



THE MINISTRY OF ATTORNEY GENERAL AND LEGAL AFFAIRS

MINISTERIAL RESPONSE

The Tenth Report of the Joint Select Committee on Human Rights, Equality and Diversity on the Treatment of Detainees at the Immigration Detention Centre.

I. Introduction

The Tenth Report of the Joint Select Committee on Human Rights, Equality and Diversity on the Treatment of Detainees at the Immigration Detention Centre was presented in the Senate on February 19, 2019, and in the House of Representatives on February 15, 2019.

Standing Orders 100(6) and 110(6) of the Senate and House of Representatives respectively, require the Minister with responsibility for the Ministry/Body reported on by a Joint Select Committee to present to each House a paper responding to the recommendations/comments contained in the Report.

This report is the Ministerial Response to the recommendations and comments as presented in the Tenth Report, to be presented to the Parliament, through the Attorney General and Minister of Legal Affairs.

II. Summary of Issues Identified, Recommendations and Responses

During the Committee's inquiry into the Treatment of Detainees at the Immigration Detention Centre the following issues were identified and recommendations proposed that require written responses by the Attorney General and Minister of Legal Affairs. The responses of the Attorney General and Minister of Legal Affairs to these recommendations are contained hereinafter in this report.

Issue Identified

Asylum Seekers and Refugees (page 60 of the Tenth Report)

4.28. The Committee was informed that there was an absence of national legislation pertaining to the treatment of asylum seekers and refugees in Trinidad and Tobago. Both the Ministry of National Security (MNS) and Living Waters Community (LWC) confirmed that there is a National Policy to address Refugee and Asylum Matters in the Republic of Trinidad and Tobago, 2014, that includes Interim Standard Operating Procedures (SOPs) for the treatment of refugees and referral to LWC and United Nations High Commissioner for Refugees (UNHCR).

4.29. Despite the existence of these (SOPs), the Committee noted that there are a number of communication challenges between the MNS and LWC. For example, the LWC expressed that there were instances that detainees were not referred to the LWC and the MNS indicated that at times they were only aware a detainee was an asylum-seeker on the date of the special inquiry.

4.30. Although the MNS indicated that as at October 26, 2018 they were aware of twenty-seven (27) IDC detainees who had filed claims for asylum with UNHCR. Figure 1 to Figure 3 (of the Tenth Report) shows the number of asylum seekers in Trinidad and Tobago registered with the UNHCR. The Committee was informed by the LWC of the following trends with regard to asylum seekers for the period September 2017 to November 2018:

- i. Detention of approximately four hundred (400) registered asylum-seekers, which includes POCs who were detained prior to and subsequent to registration;
- ii. Detention of two hundred (200) POCs who were scheduled to register and POCs who are not yet registered but of whom LWC received reports via inter alia third parties that they are seeking asylum;
- iii. Detention of at least eighteen (18) POCs with health concerns such as pregnancy, kidney problems, hypertension and diabetes; and
- iv. Continued detention of at least two (2) recognized refugees at the IDC.

4.31. The Committee noted the following challenges of the LWC with respect to the IDC:

- i. Lack of access to the detainees at the IDC;
- ii. Lack of timely receipt of information with regards to special inquiries. At times, LWC received notification from third parties within twenty-four (24) hours or less of the special inquiry; and
- iii. Lack of communication between detainees and the organisations in care of their well-being.

4.32. The Committee noted the current use of the Minister's Permit in accordance with Section 10(1) of the Immigration Act, Chap. 18:01 as an interim measure for refugees until legislative measures are established to ensure temporary immigrant status for refugees in Trinidad and Tobago.

Recommendations:

- 4.33. The Committee recommends that the Ministry of National Security collaborates with the Ministry of Attorney General and Legal Affairs to complete draft legislation on the treatment of persons of concern in Trinidad and Tobago in fiscal 2019.
- 4.35. The Committee recommends that the Ministry of the Attorney General and Legal Affairs and the Ministry of National Security note the statistics at item 4.30 and recommendations of the LWC highlighted in APPENDIX IX of the Tenth Report.

Responses:

With respect to the recommendation found at paragraph 4.33 of the Tenth Report:

The Attorney General and Minister of Legal Affairs can confirm that there has been collaboration between the Ministry of the Attorney General and Legal Affairs, through the Office of the Chief Parliamentary Counsel, with the Ministry of National Security with respect to the preparation of draft legislation on the issues relating to asylum seekers and refugees.

The Attorney General and Minister of Legal Affairs advises that whilst the Ministry of the Attorney General and Legal Affairs is willing and able to draft the required legislation, such legislation must be based on a clearly articulated policy which takes into account the wider societal and governmental implications that follow the intake of asylum seekers and refugees within Trinidad and Tobago.

The Attorney General and Minister of Legal Affairs therefore advises that the Ministry of the Attorney General and Legal Affairs stands ready to draft the requisite legislation upon receiving written instructions from the authorized officials at the Ministry of National Security in accordance with the current procedures for the preparation of draft legislation by the Office of the Chief Parliamentary Counsel.

With respect to the recommendation found at paragraph 4.35 of the Tenth Report

The Attorney General and Minister of Legal Affairs has duly noted the statistics listed at paragraph 4.30 of the Tenth Report as well as the recommendations of the LWC found at APPENDIX IX of the Tenth Report.

III. Conclusion

The Attorney General and Minister of Legal Affairs remains willing and able to prepare all necessary legislation, as hereinabove discussed, and to collaborate together with the Ministry of National Security, to ensure that the necessary laws can be drafted to treat with the concerns of asylum seekers and refugees in Trinidad and Tobago.