) that:

“any other consideration, unless he has first obtained the consent of the

Committee for such an application to the Court.”

And that to me is very clear, that the holder of the office of the Attorney General must get permission from the committee before they can even make an application to our local courts with our local judges.

And also it goes on—

Mr. Chairman: Sure. So this is very unique to the circumstance of the International ISIL Committee listings.

Mr. C. Williams: Yes.

Mr. Chairman: So the committee listings are what are referred to in here.

Mr. C. Williams: Yes.

Mr. Chairman: It is not any listing. Section 22B which is the listing provision under the existing law, provides that:

“(9) The Attorney General shall”—review—“every six months.”

That is at the existing subsection (9) of 22B. Subsection (9A), nothing prevents—this it is proposed to by way of an amendment to section 22.

Mr. Ramadhar: AG, it must be obvious then, and maybe it is not as obvious as it should be, that the Attorney General in meeting with the committee must present a case as to why there should be a delisting. And therefore the sovereignty issue, I could understand why the wording will trigger that. But the Attorney General himself must be convinced and must have a case to take and therefore the issue of sovereignty really is misaligned to the consent issue. I do not know if I am making appropriate sense.

Mr. Chairman: Yes. So to cause delisting, the Attorney General had to be satisfied in the first instance that he should make an application to a judge who should be satisfied to do the listing. In relation to the committee listings, that is the ISIL, Da’esh, other committees, your question is whether the prescription by this law, which says, before you do a delisting of an entity which in fact relates to a committee

listing the Attorney General should let the United Nations know and receive their response within the prescribed form. Your question is whether that is the removal of sovereignty, correct?

Mr. C. Williams: Yes.

Mr. Chairman: Right, and we will have to look at it in the round as to how the law is operationalized; suffice it to say I note your concern as to whether that is the case or not, but it would—

Mr. C. Williams: Because it just does not pertain to—with all due respect also, it does not just pertain to delisting, you see. It pertains, for example, when we look at the effect of the Bill in totality—

Mr. Chairman: No, no, no, the clause that you referred to is the delisting.

Mr. C. Williams: Yes, yes.

Mr. Chairman: So we got to look at that specific question as to the delisting.

Mr. C. Williams: No, but you see now, if an organization is listed then there are certain—under the Act, once an organization is listed there are certain—the Act will have certain mechanisms that automatically fall into play.

Mr. Chairman: Yes.

Mr. C. Williams: So for now, for example, they may have two entities listed by the United Nations there. This is in 2018. In 2022, we do not know if there might be another organization from Trinidad and Tobago, for example, listed there. So in that situation even and, for example, if it is listed, an organization is listed in 2022, and my friend here is a member of a company that is affected by that organization, the Attorney General would not have the powers unless they go to the committee to change anything that may affect the runnings of—

Mr. Chairman: Anything that is listed by the United Nations you have no power over unless we go through the mechanisms of requesting a delisting or going through the Ombudsman which is provided in this Bill, the United Nations Ombudsman.

Mr. C. Williams: No, but you keep going to delisting. It is also relative to variation of orders that may happen if someone is listed. Because if someone is listed then—

Mr. Chairman: I am trying to get what your mischief is here. When you say, will the Attorney General give a position as to whether he is trading sovereignty or not—why? What is the mischief that you are seeking to address?

Mr. C. Williams: The mischief I am simply trying to seek is whether or not if we pass these amendments, my Attorney General of the country cannot do anything if something is listed or if there is to be a change in a company unless they first obtain the consent of the United Nations. That is the mischief I am getting at.

Mr. Chairman: So I understand, thank you. The jurisdiction to approach is preserved. The consideration and mechanisms are preserved. The ability to cause variation delisting, et cetera, is a mechanism inside of the 22 listing, section 22 listings, those are all there. The effect of not passing laws which treat with some of these things is quite simple. We can have all the sovereignty in the world, we maintain our sovereignty and the rest of the world just stops doing business with us.

Mr. C. Williams: So therefore—

Mr. Chairman: So we are not trading our sovereignty and I am not saying that we are subjugating our sovereignty to anybody at all, that is not what I am saying. We have one minute to five, perhaps we should take a short adjournment.

Mrs. Robinson-Regis: Mr. Chairman, I would like to leave at 5.00 p.m. please. I have to leave at 5.00 p.m. But I just wanted to point us in the direction where it says that the Attorney General, every six months the Attorney General reviews the list. So there is a period within which the Attorney General consistently reviews that list. So that issue of—

Hon. Member: Sovereignty.

Mrs. Robinson-Regis:—sovereignty, which is not the sovereignty of the Attorney General, but the sovereignty of the country. Because it is the independence of the

Attorney General you are talking about, not sovereignty. But every six months and it says that very clearly in the legislation. Every six months you review the list to look at delisting, listing and so on. So the legislation is very clear.

Mr. Chairman: Thank you very much, member. Shall we take a small 15-minute break at this point and we will adjourn the—well we suspend the proceedings for a short while and we will return in 15 minutes. Is that okay?

Member: Thank you very much.

Mr. Chairman: As it pleases you.

5.00 p.m.: *Meeting suspended.*

5.15 p.m.: *Meeting resumed.*

Mr. Chairman: May we call the meeting back into session please. Good afternoon again and we were, I think at the cusp of wrapping up this particular segment from the Concern Muslims. We ask whether there are any other matters that you wish us to consider beyond those addressed so far.

Mr. C. Williams: May we have one second please?

Mr. Chairman: Sure.

Mr. C. Williams: Yes, please. There is another factor that we would just like to put on record for the public also, in that, when persons, for example, a lot of the Muslims, part of their beliefs would be to give towards charitable organizations. But what I want to bring to the forefront is that Mr. Imtiaz, for example, they would have been sending money towards religious organizations, well reliefs, humanitarian organizations in the Middle East, for example. And then the money would have been sent back, but there is a troubling trend which is also occurring in Trinidad because their bank account, for example, of the Concern Muslims of Trinidad and Tobago, it would have been surreptitiously closed, no reasons given.

Mr. Mohammed: Scotiabank.

Mr. C. Williams: By a bank in Trinidad and Tobago. [*Laughter*]

Mr. Mohammed: Call Scotiabank name.

Mr. C. Williams: No, but the thing is that this is not only happening to the Concern Muslims of Trinidad and Tobago also. In my capacity as an attorney also there were three or four other persons who had not been designated as a terrorist—

Mr. Chairman: I catch your concern. If I could respond immediately.

Mr. C. Williams: Yes, please.

Mr. Chairman: De-risking or de-banking of customers is a phenomenon all around the world right now. It is one of the consequences of the international arena. So the issue of sovereignty which you raised a while ago falls into play because the consequence of not agreeing to cooperate across jurisdictions has certain push-back. The de-banking of a client account, the cancellation of an account, the closing of an account is within the discretion of the bank as it operates.

The key inside of this position is that different jurisdictions have different views. I can tell you, as a matter of fact, that the views between the United Kingdom and North America sometimes differ. We have had representations for consideration at the central authority for the treatment of certain entities in Trinidad and Tobago for financing of terrorism, because of charitable donations. The United Kingdom considers one view, the United States considers another, Canada considers another, Australia considers another, and this is all hypothetical, I am not calling those jurisdictions specifically, but their respective banks and their respective territories take action upon their head office view.

So we who are the recipients of banking services, particularly in the banking sector which is not a local banking sector head office point—in other words, you may be a branch of an international agency or your corresponding bankers may take a particular view—we have no control over those aspects other than by way of advocacy.

Mr. C. Williams: So therefore, even for local persons whose banking ability has

been closed, on what basis is it then that international banks will be operating on whatever information that they would use to close the accounts? Is it information from local authorities?

Mr. Chairman: No, no, the fact is that an international bank watching where money goes—if a North American bank sees a transaction going to an entity which that country considers to be a designated or exposed entity in terms of financing of terrorism, they are free to do as they feel they should. It may be a different position in the rest of the world, which is often the case. But no one can compel any bank here to maintain an account or not. Their risking is their own choice. That is not the participation of the Government, et cetera. Where we come in, in particular, with this Bill for instance, which treats with the terrorist financing aspect, is where we push for a unitary position in the block of votes that we have. So the CFATF, the Caribbean Financial Action Task Force, which comprises 25 countries and Caricom, the issue of de-risking and de-banking is very high on the agenda for both of these and there is a significant push-back. But banks in other jurisdictions really determine by size of market. Sometimes the cost of transactions is up to them whether they wish to maintain accounts or not. Yes please, Imam.

Mr. Ali: There is related matter concerning this. There is a part of the legislation, the amendments, speaking about charity and the term “reckless” is being used that if a person is reckless in giving charitable donations—

Mr. Chairman: We have noted your submission and the Committee has in the round already—

Mr. Ali: Because just for the public’s view as well I wanted to mention that there are thousands of organizations that are legitimate, that seek funding from Trinidad and Tobago even though we are not that big and we are not that rich, there are many, many, of them who come to the Trinidad seeking funding and it is impossible for us to really know what they are connected to, who they are connected to. They just

portray themselves as schools, orphanages, madrasas as you know and so on. Millions of dollars as well goes every year around the world for Muslims who want to do, there is a ritual sacrifice that we do every year that is called Qurbani or Eid-ul-Adha. It is a time when people send money for the sacrifice of animals that is given out as charity. Nobody really knows and cannot trace exactly where that is going. So to use that term “reckless” as you said, you have looked at it, but I hope that it considers as well all of this kind of charity that we do as Muslims and we are compelled to do as well.

Mr. Chairman: Yes, we certainly do and concern considerations for amendment are in discussion at the committee level right now.

Mr. Ali: Thank you very much.

Mr. Chairman: Okay. Yes.

Mr. Mohammed: Yes, Mr. Chairman. Just want to note, I can recall that when FATCA was not being passed and it was taking some time to get it passed in Parliament, I could remember the then President of the Bankers Association, Ms. Anya Schnoor, making a lot of noise so that this FATCA Bill could have passed. So that the banking sector could have protected themselves and move forward with their business.

I find it very unfortunate that our Government cannot do something to change the banking regulations in this country and I think that this change should come soon, in that, they do not just have right to close the account and give you no reason. Now, the reason why I am saying all of this is that Muslims of Trinidad and Tobago, which is a humanitarian organization, right, this was born from humanitarian work, this organization. Since 2008 to now we have done 20 foreign missions; we have raised close to \$15 million to \$20million. We have had an excellent banking relationship with Scotiabank and because of one instance where we send money to an organization called Islamic Relief in the UK for Syrian refugees based in Lebanon,

Jordan and Turkey, those refugee camps.

The moneys were sent out, for some reason HSBC sent back the money. HSBC in England is the clearing bank for Scotiabank there. Now, the moneys went out to England because we work with another humanitarian organization there called Muslim Hands who work all over the world on a daily basis. When the moneys came back we told the bank, well okay, HSBC did not clear the telex; well let us try the draft. We send them two drafts, same thing happened. When the moneys came back the second time we had a discussion with the bank, the bank never gave us any solid reason why all of this was happening until eventually they said that we could only do local transactions.

So we told them this cannot be, because when we are doing these fund raisers for humanitarian work we notify the bank because people all over the country are depositing money into the account so they will know the reasons why moneys are coming in. So they are telling us that we can only send the money local. We said, no, that cannot happen. This money was given—people have given their Zakat money which is compulsory, what you call a charity in Islam, right, and we have a responsibility to make sure that money is spent in the way that it is being spent. So we explain all of that to the bank. Plus the money came from ordinary charity as well. Then they change their mind, they say, we ask them let us send the money to Canada because we work there with another international humanitarian organization called Human Concern International.

Mr. Chairman: Mr. Mohammed, I am so sorry to interrupt you, but—

Mr. Mohammed: I am connecting this to the Bill, eh.

Mr. Chairman: Yes, I fully well understand it, because there is a—I was not going to raise a Standing Order on you, Mr. Mohammed, [*Laughter*] I would not do that, but I am concerned about your brothers and sister sitting behind you who are also yet to come to the microphone. We accept the point in principle that the concern as

to charitable purposes there, as to whether we can amend a law to compel a bank to do something, that is a different issue before us. Again, it is tied in with the de-risking and de-banking phenomenon which the international world is pushing upon countries right now. That is a matter of different perspective.

Mr. Mohammed: Right. But where I am going with this as well is that in the Bill it talks about if you send money to an organization or an entity that is suspected of being involved in terrorism, right? So let us just say Muslims of Trinidad and Tobago, we send moneys—

Mr. Chairman: But my point to you, Sir, is that I understand from Imam Ali the same point and Mr. Williams also raised the same point that we do not want to find charitable purpose being stifled because of an undue and too broad a perspective.

5.30p.m.

I believe that that is your point, the recklessness, how wide the provision can be so that innocent transactions are not caught in that net. Is that not your point?

Mr. Mohammed: Not only that, but in your Bill is that if you get involved in those activities and you are accused of being involved in those activities, then I understand the charge is \$25 million and 25 years in prison.

Mr. Chairman: Well, not quite simply put that way. There is a whole threshold of law yet to go through, et cetera. But suffice it to say, we understand the importance and validity of the point that you are raising. Dr. Moonilal?

Dr. Moonilal: Mr. Mohammed, on the earlier point—I mean, I am sure you could quickly tell us—you are suggesting that Parliament as a whole look at that issue in the banking sector about the right of a bank to just close an account of an individual or an entity without reason, and you believe that that is something also the Parliament should look at?

Mr. Mohammed: Yes, I think so.

Mr. Chairman: Understood, Sir. Thank you very much. Okay. Gentleman, may

I thank you most sincerely for the excellent work that you have brought to the table. Your written submissions were broad and fulsome and your oral amplification extremely valued by this Committee. On behalf of us all, I sincerely thank you for your input and your dedication and the time that you have carved out to share your perspectives with us. I think it redounds to the benefit of the citizens of Trinidad and Tobago, and I thank you profusely for your submissions.

May I ask that we suspend for two minutes? No suspension? We can change chairs, as I fear the wrath of the Clerk sitting to my left, your right, on this point, and we can invite the Muslim Round Table to join Imam Ali at the head table. Thank you very much, Mr. Williams and Mr. Mohammed.

Mr. Mohammed: Thank you.

[Entities exit meeting]

MUSLIM ROUND TABLE GROUP

Sheraz Ali	Imam
Hafeez Khan	Coordinator, Member representative from FISCAL/NICS (National Islamic Counselling Services)
Harool Khan	Member Representative from ASJA (Anjuman Sunat Ul Jamaat Association)
Shaleeza Khan Ali	Member Representative from ILSCA (Islamic Ladies Social and Cultural Association)

Mr. Chairman: Good afternoon, A-salamu alaykum. May I ask the Muslim Round Table sitting on the long table across us, as soon as the placement cards have been put forward, to introduce themselves to the people of Trinidad and Tobago, as we are still live on the Parliament Channel.

Introductions made.

And, of course, we have Imam Ali, who is the common factor between several

of our groups, and we welcome him back to the table.

Mr. Ali: Thank you.

Mr. Chairman: May we, of course, first of all, thank you for your written submissions which the Committee received. We were very pleased at the approach and the clarity that you expressed in your written submissions. The Committee has had an opportunity to consider it in a very fulsome way. We did it on a clause by clause basis, with the rationale that you had explained, being put alongside. May I invite the Coordinator to present his opening statement and we can then jump into the work before us.

Mr. Hafeez Khan: Good evening to everybody, and thank you for the opportunity to be here. I just wanted to start with the Islamic position to laws, re objectives of the Sharia, which is really to create a just society. There are so many aspects of the Sharia, sometimes we get confused as to what it is about, but there is an objective to create a just society—a just and fair society. There are some other objectives which is one being the preservation of life. On that score, therefore, any laws enacted to protect life could be considered in line with what the Sharia is and would be a good law.

Any responsible government in the current climate, with the amount of terrorist acts across the world, would, in fact, enact terrorist laws that would protect the society and the nation. So it was from this aspect we sought to look at the terrorist Bill and see what are the areas. So we went through the Bill to look and see what are the areas, if any, would affect Muslims directly. And it would show in our submission that when we looked at the situation in terms of the declaration of the geographical area, we did not see that as an area of concern to us in the extent that others would have, because we saw where the protections were. One, it was not a permission being granted. We saw the reality of, if it is that there was somebody—if Raqqa was declared a terrorist area, who would want to go to Raqqa in any case?

And therefore it was one—we looked at the necessity to at least say that you are going. From our perspective it was that we are saying that, as happened in Egypt when there was unrest in Egypt, there were a number of Muslims who were living in Egypt and the Government did not know who they were. They did not know how many and they did not know who they were. They depended on the relatives of the persons in Trinidad to inform them accordingly.

So we thought that that registration process, and coming in after the fact that even up to now we cannot say for sure how many people went to Syria to fight, because there was not a process where a record was being kept. So it was not only for knowing but also for the protection of persons who ended up in an area of conflict that the Government—and they would be looking to the Government to help—that they would know for sure what the situation was: How many are there; who they are and what they need to do to get the citizens back to Trinidad.

So we did indicate on our general points that the weakness of both the police service, who has to really implement these laws and operationalize the terror Bill—and that was a major concern for us. When we looked at the weaknesses, the inefficiencies within the police service, we see that as a grave concern. And being involved on the ground with community groups who see about problems in problem areas, we know that the police is a big issue in, not only the perpetuation of crime and criminality—so when that comes into a Bill like this, it opens up an avenue for policemen with biases to take those biases into the performance of their functions. When we look at what happened the Thursday before Carnival, that kind of operation lends itself to concern for Muslims of what could happen with areas of this Bill.

And therefore that is the main, general thing that we felt, that there is grave concern, that any area, particularly as the Bill would really tread upon the fundamental rights of citizens, any area that that happens, the Bill should be very clear on how the police would approach the situation, because at this level, it might

be clear what the law is supposed to be; at that level, there are a lot of different variables that would lend itself to how it would be operationalized. So even if, although there might be other laws that dictate how a warrant is supposed to be, or a raid is supposed to be carried out, in our mind we felt that it should be spelt out clearly in this Bill how it is supposed to be done, so that when there are infractions by the police, it could be referred directly to the Bill. So that is one of the areas that we focused on.

The other area was the question of the financial aspect with companies, and we did make the reference to the Enron case where a lot of executives had, in fact, colluded and ripped off the company, but as a result of that, the company was closed. And who suffered the most? It was the employees and the investors on the stock exchange. Some of those guys, the executives, did end up in jail, but their losses were minuscule compared to the suffering of the majority of the people. And I hope that—you did say that you all have looked at that, and I hope that area would have been changed considerably, because the way it was structured, certainly it was “all paying for Paul”. So we hope that that would have—

There was another area, the practice of military exercise and movements. That seems to be onerous, because there is no stipulation. And if it is that in any masjid that they are trying to propagate fitness and health, and there are exercises going on, the police could go in and say that you are practising military exercises. That is a concern for us. And, again, it comes back to the mindset of the policemen and women who are part of the community. How well are they trained? How well are they informed of what this is? What kind of biases that they themselves have that would really play a part in how they deal with these situations? Those are significant issues that we need to look at.

Well, we did indicate that we wanted the geographical areas. The criteria should at least be spelt out in some broad manner so that it would give the

indication that it is not a “vaille que vaille” thing or a haphazard thing. Also, we did indicate in terms of the question of this particular—being reckless, there was a reference to being reckless, I think that should be taken out totally.

The other big point is the one where: “Where an innocent person with a similar name to a designated person is affected”, that is one that I think needs to be looked at, or—

Mr. Chairman: I “doh” know why Sen. Saddam Hosein is smiling at this point here. *[Laughter]* But, please, continue.

Mr. Hafeez Khan: That, in our mind, I think that lends itself to real issues. I think attached to that should be some mechanism whereby that person could immediately seek to clear his name—immediately. There should be no going through the process. And we heard from the police how they are eager to arrest people and detain them and then do the investigation. I think this thing about a person with the same name being affected, we have to put in place something that that person has a mechanism to immediately clear their name, because this could destroy—we have to understand, some of the provisions in this Bill, just by getting detained, or your name being put out there, could destroy a person, business, everything. And we have to ensure that where there are provisions that could stain a person’s name, we have to put mechanisms in place that they could immediately, if they are innocent, clear their names. It is imperative that we do that.

The other one is, again, with the junior constables being given authority. Although it is said that they are supposed to go to the High Court, a judge instead of the magistrate, again, the mindset and—and, you know, saying that they go to a judge might sound fine, but anybody could make up a case to put to a judge. Right? And it means that the level of the officer, in my mind, the higher you go, probably the less possibility of that may happen. Because there are those who could use this situation to take personal revenge against others who they feel they might have had

some issues with.

So I think that particular, with the—there are two instances where—I think it is three—where the move was made to move it from a sergeant, I think, to an ordinary constable. The other one is where the constable could go and receive cash or seize cash. I do not know. I mean, based on how evidence and all kinds of things disappear in the police service, why would we want to do that? It does not seem to be logical to me. I mean, the amount of issues we have with police at the lower level, why would we go in to get constables to go and seize large amounts of cash? That is a recipe for chaos, in my mind. I think that is under clause 43.

Again, in clause 36, I think there is another one, informing a junior officer. In clause 36, if a person sees that there might be somebody who is planning to commit a terrorist act, they should be able to notify a junior officer. Would the junior officer respond in a manner—and here we are talking about a terrorist act that might cause a lot of damage. Would they take the information and act on it in a manner, expeditiously, that is required if it is a terrorist act going to be— So, I think we need to look at that and see how best—

And clause 28, I think in terms of the use of the names, I think that was one that was dealt with at length. We had suggested that just the sanction committees. It would not only—and it was a point just because of perception. I think we understand that the Bill was for the betterment and the protection of the country and the citizens, so from the point of view of using the names of the committee rather than say, all sanction committees that is done by—would probably be best used. I think that is the same that we have on clause 28 which it is the names again used. Additionally, you would not probably have to go and make amendments down the road if another committee is sanctioned by the United Nations, because it would be there already. I think those are the areas that we looked at. I will pass on to Brother Harool to point out what are the areas that he—

Mr. Chairman: May I, before I lose the points that you have done? First of all, thank you, because your submissions were very clear, both in writing and very succinct orally. The Committee has taken note of, in our prior deliberations, of your submissions, and I think that you will be pleased with some of the work that we intend to produce in relation to your submission, without disclosing too much, as we are not capable of doing that until our reports are prepared. But your submissions have been well noted.

There are a few matters of balance that we will have to throw into the mix. So if I could just let you know, the immediacy of clearing your name, if you are a listed entity and there is the wrong name, there is in place right now an urgency requirement both ways. So the requirement for the listing, the service and the opportunity to get back before the judge is all done on a priority basis at the court where the listing happens. So there is a mechanism in place for that. It is done within 24 hours as a matter of fact.

The similarity of names is obviously an issue, particularly for Arabs or Muslims, or Orientals who tend to have similar names. Like in Korea the surname Kim, there are millions of people by the same surname. In the Middle East we come up with the three-name rule so you could distinguish Ahmed from Ahmed from Ahmed from Ahmed. So you give your name, your father's name and your grandfather's name and then your clan name. So Saddam Hussein was Saddam Hussein Al-Tikrit, his actual family name, but Hussein is your father's name. So we appreciate that, but we do have the mechanism for it. We take on board the breadth provision, the recklessness provision. Again, it is in concert with the submissions made by the Concern Muslims. The reference to the specific names, I think your submissions are very pointed and clear and we certainly do have a proposed formula to treat with that.

The junior versus senior officer provisions, they kind of cut both ways.

If you are obliged to only report someone above the rank of sergeant, what happens if the sergeant is not there? “I try to report it but the sergeant would not be back till Monday, in an outlying station” or other positions. So there was a bit of a balancing act between the two, but we understand the concerns. And the seizure of cash position really was meant to harmonize what happens with Customs on entry, where any customs officer can seize cash. The point is that it must be done with due process. You have to bring it to the court. It is unlike the Customs seizure where you can plead before the Comptroller. This one you must go to court.

So we do hear you loud and clear on the provisions, but there are certain obvious answers to some of them, only after you have heard what they are. They may not be apparent on the first reading of it. So we thank you for your submissions sincerely.

May I ask Brother Khan to take us through some of the submissions on his plate?

Mr. Harool Khan: Mr. Chairman and members of the Joint Select Committee, the ASJA is very pleased to be here and we have been asked to respond to this Bill and we have responded. And I want to say for the information of the public is that the ASJA stands as one of the largest organizations here in Trinidad representing Muslims. We represent 70-odd masjid and we also have 13 schools, both secondary and primary schools, which we are proud of. And the development of this country is one that we take to heart and we are sincere about that. And the provisions of the law of this amendment, in our view, is somewhat harsh in some areas and attention needs to be paid to it. Right?

We, in the ASJA, stand as guardians of our democracy and the rights and freedoms of our people, not only the Muslims, by and large; and therefore any law that is being brought to bear on us should not supersede the Constitution, which is the highest law of the land. And therefore, we stand firm that we would not be party

to our rights and freedoms being suspended arbitrarily.

So with that in mind, in the Qur'an we are taught to look after our neighbours, our friends, our families, the indigent and the less fortunate. And we are of the view of some of the other parties who have been pronouncing, and the Bill, clause 5, we also, too—the ASJA—would prefer to see the United Nations Security Council, those entities that have been named by them. And we too are of the view that naming Al Qaeda, ISIL and Da'esh are also pointing in the direction of the Muslims and we would like to think that the Government of Trinidad and Tobago is not pointing any fingers in the direction of the Muslims.

We have been living here for more than 200 years. I mean, not me. Right? But we have been living here for more than 200 years as Muslims in this country and we have not been held for any terrorist or criminal behaviour in organizational levels; maybe individuals, but not at organization levels. And therefore, we wish to advise this honourable Joint Select Committee that one should regard our existence here in this country as equal to anybody else; that is, the Muslims, equal to anybody else of any other religious persuasion; and any Act or law that comes into place must protect us all. So if a Hindu person wants to go to Sri Lanka or to India, and you have the Minister declaring an area designated, then our rights and freedoms have been interfered with. Right? We have a guarantee that we will practise our religious beliefs under the Constitution, and you cannot identify any one group. If one goes to Jerusalem and just happens to be in close proximity to something, they can be deemed to be a person of interest. And we therefore would like to see the Government ensure that our rights and freedoms are protected.

In clause 8, the term “reckless” is being used and we find that this is unclear and vague, and those who are investigating can use this for misuse. And therefore, we are suggesting that intention and knowledge of it being used is quite sufficient. The provisions of the clause has the capacity to incriminate innocent people who are

employed legally and legally connected to a body corporate. And this goes down to our very small Jamaats in areas that can become victims to such a law. And we are saying that if an individual is found guilty of an act, then deal with him as an individual. And where you have a body corporate who is not involved and whose majority of people are not involved, why should that entire body corporate, be it a Mosque, be it an organization, be it a business, they should not be held responsible for the actions of one single individual. Right? And if that individual was to bring the company into disrepute, then take that individual and deal with him as an individual.

The proposal for the inclusion of \$25 million added to the existing Act, we consider that onerous and out of sync with common living, and that is to say that if an individual were to be caught and charged and convicted in a court of law and he is sent to prison for 25 years, in my view, that is a harsh enough punishment. But when you take it further and you now say that the person has to pay \$25 million, let us look at it in a little bit of detail. You have a family. An individual who is doing something without the knowledge of the rest of the family and he is caught and he is penalized, and then you tell him now he has to pay \$25 million, where is he going to get that \$25 million? Unless he has it cash in a bank, he has to liquidate his assets.

What about those people who are now his dependants, who have no knowledge of what his actions were? The court seizes his properties and his businesses and so on, to pay the fine. What happens to his wife and family? What happens to the innocent children? What about his parents? Are they going to be paying the price, or the penalty for his irresponsibility? I think no. I think if you send him to jail, that is sufficient. Do not cause him to have to put his family on the street and make them beggars. Right? And therefore, we say that the added \$25 million is a bit harsh and the Committee should consider that harshness in relation to our general living.

In the area of where you have the Minister and, in particular, the Minister of National Security and the Attorney General, we live in a country where it is guaranteed that the separation of powers be a part of our existence, and today it is you, Mr. Al-Rawi, but we do not know who will come next week, or next year, or five years from now. And while you may have goodness in your heart and fairness, we do not know what we are going to get. And therefore, we want to see—the ASJA makes it abundantly clear that we want to see the separation of powers maintained in our Constitution.

And that powers given to a political appointee should be one that is there and guarded and, therefore, should not be in a position to instruct the police or their agencies to do an investigation merely on a suspicion or a feeling. It should be clear that the police have their powers and the Attorney General has his powers, and there should be a clear separation of powers.

6.00 p.m.

In the case of the designation of a geographical area I think that was dealt with pretty clearly, but we also want to make our voices heard that we find that the Minister of National Security, or whoever Minister that is given that portfolio, cannot sit here in Trinidad and determine that a place in New Delhi, or Sri Lanka, or Pakistan, or in any part of the Middle East is a national geographical area and, therefore, he will have to depend on someone else. Who are the agencies he is going to depend on? Can we trust these agencies? We have been living here in harmony with each other, Hindus, Muslims. In fact, we are so integrated that we have people from the Muslim family married to the Hindu family, to the Christians. We are so integrated that if something is happening in one family, bet your bottom dollar the next family will know about it.

So we cannot really hide too much. Yes, some things could be hidden, but not everything, and we live in peace and harmony in this country. We have enjoyed

living—I do not want to live nowhere else you know. I really do not want to live anywhere else. I want to live here, and I want my children and my grandchildren to live here. They enjoy living it here and, therefore, I stand firm, along with the ASJA, to seek that we have a community that we can be feeling comfortable and I do not have to worry about my children going to school and because their name is Saddam they are going to be pulled aside. These sort of things we want to ensure that it is a—and to give police the powers especially the junior ranking officers—listen, we know this is Trinidad and everybody know everybody, and if a police officer has a bias for one reason or the next he can construe anything to bring that person to the court, and thereby—you know once your name is called, it is more for you to clear your name.

Even though you are saying a provision have been put in place, I am saying that even though that provision is put in place to clear your name among your peers is the worst of penalties and, therefore, we are requesting from the Joint Select Committee to be very, very careful in advancing this Bill in its present form. We want to be assured by all Members of the Parliament that you all will consider very closely and clearly what these implications are, and we hope that you all will continue to have discussions with us.

In our response, we said that there are some areas that the law enforcement agencies can have dialogue with the Muslim, well not only Muslims, but people of a certain rank in your churches, in your mosque, in your mandirs, so that any such suspicion at the appropriate level can be warded off or can be analysed, and can be determine and clear in the minds of those in authority. And we in the ASJA, have no qualms of the Government of Trinidad and Tobago ensuring that terrorism and its associated negatives do not enter here. We do not support criminal behaviour of any kind, and while we are putting a lot of resources, and so on, on perceived or apparent threats, the real threats that exist among us on a daily basis are not attended

to with enough resources.

And if I may make the point, recently somebody coming into our area, into a construction that we have, stole some items, maybe valued a couple thousand dollars, but you know what, I did not even bother to call the police because you know what, they are not going to act. Mr. Attorney General, I am telling you, we are suffering terribly bad by this and a lot more resources should be put in the areas of our border security, and border security has an effect on terrorism because that is where some of your guns will come in, where your paraphernalia for making bombs and whatever will come through your lax border security and, therefore, enough is not being done to ensure that the safety and the security of this country is properly well covered.

With these few words, I would like to thank again the Joint Select Committee for giving the ASJA an opportunity to respond, and I hope very much that you all will consider our response and take it in good faith. Thank you very much.

Mr. Chairman: May I thank you? The ASJA is an icon of Trinidad and Tobago—

Mr. H. Khan: Thank you.

Mr. Chairman:—that has more than delivered its fair share as so many other institutions have. So on behalf of the Committee, we are very honoured that you have taken the time to articulate your submissions. We have received your submissions. We are very grateful for the oral amplification. I want to give you the assurance that the Committee is very keen on trying to get this right, and in finding the fair balance we note the principles upon which you have based your submissions and we can think of no better place to start off than supremacy of our law and the balance and proportionality whilst trying to chase the mischief of terrorism from our shores. So we thank you. Each and every one of us thank you for your submissions.

Mr. H. Khan: You are welcome.

Mr. Chairman: Does our sister wish to contribute separately?

Ms. Khan Ali: No, no. The Chairman, our coordinator mentioned. All I would like to do is thank you all for the opportunity given to us to present what we have stated. We sincerely appreciate that and we hope that you all have taken it in good faith in terms of us all being Trinidad and Tobago citizens. We were all born here. This is the country we love, this is the country, as Brother Harool said, that we want to live in and we all are law abiding citizens, and I am sure it has been recognized that a lot of these concerns have come about from the corrupt elements in the Trinidad and Tobago Police Service. I urge, probably outside of this Committee, that the Government does something about that so that when a law comes before us, or a Bill comes before us, we see it for what it is meant and not what we have to protect ourselves from because we cannot rely on the police service to protect us. So once again, I thank you.

Mr. Chairman: Appreciated. Members, are there any submissions? I take it Imam Ali that you adopt all of the submissions and repeat all of the submissions you made earlier. We take it—yes please, Brother Khan.

Mr. H. Khan: I would like to mention that the ASJA has had discussions with both the Muslims of Trinidad and Tobago as well as the Round Table, and we generally are of the same as you saw here today with the submissions of everybody. We largely are on the same page. They may have some little differences here and there, but largely we are on same page.

Mr. Chairman: Understood and appreciated. Members of the Committee, are there any perspectives that—oh, sorry, Imam Ali. I was thanking you and now I have passed you clean. I apologize. I blame member Ramadhar for distracting me.

Mr. Ali: Mr. Chairman, thank you very much. I just wanted to mention that one of the things at the Muslim Round Table we have benefited from over the last few months or couple of years has been the opportunity to meet with your good self and the Minister of National Security, and so on, and it is really very important for us to

keep those channels of communication open, and even we wish that we could really formulize some kind of communication channel between the Government and ourselves as the Muslim community area.

Just recently I had a visit from one of the largest organizations in Guyana as well and one of the leaders of that organization, and he was very concerned about what is going on here in terms of terrorism and terrorist fighters and so on, and they are suspicious as well that some of these people may be migrating to Guyana and to other areas in South America. He was asking how can we communicate and how can we get together, and if it is that we have a conduit through the Muslim Round Table and similar organizations, then we can also bring in some of these other countries, and the Muslim organizations that are there that are really concerned about what is going on in their neck of the woods. So this has a lot of positives if we can go forward. So I am hoping that we can really formulize something where the Muslim community can have a channel to the Government especially with regard to terrorism and terrorism-related activities so that we can be able to assist in preventing them.

Mr. Chairman: I actually wish to thank you for raising that very important matter. You, of course, are well aware that in the last couple of years we have amplified in a very significant way the conversations that are happening and we have brought on all of our partners, our international partners, et cetera, and introduced them right around to so many people, some of whom are sitting in front of us right now. Brother Assan who you will recall is on his way back to Trinidad and we have a formulized venture that will soon be rolled out where we are going to importantly channel the counter-violence extremism work that we are doing collectively because it is all of us, especially in the messaging from the khutbah, and on the ground, and on the communities, and in the prisons as a matter of fact, where there is a significant project which we will unveil quite shortly.

But I want to assure you and this is from a Government's perspective now, that formulization and modelling is right now being sorted out, and I look forward to it being rolled out because it is a joint venture with us all. It is much more than just a Muslim community. Again, fighting against terrorism is not fighting against Islam. We are just ensuring that people who are intent on causing wicked effect to our country and terror to people are treated with broadly. They do not have to have a religion. They could just be terrorists and we accept that, but we are very sensitive to the mood and climate in which we ought to have this conversation and, of course, painting the obvious as to how the world perceived certain aspects of this. So we hear you loud and clear, Imam, and we are very anxious to make sure we do it right.

Mr. Ali: One last issue that we had also mentioned that I think when we met with the Prime Minister as well, is the issue of the refugees that are coming into Trinidad and many of them being Muslim as well, and how we can do something to alleviate that situation. So we are hoping as well that through our organizations that we can also assist in that area and we are asking the Government as well to look at the legislation, to finalize the legislation with regard to the refugees and their status in Trinidad and Tobago.

Mr. Chairman: On a very important separate topic, we are looking at it. It is not an easy picture. There are significant ramifications in the policy prospectives behind that, but we are in full cooperation. There will be many a take between what happens or ought to happen, or did or did not happen. Regrettably, there is never a full consensus on any one issue, but we do thank you for the opportunity and we are in the process of engaging.

Members, are there any other concerns members wish to bring to the table?
Dr. Moonilal?

Dr. Moonilal: No.

Mr. Chairman: No? Okay.

Mr. Hosein: I would like to say something.

Mr. Chairman: Yes please, Saddam.

Mr. Hosein: I would just like to say as a member of the Muslim community, that I was very happy that you all took the time off to come here and express your views and your concerns on such an important Bill that has impacted in terms of the way we may practice our religion as we go forward from here. And as a member of the Committee, it warms my heart to see that I can sit in the same room with you all here and that we can converse, and that what we do here is really for the development and the safety for each and every one of us, myself, yourself and your families. So thank you.

Mr. Chairman: Well said by Sen. Hosein. Ladies and gentlemen, imams, brothers and sisters, may I thank you profusely on behalf of all of the members of this Committee. I think we are of equal mind in our Committee. We are all really just trying to get the right law and formula of laws for the protection of our citizens all. We thank you for your contributions and always, as Sen. Hosein said, I see you on many more occasions that he has, but you always take the time to give fulsome contribution and the country owes you a debt of gratitude for that.

Thank you for treating with this matter in the fashion that you have on behalf of us all. May I take my direction as to whether I should suspend or not. I fear that I may be excoriated by the Secretariat.

[Secretary confers with the Chairman]

Okay. Then we will be suspending so that the Committee can then go in camera and tidy up our next round of affairs and may we wish you a very pleasant journey home, a safe journey home with regards from us all to respective communities. Thank you very much.

Mr. H. Khan: Thank you very much as well.

6.15 p.m.: *Meeting suspended.*

EXTRACT OF VERBATIM NOTES OF THE EIGHTH MEETING OF THE JOINT SELECT COMMITTEE APPOINTED TO ENQUIRE INTO AND REPORT ON THE ANTI-TERRORISM (AMDT.) BILL, 2018, HELD IN THE A.N.R. ROBINSON MEETING ROOM (EAST) LEVEL 9, (IN CAMERA) AND IN THE A.N.R. ROBINSON MEETING ROOM (EAST) LEVEL 9 (IN PUBLIC), OFFICE OF THE PARLIAMENT, TOWER D, PORT OF SPAIN INTERNATIONAL WATERFRONT CENTRE, #1A WRIGHTSON ROAD, PORT OF SPAIN, ON FRIDAY, APRIL 27, 2018, AT 10.32 A.M.

10.38 a.m.: *FIU representatives enter committee room*

FINANCIAL INTELLIGENCE UNIT OF TRINIDAD AND TOBAGO

Susan François	Director
Nigel Stoddard	Deputy Director
Mary Campbell	Directory, Analysis Division
Chislon Dubar	Senior Analyst

Mr. Chairman: Good morning, familiar faces of the FIU. We are just going to get the flag as to when we are going to televise, so we are still just arranging. We are actually going to record this session and then it will be replayed on the various media platforms. So feel free to arrange yourselves.

Good morning everyone as we come from the Parliament in the public session of the Joint Select Committee established to look and consider the Anti-Terrorism (Amdt.) Bill, 2018. I am Faris Al-Rawi, the Chairman of this Committee, and we are here today with members of the Committee, some of whom are between another meeting and this meeting and you will see joining us shortly, and others who will arrive due to other commitments which are ongoing and which will soon facilitate their attendance.

I am told that I must conduct the usual reminders that we are broadcasting on the Internet. We have the *ParlView* Channel. We are on Twitter feed; we are on Facebook, we are on the Parliament radio frequency, and therefore there are multiple

media platforms available to members of the listening public to have a look at the proceedings of this Committee.

We have received this morning submissions which have been considered by the Committee, and we have received submissions some time ago. Importantly, we have had a submission from the Financial Intelligence Unit under cover of its letter dated March 05, 2018. I would like to welcome the FIU and its team to this Committee, and to welcome the assistance which they will provide in clarifying positions that they may wish to traverse. I first ask the members of the Committee to introduce themselves and then invite the members of the FIU team to introduce themselves, and then we can kick off from that stage forward. Sen. Creese, may I ask you to start.

[Introductions made]

Mr. Chairman: Ms. Francois, would you introduce your team from the FIU?

Ms. François: I will allow each of the members of staff to introduce themselves.

[Introductions made]

Mr. Chairman: Welcome, members of the FIU. And for members of the listening public, this is the Financial Intelligence Unit of Trinidad and Tobago which is responsible for the management of terrorist financing issues, suspicious transactions, suspicious activities across the stakeholders which are identified under the Proceeds of Crime Act in the Fifth Schedule, all of the listed entities and financial institutions that comprise the purview and supervision of the FIU. Ms. Francois, may we invite you to make your opening statement if you have one and then we will ask you certain positions on our plate, and perhaps you may have a few issues to return to us.

Ms. François: Thank you, Mr. Chair, and the FIU wishes to express its appreciation for being invited to make this presentation before the Joint Select Committee on the Anti-Terrorism (Amdt.) Bill, 2018.

Mr. Chairman, this Bill seeks to introduce certain measures to combat

terrorism in its various forms. We need to remember that terrorism is a form of violence directed against civilians by non-state actors, to achieve an end goal identified under various ideologies. The inspiration for the attacks could be religious, a religious one, a political one or ideological one. This is the definition which is incorporated in our present Anti-Terrorism Act.

Terrorists believe that they have to inflict the maximum civilian casualties which will then rock our political foundation. They targets civilians in their normal environments: malls, churches, streets, concerts, supermarkets, in order to carry out their violent attacks and gain media attention. So the intention is to have maximum impact locally and internationally.

For the period October 2016 to September 2017, the FIU's analysis revealed 251 persons suspected to be involved in terrorist activities. So it is only if we recognize that we have a problem in Trinidad and Tobago can we then seek solutions, and this amendment Bill before us seeks to provide certain solutions to the terrorism threat in Trinidad and Tobago.

Mr. Chairman: Ms. Francois, thank very much. May I ask you, in part of your opening statement—I hope I have not interrupted it—

Ms. François: No.

Mr. Chairman: I understood your intonation to mean that you were at an end. May I ask you for the benefit of the listening public, as we welcome the members of the media who are covering this session as well, to indicate the FIU's role and function in the realm of financing of terrorism or suspicious activities or terrorism? Some of the recent reported statistics that you have in terms of suspicious actions, suspicious transactions, the quantum, the value? And could I also ask for your indication as an entity that is directly involved in the Financial Action Task Force considerations, recommendations, immediate outcomes and with the Caribbean Financial Action Task Force, to give the population some degree of insight into what drives the

process of this Bill, what happens if the considerations are not treated with and what some of the consequences, from a financial or jurisdictional point of view, may be.

Ms. François: Thank you, Mr. Chair. Briefly, the FIU has a mandate under the law to receive reports of suspicious activity relating to money laundering, but I will focus on financing of terrorism for this purpose. So reports of suspicious transactions involving financial activity related to terrorism must be reported by financial institutions and certain categories of businesses which have AML/CFT obligations.

These reports of suspicious activity are sent to the FIU. The FIU conducts analysis of these reports. We seek sources of information from many different places: from Government databases, as well from foreign intelligence. We put together all that information and assess it and evaluate it, and if we come to the conclusion that there are reasonable grounds to suspect that a particular kind of activity, in this case terrorism financing activity is taking place, we must send a report to the Commissioner of the Trinidad and Tobago Police Service.

So that is the role the FIU plays. We analyze reports of suspicious activities and, if the case warrants it, we send an intelligence report on to the relevant law enforcement agency, the Trinidad and Tobago Police Service, for them to conduct the investigation. We need to be clear that the FIU does not have the mandate to conduct investigations. We analyze and produce intelligence. Intelligence basically is information that has been assessed and it is of value to law enforcement. So we would shift and evaluate the information and only send the good information to them, that is, what we think or we suspect is related to a financing of terrorism activity.

During the previous financial year that is between October 2016 to September 2017, the FIU received 112 suspicious transaction reports on financing of terrorism, and of course related to terrorism activity. In the previous year, October 2015 to September 2016, we received 69 suspicious transaction reports, and

the previous years it was a bit less. So what we are seeing is that the reporting entities, which are the financial institutions, and the listed business categories, are becoming more and more aware of the indicators of terrorism activity. They are becoming more informed, so they are better able to identify when these activities are suspected to be taking place.

With respect to the sums of money involved, over the two-year period I spoke about, which is October 2015 to September 2016, the amount of money involved in supporting terrorist activities, we see to be approximately TT \$13 million. It is well known that terrorists do not need a lot of funds to carry out their activities, and we are seeing that evidenced by the kinds of terrorist attacks we are seeing now. Mass attacks being carried out using very simple devices, low cost technology. And I will refer to the unfortunate events which have happened in this year.

Three days ago, Yonge Street, the most popular street in Toronto, a terrorist attack through the use of a panel van. In Russia, earlier this year we had an attack in a church. In France, earlier this year in a supermarket, using a knife, using stolen cars. So we are seeing the low tech type of activity taking place. If we consider the reports arising out of the 9/11 attack in the USA, approximately US \$300,000 passed through the terrorist accounts over a period of two years, and it is said most of that was used in daily living expenses. So the proportion of that money that actually went to fund the attack was very small.

Mr. Chairman, I will now address the CFATF, that is the Caribbean Financial Action Task Force report on Trinidad and Tobago's implementation of its counter financing of terrorism regime. The Caribbean Financial Action Task Force is the regional arm of this Financial Action Task Force which is based in Paris. The FATF, as I will call the Financial Action Task Force, is responsible for setting global anti-money laundering and financing of terrorism standards, which every country in the world must apply. The CFATF in the region ensures that countries implement the

FATF recommendations, and in order to do that, they conduct assessments of countries. Trinidad and Tobago was assessed by the CFATF in January 2015 and the report was subsequently published.

In that report the assessors found that our anti-terrorism Act, while it criminalized the terrorism financing offence, still had several deficiencies or omissions which were required by the FATF, one of which was in relation to the implementation of financial sanctions on terrorists and persons who would have been convicted of terrorist-related offences. Targeted financial sanctions are those sanctions which essentially involve the freezing of assets.

As well, Trinidad and Tobago has an obligation under the United Nations Charter, Chapter 7. When UN resolutions are made under Chapter 7 they are mandatory across the world. So we have an obligation under UN 2178 to implement legislation to prohibit our nationals from leaving this country to carry out terrorist attacks in other countries. As well, the sanction provisions, in terms of the penalties, were considered to be not proportionate or not sufficiently dissuasive. So we have too as a country, to address the deficiencies. Failing to address those deficiencies within a particular time frame—we do not have all the time, we need to address the deficiencies as soon as we can—would mean that we face the possibility of being sanctioned, I would put it, by the Financial Action Task Force. And you know their sanctions can take many forms. We commonly recognize the term blacklisting, but there are different forms of sanctioning.

If for example we get a bad report from FATF, when our financial institutions conduct business outside of Trinidad and Tobago with other financial institutions, those financial institutions may apply certain restrictive measures, may restrict transactions coming to them from Trinidad and Tobago. So we may face certain difficulties in conducting our international transactions. So, all of these things I just spoke about, are just some of the effects.

Now, I am sure, and I am seeing this Bill before me, that with this Bill we would certainly be making a significant effort to address the deficiencies, as well as, and I think this is the most important thing, to make our country safer for the citizens of this country.

Thank you, Mr. Chairman.

Mr. Chairman: Thank you very much, Ms. Francois. May I just for the benefit of adding one bit of clarification to what you have said, enquire, or ask you to confirm, whether the time frame that you are referring to, before the difficulties of particular types of sanctions can be applied, is the time frame that the CFATF and the FATF have given Trinidad and Tobago in the enhanced follow-up process in the CFATF, which is a two-year period from its mutual evaluation report, which was in 2016, and also whether it includes the time frame which the ICRG of FATF, that is the International Corporation Review Group's time frame has had for us?

In other words, can you confirm that the time frame is imminent? In other words, we have got until September of this year to make sure that we have certain of our obligations satisfied as contained in this Bill?

11.00 a.m.

Ms. François: Mr. Chairman, you are absolutely right, and I think September 2018 is a good deadline because the FATF meeting would be in October and they usually want the information in before a month or so.

Mr. Chairman: Would it be correct to say that you are also equally concerned that with Parliament having to go on a mandatory recess after the first week of July that we navigate this process as carefully as we can?

Ms. François: Mr. Chairman, I am sure that the Government is committed to making this country safer for the citizens of this country, and will do everything to make sure that this Bill gets through within the time it needs.

Mr. Chairman: Including the fact that this requires a three-fifths majority support which therefore means that it is not only the Government that participates in this process. Thank you. I take your smile as an acknowledgment of what the risk and time frame looks like. Thank you very much, Ms. François.

Ms. François, your submissions were very useful. Your submissions, your written submissions contained in your proposals of March 05, 2018, traversed the definition of section. The observation that there was a need for amendment, really it turned out because of the difference in the shifting of the positions between Part II and Part III. We wish to tell you that we, as a Committee have considered all of the submissions, and the vast majority of submissions made by you were certainly very favourably looked upon without going into what the Committee may ultimately decide, but we thank you for assisting us with the observed, I should say, typographical or other omissions that we made, the reference, the cross-referencing clarifications that you provided.

We also were ably assisted by the designated entity and listed entity considerations in your submission, pointing out to us that a “designated entity” may be different from a “listed entity”. Of course, that is quite correct, so we were very much enabled by your assistance. That flowed into your observations for the treatment of listed and designated entities. And then your submission with respect to clause 22 of the Bill which treated with travelling for purposes of committing a terrorist act.

You ended with the provision of financial assistance for services or property to commit a terrorist act, and we were also quite ably assisted by that.

May I ask if there are any submissions that you wish to amplify here?—or is it that you want it for the record to traverse the headlights, the highlights of these particular submissions?

Ms. François: Mr. Chairman, I would not want to repeat what I have just written and which is before you, but what I would like to point out is that in paragraph one of my submissions, definition of “terrorist act”, I referred to clause 5(e) which should really be clause 5(d).

Mr. Chairman: We noted that. Yes. Our Chief Parliamentary Counsel team in looking at the cross-reference particulars spotted that as well, so thank you.

Ms. François: And, Mr. Chairman, if I may, I do have some additional comments I would like to place before this Committee.

Mr. Chairman: Please. We welcome them.

Ms. François: Firstly, I am looking at the provision in the amendment Bill relating to “taking preparatory steps including, but not limited to acquiring material”.

Mr. Chairman: Which particular clause are you referring to?—“preparatory steps” is caught impliedly and then expressly in the Bill.

Ms. François: If you would bear with me, Mr. Chairman, I just need to find the appropriate clause.

Mr. Chairman: While your team is looking for the clause, maybe you want to continue speaking about it?

Ms. François: Yes, Mr. Chairman, it is clause 7(c).

Mr. Chairman: Yes. Got you. On page 7 of the Bill.

Ms. François: Mr. Chairman, my view is that this clause is and could be a powerful preventive provision, but in my view it appears restrictive. It says:

“takes any preparatory steps,...but not limited to acquiring material or participating in a planning of an act...in paragraph (a),”

And paragraph (a) refers to the terrorist attack.

I do not know why we have to limit it by adding on those examples, I will

call them examples, “acquiring material or participating in planning”. And my view, I am concerned whether that could then lend itself to be restrictive, and I would prefer something along the lines, “engaging in any conduct in preparation for the commission of the act referred to in paragraph (a)”.

Mr. Chairman: Thank you.

Ms. François: And then I would like to add as well to that same section that it is irrelevant for the purposes of identifying whether or determining whether the person is engaging in any conduct in preparation for the act, whether the intention and preparations relate to one or more particular act of terrorism or acts of terrorism in particular or acts of terrorism generally. The reason I am saying that is that if this is a preventive mechanism and preparations are taking place, it may be difficult to identify clearly and with enough certainty the particular attack that is being contemplated. And I would—

Mr. Chairman: Are you—

Ms. François: Sorry.

Mr. Chairman: Just to add a little lens to that. So your concern in the limitation is potentially not only the application of the ejusdem generis principle which the words can lend a lens to in that and the law is, for the benefit of the listening public, words of limitation limit the clause and the law to the type of consideration that the word suggests, so that is what it means for the listening public.

So it is not only that, but you are also hoping to amplify what would otherwise be caught by the Interpretation Act for the inchoate offences in a broader sense. In other words then, you do not only want conspiracy, the other usual players that go along with the Interpretation Act, you want to also capture the singular and the plural and general positions.

Ms. François: Yes.

Mr. Chairman: Could I ask you if you are developing that idea to indicate what form of safeguard or filtration you think would be appropriate? Are you proposing that we limit or specify the mens rea aspect to knowingly or willingly? Are you dealing with a concept of recklessness? What is the balance and the proportionality to the clause?

Ms. François: Mr. Chairman, the mens rea would be intention, and I have looked at the UK Terrorism Act, 2006, section 5 and I think if we could take a look at that section we would understand the extent of the restriction that could, this proposal that we have here at clause 7(c) could lead to, and my preference therefore is for something more along the lines with section 5 of the UK Terrorism Act, 2006.

Mr. Chairman: Whilst on this point, do you also consider—I should back up—the Trinidad and Tobago Police Service made a recommendation for consideration that we look to capturing homemade devices or regular garden-type materials, fertilizers, nails, et cetera, things that can be used in a very devastating way, but which are simple in their nature depending upon how they are comprised.

Part of it related to the taking of preparatory steps, they also included a consideration as to possession of certain types of material; how to make a bomb using garden supplies, for instance. And in dealing with that they also tackling this tack-on-to clause 7 of the Bill which deals with our preparatory steps. Just by way of clarification, was that within your contemplation? And is it also meant to be, what level of intentionality from a mens rea perspective did you have in mind there?

Ms. François: Mr. Chairman, I did not address my mind to the kinds of evidence that would be required to prove that someone is engaged in a preparatory act. The

recommendation that I was making is that so the legislation would not be restrictive, and it would allow any form of evidence that could convince the court that these showed that this person was taking certain acts in order to carry out a terrorist attack, and it could include any kind of evidence.

We well know that the types of goods that you spoke about are what are called dual purpose goods. They can be used for a legitimate purpose, as well as a non-legitimate purpose. So that comes down, your question comes down to the kind of evidence that would support this finding which I had not addressed my mind to.

Mr. Chairman: I propose insofar as I am interrupting you on your further submissions on a clause-by-clause position to open the floor for other members, please, to feel free to jump in and ask questions on the particular points that we are on now.

Mr. Hosein: Thank you very much, Chair. Ms. François, I understand the concern you have with the restriction of how the clause is actually worded right now, and that you have to widen it with respect to any conduct. Now, in your opinion, is it that you believe that the clause as currently drafted would not capture preparatory steps such as acquiring money, cash or any material of a financial nature to fund terrorism?

Ms. François: No. I think we have enough provisions in the law dealing with the financing of terrorism, the provision of funds. This engaging in any conduct in preparation for giving effect to the commission of a terrorist act, which is what I propose, would include as well collecting money, but it would also include and this is what I was thinking about, all the different acts that come together to prove preparation.

So, we are treating with the problem before the actual commission of a

terrorist act. As I said before, a powerful provision to prevent a terrorist act before it has even taken place, and this is where I think we need to go, towards prevention. So, I think, and my view is that we need to give law enforcement the tools to prevent rather than strengthening the tools, or as well strengthening the tools, to prosecute the commission of the act.

And this clause here I see it as very important in prevention, it would include gathering material to make a bomb, it would include gathering funds, it would include gathering people, coming together, distributing information on how to make a bomb, it would include any kind of act.

And again, coming back to the evidence part of it, it is whether all these things taken together will show that the person was contemplating that, was preparing that, it was not an innocent purpose.

Mr. Chairman: Member Hinds.

Mr. Hinds: Thank you very much. Madam François, I am particularly attracted to your thoughts on this matter. And you are saying that the UK Act of 2005, their clause, their provision in their legislation that deals with matter is a little less restrictive than the draft that we have here.

Ms. François: Yes, Sir, and it is the—

Mr. Chairman: If I could for the benefit of the public, sorry to interrupt. So, thanks to the very able assistance of my team, they have pulled up the UK Act immediately. So section 5 of the UK Act reads as follows, it is headed “Preparation of terrorist acts”, subsection (1)—

“A person commits an offence if, with the intention of—

- (a) committing acts of terrorism; or
- (b) assisting another to commit such act, he engages in any conduct in preparation for giving effect to his intention.

- (2) It is irrelevant for the purposes of (1) whether the intention and preparations relate to one or more particular acts of terrorism, acts of terrorism of a particular description or acts of terrorism generally.
- (3) A person guilty of an offence under this section shall be liable, on conviction on indictment to imprisonment for life.”

So, thank you for the reference to it. I am just reading it out for you, member, in case it affects some of what you are doing by way of clarification.

Mr. Hinds: It certainly does, and I am even more attracted to the thought now having heard that. Because, for example, the police might be pursuing a particular terrorist plot and then they find photographs of a church 10 miles away and then there is evidence that the same guys had been visiting that church over the last couple of weeks or some design of the church. These things would certainly indicate that they are looking at another event, apart from the one that is gaining the attention of the police, and you are saying that too, that kind of thing ought to be considered as evidence, that they are engaged in that kind of activity and serve to prevent the attack on that other church 10 miles away or discotheque or I do not know if they still call it that, but some place where human beings, where people gather to entertain themselves, where the impact of their terrorist act could be so grave. Is that what you are saying?

Ms. François: That is it exactly, Mr. Hinds, and I should have spoken about the photographs as well because that is something that we have read in cases that was actually done, the visiting and the photographing of places.

[Mr. Ramadhar enters committee room]

Mr. Chairman: The reconnaissance. Yes.

Mr. Hinds: Thank you very warmly.

Mr. Chairman: Thank you, Ms. François. We welcome member Ramadhar

who, for the record, was in court and was unable to join us sooner. We are always pleased to have member Ramadhar with us. Ms. François, we interrupted you, I think, we interrupted you quite properly on your first submission which is a reflection on clause 7(c). We thank you for the specific reference to the UK section 5 of their 2006 legislation. May I ask you to continue?

Ms. François: Thank you, Mr. Chair. My second submission, Mr. Chair, is and I know this may be a bit contentious, but I am of the view that we should make it a criminal offence for persons to encourage terrorism, the commission of a terrorist act whether directly or indirectly inciting or encouraging others to commit acts of terrorism. There is an offence in some jurisdictions called “glorification of terror”. Persons who praise or celebrate terrorism in such a way that it may encourage others to commit the terrorist act.

There would be an intent to incite the commission of a terrorist offence, as well as the risk that the persons that you are speaking to, the risks that those persons it will fall on fertile ground then. So it is an intention and you know that it will fall on fertile ground, and what you are doing is glorifying the act, glorifying what has happened and in such a way as to encourage further acts.

And I think I could refer you to an article the *Dabiq* magazine of 2015, that this in relationship to Sean Crawford.

Mr. Chairman: Shane Crawford.

Ms. François: Shane Crawford who has been designated as a terrorist.

Mr. Chairman: By us.

Ms. François:—in Trinidad and Tobago and as well as—

Mr. Chairman: And at the UN.

Ms. François:—the United Nations. And in that article, there was an interview, he used words to the effect whereby he was encouraging the commission of

terrorist acts in this country. So that is the kind of situation that I am talking about, and I think if we need to deal strongly with terrorism and protect our citizens as much as we can, we need to take strong measures to do that.

And again, I come back to what I said in the beginning. That we need to, if we do not recognize the seriousness of the situation, then the solutions that we adopt would not be strong enough.

Mr. Chairman: One second, member Hinds. Thank you. Could I just ask before member Hinds jumps in, would it be broader than that set out in the new section 3?—we lifted the, this is in clause 7 of the Bill. So, we lifted from the parent law what is defined as “terrorism”, “a terrorist act”, and we are putting it into a new section 3 of the Act. And in it we say,

“A person who with intent...”, et cetera, “...does any act which he intends to cause, creates the likelihood of causing or is likely to cause human loss, substantial endangerment, creation of risks, prejudice, national security...”, et cetera.

Do you think that this consideration of a glorification offence falls outside of the breadth of that particular definition?

Ms. François: Yes, I do, Mr. Chairman. This definition deals with what is a terrorist act, which is the planned conduct of violent activity, intimidation and the purpose. The proposal I am thinking about is related to this terrorist act. So it is an offence, I want to make it an offence to glorify the commission of this type of act which occurred under section 3. So this is an ancillary offence, if we want to call it that, something in addition to the terrorist act itself.

Mr. Chairman: And again, the application of the Interpretation Act, you think, does not catch that or you want in your recommendation to send an expressed intention to prohibit this type of glorification. You are saying that Parliament

ought to send by its expression of language in the law a specific message and condemnation of glorification of these sorts of things using the example of the *Dabiq* publication. Member Hinds.

Mr. Hinds: Thank you very much, Mr. Chairman. Yes. Prior to the intervention of the Attorney General I was about to ask whether you found any provision in the existing Bill that we could have tweaked to address that matter of glorification and such like? So you consider, Madam François, that there is no provision in the current Bill that deals adequately with the idea of glorification as you have just described it?

Ms. François: Mr. Hinds, I agree with you. I do not see any provision that deals with this. There are provisions like under section 9 which deal with giving support, but I do not think the glorification or encouraging, inciting fits within 9, and as well if we look at section 14.

Mr. Hinds: Which clause are you—

Ms. François: Sorry. I am looking at the parent Act.

Mr. Hinds: Oh. You are looking at the parent Act, which I do not have. Go ahead, Madam François.

Ms. François: We have section support under section 9 which speaks to support. We also have section 14:

“...knowingly incites or promotes the commission of a terrorist act, or solicits property for the commission of a terrorist act...”

But I am proposing that we go one step further.

Mr. Hinds: I understand the point that you are making. If we look at the provision in the amendment, the Bill that is before us and we revert to section 3 of the Act, our clause 7, the amendment at clause 7, if we look at the issue causing and intends to cause, creates and so on, if we ascribe the ordinary meaning to the

word “cause”, and even if we look at it from the civil aspect, the negligence thing, causation it is a little more direct. You would want evidence that shows that it really leads to that, it is very direct, but the offence that you are contemplating or the suggestion that you are making, yes, it is about something separate. Mr. Chairman, I take the point.

Mr. Chairman: Please, member Ramadhar. Thank you, member Hinds.

Mr. Hinds: Thank you

Mr. Ramadhar: Good day, director. Needless to say, the admiration and respect I have for you continues, the great work that you continue to do. Tell me if I am wrong though, the capture you wish to have is really about wilful encouragement. You see, when we trespass into the area of glorification, we have issues of definition and it may impact upon rights of free speech. But I think the real mischief here is about wilful encouragement, however you want to clothe it; that is at the essence of what we are dealing with, is it not? So, I am asking if it is at all possible, we could move away from the glorification, the word “glorification” to one of “wilful encouragement”, and see if we can produce something that we can actually move forward with.

Ms. François: Yes, Mr. Ramadhar, I take your point. But I am just wondering when we try to use different words sometimes you may weaken the intention. But, at least, the point I made is that it is more than inciting, it is praising the commission of the act and in that way I would say—

Mr. Chairman: Properly glorifying—

Ms. François: Glorifying so that acceptable persons would think—

Mr. Chairman: So it is pseudo-seditious positions.

Ms. François: It has elements of—yes.

Mr. Chairman: Understood. Are you aware of any form of precedent that may

exist in other jurisdictions, and we would certainly undertake to look at it and put pull precedence, but is there anything in your research that you have come across?

Ms. François: I would not say definitely at this point in time, I can give you references, but I have conducted some research and have come across the argument which I could find and then send across to your office, AG.

Mr. Chairman: Thank you very much, Ms. François. Members, may we ask Ms. François to continue because we are getting some very interesting submissions by way of further submissions, Ms. François. So that is point two. Let us press on.

Mr. Hinds: Before that, Mr. Chairman. Based on my deep consideration of the point made by Madam François, you can imagine a mob in the south of the island using the television and shouting “dey should bun it down, they bun it down, mash it up”, you know, “bomb de place” about something that is happening or some problem in the west of Trinidad or after the event celebrating that. It is far removed from the west of Trinidad, but in the south, that sort of promotion and glorification to encourage that behaviour before or to encourage future acts of terrorism. And yes, I can see some serious validity to that because it will be an inducement.

Mr. Chairman: I would like to say that, sitting with the veil of ignorance as a legislator, that the current law does have a certain avenue for approach within the new section 3. Secondly, there is the aid for the Interpretation Act to apply. Thirdly, the dynamics of Trinidad and Tobago’s peculiar form of humour and public commentary sometimes could lend one to the need for a very careful approach to this issue. So we are very intrigued by the submission, but the Committee will no doubt be cautious as to the nature of our society, and in particular the management of our mouths as nation because Trinidadians are wont

at times to say sometimes the most unacceptable things which are sometimes intended to mean we are Trini, so there is a careful balance in this approach.

Mr. Hinds: Thank you, AG. I am very, very glad you say that, because we have a situation, we have the experience of a situation where a brother by the name, I think his name was Abdul Kareem, my good friend, I had known for years. He was one of those who was charged along with a Guyanese national for attempting to disrupt some energy, some gas line to some airport in New York and he is either still in custody. Yes. I think he is still in custody.

Mr. Chairman: He died.

Mr. Hinds: He died. Yes.

Mr. Chairman: He died. He was—his defence included that he was “being Trini”. However, in the United States of America, the FBI took it as very serious, and we in Trinidad also took as serious because that was the first listing that I as Attorney General did in Trinidad and Tobago in 2015, in November of 2015.

11.30 a.m.

Mr. Hinds: And from the facts that I had gleaned to support your point Attorney General and in furtherance of your idea here, the facts that I had gleaned from that is that an agent provocateur, in other words an investigator from the US into these matters, engaged him in conversation in Trinidad, and in typical Trinidadian way he spoke, according to you. How did you describe it AG? “Trini talk”, but we have to be extreme careful. That small Trini talk landed him in serious trouble. It is a different thing in another jurisdiction, in their law. So, I take the point that these are matters to be considered in the round.

Mr. Chairman: Thank you. Member Ramadhar.

Mr. Ramadhar: To my friend, under the Aiders and Abettors Act, aiding, abetting, counselling, procuring, so we could look at that aspect in the counselling. You see

it has to be a bit more direct, rather than an open statement. It has to lead to some, falling on certain ears that could lead to action. I am just cautioning you a little bit.

Mr. Chairman: Agreed. Ms. Francois, please.

Ms. François: Thank you, Mr. Chair. Mr. Chair, I now come to my third additional submission. Section 23—

Mr. Chairman: Of the parent Act listing?

Ms. François: Of the parent Act. Section 23(4) of the parent Act, permits—well the previous section permits an application to the judge for an Order for detention. And subsection (4) of section 23, allows an Order to be made for detention of a suspected terrorist for a period not exceeding 48 days in the first instance.

Mr. Hinds: Forty-eight hours.

Ms. François: Forty-eight hours, sorry, in the first instance, and then could be extended for a further period not exceeding 14 days. Mr. Chairman, I may be crossing into a different arena here, but if we are looking at preventing terrorist attacks from taking place. It may mean—and the reality of the terrorism threat in terms of the kind of mass casualty terrorism that we currently face, which is horrendous—that law enforcement may have to intervene earlier in an investigation. Example, in preventing an attack.

And it may be something, such as Mr. Hinds spoke about, information just coming to them, and they have to take action immediately. I am proposing that the powers to detain without a charge be more than the two days. For one of the reasons I just gave, because law enforcement may have to intervene earlier in preventing attacks, and they therefore may not have all information, evidence that they need to take the matter further. As well, in investigations, terrorism and terrorist networks they span through global networks, and enquires may have to be made in different jurisdictions with different time zones. That may delay law enforcement, again, in getting the information.

As well as, one would need to establish the identity of the suspect and gather information on their associates, and we do know that sometimes these persons have forged IDs, stolen IDs, no IDs. So, for all these reasons I think we need to give law enforcement more time to allow them to detain persons suspected of conducting terrorist activities for longer period of time without a charge, And I know this would involve a lot of discussion, and arguments, and comments, but we are thinking about preventing—

Mr. Chairman: Could I interrupt on the clarification? The detention aspects that you are proposing without charge, are you suggesting that the 14-day period should be amplified? Not 48, because, remember the formula in section 23 is, 48 hours, then approach judge, ask for 14 days.

Ms. François: I am saying that the 48 hours should be amplified, and therefore we may need to also amplify the 14 days.

Mr. Chairman: Good. So, you are suggesting on both ends of it?

Ms. François: Both ends.

Mr. Chairman: Right, the initial detention without prior to charge.

Ms. François: Without charge, yes, and then later on, further detention with a court order.

Mr. Chairman: Understood.

Ms. François: For the reasons I gave before.

Mr. Chairman: Understood.

Ms. François: Just one more point I would like to make with respect to the reason—

Mr. Chairman: Sorry to interrupt you again. Is this amplified by the fact that our bail amendments, which stood as part of the law prior to September 2016 have cascaded back to the 1993 and 2005 positions? In other words, as you recall we had provisions for denial of bail in certain circumstances, some of which was anti-gang, others involved anti-kidnapping, and also anti-terrorism was added by way of the

scheduled offences. Is it driven by any part of that consideration?

Ms. François: Mr. Chairman, this is a situation before the suspect actually is charged. So, there is not a situation for bail as yet. So, this allows the police to have the person in detention to allow them to question him, get information, perhaps get the other persons involved in the activity, so therefore to stop the activity. And, in having this person in their custody, of course, allows—it is not public—they the freedom to find out who his accomplices are, if there are any, who is assisting, who providing the resources, who is financing the operation, so it would give the police sufficient time.

Mr. Chairman: Space for investigation on certainty, yes.

Ms. François: Yes.

Mr. Chairman: Can you give me just one reflection?

Mr. Creese: Chair?

Mr. Chairman: Yes, Sen. Creese.

Mr. Creese: Under anti-gang, we were running with three and 14?

Mr. Chairman: Yes.

Mr. Creese: So, why a different number here?

Mr. Chairman: This law was prior in time. Again, I take your point, the looking at consistency points. But I think that the Committee has—the Members understand clearly what you are saying, which is, look to see if a judge can be in the 14-day scenario, invited to consider a larger frame than 14 days, and look to see if the police ought to be facilitated in the prior to going to the judge in the 48 hours for an improved position. Do you have any idea as to what time frame in the 48 hour change you are looking at?

Ms. François: Mr. Chair, the UK has a provision where 14 days, I believe, is given in the first instance, and thereafter a maximum of 28 days. And there are suggestions to extend the period of 28 days for the judge to give an Order not exceeding 28 days

to 90 days.

Mr. Chairman: So, you are bringing out the big guns?

Ms. François: I am just explaining what is in the legislation. [*Laughter*]

Mr. Chairman: Thank you, Ms. François, because I will just remind that your perspective is fed by the network in which you operate, which is the Egmont Group, and the Egmont Group is a very large group of FIU's, and that therefore you have the benefit of a lot of international feeding and consideration apart from your own research. So, I just wanted for the benefit of the public to remind that your network of operation is a very significant one, and it is a global one. And I thank you for the perspectives. Can I ask, members, are there any questions on this particular point?

Mr. Ramadhar: No.

Mr. Chairman: No. Ms. Francois, please?

Ms. François: Mr. Chair, may I now turn to clause 19 of the amendment, which introduces new section 12A, and makes it an offence for a person without lawful excuse to receive instruction or training in certain kinds of activities, that we call terrorist activities, and as well, we have—this expands the existing section 13, which already makes it an offence for a person to give training. So now, section 13A is making it an offence for a person to receive training. What I would like to add in these two scenarios is a person—to make it an offence for a person who attends at a place used for terrorist training, either in Trinidad and Tobago or outside of Trinidad and Tobago. Of course, with the requisite intent, the person knew or reasonably believed that that kind of training was taking place. So, it is mere attendance at the training site, either in Trinidad and Tobago, or outside of Trinidad and Tobago, with the required intention.

Mr. Chairman: Do you want to add to that the similar caveat of the exception for lawful excuse, and let me say why. There may be very real circumstances where somebody may have a good reason for having been there; an undercover agent, a

police operative, somebody engaged in intelligence work, human intelligence, et cetera, or somebody caught at the wrong place and wrong time who simply did not know. Are you proposing a similar form of exception?

Ms. François: Mr. Chairman, I think that could apply, “without lawful excuse, attendance at such a place”.

Mr. Chairman: So, to be clear, the mental intention side of the offence, the mens rea is knowingly, intentionally, and without lawful excuse.

Ms. François: Yes, Mr. Chairman.

Mr. Chairman: Thank you.

Mr. Ramadhar: AG, if I may.

Mr. Chairman: Yes, please.

Mr. Ramadhar: I do not know if it may be properly captured in the format in that place. You may have a person who may be part of the organization, but speaking as you say, intelligence back, but I do not know if our formulation captures that. I do not know, I am just asking you to mark that.

Mr. Chairman: The submission coming from the TTPS and from senior counsel’s advice was that this would capture the informant or the operative, as well as the whistle-blower. And there was significant concern and reflection from members of the Muslim community, and the example of the Venezuelan experience that came by way of their submissions, that somebody may perceive a particular activity as wrong, a paint ball training exercise, attending at a gun range where it is lawful in that country to attend at a gun range, what somebody may allege to be military training and exercise, which was not because there was a lawful excuse. You are interested in marksmanship, it was permitted, you were invited by someone to that location to do what, within lawful authority, et cetera. So, I am trying to capture the balance between the two. Sen. Creese.

Mr. Hinds: Oh sorry, Sen. Creese.

Mr. Creese: I was wondering whether, just as how you have a zone, whether it could be pre-designated, you know?

Mr. Chairman: Yes. I see. Sen. Creese is raising the issue, you know in the new clause 15 that we propose, that we are treating with this concept of a designated zone, and you have addressed part of that in your written submissions. I think Sen. Creese's question, if he permit me, and please correct me if I am wrong, is attendance in a declared zone, or is it the broader context of that place which is used for terrorist purposes. I think it is the latter. Yes?

Ms. François: Yes, it is the latter.

Mr. Chairman: Okay. Thank you. Member Hinds.

Mr. Hinds: The way this provision is drafted, 19(2), clause 19(2), the, what you call it? What ball? Paint ball. The paint ball defence does not help, because this says:

A person who, without lawful excuse, intentionally or knowingly attends training or receives instruction or training from a terrorist group.

So, it is not so much about the place, it is about the activity and knowing that the intention, one knows that it is terrorism. I suspect what the proposal is trying to deal with, is the young man who knows that a certain place in the forest is being used for training terrorist, he takes two persons who are going for that training to that location and waits until they finish get their training. So, he is not going to do the training, but he knows what they are about, and he takes the job, with his little PH car, to take to that location, and to wait for them when they are finished. He has no intention of being a terrorist, but he knows what they are going there for, and he take the job to carry them.

Mr. Chairman: R.V. Gallagher.

Mr. Hinds: "Eh?"

Mr. Chairman: R.V. Gallagher.

Mr. Hinds: Yes, yes.

Mr. Chairman: So, the IRA construct, the driver to the IRA bombers.

Mr. Hinds: Yes, and I have a suspicion that this is what the proposal is intended to capture. It is to deter persons from attending places where there is knowingly some kind of training. Am I correct?

Ms. François: Yes, Mr. Hinds, so it is more than just receiving and giving.

Mr. Hinds: Yeah, I am not going there to receive it, but I am going there knowing that those are the activities being conducted, and I am going. So, in other words, this law or the law as proposes is designed to deter me from taking that job.

Mr. Ramadhar: Aiding and abetting.

Mr. Hinds: Eh? Aiding and abetting, as it were. Thank you.

Mr. Chairman: Thank you member Hinds. Ms. Francois, would you press on? How many more submissions you have, just so I can gauge myself?

Ms. François: Mr. Chairman, you would be pleased to know, this is my last submission.

Mr. Chairman: I am not so pleased, you know. [*Laughter*] We are very, very intrigued by the submissions that you are making, because of the information pool that it comes from. Please, proceed.

Mr. François: Mr. Chairman, my last comment is in relation to clause 22(4), which insert new sections 15C and 15D. And 15C and D are along the same lines. 15C requires a person who wishes to travel to a declared geographical area, prior to such travel, must give notice to the Commissioner of Police in a form referred to as “Notice to Travel”. And 15D is along the same lines in relation to a child, notice much be given if a child is being taken to such a geographical area.

I am concerned about the fact that the section does not state how much time prior to the travel should notice be given. My thinking is that the reason for the notice, apart from the Commissioner of Police having a database with the names of

persons who have gone, is to also give him the opportunity to prevent persons from leaving. I may be wrong, but I am thinking this is one of the ways in which we can comply with UN 2178, the prevention of travel by the Commissioner of Police of persons suspected of committing terrorist acts. So, I would want to see a time frame within which the person must give notice. We must therefore amend new sections 15C and 15D. As well, Mr. Chairman, after notification to the Commissioner of Police, and I am looking at 15C subsection (4)—no, sorry, subsections (2) and (3). The notice is given to the Commissioner of Police, and subsection (3) says:

Upon return if notice was not given, he has to provide the Commissioner of Police with reasons.

But, nowhere here in any of these sections is there a provision for the Commissioner of Police or other authority to refuse permission to leave. So far, two comments, we need to have a time stipulation by which the person must give notice to the Commissioner of Police. Secondly, we need to provide for a refusal by the Commissioner of Police, and, I am thinking as well, with respect to 15D, taking a child, wishing to take a child to a particular geographical zone, and the only requirement is to give notice to the Commissioner of Police. But why is it we are not going further to protect the children in the sense of making it a little more difficult for the person, such as obtaining, perhaps the consent of the other parent, obtaining, perhaps, to consent of the court, obtaining, perhaps, the consent of the Commissioner of Police to taking this child out.

So, with respect to an adult, what I am proposing is that if the adult under section 15C wishes to travel to a declared geographical area, he gives notice within a particular time, providing the reasons, et cetera. If he wants to take a child with him, out of the country, he has to obtain further consent apart from giving the notice to the Commissioner of Police. So, I want to see an additional protection for the child being taken to this declared geographical area.

Mr. Chairman: Thank you, Ms. Francois. If I could perhaps assist with the formula which the drafter of the laws had in mind, which is the Office of Attorney General. Because the declared geographical zone is something which is very fluid, because it could happen at a moment's notice, because it involves our citizens being all over the earth at any one point in time for different purposes, it was very hard to prescribe a time frame, because a declared geographical zone may happen, somebody may be in Israel, they may be passing through Syria and not know that it has been declared as a geographical zone. And therefore, putting a time frame prior for somebody who just did not know, even though we have the caveat for lawful excuse, became very difficult.

Secondly, we intended that we provide for the alternatives, prior, during, after. Thirdly, we intended that the law really catch the circumstantial evidence side. Did you go there? Why were you there? Compel a reason to give you that information, because otherwise the presumption kicks in. And we did that knowing that we would have the interoperability of the police mechanism, called Interpol, going to work. Interpol blue notices, Interpol red notices, to allow for the tracking of that information. But we also did this because a number of our citizens who find themselves in the Middle East—if we use that as an example—an area that many people have thought is an area of focus. I will declare my interest, I am half Iraqi, I am half Trinidadian, I have reason to be there, for example. Just as a human being giving this interest, family members there. There are certain parts of Iraq which are under potential of being a declared zone. You could look at Mosaic Law, you could look at quick quote, or you could look at certain areas in Bagdad.

But, what we wanted to do was to provide a balance for people who find themselves on lists, who find themselves subjected to other countries telling them, look, you are somebody that we have an interest in and you are potentially a terrorist. It allows the Government of Trinidad and Tobago to say, hold on, we know this

person. This person gave us notice, they travelled for Hajj or Umrah, they were passing through, or, let us use my own example, they went to visit their grandmother, or a relative. There was a family incident you had to be there. So, it was to provide for the first time the opportunity for Trinidad and Tobago persons who were innocent, but were mischaracterized or mislabelled, to have their Government say to another government, we know this person. This person is on the wrong list for the wrong reasons, and here is the evidence which we will share with you, either by way of Interpol or by way of MLAT, Mutual Legal Assistance under the central authority provisions.

So the rationale from the drafting team, even though that is without prejudice to the Joint Select Committee's work, was to try and achieve this balance in this fluid zone. I should ask you to note that your recommendation for the prescription of a time frame is coincidentally met by submissions from the TTPS to the same effect, and both of those submissions are in square contradiction by some other members who say, get rid of the clause entirely. So, it is a rather contentious position, which I think is better understood now by those who objected to it, because many people had missed the fact that we were providing an avenue for exculpation in round circumstances for the first time. So, just giving a bit of insight. That is just from one member of the Committee. That is the drafting end of the Committee. The Government side. May I ask members of the Committee who wish to make any other interventions to do so now? Sen. Creese.

Mr. Creese: Yes, I am thinking about the Nigerian situation where those 30 girls were abducted.

Mr. Chairman: Boko Haram.

Mr. Creese: Did the Nigerian Government, or any government in the surrounding areas declare a zone?

Mr. Chairman: So, this law in terms of where we got a precedent for it from, comes

out of Australia, and the Australian model is using those declared zones. The declared zones phenomenon is intended to capture the largest issue out in the population right now, that is the global population, which is the concept of the foreign terrorist fighter. The information globally, is that Al Qaeda, Isis, et cetera, are crumbling. But, the phenomenon is, that retreating armies commit the worst atrocities, and we are now seeing the phenomenon of foreign terrorist fighters ideologists in foreign countries using panel vans, knife attacks, other forms of positions to commit acts of terror, in foreign territories.

Australia was the leader in the pack in terms of how the treatment of foreign terrorist fighters were managed. But I want to remind that the United Kingdom and the United States, and other jurisdictions have very, very, very radically advanced measures to treat with terrorists and FTFs. They have specialist courts, they have limited evidence. In other words then, they may not give the full amount of disclosure that we do in our courts. They have rights against self-incrimination which are put aside completely. Your right to remain silent is not a right to remain silent, in the United Kingdom. In the United States, in the manner in which they say, if you wait until the trial to give your excuse, and you had 11 opportunities before and you stayed quiet, they draw an adverse inference from an evidential point of view.

So, we are trying to treat with this phenomenon of foreign terrorist fighter, and the key information that was missing to connecting the puzzle, was where did you travel, and why, and for what purpose? And putting an obligation for the first time to say, why, had two benefits. One, it could connect those who are genuinely guilty into the equation, or, it could exculpate people who are entirely innocent, and who were the victims of discrimination or profiling, and that provided the balance for the two. I hope I have lent some assistance to that.

Mr. Creese: What I was concerned about is what triggers the declaration—the zone,

because I was wondering whether—

Mr. Chairman: So, the Government of Republic of Trinidad and Tobago, under the Ministry of National Security, it is the Minister of National Security in Trinidad and Tobago who declares what a zone is or is not, and that may be met with international objection. For instance, it would be open to—let us suppose somebody in Australia said Port of Spain is a declared zone, because there was an attack. We would have the international perspective, and the comity of nations to talk to Australia and say, we object to this phenomenon. Let us suppose somebody said, Young Street, there was a terror attack on Canada, the City of Toronto ought to be a declared zone. There is, of course, the ability to do that, but, of course, the international balance as to how it is managed.

Mr. Creese: You see, why I raised it is because somewhere in the back of my mind I am thinking, nobody declared any part of Nigeria such a zone, and I think all of here would agree.

Mr. Chairman: Well, not yet, but Boko Haram is listed as a terrorist entity, for instance by the United States.

Mr. Creese: Right, so they are listed. We all know that they abducted 30 persons and no zone.

Mr. Chairman: Yeah. It is now an evolving phenomena. This foreign terrorist fighter phenomenon and how you treat with it is at the cutting edge of where the anti-terrorism law is. Please, Sen. Singh.

Mr. Hosein: Thank you very much, Chair. Ms. Francois, earlier on you indicated that there are about 251 suspected terrorist activities, financing of terrorist activities, sorry, am I correct?

12.00 noon

Ms. Francois: Two hundred and fifty-one persons suspected of—

Mr. Hosein: Persons?

Ms. François: Persons suspected of conducting terrorist activities, but all the acts together.

Mr. Hosein: Do you have the figures regarding specifically financing of terrorist activities?

Ms. François: I do have some statistics with respect to Suspicious Transaction Reports received by the FIU in relation to financing of terrorism.

Mr. Chairman: Ms. Francois, forgive me for interrupting, but in your reply and because this goes global, permit me to ask you to clarify the following in your response. The FIU receives Suspicious Activity Reports, Suspicious Transaction Reports from financial institutions and from listed entities. The listed entities are the individuals and entities listed in Part V of the Proceeds of Crime Act, include, attorneys-at-law, pawnbrokers, real estate agents, accountants, et cetera. So they are financial institutions and listed entities.

The FIU when it receives these SARs and STRs, lists them and then investigates where the money may or may not have gone to. If money goes, for instance, to an entity which Canada has listed as a potential entity linked to terrorism then a flag goes up. However, I want to be cautious and I want Ms. François to correct me if I am wrong, it may very well be that the United Kingdom has an exactly opposite point of view. So, in the Zakat formula and in the example where you gave international humanitarian assistance, I can say with certainty as Central Authority for Trinidad and Tobago I have met situations where one country views X entity as potentially associated with terrorist activities and another country has the exact opposite view. But the FIU has to flag it in any event. Am I correct, Ms. François?

Ms. François: We would flag it if it is suspicious, because this is what the law says. We look for suspicion, we do not focus only on the name of someone, and it is true some countries have their own domestic list of terrorists; terrorists which are conducting terrorist activities within the country. I will give you an example. The

FARC in Colombia and then later on they were granted amnesty and immunity, so they were delisted or no longer terrorists. The OFAC—US has a list as well of their domestic terrorists. We in Trinidad also have our list, the consolidated list of domestic terrorists—persons we have listed as well as persons listed by the UN. So all of these are lists, terrorist lists and the reporting entities, the financial institutions who report these transactions to us, these suspicious transactions have to checklists which are used commonly.

The OFAC—

Mr. Chairman: Can you say—sorry to interrupt. Can you say in your work with the FIB, the financial intelligence end of the TTPS whether you have actually had a report that of this number that there have actually been formal investigations to a more limited number. In other words then, does the flagging of 261 mean 261?

Ms. François: It means 251 as I said.

Mr. Chairman: 251 sorry.

Ms. François: 251 persons we suspect. The suspicion would arise from their transactions. The suspicion would arise from the associates. The suspicion would arise as well from what law enforcement would have told us, these are persons of interest and we would analyze their transaction.

Mr. Chairman: Do you know if any charges have been laid or activities from the FIB into their report back to you without disclosing any of the particulars?

Ms. François: I have no information from the FIB on charges under the ATA, Anti-Terrorism Act.

Mr. Chairman: Thank you.

Mr. Hosein: Now, with respect to the financing, those figures would be, I think I did not get the figures. But those figures would be both financing within domestic and international, right, it will be a consolidated figure between national and international?

[Dr. Moonilal enters committee room]

Ms. François: It would be any sums that we observed, whether it is staying in Trinidad and Tobago or going outside of Trinidad and Tobago that we suspect this related to a financing of terrorism activity.

Mr. Hosein: The reason I ask is because as we were on the topic of the listing of geographical areas, I would imagine that the Attorney General would also consider financing from Trinidad and Tobago to foreign states. So I am just thinking, probably just, I do not know if you would have the statistics here, but where exactly do we see our money going to in terms of foreign jurisdictions, in terms of where most of these transactions are taking place?

Ms. François: You are talking about suspicious transactions related to financing of terrorism?

Mr. Hosein: Yes.

Mr. Chairman: I was hoping that Mr. Ramadhar would have tugged Member Hosein's sleeve because of certain runaway provisions that could happen there.

Mr. Hosein: I am not asking with regard to the specific country, but in terms of the regions. Yeah.

Mr. Chairman: You see that may give an unfortunate lens. I will tell you this, the Government, for instance, as Attorney General, I have no knowledge whatsoever of what Ms. François is saying, because I am not allowed to have that knowledge. It is only the Trinidad and Tobago Police Service, the FIBN that has that information. There is no executive involvement at all in that nor can they be.

For the record, I welcome Dr. Moonilal. We received your apology that you were running late for a conflicting occasion.

Mr. Hosein: The only reason I ask is because of the geographical area in terms of the Attorney General being the person to make the designation of—

Mr. Chairman: The Attorney General does not. The Minister of National Security

designates the area. The Attorney General's function under the law is only to deal with listing of entities or individuals in the court for the court to consider whether that should happen.

Mr. Hosein: I would imagine that they would use information.

Mr. Chairman: No. We are not permitted, the Financial Intelligence Unit Act is specifically constructed to exclude everybody that is politically appointed. It is only the Trinidad and Tobago Police Service that receives the FIU information, and other FIUs abroad when they engage reciprocity.

Mr. Hosein: So in terms of listing, we do not necessarily use information of—

Mr. Chairman: For listing we have no information, we are not permitted the information until the TTPS lays a charge, has something which is now publically available and then the DPP may or may not disclose information to the court. So for the abundance of caution and for clarity, the Attorney General has no role, no member of the executive has a role even though the FIU falls as a subset in terms of financing from the Ministry of Finance, the Minister of Finance has no role. The Director of the FIU is not somebody who is appointed by executive discretion nor is the Director reported and there is a security of tenure by way of the Public Service Commission and other facets. So it is well organized as an administrative FIU. Okay.

Mr. Hinds: AG.

Mr. Chairman: Please, Minister Hinds.

Mr. Hinds: Yeah, thank you very much. Since I may not have occasion to speak at this forum again, Madam François, I must personally express my deep admiration for the international perspective that you brought to these deliberations this morning. It is obvious, it is patent. And it really tells me as a citizen of this country how in some ways and, of course, the amendments that we are pushing are to make us—to meet the recommendations of the CFATF and the FATF and to comply with our

international obligations and that is great. But as a social platform, as a country, I think that we are still very much asleep and not alive to the reality of the things that we are seeing. And I am very pleased to know and say and express in candour that because—as the AG indicated your international contact in the Egmont Group and otherwise and the exposure you are having, we are great beneficiaries of that international perspective and you help wake me up this morning.

So I just want to say as a citizen with access to you here, thank you very much for that. Now, I read in another place recently in terms of your last annual report, because you are obliged under the Act to report annually to the Parliament. So I would have read your last report which I seem to recall not having a copy in front of me, significant increases. I estimated it to be very significant increases in the number of suspicious transactions over the previous period and then you quoted figures today of 112 and 69 from 2015 to 2016. But my recall was that it is very significant in terms of the sum of money and when I heard you say 13 million this morning it did not match in my recall.

Mr. Chairman: That is for terrorist financing. What you are referring to is the 22.5 billion for the suspicious SARs/STRs. So that was the subset of it.

Mr. Hinds: All right, okay. So what you revealed was purely about terrorism. Which brings—yes.

Ms. François: Yes. Only 13 million in relation to financing of terrorism.

Mr. Hinds: All right, great. Which brings me to the point I wanted to raise, now that I have clarified that. The mandate you have, the Act that you have in your functions it permits you not only to deal with terrorist activity and financing, but generally suspicious transactions. I seem to recall back in the '90s, Mr. Chairman, that it was the United States Government who told the Trinidad and Tobago Government that their money laundering apparatus, FIU kind of arrangement, is what saw the movement of large sums of money from Trinidad to the United States.

It attracted their attention as possibly terrorists and when they investigated it they found out that it was not about terrorism but it was plain old simply shipping out stolen money, corruptly obtained money. And a lot flowed from that and still flows.

And in light of the fact that we now clarified the 13 million has to do with terrorist financing, suspicious transactions and we spoke about \$22 billion, other transactions, it is correct for me based on my reading of the report and the extrapolation from what you said that there has been in your last report an identifiably significant increase to the sum of \$22 billion in the movement of money that caught your attention. And I know as the AG clarified you relate to the police.

Ms. François: Yes.

Mr. Hinds: Yes. So it is hoped and this is just my concluding statement. It is genuinely hoped as a citizen of Trinidad and Tobago that we do not only focus on the terrorist business and the 22 billion—that significant increase that you detected last year for the period under review, movement of money that caught your attention. I really do hope that your organization, you, and your organization, other persons who are here today, are very seriously, aggressively even, actively involved in communicating those observations to those who you must report them to. But I am not getting a sense based on my knowledge of the 22 billion. I am not hearing anything that suggests that it is something is happening around it. I cannot say more so. I will content myself with that.

If I might repeat, I am not hearing, when I read that 22 billion I am not hearing any other, I am not feeling any other activity to tell me as a citizen who read those figures that something is happening around 22 billion that you saw moved.

Ms. François: Mr. Hinds, if I may. The 22 billion that we reported came from 877 Suspicious Transaction Reports and that led to the FIU sending 140 intelligence reports to local law enforcement.

Mr. Hinds: I thank you very much.

Ms. François: And 42 to foreign law enforcement.

Mr. Hinds: I thank you very kindly.

Mr. Ramadhar: We have heard about outflow to finance terrorism out of our shores. Is there any inflow into Trinidad to finance terrorism here?

Ms. François: The 13 million I referred to involve the money flow either into the country or out of the country. Inter-island money flow as well has been observed with respect to suspicion of financing of terrorism.

Dr. Moonilal: Thank you very much and good morning to all colleagues. Just to follow up on that point, maybe I missed it earlier. You stated earlier that there were 800-and-something reports of suspicious transactions and that led to 100-and-something referenced to the law enforcement—140?

Ms. François: The 877 Suspicious Transaction Reports that we received led to 140 intelligence reports to law enforcement in Trinidad and Tobago and 42 to law enforcement and FIUs outside of Trinidad and Tobago.

Dr. Moonilal: And to follow up on a question, I think the Chairman was on earlier. Is there a recording mechanism or some other type of correspondence exchange that gives your organization any update as general as it may be on the status of ongoing investigations or enquires into those matters, in a general sense that you know you made 150 intelligence reports, 75 were proven to be without foundation. You understand the point I am making? What is the feedback mechanism that you can track that these things are going somewhere and something is happening?

Ms. François: We do get feedback in a way from the TTPS in terms of whether charges have been laid. And the feedback on the intelligence reports we would have sent is more in a general way apart from those persons who have been charged. So when persons have been charged we are told yes, charges have been laid. But with respect to the other matters the investigation is ongoing.

Mr. Chairman: And just to remind the public that, of that 22.5 billion which you

observed last year, some 13-odd billion was interrupted by way of reporting from the FIU so that transactions were stopped as a result of the intelligence feedback and operations of the FIU.

Ms. François: Mr. Chair, may I clarify? The 13 billion in stopped transactions, we need to credit the financial institutions with that, because they were able to identify the transaction as being suspicious and connected to money laundering or financing of terrorism and they took the decision to stop the transactions. But the requirement under the law is that they must still report it to us.

Mr. Chairman: Sure. But what I am referring to is the fact that if they had not an obligation to refer to the FIU, if the FIU had not trained, if the FIU had not audited, if the FIU had not received more staff as it did, if the FIU did not get more computers as it did, if the FIU did not attend all of the training seminars as it did, they would not have been in a position to cause that result. So I am giving the compliment to you, Ms. François, for such a huge increase in activity that has been observed in your reports.

Ms. François: Thank you, Mr. Chair, and it comes back to training. It really does.

Mr. Ramadhar: Chair, I am just wondering. If the FIU had not been created it—

Mr. Chairman: As it was in 2009. It is very rare we get this joint enterprise, Ms. François, so forgive us for taking advantage of it to all celebrate good work. I think that the concern raised by Dr. Moonilal was, at least as I understood it, that the population is really anxious to know that whilst the FIU is doing a good job on its end, what happens next, where is the TTPS's end of it. Dr. Moonilal.

Dr. Moonilal: Just to follow up, Madam, do we have—if we do and you can tell us, some sense in a chronology, 2015, '16, '17, whenever the period may be, of convictions arising out of intelligence referrals, intelligence reports and so on or pursuant to this?

Ms. François: Are you speaking generally in terms of money laundering?

Dr. Moonilal: In terms of the reports that you would have, the suspicious transactions that you would have flagged or intelligence reports that you may have sent. You said the police would inform you as to if charges are laid and so on, but do we have a sense just to close the book so to speak, how many convictions you have had in any period, pursuant to this?

Mr. Chairman: I could answer that immediately. Disaggregated across money laundering and others, there have been no charges for money laundering that have resulted. They are all at the preliminary enquiry stage. However, there has been measureable success in cash seizures and forfeitures which is part of it. On the TF side, which is the terrorist financing side, there have not been to my knowledge any convictions on that end which is what drove the move in the law which we considered recently, to move it from indictable to summary in the amendments to the Proceeds of Crime Act and into the improvement to the FIU Act. So in getting to the efficacy and the measurables we did some tweaking to the law very recently.

Mr. Creese: Chair, the thing that I am concerned about, although I know our jurisdiction here has to do with terrorist financing, anti-terrorist, but I cannot help wondering that the information which their unit would gather over time stops at the door of the police service and our financial intelligence system is not fully integrated in the sense that the Inland Revenue Department is not on this loop. And the biggest criminal who had been put away in the States was Al Capone. And he was put away by the Internal Revenue Service, not by the regular police. So I am wondering where does that leave us.

Mr. Chairman: If I could join in, and Ms. François, feel free to correct, join in, add—you are quite correct Sen. Creese. The FIU is limited because it was originally constructed as an administrative FIU. There are different models for Financial Intelligence Units. One of them very importantly is a law enforcement type FIU. That is under active consideration and that under this Government's perspective will

form part of a fillip that we intend to introduce in our civil asset forfeiture regime in who does the prosecution, how is it done and where does it rely? The FIU and the BIR do have MOUs between each other; am I correct, Ms. François?

Ms. François: Mr. Chairman, that is not accurate.

Mr. Chairman: Okay.

Ms. François: We do not have a sharing agreement with BIR.

Mr. Chairman: Do you provide them with information however?

Ms. François: We provide them with intelligence reports. We are required to do that under the Act. So once there is a suspicion of a tax offence, we send an intelligence report to the Chairman of BIR.

Mr. Chairman: Sorry and forgive me for using perhaps the wrong expression, I understood the MOU to mean that you would provide them with information even though the statute does not say that you need to.

Ms. François: The law says we must.

Mr. Chairman: I see. Okay, I had not observed that. Thank you for the correction. So it does, but there is no reciprocity to be clear, right? So the BIR does not.

Ms. François: The BIR does not share in return.

Mr. Chairman: Pursuant to section 4, limitations in that Act, right? I would imagine. So I do not know if Ms. François wants to take the next step in terms of confirming her advocacy for a law enforcement type consideration. I would imagine that is the next step for this country to consider, when and how one moves to an improved structure for enforcement as other countries have done.

Ms. François: Thank you, Mr. Chair. We do know that the FIU was created in 2010 as an administrative-type unit which means that—

Mr. Chairman: Was it April 2010, I cannot remember exactly when. I saw the drafts coming at 2009 forward.

Ms. François: I think it might be February 2010.

Mr. Chairman: February 2010, sorry. It was POCA that came up in 2009, okay.

Ms. François: Yeah. And as an administrative-type FIU, which means that we do not have investigative powers. So our mandate is to receive, we operate as a receiving, an analytical and intelligence-producing type of FIU. As well, we were given the additional mandate to be the regulator for certain types of financial institutions and listed business. That means businesses which fall within the AML/CFT regime, as a supervisor we have to make sure that these entities perform their AML/CFT obligations and we supervise them, conduct outreach, et cetera.

So we have a two-fold function at this point in time. I do know that certain recommendations had been made to consider whether a different type of structure, different type of FIU would better serve the needs of the country. And it may be the time now, we have been an FIU in existence going on seven years and we know that the work that is required, we know what must be done in order to make a meaningful dent in criminal activity in relation to money laundering and financing of terrorism.

So I am not proposing that we change the structure. I am thinking that maybe now is the time for us to consider whether a different structure might work better and conduct the necessary research and analysis. We may very well come to the conclusion that this is the best FIU for the country, because I do know other countries in the Caribbean which had had the type of investigative-type FIU change and created an administrative-type FIU recently as what happened with the Turks and Caicos Islands.

Mr. Chairman: Thank you very much.

Mr. Hinds: May I just—

Mr. Chairman: Yes please, Member Hinds.

Mr. Hinds: What might have prompted that because one would have thought that the investigative model—that is what it is called?—is a lot more potent. What might have motivated a reversion or at least a transposition to an administrative model in

the example you just gave? Just curiosity.

Ms. François: I could give one reason, because the FIU is getting additional responsibilities, more responsibilities are being imposed upon the FIU more than was envisaged. The creation of the FIU was an FATF mandate to serve as an information and analytical arm to assist the investigator. And that is what we started as. But then many FIUs got this additional supervisory role and supervising the entities, listed business, financial institutions require a lot of resources and a lot of time. So to have the additional investigative responsibility meant that certain aspects of that FIU's work was suffering and they decided, I think, that is one of the reasons to separate the regulatory and intelligence function from the investigative function.

Mr. Hinds: Finally and for my own part, might I ask with your leave, Mr. Chairman, you would have obviously, it is obvious that you would have perused, you would have studied and you commented very sensibly on the provisions of the entire existing legislation and the amendment Bill here today. Given your independence and given the fact that this Committee sought your presence here today to be the beneficiary of your views on this Bill and its implications for the existing law, do you consider the measures in front of us useful as Director of the FIU for Trinidad and Tobago, generally, or do you have any other concerns about it?

12.30 p.m.

Ms. François: The measures introduced by this Anti-Terrorism (Amdt.) Bill—

Mr. Hinds: This Bill which we have asked you to come, do that, you know—I mean, quite frankly, some of the measures—and I do not want to buttonhole you, but some of these measures have created a lot of discussion in the national community, concerns and so on. You are here and commented upon the Act, commented upon this Bill; obviously would have gone into it in great detail as an independent stakeholder in this country. I just sought your views in the generality upon it.

Ms. François: In relation to this Bill addressing certain deficiencies in our present ATA (Anti-Terrorism Act), I think it goes a long way. And, as well, I believe the provisions in this Bill, of course with my comments, would also go a long way to making this country safer for our citizens. I see within the Bill many provisions relating to preventative measures, and with respect to terrorist activity, I do think law enforcement needs to have a strong toolkit when it comes to preventative measures.

Of course—and we need to be cognizant of this fact, terrorism mutates. So what is right for today and in the future, may need to change later on. We are seeing new forms of terrorist activity, new forms of violent ideology. So amending this now does not mean that we should sit back and be happy for the next 20 or 30 years. The time would come again, I would expect it to, where we would have to amend the law to make it better for our country.

Mr. Hinds: I thank you.

Mr. Chairman: Thank you very much. Ms. François, may I adopt and echo on behalf of all of us, the complete sentiments expressed by Minister Hinds a short while ago, for your submissions and for the FIU's hard work in this field. It is very much appreciated by every member of this Committee and we thank you warmly—you and you team—for certainly giving us a very strong perspective on where we need to be and where we are. If there are any other submissions that you wish to make, I mean, we thank you. It was very fulsome, the oral amplification. We took careful notes, but please do feel free if you wish, to confirm anything by way of a further submission. We have taken careful notes of that which you have provided already and we add them on to the submissions we received in March as well. May we thank you for your continued effort and for the work which we know you will certainly produce for us again.

With that in mind, can we then suspend these particular proceedings? We will

go off camera, and we thank the listening public for paying attention this morning. We will return just to wrap up the affairs in-camera of the Committee's work and therefore we suspend this meeting.

Members of FIU depart meeting.

MAIN ISSUES DISCUSSED DURING CONSIDERATION OF BILL

Summary of Clause by Clause Examination of the Anti-Terrorism (Amendment) Bill, 2018

Clause	Marginal Note	Issues Raised	Decision Taken
Preamble		- Whether a preamble should be included. - Whether the preamble to the Anti-Terrorism Act needs to be amended by the Anti-Terrorism Bill 2018. - Whether the preamble could be wide, or restricted only to subject matter of the Amendment Bill.	Committee to determine
1	Short Title	None.	
2	Act Inconsistent with Constitution	None.	
3	Commencement	None.	
4	Interpretation Chap. 12:07	None.	
5	Section 2 amended	- Comparison of definition of “Committee” in Anti-Terrorism legislation in other jurisdictions such as the Criminal Code Act 2015 (Australia) and the Counter-Terrorism and Security Act 2015 (United Kingdom). - Consideration of deletion of the words “ISIL (Da’esh) and Al Qaida Sanctions”. - Review of the definition of “offensive weapon” as contained in Section 2 of the Prevention of Crime (Offensive Weapons) Act, Chap. 11:09	Agreed- Definition of “Committee” amended. Agreed- Reference to “ISIL (Da’esh) and Al Qaida” deleted throughout the Bill. Agreed- Definition of “weapon” amended to include elements of the definition of “offensive weapon”.

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018

Clause	Marginal Note	Issues Raised	Decision Taken
6	Section 2A inserted	The extent and meaning of extraterritoriality.	Agreed. Section on Extraterritoriality inserted.
7	Section 3 amended	- Whether s.3 should be amended to expand the offence of committing a “terrorist act” to include under ss3(1)(b), that this offence is also committed when a person “threatens to commit a terrorist act”. - Whether the offence of committing a “terrorist act” should be removed from the definition section and placed within an operative clause. - Whether s.3(1)(c) is too restrictive. - S.3(3) be expanded to include other forms of industrial action, to enable exemptions even if such action is intended to cause harm.	Agreed Agreed Agreed. Not accepted.
8	Section 4 amended	- Should the term “designated person” be replaced with “designated entity” and further, that the definition of “designated entity” be moved to s. 2. - Should the mens rea of the offence include recklessness.	Agreed Agreed- Element of recklessness deleted.
9	Section 5 repealed and replaced	- The impact of the provision on persons making donations or distributing Zakaat. - Comparison to the Criminal Code Act 2015 (Australia)	

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018

Clause	Marginal Note	Issues Raised	Decision Taken
		Consideration of the UN General Assembly Resolution 49/60 and UN Security Council Resolution 1566.	
10	Section 6 amended	None	
11	Section 7 amended	None	
12	Section 8 amended	None	
13	Section 9 amended	- Should “designated entity” be included as a new subsection 9(1)(e). - Should “support” be amended to be “material support”.	No, listed entity would include a designated entity. No, ordinary meaning to be used.
14	Section 10 amended	None	
15	Section 11 amended	None	
16	Section 12 amended	None	
17	New Section 12A inserted	Consideration should be given to making less serious offences triable summarily or either way.	Not accepted.
18	Section 13 amended	- Consideration should be given to making less serious offences triable summarily or either way. - Whether the reference to “weapon” should be made in this provision.	Not accepted. Agreed.
19	New Section 13A inserted	Issue of extraterritoriality.	Already addressed. Not accepted.

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018

Clause	Marginal Note	Issues Raised	Decision Taken
		- Consideration should be given to making less serious offences triable summarily or either way. - Provision should be made within the offence, to provide a person with a defence of lawful excuse.	Already addressed.
20	Section 14 amended	- Consistency of wording. - Consideration should be given to making less serious offences triable summarily or either way.	Agreed Not accepted.
21	Section 15 amended	None	
22	New Sections 15A, 15B, 15C and 15D, 15E and 15F inserted.	- The criterion for designating an area as a “declared geographical area” should be clearly outlined in the Bill. - Consideration should be given to defining the term “supporting”, using the same definition of “support” as it related to Clause 13. - The AG should be empowered to apply to a judge for an order to designate an area a “declared geographical area”. - Whether the concept of FTF under s.15A(2) should be inserted into clauses 8 & 9 to expand the category of persons capable of committing offences thereunder.	Not accepted Not accepted. Not accepted. Not accepted.

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018

Clause	Marginal Note	Issues Raised	Decision Taken
		- Whether the criteria for revocation of an Order declaring a geographical area need be detailed. - Whether there should be a stipulated timeframe within which notice should be given as it relates to 15C & 15D. - Whether the notice under 15C(1) should be placed in a scheduled form. - Whether method of serving notice to the COP under 15C(1) be specified (eg. via registered mail). - Address inconsistency in s. 15C(4) as it relates to notice being received by the Minister. - Consideration should be given to criminalising failure to file notice to COP. - Empowering Cop to apply for and obtain an order from a judge to prevent a person from travelling to a declared geographical area. - Expansion of publication of order under 15B. - Consideration should be given to the inclusion of new offences as it relates to collection, possession of or making a record of information, likely to be useful to a person	Not accepted. Not accepted. Not accepted. Not accepted. Agreed Not accepted. Not accepted. Accepted Not accepted- already covered.

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018

Clause	Marginal Note	Issues Raised	Decision Taken
		committing or preparing to commit a terrorist act.	
23	New Sections 15G and 15H inserted.	None	
24	Section 17 amended	None	
25	Section 22A amended	Whether there should be a defence to receiving funds from a terrorist organisation, where same is received solely for the purpose of legal representation.	Not accepted.
26	Section 22AA amended	None	
27	Section 22B amended	- The authority given to the AG to mandate an investigation be carried out by the COP is demanding and may allow for an abuse of process. - Provision should be made for a speedier process for revocation of an Order where a same is enforced against the wrong individual. - Before an order is published, the individual or entity should be given a reasonable opportunity to have the order revoked by a High Court Judge.	Agreed. Not accepted. Not accepted.
28	New Sections 22BA, 22BB, 22BC and 22BD and 22BE inserted.	- Reference to “Isil (Da’esh) and Al Qaida” be removed. - Infringement on the Separation of Powers by allowing the AG to cause an investigation.	Agreed Not accepted.

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018

Clause	Marginal Note	Issues Raised	Decision Taken
		▪ Reword 22BC(2) to ensure that the discretion in issuing a search warrant is left with the Magistrate. ▪ Provision be included to allow for petition to be removed from the UN's 1267 Sanctions List. ▪ Rewording of 22BE(3) & (4) to allow COP more flexibility in respect of causing an investigation and information which he shares with the AG pending the outcome of same.	Agreed. Not accepted- already addressed. Agreed
29	Section 22C amended	None	
30	Section 22D amended	None	
31	Section 23 amended	▪ Application for detention orders should only be made by police officers of a specified rank and above. ▪ Requirement should be made for a police officer to be attached to a counter terrorism unit.	Not accepted. Not accepted.
32	Section 24 amended	▪ Powers in respect of this provision should be limited to police officers of a specified rank and above.	Not accepted.
33	Section 24A, 24B and 24C amended	▪ Powers in respect of this provision should be limited to police officers of a specified rank and above.	Not accepted.
34	Section 25 amended	▪ Powers in respect of this provision should be limited to police officers of a specified rank and above.	Not accepted.

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018

Clause	Marginal Note	Issues Raised	Decision Taken
35	Section 27 amended	None	
36	Section 32 amended	None	
37	Section 33 amended	None	
38	Section 34 amended	None	
39	Section 35 amended	None	
40	Section 36 amended	▪ Application for a search warrant should be made in the presence of another person. ▪ Provision should be made for that a record of the application must be kept. ▪ Requirements should be prescribed in Regulations as opposed to the Criminal Procedure Rules. ▪ There should be provision for the Registrar/Judiciary to keep a record of the orders.	Not accepted. Not accepted. Not accepted. Agreed.
41	Section 37 amended	None	
42	Section 38 amended	None	
43	Section 38A amended	▪ Junior officers should not be allowed to seize and detain cash. Such power should be designated to police officers of a specified rank and above.	Not accepted
44	Legal Notice No.7 of 2010 amended	None	
45	• Consequential amendments.	None	

May 17, 2018

Summary of Issues and Additional Proposals

Clause	Marginal Note	Summary	Entity	Comment/Submission
5	Section 2 amended	Inserts new definitions of “bearer negotiable instrument”, “cash”, “child”, “Committee”, “computer”, “declared geographical area”, “foreign terrorist fighter”, “ISIL (Da’esh) and Al Qaida Sanctions List”, and “Seized Assets Fund”, and amends the definitions of “property” or “funds”, “terrorist”, “terrorist act”, “terrorist organization” and “weapon” and delete subsection (2).	TTPS	Recommendations - Consider defining the term “<i>threatens</i>” to prevent ambiguity within the provision especially with regard to the interpretation of the provision by members of the TTPS and further, to ensure clarity of the term used in relation to terrorism. - Consider expanding the definition of “<i>weapon</i>” to capture the use of ordinary items such as fertilisers and nails to construct homemade weapons.
7	Section 3 amended	Provides for the offence of committing a terrorist act and excluding the application of the section from any harm caused during armed conflict in accordance with rules of international law and acts committed in pursuance of demonstration, protest or stoppage of work not intended to cause harm.	FIUTT Law Association	- Sub-clause (c) is restrictive due to the use of the words “<i>including but not limited to acquiring material or participating</i>”. Recommendations - Delete the words “<i>and including but not limited to acquiring material or participating</i>” and substitute with the words “<i>(by) engaging in any conduct</i>”. - The sub clause should then read: “<i>Takes any preparatory steps by engaging in any conduct in the planning of an act referred to in paragraph (c)</i>” - Sub-clause should closely resemble Section 5 of the Terrorism Act of the United Kingdom. - Conduct which is a common feature of industrial relations in Trinidad and Tobago might be captured in the definition of “terrorist act”. Recommendations - This subsection be amended to include other forms of industrial action.

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Clause	Marginal Note	Summary	Entity	Comment/Submission
				Picketing and other similar conduct done in contemplation or furtherance of a trade dispute should be included among the list of exemptions even if it is intended to cause the harm.
8	Section 4 amended	Expands the scope of the offence of providing services for the commission of terrorist attacks....	The Muslim Round Table Concern Muslims of Trinidad and Tobago Law Association	- The language of Clause 8, particularly the words “<i>or being reckless as to whether it may be used</i>”, is ambiguous and provides opportunity for abuse and should be removed. - It may also have the effect of incriminating innocent persons associated with bodies corporate (e.g. employees). Recommendation - It is suggested that the provision should be reworded to capture only persons with intention and knowledge of use.
				The unclear and vague definition of “<i>reckless</i>”.
				- The <i>mens rea</i> of the offence in new subsection 4(1) expands the state of mind of the perpetrator beyond the existing provision, which requires intention, to include recklessness as to how the services may be used. - Considers that this is too low a standard for the prosecution to meet having regard in particular to the extraordinarily large penalty which attaches to the offence. Recommendation - It will be a better and fairer approach to provide a lower penalty where only recklessness is alleged or proved instead of intention or knowledge.
9	Section 5 repealed and replaced	Creates the offence of collecting or providing property to be used to commit terrorist acts to a terrorist or terrorist organisations without	Law Association	- Note that in relation to new Section 5(1) which deals with making property available, that intention or knowledge is required and recklessness is not an element of the offence. - There is no offence in the new proposed Section 5(1) of ‘collecting’ property to be used in the commission of a terrorism offence.

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Clause	Marginal Note	Summary	Entity	Comment/Submission
		lawful excuse and without lawful intention or knowledge of it being used to commit a terrorist act, terrorist organisation or listed entity.		
17	New Section 12A	This provision provides for the offences of: - knowingly attending or receiving training in the making or use of any explosive or lethal device or the practice of military exercises of movements... - intentionally of knowingly attending or receiving instruction or training from a terrorist or terrorist organisation.	Law Association	- The offence is to be laid indictably and the penalty for each offence on conviction before a Judge and jury is imprisonment for 25 years and a fine of 25 million. - The High Court is struggling with the long list of pending cases and adding to the number of offences which must be tried on indictment may increase that burden. Recommendation - Consideration should be given to singling out the less serious offences and making some of the offences in that sub-category triable summarily and others triable either way.
18	Section 13 amended	The provision provides for the offences of: knowingly agreeing to provide instruction or training or providing instruction or training in carrying out a terrorist act, etc.	Law Association	- The offence is to be laid indictably and the penalty for each offence on conviction before a Judge and jury is imprisonment for 25 years and a fine of 25 million. - The High Court is struggling with the long list of pending cases and adding to the number of offences which must be tried on indictment may increase that burden. Recommendation - Consideration should be given to singling out the less serious offences and making some of the offences in that sub-category triable summarily and others triable either way.

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Clause	Marginal Note	Summary	Entity	Comment/Submission
		without lawful excuse knowingly agreeing to provide instruction or training or providing instruction or training in carrying out a terrorist act, the making or use of any explosive or lethal device or the practice of military exercises or movements to a child.		
19	New Section 13A inserted		FIUTT Law Association	Recommendations - Creation of an offence which will capture a person who intentionally attends a place that is used for terrorist training whether it is located in Trinidad and Tobago or another jurisdiction. - Provision should also be made within the offence, to provide a person with a defence of lawful excuse. Recommendation - The offence is to be laid indictably and the penalty for each offence on conviction before a Judge and jury is imprisonment for 25 years and a fine of 25 million. - The High Court is struggling with the long list of pending cases and adding to the number of offences which must be tried on indictment may increase that burden. - Consideration should be given to singling out the less serious offences and making some of the offences in that sub-category triable summarily and others triable either way.

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Clause	Marginal Note	Summary	Entity	Comment/Submission
20		The provision provides for the offences: ▪ inciting or promoting the commission of a terrorist act or soliciting property for the commission of a terrorist act without lawful excuse. ▪ Knowingly inciting a child to commit a terrorist act without lawful excuse	Law Association	▪ The offence is to be laid indictably and the penalty for each offence on conviction before a Judge and jury is imprisonment for 25 years and a fine of 25 million. ▪ The High Court is struggling with the long list of pending cases and adding to the number of offences which must be tried on indictment may increase that burden. Recommendation ▪ Consideration should be given to singling out the less serious offences and making some of the offences in that sub-category triable summarily and others triable either way.
22	New sections 15A, 15B, 15C, 15D and 15E inserted	Provides for : ▪ The offence of travelling for the purpose of committing a terrorist act. ▪ Minister to designate geographical areas. ▪ Notice of travel to declared geographical areas (incl. travelling with a child). ▪ Duty of parent, guardian or custodian to notify police.	TTPS	Recommendations ▪ Under proposed Section 15B, the AG should also have the authority to apply to a Judge for an order with respect to designating a declared geographical area to harmonise the functions of the AG with other areas of the Bill where he is empowered to apply to a Judge for the listing of a terrorist entity. ▪ Proposed Section 15B (2), the criteria to be considered by the Minister in making a declaration should be identified. ▪ Proposed Section 15C (1), consider the inclusion of: ○ a specified minimum period of notice; ○ a specified method of serving the notice on the Commissioner of Police (CoP); ○ a provision for a form of notice to be inserted in either the Regulations or the Bill; and ○ specific general requirements for the provision of notice. ▪ Proposed Section 15C (2), consider the inclusion of: ○ Empowering the CoP to obtain an order from a Judge to prevent a person from travelling to a declared territory in order to allow the police to conduct further investigations. ▪ Proposed Section 15C: include a provision which specifies a penalty where a person fails to file notice with the CoP. The provision may be worded similarly to the penalty under proposed Section 15D(5).

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Clause	Marginal Note	Summary	Entity	Comment/Submission
			Concern Muslims of Trinidad and Tobago	▪ Concern that this provision would create hardship to persons travelling for Hajj and Umrah pilgrimages, therefore consideration should be given to the following issues: ○ Instances where persons visit one area for religious reasons but tour another area which may happen to be or become a declared geographical area unknown to the persons. ○ The inability of most travellers to be informed, while on a trip, that an area has been made a declared geographical area. ○ Uninformed or misinformed immigration or police officers using this law to target persons innocently travelling to declared geographical areas despite the provision of a 'reasonable excuse'. Recommendation ▪ Under proposed Section 15B(2), the criteria to be considered by the Minister in making a declaration should be identified.
			The Muslim Round Table	Recommendation ▪ Under proposed Section 15B(2), the criteria to be considered by the Minister in making a declaration should be identified. ▪ The contents of the notice to the Commissioner of Police under proposed Section 15C(1) should be specified.
			FIUTT	▪ New Sections 15C and 15D do not stipulate a timeframe within which notice should be given. Recommendations ▪ Inclusion of a timeframe ▪ The Commissioner of Police should be empowered to also prevent a person from leaving the jurisdiction in furtherance to his powers under these provisions. ▪ Clause 22 should provide increased protection to children by making it more difficult to take a child to a declared geographical area. Along with the Commissioner's consent should also be obtained from: ○ The child's other parent; or ○ The Court.
			Law Association	▪ There is no provision for the publication of the order declaring a place to be a 'declared geographical area' or otherwise bringing it

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Clause	Marginal Note	Summary	Entity	Comment/Submission
				to the attention of persons whose circumstances are such that they may unknowingly commit an offence. ▪ This creates a danger that a person may be deemed to have committed the offence by entering or not leaving the 'declared geographical area' even though there are no means by which he or she can come to know that the place has been declared off limits. ▪ In particular, there is no provision for notifying persons who are already in a 'declared geographical area' when it is declared as such, of the change in status of the place where they find themselves and of the danger that if they do not leave within thirty (30) days, they will be deemed to have committed an offence and to be taken to a 'foreign terrorist fighter'. ▪ There is no provision for notifying citizens or residents of Trinidad and Tobago who are presently living or travelling abroad and who travel to the 'declared geographical area' not knowing it to have been so declared. Recommendations ▪ Appropriate notification provision be included, along with provisions which provide a defence where a person could not reasonably be expected to have been aware of the notification. ▪ Re new offence: ○ The offence is to be laid indictably and the penalty for each offence on conviction before a Judge and jury is imprisonment for 25 years and a fine of 25 million. ○ The High Court is struggling with the long list of pending cases and adding to the number of offences which must be tried on indictment may increase that burden. Recommendation Identify the less serious offences and making some of the offences in that sub-category triable summarily and others triable either way.
25	Section 22A amended	This excludes provision the or	The Muslim Round	Consider the impact on employees and investors of a company found to have committed an offence under this provision.

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Clause	Marginal Note	Summary	Entity	Comment/Submission
		collection of funds in accordance with an order made under section 22B from the prescribed penalty. It also sets out the penalties for an individual, a body corporate and a director or officer of a body corporate who contravenes the section and empowers the Court to revoke business licences, etc.	Table Group	
			Concern Muslims of Trinidad and Tobago	- Apprehension expressed surrounding the effect that Clause 25 may have on religious-based charitable organisations or charitable persons. Concern that Clause 25 may be construed widely and may lead to the de-risking and de-banking of innocent persons. - Clause may capture persons who innocently and unknowingly fund terrorist organisations which may present themselves as in need of charity. Recommendation Banking regulations should be amended and adjusted to ensure that such innocent persons are not negatively affected.
27	Section 22B amended	This provision empowers the Attorney General to initiate proceedings for an order from the Court to freeze the assets in respect of an individual or entity that commits or participates in the commission of a terrorist act, etc.	The Muslim Round Table Group Law Association	- Consider circumstances where an innocent person with a similar name to a designated entity is affected. Recommendation - Provision should be made the immediate clearing of that person's name. Concerns re Declaration that Person or Entity is a Listed Entity: - Clause 27 revamps the provisions dealing with the declaration of persons or entities as listed entities with the consequence that their assets are to be frozen. - The result of the proposed amendments is that a person or entity who is declared to be a listed entity and whose assets are frozen may only discover that this has happened when the order is published to the world. - The effect of the order as published is a declaration to the world that there are reasonable grounds to believe that the individual or entity is knowingly involved in terrorist activity. - Immediate harm is accordingly caused to a person's reputation even before that person has had the opportunity to show cause why there is no basis for the order. - By the time the person is permitted to apply to the court for a review of the order, irreparable harm may have

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Clause	Marginal Note	Summary	Entity	Comment/Submission
				already been caused and it may be impossible to remove the stigma smeared on a person’s reputation by being declared to be reasonably believed by a court of law involved in terrorist activity. Recommendation Before an order is published, the individual or entity be given a reasonable opportunity to have the order revoked by a Judge of the High Court.
28	New sections 22BA, 22BB, 22BC, 22BD and 22E inserted	This provision inserts new sections 22BA, 22BB, 22BC, 22BD, 22BE which would set out the considerations for listed entities and designated entities by the Court in making an order, empower the police officer to search an individual or premises and seize documents to ensure compliance, etc.	The Muslim Round Table Group	▪ Bill targets Muslims due to the specific references made to the Arabic named UN Committees/Sanction Lists which seemingly targets particular groups of terrorists that are mistakenly associated with the Muslim faith rather than the listing of all known terrorists groups. Recommendations ▪ The language of the Bill be changed to remove the Arabic named Committees/Sanction Lists. ▪ Substitute a more general form of words. ▪ List all known terrorist entities.
			Concern Muslims of Trinidad and Tobago	▪ There is concern that the Bill targets Muslims due to the specific references made to the Arabic named UN Committees/Sanction Lists which seemingly targets particular groups of terrorists that are mistakenly associated with the Muslim faith rather than the listing of all known terrorists groups. Recommendations ▪ The language of the Bill be changed to remove the Arabic named Committees/Sanction Lists. ▪ substitute a more general form of words. ▪ list all known terrorist entities. ▪ Proposed Section 22BB: Entity is concerned with the requirement that the AG must apply to the Court for an order to delist a designated entity, he must first notify the UN Committees of such an intention and the possible effect on the country’s sovereignty and the independence of the office of the AG.

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Clause	Marginal Note	Summary	Entity	Comment/Submission
			Law Association	▪ Concern re: Proposed Section 22BC – Search Warrant: ○ The provision does not set out any criteria which must be met for the issue of the warrant. ○ The provision does not say, for example, that the Magistrate must be satisfied that there is reasonable cause to believe that the listed entity is not complying with the order, which is the usual type of threshold enquiry a Magistrate is required to make before authorising the violation of a person's right to privacy and not to be subject to arbitrary search. Recommendation A qualifying provision of this sort be included. Without any threshold criteria for the issue of a warrant, a listed entity who or which has not yet had the opportunity to challenge the order in Court, or who is in fact complying with the order, will be subject to the invasive, coercive powers of the State. ▪ Concern re: Proposed Section 22BD – The Sanctions List: There is no provision for the listed entity being heard in his or her defence in order to persuade the Committee not to put him or her on the list. Recommendation Such a provision should be included. ▪ Concern re: Proposed Section 22BD – The Sanctions List: There is provision in the proposed Section 22BD(4) for the Attorney General informing the individual or entity that he or she has been put on the Sanctions List and that he or she can petition the UN Office of the Ombudsman to be removed from the list. ▪ The course of action is welcomed however this will have occurred only after the damage of being included on the Sanctions List has already occurred.

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Clause	Marginal Note	Summary	Entity	Comment/Submission
ADDITIONAL PROPOSALS				
			TTPS	Recommendations ▪ Consider inserting two (2) further offences into the Bill. The language of the provisions should provide for a defence to persons with a reasonable excuse. The offences are: ○ Possession for terrorist purposes; to capture situations where individuals are found in possession of items that are utilised in preparation for or to commit terrorist acts. ○ Collecting, possessing or making a record of information of a kind likely to be useful to a person committing or preparing an act of terrorism; which would capture a wider range of circumstances than the offence of possession for terrorist purposes. ▪ The ground for the cause of an investigation into these offences should be “<i>reasonable suspicion</i>” and such suspicion should be required to be objective rather than subjective. ▪ Inclusion of a statutory provision from other jurisdictions which prevent an individual from leaving a jurisdiction during investigations by law enforcement into the reasons for travel. ○ Similar provisions are found in the Australian Counter-Terrorism Legislation Amendment) (Foreign Fighters Act) No. 116 of 2016. It prevents the travel of a citizen from a jurisdiction whilst law enforcement officers conduct investigations into their travel. (Response to Committee’s Request for Additional Information) ▪ Provisions be made for the CoP or his designate to apply ex parte to the High Court for an order to prevent the travel of the person from the jurisdiction, where the reasons outlined in the notice of travel, when set against other information or intelligence held by the TTPS give rise to a suspicion surrounding the bona fide travel to the geographical area. ▪ The stay on travel will afford the police investigator an opportunity to investigate the information pertaining to the individual(s) travel to report to the Court, the findings of the said investigation, for a determination of whether to stay should lifted or continued.

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Clause	Marginal Note	Summary	Entity	Comment/Submission
			Concern Muslims of Trinidad and Tobago	- Concern with the deficiencies in the TTPS and other bodies that will be enforcing this legislation. - Appears to be a lack of data which informed the rationale for and the provisions of the Bill. - Concern that material including religious literature or recordings found in possession may lead to the suspicion of terrorist activity under the Bill. Recommendation - Legislation which addressed terrorism be reviewed by an independent reviewer to consider the workings of the Bill and provide the Committee with specific recommendations on pertinent issues.
			The Muslim Round Table	- Concern with the deficiencies in the TTPS and other bodies that will be enforcing this legislation. Recommendations - Inclusion of a provision for the utilisation of the legislation by the TTPS and similar bodies to avoid misinterpretation and misapplication during operationalisation. - Deletion of the Clauses which propose the removal a specified rank to carry out powers in the Bill, because of the possibility of corruption among the lower ranking members of the police service and the gravity of this legislation.
			FIUTT	Recommendations - Consider making it an offence for a person to glorify terrorism. - The offence should capture those who commit a terrorist act by directly/indirectly inciting others to commit a terrorist act. - Consider extending the periods of detention under Section 23 of the Anti-Terrorism Act, Chap 12:07 to assist law enforcement with early intervention and a greater period for investigation. - Subsection 4 should be amended to 14 days in the first instance and may be extended for a maximum period which does not exceed 28 days.

LIST OF RECOMMENDED AMENDMENTS TO THE ANTI-TERRORISM (AMENDMENT) BILL, 2018

THE ANTI-TERRORISM (AMENDMENT) BILL, 2018

**List of amendments to be moved in the House of Representatives on _____, 2018
by the Attorney General at the Committee Stage of the Anti-Terrorism
(Amendment) Bill, 2018.**

NOTICE is hereby given that the Honourable Attorney General will move in the House of Representatives, the following amendments at the Committee Stage of the Anti-Terrorism (Amendment) Bill, 2018:

Clause	Proposed Amendment
5	A. In paragraph (a)- (a) insert after the words “the following new definitions:”, the following new definitions: ““1267, 1989 and 2253 Committee means the Committee established by the United Nations Security Council pursuant to resolutions 1267 (1999) , 1989 (2011) and 2253 (2015);”; “1988 Committee” means the Sanctions Committee established under Article 30 of the UN Security Council Resolution 1988 (2011) concerning the list of individuals and entities designated as the Taliban, and other individuals, groups, undertakings and entities associated with them; “1988 List” means the Sanctions List prepared by the 1988 Committee;”; (b) delete the definition of “Committee”; (c) insert after the proposed definition of “declared geographical area”, the following new definition: “ “designated entity” means an individual or entity and their associates designated as terrorist entities by the Security Council of the United Nations, the 1267, 1989 and 2253 Committee or the 1988 Committee;”; and (d) delete the proposed definition of “ISIL (Da’esh) and Al-Qaida Sanctions List” and substitute the following new definition: “Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) List” means the Sanctions List prepared by the 1267, 1989 and 2253 Committee;”. B. In paragraph (d), in the proposed definition of “terrorist act”, delete the words “this Part,” and substitute the words “Part II,”.

Clause	Proposed Amendment
	C. In paragraph (f), in the proposed definition of “weapon”, insert after paragraph (b), the following new paragraph: “(c) any article made or adapted for use for causing injury to a person or property or intended by a person for use by him or another person for that purpose;”.
7	In paragraph (a) in proposed subsection (1)- (a) in paragraph (b), delete the word “or”; (b) in paragraph (c), delete all the words after the word “steps” and substitute the words “for the purpose of committing an act under this Part”; and (c) insert after proposed paragraph (c), the following new paragraph: “(d) coerces, encourages, entices, or incites another person to commit an offence under this Part.”.
8	In proposed section 4- (a) in subsection (1)- (i) in the chapeau- (A) delete the words “, without lawful excuse, intentionally or knowingly” and substitute the words “knowingly and without lawful excuse”; and (B) delete the words “or being reckless as to whether it may be used”; (ii) delete paragraph (e); and (ii) in paragraph (f), delete the words “designated person or”; and (b) delete subsection (4) and substitute the following new subsection: “ (4) A director or officer of a body corporate who knowingly and without lawful excuse, authorizes, acquiesces in, or permits the commission of an offence under this section- (a) for the benefit of the body corporate; or (b) which results in the body corporate being used as a vehicle for the commission of an offence under this section, commits an offence and is liable on conviction on indictment to a fine of twenty-five million dollars and to imprisonment for twenty-five years and the Court may <i>proprio motu</i> exercise its power under section 69 of the Companies Act to order the individual to not be a director of the company, or be in any way

Clause	Proposed Amendment
	directly or indirectly concerned with the management of the company for a period of time.”; and (c) in subsection (5), delete the words “or its director, manager, secretary or other similar officer concerned with the management of a body corporate”.
9	In proposed section 5- (a) in subsection (1)- (i) delete the words “, without lawful excuse, intentionally or knowingly” and substitute the words “knowingly and without lawful excuse”; (ii) insert after the word “indirectly”, the words “collects,”; (iii) in paragraph (d), insert after the words “entity;”, the word “or”; (iv) delete paragraph (e); and (v) in paragraph (f), delete the words “designated person or” and substitute the word “listed”; (b) delete subsection (4) and substitute the following new subsection: “ (4)A director or officer of a body corporate who knowingly and without lawful excuse, authorizes, acquiesces in, or permits the commission of an offence under this section- (a) for the benefit of the body corporate; or (b) which results in the body corporate being used as a vehicle for the commission of an offence under this section, commits an offence and is liable on conviction on indictment to a fine of twenty-five million dollars and to imprisonment for twenty-five years and the Court may <i>proprio motu</i> exercise its power under section 69 of the Companies Act to order the individual to not be a director of the company, or be in any way directly or indirectly

Clause	Proposed Amendment
	concerned with the management of the company for a period of time.”; and (c) in subsection (5), delete the words “or its director, manager, secretary or other similar officer concerned with the management of a body corporate”.
10	In paragraph (a), delete the words “without lawful excuse” and substitute the words “knowingly and without lawful excuse”.
11	Delete paragraph (a) and substitute the following new paragraph: “ (a) by inserting after the word “knowingly”, the words “and without lawful excuse,”; and”.
12	Delete paragraph (a) and substitute the following new paragraph: “ (a) by inserting after the word “knowingly”, the words “and without lawful excuse,”; and”.
13	A. Delete paragraph (a), and substitute the following new paragraph: “(a)by deleting subsection (1), and substituting the following new subsection: “ (1)Any person who knowingly and without lawful excuse, supports or solicits support for- (a) the commission of a terrorist act; (b) a terrorist; (c) a terrorist organization; or (d) a listed entity, commits an offence.”; and”. B. In paragraph (b)- (a) delete subsection (4) and substitute the following new subsection: “ (4) A director or officer of a body corporate who knowingly and without lawful excuse, authorizes, acquiesces in, or permits the commission of an offence under this section- (a) for the benefit of the body corporate; or (b) which results in the body corporate being used as a vehicle for the commission of an offence under this section, commits an offence and is liable on conviction on indictment to a fine of twenty-five million dollars and to imprisonment for twenty-five years and the Court may

Clause	Proposed Amendment
	<i>proprio motu</i> exercise its power under section 69 of the Companies Act to order the individual to not be a director of the company, or be in any way directly or indirectly concerned with the management of the company for a period of time.”; and (b) in subsection (5), delete in subsection (5), delete the words “or its director, manager, secretary or other similar officer concerned with the management of a body corporate”.
14	Delete paragraph (a) and substitute the following new paragraph: “ (a) by inserting after the word “who”, the words “knowingly and without lawful excuse,”; and”.
15	Delete paragraph (a) and substitute the following new paragraph: “ (a) by inserting after the words “who knowingly”, the words “and without lawful excuse”; and”.
16	Delete all the words after the words “amended by” and substitute the following : “_ (a) in the chapeau, by inserting after the words “who,”, the words “knowingly and”; and (b) by deleting all the words after the word “recruits” and substituting the following: “_ (a) a person to participate in the commission of a terrorist act, commits an offence and shall, on conviction on indictment, be liable to a fine of twenty-five million dollars and to imprisonment for twenty-five years; or (b) a child to participate in the commission of a terrorist act, commits an offence and shall, on conviction on indictment, be liable to a fine of thirty million dollars and to imprisonment for thirty years.”.”.
17	In proposed section 12A, delete the words “, without lawful excuse, intentionally or knowingly” and substitute the words “knowingly and without lawful excuse,”.
18	A. In paragraph (b)- (a) delete subparagraph (i) and substitute the following new subparagraph:

Clause	Proposed Amendment
	“(i) by inserting after the word “knowingly”, the words “and without lawful excuse,”;” and (b) insert after subparagraph (i), the following new subparagraph: “(ii) in paragraph (b) by inserting after the word “explosive” the words “, weapon”; B. In paragraph (c) in proposed subsection (2)- (a) delete the words “without lawful excuse, knowingly” and substitute the words “knowingly and without lawful excuse”; and (b) insert after the word “explosive” the words “, weapon”.
19	In proposed section 13A- (a) in subsection (1)- (i) delete the words “without lawful excuse, knowingly” and substitute the words “knowingly and without lawful excuse,”; and (ii) insert after the word “explosive” the words “, weapon”; and (b) in subsection (2), delete the words “without lawful excuse, intentionally or knowingly” and substitute the words “knowingly and without lawful excuse”.
20	A. In paragraph (b), delete subparagraph (i) and substitute the following new subparagraph: “(i) by inserting after the word “knowingly”, the words “and without lawful excuse,”; and”. B. In paragraph (c), proposed subsection (2)- (a) delete the words “without lawful excuse, knowingly” and substitute the words “knowingly and without lawful excuse,”; and (b) delete the words “be liable on conviction on indictment” and substitute the words “, on conviction on indictment, be liable”.
21	In paragraph (a), delete the words “without lawful excuse” and substitute the words “knowingly and without lawful excuse,”.
22	A. In proposed section 15A- (a) delete the words “without lawful excuse, knowingly” and substitute the words “knowingly and without lawful excuse,”; and (b) insert after subsection (2), the following new subsection: “ (3) For the purposes of this section, “support” includes but is not limited to—

Clause	Proposed Amendment
	(a) an offer to provide or the provision of expertise or a skill; (b) an offer to provide or the provision of documents; and (c) entering or remaining in any country, for the purpose of committing or facilitating a terrorist act.”. B. In proposed section 15B- (a) insert after subsection (1), the following new subsections: “ (2) The Minister shall, prior to making a designation under subsection (1), inform the Leader of the Opposition in writing of the proposed designation of that geographical area of the foreign country. (3) The Minister shall cause an Order made under subsection (1) – (a) to be published- (i) in the <i>Gazette</i>; (ii) once a week for at least two weeks, in at least two newspapers in daily circulation in Trinidad and Tobago; (iii) on the website of the Ministries with responsibility for- (A) for national security; (B) foreign affairs; and (C) CARICOM affairs; (iv) on the website of the office of the Attorney General; (v) at all offices of the Ministries with responsibility for- (A) for national security; (B) foreign affairs; and (C) CARICOM affairs; (vi) at the all offices of the Attorney General; and (vii) at each port of entry; and (b) to be forwarded to the Commissioner of Police; and

Clause	Proposed Amendment
	(4) An Order made under this section shall include a provision that notifies persons who intend to travel or have travelled to a declared geographical area, that they are required to inform the Commissioner of Police in accordance with sections 15C or 15D.”. (b) insert after renumbered subsection (6), the following new subsections: “ (7) An Order made under subsection (1) shall cease to have effect on the third anniversary of the day on which it takes effect. (8) Subsection (7) shall not affect the power of the Minister to- (a) revoke an Order; or (b) make a new Order in respect of the same geographical area. (9) The expiration of an Order under this section shall not affect the prosecution of an offence committed prior to the expiration of the Order.” (c) insert after renumbered subsection (12), the following new subsection: “ (13) For the purposes of this section, “port of entry” has the meaning assigned to it under section 2 of the Immigration Act.”. Chap. 18:01 C. In proposed section 15C- (a) in subsection (3), insert after the word “immediately”, the words “,but no later than thirty days,”; and (b) delete subsection (4) and substitute the following new subsection: “ (4) The Commissioner of Police shall notify the Attorney General and the Chief Immigration Officer in writing of all Notices to Travel to a Declared Geographical Area received under this section.”.

Clause	Proposed Amendment
	D. In proposed section 15D, delete subsection (3) and substitute the following new subsection: “ (3) The Commissioner of Police shall notify the Attorney General and the Chief Immigration Officer in writing of all Notices to Travel to a Declared Geographical Area received under this section.”. E. In proposed section 15E, in subsection (3), delete all the words after the words “shall,”, and substitute the words “subject the person who made the report to any action, liability, claim or demand whatsoever, if such report was made in good faith for the purpose of complying with those provisions.”.
23	A. In proposed section 15G, delete the words “including but not limited to acquiring material or participating in the planning of” and substituting the words “for the purpose of committing”. B. Insert after proposed section 15G the following new section: “Coercing or encouraging a person to commit an offence 15H. A person who coerces, encourages, entices, or incites another person to commit an offence under this Part, commits an offence and shall be liable to the same penalty as provided for the offence.”.
25	A. In paragraph (a), delete subparagraph (i) and substitute the following new subparagraph: “(i) in the chapeau- (A) by inserting after the words “attempts to do so,”, the words “or coerces, encourages, entices, or incites another person to do so, without lawful excuse,”; and (B) by deleting the words “under this Part”;”. B. Delete paragraph (e) and substitute the following new paragraph: “(e) by deleting subsection (4) and substituting the following new subsection: “ (4) A director or officer of a body corporate who knowingly and without lawful excuse, authorizes,

Clause	Proposed Amendment
	acquiesces in, or permits the commission of an offence under this section- (a) for the benefit of the body corporate; or (b) which results in the body corporate being used as a vehicle for the commission of an offence under this section, commits an offence and is liable on conviction on indictment to a fine of twenty-five million dollars and to imprisonment for twenty-five years and the Court may <i>proprio motu</i> exercise its power under section 69 of the Companies Act to order the individual to not be a director of the company, or be in any way directly or indirectly concerned with the management of the company for a period of time .”. C. In paragraph (f)- (a)in proposed subsection (6), delete the words “or its director, manager, secretary or other similar officer concerned with the management of a body corporate”; and (b)in proposed subsection (7), delete the words “including but not limited to acquiring material or participating in the planning of” and substituting the words “for the purpose of committing”.
26	Delete paragraph (a) and substitute the following new paragraph: “(a) by deleting subsection (1);”.
27	In paragraph (b)- (a) in proposed subsection (1), delete the words “Commissioner of Police who shall” and substitute the words “Commissioner of Police who may”; (b) in proposed subsection (1A)- (i) insert after the words “Attorney General with the”, the word “relevant”; and (ii) insert after the words “the investigation”, the words “required for the purposes of making an application to list an individual or entity under subsection (1B)”; (c) in proposed subsection (1B), in paragraph (a) delete the words “an entity, where the entity is”.

Clause	Proposed Amendment
28	A. In proposed section 22BA, in paragraph (a), delete subparagraph (iv), and substitute the following new subparagraph: “(iv) provision for - (A) the reasonable living expenses of dependants including educational expenses; and (B) medicine and the medical treatment of dependants; and”. B. In proposed section 22BC, in subsection (2) delete all the words from the words “A warrant” to the word “authorize” and substitute the words “Where upon an application under subsection (1), a Magistrate is satisfied that it is necessary to determine whether a listed entity complies with measures set out in the order, he may issue a warrant authorizing”; C. In proposed section 22BD- (a) in subsection (1) – (i) delete the words “ISIL (Da’esh) and Al-Qaida Sanctions List” and substitute the words “Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) List or the 1988 List”; (ii) delete the word “Committee” and substitute the words “1267, 1989 and 2253 Committee or the 1988 Committee as the case may be ” and (iii)by inserting after the words “placed on the”, the word “respective” (b) in subsection (2)- (i) delete the word “Committee” and substitute the words “1267, 1989 and 2253 Committee or the 1988 Committee as the case may be”; (ii) delete the words “ISIL (Da’esh) and Al-Qaida Sanctions List” and substitute the words “Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) List or the 1988 List”; (c) in subsection (3)- (i) delete the words “ISIL (Da’esh) and Al-Qaida Sanctions List” in the first place they occur and substitute the words “Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) List or the 1988 List”; (ii) delete all the words after the word “petition” and substitute the words: “_

Clause	Proposed Amendment
	(a) the 1267, 1989 and 2253 Committee for removal of the individual or entity from the Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) List; or (b) the 1988 Committee for removal of the individual or entity from the 1988 List.”; (d) in subsection (4)- (i) delete the words “ISIL (Da’esh) and Al-Qaida Sanctions List” in the first place they occur and substitute the words “Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) List or the 1988 List”; and (ii) insert after the word “Ombudsperson” the words “or focal point for De-Listing as appropriate,”; and (iii) delete all the words after the words “from the” and substitute the words “Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) List or the 1988 List, as the case may be.”. D. In proposed section 22BE- (a) in subsection (3), delete the words “the Commissioner of Police who shall” and substitute the words “the Commissioner of Police who may”; and (b) insert after subsection (3) the following new subsection: “ (4) Where the Commissioner of Police receives a referral from the Attorney General under subsection (3), he shall as soon as the results of the investigation are known, provide the Attorney General with the relevant results of the investigation for the purposes of making an application under subsection (5).”.
34	In paragraph (a), delete the word “shall” and substitute the word “may”.
40	A. Delete paragraph (a) and substitute the following new paragraph: “(a) in subsection (1)- (i) by deleting the words “application is” and substituting the word “application”; (ii) by deleting all the words after the words “section 37” and substituting the following: “- (a) the judge may issue-

Clause	Proposed Amendment
	(i) a warrant authorizing a police officer to search the building, place or vessel for that property and to seize that property if found, and any other property in respect of which that police officer believes, on reasonable grounds, that an order of forfeiture may be made under section 37; or (ii) a restraint order prohibiting any person from disposing of, or otherwise dealing with any interest in, that property, other than as may be specified in the order; and (b) a copy of the order under paragraph (a) shall be kept by the Registrar.”;”. B. In paragraph (c), delete the word “.” and substitute the words “; and”. C. Insert after paragraph (c), the following new paragraph: “(d) by inserting after subsection (8), the following new subsection: “ (9) For the purposes of this section, “Registrar” has the meaning assigned to it under section 2 of the Supreme Court of Judicature Act.”.”.
5	In paragraph (f), in the proposed definition of “weapon”, renumber paragraphs (c) to (f) as (d) to (g).
18	In paragraph (b) renumber subparagraph (ii) as subparagraph (iii).
22	In proposed section 15B- (a) renumber subsections (2) and (3) as subsections (4) to (5); and (b) renumber subsections (4) to (6) as subsections (9) to (11).
28	In proposed section 22BE, renumber proposed subsection (4) as subsection (5).

ATTORNEY GENERAL AND MINISTER OF LEGAL AFFAIRS

Appendix IX

**CONSOLIDATED
ANTI-TERRORISM (AMENDMENT) BILL,
2018**

resolutions 1267 (1999) , 1989 (2011) and 2253 (2015);

“1988 Committee” means the Sanctions Committee established under Article 30 of the UN Security Council Resolution 1988 (2011) concerning the list of individuals and entities designated as the Taliban, and other individuals, groups, undertakings and entities associated with them;

“1988 List” means the Sanctions List prepared by the 1988 Committee;

“bearer negotiable instrument” includes—

- (a) a monetary instrument such as a travellers’ cheque, negotiable instrument including a cheque, promissory note and money order that is either in bearer form, endorsed without restriction, made out to a fictitious payee, or otherwise in such form that title thereto passes or payment is made upon delivery; or
- (b) an incomplete instrument including a cheque, promissory note and money order signed, but with the payee’s name omitted;

“cash” includes coins and notes in any currency, postal orders, cheques of any kind including travellers’ cheques, bankers’ drafts, bearer bonds, bearer shares and bearer negotiable instruments and other bearer negotiable instruments in any currency;

“child” has the meaning assigned to it under section 3 of the Family and Children Division Act, 2016;

~~“Committee” means the ISIL (Da’esh) & Al-Qaida Sanctions Committee established by the United Nations Security Council pursuant to resolutions 1267 (1999) , 1989 (2011) and 2253 (2015) concerning ISIL (Da’esh) — Al Qaida — and — associated~~

~~individuals, groups, undertakings and entities;~~

“computer” means a device or group of interconnected or related devices which follows a program or external instruction to perform automatic processing of information or electronic data;

“declared geographical area” means an area designated by the Minister in accordance with section 15B;

“designated entity” means an individual or entity and their associates designated as terrorist entities by the Security Council of the United Nations, the 1267, 1989 and 2253 Committee or the 1988 Committee;

“foreign terrorist fighter” means an individual who commits an offence under section 15A; and

~~“ISIL (Da’esh) and Al Qaida Sanctions List” means the ISIL (Da’esh) and Al Qaida Sanctions List prepared by the Committee;~~

Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) List” means the Sanctions List prepared by the 1267, 1989 and 2253 Committee;

“Seized Assets Fund” means the Seized Assets Fund established under section 58(1) of the Proceeds of Crime Act;”;

Chap. 11:27

(b) in the definition of “property” or “funds” —

- (i) by inserting after the words “bank credits,”, the words “payment cards, payment instruments,”; and
- (ii) by inserting after the words “such property”, the words “, precious metals, oil and other natural

resources and their refined products, modular refineries and related material and other economic resources which may be used to obtain funds, goods or services;”;

(c) in the definition of “terrorist”, in paragraph (d) —

- (i) by inserting after the words “terrorism by” the words “an individual or”;
- (ii) by inserting after the word “contribution”, the words “is made intentionally”;
- (iii) in subparagraph (i)-
 - (A) by deleting the words “is made intentionally and”;
 - (B) by deleting the word “and”;
 - (C) by deleting the word “act” and substituting the word “acts”;
- (iv) in subparagraph (ii), by inserting after the words “intention of the”, the words “individual or”;

(d) by deleting the definition of “terrorist act” and substituting the following definition:

“ “terrorist act” means an act which constitutes an offence under ~~this Part~~ **Part II**, Part III or Part IIIA;”;

(e) in the definition of “terrorist organisation” in paragraph (d), by inserting after the words “terrorism by” the words “an individual or”;

(f) by deleting the definition of “weapon” and substituting the following definition:

“ “weapon” includes-

- (a) a firearm under section 2 of the Firearms Act;
- (b) a prohibited weapon under section 2 of the Firearms Act;
- (c) any article made or adapted for use for causing injury to a person or property or intended by a person for use by him or another person for that purpose;**
- (d)** an explosive weapon;
- (e)** a chemical weapon;
- (f)** a biological weapon; or
- (g)** a nuclear weapon;”;

(g) by deleting subsection (2).

Section 2A
inserted

6. The Act is amended by inserting after section 2 the following new section:

“Application
of Parts II, III
and IIIA

2A. Parts II, III and IIIA apply whether or not an offence is committed inside or outside of Trinidad and Tobago.”.

Section 3
amended

7. Section 3 of the Act is amended—

(a) by deleting subsection (1) and substituting the following new subsection:

“ (1) A person who—

(a) with the intent to compel a government or an international organisation to do or refrain from doing any act or intimidate the public or a section of the public, for the purpose of advancing a political, ideological or a religious cause does any act which he intends to cause, creates the likelihood of causing, or is likely to cause—

- (i) loss of human life or serious bodily harm;
- (ii) substantial damage to property;
- (iii) the endangerment of a person’s life, other than the life of the person taking the action;
- (iv) the creation of a serious risk to the health or safety of the public or a section of the public; or
- (v) prejudice to national security or disruption of public safety including disruption—
 - (A) in the provision of emergency services;
 - (B) to any computer or electronic system; or

(C) to the provision of services directly related to banking, communications, infrastructure, financial services, public utilities, transportation or other essential infrastructure;

(b) threatens to commit an act referred to in this Part; ~~or~~

(c) takes preparatory steps, ~~including but not limited to acquiring material or participating in the planning of an act referred to in paragraph (a) for the purpose of committing an act under this Part; or~~

(d) coerces, encourages, entices, or incites another person to commit an offence under this Part,

commits the offence of a terrorist act and is liable, where no other penalty is specified, on conviction on indictment to a fine of twenty-five million dollars and imprisonment for twenty-five years.”; and

(b) by repealing subsection (3) and substituting the following new subsection:

“ (3) This section shall not apply to-

(a) an act which causes death or serious bodily harm to a person taking active part in armed conflict in accordance with the applicable rules of international law; or

(b) an act committed in pursuance of a demonstration, protest or stoppage of work that is not intended to result in any harm referred to in subsection (1).”.

Section 4
amended

8. The Act is amended by repealing section 4 and substituting the following new section:

“Provision of
services for
commission of
terrorist acts

4. (1) A person who, ~~without lawful excuse, intentionally or knowingly~~

knowingly and without lawful excuse, directly or indirectly, provides or makes available financial or other related services, with the intention or knowledge of it being used ~~or being reckless as to whether it may be used~~, in whole or in part —

- (a) for the purpose of committing or facilitating the commission of, a terrorist act;
- (b) by a terrorist;
- (c) by a terrorist organization;
- (d) by a listed entity;
- ~~(e) by an entity owned or controlled, directly or indirectly by a listed entity;~~ or
- (f) by a person or entity acting on behalf of, or at the direction of, a ~~designated person or~~ listed entity,

commits an offence.

(2) Where an individual commits an offence under subsection (1), he shall, on conviction on indictment, be liable to a fine of twenty-five million dollars and to imprisonment for twenty-five years.

(3) Where a body corporate commits an offence under subsection (1), it shall be liable on conviction on indictment to a fine of thirty million dollars.

~~(4) A director or officer of a body corporate who knowingly authorised, acquiesced in, or permitted the commission of an offence under this section also commits an offence and is liable on conviction on indictment to a fine of twenty-five million dollars and to imprisonment for twenty-five years.~~

(4) A director or officer of a body corporate who knowingly and without lawful excuse, authorizes,

acquiesces in, or permits the commission of an offence under this section-

(a)for the benefit of the body corporate; or

(b)which results in the body corporate being used as a vehicle for the commission of an offence under this section,

commits an offence and is liable on conviction on indictment to a fine of twenty-five million dollars and to imprisonment for twenty-five years and the Court may *proprio motu* exercise its power under section 69 of the Companies Act to order the individual to not be a director of the company, or be in any way directly or indirectly concerned with the management of the company for a period of time.

(5) Where a body corporate ~~or its director, manager, secretary or other similar officer concerned with the management of a body corporate~~ has been convicted of an offence under this section, the Court shall have the power to-

- (a) revoke business licences;
- (b) order that the body corporate be wound up;
- (c) forfeit the assets and properties of the body corporate to the State who shall deal with it in accordance with Part III of the Proceeds of Crime Act; and
- (d) prohibit the body corporate from performing any further activities.

(6) Notwithstanding subsection (1), a person does not commit an offence where he provides or makes available financial or other related services in accordance with an order made under section 22B.”.

Section 5
repealed and
replaced

9. The Act is amended by repealing section 5 and substituting the following sections:

“Collection or
provision of
property to
commit
terrorists acts

5. (1) A person who, ~~without lawful excuse, intentionally or knowingly~~ **knowingly and without lawful excuse**, directly or indirectly **collects**, provides or make available property with the intention or knowledge of it being used—

- (a) to commit a terrorist act;
- (b) by a terrorist;
- (c) by a terrorist organization;
- (d) by a listed entity; **or**
- ~~(e) by an entity owned or controlled, directly or indirectly by a listed entity;~~ **or**
- (f) by a person or entity acting on behalf of, or at the direction of, a ~~designated person or~~ **listed** entity,

commits an offence.

(2) Where an individual commits an offence under subsection (1), he shall, on conviction on indictment, be liable to a fine of twenty-five million dollars and to imprisonment for twenty-five years.

(3) Where a body corporate commits an offence under subsection (1), it shall be liable on conviction on indictment to a fine of thirty million dollars.

~~(4) A director or officer of a body corporate who knowingly authorised, acquiesced in, or permitted the commission of an offence under this section also commits an offence and is liable on conviction on indictment to a fine of twenty five million dollars and to imprisonment for twenty five years.~~

(4) A director or officer of a body corporate who knowingly and without lawful excuse, authorizes, acquiesces in, or permits the commission of an offence under this section-

(a) for the benefit of the body corporate; or

(b) which results in the body corporate being used as a vehicle for the commission of an offence under this section,

commits an offence and is liable on conviction on indictment to a fine of twenty-five million dollars and to imprisonment for twenty-five years and the Court may *proprio motu* exercise its power under section 69 of the Companies Act to order the individual to not be a director of the company, or be in any way directly or indirectly concerned with the management of the company for a period of time.

(5) Where a body corporate ~~or its director, manager, secretary or other similar officer concerned with the management of a body corporate~~ has been convicted of an offence under this section, the Court shall have the power to-

(a) revoke business licences;

(b) order that the body corporate be wound up;

(c) forfeit the assets and properties of the body corporate to the State who shall deal with it in accordance with Part III of the Proceeds of Crime Act; and

(d) prohibit the body corporate from performing any further activities.

(6) Notwithstanding subsection (1), a person does not commit an offence where he provides or makes available property in accordance with an order made under section 22B.”.

Section 6
amended

10. Section 6 of the Act is amended-

- (a) by inserting after the word “who”, the words “, ~~without lawful excuse knowingly and without lawful excuse~~”;
- and
- (b) by deleting all the words after the words “be liable to ” and substituting the words “a fine of twenty-five million dollars and to imprisonment for twenty-five years.”.

Section 7
amended

11. Section 7 of the Act is amended-

- ~~(a) by inserting after the word “who”, the words “, without lawful excuse,”; and~~
- ~~(a) by inserting after the word “knowingly”, the words “and without lawful excuse,”; and~~
- (b) by deleting all the words after the words “be liable to” and substituting the words “a fine of twenty-five million dollars and to imprisonment for twenty-five years.”.

Section 8
amended

12. Section 8 of the Act is amended-

- ~~(a) by inserting after the word “who”, the words “, without lawful excuse,”; and~~
- ~~(a) by inserting after the word “knowingly”, the words “and without lawful excuse,”; and~~
- (b) by deleting all the words after the words “be liable to” and substituting the words “a fine of twenty-five million dollars and to imprisonment for twenty-five years.”.

Section 9
amended

13. Section 9 of the Act is amended—

~~(a) in subsection (1)-~~

~~(i) by inserting after the word “who”, the words “, without lawful excuse, intentionally or”;~~ and

~~(ii) by deleting all the words after the word “knowingly” and substituting the following:~~

~~“supports or solicits support for-~~

~~(a) the commission of a terrorist act;~~

~~(b) a terrorist;~~

~~(c) a terrorist organization; or~~

~~(d) a listed entity;~~

~~commits an offence.”; and~~

(a) by deleting subsection (1), and substituting the following new subsection:

“ (1)Any person who knowingly and without lawful excuse, supports or solicits support for-
(a) the commission of a terrorist act;
(b) a terrorist;
(c) a terrorist organization; or
(d) a listed entity,
commits an offence.”; and

(b) by deleting subsection (2) and substituting the following new subsections:

“ (2) Where an individual commits an offence under subsection (1), he shall, on conviction on indictment, be liable to a fine of twenty-five million dollars and to imprisonment for twenty-five years.

(3) Where a body corporate commits an offence under subsection (1), it shall be liable on conviction on indictment to a fine of thirty million dollars.

~~**(4) A director or officer of a body corporate who knowingly authorised, acquiesced in or permitted the commission of an offence under this section also commits an offence and is liable on conviction on indictment to a fine of twenty five million dollars and to imprisonment for twenty five years.**~~

(4) A director or officer of a body corporate who knowingly and without lawful excuse, authorizes, acquiesces in, or permits the commission of an offence under this section-

(c) for the benefit of the body corporate; or

(d) which results in the body corporate being used as a vehicle for the commission of an offence under this section,

commits an offence and is liable on conviction on indictment to a fine of twenty-five million dollars and to imprisonment for twenty-five years and the Court may *proprio motu* exercise its power under section 69 of the Companies Act to order the individual to not be a director of the company, or be in any way directly or indirectly concerned with

the management of the company for a period of time.

(5) Where a body corporate ~~or its director, manager, secretary or other similar officer concerned with the management of a body corporate~~ has been convicted of an offence under this section, the Court shall have the power to-

- (a) revoke business licences;
- (b) order that the body corporate be wound up;
- (c) forfeit the assets and properties of the body corporate to the State who shall deal with it in accordance with Part III of the Proceeds of Crime Act; and
- (d) prohibit the body corporate from performing any further activities.

(6) Notwithstanding subsection (1), a person does not commit an offence where he does any act in accordance with an order made under section 22B.

(7) For the purposes of subsection (1), “support” includes but is not limited to—

- (a) an offer to provide or the provision of expertise or a skill;
- (b) an offer to provide or the provision of documents; and
- (c) entering or remaining in any country,

for the purpose of committing or facilitating a terrorist act.”.

Section 10
amended

14. Section 10 of the Act is amended-

- ~~(a) by inserting after the word “who”, the words “, without lawful excuse,”; and~~
- ~~(a) by inserting after the word “who” the words “knowingly and without lawful excuse,”; and~~
- (b) by deleting all the words after the words “be liable to” and substituting the words “a fine of twenty-

five million dollars and to imprisonment for twenty-five years.”.

Section 11
amended

15. Section 11 of the Act is amended-

- ~~(a) by inserting after the word “who”, the words “, without lawful excuse,”; and~~
- ~~(a) by inserting after the words “who knowingly” the words “and without lawful excuse”; and~~
- (b) by inserting after the words “be liable to” the words “a fine of twenty-five million dollars and to”.

Section 12
amended

16. Section 12 of the Act is amended by ~~deleting all the words after the word “recruits” and substituting the following:~~

~~“~~

- ~~-(a) a person to participate in the commission of a terrorist act, commits an offence and shall, on conviction on indictment, be liable to a fine of twenty-five million dollars and to imprisonment for twenty-five years; or~~
- ~~(b) a child to participate in the commission of a terrorist act, commits an offence and shall, on conviction on indictment, be liable to a fine of thirty million dollars and to imprisonment for thirty years.”.~~

-

- (c) in the chapeau, by inserting after the words “who,”, the words “knowingly and”; and
- (d) by deleting all the words after the word “recruits” and substituting the following:
“_

- (a) a person to participate in the commission of a terrorist act, commits an offence and shall, on conviction on indictment, be liable to a fine of twenty-five million dollars and to imprisonment for twenty-five years; or
- (b) a child to participate in the commission of a terrorist act, commits an offence and shall, on conviction on indictment, be liable to a fine of thirty million dollars and to imprisonment for thirty years.”.

New section 12A
inserted

17. The Act is amended by inserting after section 12, the following new section:

“Joining a terrorist organization 12A. A person who, ~~without lawful excuse,~~
~~intentionally or knowingly~~ knowingly and
without lawful excuse, joins a terrorist
organization commits an offence and is liable on
conviction on indictment to a fine of twenty-five
million dollars and to imprisonment for twenty-
five years.”.

Section 13
amended

18. Section 13 of the Act is amended-

- (a) by renumbering the section as subsection (1);
- (b) in renumbered subsection (1)-
 - ~~(i) by inserting after the word “who”, the words “,~~
~~without lawful excuse,”;~~
 - (i) by inserting after the word “knowingly”, the words
“and without lawful excuse,”;
 - (ii) in paragraph (b) by inserting after the word
“explosive” the words “, weapon”; and
 - (ii) by inserting after the words “be liable to” the words “a
fine of twenty-five million dollars and to”; and
- (c) by inserting after renumbered subsection (1), the following
new subsection:

“ (2) Any person who, ~~without lawful excuse,~~
~~knowingly~~ knowingly and without lawful excuse
agrees to provide instruction or training or provides
instruction or training in—

- (a) carrying out a terrorist act;
- (b) the making or use of any explosive,
~~weapon~~ or other lethal device; or
- (c) the practice of military exercises or
movements,

to a child for the purpose of engaging in, or preparing
to engage in the commission of a terrorist act, commits
an offence and shall, on conviction on indictment, be
liable to a fine of thirty million dollars and to
imprisonment for thirty years.”.

New section 13A
inserted

19. The Act is amended by inserting after section 13, the following new
section-

“Attending or
receiving
training to
commit a
terrorist act

13A. (1) A person who, ~~without lawful excuse, knowingly and without lawful excuse,~~ attends or receives any instruction or training in—

(a) the making or use of any explosive, ~~weapon~~ or other lethal device; or

(b) the practice of military exercises or movements,

whether in person or through electronic or other means, for the purposes of carrying out a terrorist act, commits an offence and shall, on conviction on indictment, be liable to a fine of twenty-five million dollars and to imprisonment for twenty-five years.

(2) A person who, ~~without lawful excuse, intentionally or knowingly~~ knowingly and without lawful excuse attends or receives any instruction or training from a terrorist or a terrorist organization, whether in person or through electronic or other means, commits an offence and shall, on conviction on indictment, be liable to a fine of twenty-five million dollars and to imprisonment for twenty-five years.”.

Section 14
amended

20. Section 14 of the Act is amended-

(a) by renumbering the section as subsection (1);

(b) in renumbered subsection (1)-

~~(i) by inserting after the words “who,” the words “, without lawful excuse,”; and~~

(i) by inserting after the word “knowingly”, the words “and without lawful excuse,”; and

(ii) by inserting after the words “be liable to” the words “a fine of twenty-five million dollars and to”; and

(c) by inserting after renumbered subsection (1), the following new subsection:

“(2) A person who, ~~without lawful excuse,~~ **knowingly knowingly and without lawful excuse,** incites a child to commit a terrorist act commits an offence and shall ~~be liable on conviction on indictment, on conviction on indictment, be liable~~ to a fine of thirty million dollars and to imprisonment for thirty years.”.

Section 15
amended

21. Section 15 of the Act is amended-

- (a) by inserting after the word “who”, the words “~~without lawful excuse~~ **knowingly and without lawful excuse,**”; and
- (b) by deleting all the words after the words “be liable to” and substituting the words “a fine of twenty-five million dollars and to imprisonment for twenty-five years”.

New sections
15A, 15B, 15C
and 15D inserted

22. The Act is amended by inserting after section 15, the following new sections:

“Travelling
for the
purpose of
committing a
terrorist act

15A. (1) A person who, ~~without lawful excuse,~~ **knowingly knowingly and without lawful excuse,** travels for the purpose of—

- (a) planning a terrorist act;
- (b) committing a terrorist act;
- (c) supporting a terrorist act; or
- (d) facilitating the commission of a terrorist act,

commits an offence and shall on conviction on indictment be liable to a fine of twenty-five million dollars and to imprisonment for twenty-five years.

(2) A person who commits an offence under subsection (1) shall be deemed to be a foreign terrorist fighter.

(3) For the purposes of this section, “support” includes but is not limited to—

- (a) an offer to provide or the provision of expertise or a skill;**
- (b) an offer to provide or the provision of documents; and**
- (c) entering or remaining in any country,**

for the purpose of committing or facilitating a terrorist act.

Minister to
designate
geographical
areas

15B. (1) The Minister may for the purposes of this section, by Order, designate a geographical area in a foreign country as a “declared geographical area” if he is satisfied that a listed entity is engaging in terrorist acts in that geographical area of the foreign country.

(2) The Minister shall, prior to making a designation under subsection (1), inform the Leader of the Opposition in writing of the proposed designation of that geographical area of the foreign country.

(3) The Minister shall cause an Order made under subsection (1) –

- (a) to be published-**
- (viii) in the *Gazette*;**
- (ix) once a week for at least two weeks, in at least two newspapers in daily circulation in Trinidad and Tobago;**
- (x) on the website of the Ministries with responsibility for-**

- (A) for national security;
- (B) foreign affairs; and
- (C) CARICOM affairs;
- (xi) on the website of the office of the Attorney General;
- (xii) at all offices of the Ministries with responsibility for-
 - (A) for national security;
 - (B) foreign affairs; and
 - (C) CARICOM affairs;
- (xiii) at the all offices of the Attorney General; and
- (xiv) at each port of entry; and

(b) to be forwarded to the Commissioner of Police.

(4) An Order made under this section shall include a provision that notifies persons who intend to travel or have travelled to a declared geographical area, that they are required to inform the Commissioner of Police in accordance with sections 15C or 15D.

(5) Notwithstanding subsection (1), the Minister shall not designate an entire country as a declared geographical area.

(6) Where the Minister is satisfied that a declared geographical area no longer meets the

criteria for declaration, he shall revoke the Order made under subsection (1).

(7) An Order made under subsection (1) shall cease to have effect on the third anniversary of the day on which it takes effect.

(8) Subsection (7) shall not affect the power of the Minister to-

(a) revoke an Order; or

(b) make a new Order in respect of the same geographical area.

(9) The expiration of an Order under this section shall not affect the prosecution of an offence committed prior to the expiration of the Order.

(10) A Trinidad and Tobago citizen or a person resident in Trinidad and Tobago who travels to, enters or remains in a declared geographical area shall be presumed to have travelled for a purpose specified in section 15A(1).

(11) The presumption under subsection (4) shall not apply to-

(a) a person who has given notice with reasons under section 15C;
or

(b) a child, in respect of whom notice is given under section 15D(1),

unless the reasons given are false in any material particular.

(12) Where a Trinidad and Tobago citizen or a resident of Trinidad and Tobago is within a declared geographical area before an Order is made under subsection (1), he shall, unless he has reasonable excuse, leave the declared geographical area within thirty days of the designation, failing which he is presumed to have committed an offence under section 15A.

(13) For the purposes of this section, “port of entry” has the meaning assigned to it under section 2 of the Immigration Act.

Chap. 18:01

Notice of
travel to
declared
geographical
area

15C. (1) A person who wishes to travel to a declared geographical area shall, prior to such travel give notice to the Commissioner of Police, (hereinafter referred to as a “Notice to Travel to a Declared Geographical Area”) in the form approved by the Commissioner of Police.

(2) A Notice to Travel to a Declared Geographical Area under subsection (1) shall be accompanied by reasons for such travel to the declared geographical area.

(3) A person who travels to a declared geographical area without giving prior notice under subsection (1) shall immediately, **but no**

later than thirty days upon his return to Trinidad and Tobago, provide the Commissioner of Police with-

- (a) reasons for his travel to the declared geographical area;
- (b) reasons as to why he was unable to give prior notice; and
- (c) documentary evidence substantiating the reasons given under paragraph (b).

~~(4) The Minister shall notify the Commissioner of Police, the Attorney General and the Chief Immigration Officer in writing of all Notices to Travel to a Declared Geographical Area received under this section.~~

(4) The Commissioner of Police shall notify the Attorney General and the Chief Immigration Officer in writing of all Notices to Travel to a Declared Geographical Area received under this section.

(5) A person who upon giving notice provides reasons which are false in any material particular commits an offence and is liable on summary conviction to a fine of fifty thousand dollars and imprisonment for a term of two years.

Notice of
Travel with a
Child to
Declared
Geographical
Area

15D. (1) A person who —

- (a) is the parent or guardian of a child; or

(b) has responsibility for a child,

and who wishes to travel to a declared geographical area with the child shall, prior to such travel give notice to the Commissioner of Police, (hereinafter referred to as a “Notice to Travel with a Child to a Declared Geographical Area”) in the form approved by the Commissioner of Police.

(2) A Notice to Travel with a Child to a Declared Geographical Area under subsection (1) shall be accompanied by reasons for such travel to the declared geographical area.

~~(3) The Minister shall notify the Commissioner of Police, the Attorney General and the Chief Immigration Officer in writing of all Notices to Travel to with a Child to a Declared Geographical Area received under this section.~~

(3) The Commissioner of Police shall notify the Attorney General and the Chief Immigration Officer in writing of all Notices to Travel to a Declared Geographical Area received under this section.

(4) A person who upon giving notice provides reasons which are false in any material particular commits an offence and is liable on

summary conviction to a fine of fifty thousand dollars and imprisonment for a term of two years.

(5) A person who without reasonable excuse fails to comply with the requirements of subsection (1), commits an offence and is liable on summary conviction to a fine of twenty-five thousand dollars and to imprisonment for a term of three years.

(6) For the purposes of subsection (1)(b) “responsibility” has the meaning assigned to it under section 2 of the Children Act, 2012”.

Act No. 12 of
2012
Duty of
parent,
guardian or
custodian of
child to notify
police

15E. (1) A person who —

(a) is the parent or
guardian of a child; or

(b) has responsibility for a
child,

and who has reasonable grounds for believing that the child is at risk of being taken to a declared geographical area, shall report the grounds for his belief to a police officer as soon as reasonably practicable.

(2) A person who without reasonable excuse fails to comply with the requirements of subsection (1), commits an offence and is liable on summary conviction to a fine of twenty-five

thousand dollars and to imprisonment for a term of three years.

(3) No report made to a police officer under the provisions of subsection (1) shall, ~~if such report was made in good faith for the purpose of complying with those provisions, subject the person who made the report to any action, liability, claim or demand whatsoever~~ subject the person who made the report to any action, liability, claim or demand whatsoever, if such report was made in good faith for the purpose of complying with those provisions.

Act
No. 12 of
2012

(4) For the purposes of subsection (1)(b) “responsibility” has the meaning assigned to it under section 2 of the Children Act, 2012”.

New sections
15E and 15F
inserted

23. The Act is amended by inserting after the Heading “PART III CONVENTION OFFENCES”, the following new sections:

“Threats to
commit
offences
under Part
III

15F. A threat to commit any offence under this Part shall be an offence and a person who commits such offence is liable to the same penalty as provided for the offence.

Taking of
preparatory
steps an
offence

15G. The taking of preparatory steps ~~including but not limited to acquiring material or participating in the planning of~~ for the purpose of committing an offence under this Part shall be an offence and a person

who commits such offence is liable to the same penalty as provided for the offence.”;

Coercing or encouraging a person to commit an offence

15H. A person who coerces, encourages, entices, or incites another person to commit an offence under this Part, commits an offence and shall be liable to the same penalty as provided for the offence.”.

Section 17 amended

24. Section 17 of the Act is amended by inserting after the words “a State or government facility,”, the words “a State or government means of transport,”.

Section 22A amended

25. Section 22A of the Act is amended—

(a) in subsection (1)-

~~(i) in the chapeau by inserting after the words “in whole or in part”, the words “or being reckless as to whether it may be used in whole or in part”;~~

(i) in the chapeau-

(A) by inserting after the words “attempts to do so,”, the words “or coerces, encourages, entices, or incites another person to do so, without lawful excuse”; and

(B) by deleting the words “under this Part”;

(ii) in paragraph (b), by deleting the word “or”;

(iii) in paragraph (c), by deleting the word “,” and substituting the word “;”;

(iv) by inserting after paragraph (c), the following new paragraphs:

“(d) in order to facilitate travel by an individual to a foreign State for the purpose of—

(i) carrying out a terrorist act; or

(ii) participating in, or providing instruction or training to carry out a terrorist act;

(e) by a listed entity; or

(f) to facilitate the travel or activities of a foreign terrorist fighter.”;

- (b) by inserting after subsection (1), the following new subsection:

“ (1A) Notwithstanding subsection (1), a person does not commit an offence where he provides or collects funds in accordance with an order made under section 22B.”;

- (c) in subsection (2), by deleting the word “and” and substituting the word “or”;

- (d) in subsection (3), by deleting all the words after the words “conviction on indictment” and substituting the words “to a fine of twenty-five million dollars and to imprisonment for twenty-five years.”;

~~(e) in subsection (4), by deleting all the words after the words “indictment to” and substituting the words “a fine of twenty-five million dollars and to imprisonment for twenty-five years.”; and~~

- ~~(e) by deleting subsection (4) and substituting the following new subsection:~~

~~“ (4) A director or officer of a body corporate who knowingly and without lawful excuse authorizes, acquiesces in, or permits the commission of an offence under this section-~~

~~(c) for the benefit of the body corporate;
or~~

~~(d) which results in the body corporate being used as a vehicle for the commission of an offence under this section,~~

~~commits an offence and is liable on conviction on indictment to a fine of twenty-five million dollars and to imprisonment for twenty-five years and the Court may *proprio motu* exercise its power under section 69 of the Companies Act to order the individual to not be a director of the company, or be in any way directly or indirectly concerned~~

with the management of the company for a period of time”;

(f) by inserting after subsection (4), the following new subsections:

“ (5) Where a body corporate commits an offence under subsection (1), it shall be liable on conviction on indictment to a fine of thirty million dollars.

(6) Where a body corporate ~~or its director, manager, secretary or other similar officer concerned with the management of a body corporate~~ has been convicted of an offence under this section, the Court shall have the power to—

- (a) revoke business licences;
- (b) order that the body corporate be wound up;
- (c) forfeit the assets and properties of the body corporate to the State who shall deal with it in accordance with Part III of the Proceeds of Crime Act; and
- (d) prohibit the body corporate from performing any further activities.

(7) The taking of preparatory steps ~~including but not limited to acquiring material or participating in the planning of~~ **for the purpose of committing** an offence under this section shall be an offence and a person who commits such offence is liable to the same penalty as provided for the offence.”.

Section 22AA
amended

26. Section 22AA of the Act is amended-

~~(a) in subsection (1) by inserting after the word “Nations”, the words “or the Committee”; and~~

(a) by deleting subsection (1);

(b) in subsection (2) -

(i) by deleting paragraph (d) and substituting the following new paragraph:

“(d) furnishing the Attorney General with information required to facilitate an application under section 22B and section 37 spontaneously or upon request; and”; and

(ii) in paragraph (e), by deleting the word “Orders” and substituting the word “orders”.

Section 22B
amended

27. Section 22B of the Act is amended—

(a) by deleting the word “Order” wherever it occurs and substituting the word “order”;

(b) by repealing subsection (1) and substituting the following new subsections:

“ (1) Where the Attorney General receives information that-

(a) an individual or entity-

(i) committed or participated in the commission of a terrorist act; or

(ii) is acting on behalf of, at the direction of, or in association with a designated entity or an individual or entity that has knowingly committed or participated in the commission of a terrorist act; or

(iii) committed an indictable offence for the benefit of —

(A) a terrorist;

(B) a terrorist organisation; or

(c) a listed entity; or

(b) an entity is owned or controlled directly or indirectly by a listed entity,

he shall cause an investigation to be carried out in respect of that allegation and may for that purpose

refer the matter to the ~~Commissioner of Police who shall~~ **Commissioner of Police who may** cause an investigation to be carried out in respect of the individual or entity.

(1A) Where the Commissioner of Police receives a referral from the Attorney General under subsection (1), he shall as soon as the results of the investigation are known, provide the Attorney General with the **relevant** results of the investigation **required for the purposes of making an application to list an individual or entity under subsection (1B).**

(1B) The Attorney General shall apply to a judge for an order under subsection (3) in respect of—

- (a) ~~an entity, where the entity is~~ a designated entity;
- (b) an entity or individual, where there are reasonable grounds to believe that the individual or entity—
 - (i) has knowingly committed or participated in, or facilitated the commission of a terrorist act; or
 - (ii) is knowingly acting on behalf of, or at the direction of, or in association with, an entity referred to in paragraph (a), subparagraph (i), or a listed entity ;
 - (iii) has knowingly committed an indictable offence for the benefit of, or in association with-
 - (A) a terrorist;
 - (B) a terrorist organisation; or

- (C) a listed entity; or
 - (c) an entity owned or controlled directly or indirectly, by a listed entity.”;
 - (c) in subsection (3), by—
 - (i) deleting the word “Order” and substituting the word “order”; and
 - (ii) deleting paragraph (b) and substituting the following new paragraph:
 - “(b) freeze the property—
 - (i) that is owned or controlled by the listed entity;
 - (ii) that is wholly or jointly owned or controlled, directly or indirectly, by the listed entity; or
 - (iii) derived or generated from funds or other assets owned or controlled directly or indirectly by the listed entity.”;
- (d) by inserting after subsection (3), the following new subsections:
 - “ (3A) A person likely to be affected by an order made under subsection (3) may, within sixty days after the publication of the order under subsection (5), apply to a judge for a review of the order.
 -
 - (3B) Where an application for review is made under subsection (3A), the Attorney General shall be served with a copy of the application and given the opportunity to make representations to the Court in respect of any proceedings for the review of an order made under subsection (3).
 -
 - (3C) A person likely to be affected by an order may include a person with the same or similar name to a designated entity.”;

(e) by repealing subsection (4) and (4A) and substituting the following new subsections:

“ (4) Subject to section 22BA, an order under subsection (3) may-

- (a) be made subject to any other condition that the Court considers reasonable;
- (b) prohibit the listed entity from possessing or controlling cash in excess of an amount to be prescribed by the judge;
- (c) indicate into which account held in a financial institution any excess cash shall be placed; and
- (d) make provisions to preserve the rights of a *bona fide* third party acting in good faith.

(4A) Notwithstanding section 22B(3), where a listed entity is in possession of cash in excess of an amount prescribed in an order made under section 22B(3), the listed entity shall pay the excess amount into a bank account owned by him in Trinidad and Tobago as specified by the Court.

(4B) The provisions of section 22AB(d) shall not apply to a listed entity where he conducts a transaction in accordance with subsection (4A).

(4C) Nothing in this section shall prohibit the addition of interest or earnings due on an account frozen under subsection (3) or payments under contracts, agreements or obligations that arose prior to the making of an order under subsection (3).

(4D) Where an order is made under subsection (3), the Court-

(a) may serve the order upon the listed entity, the financial institution or listed business; and

(b) shall serve the Order on the FIU immediately,

in accordance with the Civil Proceedings Rules, 1998.”;

(f) by renumbering subsection (4B) as subsection (4E);

(g) by inserting after subsection (5), the following new subsections:

“ (5A) Where the Attorney General reasonably believes that a listed entity who is the subject of an order under this section, has funds in another jurisdiction, he may apply to the relevant authorities in the jurisdiction for the enforcement of an order made under this section.

(5B) The Attorney General may, where he deems it necessary, make a request to another country to initiate proceedings for the entity or individual to be a listed entity in that country.”;

(h) by inserting after subsection (6), the following new subsection:

“ (6A) Where an application for review is made under subsection (6), the Attorney General shall be served with a copy of the application and given the opportunity to make representations to the Court in respect of any proceedings for the review of an order made under subsection (3).”;

(i) by inserting after subsection (9), the following new subsection:

“ (9A) Nothing in this section shall preclude the Attorney General at any time from—

(a) conducting a review of the circumstances relative to an order made under subsection (3) to determine whether the circumstances referred to in subsection (1) continue to exist in respect of the listed entity; or

(b) applying to a Judge for the variation or revocation of the order in respect of the

- listed entity if he determines that such circumstances no longer exist.”;
- (j) in subsection (10), by deleting all the words after the words “shall be” and substituting the words:
“—
(a) published in the *Gazette* and in two daily newspapers of general circulation in Trinidad and Tobago; and
(b) served upon the FIU.”; and
- (k) by deleting the word “Order” wherever it occurs and substituting the word “order”;
- (l) by inserting after subsection (10), the following new subsections—
“ (11) Where an order has been made under subsection (10), the FIU shall remove the individual or entity from the list referred to in section 22AA(2)(e) and immediately circulate the list by facsimile transmission or other electronic means to all financial institutions and listed businesses.
(12) For the purposes of this section, “control” means the power of a person to—
(a) exercise more than fifty per cent of the voting rights at any general meeting of an entity;
(b) elect a majority of the directors of an entity; or
(c) exercise direct or indirect influence that, if exercised, would result in control in fact of the entity.”.

New sections
22BA,
22BB,22BC,
22BD and 22BE
inserted

28. The Act is amended by inserting after section 22B, the following new sections:

“Considerations
for listed
entities

22BA. Where an order under subsection
(3), in respect of a listed entity which is not a

designated entity, is being made, the Court may in the order—

- (a) make provision for meeting out of the property or specified part of the property, reasonable living expenses, including but not limited to—
 - (i) mortgage or rent payments;
 - (ii) allowances for food, medicine and medical treatment;
 - (iii) any payments due as a result of an order of the Court;
 - ~~(iv) provision for the reasonable living expenses of dependents including educational expenses; and~~
 - ~~(iv) provision for -~~
 - ~~(A) the reasonable living expenses of dependants including educational expenses; and~~
 - ~~(B) medicine and the medical treatment of dependants; and~~
 - (v) provision for taxes, insurance premiums and public utilities;
- (b) make provision for reasonable legal expenses, including expenses incurred in defending a criminal charge or any proceedings connected thereto and any proceedings under this Act;
- (c) make provision for expenses necessary to enable a person to

- carry on any trade, business, profession or occupation;
- (d) make provision for fees or service charges for routine holding or maintenance of frozen funds or other financial assets or economic resources; and
- (e) make the listed entity subject to any other condition that the Court considers reasonable.

Considerations
for designated
entities

22BB. (1) Where an order under section 22B has been made in respect of a designated entity, the Attorney General shall not apply to the Court for a variation of the order in accordance with section 22B(9A) to make provision for meeting out of the property or specified part of the property-

- (a) any consideration under section 22BA (a)(i), (ii) and (v), (b), (c) or (d) unless he has first notified the Committee of his intention to apply to the Court for such an order and the Committee has not indicated its objection to such an application to the Court within forty-eight hours of said notice; or
- (b) any other consideration, unless he has first obtained the consent of the Committee for such an application to the Court.

(2) For the avoidance of doubt, where after an order has been made under section 22B(3) the Committee has raised no objection in accordance with (1)(a) or has granted its consent under (1)(b), the Attorney General may apply to the Court in accordance with

section 22B(9A) for a variation of the order to provide for matters under subsection (1).

Power to search
to determine
compliance

22BC. (1) A police officer may, for the purpose of determining whether a listed entity against whom an order under section 22B(3) is made, is complying with measures specified in the order, apply to a magistrate for a warrant.

(2) ~~A warrant issued under subsection (1), in respect of a listed entity, may authorize~~ Where upon an application under subsection (1), a Magistrate is satisfied that it is necessary to determine whether a listed entity complies with measures set out in the order, he may issue a warrant authorizing a police officer to—

(a) search an individual who is a listed entity;

(b) enter and search—

(i) the place of residence of an individual who is a listed entity; or

(ii) any other premises that are specified in the warrant; or

(c) seize any document, computer or electronic device.

Attorney
General to
propose names
to the UNSC

22BD. (1) Where the Attorney General is satisfied that there are reasonable grounds to believe that a listed entity meets the criteria for being placed on the ~~ISIL (Da'esh) and Al-Qaida Sanctions List~~ Resolutions 1267

(1999), 1989 (2011) and 2253 (2015) List or the 1988 List for the time being in force, he may make a request to the **Committee 1267, 1989 and 2253 Committee or the 1988 Committee as the case may be** for the individual or entity to be placed on the **respective** list.

(2) Notwithstanding sub section (3), the Attorney General shall not make a request to the **Committee 1267, 1989 and 2253 Committee or the 1988 Committee as the case may be** for an individual or entity to be placed on the **ISIL (Da'esh) and Al-Qaida Sanctions List Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) List or the 1988 List** unless that individual or entity has been listed in accordance with section 22B(3).

(3) Where an individual or entity has been placed on the **ISIL (Da'esh) and Al-Qaida Sanctions List Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) List or the 1988 List** on the basis of a request by the Attorney General, and the Attorney General is satisfied that an individual or entity listed pursuant to section 22BA(3) no longer meets the criteria for listing, he may petition **the Committee for removal of the individual or entity from the ISIL (Da'esh) and Al-Qaida Sanctions List.**

-

- (c) the 1267, 1989 and 2253 Committee for removal of the individual or entity from the Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) List; or
- (d) the 1988 Committee for removal of the individual or entity from the 1988 List.

(4) Where an individual or entity has been placed on the ~~ISIL-(Da'esh)-and-Al-Qaida-Sanctions-List~~ Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) List or the 1988 List, the Attorney General shall, as far as practicable, inform the individual or entity of the availability of the UN office of the Ombudsperson **or focal point for De-Listing as appropriate** for the purposes of petitioning the removal from the ~~ISIL-(Da'esh)-and-Al-Qaida-Sanctions-List~~ Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) List or the 1988 List, as the case may be.

Attorney General to receive requests for declaration of a listed entity

22BE. (1) The Attorney General shall receive all requests on behalf of another country for the declaration of an individual or entity as a listed entity.

(2) Where a request is made on behalf of a country for the declaration of an individual or entity as a listed entity, a record of the case shall be furnished, which shall include—

- (a) a document summarising the evidence available to that country for use in the designation of the

individual or entity,
including-

- (i) sufficient identifying information to allow for the accurate and positive identification of the individual or entity; and
 - (ii) evidence that the individual or entity meets the relevant criteria for designation as set out in section 22B; and
- (b) particulars of the facts upon which the request is being made.

(3) The Attorney General shall, upon receipt of a request made for the purposes of this section on behalf of any country, cause an investigation to be carried out in respect of that allegation and may for that purpose refer the matter to ~~the Commissioner of Police who shall the Commissioner of Police who may~~ cause an investigation to be carried out in respect of the request.

(4) Where the Commissioner of Police receives a referral from the Attorney General under subsection (3), he shall as soon as the results of the investigation are known, provide the Attorney General with the relevant results of the investigation for

the purposes of making an application under subsection (5).

(5) Where, on the basis of an investigation under subsection (3), the Attorney General is satisfied that the individual or entity referred to under subsection (1) meets the criteria under section 22B(1)(b) or (c), he shall make an application to a judge for an order under section 22B(3).”.

Section 22C
amended

29. Section 22C of the Act is amended-

- (a) in paragraph (a), by deleting the word “or”;
- (b) in paragraph (b), by deleting the word “,” and substituting the words “;or”; and
- (c) by inserting after paragraph (b), the following new paragraph:
“(c) is a listed entity,”.

Section 22D
amended

30. Section 22D of the Act is amended, by deleting all the words after the words “that funds” and substituting the words:

“_

- (a) in the possession of any individual or legal entity are being used, have been used or are intended for use in the financing of terrorism;
- (b) belong to a designated entity; or
- (c) belong to a listed entity,

it shall forward such information to the Commissioner of Police for further investigation.”.

Section 23
amended

31. Section 23 of the Act is amended by—

- (a) deleting the words “above the rank of sergeant” wherever they occur; and
- (b) deleting the word “Order” wherever it occurs and substituting the word “order”.

Section 24
amended

32. Section 24 of the Act is amended—

- (a) in subsection (1), by deleting the words “of the rank of Inspector or above”;
- (b) in subsections (2), (3) and (12), by deleting the words “above the rank of sergeant” wherever they occur;

- (c) in subsection (4), by deleting the words “document or thing” and substituting the words “thing, document, computer or electronic device”;
- (d) in subsection (7), by deleting the words “document or thing” “a document or thing” and substituting the words “any thing, document, computer or electronic device respectively”;
- (e) in subsections (8) and (9), by deleting the words “document or thing” wherever they occur and substituting the words “thing, document, computer or electronic device”;
- (f) in subsection (10) -
 - (i) in paragraph (a), by inserting after the word “given”; the word “by”;
 - (ii) by deleting paragraph (b) and substituting the following paragraph:
“(b) thing, document, computer or electronic device produced by;”;
 - (iii) in paragraph (c), by inserting after the word “obtained” the word “from”;
 - (iv) by deleting the words “from that” and substituting the word “that”; and
- (g) in subsection (12), by deleting the words “document or thing” wherever they occur and substituting the words “thing, document, computer or electronic device”; and
- (e) by deleting the word “Order” wherever it occurs and substituting the word “order”.

Sections 24A,
24B and 24C
amended

33. Sections 24A, 24B and 24C of the Act are amended by deleting—

- (a) the words “above the rank of sergeant” wherever they occur; and
- (b) the word “Order” wherever it occurs and substituting the word “order”.

Section 25
amended

34. Section 25 of the Act is amended—

- (a) in subsection (3)(a), by inserting after the word “allegation”, the words “and may refer the matter to the Commissioner of Police who ~~shall~~ **may** cause an investigation to be carried out in respect of that allegation”; and
- (b) by inserting after subsection (3) the following new subsection:
“(3A) Where the Commissioner of Police receives a referral from the Attorney General under

subsection (1), he shall as soon as the results of the investigation are known, provide the Attorney General with the results of the investigation.”.

Section 27
amended

35. Section 27 of the Act is amended by deleting the words “for an offence”.

Section 32
amended

36. Section 32(1) of the Act is amended by deleting the words “above the rank of sergeant”.

Section 33
amended

37. Section 33(1) of the Act is amended in paragraph (a), by inserting after the words “terrorist property” wherever they occur, the words “or property to which an order made under section 22B applies”.

Section 34
amended

38. Section 34 of the Act is amended—

(a) in subsection (1), by deleting the words “above the rank of sergeant”; and

(b) by deleting the word “Order” wherever it occurs and substituting the word “order”.

Section 35
amended

39. Section 35 of the Act is amended by—

(a) inserting after subsection (3), the following new subsection:

“ (4) The proceeds of the sale of any property forfeited to the State under subsection (1) shall be paid into the Seized Assets Fund.”; and

(b) by deleting the word “Order” wherever it occurs and substituting the word “order”.

Section 36
amended

40. Section 36 of the Act is amended—

~~(a) in subsection (1), by deleting the words “application is” and substituting the word “application”;~~

~~(a) in subsection (1)-~~

~~(iii) by deleting the words “application is” and substituting the word “application”;~~

~~(iv) by deleting all the words after the words “section 37” and substituting the following:~~

~~“-~~

~~(b) the judge may issue-~~

(iii) a warrant authorizing a police officer to search the building, place or vessel for that property and to seize that property if found, and any other property in respect of which that police officer believes, on reasonable grounds, that an order of forfeiture may be made under section 37; or

(iv) a restraint order prohibiting any person from disposing of, or otherwise dealing with any interest in, that property, other than as may be specified in the order; and

(b) a copy of the order under paragraph (a) shall be kept by the Registrar.”;

(b) by inserting after subsection, (1), the following new subsection :

“ (1A) The Director of Public Prosecutions shall inform the Attorney General of any application, warrant or order made under this section.”; and

(c) by deleting the word “Order” wherever it occurs and substituting the word “order”; **;and**

(d) by inserting after subsection (8), the following new subsection:

“ (9) For the purposes of this section, “Registrar” has the meaning assigned to it under section 2 of the Supreme Court of Judicature Act.”.

Section 37
amended

41. Section 37 of the Act is amended-

(a) by deleting the word “Order” wherever it occurs and substituting the word “order”; and

(b) by inserting after subsection (10), the following new subsection:

“ (11) The proceeds of the sale of any property forfeited to the State under this section shall be paid into the Seized Assets Fund.”

Section 38
amended

42. Section 38 of the Act is amended by deleting subsection (1), and substituting the following new subsections:

“ (1) The Attorney General may enter into an agreement with the government of any foreign State for the reciprocal sharing of the proceeds or disposition of property confiscated, forfeited or seized —

(a) under this Act; or

(b) by that foreign State,

in circumstances where law enforcement authorities of that foreign State, or of Trinidad and Tobago, as the case may be, have participated in the investigation of the offence that led to the confiscation, forfeiture or seizure of the property or if the law enforcement authorities participation led to the confiscation, forfeiture or seizure of the property under this Act.

(1A) Notwithstanding sections 35(4) and 37(4), Trinidad and Tobago may, pursuant to any agreement with any other State for the sharing of forfeited property, share with that State on a reciprocal basis the property derived from forfeiture pursuant to this Act.”.

Section 38A
amended

43. Section 38A of the Act is amended—

(a) by deleting the words “above the rank of sergeant” wherever they occur;

(b) by deleting the word “Order” wherever it occurs and substituting the word “order”;

(c) in subsection (7), by deleting the words “the comingled” and substituting the words “all the”; and

(d) by repealing subsection (10).”.

Legal Notice
No. 7 of 2010
amended

44. The Financial Obligations (Financing of Terrorism) Regulations, 2010 is amended in Regulation 8, by deleting the words “or on conviction on indictment”.

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018

Consequential
amendments

45. The Act referred to in the First Column of the Schedule is amended as set out in the Second Column of the Schedule.

SCHEDULE

(Section 45)

CONSEQUENTIAL AMENDMENTS

First Column	Second Column
Written Laws	Extent of Amendments
The Proceeds of Crime Act, Chap. 11:27	In section 58A in paragraph (g) by inserting after the word “State” the words “or any other foreign State”.

Passed in the House of Representatives this day of , 2018.

Clerk of the House

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed in the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all the members of the House, that is to say by the votes of members of the House.

Clerk of the House

Passed in the Senate this day of , 2018.

Clerk of the Senate

Report of the JSC Anti-Terrorism (Amendment) Bill, 2018

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed in the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all the members of the Senate, that is to say by the votes of members of the Senate.

Clerk of the Senate

CONSOLIDATED

ANTI-TERRORISM ACT, CHAP. 12:07

Consolidation of the Anti-Terrorism Act, Chap. 12:07

THIS CONSOLIDATION IS NOT AN APPROVED CONSOLIDATION OF THE LAW REVISION COMMISSION AND MAY CONTAIN ERRORS OR OMISSIONS.

ANTI-TERRORISM ACT

CHAPTER 12:07

Act 26 of 2005

Amended by

2 of 2010

16 of 2011

14 of 2012

15 of 2014

ANTI-TERRORISM ACT

ARRANGEMENT OF SECTIONS

SECTION

PART I PRELIMINARY

1. Short title.
2. Interpretation.

2A. Application of Parts II, III and IIIA

PART II OFFENCES

3. Terrorist act.
4. Provision of services for commission of terrorist acts.
5. Collection or provision of property to commit terrorist acts.
6. Use of property for commission of terrorist acts.
7. Arrangements for retention or control of terrorist property.
8. Dealing with terrorist property.
9. Soliciting or giving support for the commission of terrorist acts.
10. Harbouring of persons committing terrorist acts.
11. Provision of devices.
12. Recruitment of persons for terrorist purposes.
- 12A. Joining a terrorist organization**
13. Provision of instruction or training to persons committing terrorist acts.
- 13A. Attending or receiving training to commit a terrorist act.**
14. Incitement, promotion or solicitation of property for the commission of terrorist acts.
15. Providing facilities in support of terrorist acts.
- 15A. Travelling for the purpose of committing a terrorist act**
- 15B. Minister to designate geographical areas**
- 15C. Notice of Travel Declared Geographical Area**
- 15D. Notice of Travel with a Child to Declared Geographical Area**
- 15E. Duty or parent, guardian or custodian of child to notify police**

PART III

Consolidation of the Anti-Terrorism Act, Chap. 12:07

THIS CONSOLIDATION IS NOT AN APPROVED CONSOLIDATION OF THE LAW REVISION COMMISSION AND MAY CONTAIN ERRORS OR OMISSIONS.

CONVENTION OFFENCES

15F. Threats to commit offences under this Part

15G. Taking of preparatory steps an offence

15H. Coercing or encouraging a person to commit an offence

16. Endangering the safety of maritime navigation.

17. Bombing offences.

18. Protection of internationally protected persons.

19. Offences relating to fixed platforms.

20. Offences with regard to nuclear matter or facilities.

21. Hoaxes involving noxious substances or things or explosives or other lethal material.

22. Use of chemical, biological or nuclear weapons.

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FINANCING OF TERRORISM

22A. Offence of financing of terrorism.

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22AB. Certain procedures apply.

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22BA. Considerations for listed entities

22BB. Considerations for designated entities

22BC. Power to search to determine compliance

22BD. Attorney General to propose names to the UNSC

22BE. Attorney General to receive requests for declaration of a listed entity

22C. Reporting requirements.

22D. Identification of offence of financing of terrorism.

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24. Power to gather information.

24A. Authority for search.

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PART V

JURISDICTION AND TRIAL OF OFFENCES

25. Jurisdiction of Trinidad and Tobago Courts.

26. Extradition from Trinidad and Tobago.

27. Evidence by a certificate.

PART VI

Consolidation of the Anti-Terrorism Act, Chap. 12:07

THIS CONSOLIDATION IS NOT AN APPROVED CONSOLIDATION OF THE LAW REVISION COMMISSION AND MAY CONTAIN ERRORS OR OMISSIONS.

INFORMATION SHARING, EXTRADITION AND MUTUAL ASSISTANCE IN CRIMINAL MATTERS

- 28. Exchange of information relating to terrorist acts.
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- 31. Offences under this Act not deemed to be offences of a political character.

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- 32. Duty to disclose information relating to offences and terrorist acts.
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PART VIII SEIZURE AND FORFEITURE OF TERRORIST PROPERTY

- 34. Application for restraint Order.
- 35. Orders for forfeiture of property on conviction for offences under this Act.
- 36. Orders for seizure and restraint of property.
- 37. Orders for forfeiture of property.
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PART IX MISCELLANEOUS POWERS

- 39. Duty to disclose information relating to passengers of aircraft and vessels.
- 40. Power to refuse refugee application.
- 41. Power to make Regulations.
- 42. Offences and penalties.

SUBSIDIARY LEGISLATION FINANCIAL OBLIGATIONS (FINANCING OF TERRORISM) REGULATIONS

- 8. Offences and Penalties

CHAPTER 12:07 ANTI-TERRORISM ACT

Consolidation of the Anti-Terrorism Act, Chap. 12:07

THIS CONSOLIDATION IS NOT AN APPROVED CONSOLIDATION OF THE LAW REVISION COMMISSION AND MAY CONTAIN ERRORS OR OMISSIONS.

26 of 2005.
[2 of 2010].

An Act to criminalise terrorism and the financing of terrorism, to provide for the detection, prevention, prosecution, conviction and punishment of terrorist activities and the confiscation, forfeiture and seizure of terrorists' assets and of those involved in the financing of terrorism and for related matters.

Commencement

[13TH SEPTEMBER 2005]

PART I PRELIMINARY

Short title

1. This Act may be cited as the Anti-Terrorism Act.

Interpretation

2. (1) In this Act—

“1267, 1989 and 2253 Committee means the Committee established by the United Nations Security Council pursuant to resolutions 1267 (1999), 1989 (2011) and 2253 (2015);

“1988 Committee” means the Sanctions Committee established under Article 30 of the UN Security Council Resolution 1988 (2011) concerning the list of individuals and entities designated as the Taliban, and other individuals, groups, undertakings and entities associated with them;

“1988 List” means the Sanctions List prepared by the 1988 Committee;

“bearer negotiable instrument” includes—

- (a) a monetary instrument such as travellers' cheque, negotiable instrument including a cheque, promissory note and money order that is either in bearer form, endorsed without restriction, made out to a fictitious payee, or otherwise in such form that title thereto passes or payment is made upon delivery;
- (b) an incomplete instrument including a cheque, promissory note and money order signed, but with the payee's name omitted;

“cash” includes coins and notes in any currency, postal orders, cheques of any kind including travellers' cheques, bankers' drafts, bearer bonds, bearer shares and bearer negotiable instruments and other bearer negotiable instruments in any currency;

“child” has the meaning assigned to it under section 3 of the Family and Children Division Act, 2016;

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“Committee” means the ISIL (Da’esh) & Al Qaida Sanctions Committee established by the United Nations Security Council pursuant to resolutions 1267 (1999), 1989 (2011) and 2253 (2015) concerning ISIL (Da’esh) Al Qaida and associated individuals, groups, undertakings and entities;

“computer” means a device or group of interconnected or related devices which follows a program or external instruction to perform automatic processing of information or electronic data;

“Convention” means any of the following Conventions:

- (a) Convention on Offences and certain Other Acts committed on Board Aircraft, signed at Tokyo on 14th September 1963;
- (b) Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16th December 1970;
- (c) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23rd September 1971;
- (d) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14th December 1973;
- (e) International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17th December 1979;
- (f) Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3rd March 1980;
- (g) Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24th February 1988;
- (h) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10th March 1988;
- (i) Protocol for the Suppression of Unlawful Acts against the Safety of fixed Platforms located on the continental shelf, done at Rome on 10th March 1988;
- (j) Convention on the Marking of Plastic Explosives for the Purposes of Detection, signed at Montreal on 1st March 1991;
- (k) International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15th December 1997;
- (l) International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9th December 1999;

“declared geographical area” means an area designated by the Minister in accordance with section 15B;

“designated entity” means an individual or entity and their associates designated as terrorist entities by the Security Council of the United Nations, the 1267, 1989 and 2253 Committee or the 1988 Committee;

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“explosive or other lethal device” means—

- (a) a weapon; or
- (b) an explosive or incendiary weapon,
that is designed or has the capability to cause death, serious bodily injury or substantial material damage;

“Financial Action Task Force” means the task force established by the Group of Seven to develop and provide national and international policies to combat money laundering and terrorist financing;

“FIU” means the Financial Intelligence Unit established under section 3 of the Financial Intelligence Unit of Trinidad and Tobago Act;

“financial institution” has the meaning assigned to it in the Proceeds of Crime Act;

“foreign terrorist fighter” means an individual who commits an offence under section 15A;

“Group of Seven” means the meeting of Finance Ministers of France, Italy, Germany, Japan, United Kingdom, United States and Canada formed in 1976;

“imprisonment for life” in relation to an offender means imprisonment for the remainder of the natural life of the offender;

“international organisation” means an organisation constituted by States to which its Member States have transferred competence over matters governed by a Convention of the United Nations;

“judge” means a judge of the High Court of Trinidad and Tobago;

“ISIL (Da’esh) and Al-Qaida Sanctions List” means the ISIL (Da’esh) and Al-Qaida Sanctions List prepared by the Committee;

“Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) List” means the Sanctions List prepared by the 1267, 1989 and 2253 Committee;

“legal entity” means a body corporate, foundation, partnership, association or other similar body that can establish a permanent customer relationship with a financial institution or otherwise own property;

“listed business” has the meaning assigned to it in section 2 of the Proceeds of Crime Act;

“listed entity” means an entity declared to be a listed entity in accordance with section 22B;

“master” in relation to a vessel, means the owner or person (except a harbour master or pilot) having for the time being command or charge of the vessel;

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“Minister” means the minister to whom responsibility for national security is assigned;

“money” means—

- (a) bankers’ drafts;
- (b) coins and notes in any currency; (c) postal order;
- (c) travellers cheques; and
- (d) any other kind of monetary instrument specified by Order by the Minister with responsibility for finance;

“non-profit organisation” means a legal entity or organisation that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes or for the carrying out of other types of philanthropic work;

“operator” in relation to an aircraft, means the owner or person for the time being in charge or command or control of the aircraft;

“property” or “funds” means assets of any kind, whether tangible or intangible, moveable or immovable, however acquired and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including but not limited to bank credits, **payment cards, payment instruments,** travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit whether situated in Trinidad and Tobago or elsewhere, and includes a legal or equitable interest, whether full or partial, in any such property, **precious metals, oil and other natural resources and their refined products, modular refineries and related material and other economic resources which may be used to obtain funds, goods or services;**

“Seized Assets Fund” means the Seized Assets Fund established under section 58(1) of the Proceeds of Crime Act;

“terrorist” includes a person who—

- (a) commits a terrorist act by any means directly or indirectly, unlawfully and willfully;
- (b) participates as an accomplice in terrorist acts or the financing of terrorism;
- (c) organises or directs others to commit terrorist acts or the financing of terrorism; or
- (d) contributes to the commission of terrorists acts or the financing of terrorism by **an individual or** a group of persons acting with a common purpose where the contribution **is made intentionally**—
 - (i) ~~is made intentionally and~~ with the aim of furthering ~~the terrorist act~~ **acts** or the financing of terrorism; or
 - (ii) with the knowledge of the intention of the **individual or** group of persons to commit the terrorist act or the financing of terrorism;

Consolidation of the Anti-Terrorism Act, Chap. 12:07

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“terrorist act” means **an act which constitutes an offence under this Part, Part II, Part III or Part IIIA**;

- (a) ~~an act whether committed in or outside of Trinidad and Tobago which causes or is likely to cause—~~
 - (i) ~~loss of human life or serious bodily harm;~~
 - (ii) ~~damage to property; or~~
 - (iii) ~~prejudice to national security or disruption of public safety including disruption in the provision of emergency services or to any computer or electronic system or to the provision of services directly related to banking, communications, infrastructure, financial services, public utilities, transportation or other essential infrastructure, and is intended to—~~
 - (iv) ~~compel a government or an international organisation to do or refrain from doing any act; or~~
 - (v) ~~intimidate the public or a section of the public;~~
 - (vi) ~~for the purpose of advancing a political, ideological or a religious cause;~~
- (b) ~~an offence under any of the Conventions; or~~
- (c) ~~an offence under Part II, Part III or section 22A of this Act;~~

“terrorist organisation” means a legal entity or group of terrorists that—

- (a) commits a terrorist act by any means, directly or indirectly, unlawfully and wilfully;
- (b) participates as an accomplice in terrorist acts or the financing of terrorism;
- (c) organises or directs others to commit terrorist acts or the financing of terrorism; or
- (d) contributes to the commission of terrorists acts or the financing of terrorism by **an individual or** a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering the terrorist act or the financing of terrorism with the knowledge of the intention of the group to commit the terrorist act or the financing of terrorism;

“terrorist property” means—

- (a) proceeds from the commission of a terrorist act;
- (b) property which has been, is being, or is likely to be used to commit a terrorist act; or
- (c) property which has been collected for the purpose of funding a terrorist act or terrorist organisation; or
- (d) property belonging to a terrorist or terrorist organization;

“vessel” means anything made or adapted for the conveyance by water, of people or property;

~~“weapon” includes a firearm, explosive, chemical, biological or nuclear weapon.~~

“weapon” includes-

- (a) a firearm under section 2 of the Firearms Act;**
- (b) a prohibited weapon under section 2 of the Firearms Act;**

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(c) any article made or adapted for use for causing injury to a person or property or intended by a person for use by him or another person for that purpose;

(e d) an explosive weapon;

(d e) a chemical weapon;

(e f) a biological weapon; or

(f g) a nuclear weapon;

~~(2) An act which —~~

~~(a) causes death or serious bodily harm to a person taking active part in armed conflict in accordance with the applicable rules of international law; or~~

~~(b) disrupts any service and is committed in pursuance of a demonstration, protest or stoppage of work and is not intended to result in any harm referred to in paragraph (a) of the definition of “terrorist act”;~~

shall not be considered a terrorist act.

Application of
Parts II, III and
IIIA

2A. Parts II, III and IIIA apply whether or not an offence is committed inside or outside of Trinidad and Tobago.

PART II OFFENCES

Terrorist act.
[2 of 2010].

~~3. (1) Any person who participates in the commission of a terrorist act commits an offence and is liable on conviction on indictment to imprisonment for twenty-five years.~~

3. (1) A person who—

(a) with the intent to compel a government or an international organisation to do or refrain from doing any act or intimidate the public or a section of the public, for the purpose of advancing a political, ideological or a religious cause does any act which he intends to cause, creates the likelihood of causing, or is likely to cause—

(i) loss of human life or serious bodily harm;

(ii) substantial damage to property;

(iii) the endangerment of a person’s life, other than the life of the person taking the action;

(iv) the creation of a serious risk to the health or safety of the public or a section of the public; or

(v) prejudice to national security or disruption of public safety including disruption—

(A) in the provision of emergency services;

(B) to any computer or electronic system; or

(C) to the provision of services directly related to banking, communications, infrastructure, financial services, public utilities, transportation or other essential infrastructure; or

(b) threatens to commit an act referred to in this Part; ~~or~~

(c) takes preparatory steps, including but not limited to acquiring material or participating in the planning of an act referred to in paragraph (a), for the purpose of committing an act referred to in this Part; or

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(d) coerces, encourages, entices, or incites another person to commit an offence under this Part,

commits the offence of a terrorist act and is liable, where no other penalty is specified, on conviction on indictment to a fine of twenty-five million dollars and imprisonment for twenty-five years.

(2) When a terrorist act involves the commission of a crime under some other law, the person committing it shall be liable to be punished for that crime as well as for the offence created by subsection (1), and any term of imprisonment imposed in respect of such crime shall run consecutively to that imposed under subsection (1).

~~(3) The penalty specified in this section does not apply to offences referred to in Part III.~~

(3) This section shall not apply to-

- (a) an act which causes death or serious bodily harm to a person taking active part in armed conflict in accordance with the applicable rules of international law; or**
- (b) an act committed in pursuance of a demonstration, protest or stoppage of work that is not intended to result in any harm referred to in subsection (1).**

Provision of services for commission of terrorist acts.

~~4. A person who, directly or indirectly, provides or makes available financial or other related services intending that they be used, in whole or in part, for the purpose of committing or facilitating the commission of, a terrorist act commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty years.~~

4. (1) A person who, without lawful excuse, intentionally or knowingly knowingly and without lawful excuse, directly or indirectly, provides or makes available financial or other related services with the intention or knowledge of it being used or being reckless as to whether it may be used in whole or in part—

- (a) for the purpose of committing or facilitating the commission of, a terrorist act;**
- (b) by a terrorist;**
- (c) by a terrorist organization;**
- (d) by a listed entity;**
- ~~**(e) by an entity owned or controlled, directly or indirectly by a listed entity; or**~~
- (f) by a person or entity acting on behalf of, or at the direction of, a designated person or listed entity,**

commits an offence.

(2) Where an individual commits an offence under subsection (1), he shall, on conviction on indictment, be liable to a fine of twenty-five million dollars and to imprisonment for twenty-five years.

(3) Where a body corporate commits an offence under subsection (1), it shall be liable on conviction on indictment to a fine of thirty million dollars.

~~**(4) A director or officer of a body corporate who knowingly authorised, acquiesced in or permitted the commission of an offence under this section also commits an offence and is liable**~~

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~~on conviction on indictment to a fine of twenty-five million dollars and to imprisonment for twenty-five years.~~

(4) A director or officer of a body corporate who knowingly and without lawful excuse, authorizes, acquiesces in, or permits the commission of an offence under this section-

(a) for the benefit of the body corporate; or

(b) which results in the body corporate being used as a vehicle for the commission of an offence under this section,

commits an offence and is liable on conviction on indictment to a fine of twenty-five million dollars and to imprisonment for twenty-five years and the Court may *proprio motu* exercise its power under section 69 of the Companies Act to order the individual to not be a director of the company, or be in any way directly or indirectly concerned with the management of the company for a period of time.

(5) Where a body corporate ~~or its director, manager, secretary or other similar officer concerned with the management of a body corporate~~ has been convicted of an offence under this section, the Court shall have the power to-

(a) revoke business licences;

(b) order that the body corporate be wound up;

(c) forfeit the assets and properties of the body corporate to the State who shall deal with it in accordance with Part III of the Proceeds of Crime Act; and

(d) prohibit the body corporate from performing any further activities.

(6) Notwithstanding subsection (1), a person does not commit an offence where he provides or makes available financial or other related services in accordance with an order made under section 22B.

Collection or provision of property to commit terrorist acts.

~~5. A person who intentionally or knowingly recklessly collects, provides, or makes available property having reasonable grounds to believe that the property will be used to commit a terrorist act, commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty years.~~

5. (1) A person who, ~~without lawful excuse, intentionally or knowingly~~ knowingly and without lawful excuse, directly or indirectly collects, provides or make available property with the intention or knowledge of it being used—

(a) to commit a terrorist act;

(b) by a terrorist;

(c) by a terrorist organization;

(d) by a listed entity; or

~~(e) by an entity owned or controlled, directly or indirectly by a listed entity; or~~

(f) by a person or entity acting on behalf of, or at the direction of, a designated person or listed entity,

commits an offence.

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(2) Where an individual commits an offence under subsection (1), he shall, on conviction on indictment, be liable to a fine of twenty-five million dollars and to imprisonment for twenty-five years.

(3) Where a body corporate commits an offence under subsection (1), it shall be liable on conviction on indictment to a fine of thirty million dollars.

~~(4) A director or officer of a body corporate who knowingly authorised, acquiesced in or permitted the commission of an offence under this section also commits an offence and is liable on conviction on indictment to a fine of twenty-five million dollars and to imprisonment for twenty-five years.~~

(4) A director or officer of a body corporate who knowingly and without lawful excuse, authorizes, acquiesces in, or permits the commission of an offence under this section-

(a) for the benefit of the body corporate; or

(b) which results in the body corporate being used as a vehicle for the commission of an offence under this section,

commits an offence and is liable on conviction on indictment to a fine of twenty-five million dollars and to imprisonment for twenty-five years and the Court may proprio motu exercise its power under section 69 of the Companies Act to order the individual to not be a director of the company, or be in any way directly or indirectly concerned with the management of the company for a period of time.

~~(5) Where a body corporate or its director, manager, secretary or other similar officer concerned with the management of a body corporate has been convicted of an offence under this section, the Court shall have the power to-~~

~~(a) revoke business licences;~~

~~(b) order that the body corporate be wound up;~~

~~(c) forfeit the assets and properties of the body corporate to the State who shall deal with it in accordance with Part III of the Proceeds of Crime Act; and~~

~~(d) prohibit the body corporate from performing any further activities.~~

(6) Notwithstanding subsection (1), a person does not commit an offence where he provides or makes available property in accordance with an order made under section 22B.

Use of property
for commission
of terrorist acts.

6. A person who, without lawful excuse knowingly and without lawful excuse—

(a) uses property, directly or indirectly, in whole or in part, for the purpose of committing or facilitating the commission of a terrorist act; or

(b) possesses property intending that it be used or knowing that it will be used, directly or indirectly, in whole or in part, for the purpose of committing or facilitating the commission of a terrorist act,

commits an offence and shall, on conviction on indictment, be liable to ~~imprisonment for twenty years.~~
a fine of twenty-five million dollars and to imprisonment for twenty-five years.

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Arrangements for retention or control of terrorist property.

7. Any person who, ~~without lawful excuse,~~ knowingly and without lawful excuse, becomes concerned in or enters into an arrangement which facilitates the acquisition, control or retention of terrorist property by or on behalf of another person commits an offence and shall, on conviction on indictment, be liable to ~~imprisonment for twenty years.~~ **a fine of twenty-five million dollars and to imprisonment for twenty-five years.**

Dealing with terrorist property.

8. Any person who, ~~without lawful excuse,~~ knowingly and without lawful excuse —
- (a) acquires or possesses terrorist property;
 - (b) conceals, converts or disguises terrorist property;
 - (c) deals directly or indirectly with any terrorist property; or
 - (d) enters into or facilitates directly or indirectly any transaction in relation to terrorist property,
- commits an offence and shall, on conviction on indictment, be liable to ~~imprisonment for twenty years.~~ **to a fine of twenty-five million dollars and to imprisonment for twenty-five years.**

Soliciting or giving support for the commission of terrorist acts.

9. ~~(1) Any person who, without lawful excuse, intentionally or knowingly —~~
- ~~(a) supports; or~~
 - ~~(b) solicits support for;~~
- ~~the commission of a terrorist act, commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty years.~~
- ~~supports or solicits support for—~~
- ~~(a) the commission of a terrorist act;~~
 - ~~(b) a terrorist;~~
 - ~~(c) a terrorist organization; or~~
 - ~~(d) a listed entity;~~
- ~~commits an offence.~~

(1) Any person who knowingly and without lawful excuse, supports or solicits support for—

- (a) the commission of a terrorist act;
- (b) a terrorist;
- (c) a terrorist organization; or
- (d) a listed entity,

commits an offence.

~~(2) For the purposes of subsection (1) “support” includes but is not limited to —~~

- ~~(a) — an offer to provide or the provision of expertise or a skill;~~
- ~~(b) — an offer to provide or the provision of falsified or forged documents; and~~
- ~~(c) — entering or remaining in any country;~~

~~for the purpose of committing or facilitating a terrorist act.~~

(2) Where an individual commits an offence under subsection (1), he shall on conviction on indictment, be liable to a fine of twenty-five million and to imprisonment for twenty-five years.

(3) Where a body corporate commits an offence under subsection (1), it shall be liable on conviction on indictment to a fine of thirty million dollars.

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~~(4) A director or officer of a body corporate who knowingly authorised, acquiesced in or permitted the commission of an offence under this section also commits an offence and is liable on conviction on indictment to a fine of twenty five million dollars and to imprisonment for twenty five years.~~

(4) A director or officer of a body corporate who knowingly and without lawful excuse, authorizes, acquiesces in, or permits the commission of an offence under this section-

(a) for the benefit of the body corporate; or

(b) which results in the body corporate being used as a vehicle for the commission of an offence under this section,

commits an offence and is liable on conviction on indictment to a fine of twenty-five million dollars and to imprisonment for twenty-five years and the Court may *proprio motu* exercise its power under section 69 of the Companies Act to order the individual to not be a director of the company, or be in any way directly or indirectly concerned with the management of the company for a period of time.

(5) Where a body corporate or its director, manager, secretary or other similar officer concerned with the management of a body corporate has been convicted of an offence under this section, the Court shall have the power to-

(a) revoke business licences;

(b) order that the body corporate be wound up;

(c) forfeit the assets and properties of the body corporate to the State who shall deal with it in accordance with Part III of the Proceeds of Crime Act; and

(d) prohibit the body corporate from performing any further activities.

(6) Notwithstanding subsection (1), a person does not commit an offence where he does any act in accordance with an order made under section 22B.

(7) For the purposes of subsection (1) “support” includes but is not limited to—

(a) an offer to provide or the provision of expertise or a skill;

(b) an offer to provide or the provision of documents; and

(c) entering or remaining in any country,

for the purpose of committing or facilitating a terrorist act.

Harbouring of persons committing terrorist acts.

10. Any person who, ~~without lawful excuse,~~ knowingly and without lawful excuse, conceals or harbours another person or hinders, interferes with or prevents the apprehension of, any other person having reason to believe or knowing that that other person has committed, is planning or is likely to commit a terrorist act, commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty years. **a fine of twenty-five million dollars and to imprisonment for twenty-five years.**

Provision of devices.

11. A person who, ~~without lawful excuse,~~ knowingly and without lawful excuse offers to provide, or provides any explosive or other lethal device for the purpose of committing or facilitating a

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terrorist act commits an offence and shall, on conviction on indictment, be liable to **a fine of twenty-five million dollars and to imprisonment for twenty-five years.**

Recruitment of persons for terrorist purposes.

12. A person who, knowingly and without lawful excuse, agrees to recruit or recruits ~~any other person to participate in the commission of a terrorist act, commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty years.~~ -

(a) a person to participate in the commission of a terrorist act, commits an offence and shall, on conviction on indictment, be liable to a fine of twenty-five million dollars and to imprisonment for twenty-five years; or

(b) a child to participate in the commission of a terrorist act, commits an offence and shall, on conviction on indictment, be liable to a fine of thirty million dollars and to imprisonment for thirty years.

Joining a terrorist organization

12A.(1) ~~A person who, without lawful excuse, intentionally or knowingly~~ knowingly and without lawful excuse, joins a terrorist organization commits an offence and is liable conviction on indictment to **a fine of twenty-five million dollars and to imprisonment for twenty-five years.**

Provision of instruction or training to persons committing terrorist acts.

13. (1) Any person who, ~~without lawful excuse,~~ knowingly and without lawful excuse, agrees to provide instruction or training or provides instruction or training in—

(a) carrying out a terrorist act;

(b) the making or use of any explosive, weapon or other lethal device; or

(c) the practice of military exercises or movements,

to a person engaging in or preparing to engage in the commission of a terrorist act, commits an offence and shall, on conviction on indictment, be liable to **a fine of twenty-five million dollars and to imprisonment for twenty-five years.**

(2) Any person who, ~~without lawful excuse, knowingly~~ knowingly and without lawful excuse agrees to provide instruction or training or provides instruction or training in—

(a) carrying out a terrorist act;

(b) the making or use of any explosive, weapon or other lethal device; or

(c) the practice of military exercises or movements,

to a child for the purpose of engaging in or preparing to engage in the commission of a terrorist act, commits an offence and shall, on conviction on indictment, be liable to a fine of thirty million dollars and to imprisonment for thirty years.

Attending or receiving training to commit a terrorist act

13A. (1) Any person who, ~~without lawful excuse, knowingly~~ knowingly and without lawful excuse, attends or receives any instruction or training in—

(a) the making or use of any explosive, weapon or other lethal device; or

(b) the practice of military exercises or movements,

whether in person or through electronic or other means, for the purposes of carrying out a terrorist act, commits an offence and shall, on conviction, on indictment, be liable to a fine of twenty-five million dollars and to imprisonment for twenty-five years.

(2) A person who, ~~without lawful excuse, intentionally or knowingly~~ knowingly and without lawful excuse attends or receives any instruction or training from a terrorist or a terrorist

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organization, whether in person or through electronic or other means, commits an offence and shall, on conviction on indictment, be liable to a fine of twenty-five million dollars and to imprisonment for twenty-five years.

Incitement, promotion or solicitation of property for the commission of terrorist acts.

14. (1) A person who, ~~without lawful excuse,~~ knowingly and without lawful excuse, incites or promotes the commission of a terrorist act, or solicits property for the commission of a terrorist act, commits an offence and shall, on conviction on indictment, be liable to **a fine of twenty-five million dollars and to** imprisonment for twenty-five years.

(2) A person who, ~~without lawful excuse, knowingly~~ knowingly and without lawful excuse, incites a child to commit a terrorist act **commits an offence and shall** ~~be liable on conviction on indictment, on conviction on indictment, be liable~~ to a fine of thirty million dollars and to imprisonment for thirty years.

Providing facilities in support of terrorist acts.

15. Any person who, ~~without lawful excuse,~~ knowingly and without lawful excuse, being the—
- (a) agent, charterer, lessee, master, operator or owner in charge of a vessel permits that vessel to be used;
 - (b) agent, charterer, lessee, operator, owner or pilot
 - (c) in charge of an aircraft permits that aircraft to be used;
 - (d) lessee, occupier, owner or person in charge of any place or premises permits a meeting to be held in that place or building; or
 - (e) lessee, owner or person in charge of any equipment or facility that may be used for conferencing, recording of meetings through the use of technological means permits the equipment or facility to be used,

to facilitate the commission of an offence under this Act, commits an offence and shall, on conviction on indictment, be liable to ~~imprisonment for twenty years.~~ **a fine of twenty-five million dollars and to imprisonment for twenty-five years.**

Travelling for the purpose of committing a terrorist act

15A. (1) A person who, ~~without lawful excuse, knowingly~~ knowingly and without lawful excuse, travels for the purpose of—

- (a) **planning a terrorist act;**
- (b) **committing a terrorist act;**
- (c) **supporting a terrorist act; or**
- (d) **facilitating the commission of a terrorist act,**

commits an offence and shall on conviction on indictment be liable to a fine of twenty-five million dollars and to imprisonment for twenty-five years.

(2) A person who commits an offence under subsection (1) shall be deemed to be a foreign terrorist fighter.

(3) For the purposes of this section, “support” includes but is not limited to—

- (a) an offer to provide or the provision of expertise or a skill;
- (b) an offer to provide or the provision of documents; and
- (c) entering or remaining in any country,

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for the purpose of committing or facilitating a terrorist act.

Minister
designate
geographical
areas

to 15B. (1) The Minister may for the purposes of this section, by Order, designate a geographical area in a foreign country as a “declared geographical area” if he is satisfied that a listed entity is engaging in terrorist acts in that geographical area of the foreign country.

(2) The Minister shall, prior to making a designation under subsection (1), inform the Leader of the Opposition in writing of the proposed designation of that geographical area of the foreign country.

(3) The Minister shall cause an Order made under subsection (1) –

(a) to be published-

- (i) in the Gazette;
- (ii) once a week for at least two weeks, in at least two newspapers in daily circulation in Trinidad and Tobago;
- (iii) on the website of the Ministries with responsibility for-
 - (A) for national security;
 - (B) foreign affairs; and
 - (C) CARICOM affairs;
- (iv) on the website of the office of the Attorney General;
- (v) at all offices of the Ministries with responsibility for-
 - (A) for national security;
 - (B) foreign affairs; and
 - (C) CARICOM affairs;
- (vi) at the all offices of the Attorney General; and
- (vii) at each port of entry; and

(b) to be forwarded to the Commissioner of Police.

(4) An Order made under this section shall include a provision that notifies persons who intend to travel or have travelled to a declared geographical area, that they are required to inform the Commissioner of Police in accordance with sections 15C or 15D.

~~(2 5)~~ Notwithstanding subsection (1), the Minister shall not designate an entire country as a declared geographical area.

~~(3 6)~~ Where the Minister is satisfied that a declared geographical area no longer meets the criteria for declaration, he shall revoke the Order made under subsection (1).

(7) An Order made under subsection (1) shall cease to have effect on the third anniversary of the day on which it takes effect.

(8) Subsection (7) shall not affect the power of the Minister to-

(a) revoke an Order; or

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(b) make a new Order in respect of the same geographical area.

(9) The expiration of an order under this section shall not affect the prosecution of an offence committed prior to the expiration of the Order.

Chap. 18:01

(4 10) A Trinidad and Tobago citizen or a person resident in Trinidad and Tobago who travels to, enters or remains in a declared geographical area shall be presumed to have travelled for a purpose specified in section 15A(1).

(5 11) The presumption under subsection (4) shall not apply to-

- (a) a person who has given notice with reasons under section 15C; or
- (b) a child, in respect of whom notice is given under section 15D(1),

unless the reasons given are false in any material particular.

(6 12) Where a Trinidad and Tobago citizen or a resident of Trinidad and Tobago is within a declared geographical area before an Order is made under subsection (1), he shall, unless he has reasonable excuse, leave the declared geographical area within thirty days of the designation, failing which he is presumed to have committed an offence under section 15A.

(13) For the purposes of this section, “port of entry” has the meaning assigned to it under section 2

of the Immigration Act.

Notice of travel
to declared
geographical
area

15C. (1) A person who wishes to travel to a declared geographical area shall prior to such travel give notice to the Commissioner of Police, (hereinafter referred to as a “Notice to Travel to a Declared Geographical Area”) in the form approved by the Commissioner of Police.

(2) A Notice to Travel to a Declared Geographical Area under subsection (1) shall be accompanied by reasons for such travel to the declared geographical area.

(3) A person who travels to a declared geographical area without giving prior notice under subsection (1) shall immediately, but no later than thirty days upon his return to Trinidad and Tobago, provide the Commissioner of Police with-

- (a) reasons for his travel to the declared geographical area;
- (b) reasons as to why he was unable to give prior notice; and
- (c) documentary evidence substantiating the reasons given under paragraph (b).

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~~(4) The Minister shall notify the Commissioner of Police, the Attorney General and the Chief Immigration Officer in writing of all Notices to Travel to a Declared Geographical Area received under this section.~~

(4) The Commissioner of Police shall notify, the Attorney General and the Chief Immigration Officer in writing of all Notices to Travel to a Declared Geographical Area received under this section.

(5) A person who upon giving notice provides reasons which are false in any material particular commits an offence and is liable on summary conviction to a fine of fifty thousand dollars and imprisonment for a term of two years.

Notice of Travel
with a Child to
Declared
Geographical
Area

15D. (1) A person who —

- (a) is the parent or guardian of a child; or
- (b) has responsibility for a child,

and who wishes to travel to a declared geographical area with the child shall, prior to such travel give notice to the Commissioner of Police, (hereinafter referred to as a “Notice to Travel with a Child to a Declared Geographical Area”) in the form approved by the Commissioner of Police.

(2) A Notice to Travel with a Child to a Declared Geographical Area under subsection (1) shall be accompanied by reasons for such travel to the declared geographical area.

~~(3) The Minister shall notify the Commissioner of Police, the Attorney General and the Chief Immigration Officer in writing of all Notices to Travel to with a Child to a Declared Geographical Area received under this section.~~

(3) The Commissioner of Police shall notify the Attorney General and the Chief Immigration Officer in writing of all Notices to Travel to a Declared Geographical Area received under this section.

(4) A person who upon giving notice provides reasons which are false in any material particular commits an offence and is liable on summary conviction to a fine of fifty thousand dollars and imprisonment for a term of two years.

(5) A person who without reasonable excuse fails to comply with the requirements of subsection (1), commits an offence and is liable on summary conviction to a fine of twenty-five thousand dollars and to imprisonment for a term of three years.

(6) For the purposes of subsection (1)(b) “responsibility” has the meaning assigned to it under section 2 of the Children Act, 2012.

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Duty of parent, guardian or custodian of child to notify police

15 E.(1) A person who —

(a) is the parent or guardian of a child; or

(b) has responsibility for a child,

and who has reasonable grounds for believing that the child is at risk of being taken to a declared geographical area, shall report the grounds for his belief to a police officer as soon as reasonably practicable.

(2) A person who without reasonable excuse fails to comply with the requirements of subsection (1), commits an offence and is liable on summary conviction to a fine of twenty-five thousand dollars and to imprisonment for a term of three years.

(3) No report made to a police officer under the provisions of subsection (1) shall if such report was made in good faith for the purpose of complying with those provisions, subject the person who made the report to any action, liability, claim or demand whatsoever subject the person who made the report to any action, liability, claim or demand whatsoever, if such report was made in good faith for the purpose of complying with those provisions.

Act No. 12 of 2012

(4) For the purposes of subsection (1)(b) “responsibility” has the meaning assigned to it under section 2 of the Children Act, 2012.

PART III CONVENTION OFFENCES

Threats to commit offences under this Part

15F. A threat to commit any offence under this Part shall be an offence and a person who commits such offence is liable to the same penalty as provided for the offence.

Taking of preparatory steps an offence

15G. The taking of preparatory steps including but not limited to acquiring material or participating in the planning of for the purpose of committing an offence under this Part shall be an offence and a person who commits such offence is liable to the same penalty as provided for the offence.

Coercing or encouraging a person to commit an offence

15H. A person who coerces, encourages, entices, or incites another person to commit an offence under this Part, commits an offence and shall be liable to the same penalty as provided for the offence.

Endangering the safety of maritime navigation.

16. A person who, in respect of a ship registered in Trinidad and Tobago or within the archipelagic or territorial waters of Trinidad and Tobago unlawfully and intentionally—

- (a) seizes or exercises control over the ship by force or threat thereof or any other form of intimidation;
- (b) performs an act of violence against a person on board the ship if that act is likely to endanger the safe navigation of the ship;
- (c) destroys the ship or causes damage to such ship or to its cargo which is likely to endanger the safe navigation of the ship;

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- (d) places or causes to be placed on the ship, by any means whatsoever, a device or substance which is likely to destroy the ship, or cause damage to the ship or its cargo which endangers or is likely to endanger the safe navigation of the ship;
- (e) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of the ship; or
- (f) communicates information, knowing the information to be false and under circumstances in which the information may reasonably be believed, thereby endangering the safe navigation of the ship,

commits an offence and is liable, on conviction on indictment—

- (i) to imprisonment for twenty years;
- (ii) if the death of any person results from any act prohibited by this section, to be sentenced in accordance with the penalty prescribed for the offence.

Bombing
offences.

17. (1) A person who unlawfully and intentionally delivers, places, discharges or detonates an explosive or other lethal device in, into or against a place of public use, a State or government facility, **a State or government means of transport**, a public transport facility, a public transportation system or an infrastructure facility—

- (a) with the intent to cause death or serious bodily injury; or
- (b) with the intent to cause extensive damage to, or destruction of the place, facility or system, where the destruction results in or is likely to result in major economic loss,

commits an offence and is liable, on conviction on indictment, to imprisonment for life.

(2) This section does not apply to the military forces of a State—

- (a) during an armed conflict; or
- (b) in respect of activities undertaken in the exercise of their official duties.

Protection of
internationally
protected persons.
[2 of 2010].

18. (1) A person who kidnaps an internationally protected person commits an offence and shall, on conviction on indictment, be liable to imprisonment for life.

(2) A person who commits any other attack upon the person or liberty of an internationally protected person commits an offence and shall, on conviction on indictment, be liable—

- (a) where the attack causes death, sentenced in accordance with the prescribed for the offence;
- (b) where the attack causes grievous bodily harm, to imprisonment for twenty years; or
- (c) in any other case, to imprisonment for ten years.

(3) A person who intentionally destroys or damages otherwise than by means of fire or explosive—

- (a) official premises, private means of transport, of protected person; or
- (b) accommodation or an internationally
- (c) other premises or property in or upon which an internationally protected person is present, or is likely to be present,

commits an offence and shall, on conviction on indictment, be liable to imprisonment for ten years.

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(4) A person who intentionally destroys or damages otherwise than by means of fire or explosive—

- (a) official premises, private accommodation or means of transport, of an internationally protected person; or
- (b) other premises or property in or upon which an internationally protected person is present, or is likely to be present,

with intent to endanger the life of that internationally protected person by that destruction or damage commits an offence and shall, on conviction on indictment, be liable to imprisonment for twenty years.

(5) A person who intentionally destroys or damages by means of fire or explosive—

- (a) official premises, private accommodation or means of transport, of an internationally protected person; or
- (b) other premises or property in or upon which an internationally protected person is present, or is likely to be present,

commits an offence and is liable on conviction on indictment to imprisonment for fifteen years.

(6) A person who intentionally destroys or damages by means of fire or explosive—

- (a) official premises, private accommodation or means of transport, of an internationally protected person; or
- (b) other premises or property in or upon which an internationally protected person is present, or is likely to be present,

with intent to endanger the life of that internationally protected person by that destruction or damage commits an offence and is liable on conviction on indictment to imprisonment for twenty-five years.

(7) A person who threatens to do anything that would constitute an offence against subsections (1) to (6) commits an offence and shall, on conviction on indictment, be liable to imprisonment for ten years.

(8) A person who—

- (a) wilfully and unlawfully, with intent to intimidate, coerce, threaten or harass, enters or attempts to enter any building or premises which is used or occupied for official business or for diplomatic, consular, or residential purposes by an internationally protected person within Trinidad and Tobago; or
- (b) refuses to depart from such building or premises after a request by an employee of a foreign government or an international organisation, if such employee is authorised to make such request,

commits an offence, and is liable on conviction on indictment to a fine of one hundred thousand dollars and to imprisonment for five years.

(9) For the purposes of this section “internationally protected person” has the meaning assigned to it in the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents.

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Offences relating
to fixed
platforms.

- 19. (1)** A person who unlawfully and intentionally—
- (a) seizes or exercises control over a fixed platform on the continental shelf, or in the exclusive economic zone or any fixed platform on the high seas while it is located on the continental shelf of Trinidad and Tobago, by force or threat thereof or by any other form of intimidation;
 - (b) performs an act of violence against a person on board such a fixed platform if that act is likely to endanger the platform's safety;
 - (c) destroys such a fixed platform or causes damage to it which is likely to endanger its safety;
 - (d) places or causes to be placed on such a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety;
 - (e) injures or kills any person in connection with the commission or the attempted commission of any of the offences referred to in paragraphs (a) to (d); or
 - (f) damages or destroys any off-shore installation,

commits an offence.

- (2) A person convicted of an offence referred to in subsection (1) is—
- (a) liable, on conviction on indictment, to imprisonment for twenty years; and
 - (b) in the case where death results from the commission of the offence, liable on conviction on indictment to be sentenced to death.

(3) In this section “fixed platform” means an artificial island, installation or structure attached to the seabed for the purpose of exploration or exploitation of resources or for other economic purposes.

Offences with
regard to nuclear
matter or
facilities.

- 20. (1)** A person who unlawfully and intentionally—
- (a) intends to acquire or possesses nuclear material or designs or manufactures or possesses a device, or attempts to manufacture or acquire a device, with the intent—
 - (i) to cause death or serious bodily injury; or
 - (ii) to cause damage to property or the environment;
 - (b) uses in any way nuclear material or a device, or uses or damages a nuclear facility in a manner which releases or risks the release of nuclear material with the intent—
 - (i) to cause death or serious bodily injury;
 - (ii) to cause damage to property or the environment; or
 - (iii) to compel a natural or legal person, an inter-governmental organisation or a State to do or refrain from doing an act,

commits an offence.

- (2) A person who—
- (a) threatens, under circumstances which indicate the credibility of the threat, to commit an offence referred to in subsection (1)(b); or
 - (b) unlawfully and intentionally demands radioactive material, a device or control of a nuclear facility by threat, under circumstances which indicate the credibility of the threat, or by use of force,

commits an offence.

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(3) A person convicted of an offence under this section is liable on conviction on indictment to imprisonment for life.

(4) In this section “device” means a weapon of mass destruction.

Hoaxes involving
noxious
substances or
things or
explosives or
other lethal
material.
[2 of 2010].

21. (1) A person commits an offence if he—
(a) places any substance or other thing in any place; or
(b) sends any substance or other thing from one place to another by any means whatsoever,
with the intention of inducing in a person anywhere in the world a belief that it is likely to be or contain
a noxious substance or other noxious thing or a lethal device or chemical, biological or nuclear weapon.

(2) A person commits an offence if he communicates any information which he knows or
believes to be false with the intention of inducing in a person anywhere in the world a belief that a
noxious substance or other noxious thing or a lethal device or a weapon of mass destruction is likely to
be present, whether at the time the information is communicated or later, in any place.

(3) A person who commits an offence under this section is liable on conviction on indictment
to imprisonment for fifteen years.

(4) For a person to commit an offence under this section it is not necessary for him to have any
particular person in mind as the person in whom he intends to induce the belief in question.

(5) The Court, in imposing a sentence on a person who has been convicted of an offence under
subsection (1), may order that person to reimburse any party incurring expenses incident to any
emergency or investigating response to that conduct, for those expenses.

(6) A person ordered to make reimbursement under subsection (5) shall be jointly and severally
liable for such expenses with each other person, if any, who is ordered to make reimbursement under
subsection (5) for the same expenses.

(7) An order of reimbursement under subsection (5) shall, for the purposes of enforcement, be
treated as a civil judgment.

(8) For the purposes of this section “substance” includes any biological agent and any other
natural or artificial substance, whatever its form, origin or method of production.

Use of chemical,
biological or
nuclear weapons.

22. (1) A person who, unlawfully and intentionally uses, threatens or attempts or conspires to use
chemical, biological or nuclear weapons—
(a) against a citizen of Trinidad and Tobago or a person ordinarily resident in Trinidad and
Tobago while either such person is outside Trinidad and Tobago;
(b) against any person within Trinidad and Tobago; or
(c) against any property that is owned, leased or used by the Government of Trinidad and
Tobago, whether the property is within or outside of Trinidad and Tobago,

commits an offence and is liable on conviction on indictment to imprisonment for life.

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(2) A citizen of Trinidad and Tobago or person ordinarily resident within Trinidad and Tobago who, unlawfully and intentionally, uses chemical, biological or nuclear weapons outside of Trinidad and Tobago commits an offence and is liable on conviction on indictment to imprisonment for life.

PART IIIA FINANCING OF TERRORISM

Offence of
financing of
terrorism.
[2 of 2010
15 of 2014]

22A. (1) Any person who by any means, directly or indirectly, willfully provides or collects funds, or attempts to do so, or coerces, encourages, entices, or incites another person to do so, without lawful excuse, under this Part with the intention or in the knowledge that such funds are to be used in whole or in part or being reckless as to whether it may be used in whole or in part —

- (a) in order to carry out a terrorist act;
- (b) by a terrorist; ~~or~~
- (c) by a terrorist organisation;
- (d) **in order to facilitate travel by an individual to a foreign State for the purpose of —**
 - (i) carrying out a terrorist act; or**
 - (ii) participating in, or provide instruction or training to carry out a terrorist act;**
- (e) by a listed entity; or**
- (f) to facilitate the travel or activities of a foreign terrorist fighter,**

commits the offence of financing of terrorism.

(1A) Notwithstanding subsection (1), a person does not commit an offence where he provides or collects funds in accordance with an order made under section 22B.

(2) An offence under subsection (1) is committed irrespective of whether—

- (a) the funds are actually used to commit or attempt to commit a terrorist act;
- (b) the funds are linked to a terrorist act; ~~and~~ **or**
- (c) the person alleged to have committed the offence is in the same country or a different country from the one in which the terrorist or terrorist organisation is located or the terrorist act occurred or will occur.

(3) A person who contravenes this section commits an offence and is liable on conviction on indictment—

- ~~(a) in the case of an individual, to imprisonment for twenty-five years and to a fine of five million dollars; or~~
- ~~(b) in the case of a legal entity, to a fine of two million dollars.~~

to a fine of twenty-five million dollars and to imprisonment for twenty-five years.

~~(4) A director or person in charge of a legal entity who commits an offence under this section is liable on conviction on indictment to imprisonment for twenty-five years and to a fine of five million dollars. a fine of twenty-five million dollars and to imprisonment for twenty-five years.~~

(4) A director or officer of a body corporate who knowingly and without lawful excuse, authorizes, acquiesces in, or permits the commission of an offence under this section-

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- (a) for the benefit of the body corporate; or
- (b) which results in the body corporate being used as a vehicle for the commission of an offence under this section,

commits an offence and is liable on conviction on indictment to a fine of twenty-five million dollars and to imprisonment for twenty-five years and the Court may *proprio motu* exercise its power under section 69 of the Companies Act to order the individual to not be a director of the company, or be in any way directly or indirectly concerned with the management of the company for a period of time.

(5) Where a body corporate commits an offence under subsection (1), it shall be liable on conviction on indictment to a fine of thirty million dollars.

(6) Where a body corporate or its director, manager, secretary or other similar officer concerned with the management of a body corporate has been convicted of an offence under this section, the Court shall have the power to—

- (a) revoke business licences;**
- (b) order that the body corporate be wound up;**
- (c) forfeit the assets and properties of the body corporate to the State who shall deal with it in accordance with Part III of the Proceeds of Crime Act; and**
- (d) prohibit the body corporate from performing any further activities.**

(7) The taking of preparatory steps including but not limited to acquiring material or participating in the planning of for the purpose of committing an offence under this section shall be an offence and a person who commits such offence is liable to the same penalty as provided for the offence.

Special provisions for designated entities.

22AA. ~~(1) In this section and sections 22AB, 22B and 22C, the term “designated entities” means individuals or entities and their associates designated as terrorist entities by the Security Council of the United Nations or the Committee.~~

- (2) For the purposes of section 22B, the FIU shall be responsible for—**
 - (a) maintaining a list of designated entities;**
 - (b) maintaining contact with the United Nations at frequent intervals to ensure that the list of designated entities remains current;**
 - (c) circulating the list referred to in paragraph (a) or (b) immediately, to financial institutions and listed businesses requesting information on whether these designated entities have funds in Trinidad and Tobago;**
 - ~~(d) furnishing the Attorney General with information required to facilitate an application under section 22B, where a designated entity has funds in Trinidad and Tobago; and~~**
 - (d) furnishing the Attorney General with information required to facilitate an application under section 22B and section 37 spontaneously or upon request; and**
 - (e) maintaining a consolidated list of all Orders issued by the Court under section 22B(3) and circulating the same by facsimile transmission or other electronic means**

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to all financial institutions and listed businesses immediately at intervals of three months.

(3) Notwithstanding its obligation to circulate the consolidated list under subsection 2(c), the FIU shall, when new information has been obtained before the expiration of three months, circulate any additions to that list or a new list immediately by facsimile transmission.

Certain
Procedures
apply.
[16 of 2011
14 of 2012].

22AB. As soon as a financial institution or listed business receives the list of designated entities or the consolidated list referred to in section 22AA(2)(c) or (e), the following procedures shall apply:

- (a) the financial institution shall immediately inform the FIU on the prescribed form, if any person or entity named on either list has funds with the financial institution or listed business;
- (b) if the financial institution or listed business has reasonable grounds to believe that a person or entity named on either list has funds in Trinidad and Tobago, it shall immediately inform the FIU on the prescribed form;
- (c) ***(Deleted by Act No. 14 of 2012)***; and
- (d) if a person or entity named on that list attempts to enter into a transaction or continue a business relationship, the financial institution or listed business shall submit a suspicious activity report to the FIU immediately and shall not enter into or continue a business transaction or business relationship with such person or entity.

Listing of
terrorist entities.
[2 of 2010
16 of 2011
14 of 2012].

22B. ~~(1) The Attorney General shall apply to a judge for an Order under subsection (3) —~~

- ~~(a) in respect of an entity, where the entity is a designated entity; or~~
- ~~(b) in respect of an entity or individual where there are reasonable grounds to believe that the entity or individual —~~
 - ~~(i) has knowingly committed or participated in the commission of a terrorist act;~~
 - ~~or~~
 - ~~(ii) is knowingly acting on behalf of, at the direction of, or in association with, an entity referred to in paragraph (a).~~

(1) Where the Attorney General receives information that-

(a) an individual or entity-

- (i) committed or participated in the commission of a terrorist act; or**
- (ii) acting on behalf of, at the direction of, or in association with a designated entity or an individual or entity that has knowingly committed or participated in the commission of a terrorist act; or**
- (iii) committed an indictable offence for the benefit of —**
 - (A) a terrorist;**
 - (B) a terrorist organisation; or**
 - (C) a listed entity; or**

(b) an entity is owned or controlled directly or indirectly by a listed entity,

he shall cause an investigation to be carried out in respect of that allegation and may for that purpose refer the matter to the Commissioner of Police who shall Commissioner of Police who may cause an investigation to be carried out in respect of the individual or entity.

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(1A) Where the Commissioner of Police receives a referral from the Attorney General under subsection (1), he shall as soon as the results of the investigation are known, provide the Attorney General with the relevant results of the investigation required for the purposes of making an application to list an individual or entity under subsection (1B).

(1B) The Attorney General shall apply to a judge for an order under subsection (3) in respect of—

- (a) an entity, where the entity is a designated entity;
- (b) an entity or individual where there are reasonable grounds to believe that the entity or individual—
 - (i) has knowingly committed or participated in, or facilitated the commission of a terrorist act; or
 - (ii) is knowingly acting on behalf of, or at the direction of, or in association with, an entity referred to in paragraph (a) or subparagraph (i) or a listed entity;
 - (iii) has knowingly committed an indictable offence for the benefit of or in association with—
 - (A) a terrorist;
 - (B) a terrorist organisation; or
 - (C) a listed entity; or
- (c) an entity owned or controlled directly or indirectly by a listed entity.

(2) An application under subsection (1) shall be—

- (a) *ex parte*; and
- (b) accompanied by an affidavit deposing to the matters referred to in subsection (1).

(3) Upon an application under subsection (1) the judge shall, by ~~Order~~—

- (a) declare an individual or a designated or legal entity to be a listed entity for the purposes of this Act if the judge is satisfied as to the matters referred to in subsection (1); and
- ~~(b) freeze the funds of the listed entity.~~
- (b) freeze the property—**
 - (i) that is owned or controlled by the listed entity;
 - (ii) that is wholly or jointly owned or controlled, directly or indirectly, by the listed entity;
 - (iii) derived or generated from funds or other assets owned or controlled directly or indirectly by the listed entity.

(3A) A person likely to be affected by an order made under subsection (3) may, within sixty days after the publication of the order under subsection (5), apply to a judge for a review of the order.

(3B) Where an application for review is made under subsection (3A), the Attorney General shall be served with a copy of the application and given the opportunity to make

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representations to the Court in respect of any proceedings for the review of an order made under subsection (3).

(3C) A person likely to be affected by an order may include a person with the same or similar name to a designated entity.

(4) An Order made under subsection (3) may make such provision as the Court thinks fit for living expenses and legal expenses of the individual or legal entity as the case may be.

(4A) Where an Order is made under subsection (3), the Court shall serve the order upon the listed entity, the financial institution or listed business and the FIU immediately in accordance with the Civil Proceedings Rules, 1998.

(4) Subject to section 22BA, an order under subsection (3) may-

- (a) be made subject to any other condition that the Court considers reasonable;
- (b) prohibit the listed entity from possessing or controlling cash in excess of an amount to be prescribed by the judge;
- (c) indicate into which account held in a financial institution any excess cash shall be placed; and
- (d) make provisions to preserve the rights of a *bona fide* third party acting in good faith.

(4A) Notwithstanding section 22B(3), where a listed entity is in possession of cash in excess of an amount prescribed in an order made under section 22B(3), the listed entity shall pay the excess amount into a bank account owned by him in Trinidad and Tobago as specified by the Court.

(4B) The provisions of section 22AB(d) shall not apply to a listed entity where he conducts a transaction in accordance with subsection (4A).

(4C) Nothing in this section shall prohibit the addition of interest or earnings due on an account frozen under subsection (3) or payments under contracts, agreements or obligations that arose prior to the making of an order under subsection (3).

(4D) Where an order is made under subsection (3), the Court-

- (a) may serve the Order upon the listed entity, the financial institution or listed business; and
 - (b) shall serve the Order on the FIU immediately,
- in accordance with the Civil Proceedings Rules, 1998.

(4B) (4E) Where an Order is served on a financial institution or listed business under subsection (4A), action shall immediately be taken to restrict the availability of the funds, subject to the Order, in accordance with the terms of the Order.

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(5) Where an **Order** is made under subsection (3), (7)(d) or (10), the Attorney General shall, within seven days after the date of the **Order**, cause to be published in the Gazette and in two daily newspapers of general circulation in Trinidad and Tobago—

- (a) a copy of the **Order**; and
- (b) in the case of an **Order** under subsection (3), a statement that the matter will be reviewed every six months.

(5A) Where the Attorney General reasonably believes that a listed entity who is the subject of an order under this section, has funds in another jurisdiction, he may apply to the relevant authorities in the jurisdiction for the enforcement of an order made under this section.

(5B) The Attorney General may, where he deems it necessary, make a request to another country to initiate proceedings for the entity or individual to be a listed entity in that country.

(6) Within sixty days after the date of publication of an **Order** under subsection (5), the individual or entity in respect of which the **Order** is made may apply to a judge for a review of the **Order** and shall notify the Attorney General of the application.

(6A) Where an application for review is made under subsection (6), the Attorney General shall be served with a copy of the application and given the opportunity to make representations to the Court in respect of any proceedings for the review of an order made under subsection (3).

(7) Upon an application made under subsection (6), the judge shall—

- (a) hear any evidence or other information that may be presented by the Attorney General and may, at the request of the Attorney General, hear all or part of that evidence or information in the absence of the applicant or any counsel representing the applicant, if the judge is of the opinion that the disclosure of the information would be prejudicial to national security or endanger the safety of any person;
- (b) provide the applicant with a statement summarising the information available to the judge, so as to enable the applicant to be reasonably informed of the reasons for the making of the **Order**, without disclosing any information the disclosure of which would, in the opinion of the judge, be prejudicial to national security or endanger the safety of any person;
- (c) provide the applicant with a reasonable opportunity to be heard; and
- (d) determine whether or not the **Order** should be revoked on the basis of the information available to the judge and, if he determines that the **Order** should be revoked, make an **Order** for such revocation.

(8) For the purposes of any application or review under this section, the judge may receive in evidence anything that, in the opinion of the judge, is reliable and relevant.

(9) The Attorney General shall , every six months—

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- (a) review all ~~Θ~~orders made under subsection (3) so as to determine whether the circumstances referred to in subsection (1) continue to exist in respect of the listed entity; and
- (b) if he determines that such circumstances no longer exist, apply to a judge for the revocation of the ~~Θ~~order in respect of the listed entity.

(9A) Nothing in this section shall preclude the Attorney General at any time from—

- (a) conducting a review of the circumstances relative to an order made under subsection (3) to determine whether the circumstances referred to in subsection (1) continue to exist in respect of the listed entity; or**
- (b) applying to a judge for the variation or revocation of the order in respect of the listed entity if he determines that such circumstances no longer exist.**

(10) Upon an application under subsection (9), the judge shall, if satisfied as to the matters referred to in that subsection, make an order for the revocation, which ~~Order~~ **order** shall be ~~published in the Gazette and in two daily newspapers of general circulation in Trinidad and Tobago –~~

- (a) published in the Gazette and in two daily newspapers of general circulation in Trinidad and Tobago; and**
- (b) served upon the FIU.**

(11) Where an order has been made under subsection (10) the FIU shall remove the individual or entity from the list referred to in section 22AA(2)(e) and immediately circulate the list by facsimile transmission or other electronic means to all financial institutions and listed businesses.

(12) For the purposes of this section, “control” means the power of a person to—

- (a) exercise more than fifty per cent of the voting rights at any general meeting of an entity;**
- (b) elect a majority of the directors of an entity; or**
- (c) exercise direct or indirect influence that, if exercised, would result in control in fact of the entity.**

Considerations
for listed
entities

22BA. Where an order under section 22B(3), in respect of a listed entity which is not a designated entity, is being made the Court may in the order—

- (a) make provision for meeting out of the property or specified part of the property, reasonable living expenses, including but not limited to-**
 - (i) mortgage or rent payments;**
 - (ii) allowances for food, medicine and medical treatment;**
 - (iii) any payments due as a result of an order of the Court;**
 - ~~**(iv) provision for the reasonable living expenses of dependents including educational expenses; and**~~
 - (iv) provision for -**
 - (A) the reasonable living expenses of dependants including educational expenses; and**

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(B) medicine and the medical treatment of dependants; and

- (v) provision for taxes, insurance premiums and public utilities;
- (b) make provision for reasonable legal expenses, including expenses incurred in defending a criminal charge or any proceedings connected thereto and any proceedings under this Act;
- (c) make provision for expenses necessary to enable a person to carry on any trade, business, profession or occupation;
- (d) make provision for fees or service charges for routine holding or maintenance of frozen funds or other financial assets or economic resources; and
- (e) make the listed entity subject to any other condition that the Court considers reasonable.

Considerations
for designated
entities

22BB. (1) Where an order under section 22B has been made in respect of a designated entity, the Attorney General shall not apply to the Court for a variation of the order in accordance with section 22B (9A) to make provision for meeting out of the property or specified part of the property-

- (a) any consideration under section 22BA (a)(i), (ii) and (v), (b), (c) or (d) unless he has first notified the Committee of his intention to apply to the Court for such an order and the Committee has not indicated its objection to such an application to the Court within forty-eight hours of said notice; or
- (b) any other consideration unless he has first obtained the consent of the Committee for such an application to the Court.

(2) For the avoidance of doubt, where after an order has been made under section 22B(3) the Committee has raised no objection in accordance with subsection (1)(a) or has granted its consent under subsection (1)(b), the Attorney General may apply to the Court in accordance with section 22B (9A) for a variation of the order to provide for matters under subsection (1).

Power to
search to
determine
compliance

22BC. (1) A police officer may for the purpose of determining whether a listed entity against whom an order under section 22B(3) is made, is complying with measures specified in the order, apply to a magistrate for a warrant.

(2) A warrant issued under subsection (1), in respect of a listed entity, may authorize Where upon an application under subsection (1) a Magistrate is satisfied that it is necessary to determine whether a listed entity complies with measures set out in the order, he may issue a warrant authorizing a police officer to—

- (a) search an individual who is a listed entity;
- (b) enter and search-
 - (i) the place of residence of an individual who is a listed entity; or
 - (ii) any other premises that are specified in the warrant; or
- (c) seize any document, computer or electronic device.

Attorney
General to
propose names
to the UNSC

22BD. (1) Where the Attorney General is satisfied that there are reasonable grounds to believe that a listed entity meets the criteria for being placed on the ISIL (Da'esh) and Al-Qaida Sanctions List Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) List or the 1988 List for the time being

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in force, he may make a request to the Committee 1267, 1989 and 2253 Committee or the 1988 Committee as the case may be for the individual or entity to be placed on the respective list.

(2) Notwithstanding subsection (1), the Attorney General shall not make a request to the Committee 1267, 1989 and 2253 Committee or the 1988 Committee as the case may be for an individual or entity to be placed on the ISIL (Da'esh) and Al-Qaida Sanctions List Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) List or the 1988 List unless that individual or entity has been listed in accordance with section 22B(3).

(3) Where an individual or entity has been placed on the ISIL (Da'esh) and Al-Qaida Sanctions List Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) List or the 1988 List on the basis of a request by the Attorney General, and he is satisfied that an entity listed pursuant to section 22BD(3) no longer meets the criteria for listing, he may petition the Committee for removal of the individual or entity from the list ISIL (Da'esh) and Al-Qaida Sanctions List.

- (a) the 1267, 1989 and 2253 Committee for removal of the individual or entity from the Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) List; or
- (b) the 1988 Committee for removal of the individual or entity form the 1988 List.

(4) Where an entity or individual has been placed on the ISIL (Da'esh) and Al-Qaida Sanctions List Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) List or the 1988 List, the Attorney General shall, as far as practicable, inform the entity or individual of the availability of the UN office of the Ombudsperson or focal point for De-Listing as appropriate for the purposes of petitioning the removal from the ISIL (Da'esh) and Al-Qaida Sanctions List Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) List or the 1988 List, as the case may be.

Attorney
General to
receive
requests for
declaration of a
listed entity

22BE. (1) The Attorney General shall receive all requests on behalf of another country for the declaration of an individual or entity as a listed entity.

(2) Where a request is made on behalf of a country for the declaration of an individual or entity as a listed entity, a record of the case shall be furnished, which shall include—

- (a) a document summarising the evidence available to that country for use in the designation of the individual or entity, including-
 - (i) sufficient identifying information to allow for the accurate and positive identification of the individual or entity; and
 - (ii) evidence that the individual or entity meets the relevant criteria for designation as set out in section 22B; and
- (b) particulars of the facts upon which the request is being made.

(3) The Attorney General shall, upon receipt of a request made for the purposes of this section on behalf of any country, cause an investigation to be carried out in respect of that allegation and may for that purpose refer the matter to the Commissioner of Police who shall the Commissioner of Police who may cause an investigation to be carried out in respect of the request.

(4) Where the Commissioner of Police receives a referral from the Attorney General under subsection (3), he shall as soon as the results of the investigation are known, provide the

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Attorney General with the relevant results of the investigation for the purposes of making an application under subsection (5).

(4 5) Where, on the basis of an investigation under subsection (3), the Attorney General is satisfied that the individual or entity referred to under subsection (1) meets the criteria under section 22B(1)(b) or (c), he shall make an application to a judge for an order under section 22B(3).

Reporting
requirements.
[2 of 2010
16 of 2011].

22C. (1) Where a financial institution or listed business knows or has reasonable grounds to suspect that funds within the financial institution or listed business belong to an individual or legal entity who—

- (a) commits terrorist acts or participates in or facilitates the commission of terrorist acts or the financing of terrorism; ~~or~~
- (b) is a designated entity; **or**
- (c) **is a listed entity,**

the financial institution or listed business shall report the existence of such funds to the FIU.

(2) Every financial institution or listed business shall—

- (a) pay special attention to and report all—
 - (i) business transactions between individuals, corporate persons and financial institutions in or from other countries which do not comply with, or who comply insufficiently with the recommendations of the Financial Action Task Force; and
 - (ii) complex, unusual, or large transactions, whether completed or not, unusual patterns of transactions and significant but periodic transactions which have no apparent economic or visible lawful purpose,

to the FIU;

- (b) examine the background and purpose of all transactions which have no economic or visible legal purpose under paragraph (a)(i) and make available to the FIU, written findings after its examinations, where necessary;
- (c) keep and retain records relating to financial activities in accordance with the Regulations made under section 41(2);
- (d) develop and implement a written compliance programme, reasonably designed to ensure compliance with this Act; and
- (e) monitor compliance with the Regulations made under section 41(2).

(3) Where a financial institution or listed business knows or has reasonable grounds to suspect that funds are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism, the financial institution or listed business shall make a suspicious transaction, or a suspicious activity report to the FIU in the forms as set out in the Third Schedule to the Proceeds of Crime Act.

(4) Subject to section 22D, where a financial institution or listed business makes a suspicious transaction or suspicious activity report to the FIU under this section, the Director or staff of the FIU or of such financial institution or listed business shall not disclose the fact or content of such report to any person.

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(5) Any person who contravenes subsection (4) commits an offence and is liable on summary conviction to a fine of five million dollars and to imprisonment for five years.

(6) A report to which subsection (3) refers shall be made within fourteen days of the date on which the financial institution or listed business knew or had reasonable grounds to suspect that the funds were linked or related to, or were to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism.

(7) When the report referred to in this section is made in good faith, the financial institution or listed business and their employees, staff, directors, owners or other representatives as authorized by law, are exempt from criminal, civil or administrative liability, as the case may be, for complying with this section or for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, regardless of the result of the communication.

Identification of
offence of
financing of
terrorism.
[2 of 2010].

22D. (1) Where the FIU receives information from a financial institution or listed business and it considers that an investigation may disclose that funds in the possession of any individual or legal entity are being used, have been used or are intended for use in the financing of terrorism, it shall forward such information to the Commissioner of Police for further investigation. -

(a) in the possession of any individual or legal entity are being used, have been used or are intended for use in the financing of terrorism;

(b) belong to a designated entity; or

(c) belong to a listed entity,

it shall forward such information to the Commissioner of Police for further investigation.

FIU may
suspend certain
transactions.
[2 of 2010
14 of 2012].

22E. (1) The FIU may instruct a financial institution or listed business in writing, to suspend the processing of a transaction for a period not exceeding five working days, pending the completion of an evaluation and analysis of a suspicious transaction or suspicious activity report.

(2) Where those instructions are given, a financial institution, listed business or any other aggrieved person, may apply to a judge to discharge the instructions of the FIU and shall serve notice on the FIU, to join in the proceedings, save however, that the instructions shall remain in force until the judge determines otherwise.

(3) After the FIU has concluded its evaluation and analysis of a suspicious transaction or suspicious activity report, and where the Director of the FIU is of the view that the circumstances warrant investigation, a report shall be submitted to the Commissioner of Police for investigation to determine whether an offence of financing of terrorism has been committed and whether the funds are located in Trinidad and Tobago or elsewhere.

PART IV INVESTIGATION OF OFFENCES

Detention
Orders.
[2 of 2010].

23. (1) Subject to subsection (2), a police officer ~~above the rank of sergeant~~ may, for the purpose of preventing the commission of an offence under this Act or preventing interference in the investigation of an offence under this Act, apply ex parte, to a judge for a detention ~~Order~~ **Order**.

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(2) A police officer ~~above the rank of sergeant~~ may make an application under subsection (1) only with the prior written consent of the Director of Public Prosecutions.

(3) A judge may make an ~~Order~~ under subsection (1) for the detention of the person named in the application if he is satisfied that there are reasonable grounds to believe that the person is—

- (a) interfering or is likely to interfere with an investigation of;
- (b) preparing to commit; or
- (c) facilitating the commission of,

an offence under this Act.

(4) An ~~Order~~ under subsection (3) shall be for a period not exceeding forty-eight hours in the first instance and may be extended for a further period provided that the maximum period of detention under the ~~Order~~ does not exceed fourteen days.

(5) Every ~~Order~~ shall specify the place at which the person named in the ~~Order~~ is to be detained and conditions in respect of access to a medical officer.

(6) An accurate and continuous record shall be kept in accordance with the Schedule, in respect of any detainee for the whole period of his detention.

Power to gather
information

24. (1) Subject to subsection (2), a police officer ~~of the rank of Inspector or above~~ may, for the purpose of an investigation of an offence under this Act, apply ex parte to a judge for an ~~Order~~ for the gathering of information from named persons.

(2) A police officer ~~above the rank of sergeant~~ may make an application under subsection (1) only with the prior written consent of the Director of Public Prosecutions.

(3) A judge may make an ~~Order~~ under subsection (1) for the gathering of information if he is satisfied that the written consent of the Director of Public Prosecutions was obtained and—

(a) that there are reasonable grounds to believe that an offence under this Act has been committed and that—

- (i) information concerning the offence; or
- (ii) information that may reveal the whereabouts of a person suspected by the police officer ~~above the rank of sergeant~~ of having committed the offence,
- (iii) is likely to be obtained as a result of the Order, or

(b) that—

- (i) there are reasonable grounds to believe that an offence under this Act will be committed;
- (ii) there are reasonable grounds to believe that a person has direct and material information that relates to the offence referred to in subparagraph (i); or
- (iii) there are reasonable grounds to believe that a person has direct and material information that may reveal the whereabouts of a person who the police officer ~~above the rank of sergeant~~ suspects may commit the offence referred to in subparagraph (i); and
- (iv) reasonable attempts have been made to obtain the information referred to in subparagraph (ii) or (iii) from the person referred to therein.

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(4) An ~~Order~~ made under subsection (3) may—

- (a) include conditions or terms which the judge considers reasonable;
- (b) order the examination on oath of the person named in the ~~Order~~;
- (c) order the person to attend at a time and place fixed by the judge, for the purpose of being examined; and
- (d) order the person to bring and produce any ~~document or thing~~, **thing, document, computer or electronic device** in his control or possession for the purpose of the examination.

(5) An ~~Order~~ made under subsection (3) may be executed anywhere in Trinidad and Tobago.

(6) The judge who made the ~~Order~~ under subsection (3), or another judge of the same Court, may vary its terms and conditions.

(7) A person named in an ~~Order~~ made under subsection (3) shall answer questions put to the person by the Director of Public Prosecutions or the Director of Public Prosecution's representative, and shall produce to the presiding judge ~~document or thing~~, **any thing, document, computer or electronic device** that the person was ordered to bring, but may, subject to the ruling of the judge under subsection (8), refuse to do so if answering a question or producing a ~~document or thing~~ **any thing, document, computer or electronic device** would disclose information that is protected by the law relating to non-disclosure of information or privilege.

(8) The presiding judge shall rule on every objection or issue relating to a refusal to answer any question or to produce any ~~document or thing~~, **thing, document, computer or electronic device**.

(9) A person shall not be excused from answering a question or producing a ~~document or thing~~, **thing, document, computer or electronic device** on the ground that the answer, ~~document or thing~~, **thing, document, computer or electronic device** may incriminate him or subject him to any penalty or proceedings.

(10) Notwithstanding subsection (9) any—

- (a) answer given **by**;
- ~~(b) produced; or~~
- (b) thing, document, computer or electronic device produced by;**
- (c) evidence obtained **from**,

~~from that~~ **that** person shall not be used or received against him in any criminal proceedings other than in a prosecution for perjury.

(11) A person may retain and instruct an Attorney-at-law at any stage of the proceedings under this section and the Attorney-at-law so retained may attend and represent the person named in the ~~Order~~ when he is being examined.

(12) The presiding judge, if satisfied that any ~~document or thing~~, **document, computer or electronic device** produced during the course of the examination is likely to be relevant to the

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investigation of any offence under this Act, shall order that the ~~document or thing~~, **document, computer or electronic device** be given into the custody of the police officer ~~above the rank of sergeant~~.

(13) Subject to subsection (8), nothing in this section requires the disclosure of any information which is protected by privilege.

Authority for
search.
[2 of 2010].

24A. (1) A police officer ~~above the rank of sergeant~~ may, for the purposes of an investigation into the offence of financing of terrorism apply to a judge for a warrant under this section.

(2) On such application the judge may issue a warrant authorising a police officer ~~above the rank of sergeant~~ to enter and search the premises if the judge is satisfied in relation to the offence of financing of terrorism—

- (a) that there are reasonable grounds for suspecting that an individual or legal entity is linked to the commission of that offence;
- (b) that there are reasonable grounds for suspecting that there are on the premises material relating to the commission of that offence; and
- (c) that it would be appropriate to make an ~~O~~order in relation to the material because—
 - (i) it is not practicable to communicate with any person entitled to produce the material;
 - (ii) it is not practicable to communicate with any person entitled to grant access to the material or entitled to grant entry to the premises on which the material is situated; or
 - (iii) the investigation for the purposes of which the application is made might be seriously prejudiced unless a police officer ~~above the rank of sergeant~~ could secure immediate access to the material.

(3) Where a police officer ~~above the rank of sergeant~~ has entered the premises in the execution of a warrant issued under this section, he may seize and retain any material, other than items subject to legal privilege, which is likely to be of substantial value, whether by itself or together with other material, to the investigation for the purposes of which the warrant was issued.

(4) The person to whom a search warrant is issued shall furnish a report in writing, within ten days after the execution of the warrant or the expiry of the warrant, whichever occurs first, to the judge who issued the warrant—

- (a) stating whether or not the warrant was executed;
- (b) if the warrant was executed, setting out a detailed description of anything seized; or
- (c) if the warrant was not executed, setting out briefly the reasons why the warrant was not executed.

Customer
Information
Order.
[2 of 2010
15 of 2014].

24B. (1) A judge may on application made by a police officer ~~above the rank of sergeant~~ and if the conditions set out in subsection (2) are met, make an ~~O~~order that a financial institution or listed business provide to an authorised officer any such customer information relating to the person or account specified in the application.

(2) An application under subsection (1) shall state—

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- (a) that there is an investigation of financing of terrorism or other offence under this Act and the Θ order is sought for purposes of a criminal investigation of that offence; and
- (b) the judge is satisfied that there are reasonable grounds for believing that the financial institution or listed business may have information that is relevant in the investigation.

(3) Customer information is information as to whether a person holds, or has held an account or accounts at the financial institution or listed business (whether solely or jointly), and information identifying a person who holds an account, and includes all information as to—

- (a) the account number or numbers;
- (b) the person's full name;
- (c) his date of birth;
- (d) his most recent address and any previous addresses;
- (e) the date or dates on which he began to hold the account or accounts and, if he has ceased to hold the account or any of the accounts, the date or dates on which he did so;
- (f) such evidence of his identity as was obtained by the financial institution;
- (g) the full name, date of birth and most recent address, and any previous addresses, of any person who holds, or has held, an account at the financial institution jointly with him;
- (h) the account number or numbers of any other account or accounts held at the financial institution to which he is a signatory and details of the person holding the other account or accounts; and
- (i) any other information which the Court specifies in the customer information Θ order.

(4) Where the customer is a legal entity, the information shall include—

- (a) a description of any business which it carries on;
- (b) the country or territory in which it is incorporated or otherwise established and any number allocated to it;
- (c) its registered office, and any previous registered offices;
- (d) the full name, date of birth and most recent address and any previous addresses of any person who is a signatory to the account or any of the accounts; and
- (e) any other information which the Court specifies in the customer information Θ order.

(5) A financial institution or listed business shall provide the information to the authorised officer in such manner, and at or by such time, as is specified in the Θ order.

(6) An authorised officer for purposes of this section is the FIU.

(7) No obligation to maintain the confidentiality of information held by a financial institution or listed business, whether imposed by a law or contract, can excuse compliance with an Θ order made under this section.

(8) Where a financial institution or listed business subject to an Θ order under this section, knowingly—

- (a) fails to comply with the Θ order; or
- (b) provides false or misleading information in purported compliance with the Θ order,

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the financial institution or listed business commits an offence and is liable on conviction on indictment to a fine of one million dollars.

(9) A financial institution or listed business that has been served with an ~~Order~~ under this section shall not disclose the existence or operation of the ~~Order~~ to any person except—

- (a) an officer or agent of the institution for the purpose of complying with the ~~Order~~; or
- (b) an authorised officer referred to in the ~~Order~~.

(10) Where a financial institution or listed business contravenes subsection (9), it commits an offence and is liable on conviction on indictment to a fine of five million dollars.

Monitoring
Order.
[2 of 2010].

24C. (1) A police officer ~~above the rank of sergeant~~ may apply, ex parte to a judge for a monitoring ~~Order~~ directing a financial institution, listed business or non-profit organisation to provide certain information.

(2) An application under subsection (1) shall be supported by an affidavit deposing to matters referred to in subsection (4).

(3) A monitoring ~~Order~~ shall—

- (a) direct a financial institution, listed business or non-profit organisation to disclose information it obtained relating to transactions conducted through an account held by a particular person with the financial institution, listed business or non-profit organisation;
- (b) not have retrospective effect; and
- (c) only apply for a period not exceeding three months from the date it is made.

(4) A judge shall issue a monitoring ~~Order~~ only if he is satisfied that there are reasonable grounds for believing that—

- (a) the person in respect of whose account the ~~Order~~ is sought—
 - (i) has committed or was involved in the commission, or is about to commit or be involved in the commission of, an offence; and
 - (ii) has benefited directly or indirectly, or is about to benefit directly or indirectly, from the commission of an offence; or
- (b) the account is relevant to identifying, locating or quantifying terrorist property.

(5) A monitoring ~~Order~~ shall specify—

- (a) the name or names in which the account is believed to be held; and
- (b) the class of information that the financial institution, listed business or non-profit organisation is required to give.

(6) Where a financial institution, listed business or non-profit organisation subject to an Order under this section, knowingly—

- (a) fails to comply with the ~~Order~~; or
 - (b) provides false or misleading information in purported compliance with the ~~Order~~,
- the financial institution, listed business or non-profit organisation commits an offence and is liable on conviction on indictment to a fine of one million dollars.

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(7) A financial institution, listed business or non-profit organisation that is or has been subject to a monitoring **Order** shall not knowingly disclose the existence or operation of the **Order** to any person except—

- (a) an officer or agent of the financial institution, listed business or non-profit organisation, for the purpose of ensuring compliance with the **Order**;
- (b) a legal adviser for the purpose of obtaining legal advice or representation in respect of the **Order**; or
- (c) the authorised officer referred to in the **Order**.

(8) Where a financial institution, listed business or non-profit organisation contravenes subsection (7), it commits an offence and is liable on conviction on indictment to a fine of five million dollars.

(9) Nothing in this section prevents the disclosure of information concerning a monitoring **Order** for the purposes of or in connection with legal proceedings or in the course of proceedings before a Court.

(10) Nothing in this section shall be construed as requiring a legal adviser to disclose to any Court the existence or operation of a monitoring **Order**.

PART V JURISDICTION AND TRIAL OF OFFENCES

Jurisdiction of
Trinidad and
Tobago Courts.

25. (1) The Courts of Trinidad and Tobago shall have jurisdiction in respect of any offence referred to in this Act if—

- (a) the alleged perpetrator of the offence is arrested in Trinidad and Tobago, or on board a ship registered in Trinidad and Tobago or an aircraft registered in Trinidad and Tobago; and
- (b) the offence was committed—
 - (i) in Trinidad and Tobago, or committed elsewhere, if the act is punishable in terms of the domestic laws of Trinidad and Tobago, including this Act or in terms of the obligations of Trinidad and Tobago under international law;
 - (ii) on board a vessel or a ship or fixed platform registered in Trinidad and Tobago or an aircraft which is registered under the laws of Trinidad and Tobago at the time the offence is committed;
 - (iii) outside of Trinidad and Tobago, and the person who has committed the act is, after the commission of the act, present in Trinidad and Tobago; or
- (c) the evidence reveals any other basis recognised by law.

(2) An act or omission committed outside Trinidad and Tobago which would, if committed in Trinidad and Tobago, constitute an offence under this Act shall be deemed to have been committed in Trinidad and Tobago if the person committing the act or omission is present in Trinidad and Tobago and cannot be extradited to a foreign State having jurisdiction over the offence constituted by such act or omission.

(3) Where the Attorney General receives information that there may be present in Trinidad and Tobago a person who is alleged to have committed an offence under this Act, the Attorney General shall—

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- (a) cause an investigation to be carried out in respect of that allegation **and may refer the matter to the Commissioner of Police who shall may cause an investigation to be carried out in respect of that allegation;**
- (b) inform any other foreign State which might also have jurisdiction over the alleged offence promptly of the findings of the investigation; and
- (c) indicate promptly to other foreign States which might also have jurisdiction over the alleged offence whether to the best of his knowledge, information and belief a prosecution is intended by the Director of Public Prosecutions.

(3A) Where the Commissioner of Police receives a referral from the Attorney General under subsection (1), he shall as soon as the results of the investigation are known, provide the Attorney General with the results of the investigation.

(4) In furtherance of subsection (3), in deciding whether to prosecute, the Director of Public Prosecutions shall take into account the adequacy of evidence against the accused.

(4A) The Attorney General and the Director of Public Prosecutions shall consult in relation to the exercise of powers under subsection (4) in respect of—

- (a) considerations of international law, practice and comity;
- (b) international relations; and
- (c) any prosecution that is being or might be taken by a foreign State.

(5) If a person has been taken into custody to ensure the person's presence for the purpose of prosecution or surrender to a foreign State in terms of this section, the Director of Public Prosecutions shall, immediately after the person is taken into custody, notify the Attorney General.

(6) The Attorney General shall inform any foreign State which might have jurisdiction over the offence concerned, and any other State that he considers it advisable to inform or notify either directly or through the Secretary-General of the United Nations, of—

- (a) the fact that the person is in custody; and
- (b) the circumstances that justify the person's detention.

(7) When the Director of Public Prosecutions declines to prosecute, and another foreign State has jurisdiction over the offence concerned, he shall inform such foreign State, accordingly with the view to the surrender of such person to such foreign State for prosecution by that State.

Extradition
from Trinidad
and Tobago.
Ch. 12:04.

26. The proceedings referred to in the Extradition (Commonwealth and Foreign Territories) Act, (hereinafter referred to as the "Extradition Act") shall apply with the necessary changes in respect of any surrender referred to in section 25.

Evidence by a
certificate.

27. Where in any proceedings ~~for an offence~~ under this Act, a question arises as to whether any thing or substance is a weapon, a hazardous, radioactive or a harmful substance, a toxic chemical or microbial or other biological agent or toxin, a certificate purporting to be signed by an appropriate authority to the effect that the thing or substance, described in the certificate is a weapon, a hazardous, radioactive or a harmful substance, a toxic chemical or microbial or other biological agent or toxin, shall be admissible in evidence without proof of the signature or authority of the person appearing to have signed it and shall, in the absence of evidence to the contrary, be proof of the facts stated therein.

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PART VI

INFORMATION SHARING, EXTRADITION AND MUTUAL ASSISTANCE IN CRIMINAL MATTERS

Exchange of information relating to terrorist acts.

28. The Minister may, after consultation with the Attorney General, on a request made by the appropriate authority of a foreign State, disclose to that authority, any information in his possession or, with the necessary permission, in the possession of any other government, department or agency, relating to any of the following:

- (a) the actions or movements of persons suspected of involvement in the commission of terrorist acts;
- (b) the use of forged or falsified travel papers by persons suspected of involvement in the commission of terrorist acts;
- (c) traffic in explosives or other lethal devices or sensitive materials by persons suspected of involvement in the commission of terrorist acts; or
- (d) the use of communication technologies by persons suspected of involvement in the commission of terrorist acts,

if the disclosure is not prohibited by any law and will not, in the Minister's view be prejudicial to national security or public safety.

Treaty to be used as basis for extradition

29. (1) Where Trinidad and Tobago becomes a party to a treaty and there is in force, an extradition arrangement between the Government of Trinidad and Tobago and another State which is a party to that treaty, the extradition arrangement shall be deemed, for the purpose of the Extradition Act, to include provision for extradition in respect of offences falling within the scope of that treaty.

(2) Where Trinidad and Tobago becomes a party to a treaty and there is no extradition arrangement between the Government of Trinidad and Tobago and another State which is a party to that treaty, the Attorney General may, by Order, subject to a negative resolution of Parliament treat the treaty, for the purposes of the Extradition Act, as an extradition arrangement between the Government of Trinidad and Tobago and that State providing for extradition, in respect of offences falling within the scope of that treaty.

Treaty to be used as basis for Mutual Assistance in Criminal Matters. Ch.11:24.

30. (1) Where Trinidad and Tobago becomes a party to a treaty and there is in force, an arrangement between the Government of Trinidad and Tobago and another State which is a party to that treaty, for mutual assistance in criminal matters, the arrangement shall be deemed, for the purposes of the Mutual Assistance in Criminal Matters Act, to include provision for mutual assistance in criminal matters in respect of offences falling within the scope of that treaty.

(2) Where Trinidad and Tobago becomes a party to a treaty and there is no arrangement between the Government of Trinidad and Tobago and another State which is a party to that treaty for mutual assistance in criminal matters, the Attorney General may, by Order subject to a negative resolution of Parliament, treat the treaty as an arrangement between the Government of Trinidad and Tobago and that State providing for mutual assistance in criminal matters in respect of offences falling within the scope of that treaty.

Offences under this Act not deemed to be offences of a

31. Notwithstanding anything in the Extradition Act or the Mutual Assistance in Criminal Matters Act, an offence under this Act or an offence under any other Act where the act or omission constituting the offence also constitutes a terrorist act, shall, for the purposes of extradition or of mutual assistance,

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political
character.
Ch. 12:04.
Ch. 11:24.

be deemed not to be an offence of a political character or an offence connected with a political offence or an offence inspired by political motives.

PART VII DISCLOSURE AND SHARING INFORMATION

Duty to
disclose
information
relating to
offences and
terrorist acts.
[2 of 2010].

32. (1) Every person or regulatory authority who has any information which will assist in—

- (a) preventing the commission by another person, of a terrorist act; or
- (b) securing the arrest or prosecution of another
- (c) person for an offence under this Act, or an offence under any other law and which also constitutes a terrorist act,

shall forthwith disclose the information to a police officer ~~above the rank of sergeant~~ or the Central Authority as defined under the Mutual Assistance in Criminal Matters Act.

(2) Notwithstanding subsection (1) a person referred to in subsection (1), shall not be required to disclose any information which is protected by privilege.

(3) Civil or criminal proceedings shall not lie against any person for disclosing any information in good faith pursuant to subsection (1).

(4) Any person who fails to comply with subsection (1) commits an offence and is liable on conviction on indictment to a fine of ten thousand dollars and to imprisonment for two years.

(5) For the purposes of this section, “regulatory authority” means the Central Bank, the Securities Exchange Commission, the Financial Intelligence Unit, the Trinidad and Tobago Stock Exchange, the Inspector of Financial Institutions and the Commissioner of Co-operatives.

Duty to
disclose
information
relating to
property used
for commission
of offences
under this Act.
[2 of 2010
16 of 2011].

33. (1) Every person shall forthwith disclose to the FIU—

- (a) the existence of any property in his possession or control, which to his knowledge is terrorist property **or property to which an order made under section 22B applies**, or which there are reasonable grounds to believe is terrorist property **or property to which an order made under section 22B applies**;
- (b) any information regarding a transaction or proposed transaction in respect of terrorist property **or property to which an order made under section 22B applies**; or
- (c) any information regarding a transaction or proposed transaction which there are reasonable grounds to believe may involve terrorist property **or property to which an order made under section 22B applies**.

(2) The FIU shall disclose to the appropriate authority, any information in his possession relating to any terrorist property if such information is requested or if the Minister is of the view that the information would be relevant to a foreign State.

(3) Every financial institution shall report, every three months, to the FIU—

- (a) if it is not in possession or control of terrorist property, that it is not in possession or control of such property; or

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- (b) if it is in possession or control of terrorist property, that it is in possession or control of such property, and the particulars relating to the persons, accounts and transactions involved and the total value of the property.

(4) *(Deleted by Act No. 16 of 2011).*

(5) No civil or criminal proceedings shall lie against any person for making a disclosure or report, in good faith, under subsection (1), (2) or (3).

(6) Every person who fails to comply with subsection (1) or (3) commits an offence and shall, on conviction on indictment, be liable to imprisonment for five years.

PART VIII SEIZURE AND FORFEITURE OF TERRORIST PROPERTY

Application for
restraint Order.
[2 of 2010
14 of 2012].

34. (1) Where a customs officer, immigration officer, or police officer ~~above the rank of sergeant~~ reasonably believes that property in the possession of a person is terrorist property he may apply to a judge for a restraint Order in respect of that property.

(1A) Where information is forwarded to the Commissioner of Police pursuant to section 22D, and he has reasonable grounds to believe that funds should be restrained, the Commissioner of Police may apply to the Court for an Order to restrain such funds.

(2) This section applies to property that is being—

- (a) brought to any place in Trinidad and Tobago for the purpose of being exported from;
- (b) exported from; or
- (c) imported into,

Trinidad and Tobago.

(3) Subject to subsection (4), a restraint Order made under subsections (1) and (1A), shall be valid for a period of sixty days, and may, on application, be renewed by a judge, for a further period of sixty days or until such time as the property referred to in the Order is produced in Court in proceedings for an offence under this Act in respect of that property whichever is the sooner.

(3A) A restraint Order made under subsections (1) and (1A) may make such provision as the Court thinks fit for living expenses and legal expenses of an individual or legal entity, as the case may be.

(4) A judge may release any property referred to in a restraint Order made under subsections (1) and (1A) if—

- (a) he no longer has reasonable grounds to suspect that the property has been, is being or will be used to commit an offence under this Act; or
- (b) no proceedings are instituted in the High Court for an offence under this Act in respect of that property within one hundred and twenty days of the date of the restraint Order.

(5) No civil or criminal proceedings shall lie against an officer for a seizure of property, made in good faith, under subsections (1) and (1A).

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(6) An appeal from a decision of the judge made under this section shall lie to the Court of Appeal.

Orders for
forfeiture of
property on
conviction for
offences under
this Act.
[2 of 2010].

35. (1) Where a person is convicted of an offence under this Act, or an offence under any other Act where the act or omission also constitutes a terrorist act, the Court may order that any property—

- (a) used for, or in connection with; or
- (b) obtained as proceeds from,

the commission of that offence, be forfeited to the State.

(2) Before making a forfeiture Order the judge shall give an opportunity to be heard to any person who—

- (a) appears to the Court to have an interest in; or
- (b) claims to be the owner of,

the property.

(3) Property forfeited to the State under subsection (1) shall vest in the State—

- (a) if no appeal has been made against the Order, at the end of the period within which an appeal may be made against the Order; or
- (b) if an appeal has been made against the Order, on the final determination of the matter, where the decision is made in favour of the State.

(4) The proceeds of the sale of any property forfeited to the State under subsection (1) shall be paid into the Seized Assets Fund.

Orders for
seizure and
restraint of
property.
[2 of 2010].

36. (1) Where on an ex parte application is application made by the Director of Public Prosecutions to a judge, the judge is satisfied that there are reasonable grounds to believe that there is in any building, place or vessel, any property in respect of which an Order of forfeiture may be made under section 37, the judge may issue —

(a) a warrant authorising a police officer to search the building, place or vessel for that property and to seize that property if found, and any other property in respect of which that police officer believes, on reasonable grounds, that an Order of forfeiture may be made under section 37; or

(b) a restraint Order prohibiting any person from disposing of, or otherwise dealing with any interest in, that property, other than as may be specified in the Order.

(a) the judge may issue-

- (i) a warrant authorizing a police officer to search the building, place or vessel for that property and to seize that property if found, and any other property in respect of which that police officer believes, on reasonable grounds, that an order of forfeiture may be made under section 37; or
- (ii) a restraint order prohibiting any person from disposing of, or otherwise dealing with any interest in, that property, other than as may be specified in the order; and

(b) a copy of the order under paragraph (a) shall be kept by the Registrar.

(1A) The Director of Public Prosecutions shall inform the Attorney General of any application, warrant or order made under this section.

Consolidation of the Anti-Terrorism Act, Chap. 12:07

THIS CONSOLIDATION IS NOT AN APPROVED CONSOLIDATION OF THE LAW REVISION COMMISSION AND MAY CONTAIN ERRORS OR OMISSIONS.

(2) On an application made under subsection (1), the judge may, at the request of the Attorney General and if the judge is of the opinion that the circumstances so require—

- (a) appoint a person to take control of, and manage or otherwise deal with, the whole or a part of the property, in accordance with the directions of the judge; and
- (b) require any person having possession of the property to give possession thereof to the person appointed under paragraph (a).

(3) The power to manage or otherwise deal with property under subsection (2) includes in the case of perishable or rapidly depreciating property, the power to sell that property; and in the case of property that has little or no value, the power to destroy that property.

(4) Before a person appointed under subsection (2) destroys any property referred to in subsection 3, he shall apply to a judge for a destruction ~~Θ~~order.

(5) Before making a destruction ~~Θ~~order in relation to any property, the judge shall require notice to be given, in such manner as the judge may direct, to any person who, in the opinion of the judge, appears to have an interest in the property and may provide that person with a reasonable opportunity to be heard.

(6) A judge may order that any property in respect of which an application is made under subsection (4), be destroyed if he is satisfied that the property has little or no financial or other value.

(7) A management ~~Θ~~order under subsection (2) shall cease to have effect when the property which is the subject of the management ~~Θ~~order is returned to an applicant in accordance with the law or forfeited to the State.

(8) The Director of Public Prosecutions may at any time apply to a judge to cancel or vary a warrant or ~~Θ~~order issued under this section.

(9) For the purposes of this section, “Registrar” has the meaning assigned to it under section 2 of the Supreme Court of Judicature Act.

Orders for
forfeiture of
property.
[2 of 2010]

37. (1) The Attorney General may make an application to a judge for an ~~Θ~~order of forfeiture in respect of terrorist property.

(2) The Attorney General shall be required to name as respondents to an application under subsection (1) only those persons who are known to own or control the property that is the subject of the application.

(3) The Attorney General shall give notice of an application under subsection (1) to the respondents named in the application, in such manner as the judge may direct.

(4) Where a judge is satisfied, on a balance of probabilities, that the property which is the subject of the application is terrorist property, the judge shall ~~Θ~~order that the property be forfeited to the State to be disposed of as directed by the judge.

Consolidation of the Anti-Terrorism Act, Chap. 12:07

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(5) Where a judge refuses an application under subsection (1), the judge shall make an **Order** that describes the property and declare that it is not terrorist property.

(6) On an application under subsection (1), a judge may require notice to be given to any person not named as a respondent who in the opinion of the judge, appears to have an interest in the property, and any such person shall be entitled to be added as a respondent to the application.

(7) Where a judge is satisfied that a person—
 (a) has an interest in the property which is the subject of the application; and
 (b) has exercised reasonable care to ensure that the property is not the proceeds of a terrorist act, and would not be used to commit or facilitate the commission of a terrorist act,
 the judge shall order that the interest shall not be affected by the **Order** made under subsection (4) and the **Order** shall also declare the nature and extent of the interest in question.

(8) A person who claims an interest in property that has been forfeited and who has not been named as a respondent or been given notice under subsection (6) may make an application to the High Court to vary or set aside an **Order** made under subsection (4), not later than sixty days after the day on which the forfeiture **Order** was made.

(9) Pending the determination of an appeal against an **Order** of forfeiture made under this section, property restrained under section 37 shall continue to be restrained, property seized under a warrant issued under that section shall continue to be detained, and any person appointed to manage, control or otherwise deal with the property under that section shall continue in that capacity.

(10) The provisions of this section shall not affect the operation of any other provision of this Act respecting forfeiture.

(11) The proceeds of the sale of any property forfeited to the State under this section shall be paid into the Seized Assets Fund.

Sharing of
forfeited
property

38. ~~(1) Trinidad and Tobago may, pursuant to any agreement with any other State, share with that State on a reciprocal basis the property derived from forfeiture pursuant to this Act.~~

(1) The Attorney General may enter into an agreement with the government of any foreign State for the reciprocal sharing of the proceeds or disposition of property confiscated, forfeited or seized —

(a) under this Act; or

(b) by that foreign State,

in circumstances where law enforcement authorities of that foreign State, or of Trinidad and Tobago, as the case may be, have participated in the investigation of the offence that led to the confiscation, forfeiture or seizure of the property or if the law enforcement authorities participation led to the confiscation, forfeiture or seizure of the property under this Act.

(1A) Notwithstanding sections 35(4) and 37(4), Trinidad and Tobago may, pursuant to any agreement with any other State for the sharing of forfeited property, share with that State on a reciprocal basis the property derived from forfeiture pursuant to this Act.

Consolidation of the Anti-Terrorism Act, Chap. 12:07

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Seizure and
detention of
cash.
[2 of 2010]

(2) Property referred to under subsection (1), may be utilised to compensate victims of the offences referred to under this Act.

38A. (1) Any customs officer or police officer ~~above the rank of sergeant~~ may seize and detain part of or the whole amount of any cash where there are reasonable grounds for suspecting that it is—

- (a) intended for use in the commission of an offence under this Act; or
- (b) is terrorist property.

(2) Cash detained under subsection (1) shall not be detained for more than ninety-six hours after seizure, unless a judge orders its continued detention for a period not exceeding three months from the date of the initial seizure and the detained cash shall be paid into Court.

(3) A judge may order a detention under subsection (1) upon being satisfied that the continued detention of the cash is justified while—

- (a) its origin or derivation is further investigated; or
- (b) consideration is given to the institution in Trinidad and Tobago or elsewhere of criminal proceedings against any person for an offence with which the seized item is connected.

(4) A judge may subsequently order continued detention of the cash ~~if~~ **if** satisfied of the matters set forth in subsections (2) and (3), but the total period of detention shall not exceed two years from the date of the ~~Order~~ **Order** made under those subsections.

(5) Subject to subsection (6), cash detained under this section may be released in whole or in part to the person on whose behalf it was transported by ~~Order~~ **Order** of a judge, that its continued detention is no longer justified upon application by or on behalf of that person and after considering any views of a police officer ~~above the rank of sergeant~~.

(6) Cash detained under this section shall not be released where an application for restraint or forfeiture of the cash is pending under this Act or if proceedings have been instituted in Trinidad and Tobago or elsewhere against any person for an offence with which the cash is connected, unless and until the proceedings on the application or the proceedings related to an offence have been concluded.

(7) Where the application relates to cash that is commingled with other cash, ~~the commingled~~ **all** ~~the~~ cash is subject to continued detention under this subsection.

(8) Upon an application by a police officer ~~above the rank of sergeant~~, a judge shall order forfeiture of any cash which has been seized and detained under this section if satisfied on the balance of probabilities that the cash directly or indirectly represents—

- (a) terrorist property; or
- (b) proceeds of an offence or intended for use in the commission of an offence.

(9) Before making an ~~Order~~ **Order** of forfeiture under subsection (8), the Court shall order that notice be provided to any person who has asserted an interest in the cash and provide an opportunity for that person to be heard.

~~(10) In this section—~~

- ~~(a) “cash” includes coins, notes and other bearer negotiable instruments in any currency;~~

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~~(b) “bearer negotiable instrument” includes monetary instruments in bearer form such as travellers cheques, negotiable instruments including cheques, promissory notes and money orders that are either in bearer form, endorsed without restriction made out to a fictitious payee, or otherwise in such form that title thereto passes upon delivery; incomplete instruments including cheques, promissory notes and money orders signed, but with the payee’s name omitted.~~

PART IX MISCELLANEOUS POWERS

Duty to disclose information relating to passengers of aircraft and vessels.

- 39.** (1) The operator of an aircraft or master of a vessel—
- (a) departing from Trinidad and Tobago; or
 - (b) registered in Trinidad and Tobago departing from any place outside Trinidad and Tobago,
- shall, in accordance with Regulations made under this section provide to the—
- (i) Chief Immigration Officer any information in his possession relating to persons on board or expected to be on board the aircraft or vessel; or
 - (ii) competent authority of a foreign State any information in his possession relating to persons on board or expected to be on board the aircraft or vessel in accordance with the law of that foreign State.

(2) Any information provided to the Chief Immigration Officer shall not be used or disclosed by him except for the purpose of protecting national security or public safety.

(3) The Minister may, subject to Regulations made under subsection (4), provide to the competent authority in a foreign State any information in his possession relating to persons entering or leaving Trinidad and Tobago, by land, and that is required by the laws of that foreign State.

(4) No information provided to the Chief Immigration Officer under subsection (1) shall be used or disclosed by the Chief Immigration Officer except for the purpose of protecting national security or public safety.

(5) The Minister may make Regulations generally to give effect to the purposes of this section, including Regulations—

- (a) respecting the types or classes of information that may be provided under this section;
- (b) specifying the foreign States to which the information may be provided.

Power to refuse refugee application.

40. The Minister may, having regard to the interests of national security and public safety, refuse the application of any person applying for status as a refugee, if he has reasonable grounds to believe that the applicant has committed a terrorist act or is likely to be, involved in the commission of a terrorist act.

Power to make Regulations.
[16 of 2011].

41. (1) The Minister may make Regulations in respect of all matters for which Regulations are required or authorised to be made by this Act.

(2) The Minister to whom responsibility for the FIU is assigned may make Regulations, subject to negative resolution of the Parliament prescribing—

- (a) the type of records to be kept by a financial institution or listed business and the type of information to be included in these records;

Consolidation of the Anti-Terrorism Act, Chap. 12:07

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- (b) the procedure to be followed in implementing section 22C(2)(d);
- (c) the periods for which and the methods by which the records referred to in paragraph (a) may be retained;
- (d) the measures which a financial institution or listed business shall implement to—
 - (i) ascertain the identity of persons with whom they are dealing; and
 - (ii) treat with circumstances in which sufficient identification data is not made available by an applicant or business;
- (e) the measures that may be taken by a Supervisory Authority to secure compliance with this Act or to prevent the commission of an unsafe or unsound practice, including—
 - (i) administrative sanctions; and
 - (ii) disciplinary actions when possible;
- (f) the manner and time frame in which due diligence may be undertaken in respect of existing customers and business relationships established prior to the coming into force of the Proceeds of Crime Act, by a financial institution or listed business; and
- (g) generally, for the purpose of giving effect to Part IIIA of this Act.

(3) Regulations made under subsection (1) shall be subject to negative resolution of Parliament.

Offences and penalties.
[16 of 2011
14 of 2012
15 of 2014].

42. (1) Subject to subsection (2), a financial institution or listed business which fails to comply with—

- (a) sections 22AB or 22C(1), (2) or (3) commits an offence and is liable on summary conviction to a fine of five hundred thousand dollars and to imprisonment for two years and on conviction on indictment, to a fine of three million dollars and to imprisonment for seven years; or
- (b) Regulations made under section 41(2) is liable on summary conviction to a fine of five hundred thousand dollars and to imprisonment for two years.

(2) Where a company commits an offence under sections 22AB and 22C(1), (2) and (3), any officer, director or agent of the company—

- (a) who directed, authorised, assented to, or acquiesced in the commission of the offence; or
- (b) to whom any omission is attributable,

is a party to the offence and is liable on summary conviction or on conviction on indictment, to the penalty prescribed in subsection (1)(a).

SUBSIDIARY LEGISLATION

7/2011

FINANCIAL OBLIGATIONS (FINANCING OF TERRORISM) REGULATIONS

made under section 41

Offences and penalties.

8. A financial institution or listed business which does not comply with these Regulations commits an offence and is liable on summary conviction ~~or on conviction on indictment~~ to the penalty prescribed in the Act.

Consolidation of the Anti-Terrorism Act, Chap. 12:07

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CONSEQUENTIAL AMENDMENT

PROCEEDS OF CRIME ACT

CHAPTER 11:27

PART III

MISCELLANEOUS

Moneys of the
Fund.
[15 of 2014].

58A. The Fund shall comprise—

- (a) any moneys paid in satisfaction of a confiscation under this Act;
- (b) cash forfeited under this Act;
- (c) proceeds of the sale of forfeited real property under section 58B;
- (d) proceeds of the sale of forfeited personal property under section 58C;
- (e) proceeds of the sale of forfeited property under section 58D to which Trinidad and Tobago is entitled pursuant to any reciprocal agreement;
- (f) the proceeds of any charging order under this Act;
- (g) cash or the proceeds of the sale of any property real or personal forfeited to the State **or any other foreign State** under Part VIII of the Anti-Terrorism Act; and
- (h) proceeds of the sale of any property or benefit forfeited to the State under section 24 of the Trafficking in Persons Act.

Chap. 12:07

Chap. 12:10